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117TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
117–130

BUILD BACK BETTER ACT

R E P O R T

OF THE

COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 5376

together with

MINORITY VIEWS

BOOK 1 OF 3

SEPTEMBER 27, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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U.S. GOVERNMENT PUBLISHING OFFICE

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CONTENTS

	Page
Introduction by the Committee on the Budget	3
Title I—Committee on Agriculture	1515
Title II—Committee on Education and Labor	1535
Title III—Committee on Energy and Commerce	1644
Title IV—Committee on Financial Services	1801
Title V—Committee on Homeland Security	1857
Title VI—Committee on the Judiciary	1858
Title VII—Committee on Natural Resources	1864
Title VIII—Committee on Oversight and Reform	1915
Title IX—Committee on Science, Space, and Technology	1917
Title X—Committee on Small Business	1930
Title XI—Committee on Transportation and Infrastructure	1964
Title XII—Committee on Veterans' Affairs	1991
Title XIII—Committee on Ways and Means	1994
Committee on the Budget:	
Votes of the Committee on the Budget	1493
Other House Report Requirements	1507
Views of Committee Members	1509
Build Back Better Act (legislative text)	1515

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BUILD BACK BETTER ACT

SEPTEMBER 27, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YARMUTH, from the Committee on the Budget, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5376]

The Committee on the Budget, to whom reconciliation recommendations were submitted pursuant to title II of S. Con. Res. 14, the concurrent resolution on the budget for fiscal year 2022, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

INTRODUCTION BY THE COMMITTEE ON THE BUDGET

Since the first COVID–19 case was diagnosed in the United States nearly two years ago, the pandemic and resulting economic fallout have exposed and exacerbated underlying and systemic inequities and deficiencies in our society, highlighting the interconnected nature of these pressing challenges. The need for bold, transformative, and visionary investments in our nation and communities is long overdue.

The Concurrent Resolution on the Budget for Fiscal Year 2022 Paved the way for the Build Back Better Act

The 2022 budget resolution (S. Con. Res. 14) laid the groundwork for the Build Back Better Act by providing the option of using the budget reconciliation process to make historic investments in our communities and country. This reconciliation bill is the next step toward implementing the plan.

Budget reconciliation has been used by Democrats and Republicans over the past four decades for a variety of purposes, including reducing the deficit, expanding access to health coverage, restricting eligibility and benefits in safety-net programs, handing out deficit-increasing GOP tax cuts heavily weighted to the wealthy, and providing urgently needed relief and stimulus during the Covid–19 crisis. There is nothing inherently partisan about using budget reconciliation. Many past budget reconciliation bills had bipartisan support; some did not. The process helps ensure that Congress can move forward and meet the country's needs. Without reconciliation, the bold action outlined by the President could languish indefinitely in the Senate, putting the future well being and prosperity of Americans at risk.

Decades of disinvestment in our nation and its people have resulted in serious deficits in our society, spanning nearly every sector. We can no longer afford the costs of neglect and inaction—Congress must act expeditiously to enact the Build Back Better Act and deliver these critical investments.

We Face Numerous, Inerconnected Crises and Challenges

The coronavirus pandemic has infected tens of millions of Americans and taken the lives of nearly 700,000 loved ones, devastating families and communities. The corresponding economic crisis led to a record loss of more than 22 million jobs, skyrocketing unemploy ment insurance claims, a child care crisis and mass exodus of women from the work force, and a historic decline in growth. The climate crisis is displacing families, upending local economies, and

endangering our national security. And our nation is reckoning with our racial justice crisis, as the effects of systemic racism and underlying inequities are being exposed and brought to the forefront of our nation's conscience.

While the American Rescue Plan and other rescue packages helped address immediate health and economic concerns, they were not a long-term solution to many of the pressing challenges facing our nation. In fact, many of these pressing challenges have only compounded.

Driven by the child care problems created by the pandemic, women have fallen out of the labor force in record numbers. Children are attending schools in buildings with crumbling infrastructure and no internet. Too many families do not have safe and affordable housing to live in. Rising health care costs are putting a strain on budgets for families and businesses. College has become unaffordable for too many students. Our veterans are being treated in hospitals and clinics that are in critical need of updating. Workers lack support when welcoming a new child or caring for a loved one. And we face a catastrophic climate crisis that threatens life as we know it.

We can no longer afford the costs of neglect and inaction—the time to act is now. The future of our nation and millions of American families are at stake.

The Build Back Better Act

The Build Back Better Act makes the transformative investments at the scale necessary to meet the needs of the American people, address dangerous deficits in our society, improve our economic outlook, and set America up to compete and win in the decades ahead. With the Build Back Better Act, we will:

Cut taxes for the middle class. The Build Back Better Act will deliver one of the biggest middle class tax cuts in history, keeping more money in the pockets of working families. The plan expands and enhances support for individuals and families with children, including the Child Tax Credit, the Child and Dependent Care Tax Credit, and the Earned Income Tax Credit for childless workers. The expanded Child Tax Credit alone will lead to 90 percent of families and nearly 39 million households receiving a major tax cut. With over a third of adults with children struggling to pay for basic expenses like food, rent, health care and transportation, the expanded Child Tax Credit will make a substantial difference in families' lives.

Create jobs. Because of the COVID–19 crisis, the U.S. economy experienced record job loss and deep scars that we are still recovering from. The Build Back Better Act will invest in work force development to help workers train and get better jobs. The investments in higher education will also create a more skilled and dynamic work force and help position the United States as a global leader in innovation and the jobs of the future. The resources for child care and universal pre-k will help parents return to work knowing that their children are in good hands, while also creating more jobs in the care economy. Additionally, funded programs will create a new, diverse work force focused on addressing climate

Lower costs for working families. The plan's investments will lower costs for working families with:

• *Investments to lower drug prices*—Americans pay higher prescription drug prices than people in other wealthy countries, and nearly a quarter of Americans struggle to afford their prescription drugs. The investments in the Build Back Better Act will allow Medicare to negotiate drug prices, lowering costs for seniors and the Federal Government.

• *Investments to lower health care costs*—Too many families struggle to pay for health care, and millions of people are locked out of Medicaid because of states' refusal to expand the program under the Affordable Care Act (ACA). The resources in the Build Back Better Act will reduce premiums for Marketplace plans under the ACA, close the Medicaid coverage gap, and add dental, hearing and vision coverage to Medicare for the very first time.

• *Investments to lower child care costs*—Child care and high quality pre-k are expenses that most families struggle to afford and are a particular challenge for low-income families and families of color. The investments in the Build Back Better Act will create a comprehensive child care and universal pre-k program which will subsidize child care for families and provide high quality pre-k for all three-and four-year-olds.

• *Investments to lower the cost of education*—Higher education has become a towering expense for most students, but increasingly useful in today's economy. The funding in the Build Back Better Act will provide two years of free community college to all students. These investments will also expand the value of the Pell Grant and provide funding for minority serving institutions to better support and serve their students.

Tackle the climate crisis and strengthen resilience. The climate crisis is an existential threat that must be handled immediately. Postponing action will only make life harder for millions of families and endanger more lives as extreme weather events intensify. The Build Back Better Act will provide comprehensive investments, including clean energy and transportation tax credits, to help us reduce our carbon footprint. It invests in clean energy, efficiency, electrification, and climate justice through grants, consumer rebates, and Federal procurement of clean power and sustainable materials, and by incentivizing private sector development and investment. The plan will also drive economic opportunities, environmental conservation, and climate resilience—especially in under served and disadvantaged communities.

Ensure Fiscal Responsibility. The Build Back Better Act ultimately will not add to the debt. This plan is prudently offset by provisions to ensure that high earners and corporations pay their fair share of taxes. Americans making less than $400,000 a year will not see their taxes increase by a penny. It is estimated that the top 1 percent evades $160 billion in taxes each year while a typical working American pays their taxes. In 2020, 55 of the largest corporations paid zero dollars in Federal income taxes on more than $40 billion in profits. The Build Back Better Act will implement key reforms to make our tax system more equitable. It will repeal some of the nearly $2 trillion in unpaid tax giveaways to the

wealthiest corporations and individuals enacted under the Trump Administration.

Additionally, it is estimated that the Build Back Better Act will stimulate future economic growth, further helping to offset the costs of the plan. Leading economists project that the Build Back better Act will also ease longer-term inflationary pressures and, most importantly, help more Americans participate in the economy, resulting in a more equitable economy powered by shared prosperity and inclusive growth.

The Budget Committee's Role in Delivering the Build Back Better Plan Act

The major steps in the reconciliation process, as provided for under Section 310 of the Budget Act, and how they apply in this instance, are the following:

The Budget Resolution. Reconciliation can be triggered only by the adoption of a budget resolution. Therefore, the Fiscal Year 2022 budget resolution (S. Con. Res. 14), passed in August, carried reconciliation instructions for 13 committees that have jurisdiction over some portion of the Build Back Better Act.

Authorizing Committees. Thirteen authorizing committees marked up legislative provisions pursuant to their instructions and transmitted them to the Committee on the Budget. This report incorporates the detailed descriptions of the provisions provided in the committees' submissions to the Budget Committee.

The Budget Committee. Having received the submissions, the Committee on the Budget, as provided for under Section 310 of the Budget Act, has bound the provisions together, without substantive change, into a single measure—a reconciliation bill—and met to report the measure to the House for floor consideration.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

September 15, 2021

The Honorable John A. Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Yarmuth,

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Agriculture, and the appropriate accompanying material including additional, supplemental, minority, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

David Scott
Chairman

TITLE I—COMMITTEE ON AGRICULTURE

TABLE OF CONTENTS

EXPLANATION OF PROVISIONS.....1

PURPOSE AND NEED.....8

COMMITTEE CONSIDERATION.....10

VOTES OF THE COMMITTEE.....15

BUDGET EFFECTS OF THE PROVISION.....32

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE.....32

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED.....33

SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS.....33

TITLE I—COMMITTEE ON AGRICULTURE

EXPLANATION OF PROVISIONS

SUBTITLE A — GENERAL PROVISIONS

Section 10001. Definitions.

This section defines the term "insular area" to have the same meaning as in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977. The section also defines "Secretary" to mean "Secretary of Agriculture."

SUBTITLE B — FORESTRY

Section 11001. National Forest System Restoration and Fuels Reduction Projects.

Section 11001 appropriates $10 billion for hazardous fuels reduction projects within the wildland-urban interface; $4 billion for, on a determination by the Secretary that hazardous fuels within the wildland-urban interface have been effectively treated to prevent the spread of wildfire to at-risk communities, hazardous fuels reduction projects outside the wildland-urban interface; $1 billion for vegetation management projects on National Forest System land that have submitted proposals in accordance with section 4003 of the Omnibus Public Land Management Act of 2009; $500 million for vegetation management projects that have a water source management plan or a watershed protection and restoration action plan; and $500 million for vegetation management projects that (1) maintain old growth characteristics, (2) focus on small diameter tress and prescribed fire to modify fire behavior, and (3) maximize the retention of large tress.

This section also appropriates $450 million for the Legacy Roads and Trails program of the Forest Service; $350 million for National Forest System land management planning and monitoring with a focus on specific goals; $100 million for the maintenance of trails on National Forest System land, with a focus on trails that provide underserved communities access to such trails; $100 million for capital maintenance and improvements on National Forest System land with a focus on maintenance level 3, 4, and 5 roads and improvements that restore ecological integrity and conditions for at-risk species; and $100 million for the Chief of the Forest Service to conduct more efficient and effective environmental reviews to satisfy the obligations of the Chief of the Forest Service under the National Environmental Policy Act of 1969.

This section also appropriates $50 million to develop and carry out activities for the protection of older and mature forests on National Forest System land in addition to completing an inventory of such forests; $50 million to develop and carry out activities for the maintenance and restoration of habitat conditions necessary for the protection and recovery of at-risk species on National Forest System land in implementing Forest Service hazardous fuels reduction and other vegetation management program and projects; $50 million to carry out post-fire recovery plans that emphasize the use of locally adapted native plant materials to restore the ecological integrity of disturbed areas and do not include salvage logging; $50 million to develop and carry out non-lethal activities to reduce human-wildlife conflicts on National Forest System land; and $2.25 billion for staffing, salaries, and other workforce needs to support the development of a Civilian Climate Corps.

Subsection (b) requires the Secretary to consider specific attributes of projects in certain paragraphs when prioritizing funding for these projects.

Subsection (c) provides limitations for funding in this section.

Subsection (d) defines the term "at-risk community" to have the same meaning as in section 101 of the Healthy Forests Restoration Act of 2003. The subsection defines "collaboratively developed," with respect to projects located exclusively on National Forest System land, as a project developed and implemented through a collaborative process with specific requirements. The subsection defines "decommission," with respect to a road, as (1) reestablishing native vegetation on the road; (2) restoring any natural drainage, water-shed function, or other ecological processes that were disrupted or adversely impacted by the road, and (3) effectively blocking the road to vehicular traffic. The subsection defines "ecological integrity" and "restoration" to have the same meaning as in section 219.19 of title 36, Code of Federal Regulations. The subsection defines "hazardous fuels reduction project" as an activity, including the use of prescribed fire, to protect structures and communities from wildfire that is carried out on National Forest System land. The subsection defines "vegetation management project" to mean specific activities carried out on National Forest System land to enhance ecological integrity and achieve the restoration of a forest ecosystem. The subsection defines "water source management plan" to mean a plan developed under section 303(d)(1) of the Healthy Forests Restoration Act of 2003. The subsection defines "watershed protection and restoration action plan" to mean a plan developed under section 304(a)(3) of the Healthy Forests Restoration Act of 2003. The subsection defines "wildland-urban interface" as in the case of the lower 48 States as the areas mapped as such in the document entitled "The Wildland-Urban Interface of the Conterminous United States" and in the case of Alaska and Hawaii to have the same meaning as in section 101 of the Healthy Forests Restoration Act of 2003.

Section 11002. Non-Federal Land Forest Restoration and Fuels Reduction Projects and Research.

Section 11002 appropriates $9 billion to award grants to eligible entities to support forest restoration and resilience projects on non-Federal land; $1 billion to award grants to eligible entities to implement community wildfire protection plans, purchase firefighting equipment, provide firefighter training, and increase the capacity for planning, coordinating, and monitoring projects on non-Federal land to protect at-risk communities; $250 million to award grants to eligible entities for projects on non-Federal land to aid in the recovery and rehabilitation of burned areas; and $250 million to award grants to eligible entities for projects on non-Federal land to expand equitable outdoor access and promote tourism on non-Federal forested land for members of underserved groups.

This section also appropriates $250 million for the State Fire Assistance and Volunteer Fire Assistance programs established under the Cooperative Forestry Assistance Act of 1978 to be distributed at the discretion of the Secretary; and $250 million for the implementation of State-wide forest resource strategies under section 2A of the Cooperative Forestry Assistance Act of 1978.

This section also provides funding for competitive grant programs under section 13A of the Cooperative Forestry Assistance Act of 1978 in the following amounts: $250 million for a cost

share to carry out climate mitigation or forest resilience practices in the case of underserved forest landowners; $250 million for grants to support the participation of underserved forest landowners in emerging private markets for climate mitigation or forest resilience; $250 million for grants to support the participation of forest landowners who own less than 2,500 acres of forest land in emerging private markets for climate mitigation or forest resilience; and $500 million to provide grants to eligible entities to provide payments to owners of private forest land to provide measurable increases in carbon sequestration and storage beyond customary practices on comparable land, subject to specific conditions.

This section also provides funding for the forest inventory and analysis program established under section 3(e) of the Forest and Rangeland Renewable Resources Research Act of 1978 in the following amounts: $50 million for collaborative partnerships with the National Association of University Forest Resources Program; $50 million for activities and tactics to accelerate and expand existing research efforts to improve forest carbon monitoring technologies to better predict changes in forest carbon due to climate change; $100 million to carry out recommendations, from a panel of relevant experts convened by the Secretary, regarding the current priorities and future needs of the forest inventory and analysis program with respect to climate change, forest health, sustainable wood products, and increasing carbon storage in forests; and $50 million to provide enhancements to the technology managed and used by the forest inventory and analysis program.

This section also provides funding for the research mission area of the Forest Service in the following amounts: $50 million to accelerate and expand existing research efforts relating to strategies to increase carbon stocks on National Forest System land; $50 to accelerate and expand existing research efforts relating to the impacts of climate change and weather variability on national forest ecosystems; $50 million to accelerate and expand existing research efforts relating to strategies to ensure that national forest ecosystems are able to adapt to climate change and weather variability; $50 million to assess the quantity of carbon sequestration and storage accomplished by different forest practices when applied in diverse ecological and geographic settings; and $50 million to carry out greenhouse gas life cycle analyses of domestic wood products.

This section also appropriates $50 million for the healthy forests reserve program under section 501 of the Healthy Forests Restoration Act of 2003; $100 million to provide grants under the wood innovation grant program under section 8643 of the Agriculture Improvement Act of 2018, including for the construction of new facilities that advance the purposes of the program, subject to conditions; $50 million for the Forest Health Monitoring Program of the Forest Service for activities and tactics to reduce the spread of invasive species on non-Federal forested land; and $2.25 billion to be used for staffing, salaries, and other workforce needs and expenses to support the development of a Civilian Climate Corps for carrying out projects on non-Federal land through the Forest Service State and private forestry mission area and other Department of Agriculture programs, including rural and urban conservation and tree planting projects, subject to specific conditions.

Subsection (b) allows the Governor of a State to submit to the Secretary a written request to include with land on which a project is carried out using amounts made available certain non-Federal land in the State. This subsection also allows written request to include 1 or more maps or recommendations. After approval of a written request, a project may be carried out using amounts made available by this section on the non-Federal land in the State that is subject of the request.

Subsection (c) requires that grants made available under certain paragraphs be subject to a non-Federal match requirement of not less than 20 percent of the overall project. This requirement may be waived at the discretion of the Secretary for high priority projects that (1) have the purpose of protecting human life or critical infrastructure and (2) are located in counties where the average median household income of the population is less than 150 percent of the poverty line.

Section 11003. State and Private Forestry Conservation Programs.

Section 11003 appropriates $1.25 billion to provide competitive grants to eligible entities through the Forest Legacy Program established under section 7 of the Cooperative Forestry Assistance Act of 1978 to acquire land and interests in land that (1) offer significant natural carbon sequestration benefits, or (2) contribute to the resilience of community infrastructure, local economies, or natural systems; $3 billion to provide multi-year, programmatic competitive grants to eligible entities through the Urban and Community Forestry Assistance program established under section 9(c) of the Cooperative Forestry Assistance Act of 1978 for tree planting and related activities to increase community tree canopy and associated societal and climate co-benefits, with a priority for projects that increase tree equity; and $100 million for the acquisition of urban and community forests through the Community Forest and Open Space Program of the Forest Service.

Subsection (b) requires the Secretary to, with respect to providing grants under subsection (a)(2), give priority to projects that are located in (1) a census block group in which 30 percent of more of the population lives below the poverty line, and (2) a neighborhood with lower tree canopy and higher maximum daytime summer temperatures compared to surrounding neighborhoods. This subsection also requires the Secretary to, with respect to grants under paragraphs (1) and (2) of subsection (a), give priority to grant applications from underserved populations and set aside not less than 10 percent of the amounts made available under such paragraphs to provide grants to individuals who are members of underserved populations.

Section 11004. Limitation.

Section 11004 provides a limitation that funds made available under this subtitle are subject to the condition that the Secretary shall not enter into any agreement that is for term extending past September 30, 2031 and under which any payment could be outlaid or funds disbursed after September 30, 2031 and shall not use any other funds to satisfy obligations initially made under this subtitle.

TITLE I—COMMITTEE ON AGRICULTURE

SUBTITLE C — RURAL DEVELOPMENT AND ENERGY

Section 12001. Additional Support for the USDA Business and Industry Program.

Section 12001 provides $40 million to the Secretary for the cost of direct loans and loan guarantees for the rural business development programs authorized under section 310B(a) and (g) of the Consolidated Farm and Rural Development Act.

Section 12002. Additional Support for the USDA Rural Water Programs.

Section 12002 provides $430 million to the Secretary for the cost of grants for rural water and wastewater programs, including for colonias and tribes, under sections 306, 306C, and 306D of the Consolidated Farm and Rural Development Act in insular areas, persistent poverty counties.

Section 12003. Subsidy for Certain USDA Rural Development Loan Payments.

Section 12003 provides $390 million to the Secretary to make at least 6 months of payments on covered loans to the lender, if the borrower has the opportunity to opt out of the payment. Covered loans are defined as 1) business and industry loans made or guaranteed before January 1, 2021 under section 310B(a) or (g) of the Consolidated Farm and Rural Development Act; 2) loans made by an intermediary lender before January 1, 2021 using a loan received under section 1323 of the Food Security Act of 1985 or section 310H of the Consolidated Farm and Rural Development Act; and 3) loans made to a microentrepreneur before January 1, 2021 under section 379E of the Consolidated Farm and Rural Development Act.

This section also requires the Secretary to waive statutory limits on maximum loan maturities, and, under certain conditions, extend lender site visit requirements.

Section 12004. Rural Energy Savings Program.

Section 12004 provides $200 million to the Secretary for the Rural Energy Savings Program authorized under section 6407 of the Farm Security and Rural Investment Act of 2002. The section requires the Secretary to make grants to eligible entities receiving Rural Energy Savings Program loans in an amount equal to not more than 5 percent of the loan amount, at the election of the eligible entity, to certain costs incurred, including making loans to qualified consumers and making repairs to the property of a qualified consumer that facilitate energy efficiency measures for property financed through such loans.

For eligible entities that make loans to qualified consumers in a persistent poverty county, the Secretary shall make grants equal to 10 percent of the loan amount.

Section 12005. Rural Energy for America Program.

Section 12005 provides a total of $2.555 billion to the Secretary for the Rural Energy for America Program established under section 9007 of the Farm Security and Rural Investment Act of 2002, $383.25 million of which will be for financial assistance for underutilized renewable energy technologies and program technical assistance.

This section also reduces the match requirement for grants awarded using funds provided under this section, from 75 percent to 50 percent.

Section 12006. Biofuel Infrastructure and Agriculture Product Market Expansion.

Section 12006 provides $960 million to the Secretary to provide grants on a competitive basis to transportation fueling facilities and distribution facilities to install, retrofit, or otherwise upgrade fuel dispensers or pumps and related equipment, storage tank system components, and other infrastructure required at a location for ethanol blends and biodiesel blends, and to build and retrofit distribution system for ethanol blends, traditional and pipeline biodiesel terminal operations, and home heating distribution centers or equivalent entities to blend biodiesel and to carry ethanol and biodiesel.

The section also includes a 25 percent match requirement for grants awarded using funds provided under this section and provides the Secretary shall not place limits on the amount of funding an eligible entity may receive.

Section 12007. Clean Energy Repowering for Rural Utilities.

Section 12007 provides $9.7 billion to the Secretary to make grants and loans for certain electric cooperatives to purchase renewable energy or renewable energy systems, deploy renewable energy systems, or make energy efficiency improvements and to make grants for debt relief and other costs associated with terminating the use facilities with high greenhouse gas emissions and related transmission assets. This section requires the Secretary to prioritize applications that will achieve the greatest greenhouse gas emission reduction and that will otherwise aid disadvantaged communities.

Section 12008. Rural Partnership Program.

Section 12008 provides $3.5 billion to the Secretary to make rural prosperity development grants based on a formula fund to partnerships between local or Tribal governments in rural areas and non-profit or for-profit organizations to conduct comprehensive rural development and pre-development activities, support organizational operating expenses related to rural development activities, and implement planned rural development activities and projects. This section allows for a recipient of rural prosperity grant to use up to 25 percent of the grant to satisfy Federal matching requirements of other programs. This section requires a 25 percent match, which may be satisfied through an in-kind contribution and provides a waiver to be used at the discretion of the Secretary, of any portion of the matching requirement for applicants that are economically distressed.

This section also provides $370 million to the Secretary to make rural prosperity innovation grants to nonprofit corporations or institutions of higher education. These grants require a 20 percent non-Federal match and may be used to support the grantee's activities related to development and predevelopment planning aspects of rural development, organizational capacity-building to support the rural development activities funded by the grant, and to support the activities conducted under a rural prosperity development grant.

Section 12009. Additional USDA Rural Development Administrative Funds.

Section 12009 provides $545 million for administrative costs and salaries and expenses for the Department of Agriculture's Rural Development mission area, as well as for research and data collection costs under section 12008 of this subtitle.

SUBTITLE D — RESEARCH AND URBAN AGRICULTURE

Section 13001. Department of Agriculture Research Funding.

Section 13001 appropriates $250 million to the Agricultural Research Service to carry out agricultural research related to climate change; $45 million to the Economic Research Service to carry out economic analysis and economic agricultural research relating to climate change; $16 million to the Office of the Chief Economist to carry out economic analysis and economic research relating to climate change and environmental services markets; $40 million to the National Agricultural Statistics Service for data collection and research related to climate change; $540 million for the Foundation for Food and Agriculture Research to carry out activities related to climate change; $380 million to the Office of the Chief Scientist to carry out advanced research and development relating to climate through the Agriculture Advanced Research and Development Authority (AGARDA); and $5 million for agricultural climate research on biomass.

This section also provides funding in the following amounts to the National Institute of Food and Agriculture (NIFA) to carry out agricultural education, extension, and research relating to climate change: $500 million for the Agriculture and Food Research Initiative; $500 million for the sustainable agriculture research education program; $30 million for the crop protection pest management competitive grant program; $20 million for the Agricultural Genome to Phenome Initiative; $200 million for the organic agriculture research and extension initiative; $65 million for the urban, indoor, and other emerging agricultural production research, education, and extension initiative; $15 million for centers of excellence at 1890 Institutions; $200 million for the specialty crop research and extension initiative; $600 million for cooperative extension under the Smith-Lever Act; $126 million for cooperative extension at 1890 Institutions; and $40 million for cooperative extension at 1994 Institutions.

This section provides $2.6645 billion to NIFA for grants to agricultural research facilities under the Research Facilities Act. The section also provides $985.5 million to the Secretary for grants under the Research Facilities Act to 1890 Institutions, 1994 Institutions, certain Alaska Native serving institutions or Native Hawaiian serving institutions, Hispanic-serving agricultural colleges and universities and Hispanic-serving institutions, certain institutions of higher education in insular areas, and the University of the District of Columbia. This section provides $100 million to NIFA for research equipment grants.

This section provides $190 million for the scholarships for students at 1890 Institutions grant program; $50 million for grants to land-grant colleges and universities to support Tribal students; and $50 million for the Higher Education Multicultural Scholars Program.

This section also provides $124 million to the Office of Urban Agriculture and Innovation Production and $14 million to the National Agricultural Statistics Service to conduct the study on urban agriculture that was required under section 7212(b) of the Agriculture Improvement Act of 2018.

Section 13002. Limitation.

Section 13002 provides a limitation that funds made available under this subtitle are subject to the condition that the Secretary shall not enter into any agreement that is for term extending past September 30, 2031 and under which any payment could be outlaid or funds disbursed after September 30, 2031 and shall not use any other funds to satisfy obligations initially made under this subtitle.

SUBTITLE E — MISCELLANEOUS

Section 14001. Additional Support for USDA Office of the Inspector General

Section 14001 provides $5 million to the Office of the Inspector General of the Department of Agriculture remain available until expended for audits, investigations, and other oversight activities for projects activities carried out with funds made available to USDA under this title.

PURPOSE AND NEED

The Senate Concurrent Resolution, S. Con Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, included budget reconciliation instructions directing the Committee on Agriculture to report changes in laws within its jurisdiction that result in increases to the deficit by not more than $89,100,000 for fiscal years 2022 through 2031. The Committee on Agriculture reported provisions out of Committee that meet those instructions and are intended to make investments in American infrastructure and in addressing the climate crises across our country.

Forestry

The National Forest System is itself an important yet aging component of our national infrastructure.

In general, the provisions in this subtitle are necessary to address the effects of climate change and threats of catastrophic wildfire, thus allowing our forests to capture carbon rather than create risks. To achieve these ends, the Committee provides funding for hazardous fuels reduction projects, vegetation management, land management, road and trail maintenance, forest protection, and post-fire recovery plans.

Additionally, this measure provides funding for the establishment of a Civilian Climate Corps, an initiative that would create needed jobs while simultaneously responding to the changing climate and needs of our Federal and non-Federal lands.

This subtitle also provides funding for the awarding of grants to Tribal, State, and local governments and nonprofit organizations to protect wildlife, establish wildfire rehabilitation plans, conduct carbon monitoring and sequestration efforts and various climate and weather research, and expand outdoor access.

With these substantial investments, the U.S. Forest Service and communities all across the country will be able to strategically and effectively protect our nation's forests, manage forestland, and mitigate the growing climate crisis.

Rural Development and Energy

Rural America is home to much of our nation's food, fuel, and fiber production. Strong and sustainable rural communities are an important part of ensuring the success of these industries for future generations. The funding provided by the Committee allows for investments to address the needs of rural communities, infrastructure, and energy that will bring jobs, strength, and sustainability to rural America.

In support of these goals, the legislation provides access to capital for rural small businesses through the Business & Industry Program and six months of loan payments for certain USDA rural development borrowers, as were provided to Small Business Administration borrowers weathering the recent unprecedented challenges. The legislation also establishes the new Rural Partnership Program for flexible grants to support rural development activities and projects and invest in the capabilities of local entities to align government investments and private resources to meet the needs of communities.

To support resilient and sustainable rural economies that improve the health and well-being of residents in rural America, this legislation invests in the infrastructure needs of historically underserved communities. Grant funding for USDA rural water programs is provided for colonias, tribes, insular areas, and persistent poverty counties. Investments in energy efficiency and renewable energy infrastructure are provided through the USDA Rural Energy Savings Program, the Rural Energy for America Program, funding for biofuels infrastructure to expand the sale and use of renewable fuels, and funding for rural electric cooperatives which serve much of rural America including 92% of persistent poverty counties.

With the substantial investment in the USDA Rural Development mission area, resources are made available to make necessary information technology investments and ensure efficient program administration.

Research and Urban Agriculture

The Committee is taking this historic opportunity to make investments to confront the climate crisis stressing the food and agriculture system in the form of more frequent and extreme disasters and is bolstering American agriculture's global competitiveness through landmark investments in agricultural research, development, innovation, education, and extension. To meet these critical needs, the Committee funds agricultural research infrastructure and grants at Land-Grant and other U.S. agricultural universities. In addition to infrastructure investments, the Committee's support for scholarship programs and extension ensures that Minority-Serving Institutions and insular

universities and colleges have greater opportunity to continue developing a pipeline of diverse talent serving the food and agriculture sector, and have equitable resources allowing them to continue offering competitive research facilities and cooperative extension services.

To understand the cause and impacts of climate change, develop mitigation solutions, and get those solutions into the hands of farmers, the Committee provides funds for the Agricultural Research Service, Economic Research Service, National Agricultural Statistics Service, National Institute of Food and Agriculture, the Office of the Chief Scientist for the Agriculture Advanced Research and Development Authority (AgARDA), and the Foundation for Food and Agriculture. The funds will also support the Office of the Chief Economist to carry out agricultural research relating to climate change, including environmental services markets and climate research on biomass, including pyrolysis and biochar. Investments in urban agriculture support and strengthen agricultural production, equitable food access, community compost activities and food waste reduction efforts for urban communities.

Office of the Inspector General

The Committee provides $5 million to the USDA Office of the Inspector General to ensure that all funds used to implement the projects and activities funded under this title have followed appropriate laws and regulations.

COMMITTEE CONSIDERATION

The Committee on Agriculture met, pursuant to notice, with a quorum present, on Friday, September 10, 2021, to consider the Committee on Agriculture Committee Print pursuant to the budget reconciliation instruction provided in the fiscal year 2021 budget resolution, S. Con. Res. 14.

Chairman David Scott offered an opening statement as did Ranking Member Glenn 'GT' Thompson. Without objection, the Committee on Agriculture Committee Print was placed before the Committee for consideration and the first reading of the measure was waived. The measure was open for amendment on a subtitle-by-subtitle basis and subsequently for amendment at any point.

The Committee engaged in discussion of specific subtitles and of the Committee Print in general. Thirty-four amendments were offered, all by the Minority.

Ranking Member Thompson offered an amendment to the Committee Print that would have struck subtitles A through E. It would have required the Secretary of Agriculture to carry out a disaster indemnity program in the same manner as the WHIP+ program is carried out, an on-farm storage loan program, and a milk loss program. It would have made changes to and provided funding for certain rural broadband programs. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays.

Mr. LaMalfa offered an amendment to subtitle B of the Committee Print that would have moved funding under section 11001 to increase hazardous fuels reduction, vegetation management, forest

restoration, and reforestation funding. It would have also required the Secretary of Agriculture to conduct specified forest landscape projects. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays.

Mr. LaMalfa offered an amendment to subtitle B of the Committee Print that would have directed $500,000,000 of funding under section 11001 to carry out post-fire recovery plans. Ranking Member Thompson called for a recorded vote and it failed by a vote of 23 yeas to 27 nays as part of en bloc 1.

Mr. LaMalfa offered an amendment to subtitle B of the Committee Print that would have directed $2,250,000 under section 11002 to be used for staffing retention, salary increases, and other workforce needs and expenses for personnel fighting fires on National Forest System lands. Ranking Member Thompson called for a recorded vote and it failed by a vote of 23 yeas to 27 nays as part of en bloc 1.

Mrs. Hartzler offered an amendment to subtitle B of the Committee Print that would have removed Civilian Climate Corps provisions. Ranking Member Thompson called for a recorded vote and it failed by a vote of 23 yeas to 27 nays as part of en bloc 1.

Mr. LaMalfa offered an amendment to subtitle B of the Committee Print that would have directed $2,250,000,000 under section 11002 to be used for additional forest fire suppression activities on National Forest System lands. Ranking Member Thompson called for a recorded vote and it failed by a vote of 23 yeas to 27 nays as part of en bloc 1.

Mr. Feenstra offered an amendment to subtitle C of the Committee Print that would have ensured funding under section 12006 for infrastructure that allows for the year-round availability of higher biofuel blends. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 2.

Mr. Crawford offered an amendment to subtitle C of the Committee Print that would have established a revolving fund to provide loans to rural utility providers for qualified losses occurring during covered emergencies. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 2.

Mr. Baird offered an amendment to subtitle C of the Committee Print that would have included anaerobic methane digestors as an underutilized renewable energy technology for access to funds under the Rural Energy for America Program established under section 9007 of the Farm Security and Rural Investment Act of 2002. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 2.

Mr. Feenstra offered an amendment to subtitle D of the Committee Print that would have made studies on contagious animal pathogens eligible as a priority for Agricultural Research Service climate change research funding. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 3.

Mr. Feenstra offered an amendment to subtitle D of the Committee Print that would have made research on biofuel conversion eligible for funding under biomass-related activities in accordance

with section 9008 of the Farm Security and Rural Investment Act of 2002. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 3.

Mr. Jacobs offered an amendment to subtitle D of the Committee Print that would have added research to eliminate or minimize the spread of the spotted lanternfly as a priority for funding allocated the Agricultural Research Service to carry out climate change-related research. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 3.

Mr. Allen offered an amendment to subtitle D of the Committee Print that would have removed funding for climate change research under section 13001. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 3.

Mr. DesJarlais offered an amendment to the Committee Print that would have reduced overall spending under the title by two thirds. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays.

Mr. Baird offered an amendment to subtitle D of the Committee Print that would have added certain qualified products or projects to the list of eligible research through the Agriculture Advanced Research and Development Authority under section 1473H of the National Agricultural Research, Extension, and Teaching Policy Act of 1977. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 3.

Mr. Feenstra offered an amendment to subtitle E of the Committee Print that would have prohibited the obligation of any funds under the title unless the Secretary of Agriculture certifies that specified taxpayers would not face an increased tax burden due to certain tax provisions. Mrs. Bustos made a point of order that the amendment was not germane and Chairman David Scott ruled that the amendment was not germane. Ranking Member Thompson appealed the ruling. Mrs. Bustos moved to table the appeal of the ruling and the motion passed by a vote of 27 yeas to 24 nays.

Mrs. Fischbach offered an amendment to subtitle E of the Committee Print that would have inserted a sense of the Committee in opposition to certain tax increases. Mr. Panetta made a point of order that the amendment was not germane, and Chairman David Scott ruled that the amendment was not germane. Ranking Member Thompson appealed the ruling. Mr. Panetta moved to table the appeal of the ruling and the motion passed by a vote of 27 yeas to 24 nays.

Mr. Mann offered an amendment to subtitle E of the Committee Print that would have inserted a sense of the Committee in opposition to certain tax increases. Ms. Kuster made a point of order that the amendment was not germane and Chairman David Scott ruled that the amendment was not germane. Ranking Member Thompson appealed the ruling. Ms. Kuster moved to table the appeal of the ruling and the motion passed by a voice vote.

Mr. Hagedorn offered an amendment to subtitle E of the Committee Print that would have reinstated certain work requirements to receive assistance under the Supplemental Nutrition Assistance Program. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 4.

TITLE I—COMMITTEE ON AGRICULTURE

Mr. Baird offered an amendment to subtitle E of the Committee Print that would have appropriated $100,000,000 to the Department of Agriculture's Office of the Chief Information Officer for cybersecurity activities and preparedness. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 5.

Mr. Austin Scott offered an amendment to subtitle E of the Committee Print to increase the number of consecutive days a school must be closed for households with children attending the school to qualify for Pandemic EBT food assistance. Mr. Austin Scott withdrew his amendment.

Mrs. Miller offered an amendment to subtitle E of the Committee Print that would have provided that the title and amendments made thereto shall have no force or effect. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays.

Mr. Johnson offered an amendment to subtitle E of the Committee Print that would have appropriated $75,000,000 for acquisition of veterinary countermeasures and other equipment for the National Veterinary Stockpile; for hiring and training of additional field staff as appropriate to respond to a potential African Swine Fever or other foreign animal disease outbreak; and for funding of the National Animal Health Laboratory Network. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 5.

Mr. Balderson offered an amendment to subtitle E of the Committee Print that would have withheld funds for the Agriculture Advanced Research and Development Authority until the United States Department of Agriculture makes publicly available its strategic plan. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 3.

Mr. Hagedorn offered an amendment to subtitle E of the Committee Print that would have directed the Secretary of Agriculture to process certain payments for pork producers under the Coronavirus Food Assistance Program of the Department of Agriculture. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 5.

Mr. Austin Scott offered an amendment to subtitle E of the Committee Print that would have required the Secretary of Agriculture to identify each producer eligible to receive a payment under the Coronavirus Food Assistance Program and make payments to those producers that have not received such payments. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays.

Mrs. Fischbach offered an amendment to the Committee Print that would have made changes to and provided funding for certain rural broadband programs. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays.

Mr. Mann offered an amendment to subtitle E of the Committee Print that would have appropriated $250,000,000 to the Agricultural Trade Promotion Program, including establishing and expanding export market access. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 5.

TITLE I—COMMITTEE ON AGRICULTURE

Mr. Johnson offered an amendment to subtitle E of the Committee Print that would have amended the American Rescue Plan Act of 2021 to allow the Department of Agriculture to conduct monitoring and surveillance, research, and vaccination of animals susceptible to SARS-CoV-2; acquire veterinary countermeasure to replenish and maintain the National Veterinary Stockpile; respond to emerging animal disease threats; and carry out section 10409A of the Animal Health Protection Act. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 5.

Mr. Baird offered an amendment to subtitle E of the Committee Print that would have prohibited any funds appropriated under the title from being obligated or expended until such a time that nominees for the Chief Agricultural Negotiator of the Office of the United States Trade Representative and the Department of Agriculture's Undersecretary for Trade and Foreign Agriculture have been confirmed by the Senate. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 5.

Mrs. Cammack offered an amendment to subtitle E of the Committee Print that would have required the Comptroller General of the United States to investigate the reevaluation process of Thrifty Food Plan market baskets. It would have required the Comptroller General to complete the investigation before any reevaluation may serve as the basis for Supplemental Nutrition Assistance Program benefits. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 4.

Mrs. Cammack offered an amendment to subtitle E of the Committee Print that would have prohibited the Nutrition Service of the Department of Agriculture from implementing certain guidance issued by the Food and Nutrition Service. It would also have terminated current waiver authority applicable under the Supplemental Nutrition Assistance Program. Ranking Member Thompson called for a recorded vote and it failed by a vote of 24 yeas to 27 nays as part of en bloc 4.

Mrs. Cammack offered an amendment the Committee Print that would have amended section 1112 of the Agricultural Act of 2014 to allow for a voluntary base acre update for producers beginning with the 2022 crop year, based on average acres planted during crop years 2016 through 2020. Mrs. Cammack withdrew her amendment.

Ms. Letlow offered an amendment to the Committee Print that would have required the Secretary of Agriculture to carry out a disaster indemnity program in the same manner as the WHIP+ program is carried out, an on-farm storage loan program, and a milk loss program. Ranking Member Thompson called for a recorded vote and it failed by a vote of 25 yeas to 26 nays.

Hearing no further debate or amendments, Vice Chair Alma Adams moved that the Committee transmit the Committee Print, with amendment, to the Committee on the Budget. Ranking Member Thompson called for a recorded vote and it passed by a vote of 27 yeas to 24 nays.

Ranking Member Thompson reserved the right for Minority views to be included with the Committee Report.

TITLE I—COMMITTEE ON AGRICULTURE

Chairman David Scott advised Members that, consistent with Committee and House rules, Members would have until the end of the day on Wednesday, September 15, 2021 to make any necessary clerical, technical, or conforming changes to the Committee Report that reflect the intent of the Committee. Chairman David Scott thanked the Members and the Committee meeting was adjourned.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the House of Representatives, the Committee sets forth the record of the following roll call votes taken with respect to the Agriculture title Committee Print:

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 1

Summary: Motion of Consideration
Offered By: Mr. Thompson
Results: Passed by a recorded vote of 26 yeas, 24 nays, and 1 not voting.

YEAS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Mrs. Hayes
7. Mr. Delgado
8. Mr. Rush
9. Ms. Pingree
10. Mr. Sablan
11. Ms. Kuster
12. Mrs. Bustos
13. Mr. Maloney
14. Ms. Plaskett
15. Mr. O'Halleran
16. Mr. Carbajal
17. Mr. Khanna
18. Mr. Lawson
19. Mr. Correa
20. Ms. Craig
21. Mr. Harder
22. Mrs. Axne
23. Ms. Schrier
24. Mr. Panetta
25. Mrs. Kirkpatrick
26. Mr. Bishop

NAYS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NOT VOTING

1. Ms. Spanberger

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 2

Summary: Motion to table the appeal of the ruling of the chair on Feenstra #38.
Offered By: Mrs. Bustos
Results: Passed by a recorded vote of 27 yeas, 24 nays, and 0 not voting.

YEAS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

NAYS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 3

Summary: Motion to table the appeal of the ruling of the Chair on Fischbach #36.
Offered By: Mr. Panetta
Results: Passed by a recorded vote of 27 yeas, 24 nays, and 0 not voting.

YEAS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

NAYS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 4

Summary: En Bloc #1
Offered By: Mrs. Hartzler (Amendment #2) and Mr. LaMalfa (Amendments #22, #23, and #24)
Results: Failed by a recorded vote of 23 yeas, 27 nays, and 1 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Cloud
17. Mr. Mann
18. Mr. Feenstra
19. Mrs. Miller
20. Mr. Moore
21. Mrs. Cammack
22. Mrs. Fischbach
23. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

NOT VOTING

1. Mr. Balderson

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 5

Summary: En Bloc #2
Offered By: Mr. Crawford (Amendment #3); Mr. Feenstra (Amendment #13); and Mr. Baird (Amendment #20)
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 6

Summary: En Bloc #3
Offered By: Mr. Baird (Amendment #5); Mr. Jacobs (Amendment #9); Mr. Feenstra (Amendments #11 and 12); Mr. Balderson (Amendment #19); and Mr. Allen (Amendment #32)
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 7

Summary: En Bloc #4
Offered By: Mrs. Cammack (Amendments #6 and #30) and Mr. Hagedorn (Amendment #10)
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 8

Summary: En Bloc #5
Offered By: Mr. Johnson (Amendment #4); Mr. Baird (Amendment #7); Mr. Mann (Amendment #8); Mr. Hagedorn (Amendment #25); Mr. Baird (Amendment #26); Mr. Johnson (Amendment #28)
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 9

Summary: An amendment that would strike subtitles A through E; require the Secretary of Agriculture to carry out a disaster indemnity program in the same manner as the WHIP+ program is carried out, an on-farm storage loan program, and a milk loss program; and make changes to and provided funding for certain rural broadband programs.
Offered By: Mr. Thompson
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 10

Summary: An amendment that would move funding under section 11001 to increase hazardous fuels reduction, vegetation management, forest restoration, and reforestation funding and require the Secretary of Agriculture to conduct specified forest landscape projects.
Offered By: Mr. LaMalfa
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 11

Summary: An amendment that would provide that the title and amendments made thereto shall have no force or effect.
Offered By: Mrs. Miller
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 12

Summary: An amendment that would require the Secretary of Agriculture to identify each producer eligible to receive a payment under the Coronavirus Food Assistance Program and make payments to those producers that have not received such payments.
Offered By: Mr. Austin Scott
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 13

Summary: An amendment that would make changes to and provided funding for certain rural broadband programs.
Offered By: Mrs. Fischbach
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 14

Summary: An amendment that would reduce overall spending under the title by two thirds.
Offered By: Mr. DesJarlais
Results: Failed by a recorded vote of 24 yeas, 27 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 15

Summary: An amendment that would require the Secretary of Agriculture to carry out a disaster indemnity program in the same manner as the WHIP+ program is carried out, an on-farm storage loan program, and a milk loss program.
Offered By: Ms. Letlow
Results: Failed by a recorded vote of 25 yeas, 26 nays, and 0 not voting.

YEAS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow
25. Mrs. Axne

NAYS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Ms. Schrier
24. Mr. Panetta
25. Mrs. Kirkpatrick
26. Mr. Bishop

TITLE I—COMMITTEE ON AGRICULTURE

Roll Call No. 16

Summary: Motion of the Vice Chair Adams to transmit materials to the Committee on the Budget
Offered By: Vice Chair Adams
Results: Passed by a recorded vote of 27 yeas, 24 nays, and 0 not voting.

YEAS

1. Mr. David Scott
2. Mr. Costa
3. Mr. McGovern
4. Mr. Vela
5. Ms. Adams
6. Ms. Spanberger
7. Mrs. Hayes
8. Mr. Delgado
9. Mr. Rush
10. Ms. Pingree
11. Mr. Sablan
12. Ms. Kuster
13. Mrs. Bustos
14. Mr. Maloney
15. Ms. Plaskett
16. Mr. O'Halleran
17. Mr. Carbajal
18. Mr. Khanna
19. Mr. Lawson
20. Mr. Correa
21. Ms. Craig
22. Mr. Harder
23. Mrs. Axne
24. Ms. Schrier
25. Mr. Panetta
26. Mrs. Kirkpatrick
27. Mr. Bishop

NAYS

1. Mr. Thompson
2. Mr. Austin Scott
3. Mr. Crawford
4. Mr. DesJarlais
5. Mrs. Hartzler
6. Mr. LaMalfa
7. Mr. Davis
8. Mr. Allen
9. Mr. Rouzer
10. Mr. Kelly
11. Mr. Bacon
12. Mr. Johnson
13. Mr. Baird
14. Mr. Hagedorn
15. Mr. Jacobs
16. Mr. Balderson
17. Mr. Cloud
18. Mr. Mann
19. Mr. Feenstra
20. Mrs. Miller
21. Mr. Moore
22. Mrs. Cammack
23. Mrs. Fischbach
24. Ms. Letlow

BUDGET EFFECTS OF THE PROVISION

A. Committee Estimate of Budgetary Effects

Pursuant to clause 3(d) of rule XIII of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. New Budgetary Authority and Cost Estimate Prepared by the Congressional Budget Office

Pursuant to clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Constitutional Authority Statement

The Committee finds the Constitutional authority for this legislation in Article I, section 8, clause 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the consideration of the United States or in any department or officer thereof. The Committee further finds the Constitutional authority for this legislation in Article I, section 8, clause 1, that grants Congress the power to provide for the general welfare of the United States, and Article I, section 8, clause 3, that grants Congress the power to regulate commerce with foreign nations and among the several States and with the Indian Tribes.

B. Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the House of Representatives, the performance goals and objectives of this measure are to increase spending through changes in laws within the jurisdiction of the Committee on Agriculture as required by the S. Con. Res. 14, the fiscal year 2022 budget resolution.

C. Committee Oversight Findings and Recommendations

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the descriptive portions of this report.

D. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this measure.

E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the measure does not relate to the terms and conditions of employment or access to the public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

F. FEDERAL MANDATES STATEMENT

The Committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

G. EARMARK STATEMENT

This measure does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the House of Representatives.

H. DUPLICATION OF FEDERAL PROGRAMS

This measure does not establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program in the most recent Catalog of Federal Domestic Assistance.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority and dissenting views of members of the Committee are as follows:

Minority Views on Committee Print, as reported by the Committee on Agriculture, required by S. Con. Res. 14

Summary

At the beginning of the 117th Congress, the Chairman made a commitment to strengthen the reputation of the House Committee on Agriculture, including its history of bipartisanship in finding commonsense solutions to help the farmers, ranchers, and rural communities each of us represent. Unfortunately, that commitment has been cast aside twice since January 2021. Now we find ourselves again presented with an unvetted bill laced with short sighted policies.

The process by which this Committee considered the "Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022" was fatally flawed in almost every way possible. The result is a reckless and wasteful bill that ignores the immediate and critical needs of rural America. As the Republican Members of this Committee, we could not in good faith support such a defective process or product.

The problems with this legislation are deep-seated, beginning with the underlying goal to increase government spending by an eyewatering $3.5 trillion over the next 10 years, including $89.1 billion within the jurisdiction of the House Agriculture Committee. This spending comes on the heels of trillions of dollars in COVID relief as well as hundreds of billions of dollars in deficit spending under the American Rescue Plan Act (P.L. 117-2), all of which has presumably gone out the door without an ounce of Congressional oversight.

One would think if this Committee intended to spend $89.1 billion—a number comparable to the combined five-year baseline for crop insurance, conservation, and commodity programs under the 2018 Farm Bill—there would be a deliberative and public process with stakeholder testimony to inform its development. Our constituents deserve nothing less. That, however, was not the case. Instead, this legislation was drafted behind closed doors by Democrat Leadership.

Compounding on the problem of moving a bill that is completely unvetted is the fact that the Republican Members of this Committee did not see language until less than 24-hours before the business meeting commenced, and only seconds before it was released to the public. Importantly, this occurred after we called on the Chairman to engage in a transparent process. However, by not sharing the text with sufficient time to evaluate the impacts, the Majority thwarted the ability of the Republicans, and many Committee Democrat Members, to participate in the markup. That is the antithesis of transparency.

More concerning than not having a meaningful debate about spending and policy is not having the opportunity to debate at all. Unfortunately, that is the position we found ourselves in when the Committee convened to markup a woefully incomplete bill. When text was finally released, both Republicans and Democrats were shocked to learn the legislative measure was more than $22 billion short of the Committee's instructions under the House-passed budget resolution.

Members were further amazed to learn from the Chairman during the markup that an additional $28 billion in spending would be added to the bill by Democrat Leadership *after* the Committee completed the markup—a stunning dereliction of process. We have grave concerns about moving forward without the opportunity to debate and vote on the full level of spending within the jurisdiction of our Committee. If the numbers stated by the Chairman are accurate, he either intends to exceed the Committee's instructions, or has plans to gore someone's ox and include offsets that have never seen the light of day. Indeed, several Democrats on the Committee echoed our concerns about moving forward in such a way. Sadly, the Committee ignored those concerns and proceeded, driven not by policy but instead by an artificial, pointless deadline and the will of the Speaker.

Subtitle A – General Provisions

While the Majority has touted this package as being responsive to the needs of rural Americans, on two of the most salient issues facing farm families—taxes and the farm safety net—this legislation is silent.

There is not one word in this bill addressing the devastating consequences of the tax policies proposed by this Administration in the Democrats' broader reconciliation package.

The Majority went out of its way to avoid assuaging the anxieties of nearly every farm constituency by hiding behind procedural curtains. They refused to formally commit the Committee to a position they all professed to hold: that this reconciliation package should not raise taxes on farmers, ranchers, and small businesses.

Rather than join us in publicly stating clear, unequivocal, bipartisan opposition to balancing this colossal spending package on the backs of rural family and small businesses, the Majority punted. They chose to argue the Agriculture Committee has no right to express its opinions and preferences on tax policy, because taxes are outside of our Committee's jurisdiction.

It is impossible to square this view with our understanding of the proper role of the Committee on Agriculture as the champions and defenders of rural America. If tax proposals—or any other policies—threaten our constituents, this Committee has an obligation to participate vigorously in the debate and the right to express its collective opinion on any matter it deems appropriate.

Additionally, the lack of attention paid to the farm safety net is a slap in the face of the hard-working men and women who feed and clothe this nation and the world. After consecutive years of extreme weather events across the country and less than two weeks after a devastating hurricane wreaked havoc across Louisiana and other states in the mid-south, one would think this reconciliation process would be a prime vehicle to enact assistance for those producers. In fact, just over a month prior to the markup, the Committee unanimously approved a measure to authorize appropriations for disaster assistance in 2020 and 2021. An amendment offered by Representative Julia Letlow (R-LA) would have used a portion of the Committee's unspent reconciliation instruction to enact the policy approved by the Committee and appropriate $8.5 billion in assistance for struggling producers. Unfortunately, that amendment was defeated 26 to

25. While the Majority may pay lip service to producers, this process provides clear evidence their priorities do not include production agriculture.

Subtitle B – Forestry

In recent years, the U.S. has experienced several of the worst and most destructive wildfire seasons on record. With 10.1 million acres burned in 2020, last year was a notably difficult fire season for impacted states and communities. This year, more than five million acres have already burned, including at least 79 large fires like Bootleg, Dixie, Caldor and many others that are still uncontained and destroying communities. The agency estimates there are approximately 80 million acres in need of immediate restoration and at least 63 million acres at "high or very high risk of wildfire." Further, Forest Service researchers have identified more than 100 communities at higher projected risk than the Paradise wildfire in 2018.

Wildfires are a national emergency, yet this crisis will go unsolved unless there is a fundamental shift in how treatments are prioritized and forest lands are managed. As such, the Forest Service needs additional funding, resources, and new authorities to help reduce the threat of catastrophic wildfire.

This legislation appears to provide important resources to help the Forest Service and land managers reduce fuel loads and better manage. Despite this significant appropriation of $40 billion, these provisions, when taken together, are unworkable and do little to encourage the management necessary to prevent catastrophic fire, due primarily to the various restrictions and new administrative hurdles the subtitle creates, as well as an overemphasis on non-commercial activities.

For example, in Sec.11001, the bill focuses on non-commercial hazardous fuel reduction projects, while only allowing for commercial projects if approved by the Secretary. This restriction makes little sense because commercial projects are essential for the broader treatment of many of the acres at high risk of wildfire. Discouraging commercial participation, as this bill does, will only limit the number of potential projects and possible forest health benefits.

Secondly, funding would be delayed. There are provisions in the subtitle entirely new to the Forest Service, such as the old growth language (Sec.11001) which would require the agency to enter into rulemaking. Such new rulemaking would delay projects and funding, as it would likely take the Forest Service a minimum of two years to complete. It is also probable projects would be delayed because of the requirements on collaboratives, which take many partners and time to develop. With some of the most devastating wildfires in recorded history occurring in recent years, the needs are both substantial and immediate, and the West cannot wait for the completion of additional bureaucratic processes before receiving vital help that would prevent life-threatening fires.

Additionally, within the post-fire recovery plans, there are restrictions on salvage logging. Salvage logging is critical for quickly removing dead and dying trees, which are often public hazards. If not removed through salvage projects, these trees will remain public hazards, slow forest regeneration after a fire, and be little more than fuel for future devastating fires.

Finally, while the bill does provide funding for restoration projects, with significant restrictions, billions of dollars are also provided for non-essential activities such as the Civilian Climate Corps, mature forest protection, species protection, the Forest Legacy Program, and urban and community forest acquisition. The focus should be on catastrophic wildfire prevention and the treatment of the millions of at-risk acres.

Thus, while the subtitle provides significant funding for forestry-related activities, the entire section is unworkable, ineffective, and counterproductive because of the restrictions it imposes, the limitations it contains, and the delays it would create.

To address these numerous and fundamental problems with the subtitle, an amendment was offered by Representative Doug LaMalfa (R-CA). This amendment removed the extraneous provisions in both Sec.11001 and Sec. 11002 and proposed allocating that funding where it is most needed: hazardous fuels reduction, vegetation management, forest restoration and reforestation. To target the acres in most need of treatment, the amendment also required the Forest Service to focus fuels reduction projects on the most at-risk acres by using the Forest Service's most recent maps and data. Finally, the amendment contained and funded both Representative LaMalfa's RESTORE Act and Representative Johnson's (R-SD) FIRE Act. These proposals would give the Forest Service authorities to perform more landscape scale treatments and expedite the removal of salvage after a fire.

Representative LaMalfa also offered three additional amendments that would have improved the forestry provisions in the bill. Specifically, these amendments would have provided additional funding for restoration work for post-fire areas, additional funding for firefighting staffing and retention, and targeted funding for rapid response fire suppression.

All four amendments were voted down by the Majority, regardless of some voicing their support for the goals of each.

While we are encouraged to see support for forest management in this legislation, the rush to enact the subtitle is confounding, given the ongoing lack of support from the Majority for these activities. During the conferencing of the 2018 Farm Bill, House Republicans offered numerous provisions contained in the House-passed Farm Bill to encourage better forest management and new authorities which would have helped prevent loss of life and property from wildfires. Despite the great need for inclusion, Senate Democrats refused to even discuss these critical reforms. As a result, we have lost three years where the Forest Service could have been authorizing more hazardous fuels reduction and landscape scale projects that would have directly mitigated the escalating threat of today's wildfires, thereby protecting citizens, their homes and property, and our nation's forest lands.

Subtitle C – Rural Development and Energy

Throughout the COVID-19 pandemic, members of the Minority offered many proposals to use and expand the authorities of USDA to rebuild rural infrastructure. In February 2021, during the first reconciliation debacle, we introduced many of these proposals in an attempt to improve the Committee's reconciliation instructions. They were rejected on a party line vote.

While the Majority finally acquiesced to several of the proposals they previously rejected, particularly with respect to the needs of rural businesses and rural water systems, it is too little, too late. These provisions are insufficient to the need, and the Majority cannot escape the burdens their considerable delay has heaped on those who they have finally deemed worthy of help.

In addition, the Majority proposes to create yet another new grant program ostensibly focused on "rural prosperity." Yet, the program and its purpose remain an enigma. More than $3.5 billion can be used for "conducting comprehensive rural development and predevelopment activities and planning," "supporting organizational operating expenses," and "implementing planned rural development projects and activities." These nebulous limitations imply no limitation at all and effectively create a slush fund for the Secretary and unelected bureaucrats to dole out at their discretion.

In fact, the only meaningful limitation imposed on using the funds under this program is a requirement that any construction activity financed by a grant pay prevailing wages. This limitation will have the impact of driving up the cost of construction in rural communities precisely when we should be seeking to stretch our dollars furthest.

Coupled with the utter lack of Departmental oversight the past three years, the Minority members are concerned about the ability for this program to ultimately deliver value for the taxpayer and the rural residents who are promised assistance under this legislation.

Subtitle D – Research and Urban Agriculture

Investments in agriculture research are critical to ensuring American agriculture remains at the forefront of innovation and productivity.

As mentioned at the beginning of the markup, other countries, like China, are outspending the United States on research investments. While there is bipartisan agreement investing in agriculture research is important, we believe the Committee print completely misses the mark in providing the proper resources to ensure American producers can continue to provide the safest, most abundant, and most affordable food and fiber supply in history.

Instead of providing funding for the various, far-reaching Department research programs, the Majority restricted the funding to only those projects that pertain to climate change research. If the Majority truly cared about investing in agriculture research, they would not include this limitation and let the programs carry out research projects as intended.

Rather than continue to hamstring the research that can be done, Representatives Randy Feenstra (R-IA) and Chris Jacobs (R-NY) offered amendments that would expand the list of eligible projects the Agricultural Research Service (ARS) would be able to conduct with the money provided in the Committee print to include research on contagious animal pathogens and eradication of the spotted lanternfly. Unfortunately, these commonsense amendments were not adopted.

Another amendment offered by Representative Jim Baird (R-IN) would expand the list of eligible research projects funded through the Agriculture Advanced Research and Development Authority (AGARDA). The 2018 Farm Bill created AGARDA to conduct advanced research on mechanization in the specialty crop industry, plant pests and diseases, and veterinary countermeasures to biological threats. The Committee print provides $380 million to this program—a program that has never been funded—and limits eligible projects to climate-related research. This amendment would have made the qualified projects, as defined in the 2018 Farm Bill, eligible for the funding. Alas, the amendment was defeated 27 to 24.

As previously mentioned, we support our land grant and non-land grant colleges of agriculture as they are key to conducting agriculture research that is then taught to students and disseminated to communities through the Cooperative Extension Service. However, it is no secret the buildings at these institutions are outdated and require much-needed maintenance and upgrades. According to a recent report[1] on infrastructure at U.S. colleges and schools of agriculture, the cost of this deferred maintenance is $11.5 billion.

If the Majority were interested in making impactful investments to improve our agriculture research infrastructure, they would clear the deferred maintenance backlog at our colleges of agriculture. Instead, the Committee print provides only $3.65 billion to address this issue through the Research Facilities Act, of which will not clear even one-third of the backlog.

Subtitle E - Miscellaneous

The Supplemental Nutrition Assistance Program (SNAP) has seen considerable growth in recent years, with a brief, noticeable reduction in participation and cost during the former Administration. For example, the cost of the program more than doubled from $37.6 billion in 2008, to nearly $80 billion at its peak in 2013. In 2019, the lowest participation numbers were recorded since 2008, with 35.7 million individuals receiving the benefit totaling $60.3 billion in taxpayer dollars.

At the onset of the pandemic, 36.8 million people were receiving benefits. However, by June 2021—the most recent month with available data—the rolls increased to 42.34 million people. The average benefit per person was $121.13 in February 2020, which increased to $227.23 by June 2021. There was a slight uptick in enrollment in early 2021, likely due to the exclusion of pandemic unemployment insurance as found in December's Consolidated Appropriations Act, 2021.

Total FY2020 spending on SNAP was $79.2 billion, and thus far in FY2021, $83.6 billion. Benefits are the bulk of this spending, with state administrative costs, nutrition education, employment and training, and other miscellaneous expenses accounting for roughly six percent of total SNAP spending. For perspective, total FY2020 spending by the Food and Nutrition Service (FNS) on nutrition-related programs (e.g., SNAP, child nutrition, WIC, territory grants) was $109.5 billion; SNAP occupies more than 72 percent of FNS annual spending.[2]

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[1] https://www.aplu.org/library/a-national-study-of-capital-infrastructure-at-colleges-and-schools-of-agriculture-an-update/file
[2] https://www.fns.usda.gov/data/june-2021-keydata-report

An amendment, offered by Representative Jim Hagedorn (R-MN), repealed Section 2301 of the Families First Coronavirus Response Act (FFCRA), which would reinstate the time limit— and subsequently the work requirement—for able-bodied adults without dependents (ABAWD). The Majority continues to fail Main Street by not expecting productivity from able-bodied, childless SNAP recipients between the ages of 18-49, in addition to job and wage-killing policies across multiple Committees and sectors of the population. Nearly 70 percent of ABAWDs report zero income, so either they are working undisclosed jobs, or simply not engaging in a workforce that so desperately needs them. At a time when open jobs exceed the number of individuals seeking employment, and during our nation's second largest expansion of welfare entitlements, it is more important than ever to reinstate a 20 hour-per-week work or training requirement for these adults.

Ignoring this should be the Majority's burden, not their legacy.

As expected, the Majority launched into their typical tirade of inside-the-beltway talking points, perpetuated by pro-poverty "think" tanks and progressive socialists who would rather see a dependent voter base than a productive society. At the forefront of these talking points was a comment that "the majority of people who are able to work…actually do work." According to the Department's own research, only 29 percent of able-bodied, childless adults between the ages of 18 and 49 report earned income. The Majority continued to discuss specific populations and their inability to work. Interestingly, hundreds of organizations have placed each population into substantive employment: Veterans, young people aging out of foster care, and the homeless. Like so many other of the Majority's scripted points, excluding certain populations for political gain is loathsome.

And without fail, it was again referenced that Republicans "beat on poor people." This multi-year talking point, used as a Democrat response every time a Republican dare mention SNAP, is overdramatized and tired. It is used to fill space rather than talk about how to better serve more than 42 million people through productivity and dignity, and not the toxic "charity" Democrats have come to rely on to win support and serve as a basis for their big-government agenda.

The principle of reciprocal obligation, by which the taxpayer helps the recipient but the recipient in exchange is expected to take steps to help himself, has been abandoned. Democrats have replaced the idea of mutual obligation by unconditional entitlement.[3]

This amendment, part of En Bloc #4, was voted down 27 to 24.

Another amendment, offered by Representative Kat Cammack (R-FL), would prohibit the implementation of the SNAP benefit increase until the Government Accountability Office (GAO) completes their investigation, initiated by Ranking Members Thompson and Boozman on August 13, 2021. The Department released the Thrifty Food Plan (TFP) update on August 16, 2021— after a Sunday announcement in *The New York Times*— which increases the SNAP benefit by 25 percent, effective October 1, 2021. This process resulted in a $254 billion increase in the ten-year Farm Bill baseline. It included questionable shifts in policy and procedure that

[3] https://www.heritage.org/sites/default/files/2021-02/BG3589.pdf

undo 45 years of precedent and was completed with zero public notice or opportunity for public comment—a likely violation of the Administrative Procedure Act.

Per Section 4002 of the bipartisan 2018 Farm Bill, the Department is directed to regularly update the TFP, the market basket that serves as the basis for SNAP allotments. Before the directive in the 2018 Farm Bill, the TFP had not been updated since 2006, and before that, 1999 and 1983.

In January 2021, President Biden issued an Executive Order and subsequent explanatory notes to ensure the update started in 2021. Nowhere within the Order, nor the Farm Bill and its accompanying report language is there mention of cost neutrality or the avoidance of. Even the CBO scored it neutral in 2018, based on nearly 40 years of precedent, and again within their June 2021 baseline update.

After several questions from Committee Republicans, staff received the first update from the Department on its progress on June 15, 2021. Noticeably, the optimization model appeared to differ from the one used in 2006, which should not, as it is simply based on a series of very standard inputs and constraints. While the Department reiterated they were expediting the process NOT at the cost of a rigorous and comprehensive review, there is vast disagreement on that assertion, including from Department bureaucrats. This comprehensive review has shown to take longer than 12 months historically, yet this year's update took less than six. When questioned, the Department stated, "when something is important to you, you get it done."

Interestingly, the current Secretary spent eight years under the Obama Administration with zero interest in the Thrifty Food Plan. However, it is evident a choreographed effort by inside-the-beltway, pro-poverty advocates and their media cronies changed his perspective. More than three dozen outlets, including *The Washington Post, NBC News, Bloomberg, CNN*, and *CBS News* amplified the Department's interest in undermining Congressional intent and proceeding with a costly, questionable Thrifty Food Plan update process.

Since the formal release of the update to the Thrifty Food Plan on August 16, further requests have been made, including a request for documents from Republican Leader of the House Committee on Oversight and Reform James Comer (R-KY) and Ranking Member of the Nutrition, Oversight, and Department Operations Subcommittee, Don Bacon (R-NE). Between the former and the GAO investigation, a series of questions must be answered before contemplating the implementation of a shameless Executive Branch exploitation of Congressional intent.

The Majority's response was entirely disingenuous. While Republicans authored the Farm Bill provision, it was an exercise in good governance to ensure these market baskets were updated with regularity and without cost. The Chairman of the House Agriculture Committee at the time of the 2018 Farm Bill, Representative K. Michael Conaway (R-TX) stated the provision was written assuming the precedent of cost-neutrality would be followed, warning the Administration against such unilateral overreach.[4] The Majority labeled the increase as miniscule, which is telling, as they see $254 billion in taxpayer contributions as "miniscule."

[4] https://www.nytimes.com/2021/08/15/us/politics/biden-food-stamps.html

The Majority alluded to Ms. Cammack's amendment requiring the GAO investigation prior to implementation of the TFP update as demonizing people who are struggling, but the amendment would do nothing to impact eligibility nor current benefit allotments.

This amendment, part of En Bloc #4, was voted down 27 to 24.

Lastly, Representative Austin Scott (R-GA) offered and withdrew an amendment related to Pandemic-EBT, a program established in March 2020 as part of the FFCRA, which provides funds to American families to make up for the meals, in particular breakfast and lunch, missed when schools were closed due to COVID-19. Through this program, eligible low-income children can receive temporary nutrition benefits loaded onto Electronic Benefit Transfer (EBT) cards for use in purchasing food. To be eligible for P-EBT benefits, a student must qualify for free or reduced-price meals under the National School Lunch Program or participate in SNAP. Congress extended this program in the Continuing Appropriations Act 2021, the Consolidated Appropriations Act 2021, and the American Rescue Plan of 2021.

Unfortunately, this program has disintegrated in recent months in terms of eligibility (or lack thereof) and inequities amongst use. Congressional staff with lobbyist spouses are receiving cards in D.C., to the tune of hundreds to thousands of dollars per child. Households, regardless of income, in New York City received $1320 per child in two lump-sum payments, no questions asked. Affluent families in Tennessee are receiving hundreds of dollars in benefits by virtue of zip code.

Both the Majority and the Department's passive response warrants action, and it is noted Republican leadership of both this Committee and the Committee on Oversight and Government Reform initiated an Office of the Inspector General (OIG) investigation on July 12, 2021.

Again, this amendment was offered and withdrawn.

In Closing

As detailed in these views, we believe the Majority demonstrated just how broken Washington has become. The process, from drafting to consideration, was an affront to the hardworking farm families each of us represent. We are disappointed by the path we see this Committee headed down. Our collective efforts to participate meaningfully in this reconciliation process were stymied at every turn by the Majority. However, we are hopeful that there is time to change course and we see the opportunity to work together again to serve the farmers, ranchers, foresters, and rural communities that are the backbone of our great nation.



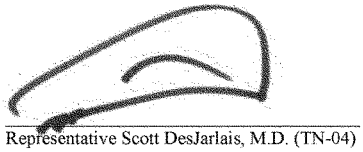
Representative Glenn 'GT' Thompson (PA-15)
Republican Leader



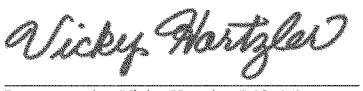
Representative Austin Scott (GA-08)



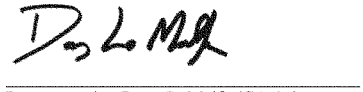
Representative Rick Crawford (AR-01)



Representative Scott DesJarlais, M.D. (TN-04)



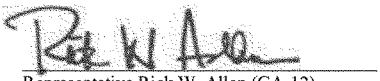
Representative Vicky Hartzler (MO-04)



Representative Doug LaMalfa (CA-01)



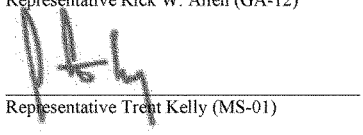
Representative Rodney Davis (IL-13)



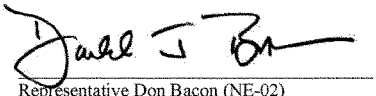
Representative Rick W. Allen (GA-12)



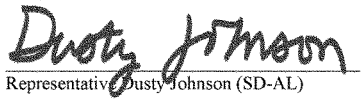
Representative David Rouzer (NC-07)



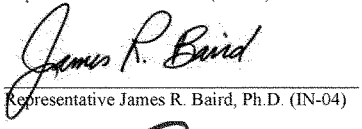
Representative Trent Kelly (MS-01)



Representative Don Bacon (NE-02)



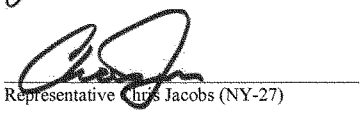
Representative Dusty Johnson (SD-AL)



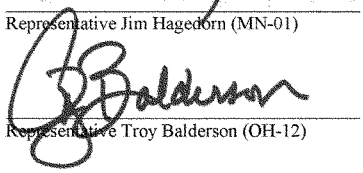
Representative James R. Baird, Ph.D. (IN-04)



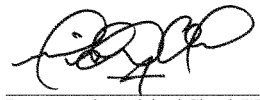
Representative Jim Hagedorn (MN-01)



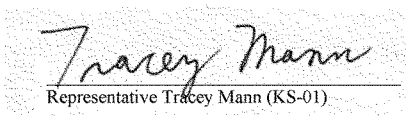
Representative Chris Jacobs (NY-27)



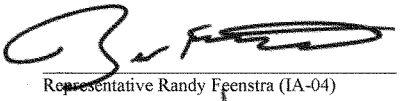
Representative Troy Balderson (OH-12)



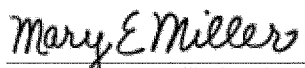
Representative Michael Cloud (TX-27)



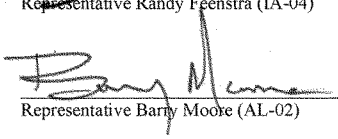
Representative Tracey Mann (KS-01)



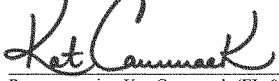
Representative Randy Feenstra (IA-04)



Representative Mary Miller (IL-15)



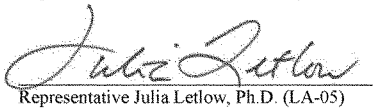
Representative Barry Moore (AL-02)



Representative Kat Cammack (FL-03)



Representative Michelle Fischbach (MN-07)



Representative Julia Letlow, Ph.D. (LA-05)

Additional Minority Views on Committee Print, as reported by the Committee on Agriculture, required by S. Con. Res. 14

S. Con. Res. 14 provides reconciliation instructions to certain Committees of the House. For its part, the House Agriculture Committee is ordered to produce legislation that totals $94 billion in spending, of which $89 billion is deficit spending and $28 billion is unaccounted for in the legislation as passed out of committee.

The measure completely fails to meet the needs of rural America while exploding the deficit and ignoring the needs of American farmers. Of the $94 billion in spending for "agriculture," the legislation provides zero dollars for American production agriculture and the food supply chain.

It's a disgrace that this legislation was advanced without so much as a single hearing before the markup was scheduled. In fact, the language of the legislation was intentionally withheld from sitting members of the committee until approximately 24 hours before the meeting began. Any honest consideration would have been postponed, so that the members could review the legation and meet in person on the language. In a partisan vote, Democrats rejected a motion to postpone the markup that would have allowed members time to review this legislation and have an actual committee meeting on it in Washington.

This partisan approach is particularly galling in the context of the House Agriculture Committee's bipartisan work for America in years past. I cannot recall another time where this committee abandoned its responsibility as it did with the $28 billion in spending in the conservation title, effectively passing a very large blank check for some other committee to determine what is and is not authorized to be spent on at the expense of rural Americans.

I did offer a simple amendment that would have required the Biden Administration to identify and pay the remaining farmers who are eligible for the Coronavirus Food Assistance Program within 60 days of enactment of this legislation. Some are still waiting for payments nearly a year later. If House Democrats cared at all about the American farmer, they would have accepted this amendment and at least one of the many others offered by my colleagues. However, every Democrat on the committee chose to abandon our farmers and my amendment failed by a vote of 27-24, along party lines, despite there being no opposition to the substance of the language.

Sincerely,



Austin Scott
Ranking Member
Subcommittee on General Farm Commodities and Risk Management

MAJORITY MEMBERS:

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Chairman

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JOE COURTNEY, CONNECTICUT
GREGORIO KILILI CAMACHO SABLAN,
NORTHERN MARIANA ISLANDS
FREDERICA S. WILSON, FLORIDA
SUZANNE BONAMICI, OREGON
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NEW MEXICO
MONDAIRE JONES, NEW YORK
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JAMAAL BOWMAN, NEW YORK
MARK POCAN, WISCONSIN
JOAQUIN CASTRO, TEXAS
MIKIE SHERRILL, NEW JERSEY
JOHN A. YARMUTH, KENTUCKY
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KWEISI MFUME, MARYLAND

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MADISON CAWTHORN, NORTH CAROLINA
MICHELLE STEEL, CALIFORNIA
JULIA LETLOW, LOUISIANA
VACANCY

September 14, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14, I hereby transmit these recommendations that have been approved by vote of the Committee on Education and Labor, and the appropriate accompanying material including Minority Views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14, and is consistent with section 310 of the *Congressional Budget and Impoundment Control Act of 1974*.

Sincerely,

Robert C. "Bobby" Scott
Chairman

TABLE OF CONTENTS

COMMITTEE CONSIDERATION .....

EXPLANATION OF PROVISIONS.....

VOTES OF THE COMMITTEE.....

BUDGET EFFECTS OF THE PROVISIONS .....

CBO COST ESTIMATE .....

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE.....

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED.....

MINORITY VIEWS.....

COMMITTEE CONSIDERATION

117th Congress

On September 9, 2021, the Committee on Education and Labor (Committee) met to consider and mark up the Committee Print (Committee Print) to comply with the reconciliation directive included in section 2002(b) of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14, and on September 10, 2021, the Committee concluded its consideration and mark up.

Chairman Robert C. "Bobby" Scott (D-VA-03) offered an Amendment in the Nature of a Substitute (ANS) that made one technical edit to the Committee Print.

The Committee considered and adopted the following amendments to the ANS:

- Chairman Scott offered a manager's amendment that was adopted by voice vote. The manager's amendment:
    - clarified that the funding for the Office of Inspector General of the Department of Education (ED) can be used for oversight activities relating to any ED funding provided in the ANS;
    - added "health care" to the list of high-skill, high-wage, or in-demand industry sectors and occupations as part of the Industry or Sector Partnership Grants;
    - added a requirement that state plans for universal preschool include an assurance that living wages will be provided for staff;
    - added funding for localities that want to provide child care subsidies despite their state declining to participate in the Birth Through Five Child Care and Early Learning Entitlement Program and targets the funding to low-income families below 200 percent of the Federal Poverty Level; and
    - made other minor and technical fixes.
- Representative Teresa Leger-Fernandez (D-NM-03) offered an amendment to include "arts and entertainment" as a sector covered in section 22008 (Industry or Sector Partnership Grants). The amendment was adopted by voice vote.
- Representative Mikie Sherrill (D-NJ-11) offered an amendment to lift income caps on the child care entitlement program. The amendment was adopted by a vote of 28 Yeas and 21 Nays.
- Chairman Scott offered a technical amendment applying Department of Labor (DOL) program administration funds in section 22014 to cover parts 3 and 4, and section 22402 of part 5 of subtitle C. The amendment was adopted by voice vote.

The Committee also considered the following amendments to the ANS:

- Rep. Joe Wilson (R-SC-02) offered an amendment to strike funding for AmeriCorps and add $3.2 billion for short-term, non-Registered Apprenticeship programs. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Tim Walberg (R-MI-07) offered an amendment in the Birth Through Five Child Care and Early Learning Entitlement section, to strike the portion of the definition of

child care that declares that it is federal financial assistance and strikes the condition that prohibits child care construction funds for facilities that are primarily used for sectarian instruction or religious worship. The amendment failed by a vote of 20 Yeas and 28 Nays.

- Rep. Walberg offered an amendment to strike DOL's authority to levy civil monetary penalties for violations of mental health parity and substitute language treating standalone telehealth plans as excepted benefits under the *Employee Retirement Income Security Act*. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Walberg offered an amendment to strike language that authorizes civil monetary penalties on employers that permanently replace striking workers or lockout workers prior to the commencement of a strike. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Fred Keller (R-PA-12) offered an amendment to add an income cap to the free community college program. The amendment failed by a vote of 21 Yeas and 27 Nays.
- Rep. Keller offered an amendment to eliminate increases in civil monetary penalties under the *Occupational Safety and Health Act* and the *Fair Labor Standards Act*. The amendment failed by a vote of 21 Yeas and 27 Nays.
- Rep. Keller offered an amendment to require the Secretary of Agriculture to provide all types of milk, including whole, in the Special Supplemental Nutritional Program for Women, Infants, and Children (WIC) program. The amendment failed by a vote of 21 Yeas and 27 Nays.
- Rep. Jim Banks (R-IN-03) offered an amendment to prohibit funding in the ANS from going to universities with a Confucius Institute. The amendment failed by a vote of 22 Yeas and 26 Nays.
- Rep. Banks offered an amendment prohibiting students from using Pell Grants for research for or on behalf of China. The amendment failed by a vote of 20 Yeas and 28 Nays.
- Rep. Madison Cawthorn (R-NC-11) offered an amendment to require entities that receive funding under the school construction provision and teacher, personnel, and principal provisions to support students or employees who were evacuated from or impacted by the evacuation of others from Afghanistan. Covered students and employees are those with a valid U.S. passport or approved entry into the U.S. under the Special Immigrant Visa Program. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Cawthorn offered an amendment to eliminate the $707 million allocation for the Occupational Safety and Health Administration. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Burgess Owens (R-UT-04) offered an amendment to extend *National Labor Relations Act* civil monetary penalties to unfair labor practices by unions. The amendment failed by a vote of 21 Yeas and 28 Nays as part of *en bloc* 1.
- Rep. Rick Allen (R-GA-12) offered an amendment to strike the language allowing the National Labor Relations Board to levy civil monetary penalties against employers for unfair labor practices as well as to strike the language allowing the National Labor Relations Board to levy civil monetary penalties for the following conduct: permanently replacing striking employees, locking out employees prior to a strike, misclassifying employees, holding captive audience meetings, and requiring employees to waive their

right to engage in joint, class, or collective claims. The amendment failed by a vote of 21 Yeas and 28 Nays as part of *en bloc* 1.

- Rep. Allen offered an amendment to strike the $350 million in funding for the National Labor Relations Board, including $5 million for the implementation of systems to conduct electronic voting in union representation elections. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Allen offered an amendment requiring a Government Accountability Office study of college costs, labor market outcomes, and institutional finances. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Allen offered an amendment requiring institutions to repay Pell Grants for students who do not complete a program of study or transfer. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. James Comer (R-KY-01) offered an amendment prohibiting funds from being used to rescind DOL's Office of Federal Contract Compliance Programs' rule entitled *Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption* issued December 9, 2020. The amendment failed by a vote of 22 Yeas and 28 Nays as part of *en bloc* 2.
- Rep. Comer offered an amendment prohibiting funds from being used by DOL to issue a rule establishing a joint employer standard that treats an employer as a joint employer of the employee of another employer without direct, actual, or immediate exercise of control over the essential terms and conditions of employment of such employee. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Glenn Thompson (R-PA-15) offered an amendment to strike the healthy food incentive demonstration and provide an additional two cents per meal in reimbursement for the School Breakfast Program. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Greg Murphy (R-NC-03) offered an amendment to condition higher education funding on making a redundant assurance regarding free speech protections. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Lisa McClain (R-MI-10) offered an amendment to insert language on career and technical education regarding public awareness campaigns and other activities already permitted under the *Carl D. Perkins Career and Technical Education Act*. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Michelle Steel (R-CA-48) offered an amendment to strike the $405 million in funding for DOL's Wage and Hour Division. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Michelle Steel offered an amendment to condition school infrastructure funds on school districts providing in-person instruction to subgroups of students. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Glenn Grothman (R-WI-06) offered an amendment to strike the provision expanding Pell Grant eligibility to those with a grant of deferred action under the Deferred Action for Childhood Arrivals (DACA) policy, or those with temporary protected status (TPS) or deferred enforced departure (DED). The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Grothman offered an amendment to strike the universal preschool program. The amendment failed by a vote of 22 Yeas and 28 Nays as part of *en bloc* 3.

- Rep. Grothman offered an amendment to strike the Competitive Integrated Employment Transformation Grant Program. The amendment failed by a vote of 20 Yeas and 29 Nays.
- Rep. Grothman offered an amendment to allow institutions of higher education to lower federal borrowing limits. The amendment failed by voice vote.
- Rep. Grothman offered an amendment to strike the increase in the maximum Pell Grant. The amendment failed by a vote of 22 Yeas and 28 Nays as part of *en bloc* 3.
- Representative Mariannette Miller-Meeks (R-IA-02) offered an amendment to cap the eligibility for the preschool program at households making up to $400,000 in income. The amendment failed by a vote of 22 Yeas and 27 Nays.
- Rep. Miller-Meeks offered an amendment to make labor and workforce investments contingent on certification from the Bureau of Labor Statistics that no inflationary effects would result from enactment of that title in the ANS. The amendment failed by a vote of 22 Yeas and 27 Nays.
- Representative Scott Fitzgerald (R-WI-05) offered an amendment to require school districts to certify they will lease vacant buildings and sell land to charter schools and private schools. The amendment failed by a vote of 21 Yeas and 27 Nays.
- Rep. Fitzgerald offered an amendment to restrict eligibility for tuition-free community college based on certain prior criminal convictions. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Fitzgerald offered an amendment to prohibit funding to community colleges with ties to a foreign adversary. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Diana Harshbarger (R-TN-1) offered an amendment to replace references to "tuition-free community college" with references to "federal-taxpayer funded community college." The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Harshbarger offered an amendment to create an exemption from the *National Labor Relations Act*'s penalties for employers that employ fewer than 100 employees or that have gross annual sales that are less than $1 million per year. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Julia Letlow (R-LA-05) offered an amendment to eliminate the provision increasing civil monetary penalties under the *Migrant and Seasonal Agricultural Workers Protection Act*. The amendment failed by a vote of 21 Yeas and 28 Nays.
- Rep. Letlow offered an amendment to strike the provision providing free community college. The amendment failed by a vote of 22 Yeas and 28 Nays as part of *en bloc* 3.
- Rep. Mary Miller (R-IL-15) offered an amendment to prohibit school districts that receive funds for school construction or teacher preparation programs from administering vaccinations to minors on school grounds without parental consent. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Rep. Miller offered an amendment to prohibit funds to community colleges that are affiliated with a student-based service site that provides abortion care. The amendment failed by a vote of 22 Yeas and 28 Nays.
- Ranking Member Foxx (R-NC-05) offered an amendment to create an exemption from increased *Fair Labor Standards Act* penalties for employers with fewer than 10 employees or less than $1 million in sales per year. The amendment failed by a vote of 22 Yeas and 28 Nays.

- Ranking Member Foxx offered an amendment to prohibit the use of funds to rescind the Equal Employment Opportunity Commission's (EEOC) Compliance Manual on Religious Discrimination issued on January 15, 2021. The amendment failed by a vote of 22 Yeas and 28 Nays as part of *en bloc* 2.

The Committee voted to adopt the ANS, as amended, by a vote of 28 Yeas and 22 Nays.

The Committee voted to favorably transmit the Committee Print, as amended, the recommendations of the Committee, and all appropriate accompanying material including Minority Views, to the Committee on the Budget by a vote of 28 Yeas and 22 Nays.

EXPLANATION OF PROVISIONS

Subtitle A—Education Matters

PART 1— Elementary and Secondary Education

Section 20001. Rebuild America's Schools Grant Program.
Provides $82,180,000,000 in school infrastructure grants to improve our nation's school facilities, targeting funds to the highest-poverty districts. In fiscal year (FY) 2022, state educational agencies (SEAs) will receive $1,270,000,000 in funding based on their proportionate share of funds received under title I-A of the *Elementary and Secondary Education Act of 1965* (Title I) to develop plans to address their urgent and long-term public school facility needs. SEAs must allocate no less than 80 percent of funds to local educational agencies (LEAs) based on their proportional share of Title I funds for facility planning at the local level. SEAs must use 20 percent of funds to develop a state facilities plan for making improvements to public schools, a competitive process for subgrants targeted to the highest poverty districts, and a school facilities database. In FYs 2023 and 2024, SEAs with approved state plans will receive funding in proportion to their share of Title I funds. SEAs can reserve 10 percent of funds to provide technical assistance to school districts and operate and maintain their school facilities database to ensure better data collection on their schools. SEAs must subgrant 90 percent of funds to the highest-poverty districts for construction and modernization. States are required to meet a 10 percent matching requirement with an exemption for states that already meet this requirement. In addition, a state must maintain school infrastructure spending at no less than 90 percent of its share of school facilities capital outlays in the five years preceding FY 2020 and adhere to a supplement-not-supplant requirement. The Secretary of Education may waive the maintenance of effort requirement for states that demonstrate an exceptional or uncontrollable circumstance.

Section 20002. Outlying Areas.
Provides $410,900,000 for grants to the outlying areas based on their proportional share of Title I funds in the most recent fiscal year to carryout activities in accordance with the Rebuild America's Schools Grant program.

Section 20003. Impact Aid Construction Grants.
Provides $410,900,000 for the capital and construction needs of military-connected local LEAs and LEAs that serve Indian lands. The eligibility threshold is lowered from 50 percent to 20 percent to expand support to more military-connected LEAs and LEAs that serve Indian lands.

Section 20004. Bureau of Indian Education.
Provides $369,810,000 for construction and carrying out major repairs in Bureau of Indian Education (BIE) -operated and -funded elementary and secondary schools and additionally provides $41,090,000 for digital infrastructure needs.

Section 20005. Gallaudet University.
Provides $150,000,000 for the construction needs of Kendall Demonstration Elementary School, the Model Secondary School for the Deaf at Gallaudet University.

Section 20006. Grow Your Own Programs.
Provides $197,000,000 for grants to eligible partnerships, to be made in accordance with the same terms and conditions of the Teacher Quality Partnership (TQP) Grant program, for the purpose of funding "Grow Your Own" programs that address shortages of teachers in high-need subjects, shortages of school leaders in high-need schools, and low diversity within the teacher and school leader workforce. Eligible partnerships must integrate coursework with a year-long clinical residency to support candidates in earning their associate's, bachelor's or master's degrees and a teaching or school leadership credential. Partnerships must recruit individuals with experience in high-need subjects or fields who are not certified to teach or lead, with a specific focus on individuals from underrepresented populations and those who either live in or come from communities the schools in the eligible partnership serve. Partnerships must also provide academic and nonacademic support to candidates, including advising and financial assistance, as well as stipends for candidates to engage in school-based clinical placements.

Section 20007. Teacher Residencies.
Provides $198,000,000 to award grants to eligible partnerships for the development and support of high-quality teacher residency programs, as described in section 202(e) of the *Higher Education Act of 1965*, except that funds are available for teacher residency programs for prospective teachers in a baccalaureate program.

Section 20008. Support School Principals.
Provides $198,000,000 to award grants for the development and support of school leadership programs, as described in section 2243 of the *Elementary and Secondary Education Act of 1965*.

Section 20009. Hawkins.
Provides $198,000,000 for the Augustus F. Hawkins Centers of Excellence Program, as described in section 242 of the *Higher Education Act of 1965*, to award grants to support teacher preparation programs at Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions (MSIs).

Section 20010. Funding for the Individuals with Disabilities Education Part D Personnel Development.
Provides $297,000,000 for grants to eligible entities for the development of personnel to serve children with disabilities, as described in section 662 of the *Individuals with Disabilities Education Act*.

PART 2—Higher Education

Subpart A—America's College Promise

Section 20021. Grants for Tuition Free Community College.
Provides approximately $45,500,000,000 to eliminate the cost of tuition and fees for eligible students at community colleges in participating states and at eligible Tribal Colleges and Universities (TCUs). The program is funded with a combination of federal and participating state funds using a formula that is based on the median cost of tuition and fees nationwide, not weighted for enrollment. During the first year of the program, the federal share is equal to 100 percent of such median cost and no state match is required. In subsequent years, the federal/state

share changes to 95/5, 90/10, 85/15, and 80/20. States meeting specified conditions may reduce their matching obligation by counting certain state financial aid and local funds toward their match. States may also qualify for relief from matching requirements during periods of high unemployment. Eligible TCUs receive federal grants sufficient to fully cover the cost of waiving tuition and fees and are not required to provide a match.

States and eligible TCUs must satisfy certain specified terms and conditions in order to receive funding under this grant program. These terms and conditions include: waiving tuition and fees for eligible students on a first-dollar basis; informing students of their potential eligibility for benefits under this program and other programs that can help students cover the cost of attendance; improving transfer pathways and the alignment of secondary and postsecondary education; and maintaining state spending on higher education, operational expenses for public four-year colleges, and need-based financial aid. States and eligible TCUs that have program funds remaining after waiving tuition for all eligible students are required to spend such remaining funding to provide need-based financial aid, reduce unmet need at public four-year institutions, improve student outcomes, or expand access to dual enrollment programs. In order to be eligible, students must enroll at a community college in a program eligible to received student financial aid authorized under title IV of the *Higher Education Act of 1965* (Title IV). Additionally, students must be eligible for in-state or in-district tuition (except that ineligibility for such in-state or in-district tuition based on immigration status shall not disqualify a student from eligibility for benefits under this program) and file a Free Application for Federal Student Aid (applicable only to U.S. citizens). Students in dual enrollment programs are not eligible for tuition waivers. Students may receive benefits for a maximum of six semesters. The program will be funded at such sums as may be necessary and will sunset after five years, providing an estimated budgetary impact of $45,500,000,000.

Section 20022. Retention and Completion Grants.
Provides $9,000,000,000 for grants to eligible states and TCUs to improve student outcomes, including retention, completion, and transfer rates, and labor market outcomes. States must use at least 30 percent of grant funds to implement reforms and practices meeting certain evidence standards and must increase support for under-resourced public institutions of higher education that serve a disproportionate share of underserved students, including low-income students, students of color, students with disabilities, first generation college students, and students in need of remediation. The program will sunset after seven years.

Section 20023. Tuition Assistance for Students at Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving Institutions.
Invests approximately $27,500,000,000 to reduce tuition costs for low-income students attending four-year HBCUs, TCUs, and other MSIs that enroll at least 35 percent low-income students. Eligible institutions will receive funds to reduce tuition for low-income students by an amount equal to the median cost of resident community college tuition and fees, not weighted for enrollment. Institutions that charge less than such median cost are required to use any remaining funds to provide financial aid to eligible students for non-tuition expenses. As a condition of receiving a grant, institutions must commit to adopting or expanding evidence-based reforms or practices to improve student outcomes and to increasing the transferability of credits from community colleges located in the same state as the institution.

In order to be eligible, students must enroll in a Title IV-eligible program on at least a half-time basis, meet the financial eligibility criteria for receiving a Pell Grant, and file a FAFSA (applicable only to U.S. citizens). Dual enrollment students and students who have completed a bachelor's degree are ineligible. Students lose eligibility after enrolling for 60 credits at the eligible institution, or after receiving benefits for six semesters, whichever comes first. The program will be funded at such sums as may be necessary and will sunset after seven years, providing an estimated budgetary impact of $27,500,000,000.

Section 20024. Northern Mariana Islands, American Samoa, United States Virgin Islands, and Guam College Access.
Invests $40,000,000 to cover the difference between in-state and out-of-state tuition for eligible students from the Northern Mariana Islands, American Samoa, United States Virgin Islands, and Guam who attend an out-of-state four-year public institution of higher education. The Governor of each outlying area will enter into one or more agreements with eligible institutions to provide benefits to eligible students. Students may receive a maximum benefit of $15,000 per year and a maximum aggregate benefit of $75,000. In order to be eligible, a student must have been domiciled in one of the outlying areas for at least one year prior to their freshman year of college, enroll at an eligible institution within three years of graduating from high school or transferring from an institution in an outlying area, and enroll on at least a half-time basis in a baccalaureate or other program leading to a recognized postsecondary credential. Students who have completed a bachelor's degree are ineligible. The program will be funded at such sums as necessary and will sunset after seven years, providing an estimated budgetary impact of $40,000,000.

Subpart B—Pell Grants and Student Loans

Section 20031. Increasing the Maximum Federal Pell Grant.
Provides necessary funding investments to increase the maximum Pell Grant award by $500.

Section 20032. Federal Student Aid Eligibility.
Expands eligibility for Title IV financial aid programs, including Pell Grants, to individuals with a grant of deferred departure under the Deferred Action for Childhood Arrivals (DACA) policy, as well as those with temporary protected status (TPS) and / or deferred enforced departure (DED).

Section 20033. Active Duty Deferment Periods Counted Towards Public Service Loan Forgiveness.
Allows for periods of active duty deferment and forbearance to count as qualifying payments for the purposes of Public Service Loan Forgiveness.

Subpart C— Investments in Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions

Section 20041. Institutional Aid.
Provides $1,450,000,000 to increase mandatory appropriations to HBCUs, TCUs, and MSIs authorized under section 371 of the *Higher Education Act of 1965*.

Section 20042. Research and Development Infrastructure Competitive Grant Program.
Provides $2,000,000,000 for a competitive grant program to improve the research capacity and research and development infrastructure at four-year HBCUs, TCUs, and MSIs. The competitive grant program will consist of planning grants for a period of one to two years and implementation grants for a period of one to five years. Institutions shall receive priority if they currently receive less than $10,000,000 in federal research and development funding and if, applying for an implementation grant they previously received a planning grant.

PART 3—Miscellaneous

Section 20051. Office of the Inspector General of the Department of Education.
Provides $35,000,000 for the ED Office of Inspector General, for salaries and expenses necessary for oversight, investigations, and audits of programs, grants, and projects funded under this subtitle and sections 22101 and 22102 of subtitle C.

Section 20052. Program Administration.
Provides $738,000,000 for ED to administer programs under this subtitle and sections 22101 and 22102 of subtitle C.

Section 20053. Student Aid Administration.
Provides $91,000,000 for student aid administration within ED to administer programs and implement amendments made under this subtitle.

Subtitle B—Labor Matters

Section 21001. Department of Labor.
Provides $1,938,000,000 over a five-year period through September 30, 2026 to rebuild the capacity of worker protection agencies in DOL, by, including:

- $195,000,000 for the Employee Benefits Security Administration for carrying out enforcement activities;
- $707,000,000 for the Occupational Safety and Health Administration for carrying out enforcement, standards development, whistleblower investigations, compliance assistance, and funding for State plans;
- $133,000,000 for the Mine Safety and Health Administration for carrying out enforcement, standard setting, technical assistance, and related activities;
- $405,000,000 for the Wage and Hour Division;

- $121,000,000 for the Office of Workers' Compensation Programs for claims activity, policy and standards development, and monitoring of State workers' compensation programs;
- $201,000,000 for the Office of Federal Contract Compliance Programs for carrying out audit, enforcement, and compliance assistance activities; and
- $176,000,000 for the Office of the Solicitor for carrying out legal support for the activities of those DOL agencies receiving additional funding in this section.

Section 21002. National Labor Relations Board.
Provides $350,000,000 over a five-year period through September 30, 2026, to rebuild the capacity of the National Labor Relations Board, of which not more than $5,000,000 shall be for the implementation of systems to conduct electronic voting for union representation elections.

Section 21003. Equal Employment Opportunity Commission.
Provides $321,000,000 over a five-year period through September 30, 2026 to rebuild the capacity of the Equal Employment Opportunity Commission for carrying out investigation, enforcement, outreach, and related activities..

Section 21004. Adjustment of Civil Monetary Penalties.
Amends the *Occupational Safety and Health Act of 1970* to: increase the maximum penalty to $700,000 for willful and repeat violations; increase the minimum penalty to $50,000 for willful violations; and increase the maximum penalty for both serious and failure-to-abate violations to $70,000. Amends the *Fair Labor Standards Act of 1938* to: increase the maximum civil penalty to $132,270 for child labor violations; $601,150 for child labor violations that cause the death or serious injury of an employee under the age of 18; $20,740 for willful or repeated minimum wage or overtime violations; and $11,620 for tip violations. Amends the *Migrant and Seasonal Agricultural Worker Protection Act of 1983* to increase the maximum civil penalty for violations of the law to $25,790.

Section 21005. Civil Monetary Penalties for Parity Violations.
Authorizes civil monetary penalties for violations of the *Mental Health Parity and Addiction Equity Act* by group health plan sponsors, plan administrators, and issuers; for such violations applies the penalties available under the *Genetic Information Nondiscrimination Act*.

Section 21006. Penalties Under the *National Labor Relations Act.*
Authorizes civil monetary penalties for employers that violate existing unfair labor practice provisions of the *National Labor Relations Act.* It also establishes civil monetary penalties for employers that: permanently replace striking workers, engage in the use of offensive lockouts, misclassify employees, conduct captive audience meetings, or enter into or enforce an agreement that requires employees to waive their right to engage in joint, class, or collective claims. Penalties are up to $50,000 for each violation and can be doubled up to $100,000 for any violation resulting in termination and serious economic harm and where the employer has previously committed such violation in the preceding five years.

Subtitle C— Workforce Development

PART 1—Department of Labor
Provides $65,710,000,000 over a five-year period through September 30, 2026, to DOL to carry out the following workforce development activities.

Section 22001. Dislocated Worker Employment and Training Activities.
Provides $16,000,000,000 over a five-year period through September 30, 2026 for Dislocated Worker State Grants authorized under the *Workforce Innovation and Opportunity Act* (WIOA), of which 20 percent is reserved for career services including individualized career services, 20 percent is reserved for providing supportive services and needs-related payments to dislocated workers, and 50 percent is reserved for training services. Of the funds reserved for training services, not less than 60 percent shall be reserved for funding individual training accounts which can be used at any education or training program on a state's eligible training provider list, such as local community colleges or registered apprenticeships, and states or local areas may use up to 40 percent of funds for subsidized employment through transitional jobs.

Section 22002. Adult Worker Employment and Training Activities.
Provides $15,000,000,000 over a five-year period for WIOA state grants for Adult Employment and Training Activities, of which 20 percent is reserved for career services including individualized career services, 10 percent is reserved for providing supportive services and needs-related payments to adults, and 50 percent is reserved for training services. Of the funds reserved for training services, not less than 60 percent shall be reserved for funding individual training accounts which can be used at any education or training program on a state's eligible training provider list such as local community colleges or registered apprenticeships, and states or local areas are allowed to use up to 40 percent of funds for incumbent worker training if such training is provided to low-wage workers.

Section 22003. Youth Workforce Investments Activities.
Provides $9,054,000,000 over a five-year period through September 30, 2026 for WIOA state grants for Youth Employment and Training Activities, of which 75 percent is reserved for paid work experience for in-school and out-of-school youth. Of all funds provided under this section, local areas must reserve not less than 20 percent for partnering with community-based organizations to serve out-of-school youth, including in high-crime and high-poverty areas.

Section 22004. Employment Service.
Provides $1,350,000,000 over a five-year period through September 30, 2026 for the Employment Service, including funds for the Commonwealth of the Northern Mariana Islands and American Samoa, of which $100,000,000 is reserved for improvements to workforce and labor market information systems.

Section 22005. Reentry Employment Opportunities.
Provides $3,600,000,000 over a five-year period through September 30, 2026 for employment and training activities for justice-involved individuals, of which not less than 25 percent shall be reserved for competitive grants to national and regional intermediaries for activities that prepare

young adults who are justice-involved or who have dropped out of school or work prepare for employment. Grants should prioritize projects serving high-crime and high-poverty areas.

Section 22006. Registered Apprenticeships, Youth Apprenticeships, and Pre-Apprenticeships.
Provides $5,000,000,000 over a five-year period through September 30, 2026 for registered apprenticeship programs, youth apprenticeship programs, and pre-apprenticeship programs that articulate to registered apprenticeship programs, with 50 percent of funds reserved for apprenticeship programs serving high numbers of individuals with barriers to employment, including individuals with disabilities, or nontraditional apprenticeship populations, and for expanding youth apprenticeships or pre-apprenticeships.

Section 22007. Community College and Industry Partnership Grants.
Provides $2,000,000,000 over a five-year period through September 30, 2026 for competitive grants to community colleges that are part of or in the process of establishing industry or sector partnerships to expand workforce development programs in high-skill, high-wage, or in-demand industry sectors or occupations. Not less than 15 percent of grant funds shall be reserved for providing supportive services, career services and job placement assistance to individuals with barriers to employment.

Section 22008. Industry or Sector Partnership Grants.
Provides $10,000,000,000 over a five-year period through September 30, 2026 for grants to industry or sector partnerships including state or local workforce boards, employers, labor organizations, and education and training providers, to develop and implement workforce services leading to jobs in high-skill, high-wage, or in-demand industry sectors and occupations. Fifty percent of grant funds shall be reserved for training services and 15 percent of grant funds shall be reserved for providing career services, supportive services, and needs-related payments for individuals with barriers to employment. Of the funds made available under this section, 5 percent shall be reserved for state and local boards to support the creation or expansion of industry or sector partnerships.

Section 22009. Job Corps.
Provides $1,500,000,000 over a five-year period through September 30, 2026 for the Job Corps program, which includes funds to improve and expand access to allowances and transition supports for Job Corps students. Of this amount, $750,000,000 is reserved for construction, rehabilitation, and acquisition of Job Corps Centers.

Section 22010. Native American Programs.
Provides $450,000,000 over a five-year period through September 30, 2026 for the Native Americans programs authorized under WIOA supporting employment and training activities.

Section 22011. Migrant and Seasonal Farmworker Programs.
Provides $450,000,000 over a five-year period through September 30, 2026 for Migrant and Seasonal Farmworker programs authorized under WIOA supporting migrant and seasonal farmworkers and their families achieve economic self-sufficiency, with eligibility expanded to include seasonal farmworkers with incomes up to 150 percent of the federal poverty line.

Section 22012. YouthBuild Program.
Provides $500,000,000 over a five-year period through September 30, 2026 for the YouthBuild program authorized under WIOA, including for improving or expanding access to services, stipends, wages and benefits for participants.

Section 22013. Senior Community Service Employment Program.
Provides $100,000,000 over a five-year period through September 30, 2026 for the Senior Community Service Employment Program authorized under the *Older Americans Act* (OAA).

Section 22014. Program Administration.
Provides $720,000,000 over a five-year period through September 30, 2026 for DOL to administer programs under its authority under this subtitle, including part 1, part 3, part 4, and section 22402.

PART 2—Department of Education Workforce Development Appropriations
Provides $7,600,000,000 to ED to carry out the following workforce development activities over a seven-year period through September 30, 2028.

Section 22101. Adult Education and Literacy.
Provides $3,600,000,000 over a seven-year period through September 30, 2028 for adult education and literacy services authorized under WIOA, with 10 percent of funds that states award to eligible providers reserved for corrections education and education of other institutionalized individuals.

Section 22102. Career and Technical Education.
Provides $4,000,000,000 to ED over a seven-year period through September 30, 2028 to carry out activities related to Career and Technical Education, of which $3,000,000,000 is provided for State grants authorized under the *Carl D. Perkins Career and Technical Education Act of 2006* (Perkins CTE Act) and $1,000,000,000 is provided for innovation and modernization grants authorized under that Act.

PART 3—Competitive Integrated Employment Transformation Grant Program

Section 22201. Competitive Integrated Employment Transformation Grant Program
Provides $300,000,000 for the Secretary of DOL to issue 5-year grants to states to assist employers, who hold special certificates issued under section 14(c) of the *Fair Labor Standards Act* (FLSA) that allow them to pay workers with disabilities below minimum wage, to transform their business and program models to provide for competitive integrated employment (CIE) and payment of at least the minimum wage applicable in that state or the prevailing wage under federal law. Grants will also provide people with disabilities with the supports to find and retain CIE. Although this provision does not amend the FLSA, nor does it ban DOL from issuing special certificates under section 14(c) of the FLSA, it does require that a state which receives a grant must provide assurances that it will not permit employers within their state to use 14(c) certificates to pay workers with disabilities less than the minimum wage, and require that such wages are not less than their non-disabled peers performing similar work and who have similar

training, experience and skills. Depending on the number of states that apply to participate in the program, grants will be issued on either a formula or competitive basis.

Ten percent of the total funding is reserved to provide grants to the nine states that have already eliminated the use of 14(c) certificates or are in the process of phasing out the use of these certificates, to enable these states to continue to expand CIE for people with disabilities. Two percent of the funds are reserved to establish a national technical assistance center that will assist states and individual employers to end the use of 14(c) certificates.

Section 22202. Definitions
Defines "competitive integrated employment" as having the same meaning as in the *Rehabilitation Act of 1973* and the terms "employer" and "employer" as having the meaning given in the *Fair Labor Standards Act* (FLSA) *of 1938*. Additionally, defines "integrated community participation and wraparound services" and "integrated services".

PART 4—Recruitment, Education and Training, Retention, and Career Advancement for the Direct Care Workforce

Section 22301. Definitions.
Defines key terms that are cross-referenced in the Perkins CTE Act and WIOA. Additionally, defines the terms "family caregiver" and "direct care worker" as well as the entities eligible to receive a grant to include states, joint labor-management organizations, certain relevant nonprofit organizations, Indian Tribes or Tribal organizations, state and local boards, and Area Agencies on Aging, among others.

Section 22302. Grants to Support the Direct Care Workforce.
Provides $1,480,000,000 to support the direct care workforce through renewable three-year grants from DOL, in coordination with the Department of Health and Human Services' (HHS) Administration for Community Living, to eligible entities including states, tribes, labor organizations, and non-profit organizations. Grants can be used to invest in strategies to recruit, retain, and advance the direct care workforce; implement models and strategies to make the field of direct care more attractive; and improve wages, including through training and registered apprenticeships, career pathways, or mentoring.

PART 5—Workforce Development Programs in Support of Communities and the Environment

Section 22401. Corporation for National and Community Service.
Provides $2,000,000,000 for the Corporation for National and Community Service (CNCS) in support of national service activities that support environmental resiliency and remediation and requires that of the funds made available under this section, 50 percent is reserved for serving communities that are low-income or experiencing adverse health or environmental conditions. In administering funds under this section, CNCS must use culturally competent and multilingual strategies, provide access to opportunities for workforce development such as pre-apprenticeships, and coordinate and share resources with workforce programs under the DOL and ED. Included in this funding are:

- $1,305,250,000 over a five-year period for AmeriCorps State and National Programs to increase funding for existing grant awards, make new awards, and raise the living allowance for participants in these national service programs. Grantee match requirements shall be waived in whole or part for organizations serving communities adversely affected by high rates of poverty, discrimination, or inequality;
- $100,000,000 over a five-year period for the Volunteers in Service to America program, including to raise the living allowance for volunteers;
- $80,000,000 over a five-year period for the National Civilian Community Corps;
- $40,000,000 until expended to make adjustments to existing awards and make new awards, including to the State Commissions on National and Community Service;
- $199,650,000 over a six-year period for administrative costs at the Corporation for National and Community Service, including for making improvements to CNCS' information technology and financial management systems. Not less than 5 percent of funds must be reserved for outreach and recruitment of members from communities traditionally underrepresented in AmeriCorps programs and activities;
- $350,000 over a one-year period to develop and implement a project, operations, and management plan, in collaboration with DOL, for the funds made available under this section;
- $15,000,000 over a nine-year period for the CNCS Office of Inspector General (OIG) of for audits and oversight of programs under this section; and
- $260,000,000 for the National Service Trust which administers the AmeriCorps Education Awards.

Section 22402. Department of Labor.
Provides $2,500,000,000 to DOL over a five-year period through September 30, 2026, for employment and training activities related to careers in careers in sectors related to clean energy, environmental resiliency, remediation, or and for increasing the racial, ethnic, and socioeconomic diversity of the industry and sectors related to it. This includes:

- $250,000,000 over a five-year period for the YouthBuild program authorized under the WIOA to provide disadvantaged youth with employment and training through construction and rehabilitation of housing for low-income and homeless individuals, including energy efficiency enhancements;
- $500,000,000 over a five-year period for the Job Corps program authorized under WIOA, including the Civilian Conservation Centers;
- $500,000,000 over a five-year period for ex-offender employment and training activities under WIOA;
- $1,000,000,000 over a five-year period to create or expand registered apprenticeship programs and youth and pre-apprenticeship programs that articulate to registered apprenticeship programs;
- $249,800,000 over a five-year period for paid youth employment activities for in-school and out-of-school youth under WIOA; and
- $200,000 over a five-year period for developing and implementing a project, operations, and management plan, to be carried out in collaboration with the CNCS, for the funds made available under this section.

PART 6—Department of Labor Inspector General

Section 22501. Department of Labor Inspector General Funding.
Provides $100,000,000 for the DOL Office of Inspector General (OIG) to conduct oversight, investigations, and audits of programs and grants in DOL under subtitles B and C.

Subtitle D—Child Care and Universal Preschool

Section 23001. Establishment of Birth Through Five Child Care and Early Learning Entitlement Program.
Provides over $90 billion to support high quality child care during the first three years and such sums in the following three years via a new child care and early learning entitlement program to provide high-quality, affordable child care for children ages birth to five, increase wages for the early childhood workforce, and invest in child care quality and supply (including facilities). Caps families' child care copayments to ensure that no eligible family pays more than 7 percent of their income on child care by creating a sliding scale fee system. Eligible families earning under 75 percent of State Median Income (SMI) would pay nothing toward child care. After a three-year phase in period, families with a parent engaging in an eligible activity would be eligible for, and entitled to, child care assistance through a child care subsidy or grant-funded child care slot. Program ends at year six.

During the first three years, participating states would receive an allotment based on the Child Care & Development Block Grant (CCDBG) formula. States would be required to use 50 percent of allotted funds on expanding access to child care subsidies; 25 percent of funds on child care supply and quality building activities; and 25 percent of funds on either subsidy and grant expansion or supply and quality building. To ensure equitable investment of program funds, child care assistance is phased in determined by income eligibility: families earning up to 100 percent SMI become eligible for assistance on day one of the program; families earning up to 115 percent of SMI in the second year; families earning up to 130 percent of SMI in the third year; and all families regardless of income in the fourth year.

Beginning in fiscal year 2025, the program provides such sums as may be necessary to carry out a child care entitlement program. Under the entitlement program, states would receive reimbursement from the federal government for the expenses needed to operate a child care entitlement program and would be required to serve all eligible children within the state who desire child care assistance. Creates a federal-state cost sharing structure, where the federal government covers 90 percent of the cost of direct child care services for children, and states would be required to cover 10 percent of expenses. Reimburses states at their Federal Medical Assistance Percentage (FMAP) rate for child care quality and supply activities and reimburses 50 percent of administrative expenses. States would be required to base child care payment rates on a statistically valid and reliable cost estimation model, and to ensure that payment rates cover the cost of high-quality child care and living wages for early childhood staff, as well as pay parity with similarly credentialed elementary school teachers. States would also be required to implement a tiered quality rating system and to support continuous quality improvement for child care providers within the state.

Provides funding for the HHS Secretary to award Local Birth to Five Early Learning Grants to localities located in states that have made it apparent that they will not participate in the program. Eligible localities include local government entities and Early Head Start grantees.

Section 23002. Universal Preschool.
Provides such sums as may be necessary over a seven-year period for the HHS Secretary in collaboration with the ED Secretary, to carry out a universal, high-quality, free, inclusive, and mixed delivery preschool program. Eligible providers include licensed child care programs; Head Start grantees; LEAs; or a consortia of those entities. Requires states to develop and implement state preschool standards, and ensure all eligible providers meet such standards. Additionally, requires states to identify high-need communities within the state, and to roll out universal preschool programs in those communities first, before expanding throughout the rest of the state. For the first three years of the program, the federal share is equal to 100 percent of the state's expenditures for preschool services, and no state match is required. In subsequent years, the federal/state share changes to 90/10, 80/20, 70/30, and 60/40. Provides funding to carry out grants to localities located in states that have made it apparent that they will not participate in the program. Reserves $2,500,000,000 annually to improve compensation of Head Start staff.

Subtitle E—Child Nutrition and Related Programs

Section 24001. Expanding Community Eligibility.
Invests in free school meals by allowing nearly 9 million more children to access meals through the Community Eligibility Provision (CEP). This section: (1) increases the CEP multiplier, which is used to determine the rate of federal reimbursement to schools, from 1.6 to 2.5; and (2) lowers the participation threshold for schools to elect CEP from 40 percent to 25 percent of identified students. Additionally, it allows for statewide election of CEP. These changes are in effect through FY2030.

Section 24002. Direct Certification for Children Receiving Medicaid Benefits.
Invests in free and reduced price school meals by allowing all states to directly certify eligibility for meals for children who receive Medicaid benefits, including children who are eligible for Medicaid based on their receipt of Social Security Income (SSI), Adoption Assistance, or Guardianship Assistance. These provisions are in effect through FY2030.

Section 24003. Summer Electronic Benefit Transfer for Children Program.
Invests in expanding the Summer Electronic Benefit Transfer (Summer EBT) program to provide nutrition benefits to eligible low-income children nationwide. The benefit provides $75/month for eligible children through FY2029.

Section 24004. School Kitchen Equipment Grants.
Provides $500,000,000 for schools to purchase equipment in order to offer healthier meals, improve food safety, and increase scratch cooking.

Section 24005. Healthy Food Incentives Demonstration.
Provides $634,000,000 for competitive grants to schools for activities that support healthy food offerings and healthy lifestyles. Such activities include scratch cooking, nutritional education,

procurement of local and culturally appropriate food, reducing less healthy food, and increasing physical activity.

Subtitle F—Human Services and Community Supports

Section 25001. Assistive Technology.
Provides $10,000,000 to carry out the *Assistive Technology Act of 1998*, which improves access to assistive technology that enables people with disabilities to live and work in their communities.

Section 25002. Family Violence Prevention and Services Funding.
Provides $27,000,000 for implementation of the grants for sexual assault survivors and for culturally specific services under the *Family Violence Prevention and Services Act* (FVPSA).

Section 25003. Pregnancy Assistance Fund.
Provides $75,000,000 for competitive grants to support health care and community support services for pregnant women, parenting women, and young families.

25004. Funding for the Aging Services Network and Infrastructure.
Provides $1,200,000,000 for *Older Americans Act* (OAA) programs, including:

- $75,000,000 for the Research, Demonstration, and Evaluation Center for the Aging Network;
- $655,000,000 to support home-and community-based supportive services;
- $140,000,000 to support nutrition programs for older Americans;
- $150,000,000 to support the National Family Caregiver Support Program;
- $50,000,000 for services, including nutrition, for Native American older adults;
- $50,000,000 for the long-term care ombudsman program;
- $75,000,000 for technical assistance centers or national resource centers for culturally appropriate care management and services for older individuals with greatest social need, including racial and ethnic minority individuals and older individuals who are underserved due to sexual orientation or gender identity; and
- $5,000,000 for multigenerational civic engagement projects.

25005. Office of the Inspector General of the Department of Health and Human Services.
Provides $50,000,000 to the HHS Office of Inspector General (OIG), for salaries and expenses necessary for oversight, investigations, and audits of programs, grants, and projects funded under subtitles D and F.

25006. Technical Assistance Center for Supporting Direct Care and Caregiving.
Provides $5,000,000 to fund a national technical assistance center through HHS' Administration for Community Living which will develop and disseminate evidence-based strategies for recruitment, education and training, retention, and career advancement of direct care workers and provide recommendations for activities to further support paid and unpaid family caregivers.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of the Committee Print.

Date: 9/9/2021

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 1 Bill: Committee Print Amendment Number: 3

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Wilson/WILSSC_107

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:2 Bill: Committee Print Amendment Number: 5

Disposition: Defeated by a vote of 20 ayes and 28 noes

Sponsor/Amendment: Walberg/RAMD_CN_02

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 20 Nos: 28 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:3 Bill: Committee Print Amendment Number:6

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Walberg/\EXCEPT-TELEHEALTH-AMD_01

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos:28 Not Voting: 3

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 4 Bill: Committee Print Amendment Number: 7

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Walberg/EMPLOCKOUTS.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 5 Bill: Committee Print Amendment Number: 8

Disposition: Defeated by a vote of 21 ayes and 27 noes

Sponsor/Amendment: Keller/KELLFR_045.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 27 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:6 Bill: Committee Print Amendment Number: 9

Disposition: Defeated by a vote of 21 ayes and 27 noes

Sponsor/Amendment: Keller/SEC21004

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 27 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:7 Bill: Committee Print Amendment Number: 10

Disposition: Defeated by a vote of 21 ayes and 27 noes

Sponsor/Amendment: Keller/KELLFR_044

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 27 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:8 Bill: Committee Print Amendment Number: 11

Disposition: Defeated by a vote of 22 ayes and 26 noes

Sponsor/Amendment: Banks/BANKS_117

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)	X						
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 26 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:9 Bill: Committee Print Amendment Number: 12

Disposition: Defeated by a vote of 20 ayes and 28 noes

Sponsor/Amendment: Banks/PELL_CHINA

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)			X
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 20 Nos: 28 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 10 Bill: Committee Print Amendment Number: 13

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Cawthorn/RAMD_08

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)			X
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 11 Bill: Committee Print Amendment Number: 14

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Cawthorn/SEC21001

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 12 Bill: Committee Print Amendment Number: 17

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Allen/SEC21002

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 13 Bill: Committee Print Amendment Number: 18

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Allen/RAMD_028

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 14 Bill: Committee Print Amendment Number: 19

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Allen/ALLEGA_028

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 15 Bill: Committee Print Amendment Number: 21

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Comer/COMER_012.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 16 Bill: Committee Print Amendment Number: 22

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Thompson/CNREIMBURSEMENT_01

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÀNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 17 Bill: Committee Print Amendment Number: 23

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Murphy/RAMD_18

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 18 Bill: Committee Print Amendment Number: 25

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: McClain/MCCLAI_050

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 19 Bill: Committee Print Amendment Number: 26

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Steel/WHDFUNDING

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:20 Bill: Committee Print Amendment Number:27

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Steel/RAMD_03

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos:28 Not Voting:2

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 21 Bill: Committee Print Amendment Number: 28

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Grothman/GROTWI_058

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)			X
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:22 Bill: Committee Print Amendment Number: 30

Disposition: Defeated by a vote of 20 ayes and 29 noes

Sponsor/Amendment: Grothman/GROTWI_054

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)		X	
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 20 Nos: 29 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 23 Bill: Committee Print Amendment Number: 33

Disposition: Defeated by a vote of 22 ayes and 27 noes

Sponsor/Amendment: Miller-Meeks/ELCP_010

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)			X	Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 27 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:24 Bill: Committee Print Amendment Number:34

Disposition: Defeated by a vote of 22 ayes and 27 noes

Sponsor/Amendment: Miller-Meeks/RAMD_01

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)			X	Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos:27 Not Voting: 3

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:25 Bill: Committee Print Amendment Number: 35

Disposition: Defeated by a vote of 21 ayes and 27 noes

Sponsor/Amendment: Fitzgerald/RAMD_09

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 27 Not Voting: 4

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:26 Bill: Committee Print Amendment Number:36

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Fitzgerald/FITZGE_014

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos:28 Not Voting: 3

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:27 Bill: Committee Print Amendment Number: 37

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Fitzgerald/RAMD_31

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/2021

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 28 Bill: Committee Print Amendment Number: 38

Disposition: Adopted by a vote of 28 ayes and 21 noes

Sponsor/Amendment: Sherrill/ ELCP_011

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mr. GRIJALVA (AZ)	X			Mr. WILSON (SC)		X	
Mr. COURNTEY (CT)	X			Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)	X			Mr. WALBERG (MI)		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. BANKS (IN)		X	
Mr. DESAULNIER (CA)	X			Mr. COMER (KY)		X	
Mr. NORCROSS (NJ)	X			Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)	X			Mr. KELLER (PA)		X	
Mr. MORELLE (NY)	X			Mr. MURPHY (NC)		X	
Ms. WILD (PA)	X			Ms. MILLER-MEEKS (IA)		X	
Mrs. MCBATH (GA)	X			Mr. OWENS (UT)		X	
Mrs. HAYES (CT)	X			Mr. GOOD (VA)		X	
Mr. LEVIN (MI)	X			Mrs. MCCLAIN (MI)		X	
Ms. OMAR (MN)	X			Mrs. HARSHBARGER (TN)		X	
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)		X	
Ms. LEGER FERNÁNDEZ (NM)	X			Mrs. SPARTZ (IN)		X	
Mr. JONES (NY)	X			Mr. FITZGERALD (WI)		X	
Ms. MANNING (NC)	X			Mr. CAWTHORN (NC)		X	
Mr. MRVAN (IN)	X			Mrs. STEEL (CA)		X	
Mr. BOWMAN (NY)	X			Ms. LETLOW (LA)		X	
Mr. POCAN (WI)	X			*Vacancy*			
Mr. CASTRO (TX)	X						
Ms. SHERRILL (NJ)	X						
Mr. YARMUTH (KY)	X						
Mr. ESPAILLAT (NY)	X						
Mr. KWEISI MFUME (MD)	X						

TOTALS: Ayes: 28 Nos: 21 Not Voting: 3

Total: 53 / Quorum: 27/ Report: 27

(29 D - 24 R)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 29 Bill: Committee Print Amendment Number: 39

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Harshbarger/HARSHB_014

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 30 Bill: Committee Print Amendment Number: 40

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Harshbarger/SMEMPNLRACMP

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:31 Bill: Committee Print Amendment Number:41

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Letlow/LETLOW_014

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos:28 Not Voting: 3

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:32 Bill: Committee Print Amendment Number:43

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Miller/CONSENT

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos:28 Not Voting: 2

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:33 Bill: Committee Print Amendment Number:44

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Miller/MILLIL_010

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos:28 Not Voting: 2

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 34 Bill: Committee Print Amendment Number: 46

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Foxx/SMEMPFLSA

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNÁNDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos: 28 Not Voting: 2

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:35 Bill: Committee Print Amendment Number: 15, 16 en bloc

Disposition: Defeated by a vote of 21 ayes and 28 noes

Sponsor/Amendment: Owens/NLRACMP (amendment #15), Allen/SEC21006 (amendment #16)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)			X
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNANDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 21 Nos: 28 Not Voting: 3

Total: 53 / Quorum: 27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:36 Bill: Committee Print Amendment Number:20,47 en bloc

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Comer/OFCCP_01 (amendment # 20), Foxx/EEOC_01 (amendment #47)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNANDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos:28 Not Voting: 2

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/21

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:37 Bill: Committee Print Amendment Number:29,32,42 en bloc

Disposition: Defeated by a vote of 22 ayes and 28 noes

Sponsor/Amendment: Grothman/ELCP_009 (amendment #29), Grothman/GROTWI_057 (amendment #32), Letlow/RAMD_15 (amendment #42)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)		X		Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)	X		
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Mr. MURPHY (NC)	X		
Ms. WILD (PA)		X		Ms. MILLER-MEEKS (IA)	X		
Mrs. MCBATH (GA)		X		Mr. OWENS (UT)	X		
Mrs. HAYES (CT)		X		Mr. GOOD (VA)	X		
Mr. LEVIN (MI)		X		Mrs. MCCLAIN (MI)	X		
Ms. OMAR (MN)		X		Mrs. HARSHBARGER (TN)	X		
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)	X		
Ms. LEGER FERNANDEZ (NM)		X		Mrs. SPARTZ (IN)	X		
Mr. JONES (NY)		X		Mr. FITZGERALD (WI)	X		
Ms. MANNING (NC)		X		Mr. CAWTHORN (NC)	X		
Mr. MRVAN (IN)		X		Mrs. STEEL (CA)	X		
Mr. BOWMAN (NY)		X		Ms. LETLOW (LA)	X		
Mr. POCAN (WI)		X		*Vacancy*			
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. YARMUTH (KY)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)		X					

TOTALS: Ayes: 22 Nos:28 Not Voting: 2

Total: 53 / Quorum:27 / Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/2021

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 38 Bill: Committee Print Amendment Number: 1

Disposition: Adopted by a vote of 28 ayes to 22 noes

Sponsor/Amendment: Scott/ ELTITLE_ANS

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mr. GRIJALVA (AZ)	X			Mr. WILSON (SC)		X	
Mr. COURNTEY (CT)	X			Mr. THOMPSON (PA)		X	
Mr. SABLAN (MP)	X			Mr. WALBERG (MI)		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. BANKS (IN)		X	
Mr. DESAULNIER (CA)	X			Mr. COMER (KY)		X	
Mr. NORCROSS (NJ)	X			Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)	X			Mr. KELLER (PA)		X	
Mr. MORELLE (NY)	X			Mr. MURPHY (NC)		X	
Ms. WILD (PA)	X			Ms. MILLER-MEEKS (IA)		X	
Mrs. MCBATH (GA)	X			Mr. OWENS (UT)		X	
Mrs. HAYES (CT)	X			Mr. GOOD (VA)		X	
Mr. LEVIN (MI)	X			Mrs. MCCLAIN (MI)		X	
Ms. OMAR (MN)	X			Mrs. HARSHBARGER (TN)		X	
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)		X	
Ms. LEGER FERNÁNDEZ (NM)	X			Mrs. SPARTZ (IN)		X	
Mr. JONES (NY)	X			Mr. FITZGERALD (WI)		X	
Ms. MANNING (NC)	X			Mr. CAWTHORN (NC)		X	
Mr. MRVAN (IN)	X			Mrs. STEEL (CA)		X	
Mr. BOWMAN (NY)	X			Ms. LETLOW (LA)		X	
Mr. POCAN (WI)	X			*Vacancy*			
Mr. CASTRO (TX)	X						
Ms. SHERRILL (NJ)	X						
Mr. YARMUTH (KY)	X						
Mr. ESPAILLAT (NY)	X						
Mr. KWEISI MFUME (MD)	X						

TOTALS: Ayes: 28 Nos: 22 Not Voting: 2

Total: 53 / Quorum: 27/ Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 9/9/2021

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 39 Bill: Committee Print Amendment Number: Motion

Disposition: Adopted by a vote of 28 ayes to 22 noes

Sponsor/Amendment: Scott/ Mtn to transmit the Committee Print (S. Con. Res. 14 Reconciliation Directives) as amended,with recommendations to the House Committee on the Budget

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mr. GRIJALVA (AZ)	X			Mr. WILSON (SC)		X	
Mr. COURNTEY (CT)	X			Mr. THOMPSON (PA)		X	
Mr. SABLAN (MP)	X			**Mr. WALBERG (MI)**		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. BANKS (IN)		X	
Mr. DESAULNIER (CA)	X			Mr. COMER (KY)		X	
Mr. NORCROSS (NJ)	X			Mr. FULCHER (ID)			X
Ms. JAYAPAL (WA)	X			Mr. KELLER (PA)		X	
Mr. MORELLE (NY)	X			Mr. MURPHY (NC)		X	
Ms. WILD (PA)	X			Ms. MILLER-MEEKS (IA)		X	
Mrs. MCBATH (GA)	X			Mr. OWENS (UT)		X	
Mrs. HAYES (CT)	X			Mr. GOOD (VA)		X	
Mr. LEVIN (MI)	X			Mrs. MCCLAIN (MI)		X	
Ms. OMAR (MN)	X			Mrs. HARSHBARGER (TN)		X	
Ms. STEVENS (MI)			X	Mrs. MILLER (IL)		X	
Ms. LEGER FERNÁNDEZ (NM)	X			Mrs. SPARTZ (IN)		X	
Mr. JONES (NY)	X			Mr. FITZGERALD (WI)		X	
Ms. MANNING (NC)	X			Mr. CAWTHORN (NC)		X	
Mr. MRVAN (IN)	X			Mrs. STEEL (CA)		X	
Mr. BOWMAN (NY)	X			**Ms. LETLOW (LA)**		X	
Mr. POCAN (WI)	X			*Vacancy*			
Mr. CASTRO (TX)	X						
Ms. SHERRILL (NJ)	X						
Mr. YARMUTH (KY)	X						
Mr. ESPAILLAT (NY)	X						
Mr. KWEISI MFUME (MD)	X						

TOTALS: Ayes: 28 Nos: 22 Not Voting: 2

Total: 53 / Quorum: 27/ Report: 27

(29 D - 24 R)

^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

BUDGET EFFECTS OF THE PROVISIONS

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget and Impoundment Control Act of 1974*. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget and Impoundment Control Act of 1974*, and pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget and Impoundment Control Act of 1974*, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c)(4) of Rule XIII of the Rules of the House of Representatives, the goals and objectives of the Committee Print are to make vital investments in education, workforce development, child care, nutrition, and health and human services programs.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, no provision of the Committee Print, as amended, is known to be duplicative of another federal program, including any program that was included in a report to Congress pursuant to section 21 of Pub. L. No. 111-139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In accordance with clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee Print, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of Rule XXI.

E. FEDERAL MANDATES STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act of 1974*, Pub. L. No. 93–344 (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act of 1995*, Pub. L. No. 104-4), the Committee adopts as its own the federal mandates estimate prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this Committee Print, as amended.

G. APPLICABILITY TO LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1,

the Committee Print, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

H. CONSTITUTIONAL AUTHORITY STATEMENT

Congress has the authority to enact the provisions of the Committee Print, as amended, pursuant to section 8 of Article I of the Constitution of the United States.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Pursuant to clause 3(e) of Rule XIII of the Rules of the House of Representatives, a comparative print of changes in existing law made by the Committee Print, as transmitted, has been requested but not received.

Minority Views on Committee Print to comply with the Reconciliation Directive included in Section 2002 of S. Con. Res. 14

Introduction

2021 is already one of the most expensive years on record for working Americans. Inflation is up more than 7 percent since President Biden took office. For business owners, families, and retirees on a fixed income, that means up to 7 percent less food on the table, gas in the car, or funds set aside for a rainy day.

Yet, Democrats are dipping into taxpayers' wallets to give another socialist handout to liberal special interests.

More government spending is not the answer to a spending-induced inflation crisis. The Biden administration and its allies are asking Americans to pay for their failed programs twice: once with taxes from workers' personal paychecks and again at gas pumps and grocery stores.

And it is not just today's taxpayers who will be on the hook for these programs. This monstrosity recklessly increases what was already the highest sustained spending level in American history. Allocating billions of dollars to radical left-wing proposals will harm the economy now and obliterate economic prosperity in the future.

Placing a brick on Biden's inflation gas pedal and expecting future generations to pay for this irresponsibility is unacceptable.

To add insult to injury, Democrats think they know best how to spend taxpayers' money.

This bill truly is a solution in search of a problem.

To address the radical and dangerous provisions in this legislation which hurt Americans from all walks of life, Committee Republicans offered common-sense amendments to increase Americans' freedoms, rein in runaway spending, encourage excellence in the nation's schools and workforce, protect small businesses from government overreach and unfair union influence, and reinforce the United States' premiere status in the world without burdening future generations with unsustainable debt.

This monstrous bill is unreasonable and mocks the legislative process. Without any prior hearings or sufficient input from stakeholders, Democrats are pushing ahead with a partisan bill that recklessly spends trillions of dollars.

Pelosi and her allies are using budget reconciliation to steamroll the rights of Republican Members. Committee Republicans will not stay silent while the left tries to do the same to the American people.

Process

For the second time this Congress, the Committee is considering a legislative package that spends hundreds of billions of taxpayer funds. This is a package that was shared with the public and with Members of this Committee just 24 hours before moving to markup. The American people are working hard to survive through the pandemic, but the Democrats have put forward a proposal that misspends their funds without giving the taxpayers a chance to thoughtfully weigh in on the measure.

Partisan Social Agenda Over Taxpayer Help

Instead of thoughtfully considering reforms to the various laws in our jurisdiction that are significantly outdated, Democrats decided to shove their socialist partisan agenda through the Committee—touching on every piece of American life.

School Construction

All students deserve access to an excellent education that prepares them for postsecondary success. This includes attending schools with adequate facilities to support teaching and learning. The condition of facilities at America's public schools appears mixed. A 2014 study from the National Center for Education Statistics surveyed local school districts and found that 53 percent of public schools needed repairs, renovations, and modernizations, and that an estimated $197 billion would be needed to bring all public schools into good condition.[1] However, that same report indicated that only 3 percent of public school buildings were described as being in poor condition while 76 percent were described as being in excellent or good condition.[2]

The federal government funds the Impact Aid Construction program, which provides funding to school districts to build and repair schools impacted by the loss of tax revenue because of the presence of the federal government. In most cases, the federal government also exempts interest income from municipal bonds, including municipal bonds used to finance school construction projects, from federal income tax. A handful of small funding streams in specialized programs in various agencies throughout the federal government can also be used to build, repair, or modernize facilities. Otherwise, the federal government has traditionally played a very limited role in school construction. This is because building and repairing public school facilities has appropriately been primarily a state and local responsibility.

The school construction provisions of this bill would dramatically expand the federal government's financial and regulatory role in school construction. This would present states and school districts with a sobering reality. As with so many other programs, the federal government offers money and then hides within the bill regulatory and compliance burdens that will increase costs and make it harder for states and school districts to take necessary steps to improve their public school facilities.

This bill contains numerous such regulatory burdens, impacting even many school districts that will not see any school construction grants, that will increase costs to state and local taxpayers.

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[1] *Condition of America's Public School Facilities: 2012-2013*, page 3. https://nces.ed.gov/pubs2014/2014022.pdf
[2] *Condition of America's Public School Facilities: 2012-2013*, page 3.

These requirements include a laundry list of "strategies" states are required to develop as well as requirements for the creation of state and local facilities' plans containing information that may or may not be relevant to each school district.

In addition, further federal mandates would likely be attached to this school construction money. First, projects would be required to comply with the *Davis-Bacon Act* (DBA). Enacted in 1931, the DBA requires the payment of "prevailing wage rates" on federal or District of Columbia contracts larger than $2,000 for the construction, alteration, or repair of public buildings or public works.[3] DBA prevailing wage requirements have also been applied to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.[4] DBA and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The U.S. Department of Labor's (DOL) Wage and Hour Division determines prevailing wage rates based on a survey of local wage rates, where appropriate business entities or labor organizations may voluntarily submit wage data to DOL.

The Government Accountability Office and DOL's Office of Inspector General (OIG) have repeatedly criticized DOL's DBA wage determination process for its lack of transparency in how the published wage rates are set, as well as its tendency to gather inaccurate data through unscientific wage surveys.[5]

Because the wage data is likely flawed, it is estimated DBA wages increase the costs of federal projects by as much as 22 percent—costs which get passed on to taxpayers.[6] Furthermore, DOL's OIG found that union wages prevailed for 48 percent of the wage determinations,[7] despite the fact that just 12.7 percent of the U.S. private construction workforce is unionized.[8]

Second, construction projects funded under this bill might be required to utilize project labor agreements (PLAs). A PLA is a project-specific collective bargaining agreement with multiple unions that is unique to the construction industry. The *National Labor Relations Act* (NLRA) permits construction employers to execute a PLA voluntarily, but when a PLA is mandated by a federal or state government agency, construction contracts can be awarded only to contractors and subcontractors that agree to the terms and conditions of the PLA. Though all contractors are technically free to bid on construction contracts subject to government-

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[3] 40 U.S.C. § 3142.
[4] *See* U.S. DEP'T OF LAB., WAGE & HOUR DIV., DAVIS-BACON AND RELATED ACTS, https://www.dol.gov/agencies/whd/government-contracts/construction.
[5] *See* GAO, DAVIS-BACON ACT: METHODOLOGICAL CHANGES NEEDED TO IMPROVE WAGE SURVEY (Mar. 22, 2011); DOL OIG, CONCERNS PERSIST WITH THE INTEGRITY OF DAVIS-BACON ACT PREVAILING WAGER DETERMINATIONS (Mar. 30, 2004), https://www.oig.dol.gov/public/reports/oa/2004/04-04-003-04-420.pdf.
[6] SARAH GLASSMAN ET AL., THE BEACON HILL INST. AT SUFFOLK UNIV., THE FEDERAL DAVIS-BACON ACT: THE PREVAILING MISMEASURE OF WAGES, (Feb. 2008), http://www.beaconhill.org/bhistudies/prevwage08/davisbaconprevwage080207final.pdf.
[7] DOL OIG, BETTER STRATEGIES ARE NEEDED TO IMPROVE THE TIMELINESS AND ACCURACY OF DAVIS-BACON PREVAILING WAGE RATES (Mar. 29, 2019), https://www.oig.dol.gov/public/reports/oa/2019/04-19-001-15-001.pdf.
[8] BUREAU OF LAB. STATISTICS, UNION MEMBERS – 2020: TABLE 3 (Union affiliation of employed wage and salary workers by occupation and industry) (Jan. 22, 2021), https://www.bls.gov/news.release/union2.t03.htm.

mandated PLAs, the terms of a PLA typically force contractors to recognize unions as the representatives of their employees on a job, use the union hiring hall to obtain workers, hire apprentices exclusively through union apprenticeship programs, pay fringe benefits into union-managed benefits and multiemployer pension programs, and obey the unions' restrictive work rules and job classifications. PLA mandates discourage non-union contractors from bidding on taxpayer-funded construction contracts and drive up construction costs by up to 20 percent.[9]

This new federal school construction program is the wrong answer. This program will provide funding to a handful of school districts in exchange for increased costs and regulatory burdens for everyone. Committee Republicans believe there is a better way.

Opportunity Zones

In the 115th Congress, Republicans enacted, as part of the *Tax Cuts and Jobs Act*, historic bipartisan reforms to potentially unleash trillions of dollars in private capital into communities left behind during the pre-pandemic economic expansion. Senators Tim Scott (R-SC) and Cory Booker (D-NJ) championed the provision they and many others saw as an innovative way to break the cycle of failed government programs by using the energy and ingenuity of the private sector to revitalize communities.

Under the program, governors nominate, and the Internal Revenue Service certifies, communities as Opportunity Zones. To be nominated and certified, a community must have a poverty rate of 20 percent or higher or a median household income that is less than 80 percent of the surrounding area. Governors are allowed to designate 25 percent of a state's eligible communities as Opportunity Zones. According to the Tax Policy Center, 8,762 low-income communities have been designated as Opportunity Zones across the 50 states, the District of Columbia, and four U.S. territories.[10]

The Opportunity Zones provision provides tax incentives for private capital to be reinvested in Opportunity Funds that in turn invest in communities designated as Opportunity Zones. Investments in so-called vice businesses (e.g., liquor stores) are prohibited, but beyond that, investment opportunities are open-ended. The Urban Institute has found that designated Opportunity Zones have lower incomes, higher poverty rates, and higher unemployment rates than eligible tracts not designated.[11]

The school construction provisions of this bill present us a choice. We can try the same old approach that has failed literally for decades. That approach demands more sacrifice from taxpayers and offers more regulations from Washington. That is the Democrat way. The

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[9] *See* THE BEACON HILL INST., PLA STUDIES (studies measuring the impact of PLA mandates on public school construction in Connecticut, Massachusetts, New Jersey, New York, and Ohio), http://beaconhill.org/labor-economics/.

[10] "What are Opportunity Zones and How Do They Work?" Tax Policy Center. https://www.taxpolicycenter.org/briefing-book/what-are-opportunity-zones-and-how-do-they-work

[11] Ibid

Republican way is to give communities the tools they need to unleash innovation, investment, and revitalization, with the flexibility to tailor local solutions for local challenges.

Teacher Funding

This bill contains $1.1 billion for a variety of teacher recruitment, retention, and compensation activities. Democrats argue this spending is needed to address teacher shortages in school districts across the country. Concern about teacher shortages has grown in recent years. Before the pandemic, an Economic Policy Institute report estimated that school districts across the nation faced a shortage of approximately 100,000 certified teachers.[12] Democrats seem to think that a top-down Washington approach of throwing more money at the problem will address the underlying issues.

However, demand for more taxpayer sacrifice is not the answer. Contrary to claims by Democrats, there has been no disinvestment in education. From the 1990-1991 school year to the 2017-2018 school year (the most recent year for which federal data is available), inflation adjusted per-pupil spending in public schools increased nearly 30 percent.[13] What has not increased, however, is teacher salaries. In fact, teacher salaries have declined in inflation-adjusted dollars over the same period from a national average of $63,548 to $62,998.

The excess money pumped into education over the last three decades has had no impact on teacher salaries because states and school districts have had other priorities. In testimony before the Committee last Congress, economist Dr. Ben Scafidi observed that while student enrollment increased by only 20 percent from 1992 to 2016, the number of "all other staff" (meaning public school employees who are not teachers) increased 52 percent.[14] If the "all other staff" category had increased only 20 percent since 1992 to match the increase in student enrollment, an additional approximately $40.8 billion would be available to the public education system. These additional resources could be used to give every public school teacher in the country a nearly $13,000 annual raise. The Democrats' spending plans in this bill will do nothing to encourage better strategic decisions by states and school districts, and so likely will do nothing to address teacher shortage challenges.

Child Nutrition

This bill includes complicated provisions that unwisely spend billions of dollars in taxpayer funds that largely serve to provide free meals to families that can well afford to pay for their children's meals. The reconciliation process is not the appropriate place to make significant program reforms. The Committee should follow regular order and take up a child nutrition reauthorization, which is more than 10 years past due, to properly assess the needed changes in the program to help those children in need. Instead of spending funds to feed the children of

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[12] "The Teacher Shortage is Real, Large and Growing, and Worse Than We Thought." Economic Policy Institute. March 26, 2019. https://www.epi.org/publication/the-teacher-shortage-is-real-large-and-growing-and-worse-than-we-thought-the-first-report-in-the-perfect-storm-in-the-teacher-labor-market-series/

[13] Current Expenditures and Current Expenditures Per Pupil in Public Elementary and Secondar Schools: 1989-1990 Through 2029-2030. National Center for Education Statistics. Digest of Education Statistics. https://nces.ed.gov/programs/digest/d20/tables/dt20_236.15.asp?current=yes

[14] Testimony before the Committee on Education and Labor at the hearing "Underpaid Teachers and Crumbling Schools: How Underfunding Public Education Shortchanges America's Students." February 12, 2019. https://republicans-edlabor.house.gov/uploadedfiles/2.12.19_ben_scafidi_written_testimony_final.pdf

Members of Congress and lobbyists, the Committee should look at reforms to these programs that will help ensure hungry children have access to good food they will actually eat, help parents learn how to prepare and serve nutritious food to their children, and better support private sector partners to make the program successful.

Child Care

The largest federal investments in early childhood programs are operated by HHS, specifically through the Head Start and Child Care Development Block Grant (CCDBG) programs. In FY 2021 Head Start was funded at $10.7 billion. Head Start also received supplemental appropriations of $750 million in the *Coronavirus Aid, Relief, And Economic Security* (CARES) *Act*; $250 million in the *Coronavirus Response and Relief Supplemental Appropriations Act* (CRRSAA); and $1 billion in the *American Rescue Plan Act* (ARP). CCDBG is the main federal program focused on child care. Congress appropriated $5.8 billion in FY 2021 discretionary funding for CCDBG in addition to mandatory funding through the Committee on Ways and Means. CCDBG also received supplemental appropriations of $3.5 billion in CARES Act; $10 billion in CRRSAA; and almost $15 billion in ARP. Finally, ARP provided almost $24 billion for a new Child Care Stabilization Fund, providing one-time, mandatory appropriations for child care stabilization grants. This is only the funding provided to this sector under the jurisdiction of the Committee; additional tax credits and other funding has been appropriated as a part of the COVID relief packages.

Instead of examining what is needed and how to strengthen the sector and support families, the Democrats put forward two bloated child care focused programs that are duplicative of currently funded federal child care and early education programs. Not only are these programs unnecessary but also they treat faith-based providers unfairly and will add layer upon layer of federal top-down Washington knows best mandates. Further, these programs will harm working parents' ability to choose and afford a provider that best meets the needs of their young children by disrupting the nation's vibrant mixed delivery system for child care and early education. The majority said as much during the markup, noting that these programs were about public schools and essentially dismissed the other vital providers in this space. Even while incurring great financial losses, child care was one of the sectors that stayed open for working parents during COVID. As the child care market place works to recover and continue to help millions of parents go to work, adding ill-conceived, new programs that will lead to closures and limitations in the current mixed delivery system will only hurt working parents and their children. New pre-K and child care programs crammed through a partisan reconciliation process are the wrong policy. Congress should thoughtfully consider the existing programs and as a part of reauthorization of the *Child Care Development Block Grant Act* and *Head Start Act*, both of which are expired, make the changes necessary to better meet the needs of those families who need assistance. Rather than hastily spending hundreds of billions of dollars, Congress should do the work necessary to thoughtfully reform the existing programs to meet today's child care needs.

Higher Education

Our postsecondary education system is in dire need of reform. Unfortunately, rather than working towards a bipartisan reauthorization of the *Higher Education Act of 1965*, Committee Democrats opted for a partisan approach that will cost taxpayers over $100 billion and lead to

disastrous consequence for both students and the country at large. The bill not only fails to address the underlying problems plaguing postsecondary education but also further exacerbates them by applying the same failed logic of more taxpayer funding that has only led to exploding college costs and poor student outcomes.

Pell Grants

The bill irresponsibly increases the Pell Grant without any consideration as to how federal subsidies have inflated tuition prices and forced middle-class families to fund their postsecondary education with burdensome student debt. A 2017 study conducted by economists at the Federal Reserve Bank of New York found that, for every increase in Pell Grant aid, institutions capture approximately 40 cents on the dollar through higher tuition prices, while also leading them to reduce their own institutional financial aid.[15] Under these assumptions, roughly 40 percent of the increase in Pell aid provided in this bill will flow directly to institutions that will simultaneously reduce their own support for the students they serve.

While Republicans agree that the Pell Grant is the cornerstone of our federal student aid system and an important tool to promote economic mobility, it only does so for those who complete their program. Indeed, the bill ignores the fact that that less than half of first-time, full-time Pell recipients graduate within six years.[16] Moreover, only 47 percent of institutions award degrees to more than half of the Pell recipients they enroll.[17] Improving affordability and outcomes for low-income students is not as simple as forcing taxpayers to further subsidize institutions. It requires meaningful reforms that ensure institutions are held accountable for the outcomes of their students.

"Free" College

The bill dramatically expands the federal government's role in higher education by requiring taxpayers to fund a nearly $50 billion proposal for "free" community college. The proposal also includes almost $30 billion for tuition and research subsidies at Historically Black Colleges and Universities, Tribal Colleges and Universities, and other Minority-Serving Institutions – all institutions that receive their own carve-outs for institutional aid in the *Higher Education Act* already. While Committee Democrats champion "free" tuition as the solution to inequality and inaccessibility in higher education, low-income students will see minimal to no benefits as the Pell Grant already more than covers the average cost of tuition and fees at public two-year institutions even before the increase in Pell included in this bill.[18] In reality, the proposal is a handout for millionaire families and non-citizens at the expense of hard working Americans, over half of whom do not hold a college degree.[19] Moreover, the proposal attempts to shepherd students into a particular education pathway that may not suit their needs nor set them up for postsecondary success. A one-size-fits all approach is poor policy and is especially harmful when

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[15] https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr733.pdf
[16] https://www.thirdway.org/report/the-pell-divide-how-four-year-institutions-are-failing-to-graduate-low-and-moderate-income-students
[17] Ibid.
[18] https://research.collegeboard.org/pdf/trends-college-pricing-student-aid-2020.pdf
[19] https://nces.ed.gov/fastfacts/display.asp?id=27

it penalizes students who do not attend an institutional cohort that graduates just 40 percent of its students in six years[20] and leaves completers with higher levels of unemployment and lower earnings than graduates from all other sectors.[21] The decentralized system promotes innovation and provides students the flexibility to choose an educational pathway that works best for them, which is why Committee Republican will continue to support efforts to improve it.

As with all heavy-handed policies dictated by Washington progressives, the federal-state partnership is also unworkable. Through an array of mandates and requirements that must be met in order to participate, it is nearly assured that many states will simply be unable or unwilling to do so, which will further exacerbate inequality and affordability gaps for students across the country. For example, if poorer states—which typically have higher tuition due to budgetary constraints—were unable to opt into the program, federal taxpayers would effectively finance tuition-free college in states where postsecondary education is already the most affordable. Committee Republicans oppose policies that benefit the wealthy at the expense of low-income and middle-class Americans, especially when those policies are not "free" to state or federal taxpayers.

Workforce Development

In an ever-evolving economy, it is essential that employees have opportunities to adapt and grow in their abilities in order to remain competitive in the workforce. The economic growth of our nation also depends on our workers having the competitive skills necessary to meet the needs of employers and businesses. The COVID-19 pandemic only exacerbated our nation's skills gap and made it more critical than ever that our nation's workforce system be up to the challenge of getting our country back to work. Given the importance of this issue to the lives of millions of Americans and their widespread interest in it, the federal government should reauthorize the *Workforce Innovation and Opportunity Act* in a bipartisan manner. A partisan reconciliation process that further bloats the bureaucracy instead of refocusing funding on skills development is not the appropriate course of action for making changes to our workforce system. The Committee should instead follow regular order to carefully examine our nation's workforce system and reauthorize this important law with bipartisan input. Doing so would allow Congress to strengthen existing pathways and create more innovative and effective options for workers to reskill and upskill to meet the demands of our evolving 21st century economy.

Civilian Climate Corps

In an attempt to push forward Democrats' Green New Deal agenda, the bill plows $3.2 billion into the Corporation for Community and National Service to significantly blow up the size of the agency with a focus on clean energy and environmental resiliency. CNCS has demonstrated time and time again that they are incapable of responsibly managing their grantees, and yet the Democrats are giving them additional funding to squander. Rather than asking taxpayers to pay for Committee Democrat's' socialist wish list, Congress should focus on reforming AmeriCorps, an agency that has continually mismanaged taxpayer dollars due to its inability to monitor fraudulent activities and prevent improper payments. With more than 10 million unfilled jobs in the United States, ample opportunities exist to ensure workers have the necessary skills to fill

[20] https://nscresearchcenter.org/completing-college/
[21] https://www.bls.gov/emp/chart-unemployment-earnings-education.htm

them. Committee Republicans support policies that improve our workforce system and better-equip workers for in-demand careers, not socialist programs that will bankrupt the country.

Funding for Abortions

This irresponsible bill provides over $1.5 billion in funding that could be used to pay for abortions, including the funding for the Job Corps program and the Pregnancy Assistance Fund. Run out of the Department of Labor, the Job Corps program is supposed to provide skills to disadvantaged youth to prepare them to enter the workforce, but funds from the program can be used to pay for abortions.[22] Without any pro-life protections included in this bill, it further expands this unacceptable policy, making it possible for Job Corps funding to be used to pay for elective abortions. It is unconscionable that a program that should be focused on preparing young adults for the workforce in a safe and secure setting could be used to take the life of an unborn baby.

Further, the bill provides $25,000,000 for the Pregnancy Assistance Fund at the Department of Health and Human Services. The funds in this program have a track record of flowing to abortion providers like Planned Parenthood, and they can continue to do so under this bill.[23] Under no circumstance should Congress be providing funds to end the lives of innocent human beings, but this bill does exactly that. Instead, Congress should ensure that longstanding pro-life protections against federal funding for abortion—such as the Hyde amendment—are applied to all federal funding so that the dignity of every human life, including the life of every unborn baby, is upheld.

Amendments not Accepted

Committee Republicans offered thoughtful amendments that would have improved the bill, yet Committee Democrats rejected all of them. Many of these amendments would address key needs of the American people suffering in the pandemic. For example:

Free College Amendments

1. **Means-Test Federal State Partnership College**—Rep. Keller offered an amendment to means-test student eligibility for free tuition under the federal-state partnership. Committee Republicans oppose "free" college, especially when taxpayers—the majority of which don't hold a college degree—are footing the tuition bill for high-income millionaires and high-income individuals. This amendment would have ensured that individuals with a household income above $400,000 would not be getting a "free" ride for community college at the expense of taxpayers.

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[22] Job Corps Policy and Requirements Handbook, Chapter 2: Student Support Services, June 15, 2021, 12. https://prh.jobcorps.gov/PRH%20Chapter%202/PRH%20Chapter%202%20-%2006.15.21.pdf; Attorney General Merrick B. Garland Delivers Remarks Announcing Lawsuit Against the State of Texas to Stop Unconstitutional Senate Bill 8, Department of Justice, September 9, 2021. https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-announcing-lawsuit-against-state-0

[23] Planned Parenthood Federation of America (PPFA) Affiliates' Reported Expenditures of Federal Funding by Program for Department of Health and Human Services (HHS) Programs Other than the Top 10, Fiscal Years 2016-2018.

2. **No "Free" College for Sexual Offenders and Human Traffickers**—Rep. Fitzgerald offered an amendment prohibiting individuals convicted of sexual assault, human trafficking, and other related crimes from receiving free tuition under the federal-state partnership. Sexual assault and human trafficking are far too prevalent in our country, and the Biden administration's open border policies are only making the situation worse. This amendment would have ensured that taxpayers would not subsidize the tuition of individuals who commit these egregious crimes.

3. **Free Community College**—Rep. Letlow offered an amendment to strike the federal-state partnership. The defects of the Democrat's "free" college proposal cannot be overstated. It's a federal takeover of our higher education system that creates a one-size-fits all model regardless of whether it best fits students' needs. The proposal is not free for hard-working taxpayers nor is it equitable for the students we claim to serve. Rather than addressing the underlying problems that plague our higher education system, the Democrats exacerbated them by passing their "free" college proposal.

Pell Grant Amendments

4. **Pell Increase**—Rep. Allen offered an amendment to require institutions to repay the total amount of the Pell Grant in excess of the current maximum award per award year awarded to a student that does not complete their degree or transfer to another institution within one year of withdrawal. It's time for Congress to stop writing a blank check to institutions without any accountability or assurance that they are producing positive outcomes for their students. If we are going to spend over $30 billion a year in Pell grants, let alone billions more in loans and other aid, colleges and universities need to have the same skin in the game as taxpayers.

5. **No Taxpayer Subsidies for Illegal Immigrants**– Rep. Grothman offered an amendment to strike the ability of illegal immigrants to obtain Pell Grants. With government debt at $28 trillion even before the Democrat's irresponsible spending included in this bill, we do not have the luxury to continue spending taxpayer dollars at will—let alone for those who are in this country illegally. Not only does this bill direct resources away from hard-working American citizens but it also further incentivizes illegal immigration at a time when our southern border is in crisis due to the Biden administration's failed policies.

6. **Strike the Irresponsible Pell Increase** – Rep. Grothman offered an amendment to strike the $500 dollar Pell Grant increase. Despite the rhetoric of Committee Democrats, the maximum Pell Grant award already more than covers tuition and fees at public, in-state community colleges. This means that two years of higher education is already free for those most in need. Moreover, before increasing the Pell Grant, it's imperative that Congress address the future shortfall in the program's funding, which the Congressional Budget Office estimates will begin in 2026. This is another example of why policy decisions such as this one should be addressed through a reauthorization of the *Higher Education Act*, not through a partisan spending package.

Other Higher Education Amendments

7. **Abortion Prohibition Miller**—Rep. Miller offered an amendment to obtain an assurance from states that no federal funds will go to any institution that hosts or is affiliated with a student-based service site that provides abortion drugs or abortion to students of the institution or to employees of the institution or site. There is nothing more important than protecting the inherent dignity and worth of every woman and child. Sadly, Democrats refused to protect the health and affirm the sanctify of the lives of both mothers and their unborn babies.

8. **Loan Limits**—Rep. Grothman offered an amendment to allow institutions to limit the amount of a federal loan that a student enrolled at their institution can borrow. With $3.5 trillion to spend, Democrats did nothing to address the student debt crisis that burdens millions of borrowers. This is simply unacceptable and illustrates that more money is not a substitute for real reforms that truly improve the lives for students.

9. **Ensure Freedom of Speech on Campus**—Rep. Murphy offered an amendment to require all institutions receiving funding under this bill to uphold the principles of the First Amendment and by protecting students' right to free speech. There were many common sense amendments offered by Republicans, and none more so than this one requiring institutions to uphold the Constitutional right to freedom of speech and expression. In blocking this amendment, Committee Democrats sent a signal to institutions, faculty, and students across the country that the first amendment no longer applies on college campuses.

10. **GAO Study on College Costs**—Rep. Allen offered an amendment directing a GAO study 5 years after passage studying the impact of higher education spending in the bill on college costs, labor market outcomes, and institutional finance. The federal government provides billions in grant aid and loans for students seeking a postsecondary credential, but college costs continue to skyrocket. Congress needs to know if the massive subsidies are flowing to students or institutions, and if taxpayers are seeing the returns that higher education promises. This amendment would have done just that, but Democrats would rather continue with the same failed policies of more spending without knowing if taxpayer dollars are meeting their intended goal.

China Amendments

11. **Combating China's Influence on Campus**—Rep. Banks offered an amendment to prohibit funding in the bill from going to universities with a Confucius Institute. China continues to infiltrate our campuses and target students with anti-American propaganda. Even worse, many institutions have provided China the opportunity to do so by allowing them to establish Confucius Institutes on their campuses. Congress cannot sit idly by and allow our institutions to be corrupted by this communist regime.

12. **Protecting Students and Taxpayers from China**—Rep. Banks offered an amendment to prohibit Pell recipients from conducting research for or on behalf of the People's

Republic of China or entities affiliated with such government. Federal authorities have long warned about the threat of China on college campuses, and we continue to see reports of college professors stealing our intellectual property and sensitive research. This amendment would have protected taxpayers and students from this threat, but Democrats put the interests of the communist Chinese government over the interest of our students and our national security.

13. **Protect Higher Education from Foreign Adversaries**—Rep. Fitzgerald offered an amendment to prohibit institutions with ties to adversarial nations from receiving funding under the federal-state partnership. This amendment was another attempt by Republicans to prevent malicious foreign actors from infiltrating our college campuses. Once again, Democrats put party over the country and its students.

Afghanistan Amendment

14. **Afghanistan Support**—Rep. Cawthorn offered an amendment to require entities that receive funding under part 1 of subtitle A of the bill, and have students enrolled in, or employees employed by, institutions under the entity's jurisdiction who were evacuated from, or who were affected by the evacuation of others from, Afghanistan on or after August 15, 2021, to use a percentage of such funding to support the reintegration of such students and employees. Covered students and employees are those with valid U.S. passports at the time of their evacuation or who were approved for entry into the United States under the Special Immigrant Visa program. Last month, the Biden administration oversaw the capitulation of American forces to the Taliban and a chaotic and incompetent withdrawal from Afghanistan. This amendment would have required grantees under the school construction and teacher provisions of the bill to use a percentage of grant funds to support these students and employees.

Workforce Development Amendment

15. **Industry-Led Apprenticeships**—Rep. Wilson offered an amendment to strike the $3.2 billion in new funding for projects related to environmental resiliency and clean energy under the Corporation for National and Community Service and to reallocate those funds for an apprenticeship grant program focused on work-based learning. Instead of funneling money into socialist programs that will cripple the nation's economy, as the Democrats' reconciliation package does, this reallocation would have encouraged innovative, industry-led apprenticeships that emphasize work-based learning and successfully prepare workers to fill open jobs.

16. **Protection Against Inflation**—Rep. Miller-Meeks offered an amendment to prohibit the bill from taking effect until the Bureau of Labor Statistics certifies that the bill's spending will not increase inflation. If this reconciliation package is enacted, Democrats will have rammed through Congress nearly $5.5 ***trillion*** in new spending. The economic consequences of this recklessness have already begun. Inflation has increased more than 7 percent just since President Biden took office. Before this legislation takes effect, we should ensure that it will not increase inflation even further.

17. **Career and Technical Education**—Rep. McClain offered an amendment to allow funds in the *Carl D. Perkins Career and Technical Education Act* to be used to raise public awareness about career and technical education (CTE) programs and to support CTE faculty, academic advisors, and guidance counselors in providing guidance and career options in non-traditional fields, including skilled trades. CTE programs can effectively prepare workers to gain the skills needed to secure high-demand jobs and to tackle the unique challenges of the 21st Century workplace. This common-sense amendment would have ensured that parents and students are better informed about these important opportunities that successfully prepare students to enter the workplace.

18. **Competitive Integrated Employment Transformation Grant Program**—Rep. Grothman offered an amendment to strike this new program, which is a backdoor effort to eliminate job opportunities for people with disabilities currently employed under section 14(c) of the *Fair Labor Standards Act*. The Committee recently heard testimony about the negative impacts that the elimination of this authority would have on people with disabilities. Now is not the time to be ripping employment opportunities away from people with disabilities.

K-12 Amendments

19. **Charters**—Rep. Fitzgerald offered an amendment that will ensure school districts have policies in place to allow charter schools and other public schools to lease or purchase unoccupied public school buildings. This important amendment would have simply required that if a school district is applying for federal funds to support renovations, it should certify that it isn't letting buildings sit vacant and not leasing or selling to interested educational entities.

20. **School Reopening Subgroups**—Rep. Steel offered an amendment to require LEAs that receive funds under the school construction program to offer in-person instruction to subgroups of vulnerable students as defined under the *Elementary and Secondary Education Act*. Unfortunately, the Biden administration has shown repeatedly that it prioritizes political allies over science and the well-being of children. This amendment would have required that schools have a plan in place to ensure that students with special needs will have in-person instruction.

21. **Parental Consent for Vaccines**—Rep. Miller offered an amendment that would, as a condition of receiving funds under the school construction and teacher provisions in the bill, prohibit LEAs from administering vaccinations to minors on school grounds without parental consent. This amendment would have ensured that parents remain in control of their children's health care decisions. During markup, Rep. John Yarmuth (D-KY) argued that parents cannot be trusted to make the best decisions for their children. Republicans, on the other hand, believe parents know better than government bureaucrats what is best for children.

Child Care Amendments

22. **Faith-Based Child Care**—Rep. Walberg offered an amendment to strike two provisions in the child care provisions that unfairly limit how faith based providers can participate in these programs. Faith-based providers have historically played a significant role in child care dating back to at least to 1789 when the Quakers opened a nursery in Philadelphia. One of the strong benefits of child care in this country is the fact that parents have the opportunity to choose a provider that works best for them—whether that involves placing a child in a provider's home, a child care center, or a child care run by a faith-based provider. Parents get to make that choice, and Committee Republicans support the ability of parents to select the best environment for the care of their child.

Child Nutrition Amendment

23. **Milk**—Milk—Rep. Keller offered an amendment that would ensure a variety of milk flavors in the Special Supplemental Nutrition Program are available for Women, Infants, and Children (WIC) to ensure families are receiving the needed nutrition received from milk.

24. **Child Nutrition**—Rep. Thompson offered an amendment to strike the slush fund created for the Secretary of Agriculture and to replace it with a 2 cent increase in the reimbursement school districts get from the school breakfast program to help schools address increased food prices due to inflation. This amendment would have simply taken money away from Washington and put it in the hands of the schools directly to help them offset the increased prices we have seen as a result of the Biden administration's inflationary policies.

Pre-K

25. **Means-Test Universal Pre-K**—Rep. Miller-Meeks offered an amendment to means-test the new universal pre-K program for families earning less than $400,000. While our constituents fight to get back to normal life, inflation is forcing them to pay more for just about everything. Spending more taxpayer funds is not the solution to the left's spending-induced crisis. Instead, Committee Republicans believe we should put a stop to the blatant misuse of taxpayer funds.

26. **Universal Pre-K**—Rep. Grothman offered an amendment to strike the creation of the new universal pre-K program. Committee Republicans do not support making our early childhood system more complicated with yet another government program, particularly not with one that is giving free childcare to everyone from millionaires to movie stars.

Misc

27. **Renaming Programs**— "Nothing is Free" amendment changes the name of the title "Tuition Free Community College" to "Federal Taxpayer Funded Community College" and changes the word "Free" in the requirements under universal preschool programs to "federal taxpayer funded" – which clarifies that universal preschool is not a free program.

Subtitle B – Labor Matters

Supplemental Appropriations for Labor Agencies

Sections 21001-21003 of the Democrat ANS provide DOL, the National Labor Relations Board (NLRB), and the Equal Employment opportunity Commission (EEOC) over $2.6 billion in supplemental appropriations to remain available until September 30, 2026. This wildly excessive, unnecessary, and unjustified spending inappropriately bypasses the traditional appropriations process, and is completely at odds with the agencies' annual budgets.

Department of Labor

Section 21001 of the ANS provides DOL agencies and offices with $1.94 billion in supplemental appropriations to remain available until September 30, 2026, an unnecessary and irresponsible expenditure of taxpayer dollars. This includes massive increases of $195 million for the Employee Benefits Security Administration (EBSA), $707 million for the Occupational Safety and Health Administration (OSHA), $133 million for the Mine Safety and Health Administration, $405 million for the Wage and Hour Division (WHD), $121 million for the Office of Workers' Compensation Programs, $201 million for the Office of Federal Contract Compliance Programs (OFCCP), and $176 million for the Office of the Solicitor. To put this into perspective, Section 21001 appropriates more than a year's worth of funding for EBSA, OSHA, WHD, and the Office of the Solicitor, and nearly doubles the Fiscal Year 2021 funding for OFCCP.[24]

While the sheer sum of spending in Section 21001compared to current levels is staggering enough, it merely foreshadows how the Biden DOL intends to weaponize these funds to bury job creators in burdensome regulations and red tape. The ANS directs DOL agencies to use the newly appropriated funds to "carry out enforcement" and develop regulations. Earlier this year, Democrats used this same strategy in the *American Rescue Plan Act* (ARPA), which appropriated $200 million to DOL.[25] DOL has allocated over $100 million from ARPA to OSHA, which has since dedicated the funding to the development of an ill-advised emergency temporary standard on COVID-19.[26] Furthermore, providing an additional $405 million for WHD is especially concerning given the agency's stated agenda of targeting the independent contractor model, the franchise model, and the sharing economy with restrictive and punitive regulations. As with ARPA, Section 21001 further highlights the Democrats' obsession with retaliatory and overly-aggressive government enforcement policies rather than a proper focus of resources on collaborative activities and compliance assistance to help business owners better understand and meet their obligations under the law.

National Labor Relations Board

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[24] Under FY 2021 enacted levels, EBSA is operating with $181 million, OSHA is operating with $591 million, WHD is operating with $295 million, the Office of the Solicitor is operating with $134 million, and OFCCP is operating with $106 million. *See* FY 2022 DEP'T OF LAB. BUDGET IN BRIEF, https://www.dol.gov/sites/dolgov/files/general/budget/2022/FY2022BIB.pdf.

[25] Pub. L. No. 117-2 (2021).

[26] DOL, AMERICAN RESCUE PLAN – WORKER PROTECTION SUPPLEMENTAL APPROPRIATION, https://www.dol.gov/general/american-rescue-plan/worker-protection-supplemental-appropriation.

Section 21002 of the ANS appropriates $350 million to the NLRB to remain available until September 30, 2026, of which not more than $5 million is directed to implement systems to conduct electronic voting for union representation elections. For context, Section 21002 appropriates more than a year's worth of funding for NLRB, which is operating with $274 million for FY 2021.[27] Section 21002 undermines longstanding law, which specifically prohibits the NLRB from using funds to issue directives or regulations establishing electronic voting methods in union representation elections.[28] Electronic voting creates yet another opportunity for union fraud and abuse, as well as another opportunity for union organizers to harass, intimidate, and coerce workers outside the workplace. Most concerning, electronic voting threatens a worker's ability to vote by secret ballot. This attempt by Committee Democrats to rig the voting rules in union elections through the convoluted and inappropriate budget reconciliation process is another in a long list of attempts to advance labor union political objectives at the expense of worker rights.

Equal Employment Opportunity Commission

Section 21003 of the ANS appropriates $321 million to EEOC to remain available until September 30, 2026. For FY 2021, EEOC was appropriated $404.5 million. EEOC's FY 2022 budget requests $445.9 million, an increase of $41.4 over FY 2021 enacted levels. In July, House Democrats passed an appropriations bill that would provide EEOC with $445.9 million, matching the budget request.[29] Given that House Democrats intend to fund EEOC through the traditional Congressional appropriations process at the levels requested by the agency, the Democrat Congress, and the Biden administration, there is no rationale for the excessive supplement provided under Section 21003.

Wildly Excessive Labor Penalties

Section 21004 of the Democrat ANS irresponsibly increases existing civil monetary penalties by a factor of five for the *Occupational Safety and Health Act* (OSH Act), by a factor of nine for the *Fair Labor Standards Act* (FLSA), and by a factor of 10 for the *Migrant and Agricultural Worker Protection Act* (MSPA). The burdens of these unreasonable punishments will unfairly target job creators at a time when businesses are still struggling to recover from the pandemic and more than 8.4 million Americans are out of work.[30] To be clear, Committee Republicans do not condone employers that violate important labor laws, and we have always supported the authority of OSHA and WHD to hold bad actors accountable through enforcement.

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[27] NLRB, FY 2022 JUSTIFICATION OF PERFORMANCE, BUDGET FOR THE COMMITTEE ON APPROPRIATIONS (May 28, 2021), https://www.nlrb.gov/sites/default/files/attachments/pages/node-155/fy-2022-nlrb-congressional-budget-justification.pdf.

[28] *See, e.g.*, Consolidated Appropriations Act, 2021, H.R. 133, 117th Cong § 407 (2021), Legislative Text & Explanatory Statement, Divisions G-L, https://www.congress.gov/117/cprt/HPRT43750/CPRT-117HPRT43750.pdf.

[29] Commerce, Justice, Science, and Related Agencies Appropriations Act, 2022, H.R. 4505, 117th Cong. (2021).

[30] U.S. BUR. OF LAB. STATISTICS, EMPLOYMENT SITUATION SUMMARY (Sept. 3, 2021), https://www.bls.gov/news.release/empsit.nr0.htm.

It appears that Democrats have included these radically inflated penalties in the ANS to help pay for the sweeping socialist proposals included in their $3.5 trillion spending spree. Further, Committee Democrats are attempting to impose this extreme and unnecessary penalty scheme without any consideration of how it will impact job creators and workers.

These staggering increases are being imposed even though Congress already significantly increased these penalties in 2015 and indexed them for inflation. The *Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* as part of the *Bipartisan Budget Act of 2015*[31] required federal agencies, including DOL, to adjust civil penalty amounts annually using cost-of-living adjustments to account for inflation after a one-time initial catch-up. As a result, maximum civil monetary penalties under the OSH Act for 2021 have increased to $136,532 per violation for willful and repeat violations, $13,653 per serious violation, and $13,653 per violation per day for failure to abate.

Section 21004(a) of the ANS hikes the current levels by a staggering 512 percent to make the maximum penalty for willful and repeat violations $700,000 per violation, and $70,000 per violation for serious violations and failure to abate. This is an unprecedented and arbitrary increase which goes well beyond the inflation-adjusted levels of the *Bipartisan Budget Act of 2015* and will do little to improve workplace safety, as occupational injury and illness rates have significantly decreased over the last several decades, declining by more than 46 percent since 2001 without the need for exorbitant, punitive, and unwarranted penalties.[32]

Further, this authority will embolden OSHA to target employers who will be hesitant or unable to afford the costs of contesting these huge citations. The National Federation of Independent Business (NFIB) explained its opposition to these provisions in a letter to the Committee:

> Small businesses are struggling with labor shortages, rising inflation, supply chain disruptions, and increasing threats from COVID-19 variants. Congress should not be imposing massive new civil monetary penalties on small businesses as it would only serve to compound these problems and damage the fragile small business recovery.[33]

Similarly, the Democrat ANS also includes a provision authorizing DOL to levy significant and expanded civil monetary FLSA penalties on employers. Under the *Federal Civil Penalties Inflation Adjustment Act*, 2021, penalties for violations of Sections 12 and 13(c) of the FLSA increased to $13,227, violations of those provisions that result in serious injury or death increased to $60,115, and repeated or willful violations of FLSA Sections 6 and 7 to $2,074. Section 21004(b) in the Democrat ANS increases these fines by an exorbitant 900 percent, an unnecessary and punitive scheme that would result in penalty amounts of $132,270 for violations

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[31] Pub. L. No. 114-74 (2015).

[32] A total of 5.2 million injuries and illnesses were reported in private industry workplaces during 2001, according to the Bureau of Labor Statistics. In 2019, private industry employers reported 2.8 million nonfatal workplace injuries and illnesses: https://www.bls.gov/iif/oshsum.htm.

[33] Letter from Kevin Kuhlman, Vice President, NFIB, to the Hon. Bobby Scott and the Hon. Virginia Foxx (Sept. 9, 2021).

of FLSA Sections 12 and 13(c), $601,150 for violations of those provisions that result in serious injury or death, and $20,740 for violations of FLSA Sections 6 and 7.

As the NFIB stated in its letter:

> FLSA violations currently operate under a strict liability standard, meaning employers who have an honest misinterpretation of the law or made an isolated mistake are not given leniency under the law. For example, a small employer who makes a single error and forgets that his or her employees' hours exceeded the overtime threshold and inadvertently forgets to pay overtime to 10 employees can now be subject to $207,400 in fines. Small businesses do not have the operating revenue of larger businesses and cannot simply absorb these substantial fines, nor do they have legal counsel on retainer to negotiate lower fines with agency officials. This one-time error can ruin a small employer and permanently put them out of business.[34]

These wildly inflated penalties will have perverse consequences, encouraging WHD to short-circuit the enforcement process and threaten employers with excessive penalties in hopes of forcing premature settlements. The improper penalty structure will also encourage the agency to shake down employers. The revenue from the penalties will serve as an inappropriate funding mechanism for the implementation of DOL's highly politicized regulatory agenda. Simply put, this scheme unfairly burdens jobs creators, and the negative impacts of this language would be disproportionately felt by small businesses.

Committee Republicans are concerned that this unprecedented and unwarranted increase in fines will decimate job creation and that these burdens, coupled with overzealous enforcement by over-funded federal agencies, will be felt most strongly by small businesses. Additionally, policy changes of this magnitude should be subject to hearings, consultations with affected stakeholders, including members of the small business community, and consideration of stand-alone legislation by this Committee under regular order. In addition, the lack of legislative review and the convoluted process through which these provisions were considered and adopted is highly irresponsible. For all of the reasons stated previously, Committee Republicans strongly oppose the extreme, inappropriate, and punitive penalties implemented by Section 21004 of the Democrat ANS.

Civil Monetary Penalties for Mental Health Parity Violations

Section 21005 of the Democrat ANS amends the *Employee Retirement Income Security Act of 1974* (ERISA) to authorize DOL to levy civil monetary penalties against group health plans that violate the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* (MHPAEA). This provision, which significantly expands DOL's enforcement authority, is premature at best because of the current lack of information regarding compliance, the expectation that additional guidance and regulations will further facilitate compliance, and the existing enforcement framework through states and the Department of Health and Human Services (HHS).

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[34] *Id.*

MHPAEA prohibits group health plans sponsored by large employers that provide mental health benefits from imposing less favorable benefit limitations on those benefits than on medical and surgical benefits. The *Consolidated Appropriations Act, 2021* (CAA), signed into law in December 2020 and effective February 10, 2021, amended the MHPAEA by requiring group health plans to perform and document a comparative analysis of their non-quantitative treatment limitations (NQTLs) and to make their comparative analyses available to DOL, HHS, and the Department of the Treasury (tri-agencies), as well as state authorities, upon request. The CAA also directs DOL to request at least 20 different comparative analyses per year as part of its parity enforcement. If a plan or issuer is out of compliance, the tri-agency secretaries must provide a corrective action plan, which they have 45 days to complete. If the plan is still out of compliance, the plan must notify enrollees of noncompliance within seven days. On April 3, 2021, the tri-agencies released a set of Frequently Asked Questions (FAQs) addressing the CAA and the requirements it imposes upon plans and issuers as well as federal regulators.[35]

According to DOL, many plans have expressed difficulty with meeting the CAA's quick deadline on reporting and have requested extensions of time to prepare their analyses or to allow recently-hired consultants to prepare or finalize analyses. From April 9, 2021, to June 24, 2021, DOL has issued 74 letters to plans and issuers, requesting documentation of NQTL parity analyses for approximately 160 separate NQTLs. In response to these requests, 22 plans and issuers have so far produced comparative analyses covering approximately 41 NQTLs. DOL has issued seven letters noting insufficiency findings or requesting additional information. DOL, along with HHS and Treasury, will submit the first report to Congress on the review of comparative analysis in December 2021.[36]

Rather than adopt the Democrat proposal to impose additional punitive regulation that could inadvertently halt progress on the implementation of the CAA, the Committee, Congress, and the tri-agencies should take tangible actions to clarify parity requirements and facilitate compliance. Congress and DOL have heard from plans that they are working in good faith to provide DOL with their analysis but need additional time and clarity from the tri-agencies. To help improve mental health parity and implementation of the CAA, the tri-agencies could release examples of comparative analyses of NQTLs that they would deem both sufficiently thorough and compliant with MHPAEA, including the provisions recently added by the CAA.

To allow the Committee to make evidence-based decisions in this area, DOL should continue to facilitate compliance, fully implement the CAA, and report to Congress on its findings before Congress considers additional mandates on employers. It is irresponsible and counterproductive for the Committee to increase costs of providing mental health coverage, as Section 21005 of the Democrat ANS does, without the benefit of additional clarity from the tri-agencies and input from affected stakeholders. Employers who voluntarily offer mental health coverage to their employees should not be penalized because they do not understand confusing, subjective, and bureaucratic interpretations of NQTLs. Indeed, this will discourage employers from offering mental health coverage.

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[35] DOL, FAQS ABOUT MENTAL HEALTH AND SUBSTANCE USE DISORDER PARITY IMPLEMENTATION AND THE CONSOLIDATED APPROPRIATIONS ACT, 2021 PT. 45 (Apr. 2, 2021), https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/aca-part-45.pdf.
[36] Answers of Secretary of Labor Walsh provided to the Committee on Education and Labor.

Empowering Unions at the Expense of Workers and Job Creators

For more than 70 years, federal labor law has struck a careful balance between the right of labor unions to organize and bargain collectively on behalf of employees, the right of employers to respond to those organizing and bargaining efforts, and the right of employees to join unions or refrain from joining or funding union activity. Under this balanced framework, unfair labor practice charges related to collective bargaining activities can be filed by an employee, employer, union, or any other person.[37] The purpose of the *National Labor Relations Act* (NLRA)[38] is to protect the rights of private-sector employers and employees in the workplace, minimize industrial strife, and curtail certain behaviors of private sector labor and management deemed harmful to the general welfare of workers, businesses, and the economy overall. The law serves as a remedial statute to correct violations of the law and is not intended to punish unions or employers for unfair labor practices.[39]

Union membership rates have steadily declined over the last 60 years. As a percentage of all employed workers, union membership peaked in 1954 at 28.3 percent. The total number of union members crested in 1979 at 21 million.[40] In 2020, just 10.8 percent of workers, or 14.3 million, were members of a union, with 7.1 million of those individuals working in the private sector.[41] Union membership continues to plummet due to the modern economy and related economic growth, as well as to unions' own failings. Workers' disenchantment with union representation has created a real a crisis for union bosses. Instead of increasing transparency and accountability to better serve their members, union leaders are spending workers' dues to exert political influence to demand radical national labor laws to further consolidate power, coerce workers, line their own pockets, and bolster their own political agendas.

It is against this backdrop that Committee Democrats have introduced Section 21006 of the ANS, a radical and sweeping provision drawing inspiration from H.R. 842, the *Protecting the Right to Organize Act* (PRO Act). H.R. 842 continues the Democrats' assault on the rights of workers and employers in favor a of a one-size-fits-all union-dominated workplace. The bill includes a radical and far-reaching wish list of Big Labor priorities amending the NLRA. While H.R. 842 passed the House on March 9, 2021, by a vote of 225-206, it is unlikely to pass the Senate as stand-alone legislation due to its controversial and destructive details, and thus Committee Democrats are now illegitimately attempting to legislate fundamental and widespread changes to federal labor law through the budget reconciliation process.

Committee Republicans are committed to protecting constitutionally guaranteed rights such as the freedom of speech and the freedom of association. Committee Republicans also support the right of employees to join together and form a union, just as we support the right of individuals

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[37] 29 C.F.R. § 102.9.

[38] Enacted in 1935 subsequently amended by the *Labor Management Relations Act of 1947*, also known as the *Taft-Hartley Act*

[39] NLRB, BASIC GUIDE TO THE NATIONAL LABOR RELATIONS ACT 36 (1997), https://www.nlrb.gov/sites/default/files/attachments/basic-page/node-3024/basicguide.pdf.

[40] GERALD MEYER, CONG. RES. SERV., UNION MEMBERSHIP TRENDS IN THE UNITED STATES (Aug. 31, 2004).

[41] BUREAU OF LAB. STAT., UNION MEMBERS – 2020 (Jan. 22, 2021), https://www.bls.gov/news.release/union2.nr0.htm.

to refrain from joining unions. However, the Democrat ANS doubles down on an antiquated worldview of the American economy and a coercive and adversarial model of workplace relations that has failed to attract the support of American workers in the 21st century.

Punitive and One-sided Civil Penalties

Section 21006 of the Democrat ANS copies provisions included in the PRO Act and weaponizes enforcement of the NLRA in a one-sided manner that punishes employers while excluding unions from these penalties. Similar to H.R. 842, the Section 21006 includes a provision authorizing the NLRB to levy new and excessive civil monetary penalties against employers for unfair labor practices. These provisions discard the text and purpose of the NLRA to remedy rather than punish unfair labor practices.

Even more egregious is the underlying bill's blatant unfairness. Under the Democrat ANS, any employer who commits an unfair labor practice is subject to a civil penalty in an amount not to exceed $50,000 for each violation, with certain violations eligible for enhanced penalties not to exceed $100,000. In addition to the costly monetary civil penalties, the bill imposes individual legal liability on corporate directors and officers.

However, these provisions do not apply to unions or union officers, even though the NLRA prohibits unfair labor practices by unions. The Democrat ANS does not apply financial penalties for unfair union labor practices such as acts of violence on the picket line, threats of violence against workers, or misrepresentation of benefits that unions can provide. The Democrat ANS levies no penalties on powerful, coercive, multimillion-dollar labor unions while coercing and potentially bankrupting small businesses unable to afford a team of lawyers to contest unreasonable union demands or interpret complicated federal labor laws.

Penalties on Currently Legal Conduct

The Democrat ANS also authorizes the NLRB to levy inflated and unequal civil monetary penalties on employers for actions that are currently legal under the NLRA and have been for several decades. In fact, in many instances, the Board and Courts have explicitly affirmed the right of employers to engage in these actions, as further detailed below.

Ban on Locking Out or Permanently Replacing Striking Workers

The Democrat ANS empowers unions to inflict economic damage on workers, employers, and the economy by encouraging and increasing the frequency of strikes. The bill includes new and unprecedented penalties on employers which will effectively prohibit them from locking out or permanently replacing striking workers. This would overturn 80 years of Supreme Court precedent and upend the recognized and long-standing balance in the law, in which unions have a right to strike but employers have a right to make the decisions necessary to continue to serve their customers and remain in business.

In *NLRB v. Mackay Radio & Telegraph Co.*, the Court ruled unanimously that Mackay Radio had not engaged in an unfair labor practice either when it flew in replacement workers from

other offices to cover the roles of workers striking at its San Francisco office or when the company declined to rehire four of those striking workers. The Court explained that an employer may take the steps necessary to continue to do business during a labor dispute:

> [I]t does not follow that an employer, guilty of no act denounced by the statute, has lost the right to protect and continue his business by supplying places left vacant by strikers. And he is not bound to discharge those hired to fill the places of strikers, upon the election of the latter to resume their employment, in order to create places for them.[42]

The Democrat ANS eliminates this enduring employer right and provides a destructive new weapon to unions which will encourage the proliferation of economically-damaging strikes. Committee Democrats are seeking to restore an obsolete and discredited framework for labor-management relations reliant on conflict between labor and management. In 1937, there were nearly 5,000 strikes nationwide.[43] Committee Democrats seek to impose this 1930s-era vision of the economy on 2020s America.

Unions and Committee Democrats also believe that labor conflict creates opportunity for unionization, and the Democrat bill is singularly aimed at promoting that goal, irrespective of the consequences for workers, employers, and the economy.

Ban on Employers Holding Informational Meetings During an Organizing Drive

Even though the federal government has no business determining when, why, or how an employer can meet with his or her own employees in his or her own workplace, Section 21006 includes new financial penalties on employers that effectively ban them from scheduling on-the-clock, paid meetings with their own employees in their own workplace to discuss issues surrounding unionization during an organizing campaign. This provision contradicts enumerated and longstanding protections in the NLRA:

> The expressing of views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this subchapter, if such expression contains no threat of reprisal or force or promise of benefit.[44]

Not only are these free speech activities protected by the NLRA, but they are also heavily regulated to ensure they remain informational in nature. In a 2019 Committee hearing on the PRO Act, Mr. G. Roger King, Senior Labor and Employment Counsel at the HR Policy Association, testified on why banning these meetings is unnecessarily invasive:

> [T]here is no evidence to support the conclusion that employers can unduly influence employees to oppose unionization in such meetings. Further, an employer is considerably restricted in what it can say in such meetings. For

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[42] NLRB v. Mackay Radio & Telegraph Co., 304 U.S. 333, 345 (1938).
[43] BUR. OF LAB. STAT., ANALYSIS OF STRIKES IN 1937 (1938).
[44] 29 U.S.C. § 158(c).

> example, election objections can be successfully pursued by a union or unfair labor practices charges could be successfully filed against an employer if, in such meetings, the employer threatens employees who support unionization, or the employer promises better benefits to employees if they oppose unionization.[45]

The Democrat scheme to stop employers from sharing information with their employees on unionization is clearly intended to benefit union leaders and organizers and to muzzle job creators, but does so at the expense of workers who will be less informed as they make decisions with enormous impacts on their livelihoods and families.

The NLRB Has Sufficient Authority to Enforce the NLRA

Section 21006 is both contrary to the remedial nature of the NLRA and unnecessary to correct unfair labor practices in the workplace. Philip A. Miscimarra, Partner at Morgan Lewis & Bockius LLP and former Chairman of the NLRB, explained in a 2019 hearing on the PRO Act that the Board is already adequately empowered to correct and remedy NLRA violations in the workplace:

> Not only can the Board devise remedies consistent with its authority under the Act, the Board has the authority in appropriate cases to seek interim injunctive relief under Section 10(j). Moreover, the Board's orders are subject to enforcement in the courts. When any party violates a court's enforcement of an NLRB order, that violation is subject to potential civil and criminal contempt proceedings and penalties, including potential fines and imprisonment.[46]

Conclusion

Many decades of balance in American labor law have provided workers with high wages, greater opportunities, and more collaborative workplaces, while allowing the nation's economy to flourish. Our labor laws should continue with the goal of harmonizing relations between workers and businesses, which will keep the United States economy competitive internationally. The Democrat ANS does the opposite, sacrificing economic stability that leads to progress and growth in order to promote economic strife while enriching and empowering labor unions at the expense of workers, employers, and customers.

Subtitle B: Amendments not Accepted

Unfortunately, Committee Democrats did not accept any Republican amendments to rein in the out-of-control spending and rampantly radical policy changes included in Subtitle B. Committee Republicans received a copy of this far-reaching bill, which spends almost $780 billion dollars

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[45] *Protecting the Right to Organize Act: Modernizing America's Labor Laws: Hearing Before the Subcomm. on Health, Emp., Lab., & Pensions of the H. Comm. on Educ. & Lab.*, 116th Cong. 41 (2019) (statement of G. Roger King, Senior Lab. & Emp. Couns., HR Pol' Ass'n).

[46] *Protecting the Right to Organize Act: Deterring Unfair Labor Practices: Hearing Before the Subcomm. on Health, Emp., Lab., & Pensions of the H. Comm. on Educ. & Lab.*, 116th Cong. 26 (2019) (statement of Philip A. Miscimarra, Partner, Morgan Lewis & Bockius LLP) (citation and quotation marks omitted).

and includes extreme and sweeping policy changes, only one day before the Committee markup. Despite this affront, Committee Republicans were able to draft and offer thoughtful amendments that would have dramatically improved the bill. The following commonsense proposals offered in good faith by Committee Republicans were rejected by Committee Democrats:

Small Business Survival. Rep. Diana Harshbarger (R-TN) offered an amendment to exempt employers with fewer than 10 employees or annual sales under $1 million from the provisions of the Democrat ANS authorizing the NLRB to levy civil monetary penalties against businesses, including those for unfair labor practices under the NLRA. The Democrat ANS arbitrarily imposes new, excessive, and damaging penalties on small employers for actions that are legal under current law. This amendment shields very small businesses, which are unable to afford a team of lawyers to interpret complicated federal labor laws, from the bill's overreach.

Protect the U.S. Economy and Prevent Disruptive Union Strikes. Rep. Tim Walberg (R-MI) offered an amendment to strike the Democrat ANS language which effectively eliminates the longstanding Supreme Court interpretation allowing employers to lock out or replace permanently striking workers by authorizing the NLRB to levy unprecedented fines on businesses for actions that are legal under current law. This amendment maintains the longstanding Supreme Court interpretation that employers are allowed to replace striking workers permanently in order to keep their business running, to discourage widespread proliferation of economically harmful strikes, and to protect these employers from widespread and continuous union harassment.[47]

Equal Treatment of Unfair Labor Practices. Rep. Burgess Owens (R-UT) offered an amendment to ensure fairness under the law. His amendment simply applies the underlying bill's civil penalties and punitive damage assessments equally to union unfair labor practices. The Democrat ANS would fundamentally change the nature of the NLRA from a "make whole" remedial statute into a punitive one. If the Committee is unwisely considering this radical change, then it should at least apply the change equally to employers and labor organizations.

Protecting Job Creators Against Overzealous and Biased Government Enforcement. Rep. Rick Allen (R-GA) offered an amendment to strike the bill's language authorizing the NLRB to levy civil monetary penalties against employers for unfair labor practices and additional actions that are lawful under current law. These union-wish list provisions, similar to those found in the PRO Act, illegitimately legislate fundamental and widespread changes to federal labor law through the budget reconciliation process. The bill's language is irreparably flawed for two reasons. First, it changes the NLRA from a remedial statute, which it has always been, into a punitive statute. Second, the language exempts union unfair labor practices from the significant penalties that the bill only directs against employers. The one-sided provisions in the Democrats' bill upend the careful balance that has existed in federal labor law for more than 70 years, in which unfair labor practices committed by both unions and employers are remedied rather than punished.

Ensuring Fair and Balanced Labor Relations. Rep. Rick Allen (R-GA) offered an amendment striking the $350 million in additional funding for the NLRB. President Biden's Fiscal Year

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[47] *See* NLRB v. Mackay Radio & Telegraph Co., 304 U.S. 333, 345 (1938).

2022 budget requested almost $302 million in funding for the NLRB, which is an additional $27 million, or 10.1 percent, over the FY 2021 enacted level. In July, House Democrats passed an appropriations bill that would provide the NLRB with $317 million in funding, an increase of $43 million above FY 2021. There is no evidence the NLRB needs the additional infusion of taxpayer money appropriated by the Democrat ANS, which will likely be used to advance a radical labor union agenda at the expense of main street businesses.

Protecting Independent Contracting and the Sharing Economy. Rep. Michelle Steel (R-CA) offered an amendment striking the $405 million in supplemental appropriations funding for WHD, significantly more than the agency's annual budget. In addition, earlier this year, Congressional Democrats sent DOL $200 million in supplemental appropriations, of which $21 million was directed to WHD. Committee Republicans oppose providing this wildly excessive increase to WHD given the agency's stated agenda of targeting the independent contractor model and the sharing economy for regulatory attack.

Protect Small Businesses from Unwarranted FLSA Penalties. Rep. Virginia Foxx (R-NC) offered an amendment to exempt small businesses with fewer than 10 employees or annual sales under $1,000,000 from the provision in the Democrat ANS increasing certain FLSA civil monetary penalties by 900 percent. Given the lack of any previous legislative review of this radical policy by the Committee, the convoluted process through which this reckless spending package is being rammed through, and the extreme nature of this provision, this amendment exempts the smallest of businesses from these excessive civil monetary penalties, which risk bankrupting establishments unable to afford a team of lawyers to interpret complicated federal labor laws or contest citations. Simply put, this Democrat scheme unfairly burdens small businesses, making them little more than a funding mechanism for Committee Democrats to hire an army of overzealous DOL inspectors.

Stop Gratuitous and Excessive Penalties Targeting Job Creators. Rep. Fred Keller (R-PA) offered an amendment striking the provisions in the Democrat ANS which significantly increase civil monetary penalties for the OSH Act by more than 512 percent from current levels for violations of and the FLSA by 900 percent. The underlying bill radically departs from the current levels that were already substantially increased under the *Bipartisan Budget Act of 2015* and adjusted annually for inflation. These massive penalties will embolden DOL to target business owners already reeling from the Biden administration's harmful economic policies, and their impact will be most strongly felt by small businesses. By opposing this amendment, Committee Democrats doubled down on punishing job creators.

Stopping Overzealous OSHA Enforcement. Rep. Madison Cawthorn (R-NC) offered an amendment striking $707 million in additional funding for OSHA, including money allocated for agency enforcement efforts. The Democrat ANS included unwarranted funding for OSHA, even though Congress has already provided unprecedented levels of additional taxpayer dollars to the agency to respond to the COVID-19 pandemic, including $100 million allocated for OSHA in the Democrats' partisan ARPA as recently as March 2021. By authorizing this wildly excessive OSHA funding, Committee Democrats are handing OSHA a blank check to pursue overzealous enforcement actions against employers and small businesses with no requirement for sufficient spending on compliance assistance to prevent injuries before they happen.

Protecting Local Businesses. Rep. James Comer (R-KY) offered an amendment prohibiting the Department of Labor from using funds to issue a regulation treating a business as a joint employer of another employer's employee under the *Fair Labor Standards Act* without direct, actual, or immediate control over the essential terms and conditions of the employee's employment.

Religious Liberty. Rep. Virginia Foxx (R-NC), Committee Ranking Member, offered an amendment prohibiting funds appropriated to EEOC in the Democrat ANS from being used to rescind updates to the agency's "Compliance Manual on Religious Discrimination," which had not been revised since 2008.[48] Following public notice and comment, the Commission approved updates to the manual on January 15, 2021. These updates provide guidance on the freedom of religious organizations to make religiously-based employment decisions under Title VII of the *Civil Rights Act of 1964*. The updates also provide guidance on the prohibition against employment discrimination because of religion under Title VII. EEOC's updated guidance on religious discrimination is more important than ever because of increasingly frequent attacks on religious liberty. Rep. Foxx's amendment would ensure EEOC retains this important, updated guidance on religious protections.

Religious Contractors. Rep. James Comer (R-KY) offered an amendment providing that no funds appropriated to OFCCP in the Democrat ANS shall be used to rescind the final rule clarifying the rights of religious organizations participating in the federal contracting system.[49] OFCCP issued this rule on December 9, 2020, following extensive notice-and-comment rulemaking. The rule ensures faith-based organizations can participate in federal contracting without having to violate their faith. The rule also describes in detail the legal tests for qualifying as a religious organization, which are drawn from federal statutes and case law. By clarifying the obligations of religious organizations, the rule has encouraged participation in federal contracting, which saves taxpayer money and improves federal programs. Rep. Comer's amendment would keep the rule in place to ensure religious organizations are treated fairly and equally.

Excessive Penalties on Farmers. Rep. Julia Letlow (R-LA) offered an amendment to strike the provision in the Democrat ANS that increases civil monetary penalties under the MSPA[50] from $2,549 to $25,790, a 1,000 percent increase. The Committee has held no hearings on MSPA or whether civil monetary penalties in the Act should be increased, much less increased 10-fold. Civil penalties under MSPA were increased and are adjusted for inflation under the bipartisan *Federal Civil Penalties Inflation Adjustment and Improvements Act of 2015*.[51] Violations of MSPA are often technical in nature, and such a radical increase in penalties could inflict serious harm on farms and the agricultural sector, especially small farms. Rep. Letlow's amendment

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[48] EEOC, Sec. 12: Religious Discrimination, https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination.
[49] Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption, 85 Fed. Reg. 79,324 (Dec. 9, 2020).
[50] 29 U.S.C. §§ 1802-1872.
[51] *See* DOL, Wage & Hour Div., Civil Money Penalty Inflation Adjustments, https://www.dol.gov/agencies/whd/resources/penalties.

would retain the inflation-adjusted penalties in MSPA while ensuring that small farms are not over-penalized.

Ensuring Access to Mental Health Care. Rep. Tim Walberg (R-MI) offered an amendment to strike Section 21005 of the Democrat ANS and replace it with language that allows employers the option to continue to offer standalone telemedicine plans for seasonal and part-time employees past the COVID-19 pandemic. On June 23, 2020, in response to the COVID-19 pandemic, the tri-agencies (DOL, HHS, and Treasury) issued temporary flexibility for employers who wish to provide stand-alone telehealth services to employees who otherwise are not eligible for the employer's health plan.[52] However, this flexibility expires upon the conclusion of the federal public health emergency. Section 21005 gives DOL the authority to levy civil monetary penalties against health insurers and plan sponsors for violating mental health parity requirements under MHPAEA. The Democrat ANS seeks to punish employers who voluntarily offer mental health coverage to their employees. Such penalties do nothing to increase access to mental health care. It only encourages employers to drop mental health coverage. The Committee should instead take steps to improve coverage for telepsychiatry through the expansion of stand-alone telehealth programs for employees. Committee Democrats opposed this commonsense amendment, which would have prevented them from taking away mental health coverage for seasonal and part-time workers when the pandemic ends, and from simultaneously creating new penalties for employers voluntarily offering mental health care benefits.

Vote Clarifications

Due to extenuating circumstances, the following Members missed roll call votes during the markup. Had they been present, they would have voted as indicated below.

Mr. Thompson would have voted aye on Roll Calls 2, 22, 25, 26, 27, 30, 31, and 35. He also would have voted no on Roll Call 28.

Mr. Grothman would have voted aye on Roll Call 9.

Mr. Allen would have voted aye on Roll Call 21.

Ms. Steel would have voted aye on Roll Calls 1-10.

Conclusion

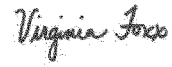
Democrats have referred to this bill as 'life-changing legislation.' They're right—every American's life is at risk of becoming worse if this bill becomes law. It is embarrassing and shameful to kneecap the private sector and transform the United States into a nation dependent on expensive and inefficient government programs. This bill is about power and control. It is about solidifying union bosses' stranglehold on workers, upending individual's rights in favor of government control, stifling innovation, and stealing money from blue-collar workers to pay for

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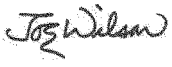
[52] DOL, FAQS ABOUT FAMILIES FIRST CORONAVIRUS RESPONSE ACT AND CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT IMPLEMENTATION PT. 43, https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-43.pdf.

white-collar educations. Democrats aren't Building Back Better, they're Building Back Bankrupt.

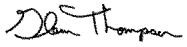
If Democrats had any interest at all in improving the lives of struggling Americans, they would immediately stop their partisan attempt to pass an unprecedented spending spree that will double down on Biden's inflation crisis. Committee Democrats are under the false impression that government has all the answers and taxpayers will happily foot the bill for their insanity. Liberals need a reality check, not a blank check.



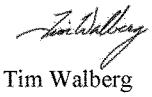
Virginia Foxx
Ranking Member



Joe Wilson
Member of Congress



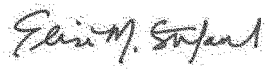
Glenn "GT" Thompson
Member of Congress



Tim Walberg
Member of Congress



Glenn Grothman
Member of Congress



Elise M. Stefanik
Member of Congress



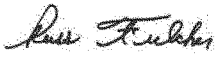
Rick W. Allen
Member of Congress



Jim Banks
Member of Congress



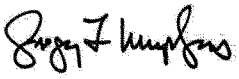
James Comer
Member of Congress



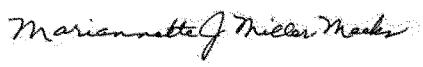
Russ Fulcher
Member of Congress



Fred Keller
Member of Congress



Gregory F. Murphy, M.D.
Member of Congress



Mariannette Miller Meeks, M.D.
Member of Congress



Burgess Owens
Member of Congress



Bob Good
Member of Congress



Lisa C. McClain
Member of Congress

Diana Harshbarger
Member of Congress

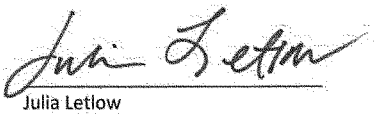
Mary E. Miller
Member of Congress

Victoria Spartz
Member of Congress

Scott Fitzgerald
Member of Congress

Michelle Steel
Member of Congress

Minority Views on Committee Print to comply with the Reconciliation Directive included in Section 2002 of S. Con. Res. 14



Julia Letlow
MEMBER OF CONGRESS

Virginia Foxx, Ranking Member
Joe Wilson
Glenn "GT" Thompson
Tim Walberg
Glenn Grothman
Elise M. Stefanik
Rick W. Allen
Jim Banks
James Comer
Russ Fulcher
Fred Keller
Gregory F. Murphy, M.D.
Mariannette Miller Meeks, M.D.
Burgess Owens
Bob Good
Lisa C. McClain
Diana Harshbarger
Mary E. Miller
Victoria Spartz
Scott Fitzgerald
Michelle Steel
Julia Letlow

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

September 12, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by a vote of the Committee on Energy and Commerce, and the appropriate accompanying material including additional, supplemental, minority, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Frank Pallone, Jr.
Chairman

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 30101. *Clean Heavy-Duty Vehicles.*

Subsection (a) appropriates $5 billion to carry out section 132 of the Clean Air Act (CAA), as added by subsection (b). Section 132(a) establishes a program to make awards of grants and rebates to replace Class 6 and Class 7 heavy-duty vehicles with zero-emission vehicles. Section 132(b) establishes an application requirement. Section 132(c) allocates 40 percent of funding to recipients proposing to replace eligible heavy-duty vehicles serving communities located in nonattainment areas. Section 132(d) defines terms used in this section.

SEC. 30102. *Grants to Reduce Air Pollution at Ports.*

This section provides $3.5 billion for the purchase and installation of zero-emission equipment and technology at ports, as well as the development of climate action plans at ports. Requires that 25 percent of investments are made at ports in nonattainment areas.

SEC. 30103. *Greenhouse Gas Reduction Fund.*

This section provides $27.5 billion to invest in nonprofit, state, and local financing institutions designed to rapidly deploy low- and zero-emission technologies by leveraging investment from the private sector. Requires that at least 40 percent of investments benefit low-income and disadvantaged communities.

SEC. 30104. *Collaborative Community Wildfire Air Grants.*

This section provides the Environmental Protection Agency (EPA) $150 million to assist communities in developing and implementing collaborative community plans to prepare for, reduce risks of, and mitigate the health and environmental effects of wildfire smoke.

SEC. 30105. *Diesel Emissions Reductions.*

This section provides EPA $170 million for Diesel Emissions Reduction Act (DERA) grants to reduce diesel emissions from existing engines. Specifically, it directs $100 million to projects addressing diesel emissions from goods movement facilities (e.g., airports, railyards, and distribution centers) and from vehicles servicing those facilities. Further, it directs $20 million to projects addressing diesel emissions in low-income and disadvantaged communities.

SEC. 30106. *Funding to Address Air Pollution.*

This section provides $320 million to the EPA, of which $265 million is for air quality monitoring via grants and other activities authorized under CAA sections 102, 103, and 105, $50 million is to carry out specified sections of the CAA with respect to greenhouse gases (GHG), and $5 million is for grants to states to adopt and implement greenhouse gas and zero-emission standards for mobile sources pursuant to CAA section 177.

SEC. 30107. *Funding to Address Air Pollution at Schools.*

This section appropriates $50 million to EPA to monitor and reduce air pollution at public schools in low-income and disadvantaged communities under CAA sections 103 and 105.

SEC. 30108. *Low Emissions Electricity Program.*

This section provides $100 million to EPA to carry out CAA section 135, as added by this section. Section 135(b) directs that not less than $40 million shall be used to help educate consumers, support low-income and disadvantaged communities, and offer technical assistance to industry, as well as state and local governments, with respect to reductions in GHG emissions that result from domestic electricity generation and use. Section 135(b) further directs that not less than $1 million be used to assess the emission reductions anticipated to occur over the next decade, and that not less than $20 million be used to ensure the assessed reductions are achieved.

SEC. 30109. *Funding for Section 211 of the Clean Air Act.*

This section provides EPA $15 million to carry out CAA section 211, of which not less than $5 million shall be for tests, protocols, analyses, and evaluations regarding environmental and public health effects and lifecycle emissions of transportation fuels, and not less than $5 million shall be for grants to support investments in advanced biofuels.

SEC. 30110. *Funding for Implementation of The American Innovation and Manufacturing Act.*

This section provides $42 million to EPA to carry out the American Innovation and Manufacturing Act, of which $3.5 million is to deploy new implementation and compliance tools and $15 million is for competitive grants for reclaim and innovative destruction technologies.

SEC. 30111. *Funding for Enforcement Technology and Public Information.*

This section appropriates $50 million to EPA, of which $37 million is to update EPA's Integrated Compliance Information System, $7 million is for grants to states, Indian Tribes, and air pollution control agencies to update their systems, and $6 million is to acquire or update inspection software used by EPA, states, Indian Tribes, and air pollution control agencies.

SEC. 30112. *Greenhouse Gas Corporate Reporting.*

This section provides EPA $5 million to support enhanced standardization and transparency of corporate climate action commitments and plans, and progress toward meeting such commitments and implementing such plans.

SEC. 30113. *Environmental Product Declaration Assistance Program.*

This section provides EPA $250 million to establish and carry out an Environmental Product Declaration (EPD) Assistance program to support development and enhanced standardization and transparency of environmental product declaration for construction materials and products.

SEC. 30114. *Environmental Protection Agency Methane Fee.*

This section establishes a fee that EPA must impose upon and collect from the owner or operator of certain facilities that report methane emissions under Subpart W of the Greenhouse Gas Reporting Program.

For petroleum and natural gas production industry segments,[1] the fee only applies to the tons of reported methane emissions that exceed an intensity threshold of 0.2 percent of natural gas sent to sales. For nonproduction petroleum and natural gas industry segments,[2] the fee only applies to the tons of reported methane emissions above an intensity threshold of 0.05 percent of natural gas sent to sales. For natural gas transmission industry segments,[3] the fee only applies to the tons of reported methane emissions above an industry threshold of 0.11 percent of natural gas sent to sales.

The section directs EPA to update regulations for reporting under Subpart W within two years. After that period, it imposes a fee of $1500 per ton of methane on applicable facilities' reported emissions above the intensity thresholds starting in 2023.

The section further requires that funds raised by the fee be transferred to EPA to: 1) cover the costs of developing and administering the methane fee; 2) provide financial and technical assistance to owners and operators of applicable facilities preparing and submitting GHG reports under Subpart W; 3) improve methane emissions monitoring under CAA section 103; and, 4)

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[1] Offshore petroleum and natural gas production, and onshore petroleum and natural gas production.
[2] Natural gas processing, underground natural gas storage, liquefied natural gas storage, liquefied natural gas import and export equipment, and onshore petroleum and natural gas gathering and boosting.
[3] Natural gas transmission and compression, and onshore natural gas transmission pipelines

provide financial and technical assistance for activities that reduce methane and other GHG emissions from petroleum and natural gas systems, mitigate legacy pollution from petroleum and natural gas systems, and support communities around those systems.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #44

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (B1_13) to Subtitle A by Mrs. Rodgers of Washington, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #45

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (B1__05) to Subtitle A by Mr. Joyce of Pennsylvania, No. 3

Disposition: **NOT AGREED TO** by a roll call vote of 27 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader	X			Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #46

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (B1_06) to Subtitle A by Mr. Carter of Georgia, No. 4

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #47

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment to the AINS (NCB__1) to Subtitle A by Mr. Armstrong of North Dakota, No. 1a

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #48

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (SCALISE_01) to Subtitle A by Mr. Scalise of Louisiana, No. 5

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #49

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (GUTHRIE_01) to Subtitle A by Mr. Hudson of North Carolina, No. 6

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #50

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (B1_08A) to Subtitle A by Mr. McKinley of West Virginia, No. 7

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader	X			Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #51

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (B1_11A) to Subtitle A by Ms. Lesko of Arizona, No. 8

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess			
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #52

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Amendment: An amendment (Inflation Amdt to Subtitle A2) to Subtitle A by Mrs. Rodgers of Washington, No. 9

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess			
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #53

Bill: **Subtitle A**, Budget Reconciliation Legislative Recommendations Relating to Air Pollution

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle A** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 26 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess			
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle A: Budget Reconciliation Legislative Recommendations Relating to Air Pollution

The provisions in Subtitle A focus on Environmental Protection Agency (EPA) spending and regulatory authorities and contribute to the Democrats' socialist agenda to expand Federal government control over our economy, health, and welfare. And as with other provisions, the Subtitle was reported out without a single hearing in which Congress could review the impacts of the new provisions, which will have lasting effects on Federal environment and energy policies—far beyond the budget window.

The central theme of the Subtitle involves the radical drive to eliminate America's use of coal, oil, and natural gas—so essential to affordable, reliable power and the energy security and the robust economy working families rely upon. Provisions in this Subtitle reflect a combination of massive spending and expanded regulatory requirements and new taxes on disfavored fossil energy to incentivize, and in some cases compel, the expansion of the favored technologies of the environmental left (and the People's Republic of China) – weather-based wind and solar, and electrification of everything, no matter the costs to American families or the nation's energy security.

Notably, the Democrats chose to impose this spending, regulatory, and tax onslaught through several amendments to the Clean Air Act, revealing an underlying goal of the : to make lasting changes to our bedrock environmental laws, with no Committee process. The left's radical agenda is exposed here: take over the electricity system and prepare to impose new regulations and taxes to drive out existing fossil and natural gas.

Subtitle A contains at least $37.2 billion of spending for numerous grant programs and funds. Many of the provisions overlap or add to funding priorities Congress has already addressed, effectively shoveling taxpayer dollars before we even understand where and how the money will be spent.

Most troubling, the Subtitle establishes in the Clean Air Act a natural gas tax on the oil and gas industry, which will raise the costs of energy and numerous other consumer products, including life-saving medical drugs and devices. The regulatory structure of this provision, as discussed below, will ensure the EPA's permanent, commanding influence over American energy, manufacturing competitiveness, relationships with states, and the costs of goods and services far beyond the budget window.

Committee Republicans offered and debated 12 amendments to reduce the cascading harms in the Subtitle, including subtitle-wide amendments to ensure products subsidized in this bill would not accelerate increased reliance upon critical minerals controlled by our adversaries; to ensure the provisions would not impose new requirements on any Federally recognized Indian Tribe; to require certification that none of the spending would increase the inflation that is currently ravaging household budgets. Democrats rejected these efforts to mitigate the harmful impacts of this subtitle.

Following are some of the questions and concerns about provisions in the Subtitle:

Section 30101. Clean Heavy-Duty Vehicles.

This section introduces a new program to the Clean Air Act to spend $5 billion to rebate up to the full cost of electric medium and heavy trucks, with no Committee review to understand why full rebates, why EPA should manage this spending program, and how such a program would maintain stewardship of taxpayer dollars. How this works with section 30105 below remains an open question.

Section 30102. Grants to Reduce Air Pollution at Ports.

This section provides $3.5 billion to help electrify ports and reduce emissions, with no review to examine how this spending intersects with provisions in the Senate infrastructure bill. Notably, the provision adds new requirements for so-called climate action plans, written vaguely, but clearly a new regulatory requirement under the Clean Air Act with enforcement implications, and with impacts on State air quality implementation planning and expenditures—the policy implications of this regulatory expansion were not reviewed.

Section 30103. Greenhouse Gas Reduction Fund.

This section is a brand-new, unexamined provision that provides EPA $27.5 billion to establish a fund in the Clean Air Act to support expansion of rooftop solar and other local programs to reduce the use of natural gas and fossil energy, and related air emissions, particularly in low-income communities. EPA will control $7.5 billion to spend as it sees fit, and $20 billion will be given away to "eligible entities" to set up one or more independent, unaccountable, and permanent National Climate Banks. These Wall Street finance leveraging schemes would keep all proceeds from the funds so the self-selected members can operate these entities perpetually, far beyond any control by the Inspector General or Congress.

The central requirement, from what we can tell with the obscure text, is to leverage Wall Street investment and state financing to "decarbonize" and pursue local renewable energy and electric vehicles projects—projects already covered by funding throughout this monstrous bill, and in other programs Congress has enacted. The give-away provides private investors and states seed money simply to de-risk their own investments.

To be sure, there appear to be an increasing number of state level "climate banks." The provisions here seek to boost their coffers by nationalizing the effort. Importantly, the national climate bank goals and decisions by its self-selected members may conflict with the interests of ratepayers and with supporters of clean fossil energy, which are not eligible for financing. Senate testimony from Texas and Wyoming experts indicated a national climate bank's focus on renewable energy and "transition" away from fossil energy conflicts with state taxpayer interests—and the benefits of their resources for prosperity. Why should energy state taxpayers seed programs that will seek to undercut their future? Against the backdrop of increased Wall Street financing of environmental, climate, and "ESG" initiatives, the need for taxpayer spending here at the expense of energy security and reliability priorities has not been established.

To go back to the drawing board, Rep. Armstrong offered an amendment to strike the section; the Committee Democrats rejected it.

Section 30104. Collaborative Community Wildfire Air Grants.

This section provides $150 million to help communities address wildfire smoke, a well-meaning program but one that underscores the lack of focus on solutions to the wildfire problem, which involve increased use of forest management practices, including prescribed burns (where EPA may assist in smoke mitigation) and related practices. As ever, the Democratic priorities are missing the mark.

Section 30105. Diesel Emissions Reductions.

This section provides some $170 million more to the Diesel Emissions Reduction Act programs, which Congress just reauthorized in the Energy Act of 2020. Yet, in keeping with a pattern in this rushed process, the Democrats chose to add more spending, far beyond what had been agreed to in the bi-partisan, regular order process. How this spending works with section 30101 remains an open question.

Section 30106. Funding to Address Air Pollution.

This section provides $315 million to a suite of air emissions monitoring grants, and to beef up spending related to several Clean Air Act regulatory authorities with respect to greenhouse gases. The monitoring spending alone adds to the $100 million Congress already appropriated in the partisan "American Rescue Plan Act of 2021" (PL 117-2). There was no Congressional review of EPA's need for this funding to execute its responsibilities. There was no review or testimony from state air regulators to examine how so-called community monitoring works in connection with federal reference method monitors and the potential impact on reliable air quality data and regulations. Skewed information can lead to harmful regulatory decisions, which impacts communities, leads to unnecessary litigation, and undermines legitimate air pollution priorities.

This section spends $50 million to beef up EPA's budget to exercise its greenhouse gas regulatory authorities, notably section 115 of the Clean Air Act, which would enable international environmental activists—and our nation's adversaries like China—to use the Clean Air Act to codify the Paris Agreement, and impose harmful decarbonization policies, costing jobs and security. The long-term policy implications of this section deserve much more scrutiny than can be achieved in a rushed, partisan Reconciliation markup.

Section 30107. Funding to Address Air Pollution at Schools.

This section provides $10 million that may overlap funding in the same Clean Air Act sections already increased in the American Rescue Plan, referenced above. Yet, there was no regular order to understand why these new sums were necessary.

Section 30108. Low Emissions Electricity Program.

This section provides $100 million to carry out another brand-new regulatory program under Clean Air Act to measure, collect data, and provide new regulatory authority to expand "domestic electricity generation and use." The provisions explicitly seek to ensure reductions in greenhouse gas emissions anticipated from "domestic electricity generation" by 2031 by issuing regulations – a major new intrusion of the EPA into electricity generation within states, with policy implications for state interests and other Federal authorities. The long-term policy implications of this section also deserve much more scrutiny than can be achieved in a partisan Reconciliation markup, with no hearings or technical comments from state authorities and commissions.

Section 30109. Funding for Section 211 of the Clean Air Act.

This section provides $15 million for EPA to perform tests, protocols, analyses, and evaluations to determine the environmental and public health impacts of lifecycle emissions of transportation fuels. The U.S. Department of Energy already addresses these issues with respect to transportation fuels. This provision would be a waste of taxpayer dollars and Federal resources, and it could create confusion and misinformation.

Section 30110. Funding for Implementation of the American Innovation and Manufacturing Act.

This section, overall, provides $42 million in supplemental funding for 5 years to implement requirements phasing down the domestic use of hydrofluorocarbons (HFCs) under the American Innovation and Manufacturing (AIM) Act. This section further apportions $3.5 million to deploy "new" implementation and compliance tools and $15 million for competitive grants related to reclaiming and innovative destruction technologies. We are concerned this funding potentially pursues implementation objectives that are inconsistent with the statute, including funding "new implementation and compliance tools" and efforts to snuff out the affordability and allowance benefits received by residential consumers from reclaimed and recycled HFCs.

Section 30111. Funding for Enforcement Technology and Public Information.

Under this section, EPA is appropriated $50 million: $33 million for updating EPA's Integrated Compliance Information System; $7 million for grants to EPA partners to update their systems; and $10 million for EPA to acquire inspection software. According to EPA's website:

> [T]he Integrated Compliance Information System is a web-based system that provides information for the Federal Enforcement and Compliance (FE&C) and the National Pollutant Discharge Elimination System (NPDES) programs. The FE&C component supports EPA's Civil Enforcement and Compliance program activities. These activities include Compliance Assistance, Compliance Monitoring and Enforcement. The NPDES program

supports tracking of NPDES permits, limits, discharge monitoring data and other program reports.

No hearings or regular order process were conducted on this provision. It is unknown if these funds are required by the Agency, if they may duplicate existing programs or appropriations, or how these programs will be implemented with this infusion of funding.

Section 30112. Greenhouse Gas Corporate Reporting.

This section provides for a seemingly new program with $5 million in funding for EPA to standardize "climate action commitments and plans" of corporations. It is unclear what exactly these funds and the programs are intended to accomplish. Corporations have their own environmental and sustainability goals – taxpayer dollars should not be spent to enhance and/or standardize these plans or goals on behalf of corporations. EPA already has an established greenhouse gas reporting program – this provision appears to be duplicative and a waste of resources. As with so much of this legislation, no hearings or regular order process took place on this provision.

Section 30113. Environmental Product Declaration Assistance Program.

This section provides EPA $250 million, until fiscal year 2031, to develop and carry out a new environmental product declaration assistance program, including the development, standardization, and transparency of environmental product declarations for construction materials and products. Under this section, EPA may award grants to businesses subject to these declarations for developing and verifying environmental product declarations. EPA may also use funding to carry out other activities that assist in measuring and reducing the quantity of embodied carbon of construction materials and products. Again, there were no hearings and no regular order process-regarding this provision.

Section 30114. Environmental Protection Agency Methane Fee.

This is a tax.

The tax-and-spend Committee Democrats can call it whatever they want, but it is absolutely a tax and it will absolutely hurt Americans by making a wide range of essential goods and services more expensive.

This is a regressive tax on natural gas, and it will impose a cost of $9 billion to the economy and as many as 90,000 jobs could be lost.[1] Taxes on natural gas will have harmful ripple effects, raising costs for customers, creating new burdens that will fall heavily on hardworking American families, and especially low income and rural Americans.

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[1] Letter, dated September 12, 2021, to Chairman Pallone and Ranking Member McMorris Rodgers opposing the inclusion of the *Methane Emissions Reduction Act of 2021* in the reconciliation package, signed on behalf of oil and natural gas industry organizations.

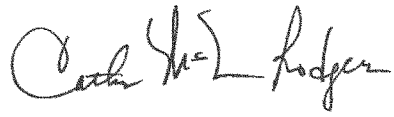
The full scope and impact of this new tax on natural gas is unknown. The methane tax has never been the subject of a hearing, and no input or technical assistance was provided by EPA to understand how the tax would be calculated and implemented. In the week preceding the Full Committee Markup, three variations of the methane tax were introduced. According to analysis by companies that make up the natural gas supply chain, the three variations of the methane tax would increase customers natural gas bills from 12 percent to 34 percent, with the average cost from $85 to $242 per year.[2]

The methane tax will raise the cost of doing business for every small business that uses natural gas for heat and electricity. The methane tax will increase prices for food and agricultural products at a time when inflation and high prices are already taxing American families enough. The methane tax will also increase the cost of plastics, personal protective equipment (PPE), and medicines derived from hydrocarbons that are essential to the fight against the COVID pandemic. If the $1,500/ton methane tax were applied to the 2019 EPA Emissions Inventories for agricultural methane emissions, according to analysis by the American Farm Bureau, the tax would cost American farmers more than $400 billion dollars. Broken down by livestock, the methane tax would cost about $6,504 per dairy cow, $2,607 per head of cattle, and $503 per pig.

Republicans offered an amendment to strike sec. 30114, and several amendments to limit the scope of the methane tax, including amendments to exempt agricultural operations, protect live saving products such as medical devices and PPE, and exempt facilities needed to sustain critical missions on or near a military installation. The tax-and-spend Committee Democrats rejected each of these Republican amendments.

The harmful policies in this Subtitle received bipartisan opposition in the markup with a Committee Democrat joining Republicans in voting against.

[2] Letter, dated September 13, 2021, to House and Senate Leadership expressing concerns about the inclusion of Sec. 30114 in the reconciliation package, signed on behalf of companies and associations that make up the natural gas supply chain.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



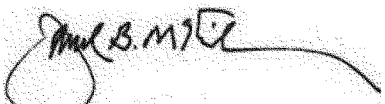
Fred Upton
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Subcommittee on Energy
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Robert E. Latta
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Subcommittee on Communications
and Technology
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Brett Guthrie
Ranking Member
Subcommittee on Health
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CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 30201. *Superfund Investments.*

This section provides $10 billion for response actions to be carried out by responsible federal agencies at federal facilities on the National Priority List pursuant to section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

SEC. 30202. *Funding to Address Toxics in Schools.*

This section appropriates $50 million to EPA to reduce pollution at schools in low-income and disadvantaged communities under title V of the Toxic Substances Control Act.

SEC. 30203. *Grants To Reduce Waste in Communities.*

This section provides $750 million for investments in community-level waste reduction infrastructure, incentives, and related activities.

SEC. 30204. *Environmental and Climate Justice Block Grants.*

This section provides $5 billion for investments in community-led projects and technical assistance to address disproportionate environmental and public health harms related to pollution and climate change in disadvantaged communities.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #54

Bill: **Subtitle B**, Budget Reconciliation Legislative Recommendations Relating to Hazardous Materials

Amendment: An amendment (B3_17) to Subtitle B by Mr. Carter of Georgia, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 24 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess			
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #55

Bill: **Subtitle B**, Budget Reconciliation Legislative Recommendations Relating to Hazardous Materials

Motion: An motion by Mr. Pallone of New Jersey to order **Subtitle B** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 26 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess			
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle B: Budget Reconciliation Legislative Recommendations Relating to Hazardous Materials

Subtitle B contains at least $15.8 billion of spending for Superfund and grant programs relating to other hazardous liabilities under the Environmental Protection Agency. Its four sections that run the gamut from lost opportunities, to confusing choices, to outright startling policies. Importantly, this Subtitle's out of control spending levels dwarf historic funding for these programs – and the Subtitle does not contain any accountability mechanisms.

Section 30201 spends $10 billion to fund Superfund site cleanups by the Federal government at Federal Facilities. This amount, which goes to only a subset of all Superfund sites, is almost seven times the amount of money annually given to Superfund and more than 450 times higher than the amount that currently goes to that account.

Unfortunately, this is the only spending on Superfund that this legislation undertakes. In addition, the funding is not focused on only remedial cleanup actions, so it could be wasted on the endless site study and lawyers' fees, which have prevented these site cleanups from finishing. Finally, this funding is only being spent on Federal sites; the funding is not prioritized for sites with the greatest level of risk to the community.

Superfund money should go to cleaning up the riskiest sites – regardless of whether the Federal government is a responsible party – particularly those that do not otherwise have the backing to get cleaned up. That is how we get the most pro-environment use of our tax dollars.

Next, section 30202 provides $50 million for programs related to school siting selection, community outreach, and environmental health programs. Yet, this amount of funding is more than 47 times the last authorized level for a law whose funding authorization expired almost 9 fiscal years ago. Moreover, the Committee has conducted virtually no oversight of this program. Regardless of how well intentioned it may be, this section is excessive, unaccountable Federal spending.

After this comes section 30203. This section appropriates $750 million for grants to a single unit of State, tribal, or local governments, a non-profit, or a combination of the two for projects that minimize waste, promote recycling infrastructure, including for organics, and create market demand for recyclable materials. Our concern is that creating market demand ignores and distorts the forces at play in free enterprise, including trying to create market demand and opportunities for certain commodities – regardless of their feasibility. We are also concerned about efforts to provide seed money to governing bodies or non-profits to force businesses to make production changes that may not be in their financial best interest.

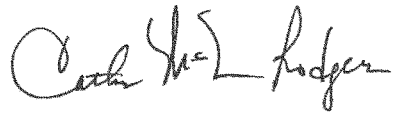
Finally, Subtitle B contains a new program, section 30204, which appropriates $5 billion for environmental and climate justice block grants for projects that "benefit disadvantaged communities," which includes $500 million for technical assistance funding, to award grants to community-based non-profits and schools or tribes that partner with these non-profits to promote community low-emissions technology, resilient infrastructure, and community-led pollution reduction efforts.

Yet, under section 30204, "disadvantaged communities" is defined by the Environmental Protection Agency (EPA) Administrator, giving EPA broad latitude to decide who gets benefits from the $5 billion in Federal funding. Moreover, the original version of section 30204 directly aided "low-income" and "disadvantaged communities." With "low-income" communities removed from the language, it is plausible that EPA's administrative discretion will result in certain low-income communities being denied the ability to qualify as "disadvantaged" and benefit from this program.

Importantly, section 30204 specifically awards public funding to community groups for advocacy at the Federal and State level, and anything else the EPA thinks is appropriate. This is a horrible precedent. Congress should not be funding private groups to lobby – regardless of who they are – nor to create a situation where private parties become funding supplicants of an Agency when the statutory objective of the funding is policy advocacy – this is a conflict of interest.

Given the limited focus of Superfund spending, the enormous amount spent on a program that has not been subjected to Committee oversight, the meddling with the private market, the loose definition of who qualifies for grant funding, and the publicly funded advocacy in section 30204, we cannot support this Subtitle. We are particularly concerned that with this Subtitle, Congress permits EPA to treat this funding like petty cash, accessible any time it seems like a good idea, and especially when it benefits political allies.

Ultimately, we note that, at markup, Energy and Commerce Committee Democrats rejected a commonsense amendment by Rep. Carter to require the EPA Inspector General to conduct oversight of these programs and promptly report any instances of waste, fraud, or abuse to Congress. This Subtitle also received bipartisan opposition during the markup, with a Committee Democrat voting against it.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



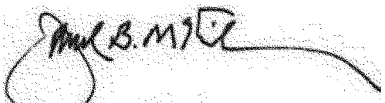
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CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 30301. *Lead Service Line Replacement.*

This section provides $30 billion for lead service line replacement projects to be distributed pursuant to section 1452 of the Safe Drinking Water Act (SDWA), the drinking water State Revolving Fund (SRF). It also specifies that no funds provided may be used for partial replacements of lead service lines or as leverage for the issuance of bonds.

SEC. 30302. *Community Water System Risk and Resilience.*

This section provides $500 million for grants to community water systems to improve their resilience to natural disasters and intentional acts, under SDWA section 1433, the Community Water System Risk and Resilience program.

SEC. 30303. *Grants For State Programs.*

This section provides $100 million for Public Water System Supervision (PWSS) grants to states, under SDWA section 1443.

SEC. 30304. *Assistance for Colonias.*

This section provides $100 million for grants to be provided by the Environmental Protection Agency (EPA) pursuant to SDWA section 1456, Assistance to Colonias.

SEC. 30305. *Grants to Reduce Lead in School Drinking Water.*

This section provides $620 million for grants to reduce lead in school drinking water under SDWA sections 1464 and 1465, of which $420 million will be for grants to assist schools in the installation and maintenance of lead filtration stations; $150 million shall be for grants for school and childcare program lead testing; and $50 million will be for grants to schools for the replacement of school drinking water fountains that may contain lead.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #64

Bill: **Subtitle C**, Budget Reconciliation Legislative Recommendations Relating to Drinking Water

Amendment: An amendment (B3_05) to Subtitle C by Mr. Curtis of Utah, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 24 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan			
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly				Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #65

Bill: **Subtitle C**, Budget Reconciliation Legislative Recommendations Relating to Drinking Water

Motion: An motion by Mr. Pallone of New Jersey to order **Subtitle C** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 25 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long			
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan			
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

SEC. 30306. *Grants for Indian Reservation Drinking Water Program.*

This section provides $100 million to implement eligible projects under the Indian Reservation Drinking Water program created by America's Water Infrastructure Act (AWIA).

SEC. 30307. *Assistance for Areas Affected by Natural Disasters.*

This section provides $100 million for grants pursuant to a program created under AWIA to encourage the extension of drinking water service into underserved areas affected by natural disasters and clarifies that the territories are eligible for the program, of which $10 million will be for grants to assist underserved areas in the United States Territories.

SEC. 30308. *Assistance for Disadvantaged Communities.*

This section provides $200 million for grants under SDWA section 1459A(b), Assistance for Disadvantaged Communities.

SEC. 30309. *Grants for Contaminant Monitoring.*

This section provides $100 million for grants to cover the cost of contaminant monitoring under SDWA section 1445(a)(2).

SEC. 30310. *Technical Assistance to Small Public Water Systems.*

This section provides $100 million for technical assistance for small public water systems under SDWA section 1442(e).

SEC. 30311. *Funding for Water Assistance Program.*

This section provides $500 million for grants, to be provided by the Secretary of Health and Human Services (HHS), to states and Tribes to assist low-income water customers in reducing arrearages and water rates for those customers.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle C: Budget Reconciliation Legislative Recommendations Relating to Drinking Water

Republicans support safe drinking water and compliance with Federal requirements to protect public health. This is not a partisan issue.

Environment and Climate Change Republican Leader McKinley and full committee Republican Leader Rodgers are the lead sponsors of H.R. 3282, the Drinking Water Funding for the Future Act. This legislation reauthorizes the major funding, compliance, and drinking water protection programs in the Safe Drinking Water Act and the America's Water Infrastructure Act of 2018.

What Republicans do not want for our children and their futures, is the mountains of debt and increased inflation this Subtitle could create. Moreover, on top of this year's parade of fantastical spending bills, we are concerned with repeated efforts – and inadequate responses – to get information on how this spending has been conducted, whether previous spending has been exhausted, and what have been the impacts of these spending programs.

Subtitle C contains at least $32.5 billion of spending for numerous grant programs under the Safe Drinking Water Act. For context, President Biden's proposed budget for the entire EPA in fiscal year 2022 is $11.2 billion. Subtitle C provides triple EPA's proposed annual funding and target that funding to just the programs in Subtitle C.

Below are more specifics of this Subtitle:

Section 30301 spends $30 billion for lead pipe replacement under the Drinking Water Revolving Loan Fund program. This is 500 times the existing annual authorization for lead pipe replacement – that Republicans support extending.

This supplemental money is being spent even though EPA admits it has no idea where all the lead pipes are or how much their replacement might cost. Because this Subtitle requires both the public and private portions of a lead service line to be replaced, this Subtitle gives free private property upgrades to anyone – regardless of income level.

At markup, Energy and Commerce Committee Democrats rejected an amendment from Rep. Curtis to have people whose annual adjusted gross income exceeds $1 million to pay for their own private line replacement. If the wealthy can afford the significant tax increases that Democrats want to impose, this kind of handout to the wealthy is not something we can afford with the debt we have, and the mounting debt anticipated under this legislation.

Section 30302 provides $500 million for grant programs that bolster risk and resilience at drinking water utilities – including cybersecurity protection. That is 20 times higher than the current annually authorized amount. We agree that this is an important program that should be funded, but we question providing 20 times the annual authorized funding.

Section 30303 gives $100 million to States for implementation and enforcement of the Safe Drinking Water Act. This is an 80 percent increase over currently authorized amounts.

Curiously, as a percentage, this is lower than other programs in this Subtitle considering that this money is meant to implement all the other sections in this Subtitle.

Section 30304 appropriates $100 million in additional funding for fresh drinking waste supplies or drinking water services in low-income areas in border town in the United States and Mexico. This is a 400 percent increase over the annual authorization in this program.

Section 30305 appropriates extra funding for three programs: voluntary lead testing programs in schools, installation and maintenance of lead filtration stations at schools and day care centers; and $50 million to replace drinking water fountains in schools. That is nearly 23 times higher than the annually authorized amounts.

We support helping schools and day care centers struggling with lead concerns and included such funding in the Drinking Water Funding for the Future Act. However, creating gargantuan new lead programs that remove the responsibility of local officials to fund and maintain this infrastructure deserves much more careful consideration from the Committee.

Section 30306 appropriates supplemental funding of $100 million to connect, expand, or repair drinking water systems on tribal lands in order to improve water quality, water pressure, or water services. This is five times the existing authorized amount for this program.

Section 30307 provides $100 million in complementary funding for grants, including $10 million in grants to Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, to provide assistance to drinking water systems serving underserved areas that have been affected by a natural disaster and who are trying to restore or increase compliance with national primary drinking water regulations.

Section 30308 appropriates an additional $200 million in funding for grant programs targeted to disadvantaged and underserved communities. That is an increase of 3.5 times current funding. Republicans included funding for this program in the Drinking Water Funding for the Future Act; but question how this this much money was determined appropriate for this item.

Section 30309 appropriates extra funding for the unregulated contaminant monitoring program at EPA at $100 million. That is 10 times the current authorized amount. We supported a similar, existing program in the Safe Drinking Water Act and included it in the Drinking Water Funding for the Future Act. However, we are concerned that this amount is excessive, particularly in light of regular appropriations.

Section 30310 provides a further $100 million for technical assistance for small public water systems. This type of aid has been historically supported by Republican members as a key bridge for rural communities to be able to achieve compliance and provide their communities drinking water free from serious threats. Yet, this appropriation is more than 6 times the annual authorized and appropriated amount. Certainly, additional resources can always be used, but we would like to know whether this is the right amount before voting to support it.

Finally, section 30311 re-ups additional funding of $500 million for the Drinking Water Low Income Household Assistance Program. This program renewal comes despite repeated, unanswered questions to the Biden Administration about this funding, its status, and the results it has achieved. In addition, this program is untethered to a public health emergency and could remain available indefinitely.

While this Subtitle contains funding for many programs we support, the extremely high level of spending gives us serious pause. These levels of spending and debt may have serious adverse and long-term effects on future generations of Americans.

Moreover, this Subtitle contains many programs that were covered in the Senate amendment to H.R. 3684, the Senate infrastructure bill, and President Biden promised the Senate Negotiators that anything they agreed to in that bill would not be included in a partisan reconciliation. This Subtitle breaks that promise.

Finally, this Subtitle received bipartisan opposition during the markup, with a Committee Democrat voting against it. He raised similar issues about funding levels and the negative effect this level of spending would have on the economy.

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

PART 1 – Clean Electric Performance Program

SECTION 30411. *Clean Electricity Performance Program.*

Subsection (a) appropriates $250 million for administrative expenses for the Department of Energy (DOE) to carry out the Clean Electricity Performance Program (CEPP) and such sums as are necessary to make grants to eligible electricity suppliers under the program.

Subsection (b) amends the Federal Power Act (FPA) to add the CEPP as Section 224.

New FPA section 224(a) requires DOE to establish a program to issue grants to and collect payments from eligible electricity suppliers.

New FPA section 224(b) establishes eligibility and calculations for grants. Based on its performance in each of calendar years 2023 through 2030, an eligible electricity supplier will be eligible for a grant from DOE if such supplier increases its certified clean electricity percentage by at least 4 percentage points compared to its benchmark, which is the greater of its highest certified clean electricity percentage for any prior year or its baseline clean electricity percentage. The grant amount will be $150 for each megawatt-hour of qualified clean electricity between 1.5 percent above the supplier's benchmark and its most recent certified clean electricity percentage. If an eligible electricity supplier submitted a payment to DOE in the previous year, to be eligible for a grant in the next year, such supplier must increase its clean electricity percentage by 4 percentage points above its benchmark plus a percentage equivalent to the payment it submitted.

For calendar year 2023, eligibility of an electricity supplier is based on the increase in its certified clean electricity percentage relative to its baseline clean electricity percentage, which is based on its averaged 2019 and 2020 clean electricity percentage. The grant amount will be $150 for each megawatt-hour of qualified clean electricity between 2.5 percent above the baseline and its 2023 certified clean electricity percentage.

Under new FPA section 224(c), based on its performance in each of calendar years 2023 through 2030, an eligible electricity supplier that does not increase its certified clean electricity percentage by at least four percentage points above its benchmark annually will owe a payment to DOE. The payment amount will be calculated as $40 for each megawatt-hour of qualified clean electricity certified by the eligible load-serving entity that is below the annual four percent increase over the benchmark.

New FPA section 224(d) provides that through calendar year 2029, an eligible electricity supplier may defer its grant or payment. This election is made on an annual basis and may not be made for more than two consecutive years.

New FPA section 224(e) establishes necessary terms and conditions. It also requires that grants be used exclusively for the benefit of the eligible electricity supplier's ratepayers, including direct bill assistance, investments in qualified clean electricity and energy efficiency, and worker retention.

New FPA section 224(f) defines terms for this section, including qualified clean electricity as electricity generation with a carbon intensity of not more than 0.10 metric tons of carbon dioxide equivalent per megawatt-hour.

PART 2 – Residential Efficiency and Electrification Rebates

SEC. 30421. *Home Energy Performance-Based, Whole-House Rebates and Training Grants.*

Section 30421 provides DOE $9 billion to institute guidelines for state energy offices to provide rebates for whole-house energy saving retrofits. Of this amount, $500 million shall be available for contractor training grants to support home energy efficiency retrofits. Specifies rebate amounts for single-family and multifamily energy efficiency retrofits. Provides that home energy efficiency retrofit rebates for high-efficiency natural gas heating, ventilation, air conditioning and cooling (HVAC) systems and water heaters are eligible for six years after the date of enactment.

SEC. 30422. *High-Efficiency Electric Home Rebate Program.*

Section 30422 amends section 124 of the Energy Policy Act of 2005 (EPACT05) to appropriate $9 billion for DOE to provide homeowners and owners of multifamily buildings rebates for qualifying electrification projects. Specifies rebate amounts for the program. Requires that $5.5 billion of the appropriated amount be made available for rebates carried out in tribal communities or for low- or moderate-income households.

PART 3 – Build Efficiency and Resilience

SEC. 30431. *Weatherization Assistance Program.*

Section 30431 appropriates $3.5 billion for DOE's Weatherization Assistance Program for low-income households. Of that funding, $850 million is allocated to support weatherization

readiness by addressing structural or health and safety repairs of homes through the Weatherization Enhancement and Innovation program. This section also increases the program's average cost per dwelling unit to enable local weatherization implementers to spend the increased level of funding.

SEC. 30432. *Critical Facility Modernization.*

Section 30432 appropriates $3.2 billion for DOE to provide funding to states for the purposes of resiliency, energy efficiency, renewable energy, and grid integration improvements at public and non-profit buildings.

SEC. 30433. *Assistance for Latest and Zero Building Energy Code Adoption.*

Section 30433 appropriates $300 million for State Energy Program grants to assist states and local communities adopting updated building energy codes for residential and commercial buildings. Specifically, $100 million is available for the adoption and implementation of the latest building energy codes, and $200 million is available for the adoption and implementation of zero energy and equivalent stretch codes.

PART 4 – Zero Emissions Vehicle Infrastructure Buildout

SEC. 30441. *Definitions.*

Section 30441 defines terms used in Part 4 – Zero Emissions Vehicle Infrastructure Buildout.

SEC. 30442. *Electric Vehicle Supply Equipment Rebate Program.*

Section 30442 appropriates $2 billion to DOE for rebates for electric vehicle supply equipment (EVSE) located in publicly accessible places, such as workplaces, multi-unit dwellings, and other publicly accessible locations.

SEC. 30443. *Electric Vehicle Charging Equity Program.*

Section 30443 appropriates $1 billion to DOE to provide technical assistance, grants, and education and outreach for EVSE located in low-income and underserved areas.

SEC. 30444. *State Energy Plans.*

Section 30444 appropriates $500 million to DOE to provide financial assistance to State energy offices to develop a state energy transportation plan for inclusion in a state energy conservation plan, as established in the Energy Policy and Conservation Act.

SEC. 30445. *Transportation Electrification.*

Section 30445 appropriates $4 billion to DOE for the Plug-in electric drive vehicle program, established in the Energy Independence and Security Act of 2007 (EISA), to provide grants to carry out projects for plug-in electric drive vehicles. Appropriates $6 billion for the Near-term Transportation Sector Electrification program, established in EISA, to provide grants for the conduct of qualified electric transportation projects.

PART 5 – DOE Loan and Grant Programs

SEC. 30451. *Funding for Department of Energy Loan Programs Office.*

Section 30451 provides the Secretary of Energy with authority to make commitments up to a total principal amount of $30 billion to guarantee loans for eligible projects under EPACT05 section 1703. The section further appropriates $700 million for the costs of guarantees made under section 1703 for renewable and/or energy efficient systems and manufacturing, and distributed energy generation, transmission, and distribution.

SEC. 30452. *Advanced Technology Vehicle Manufacturing.*

Section 30452 appropriates $3 billion to the Secretary of Energy for the costs of providing direct loans under EISA section 136, known as the Advanced Technology Vehicles Manufacturing program, to produce zero-emission medium and heavy-duty vehicles, trains or locomotives, maritime vessels, aircraft, or hyperloop technology. This section also removes the cap on the amount of direct loans the Secretary can issue under this program.

SEC. 30453. *Domestic Manufacturing Conversion Grants.*

Section 30453 appropriates $1 billion to the Secretary of Energy for domestic manufacturing conversion grants relating to domestic production of zero-emission vehicles under EPACT05 section 712.

SEC. 30454. *Energy Community Reinvestment Financing.*

Section 30454 appropriates $2 billion to the Secretary of Energy for the cost of providing financial support to the Energy Community Reinvestment Financing Program under EPACT05 Section 1706, as added by this subtitle. Section 1706(a) directs the Secretary to establish a program to provide financial support to eligible entities for the purpose of enabling low-carbon reinvestments in energy communities. Section 1706(b) establishes an application process, 1706(c) sets out fees and other requirements, and 1706(d) defines terms used in this section.

PART 6 – Electric Transmission

SEC. 30461. *Transmission Line and Intertie Grants and Loans.*

Section 30461 appropriates $8 billion to DOE to provide grants and loans for the purpose of constructing new high capacity transmission lines and for upgrading interties between the various interconnections.

SEC. 30462. *Grants to Facilitate the Siting of Interstate Electricity Transmission Lines.*

Section 30462 appropriates $800 million to DOE for the issuance of grants to siting authorities, including state, local, or Tribal governmental entities, for the purpose of studying and analyzing the impacts of covered transmission projects, examining alternate transmission siting corridors, hosting negotiations regarding covered transmission projects, participating in regulatory proceedings, and for economic development activities for communities that may be affected by the construction and operation of a covered transmission project.

SEC. 30463. *Organized Wholesale Electricity Market Technical Assistance Grants.*

Section 30463 appropriates $100 million to DOE for the purpose of providing states with technical assistance and grants to evaluate forming, expanding, or improving organized wholesale electricity markets, and aligning the policies of organized wholesale electricity markets with relevant state policies.

SEC. 30464. *Interregional and Offshore Wind Electricity Transmission Planning, Modeling, and Analysis.*

Section 30464 appropriates $100 million to DOE to perform transmission planning, modeling and analyses regarding the development of interregional and offshore wind transmission projects and to convene stakeholders to address the development of such transmission projects.

PART 7 – Environmental Reviews

SEC. 30471. *Department of Energy.*

Section 30471 appropriates $200 million to DOE to provide for more efficient and effective environmental reviews under the National Environmental Policy Act of 1969 (NEPA).

SEC. 30472. *Federal Energy Regulatory Commission.*

Section 30472 appropriates $100 million to the Federal Energy Regulatory Commission (FERC) to provide for more efficient and effective environmental reviews under NEPA.

PART 8 – Other Energy Matters

SEC. 30481. *Federal Energy Efficiency Fund.*

Section 30481 appropriates $17.5 billion to DOE for the purpose of funding agencies' efforts to procure clean electricity, low carbon materials, and automotive supply equipment, and for undertaking other measures on federal buildings that are energy efficient and cost effective.

SEC. 30482. *Energy Efficiency and Conservation Block Grants.*

Section 30482 appropriates $5 billion to DOE for the Energy Efficiency Conservation Block Grant program, $2.5 billion of which is to be distributed as formula grants, and $2.5 billion of which is to be distributed competitively.

SEC. 30483. *Low-Income Solar.*

Section 30483 appropriates $2.5 billion to DOE for grants, rebates, and low-interest loans for the planning and installation of solar and community solar facilities that reserve capacity for low-income households, or that are located at low-income households, or multi-family affordable housing complexes.

SEC. 30484. *Oversight.*

Section 30484 appropriates $50 million to the DOE Inspector General (IG) for oversight of activities for which funding is appropriated in this subtitle.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #66

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B2_13) to Subtitle D by Mr. Burgess of Texas, No. 4

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 30 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader	X			Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan			
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #67

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B1_17) to Subtitle D by Mr. Johnson of Ohio, No. 5

Disposition: **NOT AGREED TO** by a roll call vote of 22 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley		X	
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan			
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #68

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B3_26) to Subtitle D by Mr. Bucshon of Indiana, No. 6

Disposition: **NOT AGREED TO** by a roll call vote of 23 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan			
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #69

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (MCKINL_100) to Subtitle D by Mr. McKinley of West Virginia, No. 7

Disposition: **NOT AGREED TO** by a roll call vote of 27 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader	X			Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #70

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B1_16D) to Subtitle D by Mr. Walberg of Michigan, No. 8

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #71

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (MCKINL_103) to Subtitle D by Mr. McKinley of West Virginia, No. 9

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #72

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B1_15) to Subtitle D by Mr. Latta of Ohio, No. 10

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke				Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #73

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B1_23) to Subtitle D by Mr. Pence of Indiana, No. 11

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #74

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B1_21) to Subtitle D by Mr. Palmer of Alabama, No. 12

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess			
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #75

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B1_22) to Subtitle D by Ms. Lesko of Arizona, No. 13

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 30 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran							
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #76

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B2_08) to Subtitle D by Mr. Pence of Indiana, No. 14

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #77

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (B2_10) to Subtitle D by Mr. Palmer of Alabama, No. 15

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #78

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Amendment: An amendment (LESKO_060) to Subtitle D by Ms. Lesko of Arizona, No. 16

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 30 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán				Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #79

Bill: **Subtitle D**, Budget Reconciliation Legislative Recommendations Relating to Energy

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle D** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 30 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin				Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle D: Budget Reconciliation Legislative Recommendations Relating to Energy

Subtitle D contains at least $229.8 billion of spending for numerous grant and rebate programs under the Department of Energy (DOE) and at the Federal Energy Regulatory Commission (FERC).

Members must be deliberate to ensure the laws we enact do not raise costs on working families, undermine energy reliability and resilience, or harm our economy and security. For the past three years in particular, Republicans have advocated thoughtful policies to address future climate risks that build upon America's energy strengths and continue its steady progress reducing emissions and enhancing energy security, affordability, and reliability, all critical to a secure future for hardworking American families.

This work was reflected in provisions of the bi-partisan Energy Act of 2020, which made the path easier for the future deployment of carbon capture and advanced nuclear technologies. It is reflected in current legislative proposals by Republican Members implementing a "Securing Cleaner American Energy" agenda, which focuses on sensible improvements to our energy infrastructure and on updating rules and regulations to promote deployment of an all the-above-energy strategy, to unleash innovation in hydropower, nuclear, clean coal, and natural gas. These are real, workable solutions to make energy cleaner, reduce emissions, prioritize energy security, and keep energy costs low. These results-oriented policies build on the strengths of America's tremendous energy systems and seek to deploy new clean technologies on workable, affordable timelines.

Unfortunately, the Democrats' blind obedience to radical environmental policy threatens to dismantle existing systems—and the prosperity, security, and resilience these systems provide. You cannot address climate change risks by destroying energy systems. You cannot provide for a cleaner future by wrecking an economy with high taxes and fees, and burdensome regulations.

Yet in keeping with other provisions of the Act, Subtitle D continues a drive to eliminate America's use of coal, oil, and natural gas, with a combination of taxpayer subsidies, risky spending, and an audacious Federal takeover of the electricity system—all to fulfill the decades-old radical belief that the solution to addressing global climate risks is a massive transformation to weather-dependent wind and solar generation and electrification of everything in the United States, at a pace and scale to ensure no future use of fossil fuels.

Ample testimony in Committee was available to understand the dangers of this magical thinking, but that did not matter. The Democrats plowed forward, in the dark, planting the seeds of harm in ostensible budget legislation that purposely disguises massive new regulatory programs that will profoundly affect the American economy and hard-working families' lives for decades to come.

This Subtitle contains at least $229.8 billion of spending for numerous spending, grant, and rebate programs under DOE and at FERC. Most importantly, it introduces a provision for DOE regulatory control over the make up the nation's electricity generation sector—the centerpiece of the Biden Administration's agenda to appease the international environmental community.

Republican Members offered and debated 13 amendments to reduce the harmful impacts of this Subtitle, if it were to become law, including amendments to strike the so-called Clean Electricity Performance Program, limit Federal self-dealing, prohibitions on use of critical minerals from forced labor, China, and Afghanistan, provisions to protect against rate and fuel price increases, jobs losses, and electricity reliability risks. Other provisions ensured grants would not subsidize the wealthy, and to ensure the future of nuclear energy. Democrats rejected these efforts to mitigate the harmful impacts of this Subtitle.

Following are some of the questions and concerns about provisions in the Subtitle:

Part 1. Clean Electricity Performance Program.

The part appropriates $250 million to administer what, by most all accounts, would be an astonishing intrusion of the Federal government, without any hearing to explore, analyze, or discuss the complexities, the impacts on consumers, ratepayers, or on the ability to maintain and ensure the lights stay on.

This part amends the Federal Power Act in the most expansive Federal intrusion into state and local electricity decision-making in the 100-year history of this bedrock statute. The part extends far beyond mere funding for incentive payments to install zero-emission generation, and Democrats can only guess on how much those will cost - they estimated it as a $150 billion program in one of their supporting documents; but that could be the tip of the iceberg. (Notably, the provision provides an open ended "such sums" appropriation authorization—hardly indicative of thoughtful policy formation.)

The part imposes a Federal mandate and penalties over all electric utilities with the intent to reduce electricity sector emissions by 80 percent by 2030, regardless of costs to ratepayers or to electricity reliability. This is effectively an accelerated clean electricity standard on some 3,700 utilities and 7,300 power plants across the nation, on top of existing state programs, to compel adherence to the Biden Administration's Paris Climate pledge.

The scheme requires an annual 4 percentage point year-over-year increase in new "clean" generation deployment at all utilities, regardless of costs or local fuel/generation mix. Failure to meet this increase results in penalties, essentially a tax on noncompliance, that also compounds year-over-year, with no escape for fossil dependent energy but to raise rates or shift massively, if possible, to expensive weather-dependent wind and solar. Text here reflects no consideration of the numerous complexities created by imposing a one-size-fits-all standard on the diverse makeup of state electricity generation.

Structured as a ten-year payment/tax penalty scheme to meet Byrd requirements, this Federal mandate will have long-term impacts on the nation's electric sector. The sweeping regulatory mandates and penalties on every customer-serving electric utility in the nation will have profound and cascading policy implications:

- Impacts on costs, on reliability, on the rates working families pay,

- Impacts on state and local authorities,
- Competitive impacts to our manufacturing sector,
- Costly disruptions to municipalities, the agriculture sector, the tax base upon which communities rely,
- And, of course, employment impacts in the sectors serving fossil-energy related generation.

There is no escape from the escalating mandates and fees if there is failure to comply with the mandates due to external factors or engineering reality. And the timeframe and requirements do not allow for the deployment of carbon capture and advanced nuclear technologies—the kind of advances that will provide real solutions to a cleaner, energy secure future.

Congress has not examined this legislation, has not considered the cascading risks to communities, families, or businesses from the regulations that will be designed to meet the goals in this 14-page provision—which effectively gives the Federal government control over the most critical sector of the United States economy.

This program also raises Constitutional questions concerning the Federal Power Act's longstanding distinction between Federal and state regulatory authority over utilities. Congress was careful to draw a distinct line between interstate and intrastate matters in this regard. The language in the program dictating how utilities use grants invades and undermines state authority.

Initial expert commentary rolling into our offices as the Committee was marking up this Subtitle underscore the serious impacts. NRECA, representing the nation's electric cooperatives, noted the "unrealistic" program implementation window, impacts on existing contractual obligations, the aggressive standards, and compliance burdens threaten the access to reliable and affordable electricity for 42 million electric cooperative consumer-members, who own the cooperatives. (Taxes on cooperatives are taxes on regular ratepayers.) The American Public Power Association echoed these concerns, noting that the standard was unachievable in the very short timeframe established in the provisions—with risk of "substantially increased costs for customers."

While this provision was debated around 1:00 a.m. in the morning, Rep. Guthrie reminded Members of the last major hearing in the Committee examining electricity decarbonization in October 2019. During that hearing, no testimony supported 80 percent clean by 2030, and all identified challenges to reach 100 percent clean goal by 2050. Testimony from MISO—the independent system operator serving 42 million people across 15 states—noted:

We can no longer be confident that the system will be reliable for all 8,760 hours of the year based solely on utilities having enough generation capacity to serve load on the annual peak hour in the summer. We can no longer be confident that the region's evolving mix of resources will provide enough, and the right kinds of, critical attributes that are needed to keep the system operating in a reliable, steady state, such as frequency response, voltage control, and black-start capability, among other things.

Rather than implement policies to address the threats to the reliable delivery of power, the Democrats, against all available evidence, are rushing this unvetted scheme to be centerpiece of their drive to meet the Administration's climate goals to decarbonize the electricity sector by 2035. Failure to address the serous impacts of this policy will pose significant risks to Americans across the nation and their ability to rely upon power, especially when they need it the most.

Part 2. Residential Efficiency and Electrification Rebates.

This part appropriates $18 billon for consumer rebates to electrify homes. This section provides generous rebates for wealthy landlords and homeowners that purchase more expensive electric equipment and appliances for homes and buildings. The wasteful subsidies under this part will distort prices for electric alternatives, leading to fewer and more expensive options for consumers who cannot afford the upgrades.

Part 3. Building Efficiency and Resiliency.

This part would exacerbate the current housing affordability crisis and limit energy choices for consumers. Section 30433 provides incentive funding for States and local governments to adopt building energy codes that discourage the use of natural gas for heating and cooking. The aggressive energy efficiency requirements under this section are not appropriate or cost-effective for many States and regions. As a result, this section will increase the cost of homes and encourage people to remain in older, less energy-efficient homes. Home builders and natural gas utility companies are strongly opposed this provision because it fails to consider the true economic costs of required energy-use reductions in model building energy codes. The legislation also fails to address cost-effective efficiency upgrades with reasonable payback periods for the required investments.

Section 30431 appropriates $3.5 billion for DOE's Weatherization Assistance Program, and section 30432 appropriates $3.2 billion to DOE to provide funding to states for energy efficiency, renewable energy, and grid integration. The Energy Act of 2020 reauthorized DOE's Weatherization Assistance Program – that bipartisan law has not even had time to be implemented effectively before the Democrats dump billions of dollars more into it. These funding levels are gargantuan at a time when trillions of dollars have been appropriated in the last 18 months, and the country is facing rising inflation.

Part 4. Zero Emissions Vehicle Infrastructure Buildout.

This part appropriates $13.5 billion to subsidize electric vehicle charging equipment. Almost 80 percent of those utilizing the electric vehicle (EV) tax incentives have incomes over $100,000, making it not just a corporate handout but also a transfer from the middle-class to wealthier Americans. Pouring more money into the status quo will benefit only a handful of mostly coastal states. Before the COVID pandemic, over half of the electric vehicles sold in the U.S. were purchased in California and New York. According to DOE, California alone accounts for approximately 42 percent of all all-electric vehicle registrations in the United States. EVs are not yet cost-effective for most consumers, even with substantial subsidies. The least expensive EVs

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 30601. *Ensuring Affordability Coverage for Certain Low-Income Populations.*

Section 30601 provides the Affordable Care Act (ACA) Marketplace cost-sharing reduction assistance to individuals with incomes below 138 percent of the Federal Poverty Level (FPL) beginning in 2022 through 2024.

SEC. 30602. *Temporary Expansion of Health Insurance Premium Tax Credits for Certain Low-Income Populations.*

Section 30602 provides the ACA Marketplace subsidies to individuals with incomes below 138 percent of the FPL beginning in 2022 through 2024.

SEC. 30603. *Establishing a Health Insurance Affordability Fund.*

Section 30603 makes available $10 billion annually to states, providing the option for states to establish a state reinsurance program or use the funds to provide financial assistance to reduce out-of-pocket costs. It would also require the Centers for Medicare and Medicaid Services (CMS) to establish and implement a reinsurance program in states that are not expending amounts under the state plan for all individuals described in section 19902(a)(10)(A)(i)(VIII) during 2023 and 2024 plan years.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #92

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-07_01) to Subtitle F by Mr. Walberg of Michigan, No. 1a

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #93

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-01_01) to Subtitle F by Mrs. Rodgers of Washington, No. 1b

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #94

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-05_01) to Subtitle F by Mr. Walberg of Michigan, No. 1c

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #95

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-09_01) to Subtitle F by Mr. Carter of Georgia, No. 1d

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #96

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-08_01) to Subtitle F by Mr. Carter of Georgia, No. 1e

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #97

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-16_01) to Subtitle F by Mr. Bucshon of Indiana, No. 1f

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #98

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-13_01) to Subtitle F by Mr. Guthrie of Kentucky, No. 1g

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #99

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Amendment: An amendment to the amendment in the nature of a substitute (SUB-F-AMD-10_01) to Subtitle F by Mr. Burgess of Texas, No. 1h

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #100

Bill: **Subtitle F**, Budget Reconciliation Legislative Recommendations Relating to Affordable Care Act

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle F** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle F: Budget Reconciliation Legislative Recommendations Relating to the Affordable Care Act

The cost of health care and health insurance is an issue that we can, and should be, tackling on a bipartisan basis. While we do not have a final cost estimate from the Congressional Budget Office (CBO) on the costs of the expansions in this section, we cannot continue to sign taxpayers up to subsidize permanently a system that is getting even more expensive over time.

Along with the other health care subtitles, these policies increase Americans' reliance on the Federal government for their health care at a massive cost to taxpayers. If they are signed into law, the Democrats dream of socialized health care through Medicare for All will be several steps closer to reality at the expense of quality, affordable, and accessible health care for all Americans. Unlike support for this gargantuan, dangerous bill, these significant concerns are bipartisan with a Committee Democrat voting with Republicans in opposition to this Subtitle.

Section 30601. Ensuring Affordability of Coverage for Certain Low-Income Populations.

This section makes all individuals and families purchasing insurance in the individual health insurance market with income below 138 percent of the Federal Poverty Level for the family size eligible for Cost Sharing Reduction payments in 2023 and 2024. The Cost Sharing Reduction payments will be such that 99 percent of health care costs will be covered. The section appropriates such sums as are necessary to cover such Cost Sharing Reduction payments.

In addition, the section establishes a "continuous" special enrollment period for anyone below 138 percent the Federal Poverty Level. The continuous special enrollment period raises concerns about the stability of the market, as individuals could wait to enroll until they are sick and need health insurance.

The section also amends the definition of a Qualified Health Plan (QHP) for those enrollees below 138 percent Federal Poverty Level in 2023 and 2024 so that silver-level QHPs must provide non-emergency medical transport and family planning services, both of which are defined in the Social Security Act sections relating to Medicaid. However, counsel clarified during the markup that the Hyde amendment, which applies to Medicaid funding, does not apply to family planning services in this context. Republicans are extremely concerned and disturbed that QHPs for low-income individuals are required to provide coverage of abortion as family planning.

Lastly, the section requires the Secretary of Health and Human Services to notify those under 138 percent of Federal Poverty Level that they can purchase individual health insurance on the health insurance exchanges. The section specifies that only QHPs may be promoted, explicitly saying that short-term limited duration and association health plans cannot be discussed with potential enrollees. The section appropriates $75 million for states from 2022 to 2024 and $50 million for Navigators from 2022 to 2024 to notify individuals. There is very little data to suggest that the Navigator program has been a cost-effective way to enroll individuals or address disparities. In 2017, Navigators received a total of $62.5 million in grants and enrolled 81,426

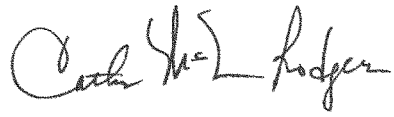
individuals. That is fewer than one percent of total enrollees that year and at a cost of over $750 per enrollee.

Section 30602. Temporary Expansion of Health Insurance Premium Tax Credits for Certain Low-Income Populations.

This section allows any taxpayer that makes under 138 percent of the Federal Poverty Level qualify for Advanced Premium Tax Credits from 2022 to 2024, including those that are offered qualified small employer health reimbursement arrangements. It also states that for those under 200 percent of the Federal Poverty Level, if the credit is too generous, no more than $300 can be recaptured. Lastly, this section makes the Federal government vulnerable to fraud by allowing those under 138 percent who are not required to file a return not to reconcile tax credits. Republicans are concerned that, for the first time, the "firewall" between the Affordable Care Act and the employer market is being removed. Under the Affordable Care Act, subsidies were not to be made available to those with offers of employer-sponsored coverage, to preserve the incentive that employers offer coverage. This section undoes that precedent, which could lead to employers dropping their employees' current plans.

Section 30603. Establishing A Health Insurance Affordability Fund

This section establishes a reinsurance program administered by the Center for Medicare and Medicaid Services beginning in 2023 for $10 billion/year to be granted to states. Payments can be used by states to lower copays, coinsurance, and deductibles of QHP enrollees, except for those with grandfathered plans, transitional plans, student health plans, and excepted benefit plans. To receive the funds, a state must submit an application, which is then automatically approved by the Secretary for 5 years. Given the other proposals in this reckless tax and spending spree, the Federal government is setting up a bureaucracy and handing out these grants only to save itself money in the form of less taxpayer money going out the door in the form of premium tax credits. Further, reinsurance plans have been implemented by Republican and Democrat led states without this Federal funding. If Democrats abandon plans to subsidize permanent ever-increasing individual market premiums with taxpayer dollars, Republicans stand ready to work with them.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



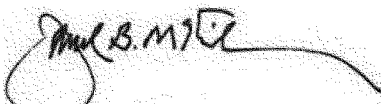
Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

PART 1 – Federal Medicaid Program to Close the Coverage Gap

SECTION 30701. *Closing the Medicaid Coverage Gap.*

This section establishes, beginning in 2025, a federal Medicaid program for eligible individuals who reside in states that have not expanded Medicaid. The federal Medicaid program would provide the same benefits and beneficiary protections to individuals that they would have received if their state had expanded Medicaid. It would authorize the Secretary of Health and Human Services (HHS) to contract with third-party entities to operate the federal Medicaid program.

PART 2 – Expanding Access to Medicaid Home and Community-Based Services

SEC. 30711. *Definitions.*

Section 30711 defines key terms.

SEC. 30712. *HCBS Improvement Planning Grants.*

Section 30712 provides grants to states to develop plans to expand access to home and community-based services (HCBS) and strengthen the HCBS workforce.

SEC. 30713. *HCBS Improvement Program.*

Section 30713 provides states with a permanent seven percentage point increase to the federal medical assistance percentage (FMAP) if the state implements an HCBS improvement program to strengthen and expand HCBS. It provides an enhanced FMAP of 80 percent for administrative costs associated with improving HCBS. It also provides a two-year increase to the FMAP of two percentage points if a state adopts an HCBS model that promotes self-direction of care and meets certain other requirements.

SEC. 30714. *Funding for Technical Assistance and Other Administrative Requirements Related to Medicaid HCBS.*

Section 30714 requires the Secretary of HHS to report on the implementation and outcomes of state HCBS improvement programs, and to provide states with technical assistance to implement HCBS improvement programs.

SEC. 30715. *Funding for HCBS Quality Measurement and Improvement.*

Section 30715 requires HHS to develop and publish HCBS quality measures for state Medicaid programs.

PART 3 – Other Medicaid

SEC. 30721. *Permanent Extension of Medicaid Protections Against Spousal Impoverishment for Recipients of Home and Community-Based Services.*

Section 30721 permanently extends the protection against spousal impoverishment for individuals whose partners receive Medicaid HCBS.

SEC. 30722. *Permanent Extension of Money Follows the Person Rebalancing Demonstration.*

Section 30722 provides permanent funding for the Money Follows the Person Rebalancing Demonstration to help states transition folks out of institutions and into HCBS.

SEC. 30723. *Extending Continuous Medicaid Coverage for Pregnant and Postpartum Women.*

Section 30723 requires that state Medicaid programs provide 12 months of continuous Medicaid eligibility to postpartum women. It also requires that states provide full Medicaid benefits to pregnant and postpartum women.

SEC. 30724. *Providing for 1 Year of Continuous Eligibility for Children Under the Medicaid Program.*

Section 30724 requires that state Medicaid programs provide 12 months of continuous eligibility to children enrolled in Medicaid.

SEC. 30725. *Allowing for Medical Assistance Under Medicaid for Inmates During 30-Day Period Preceding Release.*

Section 30725 requires that state Medicaid programs cover incarcerated individuals 30 days prior to their release.

SEC. 30726. *Extension of Certain Provisions.*

Section 30726 permanently extends the express lane eligibility option for children in Medicaid.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #101

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Amendment: An amendment to the amendment in the nature of a substitute (SUB-G-AMD-01_01) to Subtitle G by Mr. Carter of Georgia, No. 1a

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan			
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán				Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #102

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Amendment: An amendment to the amendment in the nature of a substitute (SUB-G-AMD-04_01) to Subtitle G by Mr. Griffith of Virginia, No. 1c

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán				Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #103

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Amendment: An amendment to the amendment in the nature of a substitute (SUB-G-AMD-07_01) to Subtitle G by Ms. Lesko of Arizona, No. 1d

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #104

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Amendment: An amendment to the amendment in the nature of a substitute (SUB-G-AMD-09_01) to Subtitle G by Mrs. Rodgers of Washington, No. 1e

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #105

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Amendment: An amendment to the amendment in the nature of a substitute (SUB-G-AMD-11_01) to Subtitle G by Mr. Burgess of Texas, No. 1f

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 30 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán				Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #106

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Amendment: An amendment to the amendment in the nature of a substitute (SUB-G-AMD-20_01) to Subtitle G by Mr. Burgess of Texas, No. 1g

Disposition: **NOT AGREED TO** by a roll call vote of 27 yeas to 30 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader	X			Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin				Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #107

Bill: **Subtitle G**, Budget Reconciliation Legislative Recommendations Relating to Medicaid

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle G** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 30 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin				Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle G: Budget Reconciliation Legislative Recommendations Relating to Medicaid

Section 30701. Closing the Medicaid Coverage Gap.

Medicaid was established in 1965 as a state option to provide states with Federal funds to support low-income children, seniors, and people with disabilities, so long as the state met certain requirements, such as putting forth a corresponding match to the Federal funds. This option was enticing to the states, and by the end of 1966 when the program went into effect, there were about four million beneficiaries enrolled in the program. Five years later, the program had grown to an estimated 16 million beneficiaries as more states took on the option.[1] By 1982 when Arizona became the fiftieth state in the country to establish a Medicaid program,[2] there were nearly 20 million beneficiaries enrolled in the program.[3]

The adoption of Medicaid was gradual, but each state took the option in stride and made the program work for its respective constituents. By 1991, the *New York Times* wrote "Late Starter in Medicaid, Arizona Shows the Way," highlighting the radical innovation that the fiftieth state to adopt Medicaid was undertaking to reform and improve care for its Medicaid beneficiaries by offering care through managed care organizations.[4] Twenty years after the publishing of this story, over two-thirds of all Medicaid beneficiaries, and in most states as high as 75 percent of all Medicaid beneficiaries, are covered by managed care organizations.[5]

The ability of a state like Arizona to develop new means of delivering care that would later become a cornerstone of the way care is provided across the nation today is not an accident. In fact, it is central to the way that Medicaid is designed to work. Section 1115 of the Social Security Act authorizes state demonstration programs,[6] section 1915(c) allows for states to provide home and community-based services as an alternative for institutional, long-term care,[7] and provisions in Federal regulations like 42 C.F.R. § 438.3(e)(2) establish the ability for managed care organizations to offer alternative benefits "in lieu of" services or settings otherwise covered under Medicaid so that managed care organizations can offer any array of services, including but not limited to addressing social determinants of health and supporting access to care in inpatient residential facilities for mental health and behavioral health.[8]

Of late though, Democrats have sought to suppress state flexibilities in Medicaid. In 2010, the Affordable Care Act established coercive means to force a dramatic expansion of Medicaid to cover all individuals below 138 percent of the Federal Poverty Level, the largest coverage

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[1] Klemm, John D., Ph.D., Medicaid Spending: A Brief History, *available at* https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/HealthCareFinancingReview/downloads/00fallpg105.pdf

[2] Eckholm, Eric, Late Starter in Medicaid, Arizona Shows the Way, *available at* https://www.nytimes.com/1991/08/07/us/late-starter-in-medicaid-arizona-shows-the-way.html

[3] Klemm, John D., Ph.D., Medicaid Spending: A Brief History, *available at* https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/HealthCareFinancingReview/downloads/00fallpg105.pdf

[4] Eckholm, Eric, Late Starter in Medicaid, Arizona Shows the Way, *available at* https://www.nytimes.com/1991/08/07/us/late-starter-in-medicaid-arizona-shows-the-way.html

[5] https://www.kff.org/medicaid/issue-brief/10-things-to-know-about-medicaid-managed-care/

[6] 42 USC 1315(a)

[7] 42 USC 1396n(c)

[8] 42 C.F.R. § 438.3(e)(2)

expansion under the program in its history, by requiring states to cover this population and threatening to withhold all Federal Medicaid funds for a state if they failed to do so.[9] In 2012 though, the Supreme Court found in *NFIB v. Sebelius* that "permitting the Federal Government to force the States to implement a Federal program would threaten the political accountability key to our Federal system" and that these coercive actions were unconstitutional, thus returning the adoption of Medicaid uptake to a state option.[10]

With Subtitle G, the Democrats are once again on a mission to usurp the rights of states in designing their Medicaid programs by proposing to establish a "Federal Medicaid program" that would require the Secretary of Health and Human Services to offer a new version of Medicaid in the twelve states that have thus far declined to take on the Affordable Care Act's now-optional Medicaid expansion. This program is unprecedented and would establish for the first time in Medicaid's history that coverage, benefit designs, and payment rates for Medicaid populations would be completely determined by the Federal Government, without the input or financial contributions of a state.

For the other thirty-eight states and the District of Columbia, the Democrats propose a potentially unconstitutional maintenance of effort penalty that would levy one of largest, if not the largest ever, penalty on any single state to discourage the current expansion states from abiding by the optionality of Medicaid expansion. The maintenance of effort under this section would subject a state that declines to continue Medicaid expansion to a penalty equal to roughly the amount that the state spends on its Medicaid population prior to un-expansion and would apply that penalty in perpetuity. In most states, Medicaid is the largest or second largest item in a state's budget, and by forcing states to commit to this budget item forever, the Federal government will be telling states that they are no longer autonomous or in control of their own budgets.

Finally, it should be noted that Republicans are disturbed that the proposed Federal Medicaid program would open the door to Federal funding in Medicaid for elective abortions. The Hyde Amendment, notably missing from this legislation, prevents Federal funds from being used to fund and cover abortions, except in the cases where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest. Since 1976, Hyde, and similar policies governing other Federal programs, have been supported and renewed annually on a bipartisan basis, multiple times, for decades. The lack of application of Hyde to this new program would end this bipartisan policy.

This section, if signed into law, would mark the beginning of the end of Medicaid as we know it and will discourage states from taking risks or innovating in the delivery of care again. Without state flexibilities in Medicaid, there may never be another Arizona experimenting with the usage of managed care organizations or any of the other multitude of innovative reforms that have flourished in the program over the past half century. The harm that these provisions would have on the Medicaid program and the populations it was designed to serve was received bipartisan recognition when a Committee Democrat joined Republicans in opposing this harmful Subtitle.

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[9] 42 USC 1396c

[10] NFIB v. Sebelius *available at* https://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf

Section 30711. Definitions; Section 30712. HCBS Improvement Planning Grants; Section 30713. HCBS Improvement Program; Section 30714. Funding for Technical Assistance and Other Administrative Requirements Related to Medicaid HCBS; Section 30715. Funding for HCBS Quality Measurement and Improvement.

Sections 30711 through 30713 propose establishing a "Home and Community-Based Improvement Program" that would provide a 7 percent increase to a state's Federal Medical Assistance Percentage (FMAP) if the state meets the outlined requirements in the proposed bill. The goals of the bill are noble in their intention; it seeks to apply the 7 percent FMAP increase to reducing barriers to care, increasing wages for workers in the home and community-based services (HCBS) field, and seeks to expand the number of individuals eligible under Medicaid for HCBS. HCBS care is indispensable for seniors and people with disability who need the assistance of long-term care to live meaningful and independent lives, and any Medicaid beneficiary that needs access to these services should have this access without having to be subjected to waiting lists or any other form of rationing of care for such services. Republicans want to address these goals and have worked over the years with Democrats on a bipartisan basis to do so.

Unfortunately, the requirements that condition the enhanced Federal funding for states are stringent, numerous, and expensive. States wants to receive these enhanced funds, and they want to eliminate waitlists for care and invest in their HCBS workforce. Requiring a state to meet even one of these conditions would require significant investment from states, hence the need for such types of funding in the first place, but adding nearly a dozen additional requirements on to the states will create a tiered system across the country, separating the states that already have the infrastructure and wealth to meet these requirements even without the funding provided in the proposed bill and those without such resources who will never be able to meet the proposed conditions for funding.

The irony of such a situation is that states with lower levels of available HCBS are in greater need of support for their HCBS workforce, and could benefit the most from section's proposed funding, but these are the states that will never get this money. HCBS is not uniformly delivered across the country. While over 50 percent of all long-term care delivered through Medicaid is HCBS on a national level, that rate varies significantly by state. States like Washington and Maryland deliver over 60 percent of their respective Medicaid long-term care as HCBS, but other states like Florida and New Jersey deliver less than 43 percent of their respective Medicaid long-term care as HCBS.[11] States will likely consider a number of factors in debating whether to take up the state option established under these sections. However, the associated requirements and lack of flexibility to increase access to HCBS fails to acknowledge the different circumstance states are facing. Each state has a different long-term care landscape that may not readily meet all of the requirements under these proposed sections. Ultimately, this means that states that are already succeeding in delivering HCBS will get even more resources and move further into the future, while the other states will fall farther behind.

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[11] Centers for Medicare and Medicaid Services, Long-Term Services and Supports Expenditures on Home & Community-Based Services, *available at* https://www.medicaid.gov/state-overviews/scorecard/ltss-expenditures-on-hcbs/index.html

This is not a hypothetical situation, and it is not the first time that Democrats have designed a program that failed to entice states to expand access to HCBS, which states realized would be financially infeasible to implement. In the Affordable Care Act, Democrats established "Community First Choice" (CFC) under section 1915(k) of the Social Security Act as a means of providing additional supports for beneficiaries who, but for receiving such HCBS care, would need institutional services.[12] Again, a well-meaning goal to pursue, but as of today, only four state have taken up this state option. States declined to take on the option under 1915(k) for a multitude of reasons, but the economic concerns associated with taking up such an option informed much of the final decision for states.

An example of early state interest in CFC and ultimately the decision to decline to take on CFC can be seen in decisions by the state of Colorado in 2013, who conducted a CFC Feasibility Study to determine whether the cost-effectiveness of pursuing such a model would be of value to the state. The result of the study found that implementing section 1915(k) in Colorado would cost the state between $46.7 million to $79.2 million, with costs under the option likely to be driven to unsustainable levels from the required expansion of benefits that CFC requires and limited means under the program to manage the costs and potential growth that would inevitably accompany the adoption of the program.[13]

If the Democrats believe in the stated goals of these sections and believe that there needs to be a more equitable landscape that supports beneficiaries that need access to HCBS, then they should reflect upon their past failures at expanding HCBS and look towards more feasible means of achieving these shared-goals and work with Republicans to find common ground.

At the markup, Republicans offered an amendment to increase flexibility to make sure that the additional resources are available to all states. Unfortunately, Committee Democrats rejected that amendment.

Section 30721. Permanent Extension of Medicaid Protections Against Spousal Impoverishment for Recipients of Home and Community-Based Services; Section 30722. Permanent Extension of money Follows the Person Rebalancing Demonstration.

The proposed sections are disappointing when viewed in the context of the proposed sections in Part 2, because extension of the protections against spousal impoverishment for recipients of home and community-based services and the Money Follows the Person program have been bipartisan efforts in the past. Republicans believe in access to HCBS and have worked with Democrats for years to make sure that the services offered under these provisions could be maintained for those that need them, with the most recent extension of both programs occurring less than a year ago in the Consolidated Appropriations Act of 2021.[14]

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[12] 42 U.S.C. 1396n(k)

[13] Beauregard, Lisa Kalmon, To Adopt or Not to Adopt: Factors Impacting States' Pursuit and Implementation of ACA's Home and Community-Based Services Programs, *available at* https://www.proquest.com/docview/2240088643?pq-origsite=gscholar&fromopenview=true

[14] P.L. 116-260

What is perplexing about this extension of these programs is the bipartisan recognition in the Consolidated Appropriations Act of 2021 that the extension of these programs was meant to be temporary in nature so that Congress could determine what potential reforms and alternatives may be needed for the futures of the programs. The Consolidated Appropriations Act established a new set of best practices reporting for the Secretary of Health and Human Services in the Money Follows the Person program[15] and required Medicaid and CHIP Payment And Access Commission (MACPAC) to provide recommendations to Congress on ways to ensure that the definitions in the Money Follows the Person are consistent with the "HCBS settings rule" (as defined in 441.301(c)(4) of title 42 of the Code of Federal Register). Less than one year ago and on a bipartisan basis, Congress acknowledged that work on these programs was not yet complete and that more information was needed before making the programs permanent. It is irresponsible for Democrats to make these programs permanent through this partisan Reconciliation process without the any input from the Secretary of Health and Human Services and MACPAC.

Section 30723. Extending Continuous Medicaid Coverage for Pregnant and Postpartum Women.

This proposed section is another example of bipartisanship being usurped for partisan goals. Extending postpartum coverage in Medicaid is not only something that Republicans agree with but also ones that Committee Republicans led on in the last Congress. The Helping MOMS Act of 2020 passed the Committee and the House, allowing states the option of extending Medicaid coverage for 12 months postpartum.[16] Republicans stood at the ready to continue this work this year after failing to get the Senate to agree to the measures at the end of the last Congress, but Democrats took the proposal and moved forward with a weaker, and time-limited version of Helping MOMS Act's coverage extension in the American Rescue Plan.[17]

With this section, Democrats are ignoring the bipartisan agreement that was established in 2020 and the watered-down version that was passed in the American Rescue Plan by proposing to require all states to offer 12 months of postpartum coverage. This mandate on state Medicaid programs is discouraging, not only because it upends a bipartisan deal, but because it continues a theme that has been made clear by this Subtitle that Democrats think that Washington D.C. knows better on how states should run (or as is the case in section 30701, not run) their respective Medicaid programs.

Section 30724. Providing for 1 Year of Continuous Eligibility for Children Under the Medicaid Program.

Children deserve access to health care. Republicans agree on this and want to work with Democrats on improving access to pediatric care.

However, the reliance on Medicaid continues to disadvantage children, especially if an alternative form of private insurance exists for the child. In 2016, MACPAC found that children

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[15] Section 6071(i) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note).
[16] Helping MOMS Act of 2020
[17] P.L 117-2

with Medicaid and CHIP had increased difficulty in accessing specialist care compared to children with private insurance.[18] In June of this year, MACPAC followed up this research by once again finding that beneficiaries with Medicaid coverage are disproportionately likely not to be able to find a provider that accepts their coverage compared to individuals with private coverage, stating "pediatricians accepted new Medicaid patients significantly less (84.7 percent) than privately insurance patients (97.6 percent)."[19]

The proposed section establishes 12 months of continuous coverage for children in Medicaid, continuing a theme of this Subtitle of well-intentioned policies that will ultimately sell beneficiaries short. Upon reviewing the data put forth by the nonpartisan MACPAC, it is clear that more should be done to help children access the care that they need, as opposed to just relying on coverage that fails to meet the needs of its beneficiaries. Moving children off of Medicaid and onto private insurance should be the goal, and thus this section misses the mark on how to meaningfully improve access to care for children.

Section 30725. Allowing for Medical Assistance Under Medicaid for Inmates during 30-Day Period Preceding Release.

The proposed section is likely to be unworkable for many localities. According to National Conference of State Legislatures, the average length of stay in jail in 2017 was 26 days.[20] As written, it is unclear how a state should go about providing coverage under this section for an individual that is expected to remain in jail for less than 30 days, since the proposed section would require coverage to begin 30 days before release.

Many states, however, offer an alternative means of supporting the incarcerated by suspending Medicaid coverage during incarceration, as opposed to terminating coverage.[21] This allows for coverage to resume as soon as the individual is released, without requiring states to manage new enrollments in the program. This section should be reconsidered so that eligible individuals can actually get and maintain their coverage following incarceration.

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[18] MACPAC, Medicaid Access in Brief: Children's Difficulties in Obtaining Medical Care, *available at* https://www.macpac.gov/wp-content/uploads/2016/06/Childrens-Difficulties-in-Obtaining-Medical-Care.pdf

[19] MACPAC, Physician Acceptance of New Medicaid Patients: Findings from the National Electronic Health Records Survey, *available at* https://www.macpac.gov/wp-content/uploads/2021/06/Physician-Acceptance-of-New-Medicaid-Patients-Findings-from-the-National-Electronic-Health-Records-Survey.pdf

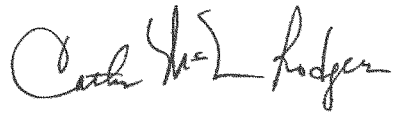
[20] National Conference on State Legislatures, Criminal Justice Budgeting: Shortening Length of Stay, *available at* https://www.ncsl.org/research/civil-and-criminal-justice/criminal-justice-budgeting-shortening-length-of-stay.aspx

[21] Kaiser Family Foundation, States Reporting Corrections-Related Medicaid Enrollment Policies In Place For Jails Or Jails, *available at* https://www.kff.org/medicaid/state-indicator/states-reporting-corrections-related-medicaid-enrollment-policies-in-place-for-prisons-or-jails/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D

Section 30726. Extension of Certain Provisions.

It is unclear why Democrats insist on extending a program that has low uptake. Currently, only seven states utilize Express Lane Eligibility.[22] Republicans believe that if the program is working for these seven states, there is no need to disrupt their utilization of the program. But if only seven states want to take advantage of this program, Democrats should review and consider reforming the program. If Democrats are interested in finding ways to reform Medicaid in a manner that works for all states, Republicans stand ready to work.

[22] Centers for Medicare and Medicaid Services, Express Lane Eligibility for Medicaid and CHIP Coverage, *available at* https://www.medicaid.gov/medicaid/enrollment-strategies/express-lane-eligibility-medicaid-and-chip-coverage/index.html



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



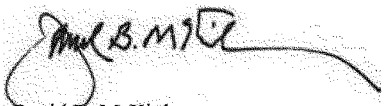
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Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 30801. *Permanent Extension of Children's Health Insurance Program.*

This section authorizes permanent funding for the Children's Health Insurance Program (CHIP) for low-income children.

SEC. 30802. *Permanent Extensions of Other Programs and Demonstration Projects.*

This section provides permanent funding for several programs related to CHIP, including the pediatric quality measures program and the child enrollment contingency fund to provide states with additional funding in the event its CHIP allotment is insufficient.

SEC. 30803. *State Option to Increase Eligibility for Medicaid and CHIP.*

This section provides states with the option to increase CHIP income eligibility levels above the existing statutory ceiling.

SEC. 30804. *Extending Continuous CHIP Coverage for Pregnant and Postpartum Women.*

This section requires states to provide 12 months of postpartum coverage to women enrolled in CHIP.

SEC. 30805. *Providing for 1 Year of Continuous Eligibility for Children Under the Children's Health Insurance Program.*

This section requires state CHIP programs to provide 12 months of continuous eligibility to children enrolled in CHIP.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #108

Bill: **Subtitle H**, Budget Reconciliation Legislative Recommendations Relating to Children's Health Insurance Program

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle H** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 30 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin				Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle H: Budget Reconciliation Legislative Recommendations Relating to CHIP

Section 30801. Permanent Extension of Children's Health Insurance Program; Section 30802. Permanent Extensions of other Programs and Demonstration Projects.

As noted in the discussion on section 30724, Republicans believe that the best coverage options for children is private insurance and thus believe that Democrats goals are misguided in this section.

Because private insurance is not an option for all children, Republican support reauthorizing CHIP and extending its funding. However, CHIP is not only not up for reauthorization right now, and its funding does not expire until 2027. Congress has six years to build upon the bipartisan success that was made in 2018 to support access to care for children, and Republicans believe that simply punting on the opportunity to work together in favor of just extending funding misses important opportunities to support children.

Similarly, Republicans believe that there are missed opportunities to use the next six years to work on and build upon the policies in section 30802. It is disappointing that Democrats are ignoring opportunities for bipartisanship. The only thing that was bipartisan about this Subtitle was the opposition it received when a Committee Democrat joined Republicans in opposing it during the markup.

Section 30803. State Option to Increase Children's Eligibility for Medicaid and CHIP.

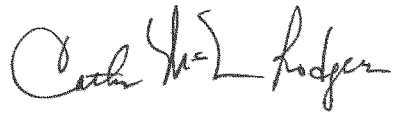
The section flies in the face of what a safety net program should be. As written, the proposed section would lift eligibility for CHIP to children of any income level. Republicans believe that limited resources should be focused towards the most vulnerable, but as written, the proposed section would make CHIP eligible to the children of the wealthiest Americans. Our most vulnerable deserve better than this.

Section 30804. Extending Continuous CHIP Coverage for Pregnant and Postpartum Women.

As noted in the discussion on section 30723, Republicans do not believe that this is right approach to solving a problem that has bipartisan solutions that Committee Democrats supported just last year. Republicans urge Democrats to reverse course and to continue the bipartisan work that was started last year.

Section 30805. Providing for 1 Year of Continuous Eligibility for Children Under the Children's Health Insurance Program.

Consistent with section 30724, Republicans believe that continuous coverage in CHIP is not the solution to supporting access to care for children and believe that supporting means to expand access to private coverage for children would be a more advantageous means of supporting children that could actually deliver more substantive results.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 30901. *Dental and Oral Health Care.*

This section provides for coverage of preventive and screening dental services (e.g., cleanings and x-rays), basic (e.g., tooth extractions and oral disease management services) and major (e.g., crowns and root canals) dental treatment services, and dentures beginning January 1, 2028.

SEC. 30902. *Providing Coverage for Hearing Care under the Medicare Program.*

This section provides for coverage of hearing aids for individuals with severe or profound hearing loss beginning October 1, 2023. It also allows for qualified audiologists to provide aural rehabilitation and treatment services.

SEC. 30903. *Providing Coverage for Vision Care under the Medicare Program.*

This section provides for coverage of routine eye exams, glasses, and contact lenses beginning October 1, 2022.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #118

Bill: **Subtitle I**, Budget Reconciliation Legislative Recommendations Relating to Medicare Coverage of Dental, Hearing, and Vision Services

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle I** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 30 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley			
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice		X					
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

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But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle I: Budget Reconciliation Legislative Recommendations Relating to Medicare

We continue to oppose initiatives that dramatically expand the scope of Medicare - and disguise their true financial impact through the use of budgetary gimmicks - at a time when the program is on the brink of insolvency. The August 31, 2021, Medicare Trustees Report once again estimates that the Hospital Insurance (HI) Trust Fund, which covers Medicare Part A expenses, will become insolvent by 2026.[1] Notably, the HI Trust Fund has not met the Medicare Trustees' formal test for financial adequacy since 2003 while the growth of HI expenditures has averaged 7.6 percent annually over the last 5 years.[2] Furthermore, this sobering financial assessment of the Medicare program may understate the immediacy of the financial trouble as it assumes 100 percent repayment of the $106 billion in Medicare loans provided to more than 22,000 Part A providers and more than 28,000 Part B suppliers.[3] The estimate also assumes no financial impact of the new Alzheimer's drug Aduhelm (or similar treatments in the pipeline), which is going through the Medicare coverage determination process and has an initial estimated list price greater than $50,000 while more than 4 million Medicare beneficiaries are understood to have Alzheimer's or a related disease today.[4]

Overall Medicare expenditures totaled $926 billion in 2020, and the Congressional Budget Office (CBO) preliminarily estimates this legislation would cost the Medicare program approximately $289 billion over a 10-year period.[5] Notably, this estimate only captures 4 years of the new dental benefits, which are not even fully phased-in during the scoring window. In 2032, the "full" dental benefit for non-routine services requires beneficiaries to pay 50 percent coinsurance while the government pays the other half. Prior to that, beneficiaries would pay 90 percent coinsurance for services starting in 2028 until the benefit phases-in over four years.

In addition to imperiling the finances of the Medicare program and jeopardizing the availability of benefits for current and future beneficiaries alike, these benefits are duplicative of benefits available to seniors today through the Medicare Advantage (MA) program. Privately administered MA plans already offer supplemental vision, hearing, and dental coverage. For plan year 2021, approximately 98 percent of plans offer vision coverage, 94 percent of plans offer hearing coverage, and 91 percent of plans offer dental coverage.[6]

These privately administered plans have consistently offered low-cost, high quality coverage for seniors. The Trump Administration announced that average 2021 premiums declined approximately 34 percent from 2017 while plan choice, benefits, and enrollment have continued

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[1] The Board of Medicare Trustees, The 2021 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, available at 2021 Medicare Trustees Report (cms.gov)
[2] Id.
[3] Centers for Medicare & Medicaid Services, CMS Announces New Repayment Terms for Medicare Loans made to Providers during COVID-19, available at CMS Announces New Repayment Terms for Medicare Loans made to Providers during COVID-19| CMS
[4] The Board of Medicare Trustees, The 2021 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, available at 2021 Medicare Trustees Report (cms.gov)
[5] Preliminary and informal estimate from CBO, September 2021
[6] Avalere, MA Enrollees Can Access COVID-19 Supplemental Benefits in 2021, available at MA Enrollees Can Access COVID-19 Supplemental Benefits in 2021 | Avalere Health

to increase.[7] Thanks to the Trump Administration's additional flexibilities and support for the MA program, average monthly premiums are the lowest they've been in 14 years for more than 26 million Medicare beneficiaries estimated in MA plans for 2021.[8] Seniors have benefitted from increased choice with about 2,100 more MA plans in 2021 than in 2017 for a total of about 4,800 plans nationwide.[9]

Furthermore, MA beneficiaries report a 98 percent satisfaction rate with their coverage and the MA program serves a proportionally greater percentage of racial and ethnic minorities than traditional Medicare (nearly 34 percent and 16 percent, respectively).[10] More than half of MA beneficiaries live below 200 percent of the Federal Poverty Level compared to about 39 percent of fee-for-service beneficiaries.[11] Additionally, MA beneficiaries on average face a 40 percent lower rate of cost burden than fee-for-service beneficiaries.[12]

Instead of creating an expensive new set of benefits and rigidly imposing them on a sclerotic and inefficient fee-for-service program, Republicans stand ready to build off what is already working in the MA program – a program that *already* provides these dental, hearing and vision benefits to a more racially diverse, lower-income, and women-represented population today. We can apply the lessons of MA to tailor benefits to those who need them most as it turns out that the unmet needs for dental care is more contingent upon income than age.[13] A third of working-age adults with incomes below the Medicaid threshold cited financial barriers as a reason for not obtaining needed dental care, while only 6 percent of seniors with incomes above that threshold did so.[14]

Furthermore, a number of implementation questions remain for a range of health care providers who would be expected to serve patients under a new set of dental, hearing, and vision benefits. Dentists and other providers may be wary of a maze of Medicare regulations and payment policies they might be subjected to and how this could impact patient access to their dentists and other providers.[15] Before implementing a set of new benefit mandates with a wide range of operational issues, Republicans insist on assessing the policies' impact on providers and incorporating provider feedback into making these benefits more accessible for patients without overburdening health care providers.

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[7] Centers for Medicare & Medicaid Services, Trump Administration Announces Historically Low Medicare Advantage Premiums and New Payment Model to Make Insulin Affordable Again for Seniors, available at Trump Administration Announces Historically Low Medicare Advantage Premiums and New Payment Model to Make Insulin Affordable Again for Seniors | CMS

[8] Centers for Medicare & Medicaid Services, Trump Administration Announces Historically Low Medicare Advantage Premiums and New Payment Model to Make Insulin Affordable Again for Seniors, available at Trump Administration Announces Historically Low Medicare Advantage Premiums and New Payment Model to Make Insulin Affordable Again for Seniors | CMS

[9] Id.

[10] Better Medicare Alliance, State of Medicare Advantage May 2021, available at BMA-State-of-MA-Report-2021.pdf (bettermedicarealliance.org)

[11] Id.

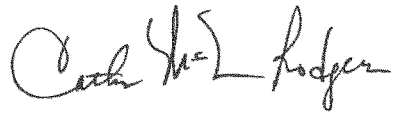
[12] Id.

[13] Chris Pope, Filling the Wrong Gap, available at Don't Expand Medicare to Cover Dental Benefits | City Journal (city-journal.org)

[14] Health Policy Institute & American Dental Association, Main Barriers to Getting Needed Dental Care All Relate to Affordability, available at HPIBrief_0419_1.pdf (ada.org)

[15] American Dental Association, FAQ on the ADA's Medicare Benefit Proposal, available at Frequently asked questions about efforts to include a dental benefit in the Medicare program. (ada.org)

It is also notable that the reintroduction of the underlying H.R. 3 legislation in the 117th Congress removed these expansive new Medicare benefits (however, they were included in the prior H.R. 3 language in the 116th Congress), so these important questions were not given an opportunity for public discussion at any Committee hearings this Congress prior to the markup. We remain hopeful that future consideration of these provisions will include public discussion with affected providers, patients, as well as scholars and stakeholders who can speak to the financing of the Medicare program and how these expansive and duplicative set of new benefits would impact benefits for seniors now and in the future. As this Subtitle received bipartisan opposition from multiple Committee Democrats and all Committee Republicans, we hope the Majority will abandon this partisan exercise and work towards a real solution that does not jeopardize the already tenuous solvency of Medicare.



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Ranking Member
Energy and Commerce Committee



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CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
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I. EXPLANATION OF PROVISIONS

PART 1 – Health Care Infrastructure and Workforce

SECTION 31001. *Funding to Support Core Public Health Infrastructure for State, Territorial, Local, and Tribal Health Departments at the Centers for Disease Control and Prevention.*

Section 31001 provides $7,000,000,000 in funding to support core public health infrastructure activities to strengthen the public health system through grants to state, territorial, local, or Tribal health departments, and expanding and improving activities of the Centers for Disease Control and Prevention (CDC). Such activities include: workforce capacity and competency; laboratory systems; all hazards public health and preparedness; testing capacity, including test platforms, mobile testing units, and personnel; health information, health information systems, and health information analysis; disease surveillance; contact tracing; communications; financing; among other activities.

SECTION. 31002. *Funding for Hospital Infrastructure.*

Section 31002 provides $10,000,000,000 in funding to award grants for construction or modernization projects for purposes of increasing capacity and updating hospitals and other medical facilities in order to better serve communities in need. In awarding funds under this section, the Secretary of HHS shall give priority to projects that will include, by design, public health preparedness, natural disaster emergency preparedness, or cybersecurity against cyber threats.

SECTION. 31003. *Funding for Community Health Center Capital Grants.*

Section 31003 provides $10,000,000,000 in funding to award grants and enter into cooperative agreements for capital projects to health centers and Federally qualified health centers.

SECTION. 31004. *Funding for Community-Based Care Infrastructure.*

Section 31004 provides $500 million in funding to award grants to qualified teaching health centers, behavioral health care centers (including both substance abuse and mental health care facilities), and pediatric mental health care providers to support the improvement, renovation, or infrastructure at such centers.

SECTION. 31005. *Funding for Schools of Medicine in Underserved Areas.*

Section 31005 provides $1 billion in funding for the establishment, improvement, or expansion of schools of medicine in particular in underserved communities.

SECTION. 31006. *Funding for Nursing Education Enhancement and Modernization Grants in Underserved Areas.*

Section 31006 provides $1 billion in funding to enhance and modernize nursing education programs and increase in particular in underserved areas.

SECTION. 31007. *Funding for Teaching Health Center Graduate Medical Education.*

Section 31007 provides $6 billion in funding for payments to teaching health centers that operate graduate medical education programs and the award of teaching health center development grants.

SECTION. 31008. *Funding for Children's Hospitals that Operate Graduate Medical Education Programs.*

Section 31008 appropriates $250 million in funding to support Children Hospital Graduate Medical Education programs that support training of pediatric primary care, specialty, and dental providers.

SECTION. 31009. *Funding for Nurse Corps.*

Section 31009 provides $300 million in funding for Nurse Corps, which provides loan repayment assistance to registered nurses (RNs) and advanced practice registered nurses (APRNs), in return for a commitment to work at eligible health care facilities with a critical shortage of nurses or serve as nurse faculty in eligible schools of nursing.

PART 2 – Pandemic Preparedness

SECTION. 31021. *Funding for Laboratory Activities at the Centers for Disease and Control.*

Section 31021 provides $5 billion in funding to support renovation, expansion, and modernization of state and local public health laboratory infrastructure; renovating, expanding, and modernizing laboratories of CDC; and enhancing the ability of CDC to monitor and exercise oversight over biosafety and biosecurity of state and local public health laboratories.

SECTION. 31022. *Funding for Strengthening Vaccine Confidence.*

Section 31022 provides $1,250,000,000 in funding to award grants to strengthen vaccine confidence; strengthen routinely recommended vaccine programs; and improve rates of vaccination.

SECTION. 31023. *Funding for Surveillance Activities at the Centers for Disease Control and Prevention.*

Section 31023 provides $1,000,000,000 in funding to award grants to enhance and strengthen early warning and detection systems; enhance and strengthen surveillance based in hospitals and other health care providers or facilities; and strengthen the antibiotic resistance initiative program.

SECTION. 31024. *Funding for Data Modernization at the Centers for Disease Control and Prevention.*

Section 31024 provides $500,000,000 in funding to support public health data surveillance, aggregation, and analytics infrastructure modernization initiatives; enhance reporting and workforce core competencies in informatics and digital health; and expand and maintain efforts to modernize the United States disease warning system.

SECTION. 31025. *Funding for Public Health and Preparedness Research, Development, and Countermeasure Capacity.*

Section 31025 provides $8,000,000,000 in funding to the Assistant Secretary for Preparedness and Response, to prepare for, and respond to, public health emergencies, including supporting surge capacity; supporting expanded global and domestic vaccine production capacity; supporting activities to mitigate supply chain risks and enhance supply chain elasticity and resilience; supporting activities conducted by the Biomedical Advanced Research and Development Authority; and supporting increased biosafety and biosecurity in research on infectious diseases.

PART 3 – Innovation

SECTION. 31031. *Funding for Advanced Research Projects for Health.*

Section 31031 provides $3,000,000,000 to establish the Advanced Research Projects Agency for Health (ARPA-H). Funding for ARPA-H seeks to make pivotal investments in breakthrough technologies and broadly applicable platforms, capabilities, resources, and solutions that have the potential to transform important areas of medicine and health that cannot readily be accomplished through traditional biomedical research or commercial activity.

PART 4 – Maternal Mortality

SECTION. 31041. *Funding for Local Entities Addressing Social Determinants of Maternal Health.*

Section 31041 provides $175,000,000 in funding to award grants to address social determinants of maternal health for pregnant and postpartum individuals.

SECTION. 31042. *Funding to Grow and Diversify the Nursing Workforce in Maternal and Perinatal Health.*

Section 31042 provides $150,000,000 in funding to award grants to accredited schools of nursing to grow and diversify the perinatal nursing workforce.

SECTION. 31043. *Funding to Grow and Diversify the Doula Workforce.*

Section 31043 provides $50,000,000 in funding to award grants to establish or expand programs to grow and diversify the doula workforce.

SECTION. 31044. *Funding to Grow and Diversify the Maternal Mental Health and Substance Use Disorder Treatment Workforce.*

Section 31044 provides $75,000,000 in funding to award grants to establish or expand programs to grow and diversify the maternal mental health and substance use disorder treatment workforce.

SECTION. 31045. *Funding for Maternal Mental Health Equity Grant Programs.*

Section 31045 provides $100,000,000 in funding to award grants to address maternal mental health conditions and substance use disorders with respect to pregnant, lactating, and postpartum individuals.

SECTION. 31046. *Funding for Education and Training at Health Professions Schools to Identify and Address Health Risks Associated with Climate Change.*

Section 31046 provides $85,000,000 in funding to award grants to support the development and integration of education and training programs for identifying and addressing risks associated with climate change for pregnant, lactating, or postpartum individuals.

SECTION. 31047. *Grants to Minority-Serving Institutions to Study Maternal Mortality, Severe Maternal Morbidity, and Adverse Maternal Health Outcomes.*

Section 31047 provides $50,000,000 in funding to award grants to minority-serving institutions to study maternal mortality, severe maternal morbidity, and averse maternal health outcomes.

SECTION. 31048. *Funding for Identification of Maternity Care Health Professional Target Areas.*

Section 31048 provides $25,000,000 in funding for identification of maternity care health professional target areas, as defined under section 332(k) of the Public Health Service Act.

SECTION. 31049. *Funding for Maternal Mortality Review Committees to Promote Representative Community Engagement.*

Section 31049 provides $50,000,000 in funding to promote community engagement in maternal mortality review committees.

SECTION. 31050. *Funding for the Surveillance for Emerging Threats to Mothers and Babies.*

Section 31050 provides $100,000,000 to carry out section 317K of the Public Health Service Act with respect to conducting surveillance for emerging threats to mothers and babies.

SECTION. 31051. *Funding for the Enhancing Reviews and Surveillance to Eliminate Maternal Mortality Program.*

Section 31051 provides $30,000,000 to carry out the Enhancing Reviews and Surveillance to Eliminate Maternal Mortality program established under section 317K of the Public Health Service Act.

SECTION. 31052. *Funding for the Pregnancy Risk Assessment Monitoring System.*

Section 31052 provides $15,000,000 to carry out section 317K of the Public Health Service Act with respect to the Pregnancy Risk Assessment Monitoring System.

SECTION. 31053. *Funding for the National Institute of Child Health and Human Development.*

Section 31053 provides $15,000,000 to carry out section 301 of the Public Health Service Act and title IV of the Public Health Service Act with respect to child health and human development and to conduct or support research for interventions to mitigate the effects of the COVID-19 public health emergency on pregnant and postpartum individuals.

SECTION. 31054. *Grants to Expand the Use of Technology-Enabled Collaborative Learning and Capacity Models for Pregnant and Postpartum Individuals.*

Section 31054 provides $30,000,000 in funding to award grants to expand the use of technology-enabled collaborative learning and capacity models for pregnant and postpartum individuals.

SECTION. 31055. *Grants to Promote Equity in Maternal Health Outcomes through Digital Tools.*

Section 31055 provides $30,000,000 in funding to award grants to reduce racial and ethnic disparities in maternal health outcomes by increasing access to digital tools related to maternal health care.

SECTION. 31056. *Funding for Antidiscrimination and Bias Training.*

Section 31056 provides $25,000,000 in funding to award grants to develop, disseminate, review, research, and evaluate training for health professionals and all staff who interact with patients to reduce discrimination and bias in the provision of health care.

PART 5 – Other Public Health Investments

SECTION. 31061. *Funding for Mental Health and Substance Use Disorder Professionals.*

Section 31061 provides $50,000,000 in funding for the Minority Fellowship Program at the Substance Abuse and Mental Health Services Administration (SAMHSA), whose mission promotes culturally competent behavioral and mental health care for underserved communities.

SECTION. 31062. *National Suicide Prevention Lifeline.*

Section 31062 provides $75,000,000 in funding for the National Suicide Prevention Lifeline programs, which seek to provide resources and support to individuals in crisis.

SECTION. 31063. *Funding for Community Violence and Trauma Interventions.*

Section 31063 provides $2,500,000,000 in funding to support public health approaches to reduce community violence and trauma.

SECTION. 31064. *Funding for HIV Health Care Services Programs.*

Section 31064 provides $150,000,000 in funding to support Ryan White HIV/AIDS program to provide care, support services, and medications to communities disproportionally affected by HIV/AIDS.

SECTION. 31065. *Supplemental Funding for World Trade Center Health Program.*

Section 31065 provides $2,860,000,000 in supplemental funding to World Trade Center Health Program.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #109

Bill: **Subtitle J**, Budget Reconciliation Legislative Recommendations Relating to Public Health

Amendment: An amendment to the amendment in the nature of a substitute (AMD-FCR_34) to Subtitle J by Mr. Palmer of Alabama, No. 1a

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise			
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #110

Bill: **Subtitle J**, Budget Reconciliation Legislative Recommendations Relating to Public Health

Amendment: An amendment to the amendment in the nature of a substitute (AMD-FCR_21) to Subtitle J by Mr. Carter of Georgia, No. 1b

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #111

Bill: **Subtitle J**, Budget Reconciliation Legislative Recommendations Relating to Public Health

Amendment: An amendment to the amendment in the nature of a substitute (AMD-FCR_38) to Subtitle J by Ms. Lesko of Arizona, No. 1c

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #112

Bill: **Subtitle J**, Budget Reconciliation Legislative Recommendations Relating to Public Health

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle J** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle J: Budget Reconciliation Legislative Recommendations Relating to Public Health

Strengthening public health infrastructure, reducing rates of maternal mortality, and investing in pandemic preparedness continue to be important issues to Americans. Republicans have shown a continued commitment to these initiatives. However, as with the American Rescue Plan Act of 2021, Republicans lament the fact that Democrats are again irresponsibly spending billions of dollars and abdicating their oversight responsibility of important public health programs. This Subtitle totals over $61 billion in mandatory funds, despite the fact that the partisan American Rescue Plan Act already provided generous funding for many of these same programs and initiatives.

Republicans are disturbed that Subtitle J opens the door to Federal funding for elective abortions. The Hyde Amendment, notably missing from this legislation, prevents Federal funds from being used to fund abortions and coverage for abortions, except in the cases where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest. Since 1976, Hyde, and similar policies governing other Federal programs, have been supported and renewed annually on a bipartisan basis, multiple times, for decades. Because there are no Hyde Amendment protections, many provisions in Subtitle J could support elective abortions.

Lastly, Republicans are disappointed that the Democrats, in their haste to pass a partisan package, did not assess the true budgetary needs of these agencies and authorized funding duplicative of the American Rescue Plan Act and other initiatives. The exorbitant funding levels could lead to waste, a concern that is shared by at least one of our Democratic colleagues, who joined all Committee Republicans in opposing this Subtitle.

Part 1. Health Care Infrastructure and Workforce.

In general, Republicans are supportive of providing targeted allocations toward health care infrastructure and workforce improvements. The health care workforce was already dwindling, and the COVID-19 has only made the problem worse. Subtitle J provides $7 billion in grants to public health departments. The state of the nation's public health infrastructure and workforce are a result of decades of neglect by state and local governments. Support for the building of the nation's health workforce and infrastructure is laudable and but should be accomplished by discretionary appropriations after a thoughtful review by Congress of the actual needs. The American Rescue Plan Act infused $7.6 billion in mandatory funding to establish and expand a public health infrastructure,[1] so the additional $7 billion is unnecessary.

Subtitle J authorizes $10 billion in mandatory money for a slush fund for hospital infrastructure modernization and capital improvements. The Coronavirus Aid, Relief, and Economic Security (CARES) Act[2] established the Provider Relief Fund (PRF) and appropriated $100 billion to "to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus." The Paycheck Protection Program and Health Care Enhancement (PPPHCE) Act[3] added an additional $75 billion to the

[1] Public Law No: 117-2, The American Rescue Plan Act, 2021. Sec. 2501 (a).
[2] Public Law No: 116-136, The Coronavirus Aid, Relief, and Economic Security (CARES) Act.
[3] Public Law No: 116-139, The Paycheck Protection Program and Health Care Enhancement (PPPHCEA) Act

PRF. The money that hospitals received through the PRF could be used for capital projects if they are used to respond to COVID-19. According to a Kaiser Health News analysis of Internal Revenue Service filings, nonprofit hospital systems held more than $283 billion in stocks, hedge funds, private equity, venture funds and other investment assets in 2019.[4] Though their tax-exempt status requires charitable efforts, nonprofit health systems rarely put humanitarian goals first when selecting investments, even when sitting on portfolios worth hundreds of millions of dollars or more. This is especially true regarding the amount of surplus cash spent by hospitals on lavish building projects. Thus, an additional $10 billion in funding for capital improvements is duplicative and wasteful. A better use of taxpayer dollars would be to direct funding toward Federally-owned and operated hospital infrastructure projects, such as improving the health facilities of the Indian Health Service (IHS). Disparities in the health status of American Indians and Alaska Natives (AI/ANs) are impacted by access to quality health care services. The average age of IHS health care facilities is greater than 37 years, compared to nine to ten years in the private sector.[5] Health care services are constrained by the limited capacities of existing IHS and Tribal health care facilities, as there is a significant need for expansion, renovation, or replacement of many of these buildings. Sadly, it is unlikely that any IHS facility will receive funding from this $10 billion slush fund.

Subtitle J also provides $10 billion for community health center capital projects. Community Health Centers are essential to providing affordable health care to underserved populations. In 2020, Community Health Centers have received $2 billion in funding to respond to the COVID-19 pandemic through the Coronavirus Preparedness and Response Supplemental Appropriations Act,[6] the CARES Act,[7] and the PPPHCE Act.[8] The CARES Act also included an extension of the Community Health Center Fund at the current funding level of $4 billion annually, on top of the $2 billion in COVID-19 relief. Republicans supported the COVID-19 relief initiatives. In addition, the American Rescue Plan Act included $7.6 billion for Community Health Centers,[9] which is still being distributed.

The bill also provides $500 million to create a pilot program to award grants to qualified Teaching Health Centers (THCs) and behavioral health care centers to support the improvement, renovation, or modernization of infrastructure at such centers. This is in addition to $6 billion for the Teaching Health Center Graduate Medical Education (THCGME) program. Republicans are concerned about the long-term health of critically important public health programs. In 2019, Committee Republicans supported the longest reauthorization of the THCGME program at record funding of $126 million per year for fiscal years 2020 through 2023 in the Consolidated

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[4] Jordan Rau, *Mission and Money Clash in Nonprofit Hospitals' Venture Capital Ambitions*, KAISER HEALTH NEWS, August 24, 2021, https://khn.org/news/article/mission-and-money-clash-in-nonprofit-hospitals-venture-capital-ambitions/

[5] H. Comm. On Natural Resources Hearing, "Examining Federal Facilities in Indian Country" (June 17, 2021), available at https://www.hhs.gov/about/agencies/asl/testimony/2021/06/17/examining-federal-facilities-indian-country.html.

[6] Public Law No: 116-123, The Coronavirus Preparedness and Response Supplemental Appropriations Act. Title III.

[7] Public Law No: 116-136, The Coronavirus Aid, Relief, and Economic Security (CARES) Act. Sec. 3831.

[8] Public Law No: 116-139, The Paycheck Protection Program and Health Care Enhancement (PPPHCEA) Act. Title I.

[9] Public Law No: 117-2, The American Rescue Plan Act, 2021. Sec. 2601.

Appropriations Act, 2021.[10] Additionally, the American Rescue Plan included $330 million in funding for THCGME programs,[11] which is still being distributed. These are unsustainable funding levels, placing this program on an incredibly dangerous fiscal cliff.

Part 2. Pandemic Preparedness.

Subtitle J provides billions for the renovation, expansion, and modernization of state and local public health laboratories, money for surveillance and public health data modernization, and money for research and development of medical countermeasures to address public health emergencies. Congress has already provided funding for these very same initiatives through annual appropriations bills, in addition to emergency supplemental funding provided through the Coronavirus Preparedness and Response Supplemental Appropriations Act; CARES Act; and the PPPHCE Act.[12] Providing even more money for these same purposes, with no strings attached, and without any hearings or Congressional oversight to understand better the needs, is fiscally irresponsible.

The bill also provides unnecessary funding for the Centers for Disease Control and Prevention (CDC) to strengthen and improve vaccine confidence, vaccination rates, and routine vaccine programs. Since the beginning of the pandemic, the CDC has been given about $7 billion in immunization awards.[13] It is very unlikely that the CDC has spent all the money it was allocated through the American Rescue Plan. The purpose of providing this additional funding is unclear. Despite the pledge to follow the science, the CDC's missteps under the Biden Administration throughout the past year, from political interference of teachers' unions, to incomplete information, to confusing and mixed messaging, has resulted in a loss of public trust in the CDC and ultimately undermined vaccine confidence. Americans are far more likely to trust their health care providers and other community leaders on the safety and efficacy of vaccines than Federal bureaucrats.[14]

Part 3. Innovation.

The bill provides $3 billion to establish the Advanced Research Projects Agency for Health (ARPA–H). ARPA-H was included in President Biden's budget (requested $6.5 billion) and according to the National Institutes of Health (NIH), it would be tasked with building high-risk, high-reward platforms to drive biomedical breakthroughs. Committee Republicans are concerned about how this would be implemented. For example, the 21st Century Cures Act authorized the NIH Cures Acceleration Network[15] to advance the development of high-need cures and reduce barriers to research and development as well as clinical trials. If the Acceleration Network, which was similar in concept to ARPA-H, cannot meet the goals of

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[10] Public Law No: 116-260, The Consolidated Appropriations Act, 2021.
[11] Public Law No: 117-2, The American Rescue Plan Act, 2021.Sec. 2604.
[12] CDC's COVID-19 Supplemental Funding.
[13] COVID-19 Vaccination Program Operational Guidance. https://www.cdc.gov/vaccines/covid-19/covid19-vaccination-guidance.html.
[14] Hamel, Kirzinger, Munana, Brodie. KFF COVID-19 Vaccine Monitor: December 2020. https://www.kff.org/coronavirus-covid-19/report/kff-covid-19-vaccine-monitor-december-2020/.
[15] NIH, National Center for Advancing Translational Sciences, Cures Acceleration Network. https://ncats.nih.gov/funding/review/can.

ARPA-H and does not have the independence and the authority that it needs to conduct bold research and develop technologies that could transform the marketplace, then NIH may not be the best place to house such an entity. Housing ARPA-H within the NIH also raises questions related to how ARPA-H would prioritize research projects and interact with the other NIH Institutes.

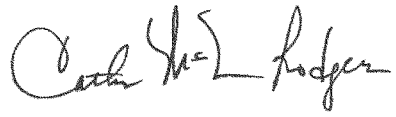
Part 4. Maternal Mortality.

This section provides about $1 billion in funding to address maternal social determinants of health, diversify the maternal health workforce, and research emerging threats to mothers and babies. Republicans support addressing social determinants of health. Effectively addressing social determinants of health for all Americans will improve outcomes related to maternal social determinants of health, ultimately reducing maternal morbidity and mortality. However, rather than instituting more government programs, Congress should be supporting states, local communities, and health providers to engage with the private sector and come up with innovative solutions to address the issue. In July, the Committee advanced bipartisan legislation related to maternal health. Those bills would ensure pregnant and postpartum women are educated on immunization programs and authorize grant funding to identify best practices to improve maternal health quality and outcomes and eliminate preventable maternal mortality and morbidity. During the same markup in July, the Committee also advanced bills to help address social determinants of health. However, since July, Democrats have done nothing to get these important bipartisan initiatives enacted into law.

Part 5. Other Public Health Investments.

Part 5 directs billions in mandatory funding for various mental health, trauma, and substance use disorder programs, in addition to providing supplemental funding for HIV Health Care Services Programs. Committee Republicans also support additional funding for the prevention and treatment of mental health and substance use disorders. The COVID-19 pandemic and resulting economic downturn have significantly impacted the mental health and wellbeing of all Americans, especially where state and local officials chose to institute lengthy lockdowns and keep businesses and schools closed. Emergency funding for mental health and substance use disorders was already provided for in the American Rescue Plan Act, and no effort was made by the Democrats to account for the amount of time it will take for Federal agencies and states to spend the new resources. Democrats, in their irresponsible haste to pass partisan Reconciliation legislation, did not assess the true budgetary needs of the agencies.

The bill also provides $2.86 billion to establish a World Trade Center Health Program Supplemental Fund and to remain available through fiscal year 2031. Republicans understand that enrollment in the program is increasing, along with the healthcare costs of enrollees. However, Republicans are disappointed that Democrats again embraced a partisan process instead of working in a bipartisan manner to address projected shortfalls. It is also not clear to Republicans why the required 10 percent match by New York City was struck in this proposal.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 31101. *Deployment of Next Generation 9-1-1.*

This section provides $10 billion in funding for the National Telecommunications and Information Administration (NTIA) to make grants available to eligible entities to upgrade 9-1-1 infrastructure to Next Generation 9-1-1. Under this provision, eligible entities are permitted to use grant funds to implement, operate, and maintain Next Generation 9-1-1 at emergency communications centers and, on a limited basis, use grant funds to cover training costs for public safety telecommunicators and others who would be responsible for operating Next Generation 9-1-1 equipment.

This section also provides $10 million in funding for the Inspector General of the Department of Commerce to conduct oversight to combat waste, fraud, and abuse in the grant program.

SEC. 31102. *Establishment of Next Generation 9-1-1 Cybersecurity Center.*

This section provides $80 million in funding for the NTIA to establish a Next Generation 9-1-1 Cybersecurity Center to share cybersecurity information, analyze cybersecurity threats, and share guidelines and best practices for intrusion detection and prevention as it relates to Next Generation 9-1-1.

SEC. 31103. *Public Safety Next Generation 9-1-1 Advisory Board.*

This section provides $10 million in funding for the NTIA to establish a Public Safety Next Generation 9-1-1 Advisory Board to make recommendations to the Assistant Secretary for Communications and Information with respect to administering the Next Generation 9-1-1 grant program under section 31101.

SEC. 31104. *Definitions.*

This section provides definitions for the terms 9-1-1 fee or charge, Assistant Secretary, commonly accepted standards, cost related to planning and implementation, eligible entity, emergency communications center, interoperable, Next Generation 9-1-1, public safety organization, reliable, State, State or taxing jurisdiction, and sustainable funding mechanism.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #56

Bill: **Subtitle K**, Budget Reconciliation Legislative Recommendations Relating to Next Generation 9-1-1

Amendment: An amendment (CT_13) to Subtitle K by Mr. Johnson of Ohio, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess			
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #57

Bill: **Subtitle K**, Budget Reconciliation Legislative Recommendations Relating to Next Generation 9-1-1

Amendment: An amendment (CT_12) to Subtitle K by Mr. Griffith of Virginia, No. 3

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess			
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin	X			Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #58

Bill: **Subtitle K**, Budget Reconciliation Legislative Recommendations Relating to Next Generation 9-1-1

Motion: An motion by Mr. Pallone of New Jersey to order **Subtitle K** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 25 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess			
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long			
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle K: Budget Reconciliation Legislative Recommendations Relating to Next Generation 9-1-1

Section 31101. Deployment of Next-Generation 9-1-1.

This section funds a next-generation 9-1-1 (NG 9-1-1) program through a partisan Reconciliation process. The authorizing language lacks several safeguards and improvements that could have received bipartisan support. For example, this language lacks direction to the Assistant Secretary of the National Telecommunications and Information Administration (NTIA) for the scope of their duties, which could include information sharing and technical assistance. This language lacks language that would have increased transparency for the program, including requirements for regular reporting on key details of the program and on progress made. Additionally, this legislation lacks measures to penalize entities that knowingly submit false information, which would help ensure taxpayers funds are being spent effectively.
This section could have been vastly improved if Democrats had worked with Republicans through regular order. Instead, they put politics before progress and turned a bipartisan issue – supporting public safety – into a partisan issue by rushing it through with minimal debate.

Section 31102. Establishment of Next-Generation 9-1-1 Cybersecurity Center.

This section spends $80 million dollars for an NG9-1-1 cybersecurity center, the purpose of which is not defined nor clear. This vague language provides nearly unlimited authority to the Assistant Secretary of NTIA to determine the scope of the center. This provision also moves away from the longstanding, bipartisan policy of a federated, State-based approach to securing our 9-1-1 networks from cybersecurity risks, which is a unified position of public safety groups, as agreed to by the Federal Communications Commission's Task Force on Optimal Public Safety Answering Point Architecture. Yet, rather than building on a bipartisan record of improving our cybersecurity, Democrats chose to advance legislation that blurs the roles and responsibilities between States and the Federal government in administering a nation-wide 9-1-1 system.

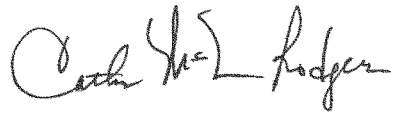
Section 31103. Public Safety Next Generation 9-1-1 Advisory Board.

This section wastes $10 million dollars to create a public safety advisory board to advise the Assistant Secretary's administration of a $10 billion dollar government program. To make the grants available for the program, the Assistant Secretary already has ample authority and precedent for seeking public input and comment from all affected stakeholders, including the public safety community. Indeed, under the Federal Advisory Committee Act, NTIA already has the authority to establish such an advisory board. Moreover, it is unclear why the establishment of an advisory board would require $10 million in appropriated funds. It appears this provision is just a reckless tax and spending spree by Democrats that will add to job-crushing inflation.

Telecommunications policy traditionally has been an area of bipartisanship at the Committee. So it is telling that Democrats have not held a single Communications and Technology Subcommittee markup this Congress and had to include what should have been bipartisan policies in an extreme partisan process.

This gargantuan spending is bad for America and so is the lack of Democratic leadership.

Finally, this Subtitle received bipartisan opposition during the markup, with a Committee Democrat voting against it.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



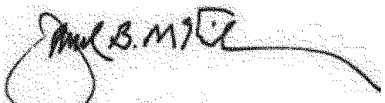
Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
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David B. McKinley
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CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 31201. *Spectrum Auctions.*

Section 31201 would provide for a process of auctioning off at least 200 mhz of mid-band spectrum in the 3.1 to 3.45 GHz band and allow for additional opportunistic use of the spectrum where feasible elsewhere.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #59

Bill: **Subtitle L**, Budget Reconciliation Legislative Recommendations Relating to Wireless Connectivity

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle L** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 26 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long			
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle L: Budget Reconciliation Legislative Recommendations Relating to Wireless Connectivity

Section 31201. Spectrum Auctions and Innovation.

This section provides the Secretary of Commerce with $50 million from the Spectrum Relocation Fund to invest in the appropriate analyses to repurpose Federal spectrum for commercial use. It also requires the Federal Communications Commission (FCC) to auction 200 MHz of spectrum in the 3.1 to 3.45 GHz band and extends FCC spectrum auction authority for 7 years to auction this band.

Spectrum resources are becoming scarce as the demand for spectrum continues to rise. Americans increasingly rely on connected devices in their daily lives while at the same time the demand for spectrum by Federal agencies remains. Spectrum policy has historically been bipartisan, and it is more important than ever before that we get this policy right. Rushing spectrum policy in a partisan Reconciliation process is irresponsible. Democrats are jeopardizing American innovation and economic security.

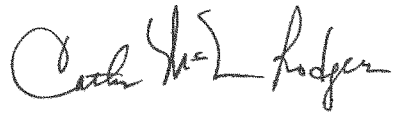
We also note that the auction of this spectrum will result in net income to the Treasury. While the Democrats may argue that this auction will offset some of the costs in Democrats' Build More Inflation Act, the Senate amendment to H.R. 3684, the Senate infrastructure bill, is also using this auction as an offset for the spending in that legislation. This clear duplication of offsets was raised by a Committee Democrat during the markup.

Given the gargantuan spending in the Democrats' Build More Inflation Act, it is clear that the Democrats believe the Federal government can sustain infinite spending without consequence. So it is no surprise that Democrats believe they can auction the same spectrum twice to pay for their socialist agenda. It is an interesting idea, but we do not think it will work out well for Americans.

Telecommunications policy traditionally has been an area of bipartisanship at the Committee. So it is telling that Democrats have not held a single Communications and Technology Subcommittee markup this Congress and had to include what should have been bipartisan policies in an extreme partisan process.

This gargantuan spending is bad for America and so is the lack of Democratic leadership.

Finally, this Subtitle received bipartisan opposition during the markup, with a Committee Democrat voting against it.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 31301. *Additional Support for Remote Learning.*

This section appropriates an additional $4 billion to the Emergency Connectivity Fund established in the American Rescue Plan Act to allow schools and libraries to purchase internet services and devices for students, staff, and patrons for connectivity off of school or library premises. The legislation requires that out of the appropriation, $500,000 shall be provided to the Federal Communication Commission's (Commission) Inspector General to provide oversight of the program.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #60

Bill: **Subtitle M**, Budget Reconciliation Legislative Recommendations Relating to Distance Learning

Amendment: An amendment (CT_19) to Subtitle M by Mr. Carter of Georgia, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 23 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton			
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #61

Bill: **Subtitle M**, Budget Reconciliation Legislative Recommendations Relating to Distance Learning

Amendment: An amendment (CT_21) to Subtitle M by Mr. Walberg of Michigan, No. 3

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #62

Bill: **Subtitle M**, Budget Reconciliation Legislative Recommendations Relating to Distance Learning

Amendment: An amendment (CT_25) to Subtitle M by Mr. Latta of Ohio, No. 4

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long			
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #63

Bill: **Subtitle M**, Budget Reconciliation Legislative Recommendations Relating to Distance Learning

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle M** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 26 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long			
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

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Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle M: Budget Reconciliation Legislative Recommendations Relating to Distance Learning

Section 31301. Additional Support for Remote Learning.

This section wastes $4 billion dollars in taxpayer funding for purposes that Congress has already funded just 7 months ago. It provides funding for schools and libraries to buy and distribute Wi-Fi hotspots, modems, routers, and other devices for students to use for off-premise schoolwork. It also eliminates the requirement for this funding to be tied to the COVID-19 pandemic, which was the original rationale the Democrats used for creating a $7.17 billion fund for this purpose, $2 billion of which remains unspent. In addition, Congress appropriated a cumulative $110 billion in 2020 to the Department of Education to respond to the coronavirus pandemic, and much of that money can be used for similar purposes. It is irresponsible for Congress to appropriate more money to this program before the existing money is spent and Congress can determine where, if any, gaps remain.

This program is also inconsistent with President Biden's goal to reopen schools because it encourages the continuation of remote learning. Similarly, it conflicts with the Administration's Centers for Disease Control and Prevention guidance, which states that it is safe for schools to reopen with appropriate measures in place and that they should do so as quickly as possible. This program is a handout to the teacher's unions and for the Democrats to show their support for the longstanding radical policies endorsed by the unions. This does not help our children.

During the Committee markup of this provision, Rep. Latta and Rep. Walberg offered amendments to provide long-term solutions to close the digital divide and incentivize schools to re-open for in-person learning. To provide a permanent solution to close the digital divide, Rep. Latta offered an amendment to redirect this funding to rural broadband deployment in unserved areas. Because Democrats are making this program permanent for the purposes of providing connectivity, these funds should be redirected into existing programs to provide permanent solutions to close the digital divide. Rep. Walberg offered an amendment to strike the Subtitle, given the duplicative nature of these funds with at least half a dozen other Federal broadband subsidy programs. Both proposals were unanimously opposed by the Democrats.

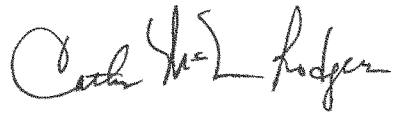
This is just another instance of wasteful spending that will contribute to the job-crushing inflation created by gargantuan Democratic spending. The only way to close the so-called "homework gap" is to invest in permanent broadband infrastructure that closes the digital divide between urban and rural America once and for all. In order to recover from this pandemic and ensure our students are not left behind, we need to focus on policies that reopen schools and the economy as quickly as possible. We are disappointed the Majority rejected bipartisanship and again embraced a partisan process that will waste billions of dollars on temporary, unreliable options such as hotspots, with no oversight and no accountability.

Telecommunications policy traditionally has been an area of bipartisanship at the Committee. So it is telling that Democrats have not held a single Communications and Technology

Subcommittee markup this Congress and had to include what should have been bipartisan policies in an extreme partisan process.

This gargantuan spending is bad for America and so is the lack of Democratic leadership.

Finally, there is bipartisan agreement that this Subtitle is wasteful, with a Committee Democrat joining Republicans in opposing it during the markup.



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 31401. *Critical Manufacturing Supply Chain Resilience.*

Subsection (a) appropriates $10 billion to the Department of Commerce for fiscal year 2022 that will remain available until expended, except that no amounts may be expended after September 30, 2031, to support critical manufacturing supply chains and related administrative costs.

Subsection (b) specifies that funds appropriated under subsection (a) are available to the Secretary of Commerce for critical manufacturing supply chain mapping and monitoring; facilitating and supporting the establishment of voluntary standards, guidelines, and best practices; identifying, accelerating, promoting, and demonstrating technological advances for critical manufacturing supply chains; and providing grants and other financial assistance to eligible entities.

Subsection (c) specifies that the Secretary of Commerce may not use more than 3 percent of the funds appropriated under subsection (a) for related administrative expenses.

Subsection (d) defines entities eligible to receive grants or other financial assistance under subsection (b).

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #80

Bill: **Subtitle N**, Budget Reconciliation Legislative Recommendations Relating to Manufacturing Supply Chain

Amendment: An amendment (SLW_165_05) to Subtitle N by Mr. Burgess of Texas, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #81

Bill: **Subtitle N**, Budget Reconciliation Legislative Recommendations Relating to Manufacturing Supply Chain

Amendment: An amendment (SLW_165_03) to Subtitle N by Mr. Bucshon of Indiana, No. 3

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #82

Bill: **Subtitle N**, Budget Reconciliation Legislative Recommendations Relating to Manufacturing Supply Chain

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle N** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 26 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong			
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle N: Budget Reconciliation Legislative Recommendations Relating to Manufacturing Supply Chain

Section 31401. Critical Manufacturing Supply Chain Resilience.

Subtitle N is another disaster in the Democrats' Build More Inflation Act. Instead of working with Republicans to protect the U.S. supply chain and U.S. industry from the many threats they face, especially from international adversaries like China, the Democrats' monstrous bill would spend $10 billion for the Department of Commerce (DOC) to "support the resilience, diversity, security, and strength of critical manufacturing supply chains." While a commendable purpose, the language lacks important guardrails and ignores constructive improvements which would have received bipartisan support. At a minimum, Democrats should have narrowed the overbroad list of eligible entities who can receive financing to avoid creating a DOC slush fund for personal, partisan projects that have nothing to do with supply chains.

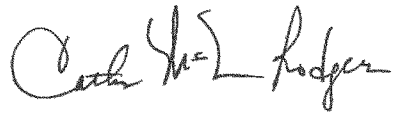
This program will be a gargantuan waste of taxpayer money, and it could not come at a worse time. Inflation is already a worry for many Americans. Inflation for used cars is up 31.9 percent, gasoline 42.7 percent, and food 3.7 percent.[1] At a time when billions of taxpayer funds from previous COVID-19 relief packages remain unexpended, market analysis portends a trend for even more inflation when market transactions return to more traditional levels.[2] Instead of continuing to throw money at the issue, the Committee should be working to craft bipartisan legislation to address supply chain insecurities and focus on the China threat.

American competition with the Chinese Communist Party (CCP) is a major challenge. Like the Biden Administration, this bill does not rise to that challenge. We need to know what access China has to the U.S. marketplace and how that may compromise Americans' jobs and safety. Moreover, there are important questions that must be addressed on permitting, access to critical materials, and regulatory and tax structures that allow for innovation and entrepreneurism. This Subtitle does nothing to address these questions.

The COVID-19 pandemic that originated in China revealed significant vulnerabilities in our supply chains. From semiconductors to active pharmaceutical agents to the most basic household items, we are dependent on international supply chains. There is bipartisan concern regarding the security and safety of our supply chains. This Committee should be working through regular order to construct bipartisan legislation, not rushing through a partisan Reconciliation package limited to throwing money at the problem and ceding decision-making authority to unelected officials, which at least one Committee Democrat agreed with when he voted with Republicans against this Subtitle.

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[1] https://www.bls.gov/news.release/cpi.nr0.htm
[2] https://fred.stlouisfed.org/series/M2V



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
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Gus M. Bilirakis
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Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 31501. *Federal Trade Commission Funding for a Privacy Bureau and Related Expenses.*

This section appropriates an additional $1 billion to the Federal Trade Commission (FTC) beyond any funds otherwise available for fiscal year 2022 that will remain available until September 30, 2031, for the purpose of creating and operating a bureau, including hiring and retaining technologists, user experience designers, and other experts in the FTC's discretion, for the FTC's work related to unfair or deceptive acts or practices relating to privacy, data security, identity theft, data abuses, and related matters.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #83

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Amendment: An amendment (SLW_0132) to Subtitle O by Mrs. Rodgers of Washington, No. 2

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 31 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke				Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #84

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Amendment: An amendment (R_AMDT_01) to Subtitle O by Mr. Bilirakis of Florida, No. 3

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #85

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Amendment: An amendment (SLW_0143) to Subtitle O by Mr. Bilirakis of Florida, No. 4

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #86

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Amendment: An amendment (ARMSND_021) to Subtitle O by Mr. Armstrong of North Dakota, No. 5

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #87

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Amendment: An amendment (SLW_0154) to Subtitle O by Ms. Lesko of Arizona, No. 6

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #88

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Amendment: An amendment (SLW_0162) to Subtitle O by Mr. Walberg of Michigan, No. 7

Disposition: **NOT AGREED TO** by a roll call vote of 26 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger	X		
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #89

Bill: **Subtitle O**, Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle O** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 27 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger		X	
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle O: Budget Reconciliation Legislative Recommendations Relating to FTC Privacy Enforcement

Section 31501. Federal Trade Commission Funding for a Privacy Bureau and Related Expenses.

We hate to repeat ourselves, but Subtitle O is another disaster in the Democrats' Build More Inflation Act.

Before we discuss how flawed the drafting is, we note that Committee Democrats voted against a number of vital concerns the Federal Trade Commission (FTC) could focus on with its additional funding. This included child online protections, terrorist-sponsored content from the Taliban, and limits on health-related information shared with China. All were voted down.

These votes represent a reversal of the public facing rhetoric from Committee Democrats during hearings and markups this past year. Democratic members on the Committee enthusiastically expressed the need for increased protections for our children, especially from Big Tech. For instance, earlier this year, we had a hearing in this Committee with the CEOs of Facebook, Google, and Twitter, where there was clear bipartisan interest in addressing the negative impact that social media has on our kids.

One of our Democratic colleagues told the CEOs, "you know that the brain and social development of our kids is still evolving at a young age," and went on to appeal to Republicans on the Committee to join her and "hold the corporate executives accountable and give parents the tools that they need to take care and protect their kids."[1]

Another of our Democratic colleagues took it a step further and correctly acknowledged that these tech companies have not been responsible stewards of their platforms, saying:

> Google and Facebook are not only doing a poor job of keeping our children under 13 off of YouTube and Instagram...but [they] are actively onboarding our children onto [their] ecosystems with apps like YouTube Kids, Facebook Messenger Kids, and now we are hearing Instagram for Kids. These applications introduce our children to social media far too early and include manipulative design features intended to keep them hooked... please expect my office and many others to follow up, given what we know about Instagram's impact on teen mental health. We are all very concerned about our younger children.[2]

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[1] *See* House Committee on Energy and Commerce hearing transcript from the Subcommittee on Consumer Protection and Commerce and Subcommittee on Communications and Technology joint hearing entitled, "Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation at *https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Transcript-20210325.pdf*

[2] [1] *See* House Committee on Energy and Commerce hearing transcript from the Subcommittee on Consumer Protection and Commerce and Subcommittee on Communications and Technology joint hearing entitled,

That member went on to conclude that "[t]his Committee is ready to legislate to protect our children from your ambition."[3]

Even the Chairman of the Committee said that "Facebook, Google, and Twitter have created business models that exploit the human brain's preference for divisive content to get Americans hooked on their platform, at the expense of the public interest."[4]

Based on these comments, Republicans offered an amendment to require the FTC to use a portion of the $1 billion to hire child psychologists to inform their work related to unfair and deceptive acts or practices relating to the mental health impact of social media on adolescents. This amendment would have gone after practices perpetrated by social media platforms that deceive Americans into thinking there are no adverse effects of using their platforms – especially at a young age. Committee Democrats defeated this amendment.

As to the establishment of a privacy bureau, while we have shown our commitment to establishing a national privacy framework with a privacy bureau, we are curious how the establishment of a brand-new Federal entity in this bill can possibly satisfy the Byrd Rule in section 310 of the Budget Act. As subsection (b) states, the purpose of this section is "to create and operate a bureau, including by hiring and retaining technologists, user experience designers, and other experts . . . ." Afterall, on May 28, 2021, in the Federal Trade Commission's (FTC) Budget Request for Fiscal Year 2022, the then acting-Chairwoman Rebecca Kelly Slaughter wrote:

> To maintain its high level of performance in FY 2022, the FTC is requesting $389,800,000 and 1,250 FTEs, which is an overall increase of $38,800,000 and 110 FTEs compared to the FTC's FY 2021 enacted appropriation. This submission assumes $13 million in offsetting collections from Do Not Call fees and $136 million from Hart Scott Rodino (HSR) filing fees under the current fee structure.

"Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation at *https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Transcript-20210325.pdf*

[3] [1] *See* House Committee on Energy and Commerce hearing transcript from the Subcommittee on Consumer Protection and Commerce and Subcommittee on Communications and Technology joint hearing entitled, "Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation at *https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Transcript-20210325.pdf*

[4] [1] *See* House Committee on Energy and Commerce hearing transcript from the Subcommittee on Consumer Protection and Commerce and Subcommittee on Communications and Technology joint hearing entitled, "Disinformation Nation: Social Media's Role in Promoting Extremism and Misinformation at *https://docs.house.gov/meetings/IF/IF16/20210325/111407/HHRG-117-IF16-Transcript-20210325.pdf*

The bureau created by this section would have a budget that **2.5 times** larger than the FTC's current budget. Given the broad policy authority and hiring authority, the massive budget is certainly incidental to the to the non-budgetary components of the provision – establishing a new Federal entity. The only thing missing is a building to house the new bureau.

As to giving the FTC a war chest to intimidate businesses of every size, in every sector, at any time – all to implement the Democrats' socialist scheme -- it is a terrible idea, perhaps this is why the Democrats only shared the final text with Republicans just one day (a Sunday) before the markup began.

While the title of this section invokes a bipartisan staff draft concept from the last Congress, there have been no hearings this Congress on privacy, no legislative history on the funding amount, and no guarantees that funding will be dedicated to privacy. Without direction from Congress, the FTC has broad authority to implement this section.

Moreover, the legislation's real ambition lies behind two very consequential words – "related matters." One can only imagine that this is intended to establish a fluctuating regulatory environment that will unnecessarily stress American businesses. As counsel for Committee Democrats noted at the markup, "related matters is not defined in the legislation." So these funds are not bound to a privacy bureau.

Enacting a Federal privacy law has been a Republican priority for several years. During the last Congress, Republicans worked with Democrats to develop a bipartisan staff draft establishing a bureau of privacy at the FTC, as this legislation purports to do. However, that bipartisan staff draft was far different than what Democrats delivered here. We agreed to establish this bureau, but only in tandem with a national privacy law to enforce. In failing to narrowly define its authority, the Democrats are unleashing this bureau with broad authority on the economy. We predict this will not end well for businesses, entrepreneurs, investor, and workers.

During the markup of the Democrats' Build More Inflation Act, Republicans offered an amendment to target these funds to the creation of a Bureau of Privacy at the FTC and the hiring of 250 additional employees to enforce a national privacy standard established by Congress. The amendment would have also created an office of small business to ensure parties can seek help as they need to understand and learn how to comply with a national law. Every Committee Democrat voted against the amendment.

As the new chair of the FTC continues to remove regulatory guardrails that have guided prior administrations of both parties, it appears Democrats in Congress and at the FTC have businesses large and small in their sights. If one were to picture this as a game in a virtual world, the attack on businesses commences by allowing a single player without any other team members to grab a "loot box," and then conquer level after level to unlock the grand socialism prize at the end of the app. Unfortunately, this is all happening in the real world, and this "loot box" for the FTC chair is a $1 billion, and the American people are the losers. Americans will be hurt the most by the inevitable inflation. Whether buying produce at the grocery store, a new car for a growing family, or an insurance plan to protect loved ones, prices will increase, scarcity will grow, and jobs and savings accounts will disappear. We are disappointed that the Democrats are

completely abdicating their legislative responsibilities to an "independent agency" and pursuing a partisan process to enact their socialist agenda.

Finally, this Subtitle (like every other Subtitle) received bipartisan opposition during the markup, with a Committee Democrat voting against it.

Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee

Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee

Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee

Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee

David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee

Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

CONTENTS

Page

I. Explanation of Provisions
II. Votes of the Committee
III. Budget Effects of the Provision
CBO Cost Estimate
IV. Other Matters to Be Discussed Under the Rules of the House
V. Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted
VI. Supplemental, Additional, Dissenting, or Minority Views

I. EXPLANATION OF PROVISIONS

SECTION 31601. *Funding for the Office of the Inspector General of the Department of Commerce.*

This section appropriates $10 million to the Office of the Inspector General of the Department of Commerce for fiscal year 2022, to remain available until September 30, 2031, for oversight of activities supported with funds appropriated to the Department of Commerce in this Act.

II. VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #90

Bill: **Subtitle P**, Budget Reconciliation Legislative Recommendations Relating to Department of Commerce Inspector General

Amendment: An amendment to the amendment in the nature of a substitute (SLW_0158) to Subtitle P by Mr. Joyce of Pennsylvania, No. 1a

Disposition: **NOT AGREED TO** by a roll call vote of 25 yeas to 32 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone		X		Mrs. Rodgers	X		
Mr. Rush		X		Mr. Upton	X		
Ms. Eshoo		X		Mr. Burgess	X		
Ms. DeGette		X		Mr. Scalise	X		
Mr. Doyle		X		Mr. Latta	X		
Ms. Schakowsky		X		Mr. Guthrie	X		
Mr. Butterfield		X		Mr. McKinley	X		
Ms. Matsui		X		Mr. Kinzinger			
Ms. Castor		X		Mr. Griffith	X		
Mr. Sarbanes		X		Mr. Bilirakis	X		
Mr. McNerney		X		Mr. Johnson	X		
Mr. Welch		X		Mr. Long	X		
Mr. Tonko		X		Mr. Bucshon	X		
Ms. Clarke		X		Mr. Mullin	X		
Mr. Schrader		X		Mr. Hudson	X		
Mr. Cárdenas		X		Mr. Walberg	X		
Mr. Ruiz		X		Mr. Carter	X		
Mr. Peters		X		Mr. Duncan	X		
Mrs. Dingell		X		Mr. Palmer	X		
Mr. Veasey		X		Mr. Dunn	X		
Ms. Kuster		X		Mr. Curtis	X		
Ms. Kelly		X		Ms. Lesko	X		
Ms. Barragán		X		Mr. Pence	X		
Mr. McEachin		X		Mr. Crenshaw	X		
Ms. Blunt Rochester		X		Mr. Joyce	X		
Mr. Soto		X		Mr. Armstrong	X		
Mr. O'Halleran		X					
Ms. Rice		X					
Ms. Craig		X					
Ms. Schrier		X					
Ms. Trahan		X					
Ms. Fletcher		X					

09/13/21

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)
ROLL CALL VOTE #91

Bill: **Subtitle P**, Budget Reconciliation Legislative Recommendations Relating to Department of Commerce Inspector General

Motion: A motion by Mr. Pallone of New Jersey to order **Subtitle P** transmitted favorably to the House Committee on Budget, amended (Final Passage).

Disposition: **AGREED TO** by a roll call vote of 31 yeas to 26 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise		X	
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger			
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long		X	
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader		X		Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/13/21

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(l) of rule XIII and clause 2(b)(l) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide budget reconciliation legislative recommendations pursuant to reconciliation instructions from S. Con. Res. 14, and for other purposes.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which grants Congress the power to provide for the "common Defence and general Welfare of the United States."

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Republican Views

We object to the Democrats' Build More Inflation Act and using the Reconciliation process to pass it. This socialist agenda will destroy freedom and embolden our enemies on the backs of American families. This is a gargantuan, unnecessary bill that fundamentally changes American life and security for the worse.

In addition, the Democrats' Build More Inflation Act comes at a time when our economy is recovering from the damage done by COVID-19. Just seven months ago, Democrats used the Reconciliation process to pass the 1.9 trillion-dollar American Rescue Plan, which was on top of the approximately 3.5 trillion-dollar Congress appropriated in 2020. This is exactly the point made by one Energy and Commerce Committee Democrat during opening statements on the first day of our markup:

> We need to stop spending. The economy is recovered. There are plenty of jobs out there. Wages are up dramatically. We just spent over 5 trillion dollars in the last 18 months on COVID alone – over three times what we spent on all defense and non-defense spending in one year, and we have not cut any of our regular appropriations. Indeed, we have increased it. . . . We're adding more to the deficit. This is insanity. It is fiscally irresponsible.

In addition, we recall the Committee Democrats' objections about regular order during the 2017 markup of the "Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act; Title I—Energy and Commerce American Health Care Act of 2017."

In their Minority Views to that legislation, Committee Democrats summarizes their "deep concern" about the lack of regular order during that Reconciliation process, writing:

> Despite the wide-ranging, serious implications of this legislation for the health and financial security of all Americans, the Committee did not hold a single hearing on the details and effect of the legislation. Notably, stakeholders have not had the ability to weigh in on the impacts of the bill to the health care system. In fact, the Committee received letters from hospitals, doctors, and patient and advocacy groups all outlining their significant concerns with the legislation. Additionally, despite Speaker Ryan's claims that the bill would be considered through regular order and through a transparent process, the repeal bill was drafted in secret and introduced less than two days before markup. The minority is deeply concerned by the decision to proceed to markup without first receiving the views of the CBO on the impact of this legislation on health insurance coverage, costs, and the Federal budget. Given the likelihood that millions of Americans will lose their health insurance as a result of this legislation, proceeding to markup without a CBO score is highly

> irresponsible and deprives Committee members of a full understanding of the implications of the legislation before voting on it.[1]

During the markup of that legislation, Committee Democrats were also vocal in their objections about regular order. There were complaints about the lack of hearings, complaints about the lack of subcommittee markups, complaints about the lack of a cost estimate from the Congressional Budget Office (CBO), complaints about the amount of time for opening statements, and of course, complaints about how long the legislative text had been available to members.

In an allusion to their scavenger hunt across Capitol Hill in the days before the markup, searching for that legislative text (which included the harassment of visitors and staff in the office of the Committee's then-Chairman), one Democratic member even said:

> And so I am outraged, Mr. Chairman, many Americans are outraged, that this secretive healthcare plan was finally made public after being sequestered in the bowels of the Capitol less than 2 days before this markup. The legislative text – and we have heard that from other members – was literally under lock and key and protected by armed Capitol police officers.

But in their return to the Majority, the Energy and Commerce Democrats outrage and deep concern for regular order has waned. Just seven months ago, the Committee considered Reconciliation legislation for fiscal year 2021. Unfortunately, the Democratic majority held no hearings, no subcommittee markups, and had no CBO estimate before that legislation was considered by the Committee. And just a few days ago, the Committee wrapped up a three-day markup of the most consequential and most expensive legislation that it has ever considered.

Every area of the Committee's broad jurisdiction was impacted by this legislation. As with their first Reconciliation legislation this year, again, there were no hearings, no subcommittee markups, and no CBO estimate (and as the markup began on Monday morning at 11:00 a.m., the amendments in the nature of a substitute to the 16 subtitles that were considered by the Committee were not shared with the Minority until 11:00 a.m. on Sunday.).

As one Energy and Commerce Committee Democratic said, "It is a terrible process. In one month, we put together a 3.5 trillion-dollar bill that has no chance of passing the Senate. Virtually no Member input. No amendments supposed to pass. No hearing on this gargantuan bill. Members had no chance to represent their districts."

We look forward the Democrats return to the Minority and rediscovery of their deep commitment to regular order.

We also note the bipartisan opposition to Subtitle E—Drug Pricing of the Reconciliation legislation during the markup. Subtitle E is bad for innovation, bad for health care, and bad for Americans, who will be denied important treatments and cures. This Subtitle will be directly responsible for the unnecessary suffering and deaths of Americans. It is so bad, three Committee

Democrats joined with Committee Republicans to kill it. Democrats may feel pressure to include Subtitle E in whatever Reconciliation legislation is considered on the Floor. Without Subtitle E in their Reconciliation legislation, Democrats will be forced scale back their gargantuan socialist agenda.

But the Energy and Commerce Committee has spoken, and House Democrats should listen.

Subtitle P: Budget Reconciliation Legislative Recommendations Relating to Department of Commerce Inspector General

Section 31601. Funding for the Office of the Inspector General of the Department of Commerce.

This section directs $10 million to the Inspector General (IG) of the Department of Commerce (DOC) to oversee the DOC provisions in the Democrats' Build More Inflation Act. Perhaps, instead of writing a gargantuan bill and spending $3.5 trillion, Democrats could have given some thought to including some minimal constraints on the use of the money given to DOC. Since that was not an option, we apparently should be thankful that the Democrats saw fit to include a few dollars to watch for waste, fraud, and abuse.

Unfortunately, this funding for the IG is limited to DOC funding in the Democrats' Build More Inflation Act. While we are confident the IG's hands will be full just overseeing this spending, there are other area at the DOC that are worth of attention.

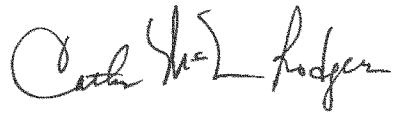
According to media reports,[1] recent actions by the DOC will have a serious impact on American manufacturing and should be reviewed by the IG. These reports suggest an easing of economic sanctions via the approval of licensing applications for Huawei Technologies Company to purchase semiconductor technology for its growing automotive interests. This will overly burden U.S. manufacturers who are already struggling to fill their own vehicle orders because of a semiconductor chip shortage.

We also note the Democrats' failure to support an autonomous vehicle (AV) framework for next generation automotive development is simply not rationale behavior. Three years after the House overwhelmingly passed AV legislation, it is a shame that the Democrats handed the keys for AV development to China. This failure will be borne on American autoworkers and manufacturers as they have their future determined by a hostile nation.

One final reminder: this Subtitle, like every other Subtitle, had bipartisan opposition with a Committee Democrat joining every Committee Republican in opposition.

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[1] https://www.reuters.com/business/autos-transportation/exclusive-us-approves-licenses-huawei-buy-auto-chips-sources-2021-08-25/



Cathy McMorris Rodgers
Ranking Member
Energy and Commerce Committee



Fred Upton
Ranking Member
Subcommittee on Energy
Energy and Commerce Committee



Robert E. Latta
Ranking Member
Subcommittee on Communications
and Technology
Energy and Commerce Committee



Brett Guthrie
Ranking Member
Subcommittee on Health
Energy and Commerce Committee



David B. McKinley
Ranking Member
Subcommittee on Environment
and Climate Change
Energy and Commerce Committee



Gus M. Bilirakis
Ranking Member
Subcommittee on Consumer Protection
and Commerce
Energy and Commerce Committee

MAXINE WATERS, CA
CHAIRWOMAN

PATRICK MCHENRY, NC
RANKING MEMBER

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

September 15, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Financial Services, and the appropriate accompanying material including additional, supplemental or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

MAXINE WATERS
Chairwoman

Cc: The Honorable Patrick McHenry

CONTENTS

Page

Explanation of Provisions .....
Votes of the Committee .....
Budget Effects of the Provision .....
CBO Cost Estimate .....
Other Matters to be Discussed Under the Rules of the House .....
Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, As Transmitted .....
Supplemental, Additional, Dissenting or Minority Views .....

SUMMARY OF THE COMMITTEE'S RECOMMENDATIONS IN THE COMMITTEE PRINT (PROVIDING FOR RECONCILIATION PURSUANT TO S. CON. RES. 14, THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2022)

SECTION-BY-SECTION ANALYSIS

TITLE IV. COMMITTEE ON FINANCIAL SERVICES

Subtitle A—Creating and Preserving Affordable, Equitable and Accessible Housing for the 21st Century.

Section 40001. Public Housing Investments.

- This section provides $77.25 billion to fully address the capital needs backlog of public housing. This section also provides $2.75 billion in grants to make comprehensive investments in public housing and surrounding neighborhoods.

Section 40002. Investments in Affordable and Accessible Housing Production.

- This section provides $35 billion for the HOME Investment Partnerships Program to fund the construction, purchase, or rehabilitation of affordable homes for low-income people. This section also provides $37 billion for activities to support the preservation and creation of over 330,000 new rental homes affordable to the lowest income households.

Section 40003. Housing Investment Fund.

- This section provides $10 billion to a new fund called the Housing Investment Fund within the Community Development Financial Institutions (CDFI) Fund to provide competitive grants to CDFIs and non-profit developers, which leverages private sector investment to create or preserve over 170,000 affordable homes.

Section 40004. Section 811 Supportive Housing for People with Disabilities.

- This section provides $1 billion for HUD's Section 811 program which provides project-based rental assistance to very low- and extremely low-income persons with disabilities to live independently in integrated housing settings with community-based support and services.

Section 40005. Section 202 Supportive Housing for the Elderly.

- This section provides $2.5 billion for the 202 Supportive Housing for the Elderly program, which expands the supply of affordable housing with supportive services for the elderly through capital advances and project rental assistance contracts to non-profit developers.

Section 40006. Improving Energy Efficiency or Water Efficiency or Climate Resilience of Affordable Housing.

- This section provides $6 billion to establish a grant program for owners of federally assisted housing affordable housing to make energy efficiency upgrades, including electrification of systems and appliances, and installation of renewable energy types and improve property resiliency.

Section 40007. Revitalization of Distressed Multifamily Properties.

- This section provides $4 billion to preserve, and improve safety conditions in, properties receiving Section 8 project-based rental assistance (PBRA).

Section 40008. Investments in Rural Rental Housing.

- This section provides $4.8 billion to carry out new construction, make improvements to energy and water efficiency or climate resilience, to remove health and safety hazards, and to preserve housing under the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing programs. This section also provides additional rental assistance to eligible households.

Section 40009. Housing Vouchers.

- This section provides $75 billion to fund incremental Housing Choice Vouchers and supportive services. Of this funding, $24 billion is provided for individuals and families experiencing or at risk of homelessness, and survivors of domestic violence, dating violence, sexual assault, stalking and human trafficking. $750 million is provided for competitive grants for mobility-related services and $500 million is provided for landlord incentives to participate in the program.

Section 40010. Project-Based Rental Assistance.

- This section provides $15 billion to the Project Based Rental Assistance (PBRA) program, which provides rental assistance to eligible households, but unlike Housing Choice Vouchers, the assistance is fixed to a property rather than tied to the household. PBRA is instrumental in developing permanent supportive housing for people experiencing homelessness.

Section 40011. Investments in Native American Communities.

- This section provides $2 billion to Native American, Alaska Native, and Native Hawaiian communities to address their most pressing housing and community development needs.

Subtitle B—21st Century Sustainable and Equitable Communities.

Section 40101. Community Development Block Grant Funding for Affordable Housing and Infrastructure.

- This section provides $8.5 billion for the Community Development Block Grant program (CDBG). This section includes $1 billion and $500 million to address the housing and community infrastructure needs of colonias and resident-owned manufactured housing communities, respectively.

Section 40102. Lead-Based Paint Hazard Control and Housing-Related Health and Safety Hazard Mitigation in Housing of Families with Lower Incomes.

- This section provides $10 billion to address lead paint and other health hazards in the housing stock of the United States.

Section 40103. Unlocking Possibilities Program.

- This section provides $4.5 billion in grants to States, units of general local government, and Native American tribes on a competitive basis improve and implement housing plans and strategies.

Section 40104. Strengthening Resilience Under National Flood Insurance Program.

- This section forgives $20.5 billion in National Flood Insurance Program (NFIP) debt, provides $3 billion to support flood mapping, and provides $1 billion for FEMA to set up a means-tested assistance to NFIP policyholders with household incomes up to 120 percent of area median income.

Section 40105. Community Restoration and Revitalization Fund.

- This section provides a total of $7.5 billion in competitive grants to eligible local partnerships that are led by nonprofits to conduct affordable, accessible housing activities and neighborhood revitalization activities in rural, suburban and urban localities, including in neighborhoods experiencing cycles of blight and abandonment.

Section 40106. Fair Housing Activities and Investigations.

- This section provides $1 billion for the Fair Housing Initiatives Program, which supports local enforcement of fair housing laws.

Section 40107. Intergovernmental Fair Housing Activities and Investigations.

- This section provides $250 million for the Fair Housing Assistance Program, which supports intergovernmental enforcement of fair housing laws.

Subtitle C—Homeownership Investments.

Section 40201. First-Generation Downpayment Assistance.

- This section provides first-time, first-generation homebuyers with the greater of $20,000 or 10% of the purchase price of an eligible home in financial assistance, including for downpayment costs, closing costs, and costs to reduce the rates of interest. This section also provides $500 million for housing counseling agencies.

Section 40202. Wealth-Building Home Loan Program.

- This section provides $500 million to subsidize 20-year mortgages for first-generation homebuyers.

Section 40203. HUD-Insured Small Dollar Mortgage Demonstration Program.

- This section provides $100 million for HUD to carry out a pilot program to expand small-dollar mortgage options to homebuyers seeking to purchase affordable homes priced at $100,000 or less.

Section 40204. Investments in Rural Homeownership.

- This section provides $200 million in grant funding through the Department of Agriculture's Section 502, 504, and 523 programs to help low-income homeowners in rural areas purchase, repair, upgrade, and preserve affordable homes, including manufactured homes.

Section 40205. Self Help Homeownership Opportunity Program.

- This section provides $50 million to support sweat equity and volunteer-based homeownership programs for low-income households.

Subtitle D—HUD and Community Capacity.

Section 40301. Program Administration, Training, Technical Assistance, and Capacity-Building, and USICH.

- This section provides $2 billion for HUD to properly staff and oversee the administration of investments in this Act, and provide technical assistance. This section also provides funding for the HUD Inspector General and US Interagency Council on Homelessness.

Section 40302. Community-Led Capacity Building.

- This section provides $100 million to nonprofit entities to provide technical assistance and capacity building.

Subtitle E—Economic Development.

Section 40401. Minority Business Development Agency.

- This section provides $3.1 billion to the Minority Business Development Agency. $1.2 billion will be provided for agency administration, operations, support for business centers and programs to support manufacturing; $200 million will be provided for establishing rural business centers, $50 million for entrepreneurship education programs at minority serving institutions, $150 million for administration of grants and $1.5 billion will be provided for grants to business enterprises owned or controlled by one or more members of an underrepresented community.

Section 40402. Manufacturing Facility.

- This section provides $1 billion through the State Small Business Credit Initiative (SSBCI) administered by the U.S. Department of the Treasury to provide up to $10 billion in new loans and investments in small and medium enterprises to strengthen the resiliency of supply chains in critical industries and promote economic competitiveness in the United States.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 13, 2021 and September 14, 2021 and ordered the recommendations of the Committee to be transmitted to the Committee on the Budget by a vote of 30 yeas and 24 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with the request of the Committee on the Budget and in compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of the Committee Print:

1W

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		
	Mrs. Maloney		
	Ms. Velázquez		
	Mr. Sherman		
	Mr. Meeks		
	Mr. Scott		
	Mr. Green		
	Mr. Cleaver		
	Mr. Perlmutter		
	Mr. Himes		
	Mr. Foster		
	Mrs. Beatty		
	Mr. Vargas		
	Mr. Gottheimer		
	Mr. Gonzalez (TX)		
	Mr. Lawson		
	Mr. San Nicolas		
	Ms. Axne		
	Mr. Casten		
	Ms. Pressley		
	Mr. Torres		
	Mr. Lynch		
	Ms. Adams		
	Ms. Tlaib		
	Ms. Dean		
	Ms. Ocasio-Cortez		
	Mr. Garcia (IL)		
	Ms. Garcia (TX)		
	Ms. Williams (GA)		
	Mr. Auchincloss		
30			
	Mr. McHenry, *Ranking Member*		
	Mrs. Wagner		
	Mr. Lucas		
	Mr. Sessions		
	Mr. Posey		
	Mr. Luetkemeyer		
	Mr. Huizenga		
	Mr. Barr		
	Mr. Williams (TX)		
	Mr. Hill		
	Mr. Emmer		
	Mr. Zeldin		
	Mr.Loudermilk		
	Mr. Mooney		
	Mr.Davidson		
	Mr. Budd		
	Mr. Kustoff		
	Mr.Hollingsworth		
	Mr.Gonzalez (OH)		
	Mr. Rose		
	Mr. Steil		
	Mr.Gooden		
	Mr. Timmons		
	Mr. Taylor		
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure: Committee Print

Amendment No.: 1W

Offered by: Wagner #2

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC

16

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*	1	
	Mrs. Maloney	1	
	Ms. Velázquez	1	
	Mr. Sherman	1	
	Mr. Meeks	1	
	Mr. Scott	1	
	Mr. Green	1	
	Mr. Cleaver	1	
	Mr. Perlmutter	1	
	Mr. Himes	1	
	Mr. Foster	1	
	Mrs. Beatty	1	
	Mr. Vargas	1	
	Mr. Gottheimer	1	
	Mr. Gonzalez (TX)	1	
	Mr. Lawson	1	
	Mr. San Nicolas	1	
	Ms. Axne	1	
	Mr. Casten	1	
	Ms. Pressley	1	
	Mr. Torres	1	
	Mr. Lynch	1	
	Ms. Adams	1	
	Ms. Thaib	1	
	Ms. Dean	1	
	Ms. Ocasio-Cortez	1	
	Mr. Garcia (IL)	1	
	Ms. Garcia (TX)	1	
	Ms. Williams (GA)	1	
	Mr. Auchincloss	1	
30			
	Mr. McHenry, *Ranking Member*		1
	Mrs. Wagner		1
	Mr. Lucas		1
	Mr. Sessions		1
	Mr. Posey		1
	Mr. Luetkemeyer		1
	Mr. Huizenga		1
	Mr. Barr		1
	Mr. Williams (TX)		1
	Mr. Hill		1
	Mr. Emmer		1
	Mr. Zeldin		1
	Mr.Loudermilk		1
	Mr. Mooney		1
	Mr.Davidson		1
	Mr. Budd		1
	Mr. Kustoff		1
	Mr.Hollingsworth		1
	Mr.Gonzalez (OH)		1
	Mr. Rose		1
	Mr. Steil		1
	Mr.Gooden		1
	Mr. Timmons		1
	Mr. Taylor		1
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure @CP

Amendment No. # 16

Offered by: Waters

30

24

Agreed To	Yes	No	Prsnt	Wdrn
✓	30	24		
Voice Vote	Ayes: 30		Nays: 24	

Record Vote	FC

24

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		/
	Mrs. Maloney		/
	Ms. Velázquez		/
	Mr. Sherman		/
	Mr. Meeks		/
	Mr. Scott		/
	Mr. Green		/
	Mr. Cleaver		/
	Mr. Perlmutter		/
	Mr. Himes		/
	Mr. Foster		/
	Mrs. Beatty		/
	Mr. Vargas		/
	Mr. Gottheimer		/
	Mr. Gonzalez (TX)		/
	Mr. Lawson		/
	Mr. San Nicolas		/
	Ms. Axne		/
	Mr. Casten		/
	Ms. Pressley		/
	Mr. Torres		/
	Mr. Lynch		/
	Ms. Adams		/
	Ms. Tlaib		/
	Ms. Dean		/
	Ms. Ocasio-Cortez		/
	Mr. Garcia (IL)		/
	Ms. Garcia (TX)		/
	Ms. Williams (GA)		/
	Mr. Auchincloss		/
30			
	Mr. McHenry, *Ranking Member*	/	
	Mrs. Wagner	/	
	Mr. Lucas	/	
	Mr. Sessions	/	
	Mr. Posey	/	
	Mr. Luetkemeyer	/	
	Mr. Huizenga	/	
	Mr. Barr	/	
	Mr. Williams (TX)		
	Mr. Hill	/	
	Mr. Emmer	/	
	Mr. Zeldin	/	
	Mr.Loudermilk	/	
	Mr. Mooney	/	
	Mr.Davidson	/	
	Mr. Budd	/	
	Mr. Kustoff	/	
	Mr.Hollingsworth	/	
	Mr.Gonzalez (OH)	/	
	Mr. Rose	/	
	Mr. Steil	/	
	Mr.Gooden	/	
	Mr. Timmons	/	
	Mr. Taylor	/	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: _____

Measure _____

Amendment No. En Bloc #1

Offered by: _____

30

Agreed To	Yes	No	Prsnt	Wdrn
	23	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

23

1c

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)		
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1c

Offered by: McHenry

30

Agreed To	Yes	No	Prsnt	Wdrn
	23	30		
Voice Vote	Ayes		Nays	

23

Record Vote	FC

10

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 10

Offered by: McHenry #2

30

24

Agreed To	Yes	No	Prsnt	Wdrn
	24	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

1E

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1E

Offered by: Hill #1

24 29
30

Agreed To	Yes	No	Prsnt	Wdrn
	24	29		
Voice Vote	Ayes		Nays	

Record Vote	FC

1F

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1F

Offered by: Hill #2

29

24 29

Agreed To	Yes	No	Prsnt	Wdrn
	24	29		
Voice Vote	Ayes		Nays	

29

Record Vote	FC

16

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 16

Offered by: Emmer

29

Agreed To	Yes	No	Prsnt	Wdrn
	24	29		
Voice Vote	Ayes		Nays	

24

Record Vote	FC

1H

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin		
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1H

Offered by: Huizenga #1

28

23

Agreed To	Yes	No	Prsnt	Wdrn
	23	28		
Voice Vote	Ayes		Nays	

Record Vote	FC

IM

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer		
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1M

Offered by: Gonzalez (Oh)

30

23

Agreed To	Yes	No	Prsnt	Wdrn
	23	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

IN

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)		
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson		
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth		\
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. IN

Offered by: Timmons #1

31

21

Agreed To	Yes	No	Prsnt	Wdrn
	21	31		
Voice Vote	Ayes		Nays	

Record Vote	FC

10

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)		
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson		
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9/13/2021

Measure CP

Amendment No. 10

Offered by: Zeldin

30

Agreed To	Yes	No	Prsnt	Wdrn
	22	30		
Voice Vote	Ayes		Nays	

22

Record Vote	FC

1P

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks	\	
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson		
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1P

Offered by: Rose #3

30

Agreed To	Yes	No	Prsnt	Wdrn
	23	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

23

12

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9/13/2021

Measure CP

Amendment No. 12

Offered by: ~~Timmons~~ Wagner

30

Agreed To	Yes	No	Prsnt	Wdrn
	24	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

24

1R

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1R

Offered by: Taylor #1

Agreed To	Yes	No	Prsnt	Wdrn
	24	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

lv

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. lv

Offered by: Barr #2

Agreed To	Yes	No	Prsnt	Wdrn
	24	30		
Voice Vote	Ayes		Nays	

Record Vote	PC

1W

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		/
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	/	
	Mr.Hollingsworth	/	
	Mr.Gonzalez (OH)	/	
	Mr. Rose	/	
	Mr. Steil	/	
	Mr.Gooden	/	
	Mr. Timmons	/	
	Mr. Taylor	/	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1W

Offered by: Posey #2

Agreed To	Yes	No	Prsnt	Wdrn
	24	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

1aa

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer	\	0
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden	\	
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. 1aa

Offered by: Gonzalez (OH) #2

9

29

95

Agreed To	Yes	No	Prsnt	Wdrn
	25	29		
Voice Vote	Ayes		Nays	

Record Vote	FC

166

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		\
	Mrs. Maloney		\
	Ms. Velázquez		\
	Mr. Sherman		\
	Mr. Meeks		\
	Mr. Scott		\
	Mr. Green		\
	Mr. Cleaver		\
	Mr. Perlmutter		\
	Mr. Himes		\
	Mr. Foster		\
	Mrs. Beatty		\
	Mr. Vargas		\
	Mr. Gottheimer		\
	Mr. Gonzalez (TX)		\
	Mr. Lawson		\
	Mr. San Nicolas		\
	Ms. Axne		\
	Mr. Casten		\
	Ms. Pressley		\
	Mr. Torres		\
	Mr. Lynch		\
	Ms. Adams		\
	Ms. Tlaib		\
	Ms. Dean		\
	Ms. Ocasio-Cortez		\
	Mr. Garcia (IL)		\
	Ms. Garcia (TX)		\
	Ms. Williams (GA)		\
	Mr. Auchincloss		\
30			
	Mr. McHenry, *Ranking Member*	\	
	Mrs. Wagner	\	
	Mr. Lucas	\	
	Mr. Sessions	\	
	Mr. Posey	\	
	Mr. Luetkemeyer	\	
	Mr. Huizenga	\	
	Mr. Barr	\	
	Mr. Williams (TX)	\	
	Mr. Hill	\	
	Mr. Emmer	\	
	Mr. Zeldin	\	
	Mr.Loudermilk	\	
	Mr. Mooney	\	
	Mr.Davidson	\	
	Mr. Budd	\	
	Mr. Kustoff	\	
	Mr.Hollingsworth	\	
	Mr.Gonzalez (OH)	\	
	Mr. Rose	\	
	Mr. Steil	\	
	Mr.Gooden		
	Mr. Timmons	\	
	Mr. Taylor	\	
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure CP

Amendment No. ~~1~~ 166

Offered by: Steil #1

30

23

Agreed To	Yes	No	Prsnt	Wdrn
	23	30		
Voice Vote	Ayes		Nays	

Record Vote	FC

1a

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		
	Mrs. Maloney		
	Ms. Velázquez		
	Mr. Sherman		
	Mr. Meeks		
	Mr. Scott		
	Mr. Green		
	Mr. Cleaver		
	Mr. Perlmutter		
	Mr. Himes		
	Mr. Foster		
	Mrs. Beatty		
	Mr. Vargas		
	Mr. Gottheimer		
	Mr. Gonzalez (TX)		
	Mr. Lawson		
	Mr. San Nicolás		
	Ms. Axne		
	Mr. Casten		
	Ms. Pressley		
	Mr. Torres		
	Mr. Lynch		
	Ms. Adams		
	Ms. Tlaib		
	Ms. Dean		
	Ms. Ocasio-Cortez		
	Mr. Garcia (IL)		
	Ms. Garcia (TX)		
	Ms. Williams (GA)		
	Mr. Auchincloss		
30			
	Mr. McHenry, *Ranking Member*		
	Mrs. Wagner		
	Mr. Lucas		
	Mr. Sessions		
	Mr. Posey		
	Mr. Luetkemeyer		
	Mr. Huizenga		
	Mr. Barr		
	Mr. Williams (TX)		
	Mr. Hill		
	Mr. Emmer		
	Mr. Zeldin		
	Mr.Loudermilk		
	Mr. Mooney		
	Mr.Davidson		
	Mr. Budd		
	Mr. Kustoff		
	Mr.Hollingsworth		
	Mr.Gonzalez (OH)		
	Mr. Rose		
	Mr. Steil		
	Mr.Gooden		
	Mr. Timmons		
	Mr. Taylor		
24			
54			

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure Committee Print

Amendment No. ANS

Offered by: Waters

Agreed To	Yes	No	Prsnt	Wdrn
✓				
Voice Vote	Ayes		Nays	
✓				

Record Vote	FC

Committee on Financial Services
Full Committee
117th Congress (1st Session)

Date: 9.13.2021

Measure: Committee Print

Amendment No.:

Offered by: Ms. Waters

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*	/	
	Mrs. Maloney	/	
	Ms. Velázquez	/	
	Mr. Sherman	/	
	Mr. Meeks	/	
	Mr. Scott	/	
	Mr. Green	/	
	Mr. Cleaver	/	
	Mr. Perlmutter	/	
	Mr. Himes	/	
	Mr. Foster	/	
	Mrs. Beatty	/	
	Mr. Vargas	/	
	Mr. Gottheimer	/	
	Mr. Gonzalez (TX)	/	
	Mr. Lawson	/	
	Mr. San Nicolas	/	
	Ms. Axne	/	
	Mr. Casten	/	
	Ms. Pressley	/	
	Mr. Torres	/	
	Mr. Lynch	/	
	Ms. Adams	/	
	Ms. Tlaib	/	
	Ms. Dean	/	
	Ms. Ocasio-Cortez	/	
	Mr. Garcia (IL)	/	
	Ms. Garcia (TX)	/	
	Ms. Williams (GA)	/	
	Mr. Auchincloss	/	
30			
	Mr. McHenry, *Ranking Member*		/
	Mrs. Wagner		/
	Mr. Lucas		/
	Mr. Sessions		/
	Mr. Posey		/
	Mr. Luetkemeyer		/
	Mr. Huizenga		/
	Mr. Barr		/
	Mr. Williams (TX)		/
	Mr. Hill		/
	Mr. Emmer		/
	Mr. Zeldin		/
	Mr.Loudermilk		/
	Mr. Mooney		/
	Mr.Davidson		/
	Mr. Budd		/
	Mr. Kustoff		/
	Mr.Hollingsworth		/
	Mr.Gonzalez (OH)		/
	Mr. Rose		/
	Mr. Steil		/
	Mr.Gooden		/
	Mr. Timmons		/
	Mr. Taylor		/
24			
54			

Agreed To	Yes	No	Prsnt	Wdrn
	30	24		
Voice Vote	Ayes		Nays	

Record Vote	FC

COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with the request of the Committee on the Budget and pursuant to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

In compliance with the request of the Committee on the Budget and pursuant to clause 3(c) of Rule XIII of the Rules of the House of Representatives, the goals of the Committee's recommendations are to make vital investments in affordable housing, community development, ending homelessness, climate resiliency, supply chain resilience, and small and minority-owned businesses based in the United States.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with the request of the Committee on the Budget, and pursuant to clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the Committee Print establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or

a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

EARMARK STATEMENT

In compliance with the request of the Committee on the Budget and pursuant to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of Rule XXI of the Rules of the U.S. House of Representatives.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by the recommendations in the Committee Print.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Congress has the power to enact the provisions contained in the Committee Print pursuant to the following:

- Article I, Section 8, cl. 1, To pay debts and provide for the common Defense and General Welfare of the United States.
- Article I, Section 8 cl. 3, To regulate Commerce with Foreign Nations, Among the Several States, and with the Indian Tribes.
- Article I, Section 8, cl. 18, To make all laws which shall be necessary and proper for carrying into Execution the powers enumerated under section 8 and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.

CHANGES TO EXISTING LAW

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

The Committee Print, like the massive $3.5 trillion spending package, ignores the most pressing issues facing our country today. On September 30, 2021, the government will run out of money. Just last week, the Treasury Secretary informed Congress that the United States government will exceed its debt limit soon thereafter. Last Friday, the Labor Department reported that the producer price index rose 8.3 percent year over year – the largest increase since November 2010. This is on top of a weak August job report revealing that 235,000 Americans went back to work - a quarter of the number in June and July. And, for this Committee, the bill ignores a real response to the Supreme Court's recent decision to strike down the Biden Administration's ill-conceived eviction moratorium.

Yet rather than focus on these pressing issues, Democrats want to double down on $3.5 trillion in cradle to grave handout programs, which create more dependence on federal government and diminish individual exceptionalism in this country.

Just look at the most pressing issue facing our property owners today – payment of back rent. Did Committee Democrats provide a solution in this bill? No. Committee Democrats pushed mom and pop property owners aside in favor of a progressive wish list of policies that will destroy our economy and fabric of society as we know it.

The reason – it didn't fit with progressives' list of policy demands. It didn't necessitate hundreds of billions of dollars in government handouts.

Enactment of this bill and the massive $3.5 trillion spending plan will only perpetuate the cycle of poverty in this country. This bill continues the failed policies that have led to the deterioration of our public housing system. The health and physical condition of America's public housing stock has dramatically declined. This decline has less to do with funding and more to do an intentional shift over the last 40 years towards modern housing programs.

Republicans believe there is little justification to put enormous amounts of new funding into a Public Housing system that is dangerously mismanaged and fiscally outdated when better, more modern alternatives exist and are working.

Modern and innovative solutions to these issues do exist. Programs like the Rental Assistance Demonstration (RAD), the Section 8 Housing Choice Voucher (HCV) Program, and the Moving-to-Work (MTW) program are all bipartisan, proven solutions that allow residents greater choice and economic mobility. At the same time, they give local housing authorities the financial flexibility to provide decent, safe, and sanitary housing.

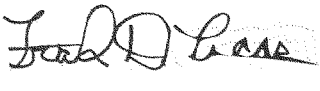
Before Congress considers any significant increase in federal funding for public and assisted housing programs, including voucher assistance programs, significant reform is needed to reflect 21st century models that empower low-income people toward upward economic mobility.

Committee Republicans believe we should be thoughtful and strategic about how to address housing issues today, as well as ways to support all communities. Giving hundreds of billions of dollars to the federal government to put money into an antiquated system that benefits activists and stakeholders over tenants is not the solution. Moreover, by failing to address the benefit cliffs, the Democrats ignore one of the most basic failings of the social safety net. The goal of the

programs should be focused on transiting into good paying, full-time employment. This failure calls into question Democrats' commitment to that objective. The Committee Print is the fulfillment of campaign promises. It will do nothing to change the problems this country is facing, including the viscous cycle of poverty many Americans face.

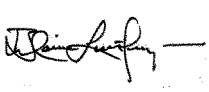


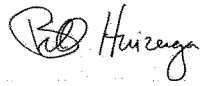


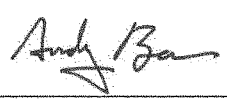




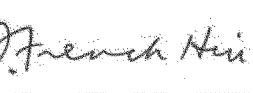


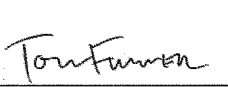












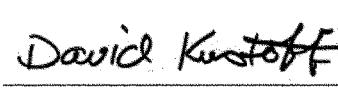






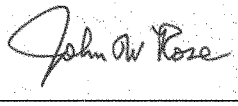




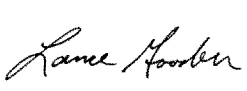


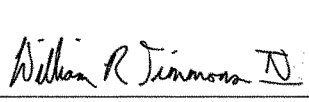














Rep. McHenry	Rep. Wagner
Rep. Lucas	Rep. Sessions
Rep. Posey	Rep. Luetkemeyer
Rep. Huizenga	Rep. Barr
Rep. Williams	Rep. Hill
Rep. Emmer	Rep. Zeldin
Rep. Loudermilk	Rep. Mooney
Rep. Davidson	Rep. Budd
Rep. Kustoff	Rep. Hollingsworth
Rep. Gonzalez (OH)	Rep. Rose (TN)
Rep. Steil	Rep. Gooden
Rep. Timmons	Rep. Taylor

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN

JOHN KATKO, NEW YORK
RANKING MEMBER

One Hundred Seventeenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

September 15, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Homeland Security and the appropriate accompanying material, including additional, supplemental, minority, or dissenting views, to the Committee on the Budget.

This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Bennie G. Thompson
Chairman
Committee on Homeland Security

CONTENTS

Explanation of Provisions 1
Votes of the Committee 3
Committee Estimate of Budgetary Effects 5
New Budget Authority and C.B.O. Cost Estimate 5
Committee Oversight Findings and Recommendations 5
Statement of General Performance Goals and Objectives 5
Duplication of Federal Programs 5
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits 5
Federal Mandates Statement 6
Advisory Committee Statement 6
Applicability to Legislative Branch 6
Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, as Transmitted 6

EXPLANATION OF PROVISIONS

Sec. 50001. Cybersecurity and Infrastructure Security Agency.

This section invests $865 million in the Cybersecurity and Infrastructure Security Agency (CISA), a component of the Department of Homeland Security (DHS). These funds would enhance CISA's cybersecurity activities and programs for the 10-year period of fiscal years 2022 through 2031 by providing resources above the regular appropriations process. These investments would accelerate CISA's efforts to improve Federal network security, support State and local cybersecurity efforts, drive strategic collaboration with critical infrastructure owners and operators, and address cyber workforce challenges. This legislation provides increased resources to fund the Multi-State Information Sharing and Analysis Center, implementation of Executive Order 14028, *Improving the Nation's Cybersecurity*, the Crossfeed program, the Federal Continuity of the Economy Plan, international partnerships to secure critical infrastructure, and cybersecurity education and workforce development programs.

This section divides the $865 million in increased funding for CISA in the following ways:

1. $50,000,000 to CISA for support of the Multi-State Information Sharing and Analysis Center (MS-ISAC). The MS-ISAC supports the overall cybersecurity posture of the Nation's State, local, Tribal, and Territorial governments through focused cyber threat prevention, protection, response, and recovery services and support.

2. $25,000,000 to CISA for operating a cyber range, a training environment used to simulate real-world security incidents for cybersecurity professionals. It serves as a valuable training tool as cyber incidents grow more frequent and more sophisticated.

3. $25,000,000 to CISA for the execution of a national multi-factor authentication (MFA) campaign. This enhances funding for CISA's ongoing efforts to improve adoption of MFA, a cybersecurity practice requiring users to present a combination of two or more credentials to verify identity for login. MFA increases security because even if one credential becomes compromised, unauthorized users will be unable to meet the second authentication requirement and will not be able to access the targeted physical space, computing device, network, or database.

4. $400,000,000 to CISA for the implementation of Executive Order 14028, *Improving the Nation's Cybersecurity*, including the implementation of MFA, endpoint detection and response (EDR), improved logging, and securing cloud systems at Federal agencies. Among other things, this funding will accelerate CISA's efforts to complete the deployment of EDR capabilities across the Federal enterprise and develop the necessary infrastructure to enable CISA to execute its persistent cyber threat hunt mission.

5. $50,000,000 to CISA for expansion and operation of the Crossfeed program. Crossfeed is a CISA program used to monitor and gather

information about vulnerabilities on public-facing assets supporting national critical functions.

6. $75,000,000 to CISA for its CyberSentry program, a voluntary program that leverages commercial off-the-shelf technologies, such as network intrusion detection tools, to identify malicious activity in critical infrastructure industrial control systems and corporate networks.

7. $10,000,000 to CISA for performing activities in support of the development of the continuity of the economy plan required under section 9603(a) of title XCVI of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 6 U.S.C. 322). These resources enhance efforts to evaluate the risks to the economy from National Critical Function failures and develop mitigation strategies related to functional continuity in the face of threats, including supply and demand shifts, availability of commodities, and the ability of essential workers to work.

8. $20,000,000 to CISA for expanding programs working with international partners on the protection of critical infrastructure. These funds invest in CISA's efforts to liaise with, support, and advise select international governments, industry partners, and civil society groups in the development and expansion of critical infrastructure protection knowledge and capacity, allowing them to effectively detect threats, assess impact potential, and take appropriate response actions to mitigate risk. The direct benefits of this expansion include stronger partnerships with allied countries, new and strengthened relationships with emerging partners, increased security and resilience of the overseas critical infrastructure assets and systems upon which the U.S. depends, and increased understanding of the global critical infrastructure threat and risk landscape. The indirect benefits of this expansion include increased trust and influence among partner countries, a more effective countering of the influence of U.S. adversaries, and increased reach and effectiveness of U.S. global critical infrastructure policy- and standard-setting efforts.

9. $50,000,000 to CISA for researching and developing systems to secure operational technology, including industrial control systems, against cybersecurity vulnerabilities. These resources should accelerate CISA's efforts to address cybersecurity challenges associated with industrial control systems. Industrial control systems are generally more specialized to their industries and can be challenging to patch and update because of their direct effect on physical operations. This investment will support CISA's research to better detect threats and vulnerabilities to operational technology, prevent incidents, and respond when incidents do occur.

10. $100,000,000 to CISA for workforce development and education, including providing education, training, and capacity development, in collaboration with historically Black colleges and universities, other minority-serving institutions, and community colleges, and to the Cybersecurity Education and Training Program for cybersecurity training and upskilling veterans; implementing cybersecurity apprenticeships at the Agency; and cybersecurity programs for under-served communities, as a focus for activities authorized under section 2217 of the Homeland Security Act of 2002 (6 U.S.C. 665f). These resources will provide cyber training and education programs to address cybersecurity workforce shortages in both the Federal government and the private sector, including by expanding existing programs to provide additional training to K–12 students and veterans.

11. $60,000,000 to CISA for enhancing the cloud architecture, migration advisory services, and cloud threat hunting capabilities of the Agency. With the rapid shift toward cloud computing, many of CISA's existing security services do not fully account for recent changes in

technology. These necessary investments provide CISA with the capacity to keep up with current technology and respond to threats, specifically the ability to improve threat hunting in commercial cloud environments and to better advise its partners and incident response victims.

VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the Committee report.

The Committee met on September 14, 2021, a quorum being present, to consider the Committee Print providing for reconciliation pursuant to section 2002 of S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022.

The Committee considered and adopted the following amendments to the Committee Print:

- An amendment in the nature of a substitute offered by Mr. Thompson of Mississippi, which made technical corrections to the Committee Print, and was adopted by voice vote, as amended.
- An amendment to the amendment in the nature of a substitute offered by Ms. Slotkin of Michigan to insert a new paragraph that would provide $60,000,000 to CISA for enhancing the cloud architecture, migration advisory services, and cloud threat hunting capabilities of the Agency, offset by a reduction in funds for general operations and support. The amendment was adopted by a recorded vote of 19 ayes to 13 noes (Rollcall No. 20).
- An amendment to the amendment in the nature of a substitute offered by Ms. Clarke of New York to insert a new paragraph that would provide $75,000,000 to CISA for its CyberSentry program, offset by a reduction in funds for general operations and support. The amendment was adopted by a recorded vote of 18 ayes to 15 noes (Rollcall No. 22).
- An amendment to the amendment in the nature of a substitute offered by Ms. Clarke of New York to insert, at page 2, line 22, the following: ", including in collaboration with historically Black college and universities, other minority-serving institutions, and community colleges,", which clarified CISA's education and workforce development programs. The amendment was adopted by voice vote.
- An amendment to the amendment in the nature of a substitute offered by Ms. Jackson Lee of Texas to insert a new paragraph that would provide $50,000,000 to CISA for researching and developing means to secure operational technology, including industrial control systems, against cybersecurity vulnerabilities, offset by a reduction in funds for general operations and support. The amendment was adopted by a recorded vote of 18 ayes to 15 noes (Rollcall No. 24).
- An amendment to the amendment in the nature of a substitute offered by Mr. Torres of New York to insert a new paragraph that would provide $25,000,000 to CISA for operating a cyber range, offset by a reduction in funds for general operations and support. The amendment was adopted by voice vote.

The Committee considered the following amendments to the Committee Print:

- An amendment to the amendment in the nature of a substitute offered by Mr. Katko of New York to insert a new section and provide $210,000,000 to CISA to address cybersecurity threats, including ransomware mitigation. The amendment failed by a recorded vote of 14 ayes to 18 noes (Rollcall No. 21).
- An amendment to the amendment in the nature of a substitute offered by Mr. Garbarino of New York to strike paragraph (8) and direct $210,000,000 to CISA general operations and support, including $120,000,000 for threat hunting activities and $10,000,000 for exercises and activities of the Joint Cyber Planning Office. The amendment failed by a recorded vote of 15 ayes to 18 noes (Rollcall No. 23).
- An amendment to the amendment in the nature of a substitute offered by Mr. Van Drew of New Jersey to direct $8,000,000 of funds designated for CISA general operations and support to programs to mitigate the risk posed by terrorists to soft targets and crowded spaces. The amendment failed by a recorded vote of 16 ayes to 17 noes (Rollcall No. 25).
- An amendment to the amendment in the nature of a substitute offered by Mr. LaTurner of Kansas to direct $20,000,000 of funds designated for CISA general operations and support to vulnerability management. The amendment failed by a recorded vote of 15 ayes to 18 noes (Rollcall No. 26).
- An amendment to the amendment in the nature of a substitute offered by Mrs. Harshbarger of Tennessee to limit the availability of funds in the title to the acquisition of software that complies with section 4 of Executive Order 14028. The amendment failed by a recorded vote of 15 ayes to 18 noes (Rollcall No. 27).
- An amendment to the amendment in the nature of a substitute offered by Mr. Clyde of Georgia to insert a new section to provide for an audit by the Comptroller General of the funds appropriated pursuant to the title 1 year after enactment of the title and every 2 years thereafter and submit a report to the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs on the use of funds appropriated by the title. The amendment failed by a recorded vote of 15 ayes to 19 noes (Rollcall No. 28).

After consideration of the Committee Print, the Committee adopted a motion by Mr. Langevin of Rhode Island to transmit the recommendations of the Committee and all appropriate accompanying material including additional, supplemental, minority, or dissenting views to the Committee on the Budget, in order to comply with the reconciliation directive included in section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14, and consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974. The motion was agreed to by a recorded vote of 19 ayes to 14 noes (Rollcall No. 29).

In order, the rollcalls of the Committee are as follows:

COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

NEW BUDGET AUTHORITY AND C.B.O. COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goals and objectives of this Committee Print are to provide additional resources to the Cybersecurity and Infrastructure Security Agency to invest in the Agency's efforts to improve Federal network security, support State and local cybersecurity efforts, drive strategic collaboration with critical infrastructure owners and operators, and address cyber workforce challenges.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

JERROLD NADLER, New York
CHAIRMAN

JIM JORDAN, Ohio
RANKING MEMBER

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6216
(202) 225–3951
judiciary.house.gov

September 15, 2021

The Honorable John Yarmuth Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to Section 2002(f) of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by the Committee on the Judiciary, and the appropriate accompanying material including additional, supplemental, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. § 641).

Sincerely,

Jerrold Nadler

Jerrold Nadler
Chairman

Cc: The Honorable Jason Smith, Ranking Member, Committee on the Budget
The Honorable Jim Jordan, Ranking Member, Committee on the Judiciary

TABLE OF CONTENTS

EXPLANATION OF PROVISIONS 1
VOTES OF THE COMMITTEE 5
BUDGET EFFECTS OF THE PROVISION 61
CBO COST ESTIMATE 61
OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 61
CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 62
MINORITY VIEWS 62

EXPLANATION OF PROVISIONS

SECTION-BY-SECTION SUMMARY

SUBTITLE A –IMMIGRATION PROVISIONS

Sec. 60001. Lawful Permanent Residence for Certain Entrants.

Sec.60001(a) amends the Immigration and Nationality Act (INA) to add a new section 245B, providing an opportunity for certain individuals to apply for adjustment to Lawful Permanent Resident (LPR) status.

New Sec. 245B(a) provides the Secretary of Homeland Security the authority to adjust the status of an individual described in subsection (b), if such individual (1) submits an application for such adjustment; (2) pays a supplemental fee of $1,500; and (3) completes, to the satisfaction of the Secretary, security and law enforcement background checks and a medical examination.

New Sec. 245B(b) sets forth the populations eligible for adjustment to LPR status under section 245B.

New Sec. 245B(b)(1) states that an individual is eligible for adjustment to LPR status if such individual: (A) has been continuously physically present in the United States since January 1, 2021; (B) was 18 years of age or younger on the date of their entry and has continuously resided in the United States since such entry; and (C) demonstrates—

(i) a record of honorable service in the Uniformed Services of the United States;

(ii) attainment of or completion of at least 2 years, in good standing, of a program leading to—

(I) a degree from a United States institution of higher education; or

II) a postsecondary credential from an area career and technical education school in the United States; or

(iii) within the 3-year period preceding the submission of the application, a consistent record of earned income in the United States; or

(iv) enrollment in a program described in clause (ii) and confirmation of current employment, or participation in an internship, apprenticeship, or similar training program.

New Sec. 245B(b)(2) states that an individual is eligible for adjustment to LPR status if such individual:

(A) has been continuously physically present in the United States since January 1, 2021; and

(B) demonstrates a consistent record of earned income in the United States as an essential critical infrastructure worker, as defined by Department of Homeland Security guidance dated August 10, 2021. Such work must have taken place during the period that begins on January 31, 2020 and ends on August 24, 2021.

New Sec. 245B(b)(3) states that an individual is eligible for adjustment to LPR status if such individual:

(A) has been continuously physically present in the United States for at least 3 years; and

(B) is a national of a foreign state with a TPS designation on January 1, 2017 who had or was otherwise eligible for TPS on such date and has not engaged in conduct since that date that would render the individual ineligible for TPS.

New Sec. 245B(b)(4) states that an individual is eligible for adjustment to LPR status if such individual:

(A) has been continuously physically present in the United States for at least 3 years; and

(B) was eligible for deferred enforced departure (DED) as of January 20, 2021 and has not engaged in conduct since that date that would render the individual ineligible for DED.

New Sec. 245B(c)(1) states that an individual seeking adjustment of status under this section must demonstrate that he or she—

(A) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the INA;

(B) has not participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(C) other than State offenses involving immigration status, has not been convicted of a single felony or 3 or more misdemeanors, if each such misdemeanor conviction occurred on different dates and resulted in imprisonment for an aggregate of 90 days or more; and

(D) has registered with the military selective service, if required to register.

New Sec. 245B(c)(2) provides the Secretary of Homeland Security with discretion to waive the grounds of inadmissibility under paragraph (2), (6)(E), (6)(G), or (10)(D) of section 212(a) of the INA for humanitarian purposes, family unity, or if otherwise in the public interest.

New Sec. 245B(c)(3) requires the Secretary of Homeland Security to evaluate expunged convictions on a case-by-case basis, taking into consideration the nature and severity of the offense to determine whether the individual should be eligible for adjustment to LPR status.

New Sec. 245B(d)(1) requires the Secretary of Homeland Security to provide a reasonable opportunity to an individual who is in removal proceedings or subject to a final order of removal or an order of voluntary departure, to apply for relief under this section if such individual requests an opportunity to apply or appears to be prima facie eligible for such relief.

New Sec. 245B(d)(2) requires the Secretary of Homeland Security to stay the removal of any individual who:

(A) meets the age, continuous physical presence, and continuous residence requirements under new section 245B(b)(1);

(B) is not ineligible under section 245B(c); and

(C) is enrolled in an early childhood education program, an elementary school, a secondary school, or a program assisting students in obtaining a high school diploma or its equivalent.

New Sec. 245B(e) establishes the effective date of this section as the earlier of 180 days from the date of the enactment of this section or May 1, 2022.

Sec.60001(b) makes a conforming amendment to the table of contents of the INA.

Sec. 60002. Recapture of Unused Immigrant Visa Numbers.

Sec 60002 amends section 201(c)(1) of the INA to prevent future loss of unused employment-based visas. It also amends section 201 of the INA to recapture family-sponsored and employment-based visas that went unused during fiscal years 1992 through 2021. This section also allows certain individuals who were selected to apply for diversity visas in fiscal years 2017, 2018, 2019, 2020, or 2021, but who were refused a visa or denied admission to the United States because of specific executive orders, or who were unable to complete the visa or admissions process because of COVID-19-related restrictions, to reapply for such visas.

Sec. 60003. Adjustment of Status.

Sec. 60003 creates a new section 245(n) of the INA.

New Sec. 245(n)(1) allows an individual who is eligible for adjustment of status but who is waiting for a visa number to become available, to submit an application for adjustment to LPR status if such individual pays a supplemental fee of $1,500 (plus $250 for each derivative beneficiary).

New Sec. 245(n)(2) allows an individual to receive an exemption from the per-country and worldwide limitations on immigrant visas and have their status adjusted to LPR by the Secretary of Homeland Security if such individual—

(A) is the beneficiary of an approved family-based visa petition that bears a priority date that is more than 2 years before the date the alien requests a waiver of the numerical limitations and pays a supplemental fee of $2,500;

(B) is the beneficiary of an employment-based first, second, or third preference visa petition that bears a priority date that is more than 2 years before the date the alien requests a waiver of the numerical limitations and pays a supplemental fee of $5,000;

(C) is the beneficiary of an employment-based fifth preference petition that bears a priority date that is more than 2 years before the date the alien requests a waiver of the numerical limitations and pays a supplemental fee of $50,000.

New Sec. 245(n)(3) establishes the effective date of this subsection as the earlier of the date that is 180 days after the date of enactment of this subsection or May 1, 2022. This subsection sunsets on September 30, 2031.

Sec. 60004. Additional Supplemental Fees.

Sec. 60004 provides that the supplemental fees established in this subtitle shall be deposited in the general fund of the Treasury. This section also establishes additional supplemental fees as follows:

- $100 for family-sponsored immigrant visa petitions (not including immediate relatives);
- $800 for immigrant visa petitions under the employment-based first, second, and third preference categories; and
- $15,000 for employment-based fifth-preference immigrant visa petitions.

Sec. 60005. U.S. Citizenship and Immigration Services.

Sec. 60005 appropriates $2.8 billion to U.S. Citizenship and Immigration Services (USCIS) in fiscal year 2022, to remain available until expended, for the purpose of increasing the capacity of USCIS to efficiently adjudicate applications described in sections 60001 and 60003 and to reduce case processing backlogs.

SUBTITLE B – COMMUNITY VIOLENCE PREVENTION

Sec. 61001. Funding for Community-Based Violence Intervention Programs

Sec. 61001. Section 61001 provides funding for Community-Based Violence Intervention Initiatives.

Sec. 61001 (a). Section 61001(a) appropriates $2.5 billion to the Attorney General to remain available until September 30, 2031 for purposes outlined in (b).

Sec. 61001 (b). Use of Funding. Section 61001(b) provides that the Attorney General, through the Assistant Attorney General of the Office of Justice Programs, the Director of the Office of Community Oriented Policing Services, and the Director of the Office on Violence Against Women, shall use the appropriated amount of $2.5M in subsection (a).

Section 61001(b)(1) states that the funding in (a) shall be used to award competitive grants or contracts to various entities as determined by the Attorney General, to support evidence-informed intervention strategies to reduce community violence.

Section 61001(b)(2) states that the appropriated amount in (a) shall be used to support training, technical assistance, research, evaluation, and data collection on the strategies that are most effective at reducing community violence and ensuring public safety.

Section 61001(b)(3) states that the appropriated amount in (a) shall be used to support research, evaluation, and data collection on the differing impact of community violence on demographic categories

Sec. 61001 (c). Expenditure Requirement. Section 61001(c) provides that all expenditures made pursuant to subsection (a) shall be made on or before September 30, 2031.

VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

In compliance with clause 3(b) of House Rule XIII, the following rollcall votes occurred during the Committee's consideration of Committee Print 117-2:

1. An amendment to the amendment in the nature of a substitute offered by Mr. McClintock to prohibit the Attorney General, under Subtitle B section 61001, from discriminating against any entity that disregards or challenges vaccine mandates on employers when awarding competitive grants or contracts to units of local government, States, Indian Tribes, nonprofit community-based organizations, victim services providers, or other entities, to support evidence-informed intervention strategies to reduce community violence defeated by a rollcall vote of 19-24. The vote was as follows:

Roll Call No. 1 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 1 (ANS) to CP 117-2 offered by Rep. McClintock

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)			
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	24	

2. An amendment to the amendment in the nature of a substitute offered by Mr. Steube to delay the effective date of section 60003 to 180 days after the date on which the Secretary of Homeland Security submits a report to the Committee on the Judiciary of the House of Representatives on the effect of the fall of Afghanistan to the Taliban and southern border crossings on national security defeated by a rollcall vote of 19-23. The vote was as follows:

Roll Call No. 2 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 3 (ANS) to CP 117-2 offered by Rep. Steube

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)			
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	23	

3. A motion to table the appeal of the ruling of the Chair on the germaneness of an amendment made by Mr. Fitzgerald passed by a vote of 24-19. The vote was as follows:

Roll Call No. 3 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Subject: Motion to table the appeal of the ruling of the Chair on the germaneness of amendment #4

■ PASSED

☐ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)	✓		
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-22)	✓		
Karen Bass (CA-37)	✓		
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Veronica Escobar (TX-16)	✓		
Mondaire Jones (NY-17)	✓		
Deborah Ross (NC-02)	✓		
Cori Bush (MO-01)	✓		
	AYES	NOS	PRES.
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)		✓	
Matt Gaetz (FL-01)		✓	
Mike Johnson (LA-04)		✓	
Andy Biggs (AZ-05)		✓	
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)		✓	
Chip Roy (TX-21)		✓	
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)		✓	
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	24	19	

4. An amendment to the amendment in the nature of a substitute offered by Mr. Buck to prohibit individuals who have participated in criminal street gang activity from being granted lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, and to specify that the Secretary of Homeland Security may rely on information obtained from State or Federal gang databases in making this assessment defeated by a rollcall vote of 19-22. The vote was as follows:

Roll Call No. 4 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 5 (ANS) to CP 117-2 offered by Rep. Buck

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)			
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)			
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	22	

5. An amendment to the amendment in the nature of a substitute offered by Mr. Bentz to prohibit individuals who have a single conviction for a misdemeanor offense relating to a firearm or destructive device from being granted lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 19-24. The vote was as follows:

Roll Call No. 5 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 6 (ANS) to CP 117-2 offered by Rep. Bentz

☐ PASSED
■ FAILED

	AYES	NOS	PRES
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)			
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES
TOTAL	19	24	

6. An amendment to the amendment in the nature of a substitute offered by Mr. Fitzgerald to prohibit individuals who have been convicted of offenses that require them to register on a sex offender registry from being granted lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 18-25. The vote was as follows:

Roll Call No. 6 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives

117th Congress

Amendment # 7 (ANS) to CP 117-2 offered by Rep. Fitzgerald

☐ PASSED

■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)			
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	25	

7. An amendment to the amendment in the nature of a substitute offered by Mr. Johnson of Louisiana to prohibit individuals who have a single conviction for driving while intoxicated from being granted lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 19-24. The vote was as follows:

Roll Call No. 7 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 8 (ANS) to CP 117-2 offered by Rep. Johnson (LA)

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)			
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	24	

8. An amendment to the amendment in the nature of a substitute offered by Mr. Johnson of Louisiana to prohibit individuals who have two or more convictions for driving while intoxicated from being granted lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 19-23. The vote was as follows:

Roll Call No. 8 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 9 (ANS) to CP 117-2 offered by Rep. Johnson (LA)

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)			
Karen Bass (CA-37)			
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	23	

9. An amendment to the amendment in the nature of a substitute offered by Mr. Johnson of Louisiana to prohibit individuals who have 10 or more convictions for driving while intoxicated from being granted lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 19-24. The vote was as follows:

Roll Call No. 9 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 10 (ANS) to CP 117-2 offered by Rep. Johnson (LA)

☐ PASSED

■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)			
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	24	

10. An amendment to the amendment in the nature of a substitute offered by Mr. Biggs to strike the provision granting the Secretary of Homeland Security discretion to waive certain grounds of inadmissibility for purposes of eligibility under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 19-25. The vote was as follows:

Roll Call No. 10 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives

117th Congress

Amendment # 11 (ANS) to CP 117-2 offered by Rep. Biggs

☐ PASSED

■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	25	

11. An amendment to the amendment in the nature of a substitute offered by Mr. Biggs to change the bars to eligibility for adjustment of status under section 245B of the Immigration and Nationality Act, as added by section 60001, provide that the Secretary of Homeland Security's discretion to waive inadmissibility is nondelegable, and require the Secretary to post on a publicly available website a description of each waiver granted under section 60001 defeated by a rollcall vote of 19-21. The vote was as follows:

Roll Call No. 11 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 12 (ANS) to CP 117-2 offered by Rep. Biggs

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)			
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)			
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)			
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	21	

12. A motion to table the appeal of the ruling of the Chair on the germaneness of an amendment offered by Mr. Johnson of Louisiana passed by a vote of 24-18. The vote was as follows:

Roll Call No. 12 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Subject: Motion to table the appeal of the ruling of the Chair on the germaneness of amendment #13

■ PASSED

☐ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)	✓		
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-22)	✓		
Karen Bass (CA-37)	✓		
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Veronica Escobar (TX-16)	✓		
Mondaire Jones (NY-17)	✓		
Deborah Ross (NC-02)	✓		
Cori Bush (MO-01)	✓		
	AYES	NOS	PRES
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)			
Matt Gaetz (FL-01)		✓	
Mike Johnson (LA-04)		✓	
Andy Biggs (AZ-05)		✓	
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)		✓	
Chip Roy (TX-21)		✓	
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)		✓	
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	24	18	

13. An amendment to the amendment in the nature of a substitute offered by Mr. Bishop to prohibit the Attorney General from awarding a competitive grant or contract to a unit of local government, State, or Indian Tribe that decreases the budget for their law enforcement agency defeated by a rollcall vote of 18-25. The vote was as follows:

Roll Call No. 13 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 14 (ANS) to CP 117-2 offered by Rep. Bishop

☐ PASSED

■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)			
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	25	

14. An amendment to the amendment in the nature of a substitute offered by Mr. Massie to prohibit any amounts made available under Subtitle B of Title VI of Committee Print 117-2 from being used in any manner that results in the denial, without due process, of an individual's exercise of any right under the Second Amendment to the Constitution defeated by a rollcall vote of 18-25. The vote was as follows:

Roll Call No. 14 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 15 (ANS) to CP 117-2 offered by Rep. Massie

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)			
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	25	

15. An amendment to the amendment in the nature of a substitute offered by Mr. Johnson of Louisiana to prohibit the use of funds collected as supplemental fees in Subtitle A, to transport aliens to any destination other than a detention center unless the Secretary of Homeland Security notifies and receives the approval of the chief executives of the States and units of local government to which the alien will be paroled and in which there is a pass-through location defeated by a rollcall vote of 18-25. The vote was as follows:

Roll Call No. 15 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 17 (ANS) to CP 117-2 offered by Rep. Johnson (LA)

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)			
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	25	

16. An amendment to the amendment in the nature of a substitute offered by Mr. Tiffany to create new bars to eligibility for relief under section 245B and paragraph 245(n) of the Immigration and Nationality Act, as added by sections 60001 and 60003, respectively, and to change the prohibition on adjustment of status under section 60001 for 3 offenses for which the individual was convicted on different dates and imprisoned for at least 90 days to 2 such offenses defeated by a rollcall vote of 18-25. The vote was as follows:

Roll Call No. 16 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 18 (ANS) to CP 117-2 offered by Rep. Tiffany

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)			
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	25	

17. An amendment to the amendment in the nature of a substitute offered by Mr. Biggs to prohibit any regulation, policy, memoranda, or guidance issued to implement Subtitle A from taking effect unless a law is enacted which expressly approves of such regulation, policy, memoranda, or guidance defeated by a rollcall vote of 18-25. The vote was as follows:

Roll Call No. 17 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 19 (ANS) to CP 117-2 offered by Rep. Biggs

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)			
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	25	

18. An amendment to the amendment in the nature of a substitute offered by Mr. Bishop to prohibit the provisions of Title VI from taking effect until the Migrant Protection Protocols have been fully implemented, in accordance with the opinion of the court in the case, *The State of Texas, the State of Missouri v. Joseph R. Biden Jr. et al.* defeated by a rollcall vote of 18-23. The vote was as follows:

Roll Call No. 18 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 20 (ANS) to CP 117-2 offered by Rep. Bishop

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)			
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)			
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)			
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	23	

19. A motion to table the appeal of the ruling of the Chair on the germaneness of an amendment offered by Mr. Bishop passed by a vote of 25-18. The vote was as follows:

Roll Call No. 19 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Subject: Motion to table the appeal of the ruling of the Chair on the germaneness of amendment #21

■ PASSED

☐ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)	✓		
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-22)	✓		
Karen Bass (CA-37)	✓		
Hakeem Jeffries (NY-08)	✓		
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Veronica Escobar (TX-16)	✓		
Mondaire Jones (NY-17)	✓		
Deborah Ross (NC-02)	✓		
Cori Bush (MO-01)	✓		
	AYES	NOS	PRES
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)		✓	
Matt Gaetz (FL-01)		✓	
Mike Johnson (LA-04)		✓	
Andy Biggs (AZ-05)		✓	
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)		✓	
Chip Roy (TX-21)			
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)		✓	
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	25	18	

20. An amendment to the amendment in the nature of a substitute offered by Mr. Buck to give the Secretary of Homeland Security access to the Interstate Identification Index (III) System and to require such system to be utilized when conducting background checks on individuals who apply for adjustment to lawful permanent resident status under section 245B of the Immigration and Nationality Act, as added by section 60001, defeated by a rollcall vote of 17-23. The vote was as follows:

Roll Call No. 20 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 22 (ANS) to CP 117-2 offered by Rep. Buck

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)			
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)			
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)			
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	17	23	

21. An amendment to the amendment in the nature of a substitute offered by Mr. Fitzgerald to restrict the Attorney General from awarding a competitive grant or contract under section 61001 to any local government, State, or Indian Tribe that has in place a policy that prohibits prosecuting a crime of violence as defined in section 16 of title 18 U.S.C. defeated by a rollcall vote of 17-23. The vote was as follows:

Roll Call No. 21 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 23 (ANS) to CP 117-2 offered by Rep. Fitzgerald

☐ PASSED

■ FAILED

	AYES	NOS	PRES
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)			
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)			
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)			
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES
TOTAL	17	23	

22. An amendment to the amendment in the nature of a substitute offered by Mr. Tiffany to limit the Secretary of Homeland Security's parole authority under Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) defeated by a rollcall vote of 19-23. The vote was as follows:

Roll Call No. 22 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 24 (ANS) to CP 117-2 offered by Rep. Tiffany

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)			
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)			
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	23	

23. An amendment to the amendment in the nature of a substitute offered by Ms. Fischbach to add the Pain-Capable Unborn Child Protection Act to Title VI of Committee Print 117-2 defeated by a rollcall vote of 19-24. The vote was as follows:

Roll Call No. 23 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 25 (ANS) to CP 117-2 offered by Rep. Fischbach

☐ PASSED

■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	24	

24. An amendment to the amendment in the nature of a substitute offered by Mr. Biggs to prohibit States that limit cooperation with federal immigration enforcement authorities from receiving funds under Subtitle B defeated by a rollcall vote of 19-25. The vote was as follows:

Roll Call No. 24 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 26 (ANS) to CP 117-2 offered by Rep. Biggs

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	25	

25. An amendment to the amendment in the nature of a substitute offered by Mr. Johnson of Louisiana to strike section 201(g)(3) of the Immigration and Nationality Act, as added by section 60002, allowing certain individuals to reapply for diversity visas defeated by a rollcall vote of 18-24. The vote was as follows:

Roll Call No. 25 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Amendment # 27 (ANS) to CP 117-2 offered by Rep. Johnson (LA)

☐ PASSED
■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)			
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)			
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	18	24	

26. An amendment to the amendment in the nature of a substitute offered by Mr. Gohmert to strike Subtitle A defeated by a rollcall vote of 19-25. The vote was as follows:

Roll Call No. 26 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives

117th Congress

Amendment # 28 (ANS) to CP 117-2 offered by Rep. Gohmert

☐ PASSED

■ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)		✓	
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)	✓		
Steve Chabot (OH-01)	✓		
Louie Gohmert (TX-01)	✓		
Darrell Issa (CA-50)	✓		
Ken Buck (CO-04)	✓		
Matt Gaetz (FL-01)	✓		
Mike Johnson (LA-04)	✓		
Andy Biggs (AZ-05)	✓		
Tom McClintock (CA-04)	✓		
Greg Steube (FL-17)	✓		
Tom Tiffany (WI-07)	✓		
Thomas Massie (KY-04)	✓		
Chip Roy (TX-21)	✓		
Dan Bishop (NC-09)	✓		
Michelle Fischbach (MN-07)	✓		
Victoria Spartz (IN-05)	✓		
Scott Fitzgerald (WI-05)	✓		
Cliff Bentz (OR-02)	✓		
Burgess Owens (UT-04)	✓		
	AYES	NOS	PRES.
TOTAL	19	25	

27. A motion to move the previous question on the amendment in the nature of a substitute passed by a rollcall vote of 25-19. The vote was as follows:

Roll Call No. 27 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Subject: Motion to move the previous question on the amendment in the nature of a substitute

■ PASSED

☐ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)	✓		
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-22)	✓		
Karen Bass (CA-37)	✓		
Hakeem Jeffries (NY-08)	✓		
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Veronica Escobar (TX-16)	✓		
Mondaire Jones (NY-17)	✓		
Deborah Ross (NC-02)	✓		
Cori Bush (MO-01)	✓		
	AYES	NOS	PRES.
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)		✓	
Matt Gaetz (FL-01)		✓	
Mike Johnson (LA-04)		✓	
Andy Biggs (AZ-05)		✓	
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)		✓	
Chip Roy (TX-21)		✓	
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)		✓	
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	25	19	

28. A motion to transmit Committee Print 117-2, as amended, to the Committee on the Budget passed by a rollcall vote of 25-19. The vote was as follows:

Roll Call No. 28 **Date: September 13, 2021**

COMMITTEE ON THE JUDICIARY

House of Representatives
117th Congress

Final Passage on: Committee Print 117-2

■ PASSED

☐ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)	✓		
Zoe Lofgren (CA-19)	✓		
Sheila Jackson Lee (TX-18)	✓		
Steve Cohen (TN-09)	✓		
Hank Johnson (GA-04)	✓		
Ted Deutch (FL-22)	✓		
Karen Bass (CA-37)	✓		
Hakeem Jeffries (NY-08)	✓		
David Cicilline (RI-01)	✓		
Eric Swalwell (CA-15)	✓		
Ted Lieu (CA-33)	✓		
Jamie Raskin (MD-08)	✓		
Pramila Jayapal (WA-07)	✓		
Val Demings (FL-10)	✓		
Lou Correa (CA-46)	✓		
Mary Gay Scanlon (PA-05)	✓		
Sylvia Garcia (TX-29)	✓		
Joseph Neguse (CO-02)	✓		
Lucy McBath (GA-06)	✓		
Greg Stanton (AZ-09)	✓		
Madeleine Dean (PA-04)	✓		
Veronica Escobar (TX-16)	✓		
Mondaire Jones (NY-17)	✓		
Deborah Ross (NC-02)	✓		
Cori Bush (MO-01)	✓		
	AYES	NOS	PRES.
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)		✓	
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)		✓	
Matt Gaetz (FL-01)		✓	
Mike Johnson (LA-04)		✓	
Andy Biggs (AZ-05)		✓	
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)		✓	
Chip Roy (TX-21)		✓	
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)		✓	
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	25	19	

BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement of whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goals and objectives of this Committee Print are to make investments in 1) individuals who are already contributing to our society and economy, by providing them a path to legal residence and improving the green card process, and 2) communities, by providing funding to the Department of Justice for community violence intervention activities.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clauses 4 and 18, which give Congress the power to establish a uniform rule of naturalization and to make all necessary and proper laws, respectively.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

REPUBLICAN VIEWS

Legislative proposals to comply with the reconciliation directive included in section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14)

September 15, 2021

The budget reconciliation process is properly meant to allow Congress to confront the fiscal challenges facing our country. In their reconciliation proposal pursuant to S. Con. Res. 14, however, Committee Democrats outright ignore our mounting financial and economic problems. Instead, Democrats are abusing the reconciliation process to spend $3.5 trillion and to raise taxes for American citizens—all in an effort to pass radical far-left policies that include granting amnesty to at least eight million illegal aliens.

Our country faces serious challenges at home and abroad. As a result of President Biden's radical agenda, American families are spending more on household goods,[1] violent crime is surging in major cities,[2] and our fundamental freedoms are under attack.[3] An unprecedented number of illegal aliens are streaming across our unsecured southern border, incentivized and encouraged by the Biden Administration's radical policies.[4] President Biden directed an incompetent and chaotic withdrawal of U.S. troops from Afghanistan, abandoning Americans behind enemy lines and leaving the country in the hands of terrorists and jihadists.[5] Now eight months into his Administration, President Biden has been harsher on his fellow American citizens than he has been on radical Islamic terrorists.

The Democrats' reconciliation proposal reflects the out-of-touch progressive priorities of Washington Democrats. Rather than secure our southern border, Chairman Nadler and Committee Democrats prioritize illegal immigrants over American citizens. Rather than protect our cities and neighborhoods, Committee Democrats operationalize their dangerous "defund the police" rhetoric with soft-on-crime community violence intervention programs. These policies do nothing to address our country's pressing challenges including the fact that many law enforcement officers are leaving their jobs in cities hit hardest by increases in violent crime.[6]

The process by which Committee Democrats pursued this reconciliation package is also seriously flawed. Chairman Nadler and Committee Democrats have adopted a pretext that the legislation's amnesty provisions are budgetary in nature. But just six months ago, when the

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[1] *See* U.S. BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX SUMMARY (Aug. 11, 2021).

[2] *See, e.g.*, Emma Tucker & Peter Nickeas, *The US saw significant crime rise across major cities in 2020. And it's not letting up,* CNN (April 3,2021). MAJOR CITY CHIEFS ASSOCIATION (MCCA), VIOLENT CRIME NATIONAL TOTALS, MIDYEAR COMPARISON, JANUARY 1 TO JUNE 30, 2021 AND 2020 2-4 (2021).

[3] *See, e.g.*, Michael D. Shear & Noam Scheiber, *Biden tests the limits of presidential power in pushing vaccinations*, N.Y. TIMES (Sept. 11, 2021); Chris Talgo, *Biden White House admits to using Big Tech to silence Americans*, THE DAILY SIGNAL (July 21, 2021).

[4] Nick Miroff, *July was busiest month for illegal border crossings in 21 years, CBP data shows*, WASH. POST (Aug. 12, 2021).

[5] *See, e.g.*, Allie Bice, *'Around' 100 Americans left in Afghanistan, Klain says*, *POLITICO* (Sept. 5, 2021).

[6] *See, e.g.*, Jemima McEvoy, *Historic Police Exodus In Cities Most Impacted By Racial Justice Unrest, New Data Shows,* FORBES (APRIL 29, 2021).

House debated similar amnesty legislation, there was no mention of these budgetary effects and Chairman Nadler emphasized the humanitarian and moral importance of the policies.

In addition, Chairman Nadler artificially limited Committee consideration of the proposals and prevented a thorough debate on the measure. Republicans put forward dozens of thoughtful amendments during the Committee's consideration of the Democrats' reconciliation proposals. Republicans sought to amend the legislation to ensure that our police departments are properly funded; to preserve Americans' Second Amendment rights; to prevent criminal aliens with DUI, sex offense, and firearms convictions from getting amnesty, and to prevent criminal gang members from getting amnesty. However, in the middle of the night, with many Republican amendments still left to consider, Chairman Nadler and Committee Democrats cut off debate and moved to transmit the Democrats' reconciliation submission.

Americans should not be fooled by the Democrats' radical reconciliation proposal. This legislation is not about fixing the failing Biden economy or reining in wasteful liberal spending priorities. This legislation is about advancing far-left immigration policy to give amnesty to at least eight million illegal aliens. This is a clear abuse of the reconciliation process to bring about a fundamental change to American society without serious legislative deliberation or bipartisanship.

I. Committee Democrats abused the reconciliation process to pursue a far-left policy agenda.

The Congressional Budget and Impoundment Control Act of 1974 created the budget reconciliation process.[7] As described by the Congressional Research Service, reconciliation is intended to "enhance Congress's ability to bring existing spending, revenue, and debt limit laws into compliance with current fiscal priorities and goals."[8] Reconciliation is also subject to certain limitations in the Senate—known as the "Byrd Rule" for former Democrat Senator Robert C. Byrd—that prevent Congress from including non-budgetary material in a reconciliations package.[9] While the application of the Byrd Rule is complex and subject to the contours of Senate precedent, the rule generally applies if, among other things, a provision does not have a budgetary impact or has only an incidental budgetary impact.[10]

There is no question that the provisions in the Democrats' reconciliation package have—at most—only an incidental budgetary impact. The amnesty provisions, in particular, are long-held Democrat policy priorities. In fact, Democrats in the House passed very similar amnesty legislation earlier this year, in March 2021.[11] Democrats also passed that same amnesty legislation in the 116th Congress.[12]

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[7] Pub. L. 93-344, 88 Stat. 297 (1974).
[8] MEGAN S. LYNCH, CONG. RES. SERV., R44058, THE BUDGET RECONCILIATION PROCESS: STAGES OF CONSIDERATION (January 2021).
[9] *See* BILL HENIFF JR., CONG. RES. SERV., RL30862, THE BUDGET RECONCILIATION PROCESS: THE SENATE'S "BYRD RULE" 1 (May 2021).
[10] *See Id.* at 5; *see also* 2 U.S.C. § 644(b)(1)(A).
[11] H.R. 6, 117th Cong. (2021).
[12] H.R. 6, 116th Cong. (2019).

Democrats' justification for passing amnesty legislation has dramatically shifted from earlier debates to the Committee's current consideration—likely in an attempt to pass muster under the Byrd Rule. During floor debate on the amnesty legislation in March 2021, there was no mention during debate about the "economic gains" or budgetary effects of the amnesty.[13] Instead, Chairman Nadler explained the legislation's policy purpose as a humanitarian effort to "finally deliver[] on our promise to America's Dreamers and others who are equally deserving of our protection."[14] Now, just six months later Chairman Nadler has embraced a newfound emphasis on the purported "economic gains" of amnesty and "investments in human infrastructure," as he described in his opening statement at the Committee's business meeting.[15] It is plainly obvious that the Chairman's newfound emphasis on budgetary and economic effects is solely an effort to comply with the Byrd Rule.

It is clear that Committee Democrats' new embrace of the budgetary effects of amnesty are merely a pretext to shoehorn the package's immigration policy provisions into the reconciliation process. But even accepting at face value Chairman Nadler's newfound reasoning, any budgetary effects of amnesty are—at best—second- or third-order effects. Unlike tax legislation or legislation to reduce mandatory spending, the amnesty provisions will have no first-order effect on the country's fiscal health.

A. Committee Democrats will grant amnesty to at least eight million illegal aliens.

The exact number of illegal aliens in the U.S. is unknown. The Department of Homeland Security's (DHS) most recent report about the population size of illegal aliens estimates that there were 11.4 million illegal aliens living in the U.S. as of January 2018.[16] That number, of course, has likely risen in the time since then.

The Democrats' reconciliation legislation includes a path to citizenship for the following categories of foreign nationals:

- An alien who has been continuously present in the U.S. since January 1, 2021; was 18 years old or younger when the alien entered the U.S. (legally or illegally) and has continuously resided in the U.S. since entry; and (i) served honorably in the U.S. military or attained a degree from, or completed at least two years in, a program that can lead to a college degree or a degree form a technical institute; (ii) demonstrates a three-year period of "earned income" in the U.S.; or (iii) enrolls in college or a technical school and is employed or participating in an internship or apprenticeship, or training program.

- An alien who has been continuously physically present in the U.S. since January 1, 2021 (legally or illegally) and demonstrates a "consistent record of earned income" in the U.S.

[13] 167 Cong. Rec. H1503, H1507-27 (Mar. 18, 2021).
[14] *Id.* at H1513.
[15] Press Release, H. Comm. on the Judiciary, Chairman Nadler Opening Statement for Markup of Build Back Better Act (Sept. 13, 2021).
[16] U.S. Department of Homeland Security, Office of Immigration Statistics, *Population Estimates: Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2015 – January 2018*, (Jan. 2021), https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Pop_Estimate/UnauthImmigrant/unauthorized_immigrant_population_estimates_2015_-_2018.pdf.

in an occupation determined by the Biden Administration to be "Critical Infrastructure" work during the COVID-19 response for the time period between January 31, 2020, and August 24, 2021.

- An alien who has been continuously physically present in the U.S. for not less than three years, is a national of a country that was designated for Temporary Protected Status as of January 1, 2017, and is not ineligible for TPS based on the TPS inadmissibility grounds (whether or not the alien ever applied for or was granted TPS).

- An alien who has been continuously physically present in the U.S. for not less than three years, was eligible for Deferred Enforced Departure as of January 20, 2021, and remains eligible for DED.[17]

These provisions reflect the amnesty categories covered by other legislation introduced this Congress. The Migration Policy Institute estimated that "[t]he American Dream and Promise Act of 2021 introduced in the U.S. House of Representatives on March 3, 2021 could make a maximum of 4,438,000 DREAMers, individuals eligible for Temporary Protected Status (TPS) or Deferred Enforced Departure (DED), and legal DREAMers eligible for permanent residence."[18] Senator Alex Padilla (D-CA), the sponsor of the Citizenship for Essential Workers Act, stated that the bill would create a pathway to citizenship for "over 5 million essential workers" who worked during the COVID-19 pandemic.[19]

Of course, the number of illegal aliens ultimately provided amnesty by any given piece of legislation depends on the eligibility requirements, the documents accepted by DHS to prove identity and compliance with the eligibility requirements, and the propensity (or lack thereof) of DHS to detect fraud in the application process.

Previous amnesties have resulted in an alarming rate of fraudulent applications. For instance, one of the amnesty programs in the Immigration Reform and Control Act of 1986 (IRCA) provided a path to citizenship for illegal alien farm workers who had worked in agriculture at least 90 days prior to the enactment of the bill.[20] That "special agricultural worker" (SAW) program ultimately amnestied 1.1 million illegal aliens.[21]

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[17] Amendment in the Nature of a Substitute to the Committee Print Offered by Mr. Nadler of New York, to Legislative Proposals to Comply With the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14).

[18] *American Dream and Promise Act of 2021: Who is Potentially Eligible*, MIGRATION POLICY INSTITUTE (Mar. 2021), https://www.migrationpolicy.org/content/american-dream-and-promise-act-2021-eligibility.

[19] Press Release, *Padilla Announces Pathway to Citizenship for Essential Workers in First Bill as Senator*, U.S. Senator Alex Padilla, (Fe. 26, 2021), https://www.padilla.senate.gov/press-releases/padilla-announces-pathway-to-citizenship-for-essential-workers-in-first-bill-as-senator/.

[20] P.L. 99-603.

[21] Muzaffar Chishti, Doris Meissner, and Claire Bergeron, *At Its 25th Anniversary, IRCA's Legacy Lives On*, MIGRATION POLICY INSTITUTE (Nov. 16, 2011), https://www.migrationpolicy.org/article/its-25th-anniversary-ircas-legacy-lives.

According to University of California, Davis Professor Philip Martin, up to two-thirds of the applications for SAW status were fraudulent,[22] as aliens submitted fraudulent affidavits and documents from employers to substantiate their claim that they had engaged in prior agricultural employment, as required.[23] Most fraudulent applications were approved, including a terrorist. Mahmud Abouhalima, who participated in the 1993 World Trade Center attack, received SAW status, despite the fact that he was a New York City taxi driver—not a farm worker—when he applied for SAW status.[24]

Thus, it is important for amnesty legislation to specify the documents acceptable by DHS to prove an alien applicant's identity and compliance with the eligibility requirements. The Democrats have no such requirements in their legislation.[25]

The Democrats claim their bill precludes criminal and other bad-actor aliens from eligibility for amnesty. However, the bill's own provisions ensure that criminal aliens and other bad actors are eligible for the amnesty. For instance, the bill authorizes the DHS Secretary to waive any criminal ground of inadmissibility, alien smuggling ground, student visa violation ground, or unlawful voting ground for "humanitarian purposes," "family unity," or if it is in the public interest to do so.[26] In addition, an alien's expunged conviction does not automatically count as a conviction for immigration purposes (as current policy requires) and the DHS Secretary must evaluate whether, despite the expunged conviction, the alien is eligible for amnesty.[27]

Furthermore, Democrats falsely assert that an applicant for amnesty "is disqualified if she or he has . . . more than two misdemeanors of any kind." [28] However, in reality an alien could have many misdemeanor convictions and still be eligible for the amnesty, as long as those convictions occurred on the same date.[29]

B. Committee Democrats will drastically increase the number of U.S. green card holders

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[22] Philip Martin, *Harvest of Confusion: Immigration Reform and California Agriculture*, 24 Inter. Migration Rev. 69, 83 (1990).
[23] Report of the Commission on Agricultural Workers, Commission on Agricultural Workers (Nov. 1992).
[24] National Commission on Terrorist Attacks Upon the United States, *9/11 and Terrorist Travel: A Staff Report of the National Commission on Terrorist Attacks Upon the United States*, (2004) (Mahmud Abouhalima, a participant in the 1993 attack on the World Trade Center, received SAW status as an agricultural worker.).
[25] Amendment in the Nature of a Substitute to the Committee Print Offered by Mr. Nadler of New York, to Legislative Proposals to Comply With the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14).
[26] *Id.*
[27] *Id.*
[28] Statement of Chairman Jerold Nadler, Markup of Legislative Proposals to Comply With the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14), H. Comm. on the Judiciary, 117th Congress (Sept. 13, 2021).
[29] Amendment in the Nature of a Substitute to the Committee Print Offered by Mr. Nadler of New York, to Legislative Proposals to Comply With the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14).

The Democrats reconciliation legislation also increases the number of green cards currently available to foreign nationals each year. It does so through a process called "recapture" and through an adjustment of status-related procedure.

Section 60002 of the bill allows the issuance of additional green cards, beyond the current statutorily limited annual number, by "recapturing" green cards deemed as having been available but "unused" during certain previous fiscal years. It does so in several ways.

First, currently, the ceiling on the number of family-based green cards that may be issued in a fiscal year (FY) must be at least 226,000. The Democrats' bill would set the annual family-based green card limit going forward at no less than 226,000 *plus* the number of employment-based green cards that were "unused" in the previous FY.[30]

Second, beginning in FY 22, the bill generally adds to the annual family-based green card limit a number of green cards equal to the number of family-based green cards authorized between FYs 1992 and 2021 minus the number of family-based green cards issued during those years.[31]

Third, beginning in FY 22, the bill generally adds to the annual employment-based green card limit a number of green cards equal to the number of employment-based green cards authorized between FYs 1992 and 2021 minus the number of green cards issued during those years.[32]

The Center for Immigration Studies has estimated that the above provisions would combine to make available "*at least* 793,455 green cards" noting that the FY 2020 data which will increase that number, is unavailable publicly at this time.[33]

Finally, with regard to recapture, the bill allows the DHS Secretary, notwithstanding the annual limit or the fact that there may not have been any unused Diversity (i.e. visa lottery) green cards in a given year, to issue additional green cards. Specifically, the bill requires the Secretary to make a green card available to any alien selected through the visa lottery process in any of FYs 2017-2021 who was denied a Diversity green card or not able to come to the U.S. based on the travel bans issued during the Trump Administration or due to certain processing or travel limitations caused by the COVID-19 pandemic.[34] The number of aliens to whom this provision could apply is unknown, but no doubt it is significant.

Section 60003 of the bill exempts certain aliens from the annual green card statutory limits. Specifically, it authorizes DHS to accept an application for adjustment of status for aliens who have an approved green card petition and who pay $1,500, regardless of whether or not a

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[30] *Id.* at Sec. 60002.
[31] *Id.*
[32] *Id.*
[33] Robert Law, *Legal Immigration Will Explode Under 'Budget Reconciliation' Bill*, CENTER FOR IMMIGRATION STUDIES (Sept. 14, 2021).
[34] Amendment in the Nature of a Substitute to the Committee Print Offered by Mr. Nadler of New York, to Legislative Proposals to Comply With the Reconciliation Directive Included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022 (S. Con. Res. 14) at Sec. 60003.

green card is available for the alien at the time the application is filed.[35] Because DHS regulations allow aliens with pending adjustment applications to receive employment authorization, the practical effect is that any alien with an approved immigrant petition will become eligible for unrestricted employment authorization potentially many years before they actually are able to receive a green card.

Section 60003 also requires the DHS Secretary to exempt an alien from the annual green card limits and authorizes DHS to adjust the status of the alien and the alien's spouse and children to lawful permanent resident status if the alien submits an application for such exemption and the alien pays a fee ranging from $2,500 to $50,000 and otherwise meets certain requirements. The exact number of aliens to whom this provision will apply is unknown but surely will be significant.

C. Committee Democrats prioritize criminals over law-abiding Americans.

The Democrats' reconciliation package appropriates $2.5 billion over the next decade for "community-based violence intervention programs" which will fund grants administered by the Office of Justice Programs (OJP), the Office of Community Oriented Policing Services (COPS), and the Office of Violence Against Women (OVW). The bill, however, includes no definition of "community-based violence intervention programs" and grants could be used to support evidence-informed intervention strategies to reduce community violence. Eligible recipients include units of local government, States, Indian Tribes, nonprofit community-based organizations, victim services providers, or other entities as determined by the Attorney General. In other words, grants can flow to any number of organizations to provide these ill-defined services.

The Committee has yet to hear from experts indicating whether these intervention programs are effective. Spending $2.5 billion over the next decade on these ill-defined programs may not be the wisest use of limited resources to stem the tide of violence cascading across our communities. The Democrats did nothing to put a halt to the dangerous practice of defunding the police in which many Democrat-run cities have recklessly engaged. In fact, when Rep. Dan Bishop offered an amendment to prohibit the Attorney General from awarding grants to jurisdictions that defund their police, every Democrat who voted on the amendment rejected the proposal.

Additionally, Committee Republicans are concerned that these ill-defined grant programs could be used to fund groups that oppose the Second Amendment or compensate jurisdictions to pass laws that deny Americans their due process rights when taking away their Second Amendment right. For instance, last year, this Committee considered a bill that would deprive law-abiding Americans of their due process rights while taking away their Second Amendment rights.[36] Rep. Thomas Massie offered an amendment to ensure that law-abiding Americans would not lose their Constitutional rights without due process. This amendment was unanimously rejected by Committee Democrats.

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[35] *Id.*

[36] H.R.1236 116th Cong. (2019)

II. Committee Democrats artificially limited debate and restricted Republican opportunities to amend the legislation.

Despite Democrat attempts to suggest that they acted to safeguard the ability of Republicans to participate fully in the markup of the Democrats' reconciliation package, the Committee's markup was charade designed to prevent full consideration of both the Democrats' proposals and Republican amendments. For starters, the Democrats failed to schedule the markup until what they represented was the last possible day for Committee action, despite at least a half dozen other House committees beginning consideration of the reconciliation package in the prior weeks.

The Democrats were also under apparent directions to only participate sparingly in debate, with Chairman Nadler going so far as to admonish one Democrat Member who sought to speak that he should do so "briefly." Representative Cohen then promised to "not take all five [minutes]" to which he was entitled. Unlike his often-robust participation in committee markups, Rep. Steve Cohen did not speak for the remainder of the markup, other than to vote down Republican amendments and vote on the Democrats' partisan reconciliation proposal. In fact, aside from the Chair of the full committee and two subcommittee Chairs, the rest of the Democrat Members did not participate in the markup other than to vote or, the case of Rep. Veronica Escobar, to shut down debate by moving the previous question.

The Democrats then argued that the markup was required to end before midnight in order to protect Republicans' right to file minority views to the legislative report, going so far as to cut off debate in the middle of an amendment despite knowing that several additional Republicans still sought recognition to not only speak on that amendment but also to offer additional amendments. This contrived justification for forcing the markup to end is inconsistent with current practice and House precedent. Committees have routinely delayed reporting reconciliation packages in order to provide additional time for consideration. In fact, the Committee on Energy and Commerce, the Committee on Transportation and Infrastructure, and the Committee on Ways and Means continued their markups of their legislative proposals under S. Con. Res. 14's instructions as late as Wednesday, September 15—well past this Committee Democrats' supposed deadline.[37] As of 3:00 P.M. on September 15, both the Energy and Commerce and the Ways and Means Committees were still debating their legislative proposals.

A. Committee Democrats uniformly opposed amendments offered by Republicans.

The following is a list of common-sense amendments offered by Republicans during the Committee's consideration of the Democrats' reconciliation legislation. The Democrats opposed each of these proposals.

- Rep. Tom McClintock (CA) offered an amendment to ban the Justice Department from discriminating against potential grant recipients and partners that reject the Biden

[37] *See* MEGAN S. LYNCH, CONG. RES. SERV., R41151, BUDGET RECONCILIATION PROCESS: TIMING OF COMMITTEE RESPONSES TO RECONCILIATION DIRECTIVES (2016); *see also* Alice Miranda Ollstein et al., *Centrists throw wrench in House Democrats' drug pricing plans*, POLITICO (Sept. 14, 2021); *see also* Brian Faler, *40-plus tax increases: A rundown of House Dems' $2 trillion tax plan*, POLITICO (Sept. 14, 2021).

Administration's unlawful and unconstitutional vaccine mandate. The Democrats rejected the amendment.

- Rep. Darrell Issa (CA) offered an amendment to preclude aliens who are not fully vaccinated against the SARS-CoV-2 virus from being eligible for amnesty under the bill. The Democrats rejected the amendment.

- Rep. Greg Steube (FL) offered an amendment to require the DHS Secretary to report to the House of Representative on the effect that the Taliban overthrowing the Afghan government and the high rate of illegal crossings on the southern U.S. border will have on U.S. national security and the potential for an alien with ties to the Taliban or an associated terrorist organization to obtain a visa pursuant to the legislation. The Democrats rejected the amendment.

- Rep. Scott Fitzgerald (WI) offered an amendment to preclude funds appropriated under the bill from being used until the Secretary of State certifies that each U.S. citizen in Afghanistan on the date of enactment has been provided the opportunity to return to the United States on an aircraft at no cost to the individual. The Democrats rejected the amendment.

- Rep. Ken Buck (CO) offered an amendment to 1) preclude aliens who are members of a criminal street gang and knowingly participated in the activities of a criminal street gang from being eligible for the amnesty, and 2) allow the DHS Secretary to consider any and all credible evidence of membership or participation in a criminal street gang when determining whether an alien is eligible for the amnesty under the bill. The Democrats rejected the amendment.

- Rep. Cliff Bentz (OR) offered an amendment to preclude aliens with a misdemeanor conviction relating to a firearm or destructive device from being eligible for amnesty under the bill. The Democrats rejected the amendment.

- Rep. Scott Fitzgerald (WI) offered an amendment to preclude aliens with a conviction for any offense (other than public urination or defecation) that required the alien to register as a sex offender from being eligible for amnesty under the bill. The Democrats rejected the amendment.

- Rep. Mike Johnson (LA) offered an amendment to preclude illegal aliens with a single conviction for driving while intoxicated from being eligible for amnesty under the bill. The Democrats rejected the amendment.

- Rep. Mike Johnson (LA) offered an amendment to preclude illegal aliens with two or more convictions for driving while intoxicated from being eligible for amnesty under the bill. The Democrats rejected the amendment.

- Rep. Mike Johnson (LA) offered an amendment to preclude illegal aliens with ten or more convictions for driving while intoxicated from being eligible for amnesty under the bill. The Democrats rejected the amendment.

- Rep. Andy Biggs (AZ) offered an amendment to strike from the bill, the authority of the DHS Secretary to waive grounds of alien inadmissibility for purposes of amnesty eligibility. The Democrats rejected the amendment.

- Rep. Andy Biggs (AZ) offered an amendment to make the DHS Secretary's authority to waive grounds of alien inadmissibility nondelegable and to require the DHS Secretary to pose on a publicly available website each waiver granted including the ground of inadmissibility waived and the reason for each waiver. The Democrats rejected the amendment.

- Rep. Mike Johnson (LA) offered an amendment to prohibit the use of federal taxpayer dollars from funding abortions or funding health benefit plans that cover abortion services. The Democrats rejected the amendment.

- Rep. Dan Bishop (NC) offered an amendment to prohibit the Attorney General from awarding grants to jurisdictions that defund their police. The Democrats rejected the amendment.

- Rep. Thomas Massie (KY) offered an amendment to ensure that law-abiding Americans would not lose their Second Amendment rights without due process. The Democrats rejected the amendment.

- Rep. Mike Johnson (LA) offered an amendment to require DHS to provide the chief executive of a state or locality to which DHS plans to transports illegal aliens with 36-hours notice in advance of such transportation and to get approval from the chief executives prior to such transportation. The amendment also requires that the DHS Secretary notify the relevant members of Congress of the transport. The Democrats rejected the amendment.

- Rep. Tom Tiffany (WI) offered an amendment to prohibit aliens convicted of a crime involving moral turpitude from being eligible for the amnesty or other green cards under the bill. The amendment also reduces from three to two the number of allowable convictions for purposes of eligibility for amnesty. The Democrats rejected the amendment.

- Rep. Andy Biggs (AZ) offered an amendment to require all regulations, policy, memoranda, or guidance issued by the DHS Secretary related to the immigration provisions of the bill, to be enacted into law prior to such regulations, policy, memoranda or guidance taking effect. The Democrats rejected the amendment.

- Rep. Dan Bishop (NC) offered an amendment to preclude implementation of the provisions of the bill until the Migrant Protection Protocols are fully implemented, in

accordance with the opinion of the court in the case of *The State of Texas, the State of Missouri v. Joseph R. Biden, Jr. et. al.* The Democrats rejected the amendment.

- Rep. Dan Bishop (NC) offered an amendment to preclude implementation of the provisions of the bill until $2.2 billion is appropriated for the construction of a physical barrier along the international land border between the United States and Mexico that will prevent illegal entry and will assist in gaining operational control of the border (as defined in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; 12 Public Law 109–367)). The Democrats rejected the amendment.

- Rep. Ken Buck (CO) offered an amendment to expand and enhance the ability of the DHS Secretary to conduct background checks on aliens seeking amnesty. The Democrats rejected the amendment.

- Rep. Scott Fitzgerald (WI) offered an amendment to prohibit the Attorney General from awarding grants to jurisdictions that refuse to prosecute individuals for crimes of violence. The Democrats rejected the amendment.

- Rep. Tom Tiffany (WI) offered an amendment to allow the grant of parole by the DHS Secretary only in the following circumstances: 1) in the case of a medical emergency for which the alien cannot seek treatment in the foreign country, 2) in the case of an alien donating an organ to a family member in the U.S. 3) in the case of an alien assisting the U.S. government in criminal or national security matters, or 4) if the alien's life will be threatened based on the religion or the perceived religion of the alien. The Democrats rejected the amendment.

- Rep. Michelle Fischbach (MN) offered an amendment to prohibit abortions of unborn children capable of feeling pain. The Democrats rejected the amendment.

- Rep. Andy Biggs (AZ) offered an amendment to prohibit the use of funds under Subtitle B of the bill from going to sanctuary jurisdictions that hinder the federal government from enforcing immigration laws. The Democrats rejected the amendment.

- Rep. Mike Johnson (LA) offered an amendment to strike the diversity visa section of the bill and insert language forbidding the use of federal funds to administer the diversity visa program. The Democrats rejected the amendment.

- Rep. Gohmert (TX) offered an amendment to strike the immigration-related provisions of the bill. The Democrats rejected the amendment.

B. Committee Democrats prevented a full consideration of all Republican amendments.

In addition to uniformly opposing all Republican amendments, Chairman Nadler cut off Committee debate without allowing the Committee to consider all Republican amendments. At

the time when the Chairman cut off debate, Republicans had many more amendments still to offer, including the following:

- An amendment to strike Section 60003 of the bill.
- An amendment to strike Section 60002 of the bill.
- An amendment to require aliens to prove that the fees paid pursuant to the bill were not derived from activities of the Chinese Communist Party, or another communist or totalitarian party.
- An amendment to preclude the DHS Secretary from accepting affidavits as documentation to prove compliance with the amnesty eligibility requirements under the bill.
- An amendment to prevent an alien's earned income from counting toward fulfillment of the amnesty requirements if that income was accumulated using the stolen identity of a U.S. citizen, lawful permanent resident, or nonimmigrant visa holder.
- An amendment to prevent an alien's earned income from counting toward fulfillment of the amnesty requirements if no income taxes were paid on that income.
- An amendment to make the continuously physically present date for amnesty eligibility June 15, 2007, the same as the Deferred Action for Childhood Arrivals (DACA) standard.
- An amendment to preclude appeal of a denial of an amnesty application or the denial of a waiver of the inadmissibility grounds.
- An amendment to make the expunged conviction provision applicable only to expungements as of the date of introduction.
- An amendment to apply the amnesty only to DACA recipients.
- An amendment to prohibit amnesty for an alien who failed to appear at an immigration court hearing.
- An amendment to prohibit amnesty to an alien who failed to comply with a final order of removal or order of voluntary departure.
- An amendment to prohibit amnesty for an alien who made a false claim to U.S. citizenship.
- An amendment to preclude the DHS Secretary from being able to waive for the purposes of amnesty, the unlawful voting ground of inadmissibility.

- An amendment to permit the information derived from an application for amnesty, to be used for law enforcement and immigration enforcement purposes.

- An amendment to prohibit funding under the bill from being used to assist aliens with their amnesty applications.

- An amendment to prevent aliens who improperly received public benefits from receiving immigration benefits under the bill.

- An amendment to take the funds appropriated under the bill for U.S. Citizenship and Immigration Services (USCIS) and divide them evenly between Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection.

- An amendment to preclude implementation of the amnesty provisions until the DHS Secretary certifies that aliens currently in the United States under final orders of removal have been removed from the country or have otherwise departed the country.

- An amendment to preclude illegal aliens from eligibility for the child tax credit.

- An amendment to provide the funds appropriated for USCIS under the bill to be allocated to ICE for the purpose of civil immigration enforcement, detention, and removal of aliens.

- An amendment to preclude the DHS Secretary from being able to waive the human smuggling ground of inadmissibility.

- An amendment to preclude the DHS Secretary from being able to waive the ground of inadmissibility for student visa abusers.

- An amendment to preclude the stay of removal for an alien with a final order of removal.

- An amendment to require that no alien who is or was a member of the Chinese Communist Party is eligible for adjustment of status under the bill.

- An amendment to ensure that in no case shall a Diversity visa be issued pursuant to Section 60002 if the green card would cause the number of green cards issued in FY 2017, 2018, 2019, 2020, or 2021, whichever year the alien was selected pursuant to the visa lottery, to exceed 55,000.

- An amendment to clarify that the grants in Subpart B would not be used to promote gun control.

- An amendment to ban the Justice Department from discriminating against potential grant recipients and partners that reject any *future* encroachments on American liberties akin to the Biden Administration's unlawful and unconstitutional vaccine mandate.

- An amendment to ban the Justice Department from discriminating against entities in regions where Americans or American businesses have been, are being, or will be harmed by the Biden Administration's unlawful and unconstitutional vaccine mandate.

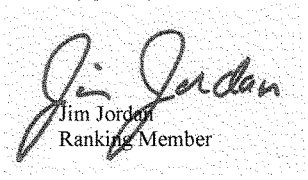
- An amendment to prohibit funds collected or appropriated under the bill from being used for abortions of unborn children with a heartbeat.

- An amendment to prohibit funds collected or appropriated under the bill from being used for dismemberment abortions.

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The nonpartisan Government Accountability Office reported in March 2021 that "[i]n the long term, the [nation's] fiscal outlook poses serious economic, security, and social challenges if not addressed."[38] It warned that "[t]he unsustainable fiscal path is straining the federal budget and contributing to growing debt. The longer that action to address this issue is delayed, increasingly drastic changes will be needed."[39] Deficit spending reached a record high of $3.1 trillion in 2020, which is more than double the previous record of $1.4 trillion set in 2009.[40] The Congressional Budget Office (CBO) estimates the federal deficit will reach $3.0 trillion in 2021—nearly the triple the deficit in 2019.[41]

Amid this serious fiscal crisis, Washington Democrats aim to use the reconciliation process to make fundamental, non-budgetary changes to federal law. Democrats on this Committee, in particular, aim to grant amnesty to at least eight million illegal immigrants. This legislation speaks volumes to the misplaced priorities of Washington Democrats: taxing Americans, rewarding law-breakers, harming American workers, ignoring the violent crime plaguing American communities, and ultimately putting America last.



Jim Jordan
Ranking Member

[38] GAO, GAO-21-275SP, THE NATION'S FISCAL HEALTH: AFTER PANDEMIC RECOVERY, FOCUS NEEDED ON ACHIEVING LONG-TERM FISCAL SUSTAINABILITY (March 2021).
[39] *Id.*
[40] CLAIRE HANSEN, U.S. NEWS & WORLD REPORT, FEDERAL BUDGET DEFICIT SKYROCKETS TO ALL-TIME RECORD HIGH OF $3.1 TRILLION, (October 16 2020), available at: https://www.usnews.com/news/national-news/articles/2020-10-16/federal-budget-deficit-skyrockets-to-all-time-record-high-of-31-trillion.
[41] CBO, AN UPDATE TO THE BUDGET AND ECONOMIC OUTLOOK: 2021 TO 2031 (July 2021).

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

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RANKING REPUBLICAN

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REPUBLICAN STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 15, 2021

The Honorable John Yarmuth
Chair
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chair Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations, which have been approved by vote of the Committee on Natural Resources, and the appropriate accompanying material including additional, supplemental, minority, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Raúl M. Grijalva
Chair
Committee on Natural Resources

Table of Contents

EXPLANATION OF PROVISIONS 1
VOTES OF THE COMMITTEE 19
BUDGET EFFECTS OF THE PROVISION 28
OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 28
CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 29
DISSENTING VIEWS 29

EXPLANATION OF PROVISIONS

Section-by-Section

TITLE VII – COMMITTEE ON NATURAL RESOURCES

SUBTITLE A – BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE

Section 70101. Tribal Consultation

Section 70101 provides $30,000,000 to the Department of the Interior, to remain available until September 30, 2031, to conduct consultation with tribal governments.

Section 70102. Bureau of Indian Affairs

(a) Bureau of Indian Affairs Road Maintenance

Subsection (a) provides $300,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, to address the deferred maintenance backlog in the Bureau of Indian Affairs' Road Maintenance program. Funds may be allocated towards road maintenance, routine maintenance, bridge maintenance, snow and ice removal, emergency maintenance, ferry boat operation, and program management.

(b) Bureau of Indian Affairs Public Safety

Subsection (b) provides $200,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, for public safety and justice construction activities, including facility replacement, facility improvement, facility repair, staffing and related projects at detention, correctional, tribal court, and law enforcement facilities.

(c) Bureau of Indian Affairs Climate Resilience

Subsection (c) provides $1,000,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, for Tribal climate resilience and adaptation programs. Funds may be allocated towards the program's Tribal Climate Adaption grants, Alaska Village Relocation grants.

(d) Tribal Housing

Subsection (d) provides $500,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, to conduct tribal housing improvement activities through the Bureau of Indian Affairs' Housing Program, including housing repairs, renovations of existing homes, construction of replacement homes, electrification of tribal homes lacking electricity including home repairs, retrofitting for renewable energy systems, and construction of homes for families who do not own a home but have ownership or lease of sufficient land suitable for housing.

(e) Tribal Energy

Subsection (e) provides $35,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, for tribal energy programs.

Section 70103. Indian Health Service

(a) Indian Health Service Information Technology

Subsection (a) provides $140,000,000 to the Indian Health Service, to remain available until September 30, 2031, to modernize the electronic health records system.

(b) Urban Indian Health

Subsection (b) provides $42,000,000 to the Indian Health Service, to remain available until September 30, 2031, to construct and renovate urban Indian healthcare facilities.

(c) Indian Health Service Facilities Maintenance

Subsection (c) provides $610,000,000 to the Indian Health Service, to remain available until September 30, 2031, to maintain and improve Indian Health Service and tribal healthcare facilities.

(d) Green Infrastructure

Subsection (d) provides $10,000,000 to the Indian Health Service, to remain available until September 30, 2031, for the incorporation of sustainability features in existing construction projects.

(e) Inpatient and Community Health Facilities

Subsection (e) provides $40,000,000 to the Indian Health Service, to remain available until September 30, 2031, for the inpatient and community health facilities design and construction.

(f) Medical Equipment

Subsection (f) provides $150,000,000 to the Indian Health Service, to remain available until September 30, 2031, for the replacement and maintenance of healthcare facilities equipment.

(g) Small Ambulatory Construction

Subsection (g) provides $60,000,000 to the Indian Health Service, to remain available until September 30, 2031, for the operation of the small ambulatory construction program.

(h) Personnel Quarters Construction

Subsection (h) provides $278,000,000 to the Indian Health Service, to remain available until September 30, 2031, for the construction and improvement of personnel quarters.

(i) Indian Health Service Priority Health Care Facilities

Subsection (i) provides $2,000,000,000 to the Indian Health Service, to remain available until September 30, 2031, to support the remaining projects on the 1993 Indian Health Service Healthcare Facilities Construction Priority List.

(j) Facilities Support

Subsection (j) provides $170,000,000 to the Indian Health Service, to remain available until September 30, 2031, for environmental health and facilities support activities of the Indian Health Service.

SUBTITLE B –SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

Section 70201. Oak Flat Withdrawal

Section 70201 repeals Section 3003 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for fiscal year 2015 (16 U.S.C. 539p) and withdraws 2,422 acres of National Forest System land. Subject to valid rights in existence on the date of enactment, the 2,422-acre parcel is withdrawn from all forms of disposal under the public land laws and location, entry, and patent under the mining law.

Section 70202. Civilian Climate Corps

(a) National Park Service Civilian Climate Corps

Subsection (a) provides $1,700,000,000 to the National Park Service, to remain available until September 30, 2031, to carry out education and job training and conservation projects with corps programs on Public Lands. No more than 2 percent of the funds provided by this subsection are to be used for administrative expenses.

(b) Bureau of Land Management Civilian Climate Corps

Subsection (b) provides $900,000,000 to the Bureau of Land Management, to remain available until September 30, 2031, for carrying out education and job training projects and conservation projects on Public Lands. No more than 2 percent of the funds provided by this subsection are to be used for administrative expenses.

(c) United States Fish and Wildlife Service Civilian Climate Corps

Subsection (c) provides $400,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, for carrying out education and job training projects and conservation projects on Public Lands. No more than 2 percent of the funds provided by this subsection are to be used for administrative expenses.

(d) Tribal Civilian Climate Corps

Subsection (d) provides $500,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, for carrying out education and job training projects and conservation projects for the benefit of Indian Tribes and Native Hawaiians. None of the funds provided by this subsection shall be subject to cost-share requirements. No more than 2 percent of the funds provided by this subsection are to be used for administrative expenses.

Section 70203. Presidio Trust

Section 70203 provides $200,000,000 to the Presidio Trust, to remain available until September 30, 2026, for the completion of projects in accordance with the purposes outlined in the Presidio Trust Act (16 U.S.C. 460bb).

Section 70204. Grand Canyon

Section 70204 withdraws approximately 1,054,923 acres of federal land or interest in land from disposal under the public land laws and location, entry, and patent under the mining law. The section provides $1,500,000 to the Bureau of Land Management, to remain available until September 30, 2026, for the administration and implementation of the withdrawal.

Section 70205. Wildfire

(a) Protecting Communities and Ecosystems from Wildfire

Subsection (a) provides $900,000,000 to the Bureau of Land Management, to remain available until September 30, 2031, to reduce wildfire risk on landscapes and for communities through fire preparedness, fire science and research, including improved fireshed mapping and management, emergency rehabilitation, rural fire assistance, non-commercial fuels management activities in the wildland-urban interface, the renovation or construction of fire facilities, and for expenses necessary to support firefighter workforce reforms. None of the funds provided by this subsection are available for salvage logging.

(b) Tribal Wildfire Prevention

Subsection (b) provides $100,000,000 to the Bureau of Indian Affairs, to remain available until September 30, 2031, to carry out the National Indian Forest Resources Management Act (25 U.S.C. 3101 et seq.) and to protect tribal forest lands from wildfire.

(c) Forest Technology Improvements

Subsection (c) provides $1,000,000 to the Office of Wildland Fire Management, to remain available until September 30, 2031, to carry out a research, development, and testing pilot program

for new reforestation technologies, including the use of unpiloted aerial systems, geospatial, and remote sensing technologies. The section directs this funding to accelerate the deployment of these new technologies in collaborations with States, Tribes, and private organizations.

Section 70206. Urban Parks

Section 70206 provides $100,000,000 to the National Park Service, to remain available until September 30, 2026, to carry out direct, competitive grants to localities to create or enhance access to parks or outdoor recreation facilities in urban areas in compliance with specified existing laws and limitations.

Section 70207. Every Kid Outdoors

Section 70207 provides $100,000,000 to the National Park Service, to remain available until September 30, 2031, to carry out the purposes outlined under Sec. 9001(b)(3)(D) of P.L. 116-9, and for the issuance and administration of passes for any fourth, fifth, or sixth-grade student or home-schooled learner ten years of age residing in the United States that allows free access for the student and three accompanying adults to any publicly accessible federal land or water under the jurisdiction of the National Park Service. The passes may be issued at the request of a student and remain effective during the period beginning on September 1 and ending on August 31 of the following year.

Section 70208. National Park Service Climate Resilience

Section 70208 provides $115,000,000 to the National Park Service, to remain available until September 30, 2031, for the protection, restoration, and resiliency of National Park Service-managed lands and resources. None of the funds provided in this section shall be subject to cost-share requirements.

Section 70209. Bureau of Land Management Climate Resilience

Section 70209 provides $110,000,000 to the Bureau of Land Management, to remain available until September 30, 2031, for the protection, restoration, and resiliency of Bureau of Land Management-managed lands and resources. None of the funds provided in this section shall be subject to cost-share requirements.

Section 70210. Historic Preservation

Section 70210 provides $75,000,000 to the Director of the National Park Service, to remain available until September 30, 2031, to carry out preservation or historic preservation activities as defined by the National Historic Preservation Act (54 U.S.C. 300315).

Section 70211. Thompson Divide

Section 70211 withdraws approximately 200,000 acres of federal land or interest in land from all forms of disposal under the public land laws, location, entry, and patent under the mining laws, and operation of the mineral leasing, mineral materials, and geothermal leasing laws. Subsection (b) provides $500,000 to the Bureau of Land Management, to remain available until September 30, 2026, to acquire, from willing sellers, the rights to oil and gas leases within the

withdrawal area. Subsection (c) of Section 70211 provides $1,000,000 to the Bureau of Land Management, to remain available until September 30, 2031, to carry out a pilot program to inventory and lease, capture, mitigate, or sequester methane emissions from active, inactive, or abandoned coal mines in the Greater Thompson Divide area.

Section 70212. Chaco Canyon

Section 70212 withdraws approximately 316,076 acres of federal land or interest in land in the Chaco Cultural Heritage Withdrawal Area from all forms of disposal under the public land laws, location, entry, and patent under the mining laws, and operation of the mineral leasing, mineral materials, and geothermal leasing laws. Pursuant to the Mineral Leasing Act, this section also invests in the termination of non-producing leases within the withdrawal area.

SUBTITLE C – DROUGHT RESPONSE AND PREPAREDNESS

Section 70301. Bureau of Reclamation Water Settlement Funding

Section 70301 provides $2,000,000,000 for deposit to the Reclamation Water Settlements Fund in fiscal year 2022, to remain available until September 30, 2031. Requires the Secretary of the Interior to expend these and all previously authorized deposits to the Reclamation Water Settlements Fund by the end of fiscal year 2031 or to direct any remaining funds to grants for tribal clean water access. Permanently extends annual deposits into the Reclamation Water Settlements Fund, providing $370,000,000 annually to be deposited into the Fund beginning in fiscal year 2032, to remain available until expended.

Section 70302. Emergency Drought Relief

Section 70302 provides $1,000,000,000 to the Bureau of Reclamation, to remain available until September 30, 2026, for near-term drought response actions carried out under specified authorities to provide near-term drought relief to western communities.

Section 70303. Emergency Drought Relief for Tribes

Section 70303 provides $150,000,000 to the Bureau of Reclamation, to remain available until September 30, 2026, for near-term drought response actions to mitigate drought impacts for tribes.

Section 70304. Salton Sea Projects

Section 70304 provides $250,000,000 to the Bureau of Reclamation, to remain available until September 30, 2031, for projects at the Salton Sea in California to improve air quality, habitat, and water quality. Funds may be provided for construction, operation, maintenance, permitting, and design activities, as well as dust suppression projects.

Section 70305. Water Resources Research and Technology Institutes

Section 70305 provides $75,000,000 to the United States Geological Survey, to remain available until September 30, 2031, to support the water resources research institutes established in accordance with the Water Resources Research Act of 1984 (42 U.S.C. 10303).

Section 70306. Federal Priority Streamgages

Section 70306 provides $150,000,000 to the United States Geological Survey, to remain available until September 30, 2031, to make operational streamgages that are identified by the Secretary of the Interior as federal priority streamgages. Funds made available under this section shall be expended to leverage non-federal funds.

Section 70307. Snow Water Supply Forecasting

Section 70307 provides $50,000,000 to the Bureau of Reclamation, to remain available until September 30, 2031, to support snow water supply forecasting.

Section 70308. Water Technology Investment

Section 70308 provides $50,000,000 to the Bureau of Reclamation, to remain available until September 30, 2031, for the research of brine management in desalination projects.

Section 70309. Aquatic Ecosystem Restoration

Section 70309 provides $250,000,000 to the Bureau of Reclamation to support the Aquatic Ecosystem Restoration program. The funds provided to carry out this section shall be available beginning in fiscal year 2027, to remain available until September 30, 2031.

Section 70310. Large Scale Water Reuse

Section 70310 provides $100,000,000 to the Bureau of Reclamation to fund the planning, design, and construction of large-scale water recycling projects that have a total estimated cost of at least $500 million. Projects eligible for funding must provide multiple benefits, including water supply reliability benefits for drought-stricken states and communities, fish and wildlife benefits, and water quality improvements, among other requirements. Federal funding is limited to 25 percent of the total cost of the eligible project, with no total dollar cap. The federal cost-share can be increased to up to 75 percent if the project advances at least a proportionate share of nonreimbursable federal benefits. The funds provided to carry out this section shall be available beginning in fiscal year 2027, to remain available until September 30, 2031.

Section 70311. Conveyance Repairs and Build Back Better Funds for Solar Canal Integration

Section 70301 provides $100,000,000 to the Bureau of Reclamation to provide competitive grants for the planning, design, and construction of projects that make major repairs to water delivery canals in need of emergency restoration. Provides an additional $100,000,000 to the Bureau of Reclamation to integrate solar panels over repaired canals if such solar projects are found feasible or for other solar projects associated with Bureau of Reclamation water projects.

Section 70312. Rio Grande Pueblos Irrigation Infrastructure Grants

Section 70312 provides $200,000,000 to the Bureau of Reclamation, to remain available until September 30, 2031, for irrigation infrastructure grants pursuant to Section 9106(d) of the Omnibus Public Land Management Act of 2009.

SUBTITLE D – EFFICIENT AND EFFECTIVE NEPA IMPLEMENTATION

Section 70401. Efficient and Effective NEPA Implementation

Section 70401 provides $150,000,000 to the Department of the Interior, to remain available until September 30, 2031, to provide for more efficient and more effective environmental reviews under the National Environmental Policy Act of 1969, including through the hiring and training of additional personnel, development of programmatic assessments or templates, procurement of technical or scientific services, development of data or technology systems, stakeholder and community engagement, and the purchase of new equipment.

SUBTITLE E – NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Section 70501. Coastal and Great Lakes Restoration and Technical Assistance

Section 70501 provides $9,500,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, to provide funding, grants, and cooperative agreements for projects that restore marine, estuarine, coastal, and Great Lakes habitats or increase the resilience of those habitats. Funds may not be subject to cost-share or matching requirements.

Section 70502. Pacific Coastal Salmon Recovery Fund

Section 70502 provides $400,000,000 to the National Oceanic and Atmospheric Administration, to remain available until 2026, for habitat restoration and other projects to aid in the recovery of Pacific salmon populations. Funds may not be subject to cost-share or matching requirements.

Section 70503. NOAA Stock Assessments

Section 70503 provides $200,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, for carrying out fishery stock assessments, science, surveys, and ecosystem-based assessments under section 401 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1881) and section 117 of the Marine Mammal Protection Act (16 U.S.C. 1386).

Section 70504. Coastal Hazards and Sea Level Rise

Section 70504 provides $500,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, under the Integrated Coastal and Ocean Observation System Act of 2009, as amended (33 U.S.C. 3603), the Digital Coast Act (16 U.S.C. 1467), the Coastal Zone Management Act of 1972 (16 U.S.C. 1456c), the Hydrographic Services Improvement Act of 1988 (33 U.S.C. 892a), and Coast and Geodetic Survey Act of 1947 (33 U.S.C. 883a and 33 U.S.C. 883b). Funds are to be used for updating the Integrated Ocean Observing System and Shoreline Mapping Program, developing and sharing data and tools to address coastal hazards and sea-level rise, and providing technical assistance to end-users to plan and prepare for sea-level rise and other coastal hazards.

Section 70505. Blue Carbon

Section 70505 provides $95,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891a) and National Marine Sanctuaries Act (16 U.S.C. 1440). Funds are to be used for science, protection, and restoration of blue carbon ecosystems.

Section 70506. Coastal Hazards in United States Insular Areas

Section 70506 provides $50,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, under the Integrated Coastal and Ocean Observation System Act of 2009, as amended (33 U.S.C. 3601), the Digital Coast Act (16 U.S.C. 1467, and the Hydrographic Services Improvement Act (33 U.S.C. 892a). Funds are to be used for improving weather and oceanic data collection and to provide technical assistance and data to reduce severe weather impacts in the Insular Areas of the United States.

Section 70507. NMFS Shoreside Facilities

Section 70507 provides $150,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, to replace, renovate, or maintain aging facilities in need of repair or replacement, including piers, fisheries laboratories, and laboratory facilities used to carry out fishery research under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1881c-1884).

Section 70508. NOAA Vessel Recapitalization

Section 70508 provides $300,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, for vessel recapitalization needs.

Section 70509. Civilian Climate Corps at NOAA

Section 70509 provides $120,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2026, to provide funding, grants, and cooperative agreements for education and job-training projects that contribute to the conservation and restoration of natural, cultural, historical, archaeological, recreational, or scenic resources. Funds may not be subject to cost-share or matching requirements.

Section 70510. NOAA Hatcheries

Section 70510 provides $250,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2026, to provide grants to states and tribes to repair, replace, and upgrade fish hatchery infrastructure. Funds may not be subject to cost-share or matching requirements, and non-tribal grantees must abide by prevailing wage requirements.

Section 70511. Electronic Monitoring

Section 70511 provides $75,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, to support the continued deployment of electronic monitoring and fishing effort reporting.

Section 70512. Working Waterfronts

Section 70512 provides $160,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, to provide funding, grants, and cooperative agreements for projects that preserve and protect coastal access for water-dependent commercial activities through the Coastal Zone Management Act Coastal Enhancement Grants (16 U.S.C. 1465b). Grantees must abide by prevailing wage requirements.

Section 70513. Marine Sanctuary and National Estuarine Research Reserve Maintenance Backlog

Section 70513 provides $98,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, to provide funding for construction, maintenance, and renovation of National Marine Sanctuary and National Estuarine Research Reserve facilities.

Section 70514. Seafood Import Monitoring Program Expansion

Section 70514 provides $2,000,000 to the National Oceanic and Atmospheric Administration, to remain available until September 30, 2031, to provide funding for the agency to expand the Seafood Import Monitoring Program to include all seafood and seafood products.

SUBTITLE F – UNITED STATES FISH AND WILDLIFE SERVICE

Section 70601. Endangered Species Act Recovery Plans

Section 70601 provides $75,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, for developing and carrying out recovery plans under section 4(f) of the Endangered Species Act. Section 70601 also provides $75,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, for developing Candidate Conservation Agreements and Candidate Conservation Agreements with Assurances under section 10 of the Endangered Species Act.

Section 70602. Endangered Species Act Habitat Conservation

Section 70602 provides $50,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, for grants, development, and the administration of Habitat Conservation Plans (section 10(a)(2)) and state conservation programs (section 6(d)) under the Endangered Species Act.

Section 70603. Endangered Species Act Interagency Consultations

Section 70603 provides $40,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, for carrying out consultations under section 7 of the Endangered Species Act.

Section 70604. Funding for Island Plant Conservation

Section 70604 provides $25,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, to conserve endangered and threatened species of plants in the Hawaiian Islands and the Pacific Island Territories of the United States.

Section 70605. Funding for Pollinator Conservation

Section 70605 provides $25,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, to conserve endangered and threatened species of pollinators in the United States.

Section 70606. Funding for Mussel Conservation

Section 70606 provides $25,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, to conserve endangered and threatened species of freshwater mussels in the United States.

Section 70607. Funding for Desert Fish Conservation

Section 70607 provides $25,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, to conserve endangered and threatened species of desert fish in the southwestern United States.

Section 70608. Funding for the United States Fish and Wildlife Service to Address Climate-Induced Weather Events

Section 70608 provides $100,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2031, to rebuild and restore infrastructure and habitats and control invasive species on U.S. Fish and Wildlife Service lands and state wildlife conservation areas. These projects should increase the resilience of habitats and infrastructure to future climate change-induced impacts.

Section 70609. Funding for the United States Fish and Wildlife Service for Wildlife Corridor Conservation

Section 70609 provides $10,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2026, to map and restore wildlife corridors, including corridors on state and tribal lands.

Section 70610. Funding for the United States Fish and Wildlife Service for Grassland Restoration

Section 70610 provides $100,000,000 to the U.S. Fish and Wildlife Service, to remain available until September 30, 2026, for funding, grants, and cooperative agreements for grassland restoration and conservation projects.

SUBTITLE G – INSULAR AFFAIRS

Section 70701. Insular Affairs Hospital and Other Critical Health Infrastructure Funding

Section 70701 provides $993,000,000 to the Department of the Interior's Office of Insular Affairs, to remain available until September 30, 2031, for critical capital infrastructure in the U.S. Territories under its jurisdiction. Amounts made available under this section shall be divided between the territories.

Section 70702. Office of Insular Affairs Climate Change Technical Assistance

Section 70702 provides $25,000,000 to the Office of Insular Affairs, to remain available until September 30, 2026, to offer technical assistance for climate change planning, mitigation, adaptation, and resilience to the U.S. Territories and Freely Associated States under its jurisdiction.

Section 70703. Settlement of Claims Against the United States for Certain Residents of the Island of Vieques, Puerto Rico

Section 70703 provides $300,000,000 to the Office of Insular Affairs, to remain available until September 30, 2031, to compensate through a Special Master the municipality of Vieques, and an individual claimant who is or was a resident, the child of a resident, or an immediate heir of a deceased claimant on the island of Vieques in the period or after the time that the U.S. Navy used the island of Vieques for military readiness.

Section 70704. Definitions

Section 70704 provides definitions that apply throughout the subtitle.

SUBTITLE H – ENERGY AND MINERAL RESOURCES

Section 70801. Offshore Wind for the Territories

Section 70801 raises revenue by requiring the Department of the Interior to hold offshore wind lease sales in federal waters around American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

Section 70802. Leasing on the Outer Continental Shelf

Section 70802 raises revenue by restoring the ability of the Department of the Interior to hold offshore wind lease sales in federal waters in the Eastern Gulf of Mexico and the Atlantic off the coast of North Carolina, South Carolina, Georgia, and Florida.

Section 70803. United States Geological Survey

(a) 3D Elevation Program

Subsection (a) provides $50,000,000 to the United States Geological Survey, to remain available until September 30, 2031, for its Digital High-Resolution Elevation Collection (3DEP) Program.

(b) Climate Adaptation Science Centers

Subsection (b) provides $100,000,000 to the United States Geological Survey, to remain available until September 30, 2031, for the National and Regional Climate Adaptation Science Centers to provide localized information to help regions, states, tribes, and local governments respond to climate change.

Section 70804. Fossil Fuel Resources

(a) Repeal of the Arctic National Wildlife Refuge Oil and Gas Program

Subsection (a) repeals section 20001 of the 2017 Tax Act (P.L. 115-97), which established the Arctic National Wildlife Refuge oil and gas leasing program, cancels the leases sold in January 2021, and returns the payments to the lessees.

(b) Protection of the Eastern Gulf, Atlantic, and Pacific Coasts

Subsection (b) permanently bans new offshore oil and gas leasing along the entire Atlantic and Pacific coasts and in the Eastern Gulf of Mexico.

(c) Onshore Fossil Fuel Royalty Rates

Subsection (c) raises the minimum onshore royalty rates to 20 percent for all new oil, gas, and coal leases. The federal onshore oil and gas royalty rate of 12.5 percent has not been adjusted in over a century and is considerably below royalty rates charged by states.

(d) Offshore Oil and Gas Royalty Rate

Subsection (d) raises the minimum offshore royalty rate to 20 percent for all new oil and gas leases. The statutory minimum is 12.5 percent, but the Bureau of Ocean Energy Management currently sets rates at 12.5 percent for shallow water leases and 18.75 percent for deepwater leases.

(e) Oil and Gas Minimum Bid

Subsection (e) raises the current onshore oil and gas minimum bid from $2 to $10 and requires it to be indexed to inflation. The current minimum bid amount for onshore oil and gas leases has not been adjusted since 1987.

(f) Deferred Coal Bonus Payments

Subsection (f) repeals the requirement that the Bureau of Land Management offers at least 50 percent of total acreage for coal leasing in any one year under a deferred bonus payment system.

(g) Fossil Fuel Rental Rates

Subsection (g) raises the minimum coal rental rate to $100 per acre (to match the minimum coal leasing bid amount) and the minimum onshore rental rate for oil and gas leases from their current values of $1.50 for the first five years and $2 for the second five years, to $3 for the first two years and $5 in each subsequent year.

(h) Fossil Fuel Lease Term Length

Subsection (h) shortens the primary onshore oil and gas lease term from ten to five years and the primary coal lease term from 20 to ten years.

(i) Expression of Interest Fee

Subsection (i) requires the Bureau of Land Management to charge a cost-recovery fee to each person that submits an oil and gas Expression of Interest and requires the fee to be at least $15 per acre. The fee would be regularly adjusted to reflect inflation and if the Secretary determines a higher fee is necessary to enhance financial returns to the United States.

(j) Elimination of Noncompetitive Leasing

Subsection (j) eliminates noncompetitive oil and gas leasing on public lands. If a parcel of public land does not receive a bid during a competitive auction, it is made available for noncompetitive leasing on a first-come, first-serve basis the following business day, at which point companies can obtain a lease without having to pay a bonus bid, only paying the yearly rental fee and an administrative fee.

(k) Oil and Gas Bonding Requirements

Subsection (k) increases the minimum bond amounts for a single lease from $10,000 to $150,000, and for all of an operator's leases in a state from $25,000 to $500,000. Subsection (k) also requires the Bureau of Land Management to initiate a rulemaking that requires oil and gas leaseholders on public land to provide the agency with a bond, surety, or another financial instrument that ensures the complete and timely reclamation of the lease tract and restoration of land and waters adversely affected by lease operations.

(l) Per-Acre Lease Fees

Subsection (l) establishes a $4 per-acre per-year Conservation of Resource Fee for all new producing onshore and offshore oil and gas leases and establishes a $6 per-acre per-year Speculative Leasing Fee for all new non-producing onshore and offshore oil and gas leases.

(m) Onshore Oil and Gas Inspection Fees

Subsection (m) requires companies to pay annual user fees to cover the cost of the onshore oil and gas inspection program.

(n) Offshore Oil and Gas Inspection Fees

Subsection (n) requires companies to pay annual user fees to cover the cost of the offshore oil and gas inspection program.

(o) Severance Fees

Subsection (o) requires the Secretary of the Interior to collect annual, non-refundable fees on fossil fuels produced from federal lands and the Outer Continental Shelf in amounts of not less than $0.50 per barrel of oil equivalent on oil and gas production and not less than $2 per metric ton on coal production.

(p) Idled Well Fees

Subsection (p) requires oil and gas operators to pay an annual fee for idled wells on federal land. The yearly fee for each well increases the longer the well has been idle on federal land, starting at $500 for wells idle between 1 and 5 years, and ending at $7,500 for wells idle at least 15 years.

(q) Annual Pipeline Owners Fee

Subsection (q) requires the Bureau of Safety and Environmental Enforcement to charge owners of offshore oil and gas pipelines annual fees of not less than $10,000 per mile for pipelines in water depths of 500 feet or greater and $1,000 per mile for pipelines in water depths less than 500 feet.

(r) Royalties on All Extracted Methane

Subsection (r) eliminates the royalty waiver for natural gas produced and used on the lease, and, with limited exceptions, requires royalties to be paid on all gas vented, flared, or lost through leakage.

(s) Elimination of Royalty Relief

Subsection (s) repeals royalty relief provisions in the Outer Continental Shelf Lands Act (OCSLA) and the Mineral Leasing Act (MLA), and repeals shallow-water-deep-gas, deep-water, and Alaskan Outer Continental Shelf royalty relief programs.

Section 70805. Civil and Criminal Penalties

(a) Mineral Leasing Act

Subsection (a) raises civil and criminal penalties in the MLA.

(b) Federal Oil and Gas Royalty Management Act of 1982

Subsection (b) raises civil and criminal penalties in the Federal Oil and Gas Royalty Management Act (FOGRMA).

(c) Outer Continental Shelf Lands Act

Subsection (c) raises civil and criminal penalties in the OCSLA.

Section 70806. Technical Amendments to FOGRMA

(a) Amendments to Definitions

Subsection (a) amends FOGRMA by adding new definitions to simplify and strengthen royalty payment oversight.

(b) Compliance Reviews

Subsection (b) provides statutory authority for the Secretary of the Interior to conduct compliance reviews of royalty payments and requires any uncovered discrepancies to be referred to an auditor.

(c) Liability for Royalty Payments

Subsection (c) clarifies that designees are liable for royalty payments under a lease, and those lease owners and operators are liable for their prorated share of payment obligations under a lease.

(d) Recordkeeping

Subsection (d) requires oil and gas records to be kept by payors for seven years instead of the current six, which aligns that timeframe with the statute of limitations for the government established under the Royalty Fairness and Simplification Act of 1995 (P.L. 104-185) to collect unpaid royalties.

(e) Adjustments and Refunds

Subsection (e) eliminates the opportunity for lessees to make adjustments to their royalty obligations after a compliance review or audit is completed on a lease in question and limits the ability to make adjustments to four years after the date royalties were initially due. Currently, lessees are allowed to make adjustments for a full six years even after the Office of Natural Resources Revenue has already completed a compliance review or audit.

(f) Obligation Period

Subsection (f) establishes that, in the case of an adjustment made by a lessee that results in an underpayment, the lessee would be obligated to repay that amount (plus interest) from the date the lessee makes the adjustment, thus extending the statute of limitations on that royalty payment. This will enable DOI to audit such leases during the ensuing six-year cycle.

(g) Appeals

Subsection (g) extends the timeframe for the Secretary of the Interior to issue final decisions on any appeals on demands or orders to pay royalties or penalties to 48 months, from the current 33 months.

(h) Penalty for Late or Incorrect Reporting of Data

Subsection (h) establishes a penalty for companies that file late or incorrect data, to be set at a level the Secretary of the Interior determines is sufficient to ensure that companies file correct data on time, but no less than $10 per incorrect line of data.

(i) Shared Penalties

Subsection (i) eliminates a disincentive for states and tribes to diligently pursue royalty violators.

(j) Adjustments and Refunds

Subsection (j) eliminates the opportunity for lessees to make adjustments to their royalty obligations after a compliance review or audit is completed on a lease in question and limits the ability to make adjustments to four years after the date royalties were initially due. Currently, lessees are allowed to make adjustments for a full six years even after ONRR has already completed a compliance review or audit.

(k) Tolling Agreements and Subpoenas

Subsection (k) allows the Secretary of the Interior to correspond only with the lease designee in the case of subpoenas or agreements to pause the statute of limitations, as opposed to having to contact each lessee individually. This strengthens the Department of the Interior's ability to collect the revenues owed to the government resulting from mineral development on a federal lease.

(l) Required Recordkeeping for Natural Gas Plants

Subsection (l) requires the Secretary of the Interior to promulgate a regulation that requires purchasers of federal natural gas to maintain and provide records. This will strengthen the Secretary's ability to pursue royalty violators and collect the revenues owed to the government resulting from mineral development on a federal lease.

(m) Entitlements

Subsection (m) requires the Secretary of the Interior to publish final regulations regarding procedures for reporting royalties on entitled shares of production from unitized leases when lessees do not actually sell their share of production from that lease.

Section 70807. Hardrock Mining

(a) Abandoned Mine Land Cleanup

Subsection (a) provides $2,500,000,000 in additional funding to the Bureau of Land Management, to remain available until September 30, 2031, to clean up and reclaim abandoned hardrock mines.

(b) Royalty

Subsection (b) raises revenue by establishing a hardrock mineral royalty on both existing mines (4 percent of gross income) and future mines (8 percent of gross income). There is an exemption for small miners with an annual gross income from mining below $100,000. This section also includes provisions to prevent fraud and abuse and ensures that the Department of the Interior receives all appropriate payments.

(c) Reclamation Fee

Subsection (c) raises revenue by establishing a reclamation fee of seven cents per ton of displaced materials from hardrock mining operations. There is a waiver for small miners with an annual gross income from mining below $100,000.

(d) Claim Maintenance Fee

Subsection (d) raises revenue by increasing the annual claim maintenance fee from $165 to $200 per claim. There is a waiver for small miners.

(e) Funding to Prevent Environmental Damage from Mining

Subsection (e) provides $3,000,000 to the Bureau of Land Management, to remain available until September 30, 2031, to revise rules and regulations to prevent undue degradation of public lands due to hardrock mining activities as authorized by the Mining Law of 1872 and the Federal Land Policy and Management Act.

SUBTITLE I – OFFICE OF NATIVE HAWAIIAN RELATIONS

Section 70901. Native Hawaiian Consultation

Section 70901 provides $3,000,000 to the Office of Native Hawaiian Relations, to remain available until September 30, 2031, for conducting consultations with Native Hawaiian people.

Section 70902. Native Hawaiian Climate Resilience

Section 70902 provides $30,000,000 to the Office of Native Hawaiian Relations, to remain available until September 30, 2031, to provide funding and technical assistance for climate resilience and adaptation programs that serve Native Hawaiian people.

SUBTITLE J– ACCOUNTABILITY FOR FUNDS

Section 71001. Oversight

Section 71001 directs one-half of one percent of the amounts made available under the title to be used for oversight and accountability of expenditures of such funds.

Section 71002. Limitation

Section 71002 allows no more than 2 percent of funds in sections 70301, 70303, 70310, 70504, 70505, 70506, 70507, 70508, 70510, 70512, 70513, 70514, 60601, 70602, 70603, 70609, and 70610 to be used for administrative costs.

Section 71003. Limitation

Section 71003 does not allow funds provided under the title to be used to close the Bureau of Land Management national office in Grand Junction, Colorado.

VOTES OF THE COMMITTEE[1]

The Committee on Natural Resources met on Thursday, September 2, 2021, to consider a committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022.

Ranking Member Bruce Westerman (R-AR) offered a motion to postpone consideration of the Committee Print until September 14, 2021. Chair Raúl M. Grijalva (D-AZ) offered a motion to table Ranking Member Westerman's motion. Chair Grijalva's motion was agreed to by a roll call vote of 26 yeas and 17 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Chair Grijalva – Motion made to table Ranking Member Westerman's motion to postpone the markup

Amendment:

Disposition: Was agreed to by a roll call vote of 26 yeas and 17 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ	X		
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ *(Chair)*	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA	X		
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Porter, CA	X		
19	Mr. Sablan, MP	X		
20	Mr. San Nicolas, GU	X		
21	Mr. Soto, FL	X		
22	Ms. Stansbury, NM	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*		X	
3	*Mr. Carl, AL*		X	
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*		X	
6	*Miss González-Colón, PR*		X	
7	*Mr. Gosar, AZ*		X	
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*		X	
11	*Mr. Lamborn, CO*		X	
12	*Mr. McClintock, CA*		X	
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*		X	
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*		X	
18	*Mr. Tiffany, WI*			
19	*Mr. Webster, FL*		X	
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total 48 / Quorum 16 / Majority 25	26	17	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Lauren Boebert (R-CO) offered an amendment designated Boebert #24. The amendment was agreed to by unanimous consent.

Rep. Boebert offered an amendment designated Boebert #210. The amendment was agreed to by unanimous consent.

Ranking Member Westerman offered an amendment designated Westerman #1. The amendment was agreed to by unanimous consent.

Rep. Cliff Bentz (R-OR) offered an amendment designated Bentz #1. The amendment was agreed to by unanimous consent.

Rep. Blake Moore (R-UT) offered an amendment designated Moore #044. The amendment was agreed to by unanimous consent.

Rep. Moore offered an amendment designated Moore #048. Chair Grijalva offered an amendment designated Grijalva #2 to Rep. Moore amendment #048. Chair Grijalva's amendment #2 was agreed to by unanimous consent. Rep. Moore's amendment #048, as amended, was agreed to by unanimous consent.

Ranking Member Westerman offered an amendment designated Westerman #2. The amendment was agreed to by unanimous consent.

Rep. Garret Graves (R-LA) offered an amendment designated Graves #7. The amendment was agreed to by unanimous consent.

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[1] Rep. Jody Hice (R-GA) requested, after the closing of the following votes, that the record reflect that had he been present he would have voted "yea" on Bentz amd #7, Gosar amd #6, Tiffany amd #3, Graves amd #13, Graves amd #14, Graves amd #28, Westerman amd #1, and Boebert amd #7, and would have voted "nay" on Grijalva ANS #1 and the final passage of the Committee Print, as amended.

Chair Grijalva offered a manager's amendment designated Grijalva #1. The amendment was agreed to by a roll call vote of 25 yeas and 20 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Chair Grijalva – Manager's Amendment #1
Amendment:

Disposition: Not agreed to by a roll call vote of 25 yeas and 20 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ	X		
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ *(Chair)*	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA	X		
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Porter, CA	X		
19	Mr. Sablan, MP	X		
20	Mr. San Nicolas, GU	X		
21	Mr. Soto, FL	X		
22	Ms. Stansbury, NM	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY			
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*		X	
3	*Mr. Carl, AL*		X	
4	*Mr. Fulcher, ID*		X	
5	*Mr. Gohmert, TX*		X	
6	*Miss González-Colón, PR*		X	
7	*Mr. Gosar, AZ*		X	
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*		X	
11	*Mr. Lamborn, CO*		X	
12	*Mr. McClintock, CA*		X	
13	*Mr. Moore, UT*		X	
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*		X	
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*		X	
18	*Mr. Tiffany, WI*		X	
19	*Mr. Webster, FL*		X	
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	25	20	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Boebert offered an amendment designated Boebert #25. The amendment was not agreed to by a roll call vote of 19 yeas and 25 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #25

Disposition: Not agreed to by a roll call vote of 19 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA			
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Boebert offered an amendment designated Boebert #218. The amendment was not agreed to by a roll call vote of 18 yeas and 27 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #218

Disposition: Not agreed to by a roll call vote of 18 yeas and 27 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*		X	
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	27	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Boebert offered an amendment designated Boebert #223. The amendment was not agreed to by a roll call vote of 19 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #223

Disposition: Not agreed to by a roll call vote of 19 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Aumua Amata Coleman Radewagen (R-AS) offered an amendment designated Radewagen #1. The amendment was withdrawn.

Rep. Boebert offered an amendment designated Boebert #1. The amendment was not agreed to by a roll call vote of 20 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #1

Disposition: Not agreed to by a roll call vote of 20 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Dem.: 26 / Rep.: 22	20	26	
	TOTALS	YEAS	NAYS	PRESENT

Rep. Pete Stauber (R-MN) offered an amendment designated Stauber #1. The amendment was not agreed to by a roll call vote of 20 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #1

Disposition: Not agreed to by a roll call vote of 20 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 10 / Report: 25	20	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Stauber offered an amendment designated Stauber #2. The amendment was not agreed to by a roll call vote of 20 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #2

Disposition: Not agreed to by a roll call vote of 20 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	20	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Stauber offered an amendment designated Stauber #3. The amendment was not agreed to by a roll call vote of 20 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #3

Disposition: Not agreed to by a roll call vote of 20 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total 48 / Dem.: 26 / Rep.: 22	20	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Stauber offered an amendment designated Stauber #4. The amendment was not agreed to by a roll call vote of 19 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #4

Disposition: Not agreed to by a roll call vote of 19 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total 48 / Quorum 16 / Report 25	19	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Stauber offered an amendment designated Stauber #5. The amendment was not agreed to by a roll call vote of 19 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #5

Disposition: Not agreed to by a roll call vote of 19 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Stauber offered an amendment designated Stauber #6. The amendment was not agreed to by a roll call vote of 19 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #6

Disposition: Not agreed to by a roll call vote of 19 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Ranking Member Westerman offered an amendment designated Westerman #6. The amendment was agreed to by unanimous consent.

Rep. Paul Gosar (R-AZ) offered an amendment designated Gosar #3. The amendment was not agreed to by a roll call vote of 16 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gosar amendment #3

Disposition: Not agreed to by a roll call vote of 16 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*			
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 26	16	26	
	TOTALS	YEAS	NAYS	PRESENT

Rep. Gosar offered an amendment designated Gosar #4. The amendment was not agreed to by a roll call vote of 16 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gosar amendment #4

Disposition: Not agreed to by a roll call vote of 16 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*			
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Gosar offered an amendment designated Gosar #5. The amendment was not agreed to by a roll call vote of 18 yeas and 26 nays, as follows:[2]

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gosar amendment #5

Disposition: Not agreed to by a roll call vote of 18 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total 48 / Quorum 15 / Need 25	18	26	
	TOTALS	YEAS	NAYS	PRESENT

[2] During the markup, the total on this vote was announced incorrectly. The numbers here on the clerk's tally sheet are accurate and accord with the clerk's roll call.

Rep. Gosar offered an amendment designated Gosar #115. The amendment was not agreed to by a roll call vote of 18 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gosar amendment #115

Disposition: Not agreed to by a roll call vote of 18 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Gosar offered an amendment designated Gosar #116. The amendment was not agreed to by a roll call vote of 18 yeas and 25 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gosar amendment #116

Disposition: Not agreed to by a roll call vote of 18 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL			
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	*25*	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Yvette Herrell (R-NM) offered an amendment designated Herrell #3. The amendment was not agreed to by voice vote.

Rep. Herrell offered an amendment designated Herrell #4. The amendment was not agreed to by a roll call vote of 18 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Herrell amendment #4

Disposition: Not agreed to by a roll call vote of 18 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total 48 / Quorum 16 / Report 25	18	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Herrell offered an amendment designated Herrell #5. The amendment was not agreed to by a roll call vote of 18 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Herrell amendment #5

Disposition: Not agreed to by a roll call vote of 18 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 26	18	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Herrell offered an amendment designated Herrell #6. The amendment was not agreed to by a roll call vote of 18 yeas and 25 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Herrell amendment #6

Disposition: Not agreed to by a roll call vote of 18 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI			
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Torko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Reported: 25	18	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Herrell offered an amendment designated Herrell #031. The amendment was not agreed to by a roll call vote of 19 yeas and 26 nays, as follows:

Date: September 2, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee Print proving for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Herrell amendment #031

Disposition: Not agreed to by a roll call vote of 19 yeas and 26 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*	X		
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	26	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Herrell offered an amendment designated Herrell #032. The amendment was not agreed to by voice vote.

Rep. Boebert offered amendments designated Boebert #2, Boebert #3, Boebert #4, and Boebert #5. Rep. Jerry L. Carl (R-AL) offered amendments designated Carl #1 and Carl #2. Rep. Stauber offered on behalf of Rep. Don Young (R-AK) an amendment designated Young #1. Rep. Tom Tiffany (R-WI) offered an amendment designated Tiffany #1. Rep. Jenniffer González-Colón (R-PR) offered amendments designated González-Colón #1 and González-Colón #2. Rep. Moore offered amendments designated Moore #1, Moore #2 (Revised), and Moore #3. Recorded votes on these amendments were postponed.

The Committee adjourned.

The Committee on Natural Resources met on Thursday, September 9, 2021, to continue its consideration of the committee print.

Rep. Graves offered a motion to postpone consideration of the committee print indefinitely. The motion was withdrawn.

Rep. Boebert previously offered an amendment designated Boebert #2. The amendment was not agreed to by a roll call vote of 18 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #2

Disposition: Not agreed to by a roll call vote of 18 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY			
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Boebert previously offered an amendment designated Boebert #3. The amendment was not agreed to by a roll call vote of 19 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #3

Disposition: Not agreed to by a roll call vote of 19 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI			
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Boebert previously offered an amendment designated Boebert #4. The amendment was not agreed to by a roll call vote of 18 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #4

Disposition: Not agreed to by a roll call vote of 18 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Boebert previously offered an amendment designated Boebert #5. The amendment was not agreed to by a roll call vote of 17 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #5

Disposition: Not agreed to by a roll call vote of 17 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 35	17	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Carl previously offered an amendment designated Carl #1. The amendment was not agreed to by a roll call vote of 17 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Carl amendment #1

Disposition: Not agreed to by a roll call vote of 17 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 35	17	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Carl previously offered an amendment designated Carl #2. The amendment was not agreed to by a roll call vote of 17 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Carl amendment #2

Disposition: Not agreed to by a roll call vote of 17 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	17	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Stauber previously offered on behalf of Rep. Young an amendment designated Young #1. The amendment was not agreed to by a roll call vote of 18 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Young amendment #1

Disposition: Not agreed to by a roll call vote of 18 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA			
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 35	18	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Tom Tiffany (R-WI) previously offered an amendment designated Tiffany #1. The amendment was not agreed to by a roll call vote of 19 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Tiffany amendment #1

Disposition: Not agreed to by a roll call vote of 19 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI			
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 20	19	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. González-Colón previously offered an amendment designated González-Colón #1. The amendment was not agreed to by a roll call vote of 18 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. González-Colón amendment #1

Disposition: Not agreed to by a roll call vote of 18 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP			
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI			
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Moore previously offered an amendment designated Moore #1. The amendment was not agreed to by a roll call vote of 19 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Moore amendment #1

Disposition: Not agreed to by a roll call vote of 19 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 35	19	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Moore previously offered an amendment designated Moore #2 (Revised). The amendment was not agreed to by a roll call vote of 19 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Moore amendment #2 (revised)

Disposition: Not agreed to by a roll call vote of 19 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. Moore previously offered an amendment designated Moore #3. The amendment was not agreed to by a roll call vote of 19 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Moore amendment #3

Disposition: Not agreed to by a roll call vote of 19 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Rep. González-Colón previously offered an amendment designated González-Colón #2. The amendment was not agreed to by a roll call vote of 19 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. González-Colón amendment #2

Disposition: Not agreed to by a roll call vote of 19 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP	X		
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Chair Grijalva offered an amendment in the nature of a substitute to the committee print.

Ranking Member Westerman offered a motion to table the amendment in the nature of a substitute to the committee print. The motion was not agreed to by a roll call vote of 18 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Ranking Member Westerman motion to table Chair Grijalva amendment in the nature of a substitute to the committee print.
Amendment:

Disposition: Not agreed to by a roll call vote of 18 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY			
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*			
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 Quorum: 16 Report: 25	18	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

Chair Grijalva offered an amendment designated Grijalva #14 to the amendment in the nature of a substitute. The amendment was agreed to by unanimous consent.

Rep. Boebert offered an amendment designated Boebert #01 to the amendment in the nature of a substitute. Rep. Graves offered an amendment designated Graves #03 to the amendment in the nature of a substitute. Rep. Tiffany offered an amendment designated Tiffany #4 to the amendment in the nature of a substitute. Ranking Member Westerman offered an amendment designated Westerman #02 to the amendment in the nature of a substitute. Rep. Bentz offered an amendment designated Bentz #6 to the amendment in the nature of a substitute. Rep. Stauber offered on behalf of Rep. Jay Obernolte (R-CA) an amendment designated Obernolte #06 to the amendment in the nature of a substitute. Ranking Member Westerman on behalf of Rep. Obernolte offered an amendment designated Obernolte #1 to the amendment in the nature of a substitute. Rep. Tom McClintock (R-CA) offered an amendment designated McClintock #2 to the amendment in the nature of a substitute. Rep. Stauber offered an amendment designated Stauber #7 to the amendment in the nature of a substitute. Rep. Graves offered an amendment designated Graves #06 to the amendment in the nature of a substitute. Rep. Carl offered an amendment designated Carl #3 to the amendment in the nature of a substitute. Rep. Louie Gohmert (R-TX) offered an amendment designated Gohmert #10 to the amendment in the nature of a substitute. Rep. Bentz offered an amendment designated Bentz #11 to the amendment in the nature of a substitute. Ranking Member Westerman offered an amendment designated Westerman #07 (Revised) to the amendment in the nature of a substitute. Rep. Matt Rosendale (R-MT) offered an amendment designated Rosendale #08 to the amendment in the nature of a substitute. Ranking Member Westerman offered an amendment designated Westerman #12 to the amendment in the nature of a substitute. Recorded votes on these amendments were postponed.

Rep. Graves offered an amendment designated Graves #2 (Revised) to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #29 (Revised 2) to the amendment in the nature of a substitute. Rep. Graves offered an amendment designated Graves #30 (Revised 2) to the amendment in the nature of a substitute. Ranking Member Westerman offered an amendment designated Westerman #13 to the amendment in the nature of a substitute. Rep. Bentz offered an amendment designated Bentz #7 to the amendment in the nature of a substitute. Rep. Gosar offered an amendment designated Gosar #6 to the amendment in the nature of a substitute. Rep. Tiffany offered an amendment designated Tiffany #3 to the amendment in the nature of a substitute. Rep. Graves offered an amendment designated Graves #13 (Revised) to the amendment in the nature of a substitute. Rep. Graves offered an amendment designated Graves #14 to the amendment in the nature of a substitute. Rep. Graves offered an amendment designated Graves #28 to the amendment in the nature of a substitute. Recorded votes on these amendments were postponed.

Rep. Rosendale offered an amendment designated Rosendale #2 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Ranking Member Westerman offered an amendment designated Westerman #11 to the amendment in the nature of a substitute. Rep. Boebert offered an amendment designated Boebert

#7 to the amendment in the nature of a substitute. Recorded votes on these amendments were postponed.

Chair Grijalva offered a motion to move the previous question on the Grijalva amendment in the nature of a substitute. The motion was agreed to by a roll call vote of 25 yeas and 15 nays, as follows:

September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Chair Grijalva motion for the previous question on the Grijalva amendment in the nature of a substitute to the committee print.

Amendment:

Disposition: Agreed to by a roll call vote of 25 yeas and 15 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ *(Chair)*	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernandez, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA	X		
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Porter, CA	X		
19	Mr. Sablan, MP	X		
20	Mr. San Nicolas, GU	X		
21	Mr. Soto, FL	X		
22	Ms. Stansbury, NM	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*		X	
3	*Mr. Carl, AL*		X	
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*		X	
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*		X	
11	*Mr. Lamborn, CO*			
12	*Mr. McClintock, CA*		X	
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*		X	
15	*Mrs. Radewagen, AS*		X	
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*		X	
18	*Mr. Tiffany, WI*			
19	*Mr. Webster, FL*		X	
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Majority: 25	25	15	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Boebert #01 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 17 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #01 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 17 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	17	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Graves #03 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res. 14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #3 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 22	18	25	
	TOTALS	YEAS	NAYS	PRESENT

The amendment designated Tiffany #4 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Tiffany amendment #04 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Westerman #02 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res. 14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Ranking Member Westerman amendment #02 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	18	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Bentz #6 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 19 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Bentz amendment #6 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 19 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	19	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Obernolte #06 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Obernolte amendment #06 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI			
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 35	18	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Obernolte #1 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Obernolte amendment #1 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA			
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA			
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 2*	18	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated McClintock #2 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 23 nays, as follows:[3]

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. McClintock amendment #2 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernandez, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Tranan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 18 / Report: 35	18	23	
	TOTALS	YEAS	NAYS	PRESENT

[3] During the markup, the total on this vote was announced incorrectly. The numbers here on the clerk's tally sheet are accurate and accord with the clerk's roll call.

The amendment designated Stauber #7 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 17 yeas and 25 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Stauber amendment #7 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 17 yeas and 25 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*			
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	17	25	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Graves #06 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #6 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 18 / Report: 25	18	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Carl #3 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Carl amendment #3 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 18 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total 48 / Quorum 16 / Report 30	18	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Gohmert #10 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gohmert amendment #10 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total 48 / Quorum 18 / Report 25	16	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Bentz #11 to the amendment in the nature of a substitute was not agreed to roll call vote of 15 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Bentz amendment #11 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 15 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 20	15	24	
	TOTALS	YEAS	NAYS	PRESENT

The amendment designated Westerman #07 (Revised) to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Ranking Member Westerman amendment #07 (Revised) to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 16 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total 48 / Quorum 16 / Report 25	16	24	
	TOTALS	YEAS	NAYS	PRESENT

The amendment designated Rosendale #08 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 22 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Rosendale amendment #8 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 22 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI			
24	Mr. Tonko, NY			
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*			
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	22	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Westerman #12 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 17 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Ranking Member Westerman amendment #12 to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 17 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	17	23	
	TOTALS	YEAS	NAYS	PRESENT

The amendment designated Graves #29 (Revised 2) to the amendment in the nature of a substitute was not agreed to by a roll call vote of 18 yeas and 21 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #29 (Revised 2) to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 18 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI			
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 18 / Report: 25	18	21	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Graves #30 (Revised 2) to the amendment in the nature of a substitute was not agreed to by a roll call vote of 17 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #30 (Revised 2) to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 17 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*	X		
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	17	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Westerman #13 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Ranking Member Westerman amendment #13 to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 16 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	24	
	TOTALS	YEAS	NAYS	PRESENT

The amendment designated Bentz #7 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Bentz amendment #7 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Gosar #6 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Gosar amendment #6 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velazquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Sherman: 18 / Report: 25	16	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Tiffany #3 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Tiffany amendment #3 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Graves #13 (Revised) to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #13 (Revised) to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 16 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 | Quorum: 16 | Report: 45	16	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Graves #14 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #14 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA			
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*			
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Graves #28 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Graves amendment #28 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA			
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	16	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Westerman #11 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 17 yeas and 24 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res. 14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Ranking Member Westerman amendment #11 to the amendment in the nature of a substitute.
Disposition: Not agreed to by a roll call vote of 17 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*	X		
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	17	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment designated Boebert #7 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 16 yeas and 23 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Boebert amendment #7 to the amendment in the nature of a substitute.

Disposition: Not agreed to by a roll call vote of 16 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU		X	
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*	X		
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*	X		
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*	X		
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 18 / Report: 25	16	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The amendment in the nature of a substitute offered by Chair Grijalva, as amended, was agreed to by a roll call vote of 25 yeas and 14 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022
Amendment: Rep. Grijalva amendment in the nature of a substitute, as amended.

Disposition: Agreed to by a roll call vote of 25 yeas and 14 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ			
8	Mr. García, IL	X		
9	Mr. Grijalva, AZ (*Chair*)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Porter, CA	X		
19	Mr. Sablan, MP	X		
20	Mr. San Nicolas, GU	X		
21	Mr. Soto, FL	X		
22	Ms. Stansbury, NM	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*		X	
3	*Mr. Carl, AL*			
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*		X	
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*		X	
12	*Mr. McClintock, CA*		X	
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*		X	
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*		X	
18	*Mr. Tiffany, WI*		X	
19	*Mr. Webster, FL*		X	
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 15 / Report: 25	25	14	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

The committee print, as amended, was adopted and ordered favorably transmitted to the Committee on the Budget by a roll call vote of 24 yeas and 13 nays, as follows:

Date: September 9, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: Committee print providing for reconciliation pursuant to S. Con. Res.14, Concurrent Resolution on the Budget for Fiscal Year 2022

Amendment:

Disposition: Final Passage: Committee print, as amended, was adopted and ordered favorably transmitted to the Committee on the Budget by a roll call vote of vote of 24 yeas and 13 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ (*Chair*)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Porter, CA	X		
19	Mr. Sablan, MP	X		
20	Mr. San Nicolas, GU	X		
21	Mr. Soto, FL	X		
22	Ms. Stansbury, NM	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)			
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*		X	
3	*Mr. Carl, AL*			
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*		X	
7	*Mr. Gosar, AZ*		X	
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*		X	
12	*Mr. McClintock, CA*		X	
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*			
15	*Mrs. Radewagen, AS*			
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*			
18	*Mr. Tiffany, WI*		X	
19	*Mr. Webster, FL*		X	
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Recom: 25	24	13	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provision(s).

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goals and objectives of this committee print are for the Committee to comply with the reconciliation directive included in Section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14, consistent with Section 310 of the Congressional Budget and Impoundment Control Act of 1974.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the committee print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by this committee print.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the committee print does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which authorizes Congress to raise revenue and enact spending.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee, to the full House of Representatives, on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the committee print has been requested but not received.

DISSENTING VIEWS

Dissenting Views on the Committee Print

In the face of multiple crises facing America – a disastrous withdrawal from Afghanistan with the abandonment of hundreds of American behind enemy lines, illegal immigrants flooding a porous Southern border, devastating hurricanes, historic wildfires, severe drought, skyrocketing inflation – Natural Resources Committee Democrats ignored all these actual issues facing Americans and instead prioritized partisan wish lists in a multi-billion-dollar reconciliation bill. The majority had an opportunity to advance legislation to address the real needs of our country, get Americans back to work, and make our natural resources healthier and more resilient for the future. Unfortunately, Committee Democrats achieved none of those goals in this legislation.

By shutting down debate and forcing this highly partisan legislation forward, the majority ensured that Americans would continue facing rising energy costs, energy and mineral dependance and many other crippling issues, all while using taxpayer dollars for pet projects, including a $200 million payout to the rich and famous in Speaker Pelosi's district. While Committee Democrats claim to be "Building Back Better," their actions ultimately speak louder than words.

Civilian Climate Corps

The reconciliation legislation provides over $3.6 billion to create a new Civilian Climate Corps (CCC), including $1.7 billion for the National Park Service, $900 million for the Bureau of Land Management, $400 million for the Fish and Wildlife Service, $500 million for a Tribal CCC, and $120 million for the National Oceanic and Atmospheric Administration. This section is a prime example of virtue signaling from Committee Democrats as the term "climate" does not even appear in the CCC's enacting legislation beyond the headers. At a time when so many employers are trying to fill jobs, it is unfathomable that the federal government would spend billions to create a new bureaucracy to compete with small, struggling businesses.[1] It is even more egregious that Democrats are purporting to create jobs through this misguided section, when the overall effect of the legislation will decimate thousands of existing, high-paying jobs in the energy sector.

Resurrecting a 1930's style federal work program under the guise of addressing climate change will achieve nothing but bloating an already bloated federal workforce. The vague, confusing language of the legislation doesn't outline what exactly could be considered a "conservation project" and doesn't even bother defining what an "education and job training project" is at all.[2] This confusion is compounded by the fact that the text does nothing to alleviate concerns about how this new CCC will interact with the hundreds of existing private corps networks that are already meeting the demand for these projects. Democrats rejected several Republican amendments to address basic concerns with the CCC, such as tying the program to unemployment, defining what projects should be allowed, and mandating that funds only go to legal U.S. citizens. Democrats rejected these amendments on the concern they could create

[1] NBC News. "The jobs are coming back — but the workers are not.' June 9, 2021. https://www.nbcnews.com/business/economy/jobs-are-coming-back-workers-are-not-n1270168.
[2] Committee Print, as Reported by the Committee on Natural Resources (Providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, page 12.

"procedural issues" in the Senate, while conveniently ignoring the actual procedural issue their own price tag creates for the Democratic Chairman of the Senate Committee that will be receiving these very instructions. [3]

Pelosi Presidio Payout

The reconciliation legislation also provides $200 million in taxpayer funding for the Presidio Trust, an agency that manages roughly 1,200 acres in San Francisco, exclusively located in Speaker Nancy Pelosi's district. Just five miles from the San Francisco Financial District and nestled among multi-million-dollar mansions, the Presidio has miles of pristine trails, bike routes, scenic overlooks, and even a posh golf course all along the California coast.[4]

Despite a proclamation on the Trust's website stating that park is managed "at no cost to the taxpayers" and its original enabling statute, which mandates the agency become self-sufficient by FY 2012, Congress has authorized $30 million in loans to the Trust and is now on the verge of providing hundreds of millions of dollars via direct appropriation.[5] These taxpayer funds will likely get used to redevelop the 20-acre Fort Scott site, which boasts stunning views of the Golden Gate Bridge, into "a place for change."[6] According to the Trust CEO Jean Fraser, the Trust envisioned renovating "these buildings so that people who are working in the environmental or social justice areas would have a place to do great work in this magnificent setting."[7] The original plan laid out by the Presidio Trust in 2018 was to find a wealthy philanthropist to fund this $200 million dollar project. It is clear her plan never materialized, and now the Trust has found a new philanthropist to fund this liberal "place for change" in the form of the American taxpayer.

During the Committee's markup, Republicans offered several amendments redirecting these funds to causes such as giving a well-deserved pay raise to wildland firefighters, providing recreation opportunities to veterans, military service members, and Gold Star Families, improving forest management to reduce the risk and severity of catastrophic wildfires, addressing the National Park Service's deferred maintenance backlog, and providing grants to remember and honor those we lost on September 11, 2001. Republicans also offered an amendment to prohibit funds from being spent on the Presidio's pristine golf course, high-end hotels, and luxury homes and apartments. Democrats unanimously rejected these amendments, instead voting to give Speaker Pelosi and millionaires in her district a slush fund at the taxpayer's expense.

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[3] Manchin, Joe. "Why I Won't Support Spending Another $3.5 Trillion." Wall Street Journal. https://www.wsj.com/articles/manchin-pelosi-biden-3-5-trillion-reconciliation-government-spending-debt-deficit-inflation-11630605657. Note: this article was published on September 2, 2021, during day 1 of the Committee's markup.
[4] A weekend tee time will cost you $120. https://www.presidiogolf.com/rates-reservations/.
[5] About the Presidio Trust, Presidio Trust (2021), https://www.presidio.gov/presidio-trust/about (last visited Sep 13, 2021); Person. "Powerful Patrons Duel over California Projects in Final Spending Package." Roll Call, Roll Call, 12 Dec. 2019, www.rollcall.com/2019/12/11/powerful-patrons-duel-over-california-projects-in-final-spending-package/.
[6] Levi, Ryan. "For $200 Million, You Can Change the World at The Presidio's Fort Scott." KQED, KQED, 22 Apr. 2018, www.kqed.org/news/11663954/for-200m-you-can-change-the-world-at-the-presidios-fort-scott.
[7] *Id.*

Failure to Address the Crisis at our Federal Border

Illegal immigration has produced long-term environmental consequences for federal lands. Despite this fact, Democrats allocated no funding toward mitigating the impacts of illegal border crossers. The degradation of public lands will become an even more pressing issue as President Biden's policies continue to exacerbate a crisis at the Southern border. In July 2021, for the first time in 21 years, Customs and Border Protection detained more than 200,000 people trying to illegally cross the Southwest border.[8] In addition to the individuals detained, border officials reported more than 1,000 daily "got-aways" in recent months.[9]

Previously, illegal immigration resulted in the creation of illegal trails, spreading wildfires, and destruction of critical habitat. Officials estimate that damage to federal lands will rise, as the number of individuals attempting to cross the Southern border continues to reach historic levels. Restoring public lands and erecting protections to deter further damage requires funding. Despite this, none of the $31.7 billion in the Committee's reconciliation package is directed toward mitigating the predictable harms caused by illegal border crossers.

Although Committee Democrats initially supported funding U.S. Fish and Wildlife Service Civilian Climate Corps projects to rehabilitate the harms caused by illegal border crossers, the majority later backtracked and removed the Republican language to address this important issue. Similarly, the majority declined to dedicate funding for the National Park Service's or Bureau of Land Management's Civilian Climate Corps to rehabilitate federal lands along the Southern border. In addition, the majority refused to consider providing resources to private landowners and ranchers to address the adverse impacts illegal immigration has on their lands. Committee Democrats have repeatedly and willfully ignored predictable damages and failed to allocate a single penny to mitigate harms to federal lands along the Southern border. Sensitive areas and critical wildlife habitats will suffer as a result.

Endangered Species Act and Wildlife Provisions

This reconciliation legislation represents a lost opportunity to achieve real results for the American people. It throws billions of taxpayer dollars at programs that are duplicative, ineffective, or buried in the ideologies of the past. Rather than empower states, tribes, localities and the private sector, it throws money – which will be added to our massive federal debt – at longstanding problems without any commonsense, long-term solutions.

For example, the legislation directs funding toward Endangered Species Act (16 U.S.C. 1531 et seq., ESA) programs, some of which even the Biden Administration testified are unnecessary and duplicative. The ESA, a well-intended but broad 1973 law aimed at protecting endangered and threatened species, is a law in great need of reform. One only needs to look at the San Joaquin Valley of California or the Klamath area in Oregon and California as a microcosm of what has gone wrong with the ESA over time: as more water is diverted from communities for

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[8] Nick Miroff, July was Busiest Month for Illegal Border Crossing in 21 Years, CBP Data Shows, THE WASHINGTON POST (Aug. 12, 2021), https://www.washingtonpost.com/national/record-numbers-illegal-border-crossings/2021/08/12/e3d305e2-facd-11eb-b8dd-0e376fba55f2_story.html.

[9] *Id.*

the three-inch endangered Delta smelt, sucker fish, or salmon, the long-term result is that both species and communities continue to suffer, especially during these times of historic drought. The ESA status quo is simply not working for species and people.

The ESA can be updated and modernized to both better protect truly endangered species and the human communities often impacted by the draconian ESA regulations and decisions made by the federal bureaucracies. Democrats had this opportunity but failed miserably not only in the underlying text, but also in voting party-line against multiple ESA-related amendments offered by Committee Republicans. Mr. Bentz offered an amendment to preserve critical habitat designations made under the prior administration which would have led to increased forest restoration projects, created jobs, and protected the Northern Spotted Owl from catastrophic wildfire. Mr. Carl offered an amendment to protect lobstermen and others from a recent and punitive Right Whale rule and restrictive marine protected areas. Both amendments were opposed by Democrats in party line votes.

Overall reforms aimed at improving ESA implementation met the same fate. An amendment offered by Mr. Gosar attempted to codify five different ESA rules aimed at defining critical habitat, streamlining the law's consultation process, and requiring robust economic analysis failed in a party-line vote. Since a few litigious groups have weaponized the ESA to sue the federal government and receive hundreds of millions in attorneys' fees that are then used for additional lawsuits, Mr. Westerman's amendment would have prohibited these organizations from getting any ESA-related grants under the bill. The majority sided party-line with the litigious environmental extremists.

Doing further harm to wildlife conservation, the majority effectively sided with the serial litigation/instigation movement which has petitioned the Biden Administration to ban the importation, acquisition, transfer, or possession of ALL wildlife and wildlife products or parts. In an August 26, 2021 letter to the administration, 36 diverse wildlife hunting organizations and state fish and wildlife agencies wrote that the petition was "federal overreach," risks the "financial stability" of state-led conservation funding, would create "bureaucratic hurdles" for non-resident hunting, and that the sweeping ban "under the guise of preventing future pandemic threats is beyond comprehension." While Committee Republicans universally agreed with Mr. Tiffany's amendment prohibiting funding for such a ban, the majority voted party-line to leave the door open for a potentially devastating ban.

Drought Response and Preparedness Provisions

Committee Democrats also missed opportunities to help many affected by this year's historic western drought. For generations, multi-purpose reservoirs in the American West have captured water in "wet" times to use during the "dry" times. More than ever, increased water storage is needed to capture additional runoff. While the majority voted against Republican amendments to add short-term funding for "drought relief" under the reconciliation bill, Committee Democrats also voted against three Republican amendments aimed at providing long-term water storage and other solutions. Mr. Bentz's amendment to reauthorize the successful Subtitle J of the Water Infrastructure Improvements for the Nation (WIIN) Act and Mr. McClintock's amendment to fund the Shasta Dam Raise were both defeated. Mr. Obernolte's amendment

adding water storage, water recycling and desalination projects under the WIIN Act recommendation process was rejected on a party-line vote, even though the funding for the projects had been recently recommended by the Biden Administration. The Majority's willingness to defeat these amendments is another telling example how they have no long-term, serious plan to avoid the next drought, and represents yet another missed opportunity in their partisan exercise.

Conventional and Renewable Energy Provisions

This legislation amends the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq., MLA), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., OCSLA), and the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701 et. seq.) to raise rental rates, fees, and royalty rates for conventional energy leases on federal lands and waters. The text would discourage oil and gas leasing on federal lands by eliminating leasing policies that provide certainty to operators and states, as well as by imposing duplicative regulatory reviews and onerous reporting requirements. The result is a loss of good-paying American jobs.

Nearly every existing fee for oil and gas production is increased under this legislation, and several new ones are created. First, the minimum royalty rate for onshore and offshore oil and gas production is raised from 12.5% to 20% and reinstated onshore lease royalties raised from 16⅔% to 25%. This change alone immediately makes federal lands and waters significantly less attractive for operators compared to states and private lands. The extensive changes to the leasing process under this legislation also include the following: raising the minimum national bid to $10 per acre, increasing rental rates for onshore oil and gas from $2 to $3 for the first 5 years and from $3 to $5 every year thereafter, eliminating noncompetitive leasing, applying a royalty on all methane released, establishing an expression of interest fee, reducing standard lease terms from 10 years to 5 years, imposing new inspection fees onshore and increasing existing inspection fees offshore, creating an idled well fee, establishing an annual fee for offshore pipelines, increasing bonding requirements, removing flexibility for deferred coal bonus bid payments, eliminating the possibility of royalty relief, and many other changes.

In addition to raising royalties and fees, this legislation also threatens American energy security by locking up vast areas both onshore and offshore. First, the text permanently prohibits leasing on the Outer Continental Shelf (OCS) in the Atlantic, Pacific and Eastern Gulf of Mexico Planning Areas, removing the potential for future development. Another de-facto withdrawal is created by repealing Section 20001 of the Tax Cuts and Jobs Act of 2017, which authorized oil and gas production in the 1002 Area of the Artic National Wildlife Refuge and required two lease sales. The Trump Administration finalized the first lease sale in 2020, but the Biden Administration has halted implementation of the leasing program.

While this legislation hamstrings conventional energy development, it also does nothing to support renewable energy, leaving a question about where our energy supply will come from. Wind leasing is authorized in the territories under this text, although no revenue-sharing mechanisms were included for the benefit of the territories. There is also a provision to exempt wind energy from Trump-era energy leasing moratoria offshore Florida, Georgia and the Carolinas. While Committee Republicans support wind leasing in these areas, this legislation

should not pick "winners and losers" in the energy sector, and should instead allow market forces to dictate which resources are developed in these areas. The text contains no improvements at all for onshore renewables, which already lag notoriously behind renewable development on state and private lands.

These changes serve to make conventional energy production less profitable and more challenging, decreasing the competitiveness of domestic development on federal lands and waters. The burden will fall especially hard on small operators, at a time when unemployment remains exceptionally high. Gas prices are at their highest level in 7 years,[10] and making domestic production harder will exacerbate this problem for Americans across the country.

Hardrock Mineral Provisions

This text makes multiple changes to the existing hardrock mining system that would be devastating to current and future domestic production. First, the legislation assesses a new 8% gross royalty on new mines and a new 4% gross royalty on existing mines. These punitive royalties threaten the economic viability of new and existing mines, and could even constitute a takings claim against the federal government. Additionally, the text establishes a new "displaced material" reclamation fee of seven cents per ton. This fee would be based on the amount of crude ore and waste material moved during the mining process, often known as the "dirt tax." These new royalties and fees would be in addition to the existing claim maintenance fee already charged by the government.[11]

While new royalties and fees are purportedly intended to raise money, several mining-related provisions would also reduce expected revenues to the federal government, in addition to causing major harm to domestic mineral supply chains. The most expensive provision is the establishment of an abandoned mine fund, which calls for $2.5 billion for the inventory and remediation of abandoned hardrock mines for 10 years. More troubling for future production are two major mineral withdrawals contained in this legislation. The first repeals 16 U.S.C. 539p, the Southeast Arizona land exchange and conservation, which was enacted as part of the FY 2015 NDAA and establishes a mineral withdrawal in the area. This provision is intended to prevent the Resolution Copper mining project from going forward, banning development of some of the most valuable copper resources in the nation and eliminating thousands of potential jobs associated with the mine. The second withdrawal in this bill would permanently ban mineral development on approximately 1 million acres of public lands in Northern Arizona. This withdrawal area is far outside the Grand Canyon and would prevent development of the largest tract of uranium deposits in the country.[12] Finally, this text provides $3 million to BLM to revise rules and regulations "to prevent undue degradation of public lands due to hardrock mining activities" for a period of 10 years, which is likely intended to impose onerous regulations on hardrock mining.

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[10] https://www.cbsnews.com/news/gas-prices-highest-in-7-years/

[11] Bureau of Land Management. "Mining Claim Fees." https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals/mining-claims/fees

[12] Letter to Secretary Zinke from the Congressional Western Caucus, re: Arizona Uranium Mineral Withdrawal. July 27, 2018.

Indian Health Service

Democrats' partisan, lopsided budget reconciliation legislation is a missed opportunity to address critical needs at Indian Health Service (IHS) hospitals and facilities. The total estimated IHS facility construction need is approaching $20 billion. The United States has a federal trust responsibility to ensure American Indians and Alaska Native communities have access to adequate, safe, and reliable health facilities.

In 1990, the IHS revised the Health Care Facilities Construction Priority System (HFCPS).[13] The remaining health care facilities projects on the HFCPS list today, including those partially funded, total approximately $2 billion as of March 2020.[14] At the current rate of facility construction appropriations, if a new facility were built today, it would not be replaced for 400 years. With an extraordinary need beyond the 1990 HFCPS, Democrats' proposal of only $2 billion is a missed opportunity. In recent years, several reports to Congress have highlighted the dire conditions of many IHS facilities. Additionally, this proposal does not contain any policies that will require the IHS develop new construction need methodologies to ensure the construction list reflects the greatest needs throughout Indian country.

Although there is bipartisan agreement in Congress of the need for robust healthcare infrastructure investment in Indian Country, the proposals contained in this section, fall short of adequately and properly addressing critical needs within Indian Country.

Ranking Member Westerman offered an amendment to reallocate an additional $1 billion to IHS facilities construction to better address our healthcare responsibilities in Indian Country. The amendment was defeated by a party line vote. Committee Democrats continue the trend of prioritizing climate change talking points and partisan slush funds over the health and well-being of Americans.

Bureau of Indian Affairs

Conditions throughout Indian Country are, at best, subpar. Democrats had a real opportunity to work on critical needs for Indian Country. Unfortunately, the Bureau of Indian Affairs (BIA) provisions found in this Committee print do not adequately address the real needs in tribal communities.

For instance, the majority's plan includes a new $1 billion program to address tribal climate resiliency, adaptation, and community relocation planning, design, and implementation of projects which address the varying climate challenges facing tribal communities. This amount is nearly twice the amount of the annual appropriations to the entire BIA budget. The BIA Climate Resilience program is supposed to send resources to Federally recognized tribes to build capacity and resilience through both technical and financial assistance, support the delivery of data and

[13] https://www.ihs.gov/dfpc/resources
[14] https://www.ihs.gov/sites/dfpc/themes/responsive2017/display_objects/documents/projects/Planned_Construction_Priorities.pdf

tools, access to training and workshops and facilitates planning associated with impacts posed by harmful environmental trends. However, there is little indication that tribes have been adequately consulted on how this new BIA program would be implemented or if this initiative is even a priority in Indian Country.

Committee Democrats' "Blue New Deal" legislation (H.R. 3764) includes similar legislative proposals for climate change resiliency enhancements within the Department of the Interior. There is limited information as to whether these efforts to direct federal funding for climate resiliency programs will improve tribal economies throughout the nation.

The budget reconciliation Committee print includes a provision that addresses public safety in Indian Country. The Bureau of Indian Affairs Public Safety section would authorize $200 million for carrying out programs under the BIA Office of Justice Services. This office is tasked with managing BIA's law enforcement, corrections, and tribal court programs, including construction. Indian Country currently faces some of the highest rates of crime. Tribal citizens are nearly 2.5 times more likely to become victims of violent crimes, and unfortunately, Native women are subject to even higher rates of domestic violence and abuse. The federal government is not providing the necessary resources to combat crime in Indian Country, and the Democrats' plan of only providing $200 million for public safety is disheartening.

Although there is bipartisan agreement in Congress regarding the need for robust public safety and justice investment in Indian Country, the proposals contained in this section fall far short of adequately and properly addressing those critical needs.

Ranking Member Westerman offered an amendment that would reallocate $1 billion originally set aside for tribal climate resiliency and adaptation and redirect it to the BIA's Public Safety and Justice programs. The amendment was defeated by Committee Democrats on a party line vote. This amendment would have provided additional funding for BIA law enforcement, creating safer detention facilities and providing sound justice to all tribal members. This is yet another instance where the Democrat majority has voted against critical funding for law enforcement, public safety, and justice infrastructure.

Vieques Compensation

The section proposes placing a Special Master in charge of determining if a claimant or heir is eligible for compensation for exposure to contamination in Vieques, Puerto Rico.

Although federal public health assessments have suggested low levels of direct exposure, both the Puerto Rican government and independent documentation have detected the presence in the environment of Vieques of levels of heavy metals as a result of the expended ordnance over 62 years of military operations, being absorbed into the vegetation and crops, creating a potential pathway of exposure for civilians. Residents have raised claims of increased incidence of chronic health problems.

The majority's proposal, unlike bipartisan legislative proposals of H.R. 1126 and H.R. 1317,

provides no guidance as to dollar amounts a claimant(s) or heir(s) would be eligible nor about the specific criteria for determining that eligibility either regarding residency in Vieques or health condition, nor further research into the environmental health situation. In addition, the funding authorized under this section would flow through the Department of the Interior rather than from the Judgement Fund at the Department of Justice. The lack of structure contained in this section and proposal to include a federal agency that does not even have oversight of Puerto Rico creates additional bureaucratic and implementation challenges instead of a solution to claimants.

Insular Hospital Infrastructure

The legislation proposes $993 million for Hospitals and Health Infrastructure in the Insular Areas. Of that, 35 percent of the amount made available under this section will be available for Guam, 35 percent to the U.S. Virgin Islands, 20 percent to the Commonwealth of the Northern Mariana Islands and 10 percent to American Samoa for public hospital infrastructure.

Conditions at the LBJ hospital in American Samoa are dire due to a lack of adequate funding and a chronic backlog of infrastructure maintenance. While the Department of Interior's Office of Insular Affairs (OIA) Capital Improvement Program has provided infrastructure funding to the LBJ hospital, current needs are estimated to be more than $100 million for modernization, and three-quarters of a billion for complete replacement of the facility.

Similarly, the main wings of the Guam Memorial hospital were built in 1978 and need replacement. In April 2020, the U.S. Army Corps of Engineers issued a report stating that the hospital is in an overall state of failure due to age, environmental exposure, lack of financial resources to support pre-planned capital infrastructure replacements, and lack of previous facilities design adherence to building codes. The Army Corps estimated the cost of replacement is $743 million. While the government of Guam has set aside approximately half of the needed funds, investment will ensure Guam has an adequate health facility, as recommended by the U.S. Corps to meet accreditation standards.

In 2017, two hospitals in the U.S. Virgin Islands were damaged by hurricanes Maria and Irma. In 2019, FEMA announced it would direct $80 million to aid in the reconstruction of the two hospitals. The remaining cost to rebuild the hospitals would be $170 million.

In 2018, Super Typhoon Yutu caused significant damage to health infrastructure in the Commonwealth of the Northern Marianas. Approximately $20 million will be set aside for hospital infrastructure reconstruction, despite no comprehensive estimate of need at the hospital.

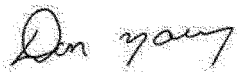
While there is bipartisan support for investment in health infrastructure in the U.S. territories, the percentage allocations proposed by the majority are artificial and do not support equitable funding across the territories. The lopsided funding structure contained in this section does nothing to consider territory population or total healthcare need.

For these many reasons, we oppose the Committee Print as ordered reported.

Sincerely,



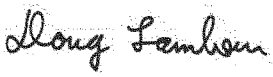
Bruce Westerman
Ranking Member



Don Young
Member of Congress



Louie Gohmert
Member of Congress



Doug Lamborn
Member of Congress



Robert J. Wittman
Member of Congress



Tom McClintock
Member of Congress



Paul A. Gosar, D.D.S.
Member of Congress



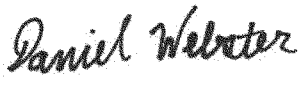
Garret Graves
Member of Congress



Jody Hice
Member of Congress



Aumua Amata C. Radewagen
Member of Congress



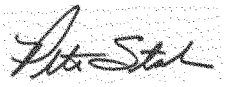
Daniel Webster
Member of Congress



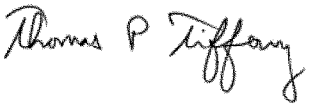
Jenniffer González-Colón
Member of Congress



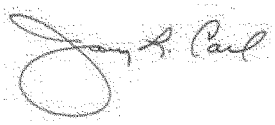
Russ Fulcher
Member of Congress



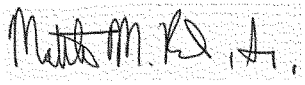
Pete Stauber
Member of Congress



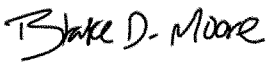
Tom Tiffany
Member of Congress



Jerry L. Carl
Member of Congress



Matthew Rosendale, Sr.
Member of Congress



Blake Moore
Member of Congress



Yvette Herrell
Member of Congress



Lauren Boebert
Member of Congress



Jay Obernolte
Member of Congress



Cliff Bentz
Member of Congress

CAROLYN B. MALONEY, NEW YORK
CHAIRWOMAN

ONE HUNDRED SEVENTEENTH CONGRESS

JAMES COMER, KENTUCKY
RANKING MINORITY MEMBER

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September 9, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Oversight and Reform, and the appropriate accompanying material including additional, supplemental, minority, or dissenting views, to the House Committee on the Budget.

This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Carolyn B. Maloney
Chairwoman

cc: The Honorable James Comer, Ranking Member

TRANSMITTAL OF THE COMMITTEE ON OVERSIGHT AND REFORM TO THE COMMITTEE ON THE BUDGET PURSUANT TO S. CON. RES. 14, THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2021

TABLE OF CONTENTS

Explanation of Provisions
Votes of the Committee
Budget Effects of the Provisions
CBO Cost Estimate
Other Matters to Be Discussed Under the Rules of the House
Changes in Existing Law Made by the Committee's Reconciliation
Legislative Recommendations, As Transmitted
Minority Views

EXPLANATION OF PROVISIONS

TITLE VIII—COMMITTEE ON OVERSIGHT AND REFORM

SEC. 80001. General Services Administration Clean Vehicle Fleet

This section would provide the General Services Administration (GSA) $5 billion, to remain available until expended, for the procurement of electric vehicles and related support infrastructure for the federal fleet. For the purposes of this section, the federal fleet does not include any vehicles of the United States Postal Service but does include non-tactical vehicles of the Department of Defense.

SEC. 80002. General Services Administration Office of the Inspector General Clean Vehicle Fleet Oversight

This section would provide the GSA Office of the Inspector General $2.5 million, to remain available until expended, for oversight of the procurement of electric vehicles and related support infrastructure for the federal fleet.

SEC. 80003. United States Postal Service Clean Vehicle Fleet

This section would provide the United States Postal Service $7 billion, to remain available until expended, to acquire electric vehicles and related support infrastructure. Three billion dollars would be used for the acquisition of the Postal Service's Next Generation Delivery Vehicle, and $4 billion would be used for the purchase of necessary charging infrastructure.

SEC. 80004. United States Postal Service Office of the Inspector General Clean Vehicle Fleet Procurement Oversight

This section would provide the Office of the Inspector General of the Postal Service $23 million, to remain available until expended, to perform oversight of the Postal Service's acquisition of electric vehicles and related support infrastructure.

SEC. 80005. National Archives and Records Administration

This section would provide the National Archives and Records Administration $60 million, to remain available until expended, to address backlogs in responding to requests from veterans for military personnel records, improve cyber security, improve digital preservation and access to federal records, and address Freedom of Information Act request backlogs.

SEC. 80006. Funding for Government Accountability Office

This section would provide the Government Accountability Office (GAO) $25 million, to remain available until expended, to conduct oversight of the receipt and disbursement of funds in this Act. This oversight shall include oversight of the equitable distribution and use of funds and their economic, social, and environmental impacts.

SEC. 80007. Funding for the Office of Management for Implementation of Justice40

This section would provide the Office of Management and Budget (OMB) $4 million, to remain available until September 30, 2026, for additional personnel and data management expenses to provide assistance to other agencies in developing and implementing methodologies to measure benefits, for the development of a database to track agency benefits to disadvantaged communities, and for a public-facing scorecard detailing agency environmental justice performance measures to support the implementation of the Justice40 Initiative set forth in Executive Order No. 14008, "Executive Order on Tackling the Climate Crisis at Home and Abroad."

SEC. 80008. District of Columbia Clean Vehicle Fleet

This section would provide the District of Columbia $10 million, to remain available until expended, for the procurement of electric vehicles and related infrastructure.

SEC. 80009. Funding for Technology Modernization Fund

This section would provide the Technology Modernization Fund $1 billion, to remain available until September 30, 2031.

SEC. 80010. Funding for General Services Administration Federal Citizen Services Fund

This section would provide GSA $2 billion, to remain available until September 30, 2031, for the Federal Citizen Services Fund.

SEC. 80011. Funding for Information Technology Oversight and Reform (ITOR) Account

This section would provide OMB's Information Technology Oversight and Reform account within the Executive Office of the President $350 million, to remain available until September 30, 2031.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following nine recorded votes occurred during consideration of the Committee Print:

1. Amendment (#1) to the amendment in the nature of a substitute (ANS) to the Committee Print, offered by Ms. Mace, was ruled not germane. The motion to table the motion to appeal the ruling of the chair passed by a recorded vote of 24 to 17.

2. Amendment (#1) to the ANS to the Committee Print offered by Mr. LaTurner, was ruled not germane. The motion to table the motion to appeal the ruling of the chair passed by a recorded vote of 24 to 18.

3. En bloc package of amendments (Mr. Clyde #1, Mr. Keller #2, Mr. Sessions #1, and Mr. Higgins #2) to the ANS to the Committee Print failed by a recorded vote of 19 to 24.

4. Amendment (#1) to the ANS to the Committee Print, offered by Mr. Cloud, failed by a recorded vote of 19 to 25.

5. Amendment (#1) to the ANS to the Committee Print, offered by Mr. Gosar, failed by a recorded vote of 18 to 25.

6. Amendment (#2) to the ANS to the Committee Print, offered by Mr. Gosar, failed by a recorded vote of 18 to 25.

7. Amendment (#1) to the ANS to the Committee Print, offered by Mr. Biggs, failed by a recorded vote of 18 to 25.

8. Amendment (#2) to the ANS to the Committee Print, offered by Mr. Biggs, failed by a recorded vote of 17 to 25.

9. The Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, as amended, was agreed to by a recorded vote of 25 to 18.

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Johnson moved to table Rep. Cloud's appeal on the ruling of the Chair to the Amendment to the ANS offered by Rep. Mace (SC)

Date: Sept. 2, 2021 **VOTE #: 1**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*	X			MR. COMER (KY) *(Ranking Member)*		X	
MS. NORTON (DC)	X			MR. JORDAN (OH)			
MR. LYNCH (MA)	X			MR. GOSAR (AZ)		X	
MR. COOPER (TN)	X			MS. FOXX (NC)		X	
MR. CONNOLLY (VA)	X			MR. HICE (GA)		X	
MR. KRISHNAMOORTHI (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. CLOUD (TX)		X	
MR. KHANNA (CA)	X			MR. GIBBS (OH)		X	
MR. MFUME (MD)	X			MR. HIGGINS (LA)		X	
MS. OCASIO-CORTEZ (NY)	X			MR. NORMAN (SC)			
MS. TLAIB (MI)	X			MR. SESSIONS (TX)		X	
MS. PORTER (CA)	X			MR. KELLER (PA)			
MS. BUSH (MO)	X			MR. BIGGS (AZ)		X	
MR. DAVIS (IL)	X			MR. CLYDE (GA)		X	
MS. WASSERMAN SCHULTZ (FL)	X			MS. MACE (SC)		X	
MR. WELCH (VT)	X			MR. FRANKLIN (FL)		X	
MR. JOHNSON (GA)	X			MR. LATURNER (KS)		X	
MR. SARBANES (MD)	X			MR. FALLON (TX)		X	
MS. SPEIER (CA)				MS. HERRELL (NM)		X	
MS. KELLY (IL)	X			MR. DONALDS (FL)		X	
MS. LAWRENCE (MI)	X						
MR. DESAULNIER (CA)	X						
MR. GOMEZ (CA)	X						
MS. PRESSLEY (MA)	X						
MR. QUIGLEY (IL)	X						

Roll Call Totals: Ayes: 24 Nays: 17 Present:

Passed: X Failed: (REVISED 2-12-21)

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Johnson moved to table Rep. LaTurner's appeal on the ruling of the Chair to the Amendment to the ANS offered by Rep. LaTurner (KS)

Date: Sept. 2, 2021 **VOTE #: 2**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*	X			MR. COMER (KY) *(Ranking Member)*		X	
MS. NORTON (DC)	X			MR. JORDAN (OH)			
MR. LYNCH (MA)	X			MR. GOSAR (AZ)		X	
MR. COOPER (TN)	X			MS. FOXX (NC)		X	
MR. CONNOLLY (VA)	X			MR. HICE (GA)		X	
MR. KRISHNAMOORTHI (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. CLOUD (TX)		X	
MR. KHANNA (CA)	X			MR. GIBBS (OH)		X	
MR. MFUME (MD)	X			MR. HIGGINS (LA)		X	
MS. OCASIO-CORTEZ (NY)	X			MR. NORMAN (SC)			
MS. TLAIB (MI)	X			MR. SESSIONS (TX)		X	
MS. PORTER (CA)	X			MR. KELLER (PA)		X	
MS. BUSH (MO)	X			MR. BIGGS (AZ)		X	
MR. DAVIS (IL)	X			MR. CLYDE (GA)		X	
MS. WASSERMAN SCHULTZ (FL)	X			MS. MACE (SC)		X	
MR. WELCH (VT)	X			MR. FRANKLIN (FL)		X	
MR. JOHNSON (GA)	X			MR. LATURNER (KS)		X	
MR. SARBANES (MD)	X			MR. FALLON (TX)		X	
MS. SPEIER (CA)				MS. HERRELL (NM)		X	
MS. KELLY (IL)	X			MR. DONALDS (FL)		X	
MS. LAWRENCE (MI)	X						
MR. DESAULNIER (CA)	X						
MR. GOMEZ (CA)	X						
MS. PRESSLEY (MA)	X						
MR. QUIGLEY (IL)	X						

Roll Call Totals: Ayes: 24 Nays: 18 Present:

Passed: X Failed: _____

(REVISED 2-12-21)

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Amendments offered by Clyde, Keller #2, Sessions, & Higgins #2 to the ANS Voted on En Bloc

Date: 09-02-2021 **VOTE #: 3**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*		X		MR. COMER (KY) *(Ranking Member)*	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)			
MR. LYNCH (MA)		X		MR. GOSAR (AZ)	X		
MR. COOPER (TN)		X		MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHI (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)	X		
Mr. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)		X		MR. HIGGINS (LA)	X		
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)	X		
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)		X		MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MS. MACE (SC)	X		
MR. WELCH (VT)				MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)		X					
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 19 Nays: 24 Present:

Passed: _____ Failed: ____X_____

(REVISED 2-12-21)

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Cloud Amendment to the ANS

Date: 09-02-2021 **VOTE #: 4**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*		X		MR. COMER (KY) *(Ranking Member)*	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)			
MR. LYNCH (MA)		X		MR. GOSAR (AZ)	X		
MR. COOPER (TN)		X		MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHI (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)	X		
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)		X		MR. HIGGINS (LA)	X		
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)	X		
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)		X		MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MS. MACE (SC)	X		
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)		X					
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 19 Nays: 25 Present:

Passed: _____ Failed: X_____

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Gosar's Amendment # 1 to the ANS

Date: 09-02-2021 **VOTE #: 5**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*		X		MR. COMER (KY) *(Ranking Member)*	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)			
MR. LYNCH (MA)		X		MR. GOSAR (AZ)	X		
MR. COOPER (TN)		X		MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHI (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)	X		
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)		X		MR. HIGGINS (LA)	X		
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)			
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)		X		MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MS. MACE (SC)	X		
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)		X					
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 18 Nays: 25 Present:

Passed: _____ Failed: X_____

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Gosar's Amendment # 2 to the ANS

Date: 09-02-2021 **VOTE #: 6**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*		X		MR. COMER (KY) *(Ranking Member)*	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)			
MR. LYNCH (MA)		X		MR. GOSAR (AZ)	X		
MR. COOPER (TN)		X		MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHI (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)	X		
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)		X		MR. HIGGINS (LA)	X		
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)			
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)		X		MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MS. MACE (SC)	X		
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)		X					
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 18 Nays: 25 Present:

Passed: _____ Failed: X_____

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Biggs' Amendment #1 to the ANS

Date: 09-02-2021 **VOTE #: 7**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*		X		MR. COMER (KY) *(Ranking Member)*	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)			
MR. LYNCH (MA)		X		MR. GOSAR (AZ)	X		
MR. COOPER (TN)		X		MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHI (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)	X		
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)		X		MR. HIGGINS (LA)	X		
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)			
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)		X		MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MS. MACE (SC)	X		
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)		X					
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 18 Nays: 25 Present:

Passed: _____ Failed: X_____

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Rep. Biggs' Amendment #2 to the ANS

Date: 09-02-2021 **VOTE #: 8**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*		X		MR. COMER (KY) *(Ranking Member)*	X		
MS. NORTON (DC)		X		MR. JORDAN (OH)			
MR. LYNCH (MA)		X		MR. GOSAR (AZ)	X		
MR. COOPER (TN)		X		MS. FOXX (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHI (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. CLOUD (TX)			
MR. KHANNA (CA)		X		MR. GIBBS (OH)	X		
MR. MFUME (MD)		X		MR. HIGGINS (LA)	X		
MS. OCASIO-CORTEZ (NY)		X		MR. NORMAN (SC)	X		
MS. TLAIB (MI)		X		MR. SESSIONS (TX)			
MS. PORTER (CA)		X		MR. KELLER (PA)	X		
MS. BUSH (MO)		X		MR. BIGGS (AZ)	X		
MR. DAVIS (IL)		X		MR. CLYDE (GA)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MS. MACE (SC)	X		
MR. WELCH (VT)		X		MR. FRANKLIN (FL)	X		
MR. JOHNSON (GA)		X		MR. LATURNER (KS)	X		
MR. SARBANES (MD)		X		MR. FALLON (TX)	X		
MS. SPEIER (CA)		X		MS. HERRELL (NM)	X		
MS. KELLY (IL)		X		MR. DONALDS (FL)	X		
MS. LAWRENCE (MI)		X					
MR. DESAULNIER (CA)		X					
MR. GOMEZ (CA)		X					
MS. PRESSLEY (MA)		X					
MR. QUIGLEY (IL)		X					

Roll Call Totals: Ayes: 17 Nays: 25 Present:

Passed: _____ Failed: X

COMMITTEE ON OVERSIGHT AND REFORM

117TH CONGRESS

RATIO 25-20

ROLL CALL

Vote on: Final Passage on Committee Print to Implement the Instructions provided by S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022

Date: 09-02-2021 **VOTE #: 9**

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MS. MALONEY (NY) *(Chairwoman)*	X			MR. COMER (KY) *(Ranking Member)*		X	
MS. NORTON (DC)	X			MR. JORDAN (OH)			
MR. LYNCH (MA)	X			MR. GOSAR (AZ)		X	
MR. COOPER (TN)	X			MS. FOXX (NC)		X	
MR. CONNOLLY (VA)	X			MR. HICE (GA)		X	
MR. KRISHNAMOORTHI (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. CLOUD (TX)		X	
MR. KHANNA (CA)	X			MR. GIBBS (OH)		X	
MR. MFUME (MD)	X			MR. HIGGINS (LA)		X	
MS. OCASIO-CORTEZ (NY)	X			MR. NORMAN (SC) (Vote UC'd-off Camera)		X	
MS. TLAIB (MI)	X			MR. SESSIONS (TX)			
MS. PORTER (CA)	X			MR. KELLER (PA)		X	
MS. BUSH (MO)	X			MR. BIGGS (AZ)		X	
MR. DAVIS (IL)	X			MR. CLYDE (GA)		X	
MS. WASSERMAN SCHULTZ (FL)	X			MS. MACE (SC)		X	
MR. WELCH (VT)	X			MR. FRANKLIN (FL)		X	
MR. JOHNSON (GA)	X			MR. LATURNER (KS)		X	
MR. SARBANES (MD)	X			MR. FALLON (TX)		X	
MS. SPEIER (CA)	X			MS. HERRELL (NM)		X	
MS. KELLY (IL)	X			MR. DONALDS (FL)		X	
MS. LAWRENCE (MI)	X						
MR. DESAULNIER (CA)	X						
MR. GOMEZ (CA)	X						
MS. PRESSLEY (MA)	X						
MR. QUIGLEY (IL)	X						

Roll Call Totals: Ayes: 25 Nays: 18 Present:

Passed: X Failed: _____

BUDGET EFFECTS OF THE PROVISIONS

A. COMMITTEE ESTIMATE OF THE BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The Committee's performance goals and objectives of this Committee Print are reflected in this report.

C. DUPLICATION OF FEDERAL PROGRAMS

No provision of this Committee Print establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from GAO to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. Federal Mandate Statement

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. Advisory Committee Act

The Committee Print does not establish or authorize the establishment of an advisory committee within the definition of section 5(b) of the appendix to title V, United States Code.

G. Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of Section 102(b)(3) of the Congressional Accountability Act.

H. Constitutional Authority Statement

The Committee finds that Congress has the authority to enact the provisions of the Committee Print, pursuant to section 8 of Article I of the Constitution of the United States.

Changes in Existing Law Made by the Committee's Reconciliation Legislative Recommendations, As Transmitted

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

House Committee on Oversight and Reform
Budget Reconciliation Committee Print

MINORITY VIEWS

S. Con. Res. 14 (the Concurrent Resolution on the Budget for Fiscal Year 2022) represents the work of a congressional Majority out of touch with American priorities. The Oversight Committee's business meeting to consider the $7.5 billion designated to it in the Committee Print was theater: The Majority's amendments—representing billions of additional spending—are not addressing the crises created by the Biden Administration. The Minority disagrees with the Majority's priorities for spending American taxpayer dollars.

Over the course of the Committee business meeting, the Majority's amendments more than doubled the Committee's $7.5 billion portion of the budget, which ballooned to over $15 billion. This does not bode well for the entire $3.5 trillion budget package.

The Committee Print does not pass scrutiny based on simple arithmetic alone. Of the $7.5 billion designated for the Committee in the budget reconciliation, $7.4 billion is earmarked for buying electric vehicles (EVs) and requisite EV infrastructure for the U.S. Postal Service (USPS) ($2.4 billion)[1] and the remainder of the federal government via the General Services Administration (GSA) ($5 billion).[2] As a threshold matter, $7.4 billion does not approach the amount of funding electrifying the federal fleet would require. According to GSA, for Fiscal Year (FY) 2020, the entire federal fleet for all agencies is made up of 657,506 vehicles, 447,937 of which are owned by federal agencies, are part of GSA's own fleet (203,922), or are subject to

[1] H. Comm. on Oversight and Reform, Amendment in the Nature of a Substitute to the Committee Print, offered by the Hon. Carolyn B. Maloney (Sept. 2, 2021) (hereinafter ANS), sec. 80003.
[2] ANS, sec. 80001.

a commercial lease (5,647).[3] Of that number, 225,545 vehicles comprise the USPS fleet.[4] The USPS fleet, then, represents about one-third of the entire federal fleet.

The Postmaster General has indicated the cost of electrifying 70% of the USPS fleet by 2030 could cost over $8.5 billion and would require another $2.3 billion for "additional fleet investments" after 2030.[5] The Postmaster General has demonstrated enthusiasm for electrifying the USPS fleet, and the recent contract for the Next Generation Delivery Vehicle includes provisions requiring a minimum acquisition of EVs through USPS's own funding sources.[6] This is consistent with USPS's mandate: Since the Postal Reorganization Act of 1970, USPS is required to be a self-funded independent agency.[7] Though the $2.4 billion figure is far short of the $8 billion for USPS to maximize (but not totally replace its entire fleet with) EV use, it is seemingly based on the $8 billion figure, and represents only a first batch of vehicles. The $2.4 billion, then, amounts to only a sunk cost of embarking on a wasteful venture—an amount that can slip through the reconciliation process and which will require a much larger sum in the near future to effectuate the policy.

Electrifying just the USPS fleet would cost more than the combined allocation that the Committee Print contemplates for an entire federal fleet. The Majority recognizes the shortfall. Rep. Lynch (D-MA) introduced an amendment that would appropriate $7 billion instead of $2.4 billion to USPS for EVs, which passed with no Minority support and significantly increased the price of the Committee Print.[8] Rep. Lynch's amendment at least recognizes the actual cost of an

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[3] U.S. General Services Administration, *Fiscal Year 2020 Federal Fleet Report*, Vehicle Management Library (last accessed Sept. 7, 2021).
[4] *Id.*
[5] "Fleet Projections for the Coming Decades" slide, U.S. Postal Service (available upon request).
[6] Reuters and David Shepardson, *U.S. Postal Chief Commits to 10% of New Delivery Fleet as Electric Vehicles*, REUTERS (Feb. 24, 2021).
[7] Pub.L. 91-375.
[8] Amend. offered by Rep. Stephen Lynch (D-MA) to the Committee Print ANS (Sept. 2, 2021).

electrified USPS fleet. The cost of an entire federal fleet would be many times the cost contemplated by the Committee Print.

The Committee Print sets aside the remaining $100 million for miscellaneous funding that the Majority Members used to offer exorbitant amendments. Mr. Connolly (D-VA) offered an amendment that added $1 billion to the price considered by the Committee Print for the Technology Modernization Fund, $2 billion for the Federal Citizen Services Fund, and $350 million for the Office of Management and Budget's Information Technology Oversight and Reform account.[9] This spending is unnecessary. The Majority took $7.5 billion of funding mostly for electric vehicles and more than doubled it to over $15.5 billion for additional pet projects.

The unseriousness of the Majority in offering amendments is consistent with its general abdication of substantive legislative work. Instead of examining the Biden Administration's failure in Afghanistan and on the southern border, the Majority continues its superfluous spending spree. Along with receiving a failing grade for its oversight work,[10] the Committee Majority now seems determined to neglect its legislative work and burden other congressional committees with the task of undoing the mess the Oversight Committee left them. Indeed, the Majority barely provided the Committee Print to the Minority within 24 hours of the business meeting.

The Majority's lack of awareness of Americans' concerns was on full display when the Majority refused to accept any amendments from the Minority aimed at mitigating the disastrous repercussions of the Biden Administration's withdrawal from Afghanistan, including the deaths

[9] Amend. offered by Rep. Gerald Connolly (D-VA) to the Committee Print ANS (Sept. 2, 2021).
[10] H. Comm. on Oversight and Reform Projected Grade for the 117th Cong.: F (last updated Jul. 31, 2021), *available at* https://oversight-index.thelugarcenter.org/committee-d292d5cc-2db8-4365-b929-ef4756f5fa2e/.

of thirteen servicemembers and the abandonment of American citizens behind enemy lines without military support.[11] The Majority refused to work with the Minority to pass amendments that would respond to the Biden Administration's failings in Afghanistan. For example, President Biden's Afghanistan withdrawal appears deeply flawed and warrants an in-depth review by the intelligence community. Ranking Member James Comer (R-KY) proposed an amendment to direct the Inspector General of the intelligence community to conduct a report assessing the decision-making process of the Biden Administration's draw-down planning.[12] This amendment was rejected by every member of the Majority.

Rep. Nancy Mace (R-SC) offered an amendment which would divert assistance to the Department of Defense Inspector General to track and recoup all lost U.S. military equipment and fuel.[13] This amendment was rejected by every member of the Majority.

Rep. Jake LaTurner (R-KS) offered an amendment which would require the U.S. Government Accountability Office to produce a full account of Americans still stranded in Afghanistan.[14] This amendment was rejected by every member of the Majority.

The Majority refused any attempt to use the Oversight Committee's time and resources to aid Americans and our allies the Biden Administration stranded in Afghanistan. Instead, the Committee Majority passed amendments on an enormous (but nowhere near sufficient), $7.5 billion package mostly for electric vehicles. Any attempt by the Minority to rein in the spending—including amendments offered by Reps. Grothman (R-WI), Clyde (R-GA), Keller (R-PA), Higgins (R-LS), Cloud (R-TX), Gosar (R-AZ), Sessions (R-TX), and Biggs (R-AZ)—was

[11] *See, e.g.*, Caroline Vakil, *Klain Estimates Around 100 Americans Still in Afghanistan*, The Hill (Sept. 5, 2021), *available at* https://thehill.com/homenews/sunday-talk-shows/570915-klain-estimates-around-100-americans-still-in-afghanistan.
[12] Amend. offered by Ranking Member James Comer (R-KY) to the Committee Print ANS (Sept. 2, 2021).
[13] Amend. offered by Rep. Nancy Mace (R-SC) to the Committee Print ANS (Sept. 2, 2021).
[14] Amend. offered by Rep. Jake LaTurner (R-KS) to the Committee Print ANS (Sept. 2, 2021).

rejected without a single member of the Majority voting in favor of a more reasonable Committee Print.

The Minority denounces the Committee Print as a prime example of a Majority wasting resources while the nation faces true disaster overseas and compounding domestic problems. While inflation balloons, COVID-19 hospitalizations increase, and the southern border is inundated with a tidal wave of illegal crossings, the Majority discusses electric cars. While Americans are stranded in Afghanistan, the Majority rejects any attempt to provide congressional assistance. The Minority deems this Committee Print an inappropriate use of Congress's time and the American people's money.



EDDIE BERNICE JOHNSON, Texas
CHAIRWOMAN

FRANK D. LUCAS, Oklahoma
RANKING MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
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September 14, 2021

The Honorable John Yarmuth Chairman
Committee on the Budget
204-E Cannon House Office Building Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Science, Space, and Technology, and the appropriate accompanying material including additional, supplemental, minority, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Eddie Bernice Johnson

Eddie Bernice Johnson
Chairwoman
Committee on Science, Space, and Technology

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
REPORT OF
COMMITTEE PRINT TO COMPLY WITH THE RECONCILIATION DIRECTIVES INCLUDED IN S. CON. RES. 14, THE FISCAL YEAR 2022 BUDGET RESOLUTION, AND IS CONSISTENT WITH SECTION 310 OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

TABLE OF CONTENTS

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 5

BUDGET EFFECTS OF THE PROVISION 34

CBO COST ESTIMATE 34

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 35

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 37

SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS 38

EXPLANATION OF PROVISIONS

SEC. 90001. DEPARTMENT OF COMMERCE REGIONAL INNOVATION

Provides $5 billion to the Department of Commerce for regional innovation initiatives.

SEC. 90002. FUNDING FOR DEPARTMENT OF ENERGY LABORATORY INFRASTRUCTURE

Provides $12.25 billion, including support for: all major scientific facility and equipment construction carried out by the Department of Energy (DOE) Office of Science; high priority facility and infrastructure projects at DOE's 13 science and applied energy laboratories; and support for smaller, general infrastructure projects at these labs and the laboratory overseen by DOE's Office of Environmental Management.

SEC. 90003. DEPARTMENT OF ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES

Provides $2 billion for research activities carried out by the Office of Science pursuant to prior enacted authorizations. Provides $1.11 billion for demonstration projects carried out by DOE's Office of Energy Efficiency and Renewable Energy (EERE). Provides $70 million to establish one new Clean Energy Manufacturing Innovation Institute carried out by EERE. Provides $52.5 million to support research reactor infrastructure at universities. Provides $10M to carry out demonstration projects to reduce the environmental impacts of produced water. Provides $20M support for DOE's Office of Economic Impact and Diversity to improve diversity across the Department's research, development, and demonstration activities. Provides $50 million for DOE's Office of the Inspector General.

SEC. 90004. ENVIRONMENTAL PROTECTION AGENCY CLIMATE CHANGE RESEARCH AND DEVELOPMENT

This section provides $264,000,000 to the EPA to conduct environmental research and development activities related to climate change.

SEC. 90005. FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE TO FIREFIGHTER GRANTS

Provides $718 million to FEMA for fire and EMS department facility construction, upgrades, and modifications, and $80 million for PFAS-free equipment.

SEC. 90006. FIREFIGHTER GRANTS OVERSIGHT

Provides $2 million to the Department of Homeland Security to fund oversight of activities funded in Section 90005.

SEC. 90007. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION INFRASTRUCTURE

Provides $4,000,000,000 to NASA for repair, recapitalization, and modernization of physical infrastructure and facilities, including related administrative expenses.

SEC. 90008. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION CLIMATE CHANGE RESEARCH AND DEVELOPMENT

Provides to NASA $388,000,000 for climate change research and development, of which $85,000,000 is for climate research and development-related activities to understand, observe, and mitigate global climate change and its impacts; $28,000,000 is for investments in data management and processing to support climate research and development activities; $50,000,000 is for research and development to support the wildfire community and improve wildfire fighting operations; and $225,000,000 is for advancing aeronautics research and development on sustainable aviation.

SEC. 90009. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OVERSIGHT AND CYBERSECURITY

Provides to NASA $7,000,000 for information technology security and cybersecurity activities, and provides $5,000,000 for the Office of Inspector General to provide oversight over the management of funds appropriated under sections 90007 and 90008.

SEC. 90010. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY RESEARCH

Provides $1.195 billion to NIST for science and technology research priorities, of which $150,000,000 is for cybersecurity research and activities.

SEC. 90011. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY SUPPORTING AMERICAN MANUFACTURING

Provides $2 billion to NIST for manufacturing activities, divided equally between the Hollings Manufacturing Extension Partnership and advanced manufacturing research programs, of which $150,000,000 is for semiconductor manufacturing programs.

SEC. 90012. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY RESEARCH FACILITIES

Provides $1 billion to NIST for construction of new facilities as well as renovation and maintenance of existing facilities.

SEC. 90013. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY OVERSIGHT

Provides $5 million for the Department of Commerce to fund oversight of NIST activities funded under the Title.

SEC. 90014. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION WEATHER, OCEAN, AND CLIMATE RESEARCH AND FORECASTING

Provides $1,240,000,000 to NOAA to conduct weather, ocean, and climate research, and to acquire high performance computing and other technology assets.

SEC. 90015. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CLIMATE ADAPTATION AND RESILIENCE ACTIVITIES

Provides $765,000,000 to NOAA for climate adaptation and resilience activities, of which $265,000,000 is to increase end user understanding of climate risks, and $500,000,000 is to recruit, educate, and train a climate-ready workforce.

SEC. 90016. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION HIGH PERFORMANCE COMPUTING

Provides $70,000,000 to NOAA to procure and enhance high performance computing, data management, and storage capabilities.

SEC. 90017. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION PHASED ARRAY RADAR

Provides $224,000,000 to NOAA to advance the understanding of phased array radar as a potential future radar technology to improve weather forecasts.

SEC. 90018. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION HURRICANE HUNTER AIRCRAFT

Provides $1,024,000,000 to procure hurricane hunters and develop and acquire airborne phased array radar.

SEC. 90019. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION UNCREWED SYSTEMS

Provides $12,000,000 to NOAA to support uncrewed systems development and application in support of NOAA research and research to operations mission priorities.

SEC. 90020. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION RESEARCH INFRASTRUCTURE

Provides $743,000,000 to NOAA to conduct deferred maintenance of facilities and to improve scientific equipment and instruments.

SEC. 90021. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION SPACE WEATHER

Provides $173,000,000 to NOAA to accelerate the development and launch of a mission-critical space weather satellite.

SEC. 90022. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OVERSIGHT

Provides $5,000,000 to the Department of Commerce for oversight by the Department of Commerce Office of Inspector General of NOAA activities for which funding is provided in the above sections.

SEC. 90023. NATIONAL SCIENCE FOUNDATION INFRASTRUCTURE

Provides $3.43 billion to NSF for research enabling equipment, facilities, and infrastructure, including $1 billion for academic research facility modernization (including $300,000,000 for historically Black colleges and universities and other minority serving institutions) and $25,000,000 for research security activities.

SEC. 90024. NATIONAL SCIENCE FOUNDATION RESEARCH AND DEVELOPMENT

Provides $7.55 billion to NSF for research awards, scholarships, and fellowships across all STEM and STEM education disciplines, including $400 million for climate change research and $700 million for research at historically Black colleges and universities and other minority serving institutions.

SEC. 90025. NATIONAL SCIENCE FOUNDATION OVERSIGHT

Provides $50 million to NSF for oversight of projects funded under the Title.

SEC. 90026. WAGE RATE REQUIREMENTS

Requires prevailing wages be paid in the construction activities funded in the Title.

SEC. 90027. FORCED LABOR PROHIBITION

Prohibits funds provided in the Title being awarded to entities listed pursuant to the Uyghur Human Rights Policy Act of 2020.

VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report. The record votes are as follows:

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
MARKUP

September 9, 2021
Markup Results

Committee Print to comply with the reconciliation directive included in section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14.

No.	Amendment	Summary	Results
1 (017)	Amendment offered by Chairwoman Johnson	Amendment in the Nature of a Substitute	Agreed to by voice vote
2 (R5)	Amendment offered by Mr. LaTurner	Funding minimum for EPSCoR locales	Agreed to by voice vote
3 (R7)	Amendment offered by Mr. Weber	Reduces renewable energy appropriations and climate change R&D appropriations and raises nuclear energy appropriations	Defeated by recorded vote: Aye-17 – No-20
4 (009)	Amendment offered by Ranking Member Lucas	Allocates funds for covid-disruption research relief at NSF, DOE, NOAA, and makes allowance for those purposes through NASA funding	Defeated by recorded vote: Aye-17 – No-20
5 (R10)	Amendment offered by Ranking Member Lucas	Adds nuclear, hydrogen, and fossil to the list of eligible technologies for Energy Demonstration Funding	Defeated by recorded vote: Aye-17 – No-20
6 (085)	Amendment offered by Mr. Posey	Supports the development of domestic supplies of materials and equipment needed for solar energy production	Agreed to by voice vote
7 (022)	Amendment offered by Mr. Feenstra	Adds Biofuels to Bioenergy technologies DOE demonstrations	Agreed to by voice vote

8 (R13)	Amendment offered by Ms. Bice	Directs NASA to fund earth science research to support agriculture and forestry issues	Defeated by recorded vote: Aye-17 – No-19
9 (029)	Amendment offered by Mr. Babin	Allow NASA to spend all of the NASA funding in the bill on infrastructure AND exploration	Defeated by recorded vote: Aye-17 – No-19
10 (030)	Amendment offered by Mr. Babin	Direct commercial data buys with earth science/climate funding	Defeated by recorded vote: Aye-17 – No-20
11 (024)	Amendment offered by Mr. Feenstra	Including biofuels in NASA sustainable aviation research	Agreed to by voice vote
12 (001)	Amendment offered by Mr. Ellzey	NASA funding set aside for "sustainable aviation" to also research aviation safety; and, prevent funding that could lead to WTO violations and tariffs	Defeated by recorded vote: Aye-17 – No-21
13 (084)	Amendment offered by Mr. Posey	Requires NASA Inspector General to establish interagency task force of Inspectors General to investigate Chinese interference	Defeated by recorded vote: Aye-17 – No-21
14 (054)	Amendment offered by Mr. Sherman	Clarifies that scientific and technical research for Artificial Intelligence includes AI safety and control	Agreed to by voice vote
15 (R6)	Amendment offered by Mr. Ellzey	This supports research funding through 2021 NDAA for semiconductor research at NIST	Defeated by recorded vote: Aye-17 – No-21
16 (R11)	Amendment offered by Mr. Meijer	Reallocates $150 million set aside for advanced manufacturing R&D and testbeds to fund a Manufacturing USA institute that is focused on semiconductor manufacturing	Agreed to by voice vote
17 (010)	Amendment offered by Mr. Baird	$150M of NIST funds to be directed to cybersecurity activities	Agreed to by voice vote

18 (031)	Amendment offered by Mr. Babin	To facilitate the transfer of the Office of Space Commerce from NOAA to the Department of Commerce, and allocate $20 million towards commercial space situational awareness data buys	Defeated by recorded vote: Aye-17 – No-21
19 (018)	Amendment offered by Ms. Bice	$50 million to the National Mesonet Program to enter agreements to acquire data, install new stations, or modify existing stations	Defeated by recorded vote: Aye-17 – No-20
20 (019)	Amendment offered by Ms. Bice	$50M of NOAA Research Infrastructure towards an expansion of the National Weather Center	Defeated by recorded vote: Aye-17 – No-21
21 (010)	Amendment offered by Ranking Member Lucas	Allocates $25,000,000 to carry out the activities of the pilot program for obtaining commercial sector space weather data authorized in section 2 of the PROSWIFT Act	Defeated by voice vote
22 (R8)	Amendment offered by Ms. Bice	Sets aside 20% of the $3.43 billion that the package provides for research infrastructure at NSF to be used for projects in states that are eligible for EPSCOR	Agreed to by voice vote
23 (010)	Amendment offered by Ms. Kim	Study the impacts of inflation on U.S. economy	Defeated by recorded vote: Aye-17 – No-20
24 (063)	Amendment offered by Mr. Waltz	Sets aside $25 million for NSF's Office of Research Security Strategy and Policy	Agreed to by voice vote
25 (064)	Amendment offered by Mr. Waltz	Sets aside $15 million for environmental cleanup at Arecibo Observatory and $454 million for the construction of the Next Generation Arecibo Telescope and other repairs at the facility	Withdrawn
26 (R4)	Amendment offered by Mr. Baird	$500M of NSF Funds to be Directed to Semiconductor Research	Defeated by recorded vote: Aye-17 – No-21

27 (R9)	Amendment offered by Mr. Feenstra	NSF EPSCoR 20 percent allocation	Defeated by recorded vote: Aye-17 – No-21
28 (008)	Amendment offered by Ranking Member Lucas	Provides that no funds provided in this section shall be spent to establish the 'Directorate for Technology Innovation	Defeated by recorded vote: Aye-17 – No-21
29 (xx)	Amendment offered by Mr. Babin	Prohibits funding from going to Confucius Institute-affiliated education systems	Defeated by recorded vote: Aye-17 – No-20
30 (020)	Amendment offered by Ms. Bice	Requires commercial scale projects to prepare an analysis of the impact of the project on consumer energy costs for the Secretary of Energy	Defeated by recorded vote: Aye-17 – No-21
31 (023)	Amendment offered by Mr. Feenstra	Adds reporting requirement to sustain new programs or infrastructure	Defeated by voice vote
32 (021)	Amendment offered by Mr. Garcia	Prohibits funding to entities controlled by the People's Republic of China and to research occurring in the People's Republic of China	Defeated by recorded vote: Aye-17 – No-21
33 (033)	Amendment offered by Mr. Gonzalez	States that no funds in the bill may be used to support forced labor under the Uyghur Human Rights Policy Act	Agreed by recorded vote: Aye-19 – No-18
34 (R2)	Amendment offered by Mr. Obernolte	Conflicts of interest certification	Defeated by recorded vote: Aye-17 – No-21
35 (R1)	Amendment offered by Mr. Waltz	Prohibits funds from being used to construct, finance, support, or maintain energy projects with materials or labor sourced from or manufactured in the People's Republic of China or Afghanistan	Defeated by recorded vote: Aye-17 – No-20
36 (R3)	Amendment offered by Mr. Weber	Limitation of funds related to the continued use of fossil fuels	Defeated by recorded vote: Aye-18 – No-20

Recommendations favorably transmitted to House Committee on the Budget, by recorded vote:
Aye-21 — Nay-17

Committee on Science, Space, and Technology

Roll Call Vote No.1

Amendment #3 offered by Mr. Weber

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.2

Amendment #4 offered by Ranking Member Lucas

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

640

Committee on Science, Space, and Technology

Roll Call Vote No.3

Amendment #5 offered by Ranking Member Lucas

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

641

Committee on Science, Space, and Technology

Roll Call Vote No.4

Amendment #8 offered by Ms. Bice

Defeated by recorded vote: Aye-17 – No-19

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania			
Lizzie Fletcher, Texas		x	
Total		19	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

642

Committee on Science, Space, and Technology

Roll Call Vote No.5

Amendment #9 offered by Mr. Babin

Defeated by recorded vote: Aye-17 – No-19

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania			
Lizzie Fletcher, Texas		x	
Total		19	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.6

Amendment #10 offered by Mr. Babin

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

644

Committee on Science, Space, and Technology

Roll Call Vote No.7

Amendment #12 offered by Mr. Ellzey

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

645

Committee on Science, Space, and Technology

Roll Call Vote No.8

Amendment #13 offered by Mr. Posey

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

646

Committee on Science, Space, and Technology

Roll Call Vote No.9

Amendment #15 offered by Mr. Ellzey

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.10

Amendment #18 offered by Mr. Babin

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.11

Amendment #19 offered by Ms. Bice

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia			
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.12

Amendment #20 offered by Ms. Bice

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

650

Committee on Science, Space, and Technology

Roll Call Vote No.13

Amendment #23 offered by Ms. Kim

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.14

Amendment #26 offered by Mr. Baird

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

652

Committee on Science, Space, and Technology

Roll Call Vote No.15

Amendment #27 offered by Mr. Feenstra

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.16

Amendment #28 offered by Ranking Member Lucas

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.17

Amendment #29 offered by Mr. Babin

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey	x		
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total	1	20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida			
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.18

Amendment #30 offered by Ms. Bice

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.19

Amendment #32 offered by Mr. Garcia

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

Committee on Science, Space, and Technology

Roll Call Vote No.20

Amendment #33 offered by Mr. Gonzalez

Agreed to by recorded vote: Aye-19 – No-18

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey	x		
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California	x		
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida	x		
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total	3	18	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas			
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	16		

Committee on Science, Space, and Technology

Roll Call Vote No.21

Amendment #34 offered by Mr. Obernolte

Defeated by recorded vote: Aye-17 – No-21

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	17		

659

Committee on Science, Space, and Technology

Roll Call Vote No.22

Amendment #35 offered by Mr. Waltz

Defeated by recorded vote: Aye-17 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin			
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas		x	
Total		21	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey,Texas	x		
Vacancy			
Total	17		

660

Committee on Science, Space, and Technology

Roll Call Vote No.23

Amendment #36 offered by Mr. Weber

Defeated by recorded vote: Aye-18 – No-20

Majority	Aye	No	Present
Chairwoman Johnson		x	
Zoe Lofgren, California		x	
Suzanne Bonamici, Oregon		x	
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey		x	
Jamaal Bowman, New York		x	
Melanie Stansbury, New Mexico		x	
Brad Sherman, California		x	
Ed Perlmutter, Colorado		x	
Jerry McNerney, California		x	
Paul Tonko, New York		x	
Bill Foster, Illinois		x	
Donald Norcross, New Jersey		x	
Don Beyer, Virginia		x	
Charlie Crist, Florida		x	
Sean Casten, Illinois		x	
Conor Lamb, Pennsylvania		x	
Deborah Ross, North Carolina		x	
Gwen Moore, Wisconsin		x	
Dan Kildee, Michigan		x	
Susan Wild, Pennsylvania		x	
Lizzie Fletcher, Texas	x		
Total	1	20	

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member	x		
Mo Brooks, Alabama	x		
Bill Posey, Florida	x		
Randy Weber, Texas	x		
Brian Babin, Texas	x		
Anthony Gonzalez, Ohio	x		
Michael Waltz, Florida	x		
Jim Baird, Indiana	x		
Daniel Webster, Florida	x		
Mike Garcia, California	x		
Stephanie Bice, Oklahoma	x		
Young Kim, California	x		
Randy Feenstra, Iowa	x		
Jake LaTurner, Kansas	x		
Carlos Gimenez, Florida			
Jay Obernolte, California	x		
Peter Meijer, Michigan	x		
Jake Ellzey, Texas	x		
Vacancy			
Total	18		

Committee on Science, Space, and Technology

Motion to Transmit

Agreed to by recorded vote: Aye-21 – No-17

Majority	Aye	No	Present
Chairwoman Johnson	x		
Zoe Lofgren, California	x		
Suzanne Bonamici, Oregon	x		
Ami Bera, California			
Haley Stevens, Michigan Vice Chair			
Mikie Sherrill, New Jersey	x		
Jamaal Bowman, New York	x		
Melanie Stansbury, New Mexico	x		
Brad Sherman, California	x		
Ed Perlmutter, Colorado	x		
Jerry McNerney, California	x		
Paul Tonko, New York	x		
Bill Foster, Illinois	x		
Donald Norcross, New Jersey	x		
Don Beyer, Virginia	x		
Charlie Crist, Florida	x		
Sean Casten, Illinois	x		
Conor Lamb, Pennsylvania	x		
Deborah Ross, North Carolina	x		
Gwen Moore, Wisconsin	x		
Dan Kildee, Michigan	x		
Susan Wild, Pennsylvania	x		
Lizzie Fletcher, Texas	x		
Total	21		

Minority	Aye	No	Present
Frank Lucas, Oklahoma, Ranking Member		x	
Mo Brooks, Alabama		x	
Bill Posey, Florida		x	
Randy Weber, Texas		x	
Brian Babin, Texas		x	
Anthony Gonzalez, Ohio		x	
Michael Waltz, Florida		x	
Jim Baird, Indiana		x	
Daniel Webster, Florida		x	
Mike Garcia, California		x	
Stephanie Bice, Oklahoma		x	
Young Kim, California		x	
Randy Feenstra, Iowa		x	
Jake LaTurner, Kansas		x	
Carlos Gimenez, Florida			
Jay Obernolte, California		x	
Peter Meijer, Michigan		x	
Jake Ellzey,Texas		x	
Vacancy			
Total		17	

BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provision(s).

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goals and objectives of this Committee Print are to increase investments in research, development, demonstration, and other activities.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee Print contains no unfunded mandates as described in section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause 1, which authorizes Congress to provide for general Welfare of the United States.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The Minority views of members of the Committee are as follows:

It is the view of the minority that a $3.5 trillion partisan reconciliation legislative package, including $45.5 billion in the House Committee on Science, Space, and Technology's jurisdiction, is reckless and irresponsible. While there are some provisions in the Science Committee's reconciliation title that have bipartisan support, it is the view of the minority that this package is not the right way to fund those priorities. The minority is concerned about billions of spending allocated to agencies with little policy direction from Congress. The minority is also concerned about the impact on long-term science and the scientific workforce by the funding cliff that will be created when the funding in this bill expires in five to ten years. The minority is also concerned that the Science Committee title ignores important bipartisan Committee priorities, including NASA funding human exploration and Covid-disruption research relief across federal research agencies.

It is also the view of the minority that at a time when energy costs are skyrocketing, it is concerning that this bill rejects an all-of-the-above approach to energy research and instead focuses almost entirely on renewables. The minority believes that we will not be able to address climate change unless we take a comprehensive approach to developing new energy technologies, including nuclear, hydrogen, and natural gas.

The minority is disappointed that many common-sense amendments from committee members were rejected on a partisan basis. The Majority rejected an amendment (Lucas #009) to dedicate funding to covid-related relief for the research industry. On a partisan basis, the Committee opposed an amendment (Lucas #R10) supporting all-of-the-above clean energy technologies by adding nuclear, hydrogen, and clean fossil projects to the list of renewable technologies eligible for energy demonstration funding. The Majority also rejected an amendment (Babin #029) to prioritize both human space exploration and NASA infrastructure funding in the bill, which would meet critical needs for our space program. The Majority opposed prioritizing development of advanced semiconductors and addressing the global chip shortage, including amendments (Ellzey, #R6, Baird #R4), to set aside funds at both NSF and NIST. And the majority on a partisan basis also rejected amendments (Garcia #021, Waltz #R1, Babin #XX) to combat the threat of the Chinese Communist Party (CCP) and protect American research from theft and influence by the CCP.

Rep. Frank Lucas, Ranking Member

Rep. Randy Weber. Ranking Member, Energy Subcommittee

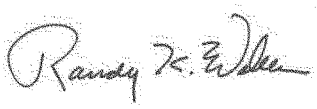
Rep. Brian Babin, Ranking Member, Space Subcommittee

Rep. Michael Waltz, Ranking Member, Research and Technology Subcommittee

Rep. Stephanie Bice, Ranking Member, Environment Subcommittee

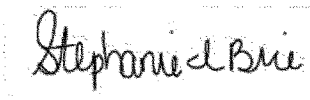
Rep. Jay Obernolte, Ranking Member, Investigations and Oversight Subcommittee













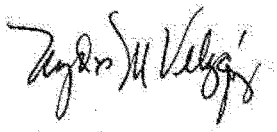
September 13, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Small Business, and the appropriate accompanying material including additional, supplemental or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,



Nydia M. Velázquez
Chairwoman
Committee on Small Business

REPORT

OF THE

COMMITTEE ON SMALL BUSINESS

ON

COMMITTEE PRINT

(PROVIDING FOR RECONCILIATION PURSUANT TO S. CON. RES. 14, THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2022)

TABLE OF CONTENTS

I. EXPLANATION OF PROVISIONS 2
II. COMMITTEE VOTES 5
III. BUDGET EFFECTS OF THE PROVISION 8
A. COMMITTEE ESTIMATES OF BUDGETARY EFFECTS 11
B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE 12
IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 12
A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS 12
B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES 12
C. DUPLICATION OF FEDERAL PROGRAMS 12
D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS 12
E. FEDERAL MANDATES STATEMENT 13
F. ADVISORY COMMITTEE STATEMENT 13
G. APPLICABILITY TO LEGISLATIVE BRANCH 13
H. CONSTITUTIONAL AUTHORITY STATEMENT 13
V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 13
VI. SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS 13

I. EXPLANATION OF PROVISIONS

TITLE X: COMMITTEE ON SMALL BUSINESS

SUBTITLE A—INCREASING FEDERAL CONTRACTING OPPORTUNITIES FOR SMALL BUSINESSES

SEC. 100101. VETERAN FEDERAL PROCUREMENT ENTREPRENEURSHIP TRAINING PROGRAM

This section provides $35 million for the creation of a grant for non-profits to operate federal procurement entrepreneurship training programs to assist veteran small business contractors from fiscal years 2022 through 2028.

SEC. 100102. EXPANDING SURETY BOND PROGRAM

This section provides funding to raise SBA's guarantee on federal contracts from $10 million to $20 million, raise the guarantee on non-federal contracts from $6.5 million to $10 million, and directly appropriates $100 million to the Surety Bond Guarantees Revolving Fund to remain available until September 30, 2031.

SEC. 100103. UPLIFT ACCELERATOR AND BUSINESS DEVELOPMENT ACADEMY

This section establishes the Uplift Accelerator and Business Development Academy program, which are designed to invest in small business contractors.

Subsection (a) provides $1 billion over a 10-year period to establish the Uplift Accelerator Program, a national network of government contracting incubators at Historically Black Colleges and Universities (HBCUs) and Minority Serving Institutions (MSIs) for underrepresented small businesses.

Subsection (b) provides $725 million over a 10-year period to establish the Business Development Academy, a grant program for HBCUs and MSIs to develop and establish a 12-month executive mentoring and training program for small business contractors.

SEC. 100104. PATHWAY TO PRIME GRANT PROGRAM

This section invests $525 million over 10 years to implement the Pathway to Prime Grant Program to provide more assistance to small subcontractors in an effort to enhance their ability to become prime government contractors. Specifically, it provides $75 million for HBCU and MSI grantees and $450 million for state, local, and Tribal government grantees to assist small business subcontractors to become prime contractors in a hub and spoke model.

SUBTITLE B—EMPOWERING SMALL BUSINESS CREATION AND EXPANSION IN UNDERREPRESENTED COMMUNITIES

SEC. 100201. GRANTS FOR BUSINESS INCUBATORS

This section provides $1 billion over a 10-year period to establish a national network of business incubators. The program establishes a program to support incubator spaces for Main Street small businesses to spur economic development in underrepresented communities and grow the nation's next generation of entrepreneurs across the country.

SEC. 100202. OFFICE OF NATIVE AMERICAN AFFAIRS

This section invests $20 million over a 10-year period to enhance the Small Business Administration's Office of Native American Affairs to establish a Native American Outreach Program to target SBA programs and assistance to these communities.

SEC. 100203. OFFICE OF RURAL AFFAIRS

This section provides $20 million over a 10-year period to establish Rural Small Business Conferences within the Small Business Administration's Office of Rural Affairs to promote policies and programs to support rural businesses and entrepreneurs.

SEC. 100204. OFFICE OF EMERGING MARKETS

This section provides $20 million over 10 years and establishes an Office of Emerging Markets within the Office of Capital Access to coordinate all access to capital initiatives dealing with small businesses in emerging markets.

SEC. 100205. STATE TRADE EXPANSION PROGRAM

This section provides $120 million over a four-year period to the Small Business Administration's State Trade Expansion Program (STEP) which provides grants to states to assist small businesses in export development.

SUBTITLE C—ENCOURAGING SMALL BUSINESSES TO FULLY ENGAGE IN THE INNOVATION ECONOMY

SEC. 100301. GROWTH ACCELERATOR COMPETITION

This section provides $400 million over 10 years to provide cash grants of not less than $100,000 to growth accelerators to expand their capabilities to assist small businesses focused on technology, research, and development. The grant recipient must assist at new small businesses and specifically prioritize small business owners that are underrepresented.

SEC. 100302. BUILDING A NATIONAL INNOVATION SUPPORT ECOSYSTEM NETWORK

This section provides $525 million to establish a national innovation support ecosystem network by making grants to, or entering into contracts or cooperative agreements with universities, resource partners, growth accelerators and business incubators to address the needs of eligible businesses to expand, accelerate, and grow the pipeline of innovative startups.

This section invests $150 million to facilitate fellowships and internships in the fields of science, technology, engineering, and mathematics, prioritizing underrepresented individuals through partnerships with or supplemental grants or awards to provide opportunities at the Undergraduate, Baccalaureate, Graduate, and Postdoctoral levels.

SUBTITLE D—INCREASING EQUITY OPPORTUNITIES FOR SMALL MANUFACTURERS

SEC. 100401. INCREASING EQUITY INVESTMENT BY THE SBIC PROGRAM

This section creates subprograms of the Small Business Investment Company (SBIC) program.

The first subsection provides $9.5 billion to establish a subprogram within the SBIC program to provide patient capital to underserved markets and critical industries, such as infrastructure,

child care, and manufacturing, titled the Venture Small Business Investment Companies (VSBICs) program.

The second subsection provides $20 million to implement the Emerging Managers Program which is a mentorship program to pair less-experienced fund managers interested in getting their first SBIC license with highly-experienced SBIC managers to provide guidance and advice.

SEC. 100402. MICROCAP SMALL BUSINESS INVESTMENT COMPANY LICENSE

This section provides $40 million to implement the MicroCap SBIC license subprogram to increase SBIC diversity. This license allows for less initial private sector investment to receive SBA leverage, requires a percentage of investments be made in underserved markets, and increases the pool of eligible fund manager applicants.

SEC. 100403. FUNDING FOR SBIC OUTREACH AND EDUCATION

This section invests $2.5 million to be used for outreach and education to expand awareness and utilization of the program.

SEC. 100404. SBIC WORKING GROUP

This section provides $2 million to establish a group to provide recommendations to Congress on how to increase demographic and geographic diversity in the management and investments of SBIC funds.

SUBTITLE E—INCREASING ACCESS TO LENDING AND INVESTMENT CAPITAL

SEC. 100501. FUNDING FOR COMMUNITY ADVANTAGE LOAN PROGRAM

This section provides $600 million over 10 years to enhance, improve, and expand the Community Advantage program. It also gives SBA authority to partner with mission-oriented, nonprofit lenders to deliver capital through the 7(a) Loan Program. It invests $5 million into free or low-cost program training.

SEC. 100502. FUNDING FOR CREDIT ENHANCEMENT AND SMALL DOLLAR LOAN FUNDING

This section provides $4.465 billion over a 10-year period to fund a direct loan product under the current 7(a) lending program administered by the SBA.

SEC.100503. EXTENSION OF TEMPORARY FEE REDUCTIONS

This section invests an additional $1 billion to the temporary fee reduction levels enacted in the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, which apply to the SBA 7(a) and 504 lending programs. Funding is available until September 30, 2026 to reduce waiver fees.

SEC. 100504. FUNDING FOR COOPERATIVES

This section provides $500 million to fund a pilot program for eligible cooperatives and employee-owned businesses to receive SBA loan products without the requirement of a personal or entity guarantee.

SEC. 100505. FUNDING FOR DIRECT DEBENTURES

This section invests $2.746 billion over 10 years to establish a direct lending subprogram under the 504/CDC lending program to allow CDCs to make loans to small contractors, small manufacturers, and small businesses in underrepresented markets without financing from third parties.

SUBTITLE F-SUPPORTING ENTREPRENEURIAL SECOND CHANCES

SEC. 100601. REENTRY ENTREPRENEURSHIP COUNSELING AND TRAINING FOR INCARCERATED AND FORMERLY INCARCERATED INDIVIDUALS

This section provides $70 million over 7 years to invest in initiatives through Women Business Centers, Small Business Development Centers, and other entities for formally incarcerated individuals.

The first subsection provides funding for assistance to incarcerated and formerly incarcerated individuals through trainings covering how to start or expand a small business and the tools, skills, and knowledge necessary to identify a business opportunity.

The second subsection provides funding for mentoring formerly incarcerated individuals in their small business ventures and connecting them to local resources and SBA programs.

SEC.100602. NEW START ENTREPRENEURIAL DEVELOPMENT PROGRAM FOR FORMERLY INCARCERATED INDIVIDUALS

This section provides $35 million over a 7-year period for the SBA to establish a pilot program to award grants to organizations or partnerships of organizations to support existing entrepreneurial development programs for formerly incarcerated individuals to gain assistance to job training, business assistance, and access to capital.

SUBTITLE G—ADMINISTRATIVE AND OVERSIGHT FUNDING

SEC. 100701. ADMINISTRATIVE FUNDING

This section provides $1.25 billion to the Small Business Administration over 10 years to carry out Title X, including issuing rules. This section includes recission language to ensure all money is spent or rescinded within the 10-year window.

SEC. 100702. SBA OFFICE OF INSPECTOR GENERAL FUNDING

This section provides $25 million for SBA's Office of Inspector General for oversight, to remain available until September 30, 2031.

II. COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following are summaries of the recorded votes of the Committee on Small Business in its consideration of the Committee Print (providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022) on September 9, 2021.

MOTION TO TRANSMIT RECOMMENDATIONS

The Committee Print, as amended, was ordered favorably transmitted by a roll call vote of 15 yeas to 12 nays (with a quorum being present). The vote was as follows:

MAJORITY MEMBERS	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman	X		
Mr. Jared Golden	X		
Mr. Jason Crow	X		
Ms. Sharice Davids	X		
Mr. Kweisi Mfume	X		
Mr. Dean Phillips	X		
Ms. Marie Newman	X		
Ms. Carolyn Bourdeaux	X		
Mr. Troy Carter	X		
Ms. Judy Chu	X		
Mr. Dwight Evans	X		
Mr. Antonio Delgado	X		
Ms. Chrissy Houlahan	X		
Mr. Andy Kim	X		
Ms. Angie Craig	X		

MINORITY MEMBERS	AYE	NO	NOT VOTING
Mr. Blaine Luetkemeyer, Ranking Member		X	
Mr. Roger Williams		X	
Mr. Jim Hagedorn		X	
Mr. Pete Stauber		X	
Mr. Dan Meuser		X	
Ms. Claudia Tenney		X	
Mr. Andrew Garbarino		X	
Ms. Young Kim		X	
Ms. Beth Van Duyne		X	
Mr. Byron Donalds		X	
Ms. Maria Salazar		X	
Mr. Scott Fitzgerald		X	

VOTE ON ADOPTION OF COMMITTEE PRINT, AS AMENDED

The Committee Print, as amended, was agreed to by a voice vote.

VOTES ON AMENDMENTS

A roll call vote was conducted on the following amendments to the Chairwoman's Amendment in the Nature of a Substitute.

The Chairwoman's Amendment in the Nature of a Substitute was agreed to by a roll call vote of 15 yeas to 12 nays (with a quorum being present). The vote was as follows:

MAJORITY MEMBERS	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman	X		
Mr. Jared Golden	X		
Mr. Jason Crow	X		
Ms. Sharice Davids	X		
Mr. Kweisi Mfume	X		
Mr. Dean Phillips	X		
Ms. Marie Newman	X		
Ms. Carolyn Bourdeaux	X		
Mr. Troy Carter	X		
Ms. Judy Chu	X		
Mr. Dwight Evans	X		
Mr. Antonio Delgado	X		
Ms. Chrissy Houlahan	X		
Mr. Andy Kim	X		
Ms. Angie Craig	X		

MINORITY MEMBERS	AYE	NO	NOT VOTING
Mr. Blaine Luetkemeyer, Ranking Member		X	
Mr. Roger Williams		X	
Mr. Jim Hagedorn		X	
Mr. Pete Stauber		X	
Mr. Dan Meuser		X	
Ms. Claudia Tenney		X	
Mr. Andrew Garbarino		X	
Ms. Young Kim		X	
Ms. Beth Van Duyne		X	
Mr. Byron Donalds		X	
Ms. Maria Salazar		X	
Mr. Scott Fitzgerald		X	

En Bloc #1 (Luetkemeyer 2v1, Hagedorn 2v1, Stauber 1v1, Stauber 2v1, Meuser 2v1, Young Kim 1v1, Donalds 1v1, Donalds 2v1, and Fitzgerald 1v1) was not agreed to by a roll call vote of 15 nays to 12 yeas (with a quorum being present). The vote was as follows:

MAJORITY MEMBERS	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		X	
Mr. Jared Golden		X	
Mr. Jason Crow		X	
Ms. Sharice Davids		X	
Mr. Kweisi Mfume		X	
Mr. Dean Phillips		X	
Ms. Marie Newman		X	
Ms. Carolyn Bourdeaux		X	
Mr. Troy Carter		X	
Ms. Judy Chu		X	
Mr. Dwight Evans		X	
Mr. Antonio Delgado		X	
Ms. Chrissy Houlahan		X	
Mr. Andy Kim		X	
Ms. Angie Craig		X	

MINORITY MEMBERS	AYE	NO	NOT VOTING
Mr. Blaine Luetkemeyer, Ranking Member	X		
Mr. Roger Williams	X		
Mr. Jim Hagedorn	X		
Mr. Pete Stauber	X		
Mr. Dan Meuser	X		
Ms. Claudia Tenney	X		
Mr. Andrew Garbarino	X		
Ms. Young Kim	X		
Ms. Beth Van Duyne	X		
Mr. Byron Donalds	X		
Ms. Maria Salazar	X		
Mr. Scott Fitzgerald	X		

En Bloc #2 (Hagedorn 1v1, Meuser 1v1, Tenney 1v1, Tenney 2v1, Garbrino 1v1, Young Kim 2v1, Van Duyne 1v1, Van Duyne 2v1, and Fitzgerald 2v1) was not agreed to by a roll call vote of 15 nays to 12 yeas (with a quorum being present). The vote was as follows:

MAJORITY MEMBERS	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		X	
Mr. Jared Golden		X	
Mr. Jason Crow		X	
Ms. Sharice Davids		X	
Mr. Kweisi Mfume		X	
Mr. Dean Phillips		X	
Ms. Marie Newman		X	
Ms. Carolyn Bourdeaux		X	
Mr. Troy Carter		X	
Ms. Judy Chu		X	
Mr. Dwight Evans		X	
Mr. Antonio Delgado		X	
Ms. Chrissy Houlahan		X	
Mr. Andy Kim		X	
Ms. Angie Craig		X	

MINORITY MEMBERS	AYE	NO	NOT VOTING
Mr. Blaine Luetkemeyer, Ranking Member	X		
Mr. Roger Williams	X		
Mr. Jim Hagedorn	X		
Mr. Pete Stauber	X		
Mr. Dan Meuser	X		
Ms. Claudia Tenney	X		
Mr. Andrew Garbarino	X		
Ms. Young Kim	X		
Ms. Beth Van Duyne	X		
Mr. Byron Donalds	X		
Ms. Maria Salazar	X		
Mr. Scott Fitzgerald	X		

Garbarino 2v1 was not agreed to by a roll call vote of 15 nays to 12 yeas (with a quorum being present). The vote was as follows:

MAJORITY MEMBERS	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		X	
Mr. Jared Golden		X	
Mr. Jason Crow		X	
Ms. Sharice Davids		X	
Mr. Kweisi Mfume		X	
Mr. Dean Phillips		X	
Ms. Marie Newman		X	
Ms. Carolyn Bourdeaux		X	
Mr. Troy Carter		X	
Ms. Judy Chu		X	
Mr. Dwight Evans		X	
Mr. Antonio Delgado		X	
Ms. Chrissy Houlahan		X	
Mr. Andy Kim		X	
Ms. Angie Craig		X	

MINORITY MEMBERS	AYE	NO	NOT VOTING
Mr. Blaine Luetkemeyer, Ranking Member	X		
Mr. Roger Williams	X		
Mr. Jim Hagedorn	X		
Mr. Pete Stauber	X		
Mr. Dan Meuser	X		
Ms. Claudia Tenney	X		
Mr. Andrew Garbarino	X		
Ms. Young Kim	X		
Ms. Beth Van Duyne	X		
Mr. Byron Donalds	X		
Ms. Maria Salazar	X		
Mr. Scott Fitzgerald	X		

Luetkemeyer 1v1 was not agreed to by a roll call vote of 15 nays to 12 yeas (with a quorum being present). The vote was as follows:

MAJORITY MEMBERS	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		X	
Mr. Jared Golden		X	
Mr. Jason Crow		X	
Ms. Sharice Davids		X	
Mr. Kweisi Mfume		X	
Mr. Dean Phillips		X	
Ms. Marie Newman		X	
Ms. Carolyn Bourdeaux		X	
Mr. Troy Carter		X	
Ms. Judy Chu		X	
Mr. Dwight Evans		X	
Mr. Antonio Delgado		X	
Ms. Chrissy Houlahan		X	
Mr. Andy Kim		X	
Ms. Angie Craig		X	

MINORITY MEMBERS	AYE	NO	NOT VOTING
Mr. Blaine Luetkemeyer, Ranking Member	X		
Mr. Roger Williams	X		
Mr. Jim Hagedorn	X		
Mr. Pete Stauber	X		
Mr. Dan Meuser	X		
Ms. Claudia Tenney	X		
Mr. Andrew Garbarino	X		
Ms. Young Kim	X		
Ms. Beth Van Duyne	X		
Mr. Byron Donalds	X		
Ms. Maria Salazar	X		
Mr. Scott Fitzgerald	X		

III. BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATES OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. New Budget Authority and Cost Estimate Prepared by the Congressional Budget Office

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the Committee Print are incorporated into the descriptive portions of this report.

B. Statement of General Performance Goals and Objectives

With respect to the requirements of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this Committee Print is to provide long-term economic assistance to small businesses by investing in new and established capital access programs, strengthening the federal procurement marketplace by establishing more training, business development, and financial assistance to small federal contractors and supply chain industries, encouraging more entrepreneurship through diverse outreach and national networks, and expanding growth in American innovation by increasing incentives for businesses.

C. Duplication of Federal Programs

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of the Committee Print is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

D. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the Committee Print does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, clause I, which grants Congress the authority to raise and spend money to promote the national welfare.

V. CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print has been requested but not received.

VI. SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS

Clause 2(c) of Rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any supplemental, additional, dissenting, or minority views submitted pursuant to clause 2(l) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

Minority Views
Additional and Supplemental Views of the Republican Members of the
House Committee on Small Business
on Matters Set Forth in
The Small Business Committee Print Providing
for Reconciliation Pursuant to S. Con. Res. 14,
the Concurrent Resolution on
the Budget of the United States for Fiscal Year 2022
September 9, 2021

Pursuant to § 310 of the Congressional Budget Act of 1974 as amended,[1] we are writing to advise you of the Additional and Supplemental Views of the Minority Members of the Committee on Small Business on the Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022. These views are in addition to those submitted by the Committee's Majority Members. Unfortunately, as with the consideration of S. Con. Res. 5, the Concurrent Resolution on the Budget for Fiscal Year 2021 in February 2021, neither the House Majority Members nor the Committee's Majority Members engaged in a bipartisan reconciliation process. Consequently, the Minority has substantial disagreement with the Majority's Budget Reconciliation Committee Print. These objections are discussed in greater detail below.

Under clause 1(q) of Rule 10 of the Rules of the United States House of Representatives, the Committee on Small Business has legislative jurisdiction over the United States Small Business Administration (SBA), including financial aid, regulatory flexibility, paperwork reduction, and the participation of small businesses in federal government procurement and federal government contracts. Similarly, under clause 3(l) of House Rule 10, the Committee also has continuing jurisdiction to study and investigate the problems of all types of small businesses. This document, accordingly, focuses on the small business provisions of S. Con. Res. 14, the Concurrent Resolution on the Budget of the United States for Fiscal Year 2022, which covers the Small Business Act[2] and the Small Business Investment Act.[3]

The SBA has responsibility for programs that help to create millions of jobs and to grow the economy of the United States. Our nation's entrepreneurs depend on these programs not only to provide capital, but also for advising, mentoring, training, and other services. As a result, it is essential that the SBA programs are efficient, effective, and achieve real results for America's small businesses and, equally important, America's taxpayers.

I. Introduction: The Impact of the COVID-19 Pandemic on Small Businesses

Small businesses employ nearly half of all American workers[4] and produce almost 50 percent of our Gross Domestic Product (GDP).[5] Despite this important role in the economy, they operate on thin margins and often with little capital in reserve and a limited workforce. Never have they been tested as they have during the COVID-19 pandemic. Small businesses were deeply affected by state and local mandates and the rapidly changing economic conditions. To assist the nation's small businesses and their employees, Congress and the Trump Administration worked in a bipartisan manner to craft a number of relief measures to help stabilize the American economy. Although the relief programs delivered approximately one trillion dollars to small

[1] 2 U.S.C. § 641 et seq.
[2] 15 U.S.C. § 631 et seq.
[3] 15 U.S.C. § 661 et seq.
[4] OFFICE OF ADVOCACY, U.S. SMALL BUS. ADMIN., 2021 SMALL BUSINESS PROFILE, *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30143723/Small-Business-Economic-Profile-US.pdf.
[5] OFFICE OF ADVOCACY, U.S. SMALL BUS. ADMIN., SMALL BUSINESS GDP, *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2018/12/21060437/Small-Business-GDP-1998-2014.pdf.

businesses, some small businesses were unable to adapt, and the dire economic conditions forced thousands of businesses to close their doors forever.

II. Small Business COVID-19 Relief Programs

In March 2020, Congress passed, and President Trump signed, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act),[6] which created the bipartisan Paycheck Protection Program (PPP), and activated the Economic Injury Disaster Loan (EIDL) Program.[7] The Consolidated Appropriations Act of 2021 included the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act,[8] which established the Shuttered Venue Owners Grant (SVOG) Program to aid theaters, museums, performance venues, and other destinations. Later, Congress passed through the budget reconciliation process, and President Biden signed, the American Rescue Plan Act,[9] which created the Restaurant Revitalization Fund (RRF) to assist restaurants, bars, and other eligible entities.

Prior to COVID-19, small businesses were projecting confidence and optimism. Pro-growth policies resulted in historic unemployment levels. A smart regulatory environment and low taxes meant small businesses had the economic freedom and opportunity to innovate, expand, and create jobs.

III. The Current State of Small Business

Today, small businesses are still struggling. COVID-19 is still rampant. Costs are escalating and inflation is at a 30-year high. Supply chains have been disrupted. Workers are scarce. Prices of materials are up. Customer demand is down. Small business owners are being threatened with still higher taxes and more regulations. They clearly need Congress to come together and provide bipartisan solutions.

For many years, the House Small Business Committee has been known to work together to pass legislation for America's entrepreneurs. Republicans and Democrats worked together and were proud to achieve real results for Main Street U.S.A. However, over the past year, instead of working together to craft targeted, much-needed solutions that address the specific problems of small businesses, the House Majority and this Committee's Majority have pushed through billions of dollars in spending, much of it stretching ten years into the future, and direct federal assistance that will further perpetuate a failing artificial economy.

Beginning in February of 2021, the Small Business Committee Majority drafted a massive $50 billion budget reconciliation package without seeking any Minority ideas or input. We were given their partisan document just days before the markup. Although Republican Committee

[6] Pub. L. No. 116-136 (2020).
[7] *Id.*
[8] Pub. L. No. 116-260 (2020).
[9] Pub. L. No. 117-2 (2021).

Members proposed numerous constructive, commonsense amendments to improve the measure, Committee Democrats blocked each one. For example:

- Democrats defeated Ranking Member Blaine Luetkemeyer's (R-MO) amendment to increase the funding allocated to the SBA's Office of Inspector General by $25 million to prevent waste and fraud and protect taxpayer dollars.

- Democrats rejected Representative Andrew Garbarino's (R-NY) amendment to increase the appropriation for the SBA's Restaurant Revitalization Fund (RRF) from $25 billion to $60 billion.

- Democrats opposed Representative Young Kim's (R-CA) amendment to require the SBA to submit a report to Congress on the waste, fraud, and abuse that occurred within the SBA's Economic Injury Disaster Loan (EIDL) Program since January 1, 2020.

Last week, on September 7, 2021, a Tuesday afternoon of a Jewish holiday observed by Members and staff alike, the Committee's Majority provided a 90-page $23.6 billion equally partisan document[10] to be voted on the morning of Thursday, September 9, 2021 – less than 48 hours later. During the markup, Republican Members expressed serious concerns about provisions in the Majority's bill that duplicate current Small Business Administration (SBA) programs; copy established and successful private sector programs; lack rigorous oversight; and vastly increase risk to taxpayer dollars.

To cite just a few examples, the Majority's bill:

- Appropriates $1 billion to create a new, duplicative Uplift Accelerator grants program without oversight, for a narrow list of eligible entities to establish accelerators or incubators to help small business readiness, appropriates an additional $725 million for another new, duplicative Business Development Academy grant program within the SBA's 7(j) program with the same narrow list of eligible entities as the Uplift Accelerator program.

- Appropriates $4.465 billion for the Small Dollar Funding Program, a direct lending program within the SBA for government contractors and small manufacturers when the nonpartisan Government Accountability Office and SBA Inspector General have identified the potential for massive fraud in the SBA's Economic Injury Disaster Loan (EIDL) direct lending program.[11]

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[10] Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022 (117th Cong.).

[11] INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION, SERIOUS CONCERNS WITH POTENTIAL FRAUD IN EIDL PROGRAM PERTAINING TO THE RESPONSE TO COVID-19 (Jul. 28, 2020), *available at* https://www.sba.gov/document/report-20-16-serious-concerns-potential-fraud-eidl-program-pertaining-response-covid-19; ECONOMIC INJURY DISASTER LOAN PROGRAM: ACTIONS NEEDED TO IMPROVE COMMUNICATION WITH APPLICANTS AND ADDRESS FRAUD RISKS (GAO-21-589) (Jul 30, 2021), *available at* https://www.gao.gov/products/gao-21-589.

- Appropriates $1 billion to extend SBA 7(a)/504 loan fee waivers and government guarantee percentages through 2026, which increases taxpayer risk.

- Appropriates $500 million to create a Cooperative Pilot Loan Program to serve employee-owned small businesses and waives the personal guarantee requirement.

- Appropriates $100 million to supplement existing funding in SBA's Surety Bond Program, raising the government guarantee rate from $6.5 million to up to $20 million, vastly increasing taxpayer risk while eliminating the important limitation that the SBA's guarantee is necessary for the small business to obtain a bond.

Once again, Republican Committee Members offered constructive, commonsense amendments to strengthen the measure. And once again, Committee Democrats defeated every one. For example:

- Democrats defeated Representative Beth Van Duyne's (R-TX) amendment to require the Small Business Administration to study the impact of inflation on small businesses.

- Democrats blocked Representative Scott Fitzgerald's (R-WI) amendment to require the SBA to create a study investigating the impact of tax increases on small businesses.

- Democrats opposed Representative Andrew Garbarino's (R-NY) amendment to provide additional funding for our nation's struggling restaurants through the SBA's Restaurant Revitalization Fund (RRF), dismissed proper oversight, and neglected to reject preferential applicant treatment within the program.

IV. The Small Businesses Outlook Ahead

Although the Committee's Majority claims to want to work together on bipartisan policies, once again, as in February 2021, there were no meetings, no telephone calls, no Zoom calls, no solicitation of ideas, no discussions, and no bipartisan solutions for this budget reconciliation legislation.

At a time when small businesses are still working diligently to regain their footing and serve their communities, a rushed, one-sided, partisan process, and a massive, multi-billion-dollar measure, which lacks temporary, targeted programs, anti-fraud measures, and rigorous oversight, duplicates successful private sector programs and puts additional taxpayer dollars at risk, are not the answer. That path will not help small businesses and will only kick them while they are down.

Small Business Committee Republican Members stand ready to help create the environment that will drive small businesses and our nation forward. The way to achieve that goal is a

targeted, pro-growth plan focusing on smart tax and regulatory policies that will finally deliver commonsense, bipartisan relief to Main Street.

Respectfully,

Blaine Luetkemeyer
Ranking Member

Roger Williams
Vice Ranking Member

Jim Hagedorn
Member of Congress

Pete Stauber
Member of Congress

Dan Meuser
Member of Congress

Claudia Tenney
Member of Congress

Andrew Garbarino
Member of Congress

Young Kim
Member of Congress

Beth Van Duyne
Member of Congress

Byron Donalds
Member of Congress

Maria Salazar
Member of Congress

Scott Fitzgerald
Member of Congress

[2D_Committee on Small Business_Views_Insert]

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 09-09-21 **QUORUM:** 13
BILL NUMBER: En Bloc #1 (Luetkemeyer 2v1, Hagedorn 2v1, Stauber 1v1, Stauber 2v1, Meuser 2v1, Young Kim 1v1, Donalds 1v1, Donalds 2v1, and Fitzgerald 1v1)
ROLL CALL: 2:51 pm
VOTE: __ (AYE) X (NO)

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		X	
Mr. Jared Golden		X	
Mr. Jason Crow		X	
Ms. Sharice Davids		X	
Mr. Kweisi Mfume		X	
Mr. Dean Phillips		X	
Ms. Marie Newman		X	
Ms. Carolyn Bourdeaux		X	
Mr. Troy Carter		X	
Ms. Judy Chu		X	
Mr. Dwight Evans		X	
Mr. Antonio Delgado		X	
Ms. Chrissy Houlahan		X	
Mr. Andy Kim		X	
Ms. Angie Craig		X	
Blaine Luetkemeyer, Ranking Member	X		
Mr. Roger Williams	X		
Mr. Jim Hagedorn	X		
Mr. Pete Stauber	X		
Mr. Dan Meuser	X		
Ms. Claudia Tenney	X		
Mr. Andrew Garbarino	X		
Ms. Young Kim	X		
Ms. Beth Van Duyne	X		
Mr. Byron Donalds	X		
Ms. Maria Salazar	X		
Mr. Scott Fitzgerald	X		
TOTALS	**12**	**15**	

On this vote there were 12 ayes and 15 nos.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 09-09-21 **QUORUM:** 13
BILL NUMBER: En Bloc #2 (Hagedorn 1v1, Meuser 1v1, Tenney 1v1, Tenney 2v1, Garbrino 1v1, Young Kim 2v1, Van Duyne 1v1, Van Duyne 2v1, and Fitzgerald 2v1)
ROLL CALL: 2:55 pm
VOTE: __(AYE) **X (NO)**

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		**X**	
Mr. Jared Golden		**X**	
Mr. Jason Crow		**X**	
Ms. Sharice Davids		**X**	
Mr. Kweisi Mfume		**X**	
Mr. Dean Phillips		**X**	
Ms. Marie Newman		**X**	
Ms. Carolyn Bourdeaux		**X**	
Mr. Troy Carter		**X**	
Ms. Judy Chu		**X**	
Mr. Dwight Evans		**X**	
Mr. Antonio Delgado		**X**	
Ms. Chrissy Houlahan		**X**	
Mr. Andy Kim		**X**	
Ms. Angie Craig		**X**	
Blaine Luetkemeyer, Ranking Member	**X**		
Mr. Roger Williams	**X**		
Mr. Jim Hagedorn	**X**		
Mr. Pete Stauber	**X**		
Mr. Dan Meuser	**X**		
Ms. Claudia Tenney	**X**		
Mr. Andrew Garbarino	**X**		
Ms. Young Kim	**X**		
Ms. Beth Van Duyne	**X**		
Mr. Byron Donalds	**X**		
Ms. Maria Salazar	**X**		
Mr. Scott Fitzgerald	**X**		
TOTALS	**12**	**15**	

On this vote there were 12 ayes and 15 nos.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 09-09-21 **QUORUM:** 13
BILL NUMBER: Garbarino 2v1
ROLL CALL: 2:59 pm
VOTE: __(AYE) X (NO)

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		**X**	
Mr. Jared Golden		**X**	
Mr. Jason Crow		**X**	
Ms. Sharice Davids		**X**	
Mr. Kweisi Mfume		**X**	
Mr. Dean Phillips		**X**	
Ms. Marie Newman		**X**	
Ms. Carolyn Bourdeaux		**X**	
Mr. Troy Carter		**X**	
Ms. Judy Chu		**X**	
Mr. Dwight Evans		**X**	
Mr. Antonio Delgado		**X**	
Ms. Chrissy Houlahan		**X**	
Mr. Andy Kim		**X**	
Ms. Angie Craig		**X**	
Blaine Luetkemeyer, Ranking Member	**X**		
Mr. Roger Williams	**X**		
Mr. Jim Hagedorn	**X**		
Mr. Pete Stauber	**X**		
Mr. Dan Meuser	**X**		
Ms. Claudia Tenney	**X**		
Mr. Andrew Garbarino	**X**		
Ms. Young Kim	**X**		
Ms. Beth Van Duyne	**X**		
Mr. Byron Donalds	**X**		
Ms. Maria Salazar	**X**		
Mr. Scott Fitzgerald	**X**		
TOTALS	**12**	**15**	

On this vote there were 12 ayes and 15 nos.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 09-09-21 QUORUM: 13
BILL NUMBER: Luetkemeyer 1v1
ROLL CALL: 3:02 pm
VOTE: __ (AYE) X (NO)

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman		X	
Mr. Jared Golden		X	
Mr. Jason Crow		X	
Ms. Sharice Davids		X	
Mr. Kweisi Mfume		X	
Mr. Dean Phillips		X	
Ms. Marie Newman		X	
Ms. Carolyn Bourdeaux		X	
Mr. Troy Carter		X	
Ms. Judy Chu		X	
Mr. Dwight Evans		X	
Mr. Antonio Delgado		X	
Ms. Chrissy Houlahan		X	
Mr. Andy Kim		X	
Ms. Angie Craig		X	
Blaine Luetkemeyer, Ranking Member	X		
Mr. Roger Williams	X		
Mr. Jim Hagedorn	X		
Mr. Pete Stauber	X		
Mr. Dan Meuser	X		
Ms. Claudia Tenney	X		
Mr. Andrew Garbarino	X		
Ms. Young Kim	X		
Ms. Beth Van Duyne	X		
Mr. Byron Donalds	X		
Ms. Maria Salazar	X		
Mr. Scott Fitzgerald	X		
TOTALS	12	15	

On this vote there were 12 ayes and 15 nos.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 09-09-21 **QUORUM:** 13
BILL NUMBER: Velázquez Amendment in the Nature of a Substitute
ROLL CALL: 3:05 pm
VOTE: X (AYE) __ (NO)

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman	X		
Mr. Jared Golden	X		
Mr. Jason Crow	X		
Ms. Sharice Davids	X		
Mr. Kweisi Mfume	X		
Mr. Dean Phillips	X		
Ms. Marie Newman	X		
Ms. Carolyn Bourdeaux	X		
Mr. Troy Carter	X		
Ms. Judy Chu	X		
Mr. Dwight Evans	X		
Mr. Antonio Delgado	X		
Ms. Chrissy Houlahan	X		
Mr. Andy Kim	X		
Ms. Angie Craig	X		
Blaine Luetkemeyer, Ranking Member		X	
Mr. Roger Williams		X	
Mr. Jim Hagedorn		X	
Mr. Pete Stauber		X	
Mr. Dan Meuser		X	
Ms. Claudia Tenney		X	
Mr. Andrew Garbarino		X	
Ms. Young Kim		X	
Ms. Beth Van Duyne		X	
Mr. Byron Donalds		X	
Ms. Maria Salazar		X	
Mr. Scott Fitzgerald		X	
TOTALS	15	12	

On this vote there were 15 ayes and 12 nos.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 09-09-21 **QUORUM:** 13
BILL NUMBER: Transmittal to House Budget Committee
ROLL CALL: 3:09 pm
VOTE: X (AYE) ___ (NO)

MEMBER	AYE	NO	NOT VOTING
Ms. Velázquez, Chairwoman	X		
Mr. Jared Golden	X		
Mr. Jason Crow	X		
Ms. Sharice Davids	X		
Mr. Kweisi Mfume	X		
Mr. Dean Phillips	X		
Ms. Marie Newman	X		
Ms. Carolyn Bourdeaux	X		
Mr. Troy Carter	X		
Ms. Judy Chu	X		
Mr. Dwight Evans	X		
Mr. Antonio Delgado	X		
Ms. Chrissy Houlahan	X		
Mr. Andy Kim	X		
Ms. Angie Craig	X		
Blaine Luetkemeyer, Ranking Member		X	
Mr. Roger Williams		X	
Mr. Jim Hagedorn		X	
Mr. Pete Stauber		X	
Mr. Dan Meuser		X	
Ms. Claudia Tenney		X	
Mr. Andrew Garbarino		X	
Ms. Young Kim		X	
Ms. Beth Van Duyne		X	
Mr. Byron Donalds		X	
Ms. Maria Salazar		X	
Mr. Scott Fitzgerald		X	
TOTALS	15	12	

On this vote there were 15 ayes and 12 nos.

Minority Views
Additional and Supplemental Views of the Republican Members of the House Committee on Small Business
on Matters Set Forth in
The Small Business Committee Print Providing for Reconciliation Pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget of the United States for Fiscal Year 2022
September 9, 2021

Pursuant to § 310 of the Congressional Budget Act of 1974 as amended,[1] we are writing to advise you of the Additional and Supplemental Views of the Minority Members of the Committee on Small Business on the Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022. These views are in addition to those submitted by the Committee's Majority Members. Unfortunately, as with the consideration of S. Con. Res. 5, the Concurrent Resolution on the Budget for Fiscal Year 2021 in February 2021, neither the House Majority Members nor the Committee's Majority Members engaged in a bipartisan reconciliation process. Consequently, the Minority has substantial disagreement with the Majority's Budget Reconciliation Committee Print. These objections are discussed in greater detail below.

Under clause 1(q) of Rule 10 of the Rules of the United States House of Representatives, the Committee on Small Business has legislative jurisdiction over the United States Small Business Administration (SBA), including financial aid, regulatory flexibility, paperwork reduction, and the participation of small businesses in federal government procurement and federal government contracts. Similarly, under clause 3(l) of House Rule 10, the Committee also has continuing jurisdiction to study and investigate the problems of all types of small businesses. This document, accordingly, focuses on the small business provisions of S. Con. Res. 14, the Concurrent Resolution on the Budget of the United States for Fiscal Year 2022, which covers the Small Business Act[2] and the Small Business Investment Act.[3]

The SBA has responsibility for programs that help to create millions of jobs and to grow the economy of the United States. Our nation's entrepreneurs depend on these programs not only to provide capital, but also for advising, mentoring, training, and other services. As a result, it is essential that the SBA programs are efficient, effective, and achieve real results for America's small businesses and, equally important, America's taxpayers.

[1] 2 U.S.C. § 641 et seq.
[2] 15 U.S.C. § 631 et seq.
[3] 15 U.S.C. § 661 et seq.

I. Introduction: The Impact of the COVID-19 Pandemic on Small Businesses

Small businesses employ nearly half of all American workers[4] and produce almost 50 percent of our Gross Domestic Product (GDP).[5] Despite this important role in the economy, they operate on thin margins and often with little capital in reserve and a limited workforce. Never have they been tested as they have during the COVID-19 pandemic. Small businesses were deeply affected by state and local mandates and the rapidly changing economic conditions. To assist the nation's small businesses and their employees, Congress and the Trump Administration worked in a bipartisan manner to craft a number of relief measures to help stabilize the American economy. Although the relief programs delivered approximately one trillion dollars to small businesses, some small businesses were unable to adapt, and the dire economic conditions forced thousands of businesses to close their doors forever.

II. Small Business COVID-19 Relief Programs

In March 2020, Congress passed, and President Trump signed, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act),[6] which created the bipartisan Paycheck Protection Program (PPP), and activated the Economic Injury Disaster Loan (EIDL) Program.[7] The Consolidated Appropriations Act of 2021 included the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act,[8] which established the Shuttered Venue Owners Grant (SVOG) Program to aid theaters, museums, performance venues, and other destinations. Later, Congress passed through the budget reconciliation process, and President Biden signed, the American Rescue Plan Act,[9] which created the Restaurant Revitalization Fund (RRF) to assist restaurants, bars, and other eligible entities.

Prior to COVID-19, small businesses were projecting confidence and optimism. Pro-growth policies resulted in historic unemployment levels. A smart regulatory environment and low taxes meant small businesses had the economic freedom and opportunity to innovate, expand, and create jobs.

III. The Current State of Small Business

Today, small businesses are still struggling. COVID-19 is still rampant. Costs are escalating and inflation is at a 30-year high. Supply chains have been disrupted. Workers are scarce. Prices

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[4] OFFICE OF ADVOCACY, U.S. SMALL BUS. ADMIN., 2021 SMALL BUSINESS PROFILE, *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30143723/Small-Business-Economic-Profile-US.pdf.

[5] OFFICE OF ADVOCACY, U.S. SMALL BUS. ADMIN., SMALL BUSINESS GDP, *available at* https://cdn.advocacy.sba.gov/wp-content/uploads/2018/12/21060437/Small-Business-GDP-1998-2014.pdf.

[6] Pub. L. No. 116-136 (2020).

[7] *Id.*

[8] Pub. L. No. 116-260 (2020).

[9] Pub. L. No. 117-2 (2021).

of materials are up. Customer demand is down. Small business owners are being threatened with still higher taxes and more regulations. They clearly need Congress to come together and provide bipartisan solutions.

For many years, the House Small Business Committee has been known to work together to pass legislation for America's entrepreneurs. Republicans and Democrats worked together and were proud to achieve real results for Main Street U.S.A. However, over the past year, instead of working together to craft targeted, much-needed solutions that address the specific problems of small businesses, the House Majority and this Committee's Majority have pushed through billions of dollars in spending, much of it stretching ten years into the future, and direct federal assistance that will further perpetuate a failing artificial economy.

Beginning in February of 2021, the Small Business Committee Majority drafted a massive $50 billion budget reconciliation package without seeking any Minority ideas or input. We were given their partisan document just days before the markup. Although Republican Committee Members proposed numerous constructive, commonsense amendments to improve the measure, Committee Democrats blocked each one. For example:

- Democrats defeated Ranking Member Blaine Luetkemeyer's (R-MO) amendment to increase the funding allocated to the SBA's Office of Inspector General by $25 million to prevent waste and fraud and protect taxpayer dollars.

- Democrats rejected Representative Andrew Garbarino's (R-NY) amendment to increase the appropriation for the SBA's Restaurant Revitalization Fund (RRF) from $25 billion to $60 billion.

- Democrats opposed Representative Young Kim's (R-CA) amendment to require the SBA to submit a report to Congress on the waste, fraud, and abuse that occurred within the SBA's Economic Injury Disaster Loan (EIDL) Program since January 1, 2020.

Last week, on September 7, 2021, a Tuesday afternoon of a Jewish holiday observed by Members and staff alike, the Committee's Majority provided a 90-page $23.6 billion equally partisan document[10] to be voted on the morning of Thursday, September 9, 2021 – less than 48 hours later. During the markup, Republican Members expressed serious concerns about provisions in the Majority's bill that duplicate current Small Business Administration (SBA) programs; copy established and successful private sector programs; lack rigorous oversight; and vastly increase risk to taxpayer dollars.

To cite just a few examples, the Majority's bill:

- Appropriates $1 billion to create a new, duplicative Uplift Accelerator grants program without oversight, for a narrow list of eligible entities to establish accelerators or incubators to help small business readiness, appropriates an additional $725 million

[10] Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022 (117th Cong.).

for another new, duplicative Business Development Academy grant program within the SBA's 7(j) program with the same narrow list of eligible entities as the Uplift Accelerator program.

- Appropriates $4.465 billion for the Small Dollar Funding Program, a direct lending program within the SBA for government contractors and small manufacturers when the nonpartisan Government Accountability Office and SBA Inspector General have identified the potential for massive fraud in the SBA's Economic Injury Disaster Loan (EIDL) direct lending program.[11]

- Appropriates $1 billion to extend SBA 7(a)/504 loan fee waivers and government guarantee percentages through 2026, which increases taxpayer risk.

- Appropriates $500 million to create a Cooperative Pilot Loan Program to serve employee-owned small businesses and waives the personal guarantee requirement.

- Appropriates $100 million to supplement existing funding in SBA's Surety Bond Program, raising the government guarantee rate from $6.5 million to up to $20 million, vastly increasing taxpayer risk while eliminating the important limitation that the SBA's guarantee is necessary for the small business to obtain a bond.

Once again, Republican Committee Members offered constructive, commonsense amendments to strengthen the measure. And once again, Committee Democrats defeated every one. For example:

- Democrats defeated Representative Beth Van Duyne's (R-TX) amendment to require the Small Business Administration to study the impact of inflation on small businesses.

- Democrats blocked Representative Scott Fitzgerald's (R-WI) amendment to require the SBA to create a study investigating the impact of tax increases on small businesses.

- Democrats opposed Representative Andrew Garbarino's (R-NY) amendment to provide additional funding for our nation's struggling restaurants through the SBA's Restaurant Revitalization Fund (RRF), dismissed proper oversight, and neglected to reject preferential applicant treatment within the program.

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[11] INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION, SERIOUS CONCERNS WITH POTENTIAL FRAUD IN EIDL PROGRAM PERTAINING TO THE RESPONSE TO COVID-19 (Jul. 28, 2020), *available at* https://www.sba.gov/document/report-20-16-serious-concerns-potential-fraud-eidl-program-pertaining-response-covid-19; ECONOMIC INJURY DISASTER LOAN PROGRAM: ACTIONS NEEDED TO IMPROVE COMMUNICATION WITH APPLICANTS AND ADDRESS FRAUD RISKS (GAO-21-589) (Jul 30, 2021), *available at* https://www.gao.gov/products/gao-21-589.

IV. The Small Businesses Outlook Ahead

Although the Committee's Majority claims to want to work together on bipartisan policies, once again, as in February 2021, there were no meetings, no telephone calls, no Zoom calls, no solicitation of ideas, no discussions, and no bipartisan solutions for this budget reconciliation legislation.

At a time when small businesses are still working diligently to regain their footing and serve their communities, a rushed, one-sided, partisan process, and a massive, multi-billion-dollar measure, which lacks temporary, targeted programs, anti-fraud measures, and rigorous oversight, duplicates successful private sector programs and puts additional taxpayer dollars at risk, are not the answer. That path will not help small businesses and will only kick them while they are down.

Small Business Committee Republican Members stand ready to help create the environment that will drive small businesses and our nation forward. The way to achieve that goal is a targeted, pro-growth plan focusing on smart tax and regulatory policies that will finally deliver commonsense, bipartisan relief to Main Street.

Respectfully,

Blaine Luetkemeyer
Ranking Member

Roger Williams
Vice Ranking Member

Jim Hagedorn
Member of Congress

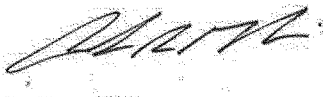
Pete Stauber
Member of Congress



Dan Meuser
Member of Congress



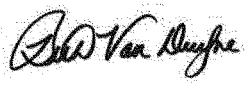
Claudia Tenney
Member of Congress



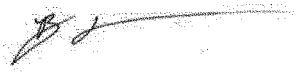
Andrew Garbarino
Member of Congress



Young Kim
Member of Congress



Beth Van Duyne
Member of Congress



Byron Donalds
Member of Congress



Maria Salazar
Member of Congress



Scott Fitzgerald
Member of Congress



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman

Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member

Paul J. Sass
Republican Staff Director

September 16, 2021

The Honorable John Yarmuth
Chairman, Committee on the Budget
204-E Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget, I hereby transmit these recommendations, which were approved by the Committee on Transportation and Infrastructure on September 15, 2021, and the accompanying material including additional, supplemental, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Peter A. DeFazio
Chair

CONTENTS

Purpose of Committee Print
Legislative History and Consideration
Committee Votes
Committee Oversight Findings
New Budget Authority and Tax Expenditures
Congressional Budget Office Cost Estimate
Performance Goals and Objectives
Duplication of Federal Programs
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits
Federal Mandates Statement
Preemption Clarification
Advisory Committee Statement
Applicability to Legislative Branch
Section-by-Section Analysis of the Legislation
Changes in Existing Law Made by the Bill, as Reported
Supplemental, Minority, Additional, or Dissenting Views

PURPOSE OF LEGISLATION

The purpose of this Committee Print is to comply with the reconciliation directive contained in section 2002 of S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022, which requires the Committee on Transportation and Infrastructure to submit changes within its jurisdiction to increase the deficit by not more than $60,000,000,000 over fiscal years 2022 to 2031.

LEGISLATIVE HISTORY AND CONSIDERATION

The Committee on Transportation and Infrastructure met at 10:00 a.m. on September 14 and 15, 2021, and approved the Committee Print consisting of legislative proposals for transmittal to the Committee on the Budget pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022; by a record vote of 37 yeas and 29 nays (Roll Call Vote No. 69).

The Committee took the following actions:

An Amendment in the Nature of a Substitute offered by Mr. DeFazio (#1); was AGREED TO, as amended, by voice vote.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Crawford (#1A) was NOT AGREED TO by a record vote of 28 yeas and 35 nays (Roll Call Vote No. 40).

Insert at the appropriate place a new section entitled "Sec. ___. Limitation on Imposition or Support of Vaccine Mandate or Requirement

An amendment to the amendment to the Amendment in the Nature of a Substitute offered by Mr. Massie (#1A1); was NOT AGREED TO by a record vote of 29 yeas and 36 nays (Roll Call Vote No. 39).

Strike lines 1 through 1 and set a new section entitled "Sec. ___. Limitation on Imposition or Support of Vaccine Mandate or Vaccine Passport Requirement."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Gibbs (#1B); was AGREED TO, as amended, by voice vote.

Insert at the appropriate place a new section entitled "Sec. ___. Prohibition on Use of Funds."

An amendment to the amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1B1); was AGREED TO by voice vote.

Insert at the appropriate place a new section entitled "Sec. ___. Prohibition on Use of Funds."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Webster (#1C); was NOT AGREED TO by a record vote of 30 yeas and 35 nays (Roll Call Vote No. 41).

Insert at the appropriate place new sections entitled "Sec. ___. Prohibition on Use of FEMA at Border." And "Sec. ___. GAO Report."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1D); was NOT AGREED TO by a record vote of 31 yeas and 35 nays (Roll Call Vote No. 42).

Insert at the appropriate place a new section entitled "Sec. __. Certification that Inflation is Below 3 Percent."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Babin (#1E); was NOT AGREED TO by a record vote of 30 yeas and 36 nays (Roll Call Vote No. 43).

Page 9, strike line 10 and all that follows through page 10, line 7 (and redesignate accordingly).

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1F); was NOT AGREED TO by a record vote of 27 yeas and 38 nays (Roll Call Vote No. 44).

Insert at the appropriate place a new section entitled "Sec. ___. Disaster Relief Funds."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Rouzer (#1G); was NOT AGREED TO by a record vote of 30 yeas and 36 nays (Roll Call Vote No. 45).

Insert at the appropriate place a new section entitled "SEC. 11__. Extension of Public Comment Period and Study."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Bost (#1H); was NOT AGREED TO by a record vote of 29 yeas and 36 nays (Roll Call Vote No. 46).

Page 11, line 1, strike "$3,000,000,000" and insert "$2,000,000,000".

Insert at the appropriate place a new section entitled "Sec. ___. Commercial Motor Vehicle Parking Capacity."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Weber (#1I); was NOT AGREED TO by a record vote of 30 yeas and 36 nays (Roll Call Vote No. 47).

Insert at the appropriate place a new section entitled "Sec. ___. Prohibition on Training and Education in Critical Race Theory."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. LaMalfa (#1J); was NOT AGREED TO by a record vote of 29 yeas and 37 nays (Roll Call Vote No. 48).

Strike section 110009 of the bill.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Westerman (#1K); was NOT AGREED TO by a record vote of 30 yeas and 36 nays (Roll Call Vote No. 49).

Insert at the appropriate place a new section entitled "Sec. ___. OPEC Funding Restriction."

An amendment to the Amendment in the Nature of a Substitute offered by Miss González-Colón (#1L); was NOT AGREED TO by a record vote of 25 yeas and 40 nays (Roll Call Vote No. 50).

Page 21, line 4, insert "PUERTO RICO AND" before "TERRITORIAL".

Page 21, line 8, strike "$320,000,000" and insert "$670,500,000".

Page 21, strike line 11 and insert "subsections (b) and (c) of section 165 of title 23, United States Code, of which $350,500,000 shall be for carrying out section 165(b) of such title and $320,000,000 shall be for carrying out section 165(c) of such title.".

Page 21, line 15, strike "section 165(c)" and insert "subsections (b) and (c) of section 165".

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Stauber (#1M); was AGREED TO, as amended, by voice vote.

At the end of the bill add a new section entitled "Sec. __. Prohibition on Funding for Materials Produced by Forced Labor."

An amendment to the amendment to the Amendment in the Nature of a Substitute offered by Mr. DeFazio (#1M1); was AGREED TO by a record vote of 36 yeas and 29 nays (Roll Call Vote No. 51).

Strike the amendment bloc and insert a new section entitled "Sec. ___. Policy of the United States on Child Labor."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Burchett (#1N); was NOT AGREED TO by voice vote.

Strike section 110001.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Nehls (#1O); was NOT AGREED TO by a record vote of 30 yeas and 35 nays (Roll Call Vote No. 52).

Insert at the appropriate place a new section entitled "Sec. Prohibition on Use of Funds for Traffic Control or Traffic Enforcement."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1P); was NOT AGREED TO by a record vote of 26 yeas and 39 nays (Roll Call Vote No. 53).

Page 2, line 5, strike "$9,900,000,000" and insert "$6,400,000,000".

Page 65, after line 22, insert a new section entitled "Sec. ___. Maritime Transportation System."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1Q); was NOT AGREED TO by voice vote.

Page 2, line 5, strike "$9,900,000,000" and insert "$9,700,000,000".

Page 65, after line 22, insert a new section entitled "Sec. __. Duplication of Benefits Relief."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1R); was WITHDRAWN.

Page 2, line 5, strike "9,900,000,000" and insert "9,891,000,000".

Page 65, after line 22, insert a new section entitled "Sec.___. Temporary Power Restoration for Rural and Disadvantaged Communities."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. LaMalfa (#1S); was NOT AGREED TO by voice vote.

Insert at the appropriate place a new section entitled "Sec. ___. Prohibition."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. LaMalfa (#1T); was NOT AGREED TO by voice vote.

Insert at the appropriate place a new section entitled "Sec. ___. Wildfire Mitigation."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. LaMalfa (#1U); was NOT AGREED TO by voice vote.

Insert at the appropriate place a new section entitled "Sec. ___. Cost Share for Major Disasters."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1V); was NOT AGREED TO by voice vote.

Page 2, line 5, strike "$9,900,000,000" and insert "$7,900,000,000".

Page 44, after line 7, insert a new subsection entitled "(d) Assistance for Victims of Hurricane Ida."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. LaMalfa (#1W); was NOT AGREED TO by a record vote of 27 yeas and 39 nays (Roll Call Vote No. 54).

Insert at the appropriate place new sections entitled "Sec. __. Declaration Time Frame." and "Sec. ___. Rural Assistance."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1X); was NOT AGREED TO by voice vote.

Page 2, line 5, strike "$9,900,000,000" and insert "$9,400,000,000".

Page 42, line 24, strike "1,000,000,000" and insert "1,500,000,000".

Page 43, line 7, strike "and" at the end.

Page 43, line 23, strike the period at the end and insert "; and".

Page 43, after line 23, insert the following: (3) $500,000,000 shall be to provide assistance to communities impacted by disasters to improve the resilience of critical facilities, including hospitals, medical special needs facilities, and energy infrastructure in such communities.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1Y); was NOT AGREED TO by voice vote.

Page 40, after line 24, insert a new subsection entitled "(b) Assistance to Vulnerable Emergency Operations Centers."

An en bloc amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1Z); was NOT AGREED TO by voice vote. Consisting of the following:

An amendment: Page 2, line 9, insert "in communities impacted by a major disaster that occurred on or after January 1, 2019 for which the President made a declaration pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)," after "persistent poverty communities,".

Page 3, line 5, insert "communities impacted by a major disaster that occurred on or after January 1, 2019 for which the President made a declaration pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)," after "poverty communities,".

Page 6, line 21, insert ", or in communities impacted by a major disaster that occurred on or after January 1, 2019 for which the President made a declaration pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)," before "or service that benefits".

Page 7, line 2, insert ", communities impacted by a major disaster that occurred on or after January 1, 2019 for which the President made a declaration pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)," after "communities or neighborhoods".
Page 8, line 21, strike the period at the end and insert ", or communities impacted by a major disaster that occurred on or after January 1, 2019 for which the President made a declaration pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170),".
An amendment:
Page 38, after line 25, insert a new subsection entitled "(b) Priority."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1AA); was WITHDRAWN.
Page 2, line 5, strike "$9,900,000,000" and insert "$9,800,000,000".
Page 65, after line 22, insert a new section entitle "Sec. __. Housing for Disaster-Impacted First Responders."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1BB); was NOT AGREED TO by a record vote of 28 yeas and 38 nays (Roll Call Vote No. 55).
Page 2, line 5, strike "$9,900,000,000" and insert "$6,900,000,000".
Page 44, after line 7, insert a new subsection entitled "(d) Assistance for Victims of 2020 and 2021 Disasters."

An amendment to the amendment to the Amendment in the Nature of a Substitute offered by Mr. Rouzer (#1BB1); was WITHDRAWN.
Strike all.
Insert the following: There is appropriated for fiscal year 2022, out of the Disaster Relief Fund, economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) to provide assistance to victims of federally declared natural disasters that occurred in calendar years 2020 and 2021.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Graves of Louisiana (#1CC); was NOT AGREED TO by a record vote of 28 yeas and 39 nays (Roll Call Vote No. 56).
Page 2, line 5, strike "$9,900,000,000" and insert "$7,400,000,000".
Page 65, after line 22, insert a new section entitled "Sec.____. Duplication of Benefits Relief."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Stauber (#1DD); was AGREED TO, as amended, by voice vote
Page 23, line 18, strike "In" and insert "(a) In General__In".
Page 21, after line 23, insert a new subsection entitled "(b) Davis Bacon Requirement.".

An amendment to the amendment to the Amendment in the Nature of a Substitute offered by Mr. Lynch (#1DD1); was AGREED TO by voice vote
Strike lines 1 through 5 and insert a new subsection entitled "(b) Davis Bacon Requirement."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Mast (#1EE); was NOT AGREED TO by voice vote
Page 35, after line 10, insert a new subsection entitled "(j) Prohibition on Use of Funds."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Stauber (#1FF); was NOT AGREED TO by voice vote.
Page 30, line 4, strike "and".
Page 30, line 7, strike the period and insert"; and".
Page 30, after line 7, insert the following: (14) potential increased costs to consumers.

An amendment to the amendment to the Amendment in the Nature of a Substitute by Mr. Graves of Louisiana (#1FF1); was NOT AGREED TO by record vote of 29 yeas and 38 nays (Roll Call Vote No. 57).

At the end of the amendment, add the following: Page 35, after line 10, insert a new subsection entitled "(j) Prohibition on Funding for Materials Produced by Forced Labor."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1GG); was NOT AGREED TO by a record vote of 24 yeas and 40 nays (Roll Call Vote No. 58).

At the appropriate place in the bill insert a new section entitled "Sec ___. No Funds for Entities Mandating or Refusing Service Based on Vaccination Status."

An en bloc amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1HH); was NOT AGREED TO by a record vote of 14 yeas and 52 nays (Roll Call Vote No. 59). Consisting of the following:

An amendment: Strike section 110021.
An amendment: Strike section 110023.
An amendment: Strike section 110024.
An amendment: Strike section 110007.

An en bloc amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1II); was NOT AGREED TO by a record vote of 18 yeas and 48 nays (Roll Call Vote No. 60). Consisting of the following:

An amendment: Page 65, after line 22, insert a new section entitled "Sec. ___. Restriction on Provision of Loan or Loan Guarantee for Certain High-Speed Rail."
An amendment: Strike section 110010 of the bill and insert a new section entitled "Sec. 110010. Railroad Rehabilitation and Improvement Financing."

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1JJ); was NOT AGREED TO by a record vote of 19 yeas and 47 nays (Roll Call Vote No. 61).

Strike section 110011.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1KK); was NOT AGREED TO by a record vote of 22 yeas and 44 nays (Roll Call Vote No. 62).

Strike section 110012.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1LL); was NOT AGREED TO by voice vote.

Strike section 110022.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1MM); was NOT AGREED TO by a record vote of 24 yeas and 41 nays (Roll Call Vote No. 63).

Strike section 110013.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#NN); was NOT AGREED TO by a record vote of 26 yeas and 39 nays (Roll Call Vote No. 64).

Strike section 110002 of the bill.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1OO); was NOT AGREED TO by a record vote of 26 yeas and 40 nays (Roll Call Vote No. 65).

Strike section 110003.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1PP); was NOT AGREED TO by a record vote of 23 yeas and 43 nays (Roll Call Vote No. 66).

Strike section 110008.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1QQ); was NOT AGREED TO by voice vote.

Strike section 110018.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1RR); was NOT AGREED TO by a record vote of 25 yeas and 41 nays (Roll Call Vote No. 67).

Strike section 110020.

An amendment to the Amendment in the Nature of a Substitute offered by Mr. Perry (#1SS); was NOT AGREED TO by a record vote of 17 yeas and 48 nays (Roll Call Vote No. 68).

At the end of the bill, insert a new section entitled "Sec. ___. Increase in Prevailing Wage Threshold."

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

[2A_T&I_Vote_Sheet_Insert]

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not

received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not yet received from the Director of the Congressional Budget Office a cost estimate for the Committee's Committee Print.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to comply with the reconciliation directive contained in section 2002 of S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of this Committee Print establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that this Committee Print does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

TITLE XI – Committee on Transportation and Infrastructure

Sec. 110001. Affordable Housing Access Program.

This section provides $10 billion to support access to affordable housing and enhance mobility for low-income individuals and residents of disadvantaged or persistent poverty communities. Funds will be administered through a competitive process jointly established by the Secretary of Housing and Urban Development and the Federal Transit Administrator to support projects that provide access to affordable housing, improve mobility for low-income riders, and enhance access to job and educational opportunities and community services. Funds provided under the program will support the establishment of new transit routes; the expansion of service areas; improved frequency on existing routes; the provision of fare-free and reduced-fare transit service; state of good repair for transit facilities; research and workforce activities; route planning; and projects to improve accessibility.

Sec. 110002. Community Climate Incentive Grants.

This section provides $4 billion to reduce surface transportation-related greenhouse gas emissions. Includes $50 million for the Federal Highway Administration to establish a greenhouse gas performance measure; establish an incentive structure for states that demonstrate significant carbon reductions; issue requirements, guidance, and regulations necessary to ensure the reduction of on-road greenhouse gas emissions; and for other administrative expenses for the Federal Highway Administration. Also includes $950 million for incentive grants to states that make significant progress in reducing emissions or that adopt strategies to achieve net-zero surface transportation emissions by 2050, and $3 billion for non-state entities for projects to reduce carbon emissions.

Sec. 110003. Neighborhood Access and Equity Grants.

This section provides $4 billion to support neighborhood equity, safety, and affordable transportation access. Includes $3.95 billion for competitive grants administered by the Federal Highway Administration to reconnect communities divided by existing infrastructure barriers, mitigate negative impacts of transportation facilities or construction projects on disadvantaged or underserved communities, and support equitable transportation planning and community engagement activities. Of this amount, not less than $1.58 billion is set aside for projects in disadvantaged or underserved communities or in communities that have taken steps to ensure that

projects do not lead to gentrification or displacement of existing residents. Also includes $50 million to the Federal Highway Administrator to provide technical assistance to local governments to improve project delivery, provide direct capacity-building grants for local project administration, and for other administrative expenses of the Federal Highway Administration.

Sec. 110004. Federal Highway Administration Section 202 Funds.

This section provides $1 billion for tribes distributed through the Tribal Transportation Program under section 202 of title 23, United States Code.

Sec. 110005. Territorial Highway Program.

This section provides $320 million for territories distributed through the Territorial Highway Program.

Sec. 110006. Traffic Safety Clearinghouse.

This section provides $100 million to the National Highway Traffic Safety Administration for awarding grants, cooperative agreements, or contracts to one or more eligible non-profit institutions of higher education to establish and operate a national clearinghouse, identify innovative methods for states to ensure equity in traffic safety enforcement, provide technical assistance to states, and research and develop recommendations and best practices to promote fair and equitable traffic safety enforcement.

Sec. 110007. Automated Vehicles and Mobility Innovation.

This section provides $8 million to establish a national clearinghouse to research secondary and societal impacts of highly automated vehicles and mobility innovation.

Sec. 110008. Local Transportation Priorities.

This section provides $6 billion to advance local surface transportation projects.

Sec. 110009. Passenger Rail Improvement, Modernization, and Emissions Reduction Grants.

This section provides $10 billion for high-speed rail corridor assistance under Chapter 261 of Title 49, supporting the planning and development of public high-speed rail projects.

Sec. 110010. Railroad Rehabilitation and Improvement Financing Credit Risk Premium Assistance.

This section provides $150 million for credit risk premium assistance under the Railroad Rehabilitation and Improvement Financing program, supporting additional federal financing of railroad infrastructure development.

Sec. 110011. Alternative Fuel and Low Emissions Aviation Technology Program.

This section provides $1 billion for the Department of Transportation to support investments for projects that develop, demonstrate, or apply low-emission aviation technologies or produce, transport, blend, or store sustainable aviation fuels.

Sec. 110012. Implementation of the Carbon Offsetting and Reduction Scheme for International Aviation.

This section provides $6 million to help the Federal Aviation Administration fully implement the provisions of the Carbon Offsetting and Reduction Scheme for International Aviation, the system adopted by the International Civil Aviation Organization to reduce aviation's international carbon emissions.

Sec. 110013. Assistance to Update and Enforce Hazard Resistant Codes and Standards.

This section provides the Federal Emergency Management Agency (FEMA) $300 million for grants to state, local, tribal, and territorial governments for implementation and enforcement activities of the latest published editions of relevant performance-based and consensus-based codes, specifications, and standards that incorporate hazard-resistant designs and the latest requirements for the maintenance and inspection of existing buildings to address hazard risk. These grants will not be subject to any non-federal cost share.

Sec. 110014. Hazard Mitigation Revolving Loan Fund.

This section provides FEMA $500 million for the hazard mitigation revolving loan fund program.

Sec. 110015. Upgrading Public Alert and Warning.

This section provides FEMA $25 million to upgrade the Integrated Public Alert and Warning System (IPAWS) for implementation of the Next Generation Warning System (NGWS) via grants to public broadcasters.

Sec. 110016. Federal Assistance for Emergency Managers.

This section provides FEMA $425 million for grants for construction, retrofit, technological enhancement, and updated planning requirements of state, local, Indian tribal, and territorial emergency operations centers. Grants are limited to $4 million.

Sec. 110017. FEMA Procurement, Construction, and Improvements.

This section provides FEMA $200 million for the construction, renovation, retrofit, technological enhancement, and updated planning requirements of federal emergency training centers and federal emergency operations centers.

Sec. 110018. Economic Development Administration.

This section provides a total of $5.5 billion to the Economic Development Administration (EDA), broken down as follows: $4 billion to invest in the creation of regional innovation hubs; $1 billion for EDA's Economic Adjustment Assistance program to fund predevelopment activities and provide assistance to energy and industrial transition communities; and $500 million for public works projects.

Sec. 110019. RECOMPETE Pilot Program.

This section provides $4 billion to establish a formula-based grant pilot program at EDA to improve an eligible area's prime age employment rate by providing long-term assistance to persistently distressed communities.

Sec. 110020. Assistance for Federal Buildings.

This section provides $1 billion for the General Services Administration's Federal Buildings Fund to convert GSA owned or managed buildings to high-performance green buildings.

Sec. 110021. Technology Innovation and Climate Resilience in Maritime Sector.

This section provides $100 million for the Maritime Environmental and Technical Assistance program within the Maritime Administration to support investments in research, demonstration, and development of new and emerging technologies to reduce carbon emissions, reduce vessel noise pollution, and improve the climate resiliency of the marine shipping and maritime industry.

Sec. 110022. Climate Resilient Coast Guard Infrastructure.

This section provides $1 billion to the Coast Guard Procurement, Construction, and Improvements account for the acquisition, design, and construction of new, or replacement of, existing facilities impacted by climate change.

Sec. 110023. Great Lakes Icebreaker Acquisition.

This section provides $350 million to the Coast Guard for the acquisition of a Great Lakes Icebreaker.

Sec. 110024. Polar Security Cutters and Climate Science.

This section provides $788 million to the Coast Guard for the acquisition of an additional Polar Security Cutter that includes scientific laboratory and berthing facilities onboard the cutter.

Sec. 110025. Small Shipyard Grants.

This section provides $300 million for the Small Shipyard Grant program within the Maritime Administration for investments that improve the climate resiliency and environmental sustainability of the maritime industry and the maritime transportation system.

Sec. 110026. Port Infrastructure and Supply Chain Resilience.

This section provides $2.5 billion to the Maritime Administration for grants for projects to support supply chain resilience, reduction in port congestion, the development of offshore wind support infrastructure, environmental remediation, and projects to reduce the impact of ports on the environment.

Sec. 110027. Grants for Rural, Small, Tribal, and Economically Disadvantages Municipality Technical Assistance and Circuit Rider Programs and Workforce Development.

This section provides $495 million in critical investments to support small, rural, and other economically-challenged communities in meeting the technical and financial requirements of the

Clean Water Act, as well as to invest in maintaining an adequate supply of trained personnel to operate and maintain existing and future sewage treatment plants.

Sec. 110028. Alternative Water Source Project Grants.

This section provides $125 million to support investment in alternative water source projects, including projects for groundwater recharge and potable reuse.

Sec. 110029. Sewer Overflow and Stormwater Reuse Municipal Grants.

This section provides $2 billion to invest in sewer overflow and stormwater reuse projects, as well as provides for a greater federal cost share of projects that serve financially distressed communities.

Sec. 110030. Individual Household Decentralized Wastewater Treatment System Grants

This section supports $450 million in investment for the installation, repair, or replacement of domestic septic systems, including investment in connecting households with failing septic systems to public sewer systems. This section prioritizes this investment to low-income households that lack access to sewage treatment technologies, including households that currently use cesspools to capture sewage.

Sec. 110031. Tribal Clean Water Grants.

This section provides $500 million in critical grant assistance to invest in the backlog of wastewater infrastructure projects on Tribal lands, including support for projects, training, technical assistance, or clean water education for Indian tribes, reservations, and Alaskan Native Villages.

Sec. 110032. Wastewater Infrastructure Assistance to Colonias.

This section provides $125 million in wastewater infrastructure investment in the colonias, the residential areas along the U.S.-Mexican border that often lack critical living necessities, including basic sewer systems, which pose potentially serious consequences for public health and quality of life.

Sec. 110033. Clean Water Needs Survey.

This section provides $5 million for an assessment of wastewater system capital improvement needs of all treatment works in the United States that are eligible for assistance from state water pollution control revolving funds.

Sec. 110034. Prohibition on Use of Funds.

This section requires the Comptroller General to provide a report accounting for any Coast Guard or Army Corps of Engineers equipment in Afghanistan.

Sec. 110035. Policy of the United States on Child Labor.

This section states that funds under this title should not be used to purchase products produced in whole or in part by child labor.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee advises that compliance prior to submission to the Committee on the Budget was not possible.

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

[2D_T&I_Views_Insert]

Committee on Transportation and Infrastructure Roll Call Vote No. 39
On: Agreeing to Amendment #1A1 offered by Mr. Massie
Not Agreed to by 28 yeas and 35 nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		

Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 40
On: Agreeing to Amendment #1A by Mr. Crawford
Not Agreed to by 28 yeas and 35 nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. Garcia of IL	Nay	Mr. Guest	
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb		Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea

Mr. Kahele	Nay	
Ms. Strickland	Nay	
Ms. Williams of GA	Nay	
Ms. Newman	Nay	
Mr. Carter	Nay	

Committee on Transportation and Infrastructure Roll Call Vote No. 41
On: Agreeing to Amendment #1C offered by Mr. Webster
Not Agreed to by 30 yeas and 35 nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea

Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 42
On: Agreeing to Amendment #1D offered by Mr. Perry
Not Agreed to by 31 Yeas and 35 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea

Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 43
On: Agreeing to Amendment #1E offered by Mr. Babin
Not Agreed to by 30 Yeas and 36 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. Garcia of IL	Nay	Mr. Guest	Yea

Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 44
On: Agreeing to Amendment #1F Offered by Mr. Graves of Louisiana
Not Agreed to by 27 Yeas and 38 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Nay
Mr. Sires		Mr. Perry	Nay
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea

Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Nay
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 45
On: Agreeing to Amendment #1G offered by Mr. Rouzer
Not Agreed to by 30 Yeas and 36 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL		Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea

Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 46
On: Agreeing to Amendment #1H offered by Mr. Bost
Not Agreed to by 29 Yeas and 36 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea

Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 47
On: Agreeing to Amendment #1I offered by Mr. Weber
Not Agreed to by 30 Yeas and 36 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea

Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. Garcia of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 48
On: Agreeing to Amendment #1J offered by Mr. LaMalfa
Not Agreed to by 29 Yeas and 37 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea

Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 49
On: Agreeing to Amendment #1K offered by Mr. Westerman
Not Agreed to by 30 Yeas and 36 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	

Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. Garcia of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 50
On: Agreeing to Amendment #1L offered by Miss González-Colón
Not Agreed to by 25 Yeas and 40 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Nay
Mr. Sires		Mr. Perry	Nay
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	

Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Nay
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 51
On: Agreeing to Amendment #1M1 offered by Mr. DeFazio
Agreed to by 36 Yeas and 29 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Yea	Mr. Graves of MO	Nay
Ms. Norton	Yea	Mr. Young	
Ms. Johnson of TX	Yea	Mr. Crawford	Nay
Mr. Larsen of WA	Yea	Mr. Gibbs	Nay
Mrs. Napolitano	Yea	Mr. Webster	Nay
Mr. Cohen	Yea	Mr. Massie	Nay
Mr. Sires		Mr. Perry	Nay
Mr. Garamendi	Yea	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Yea	Mr. Katko	Nay

Mr. Carson	Yea	Mr. Babin	Nay
Ms. Titus	Yea	Mr. Graves of LA	Nay
Mr. Maloney of NY	Yea	Mr. Rouzer	Nay
Mr. Huffman	Yea	Mr. Bost	
Ms. Brownley	Yea	Mr. Weber of TX	Nay
Ms. Wilson of FL	Yea	Mr. LaMalfa	Nay
Mr. Payne	Yea	Mr. Westerman	Nay
Mr. Lowenthal	Yea	Mr. Mast	Nay
Mr. DeSaulnier	Yea	Mr. Gallagher	Nay
Mr. Lynch	Yea	Mr. Fitzpatrick	Yea
Mr. Carbajal	Yea	*Miss González-Colón*	Nay
Mr. Brown	Yea	Mr. Balderson	Nay
Mr. Malinowski	Yea	Mr. Stauber	Nay
Mr. Stanton	Yea	Mr. Burchett	Nay
Mr. Allred	Yea	Mr. Johnson of SD	Nay
Ms. Davids of KS	Yea	Mr. Van Drew	Nay
Mr. García of IL	Yea	Mr. Guest	Nay
Mr. Delgado	Yea	Mr. Nehls	Nay
Mr. Pappas	Yea	Ms. Mace	Nay
Mr. Lamb	Yea	Ms. Malliotakis	Nay
Mr. Moulton	Yea	Ms. Van Duyne	Nay
Mr. Auchincloss	Yea	Mr. Gimenez	Nay
Ms. Bourdeaux	Yea	Mrs. Steel	Nay
Mr. Kahele	Yea		
Ms. Strickland	Yea		
Ms. Williams of GA	Yea		
Ms. Newman			
Mr. Carter	Yea		

Committee on Transportation and Infrastructure Roll Call Vote No. 52
On: Agreeing to Amendment #1O offered by Mr. Nehls
Not Agreed to by 30 Yeas and 35 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires		Mr. Perry	Yea

Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman			
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 53
On: Agreeing to Amendment #1P Offered by Mr. Graves of Louisiana
Not Agreed to by 26 Yeas and 39 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea

Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 54
On: Agreeing to Amendment #1W offered by Mr. LaMalfa
Not Agreed to by 27 Yeas and 39 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	

Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Nay
Mr. Sires	Nay	Mr. Perry	Nay
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Yea
Mr. Carbajal	Nay	*Miss González-Colón*	
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 55
On: Agreeing to Amendment #1BB offered by Mr. Graves of Lousiana
Not Agreed to by 28 Yeas and 38 Nays

Member	Vote	Member	Vote

Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Yea	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 56
On: Agreeing to Amendment #1CC Offered by Mr. Graves of Louisiana

Not Agreed to by 28 Yeas and 39 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 57
On: Agreeing to Amendment #1FF1 Offered by Mr. Graves of Louisiana
Not Agreed to by 29 Yeas and 38 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	Yea
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		

Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 58
On: Agreeing to Amendment #1GG offered by Mr. Perry
Not Agreed to by 24 Yeas and 40 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Nay
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	Yea
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		

Ms. Williams of GA	Nay	
Ms. Newman	Nay	
Mr. Carter	Nay	

Committee on Transportation and Infrastructure Roll Call Vote No. 59
On: Agreeing to en bloc Amendment #1HH offered by Mr. Perry
Not Agreed to by 14 Yeas and 52 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Nay
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Nay
Mr. Maloney of NY	Nay	Mr. Rouzer	Nay
Mr. Huffman	Nay	Mr. Bost	Nay
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Nay
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Nay
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Nay
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duyne	Nay
Mr. Auchincloss	Nay	Mr. Gimenez	Nay
Ms. Bourdeaux	Nay	Mrs. Steel	Yea

Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 60
On: Agreeing to en bloc Amendment #1II offered by Mr. Perry
Not Agreed to by 18 Yeas and 48 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Nay
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Nay
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Yea	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Nay
Mr. Brown	Nay	Mr. Balderson	Nay
Mr. Malinowski	Nay	Mr. Stauber	Nay
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duyne	Yea

Mr. Auchincloss	Nay	Mr. Gimenez	Nay
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 61
On: Agreeing to Amendment #1JJ offered by Mr. Perry
Not Agreed to by 19 Yeas and 47 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Nay
Mr. Maloney of NY	Nay	Mr. Rouzer	Nay
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Nay
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Nay
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	

Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 62
On: Agreeing to Amendment #1KK offered by Mr. Perry
Not Agreed to by 22 Yeas and 44 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Yea
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Nay
Mr. Maloney of NY	Nay	Mr. Rouzer	Nay
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea

Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 63
On: Agreeing to Amendment #1MM offered by Mr. Perry
Not Agreed to by 24 Yeas and 41 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Nay
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	
Mr. Allred	Nay	Mr. Johnson of SD	Yea

Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. Garcia of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 64
On: Agreeing to Amendment #1NN offered by Mr. Perry
Not Agreed to by 26 Yeas and 39 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea

Mr. Stanton	Nay	Mr. Burchett	
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Yea
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 65
On: Agreeing to Amendment #100 offered by Mr. Perry
Not Agreed to by 26 Yeas and 40 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea

Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 66
On: Agreeing to Amendment #1PP offered by Mr. Perry
Not Agreed to by 23 Yeas and 43 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Nay
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea

Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Yea
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 67
On: Agreeing to Amendment #1RR offered by Mr. Perry
Not Agreed to by 25 Yeas and 41 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Yea
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Yea
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY	Nay	Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Yea
Ms. Brownley	Nay	Mr. Weber of TX	Yea
Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea

Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Yea
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Nay
Mr. Brown	Nay	Mr. Balderson	Yea
Mr. Malinowski	Nay	Mr. Stauber	Yea
Mr. Stanton	Nay	Mr. Burchett	Yea
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Yea
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 68
On: Agreeing to Amendment #1SS offered by Mr. Perry
Not Agreed to by 17 Yeas and 48 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Nay	Mr. Graves of MO	Nay
Ms. Norton	Nay	Mr. Young	
Ms. Johnson of TX	Nay	Mr. Crawford	Yea
Mr. Larsen of WA	Nay	Mr. Gibbs	Yea
Mrs. Napolitano	Nay	Mr. Webster	Yea
Mr. Cohen	Nay	Mr. Massie	Yea
Mr. Sires	Nay	Mr. Perry	Yea
Mr. Garamendi	Nay	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Nay	Mr. Katko	Nay
Mr. Carson	Nay	Mr. Babin	Yea
Ms. Titus	Nay	Mr. Graves of LA	Yea
Mr. Maloney of NY		Mr. Rouzer	Yea
Mr. Huffman	Nay	Mr. Bost	Nay
Ms. Brownley	Nay	Mr. Weber of TX	Yea

Ms. Wilson of FL	Nay	Mr. LaMalfa	Yea
Mr. Payne	Nay	Mr. Westerman	Yea
Mr. Lowenthal	Nay	Mr. Mast	Yea
Mr. DeSaulnier	Nay	Mr. Gallagher	Nay
Mr. Lynch	Nay	Mr. Fitzpatrick	Nay
Mr. Carbajal	Nay	*Miss González-Colón*	Nay
Mr. Brown	Nay	Mr. Balderson	Nay
Mr. Malinowski	Nay	Mr. Stauber	Nay
Mr. Stanton	Nay	Mr. Burchett	Nay
Mr. Allred	Nay	Mr. Johnson of SD	Yea
Ms. Davids of KS	Nay	Mr. Van Drew	Nay
Mr. García of IL	Nay	Mr. Guest	Yea
Mr. Delgado	Nay	Mr. Nehls	
Mr. Pappas	Nay	Ms. Mace	
Mr. Lamb	Nay	Ms. Malliotakis	Nay
Mr. Moulton	Nay	Ms. Van Duyne	Yea
Mr. Auchincloss	Nay	Mr. Gimenez	Yea
Ms. Bourdeaux	Nay	Mrs. Steel	Yea
Mr. Kahele	Nay		
Ms. Strickland	Nay		
Ms. Williams of GA	Nay		
Ms. Newman	Nay		
Mr. Carter	Nay		

Committee on Transportation and Infrastructure Roll Call Vote No. 69
On: Agreeing to the Committee Print, as amended
Agreed to by 37 Yeas and 29 Nays

Member	Vote	Member	Vote
Mr. DeFazio	Yea	Mr. Graves of MO	Nay
Ms. Norton	Yea	Mr. Young	
Ms. Johnson of TX	Yea	Mr. Crawford	Nay
Mr. Larsen of WA	Yea	Mr. Gibbs	Nay
Mrs. Napolitano	Yea	Mr. Webster	Nay
Mr. Cohen	Yea	Mr. Massie	Nay
Mr. Sires	Yea	Mr. Perry	Nay
Mr. Garamendi	Yea	Mr. Rodney Davis of IL	Nay
Mr. Johnson of GA	Yea	Mr. Katko	Nay
Mr. Carson	Yea	Mr. Babin	Nay
Ms. Titus	Yea	Mr. Graves of LA	Nay
Mr. Maloney of NY	Yea	Mr. Rouzer	Nay

Mr. Huffman	Yea	Mr. Bost	Nay
Ms. Brownley	Yea	Mr. Weber of TX	Nay
Ms. Wilson of FL	Yea	Mr. LaMalfa	Nay
Mr. Payne	Yea	Mr. Westerman	Nay
Mr. Lowenthal	Yea	Mr. Mast	Nay
Mr. DeSaulnier	Yea	Mr. Gallagher	Nay
Mr. Lynch	Yea	Mr. Fitzpatrick	Nay
Mr. Carbajal	Yea	*Miss González-Colón*	Nay
Mr. Brown	Yea	Mr. Balderson	Nay
Mr. Malinowski	Yea	Mr. Stauber	Nay
Mr. Stanton	Yea	Mr. Burchett	Nay
Mr. Allred	Yea	Mr. Johnson of SD	Nay
Ms. Davids of KS	Yea	Mr. Van Drew	Nay
Mr. García of IL	Yea	Mr. Guest	Nay
Mr. Delgado	Yea	Mr. Nehls	
Mr. Pappas	Yea	Ms. Mace	
Mr. Lamb	Yea	Ms. Malliotakis	Nay
Mr. Moulton	Yea	Ms. Van Duyne	Nay
Mr. Auchincloss	Yea	Mr. Gimenez	Nay
Ms. Bourdeaux	Yea	Mrs. Steel	Nay
Mr. Kahele	Yea		
Ms. Strickland	Yea		
Ms. Williams of GA	Yea		
Ms. Newman	Yea		
Mr. Carter	Yea		



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman

Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member

Paul J. Sass
Republican Staff Director

Minority Dissenting Views

Committee on Transportation and Infrastructure (T&I or Committee) Republicans adamantly oppose the Committee's budget reconciliation recommendations, as amended, and ordered to be transmitted on September 15, 2021. The Majority's recommendations, as amended, are the product of a convoluted, rushed, and partisan process. In accordance with budget reconciliation instructions, the Majority's recommendations raise spending under the Committee's jurisdiction by almost $60 billion with no consideration for how Americans will be forced to pay for these irresponsible spending decisions.[1]

Overall, S. Con. Res. 14 would direct $3.5 trillion in new spending. The Majority claims that they are forging ahead with the true will of the American people. However, a recent poll notes that a majority of Americans do not support this budget reconciliation effort.[2] Six out of 10 Americans instead favor a "strategic pause," which Senator Joe Manchin (D-WV) also recently called for.[3] Due to the razor thin Democratic majorities in the House and Senate, partisan bills will be difficult to pass. Given this reality, the Majority is co-opting this limited reconciliation process to pass its priorities without having to meet the 60-vote threshold in the Senate. Currently, however, there are growing signs that even the Senate may fail to pass S. Con. Res. 14, as more Senators voice opposition to its reckless spending and the burdensome debt it would create for future generations.

Inflation is ticking up at a quick pace. Over the last twelve months, the Consumer Price Index (CPI) has risen by 5.3 percent.[4] In fact, the CPI increased by half a percent in the month of July alone.[5] This means that Americans are paying more for energy (23.8 percent), food (3.4 percent), and nearly all other commodities.[6] The government cannot continue spending money like there are no consequences. The effects are real: government spending is driving up inflation.

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[1] The amendment in nature of a substitute to the Committee Print prior to amendments totaled $57.27 billion.
[2] *Exclusive Poll: Americans Favor Manchin's "Strategic Pause"*, AXIOS (Sept. 9, 2021), *available at* https://www.axios.com/manchin-budget-reconciliation-spending-poll-ba711bea-c5ca-4600-b5cb-218ec0105643.html?utm_source=twitter&utm_medium=social&utm_campaign=editorial&utm_content=politics-manchin.
[3] *Id.*
[4] *Consumer Price Index – August 2021*, USDL-21-1644, Bureau of Labor Statistics (Sept. 14, 2021), *available at* https://www.bls.gov/news.release/pdf/cpi.pdf.
[5] *Id.*
[6] *Id.*

President Biden promised that he would not enact new taxes on those making $400,000 or less, but that is exactly what his spending plans are doing.[7] As inflation increases, it raises interest rates, which lowers the real after-tax return.[8] In other words, when goods and services cost more, paychecks are not worth as much. After spending $6 trillion in 2020, Congress is not in a position to spend another $7 trillion or more this year.[9] But that is exactly what the Majority is doing, and the $3.5 trillion in S. Con. Res. 14 is a cornerstone of their tax and spend agenda.[10]

Rather than promoting unbridled spending, Congress should be focused on higher priorities. Congress should be addressing the shameful, tragic, and chaotic withdrawal from Afghanistan and the recoveries from severe disasters across our Nation, such as the wildfires in the west and Hurricane Ida, which devasted areas of Louisiana, Mississippi, New York, New Jersey, Pennsylvania, and elsewhere. At the markup, T&I Committee Democrats even seemed to recognize the botched withdrawal and needs for accountability. Mr. Gibbs of Ohio offered an amendment restricting expenditure of the funds provided under this act until the Comptroller General provided an accounting of any materiel left in Afghanistan by the Coast Guard and Army Corps of Engineers. After Chair DeFazio provided comments indicating an agreement on the need for it with his primary concern being over the restriction on the expenditure of funds, Mr. Graves of Louisiana amended the amendment to strike the restriction on the expenditure of funds, and both the second degree amendment and primary Gibbs, as amended, were adopted by voice vote.

Sadly, that early moment of agreement on important issues, was cast away when it came to the needs of disaster victims. Mr. Graves of Louisiana offered an amendment to reduce the amount provided for transit funding by $3.5 billion, and to provide that amount for the Maritime Transportation System Emergency Relief program. Chair DeFazio sponsored the bipartisan legislation in the last Congress to establish this emergency relief program. This would provide financial assistance to states and maritime industry entities during an emergency such as the COVID-19 pandemic, or recovery from disasters such the recent Hurricane Ida. No funding has been provided for the program in COVID relief packages or appropriations bills. This amendment would have provided funds needed now for current ongoing emergencies, and particularly would have strengthened the maritime transportation supply chain which is under severe strain from a COVID related cargo surge. However, the Committee Democrats unanimously opposed and the amendment failed 26 yeas to 39 nays.

Mr. Graves of Louisiana further offered amendments to provide additional funds

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[7] Lorie Konish, *Biden Promises No New Taxes On Anyone Making Less than $400,000. Experts Doubt He Can Keep That Pledge*, CNBC, (April 28, 2021), https://www.cnbc.com/2021/04/28/biden-promises-no-new-taxes-on-anyone-making-less-than-400000.html.

[8] Bayoumi and Gagnon, *Taxation and Inflation: A New Explanation for Current Account Imbalances*, Board of Governors of the Fed. Reserve System International Finance Discussion Papers No. 420 (Jan. 1992), *available at* https://www.federalreserve.gov/pubs/ifdp/1992/420/ifdp420.pdf.

[9] Andrew Van Dam, *The U.S. Has Thrown More Than $6 Trillion at the Coronavirus Crisis. That Number Could Grow*, WASH. POST (April 15, 2020), *available at* https://www.washingtonpost.com/business/2020/04/15/coronavirus-economy-6-trillion/.

[10] *What's In Biden's $6 Trillion Budget Plan*, WSJ (May 28, 2021), *available at* https://www.wsj.com/articles/whats-in-bidens-6-trillion-budget-plan-11622223706.

to the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund (DRF) and the Economic Development Administration (EDA) for economic recovery assistance for recent disasters, including Hurricane Ida. He also offered an amendment to provide funding for disaster victims, going back to Hurricane Sandy, who are trying to rebuild their homes but are saddled with debt because of FEMA's position that a loan is considered a duplication of benefits. Mr. Graves' amendment to provide additional DRF funds failed by a vote of 28 yeas to 37 nays. In this case though, one Democratic member, Mr. Cohen of Tennessee, agreed with Committee Republicans that the need was great for disaster victims and urged his colleagues to vote in favor – as he did. This was the only time in markup that a member of the Majority voted in favor of a Republican amendment during a roll call vote.

As noted, Mr. Cohen pleas to consider the disaster victims on his side fell on deaf ears as the Committee Majority argued that these funds were unnecessary given the balances in the DRF, yet they failed to acknowledge reports that the Biden Administration has indicated a need for additional DRF funds, economic recovery is not eligible under the DRF, and S. Con. Res. 14 itself includes unnecessary funding duplicative of the Senate-passed infrastructure package and already funded programs.[11] A second degree amendment offered by Mr. Rouzer of North Carolina to clarify that economic recovery assistance is eligible under the DRF was also rejected; although Chair DeFazio committed to working with Mr. Rouzer on this issue moving forward. Committee Republicans continue to believe the need to help disaster victims should the priority over this reckless reconciliation spending.

Mr. Webster of Florida offered an amendment to prohibit the use of FEMA personnel and resources to assist in immigration missions along the southwest border until the Department of Homeland Security (DHS) provides Congress with a comprehensive strategy on managing the impact of COVID-19 along the border to protect federal personnel and law enforcement, State and local communities, and the migrants themselves. His amendment would have also asked the Government Accountability Office (GAO) to evaluate the impact of such operations on FEMA's readiness to respond to natural disasters. The Committee Majority expressed concern about the use of FEMA resources in this way but noted that only a handful of FEMA personnel are currently engaged in such activities. Yet, DHS acknowledges FEMA continues to be engaged.[12] The Majority also refused to acknowledge concern about DHS's management of COVID along the border, despite the findings of the DHS Office of Inspector General concluding,"[w]ithout stronger COVID-19 prevention measures in place, DHS is putting its workforce, support staff, communities, and migrants at greater risk of contracting the virus."[13] Mr. Webster's amendment failed by a vote of 30 yeas to 35 nays.

Clearly, this partisan reconciliation vehicle has been prioritized over real infrastructure needs. Speaker Pelosi, rather than independently taking up the

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[11] Josh Boak, *Biden Seeking Additional Funds for Ida Relief and Afghans*, ASSOCIATED PRESS, (Sept. 7, 2021), *available at* https://abcnews.go.com/Politics/wireStory/biden-seeking-additional-funds-ida-relief-afghans-79878230

[12] Letter from DHS Secretary Mayorkas to Representatives Sam Graves and Daniel Webster, (Aug. 20, 2021).

[13] *DHS Needs to Enhance Its COVID-19 Response at the Southwest Border*, OIG-21-60, Dept. of Homeland Security Office of Inspector General, (Sept. 10, 2021).

infrastructure bill negotiated by the White House and Senators, has explicitly tied that bill to this highly partisan, multi-trillion-dollar reconciliation package. The Majority's failure to legislate in the best interests of America's infrastructure is particularly alarming, as the authorization for surface transportation programs will lapse on September 30, 2021. As Committee Republicans, we have watched with great concern as these events developed and as the Majority's leadership even denied their own party Members' pleas to unlink the infrastructure legislation and reconciliation measure. Unfortunately, our Committee and its bipartisan track record have been sidelined at this critical time for infrastructure issues by the Speaker's own shortsightedness and willingness to pander to the most progressive wing of her party. Sadly, even the Chair, in order to garner support for the reconciliation process, was forced to back away from repeated previous statements that his infrastructure bill would follow regular order and be conferenced with the Senate.

Broadly speaking, under the White House-Senate agreement on the Senate infrastructure bill, policy items that were litigated and addressed in the Senate bill were not to be reopened in the reconciliation process, a prohibition referred to as "double dipping." Although the Chair has noted publicly that he was not party to the White House-Senate agreement and stated that he would look for opportunities to double dip, we point out that there are numerous provisions within the Committee's budget reconciliation recommendations, as amended, that violate the White House-Senate agreement and re-open issues where they already found compromise.[14]

First, there is additional funding for transit. For example, section 110001 provides $10 billion for an "affordable housing access program". Mr. Burchett of Tennessee offered an amendment to strike this provision which failed by voice vote. During debate, the Majority claimed that the program is not duplicative as it provides transit investments, including first and last mile connections, in communities that are "often overlooked." They argued that the program is "far outside the scope of our traditional transit programs." This is not accurate. The Senate infrastructure bill, which provided $91.2 billion over five years in guaranteed transit funding and another $15.8 billion subject to future appropriation action, contains transit programs that provide the exact same eligibilities that this program funds. Therefore, this program is an example of double-dipping and a clear violation.

Similarly in violation of the double-dip agreement, the recommendations allocate $10 billion to fund high-speed passenger rail (HSR) projects. HSR was addressed in the Senate infrastructure bill through the new Federal-State Partnership for Intercity Passenger Rail program and through funding Amtrak's high-speed Acela service. Moreover, prominent HSR projects in California and Texas have struggled with several major issues, including permitting problems, eminent domain fights, delays and cost overruns, and questions about consumer demand and future government subsidies to operate. In light of such serious concerns, any federal money for passenger rail should instead be spent on maintenance and upgrades to the Amtrak system consistent

[14] Jacqueline Alemany, *Power Up: Will House Democrats have a "double dipping" problem?*, WASH. POST, Aug. 20, 2021, *available at* https://www.washingtonpost.com/politics/2021/08/20/power-up-will-house-democrats-have-double-dipping-problem/.

with the government's existing Amtrak funding obligations. Accordingly, Mr. LaMalfa of California offered an amendment to strike this provision which failed by a roll call vote of 29 yeas to 38 nays.

Mr. Westerman of Arkansas introduced an amendment that would have prohibited funding for any transactions involving the Organization of the Petroleum Exporting Countries (OPEC) and OPEC+ for the purchase or import of foreign oil before first using domestic energy resources, including completion and use of the Keystone XL pipeline. The amendment focused on supporting America's energy independence that grew under President Trump but that have shrunk under the Biden Administration. The amendment also emphasized the safety and reliability of moving cheap energy via pipelines such as Keystone XL and other similar projects in the United States. The amendment failed by a roll call vote of 30 yeas to 36 nays.

Additional examples of provisions that violate the double dip agreement include Section 110003, Neighborhood Access and Equity Grants, which provides $4 billion for the removal, remediation, and retrofit of surface transportation facilities. This program already receives $1 billion in the Senate bill. Furthermore, Section 110004, Federal Highway Administration (FHWA) Section 202 Funds; and Section 110005, Territorial Highway Program Funding, both received funding in the Senate bill, violating the agreement to not double dip.

Chief among these partisan provisions is the pervasive interweaving of climate change policy throughout programs under the Committee's jurisdiction. This foundational pillar of the Majority's recommendations removes the focus from our core highway, bridge, and water programs, limits state flexibility through top-down directives, and favors urban areas over rural America.

The Majority included Section 110002, Community Climate Incentive Grants, which would direct the FHWA to establish a greenhouse gas (GHG) performance measure, a State incentive structure to reward the states with the most GHG reduction progress, and establish "consequences" for states that do not meet standards. Additionally, the provision prevents funding for projects "that result in additional through travel lanes for single occupant passenger vehicles." These policies were included in the Majority's *INVEST Act*. However, the $50 million provided for the establishment of the GHG performance measure may trigger the Senate Byrd Rule, as this is an egregious policy provision disguised as funding. The Senate considered these policies and chose not to include them in the Senate bill; therefore, their inclusion now could violate the agreement to not double-dip. Mr. Babin of Texas introduced an amendment to strike only the $50 million to establish the GHG performance measure, which failed by a roll call vote of 30 yeas to 36 nays. Given this, the Majority voted to limit state flexibility and create top-down climate mandates knowing this could trigger Byrd Rule violations and pose double- dip concerns. But apparently, Byrd rules concerns only apply as a talking point during Committee debate against common-sense Republican amendments rather than the Majority's own recommendations.

An important funding priority that supposedly has bipartisan support, providing truck parking, was not included in the Majority's recommendations. This failure to improve safety by increasing parking spaces available to truckers is unconscionable. Time and again, truckers have

delivered for Americans – safely, securely, and on time. But in order to continue to do their jobs, they need more places to safely park. Only one truck space is available for every eleven truckers.[15] While supporting truckers has been a bipartisan priority for this Committee, this support didn't result in any funding for parking in the first reconciliation bill, in the COVID packages, or in the Senate infrastructure bill. Mr. Bost of Illinois offered an amendment to provide $1 billion for truck parking by reducing funding from the proposed Community Climate Incentive Grants program. The Majority rejected this amendment on a partisan roll call vote of 29 yeas to 36 nays, and also rejected offers to remove this offset entirely or lower the proposed amount in an attempt to find common ground. The Majority found money to set new GHG performance standards, fund high-speed rail, and give transit $10 billion at a time when the Federal Transit Administration (FTA) has already seen an historic level of federal funding over the last year and a half. Unfortunately, during the middle of National Truck Driver Appreciation Week, the Committee Majority rejected offers to help America's truckers.

Surprisingly, the Majority also rejected or gutted amendments that sought to curtail China's influence over American goods and industry. The Majority chose their Green New Deal agenda over our country's National security and economic interests. As a result, America will be forced to rely on China, which owns or controls 70 percent of the world's supply of cobalt, which is required for critical minerals and used to manufacture key components of vehicles the Majority's bill favors.[16] The Majority's position on Republican amendments ignored that China is a known human rights violator that uses child labor and forced slave labor to mine its minerals. The Majority's policy choice also fails to recognize, or possibly willfully ignores, the reality that reliance on the Chinese government means handing money over to the world's worst polluter in order to say that we are furthering green initiatives here in America. Additionally, the Majority will not support mining these minerals here in the United States, where we could ensure environmental and labor protections. Instead, the Majority refuses to let these inconvenient truths get in the way of their narrative about how far their measure goes to address climate change.

Mr. Stauber of Minnesota again offered an amendment to ensure that funding in this bill is not used to purchase or procure goods, materials, and minerals produced or sourced using forced or child labor. However, Chair DeFazio offered a second-degree amendment that stripped the force of the Stauber amendment and passed by voice vote. Therefore, nothing in the recommendations will curtail China's influence over our goods and industries. The Stauber amendment and the Westerman amendment, previously noted, are just two examples of how Republicans addressed the hypocrisy of the Majority's recommendations, which seek to advance a supposedly "green" agenda at home while ensuring that the United States relies even more heavily on countries with environmental and labor standards much lower than the United States.

The Majority's pursuit of a socialist agenda comes as no surprise when considering the propensity of the Biden Administration to impose heavy-handed mandates unsupported by current science, under the guise of equity and good government. Mr. Crawford of Arkansas offered an amendment to ensure no funds are used to impose the Administration's sweeping

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[15] *Federal Legislation Would Address Significant Challenge for Drivers*, American Trucking Associations (March 29, 2021), https://www.trucking.org/news-insights/ata-lauds-congressional-effort-improve-availability-truck-parking-0.

[16] *Top Cobalt Production by Country*, INVESTING NEWS, (June 21, 2021) https://investingnews.com/daily/resource-investing/battery-metals-investing/cobalt-investing/top-cobalt-producing-countries-congo-china-canada-russia-australia/#:~:text=China%20leads%20the%20world%20in,terms%20of%20unrefined%20cobalt%20production..

vaccine mandate and restrict Americans' access to federal buildings for essential services such as social security and medical services for veterans. The Crawford amendment failed by a vote of 29 yeas to 34 nays. During debate, Mr. Massie of Kentucky offered a second degree amendment to the Crawford amendment to further ensure such mandates would not be used to impede travel; which was rejected by a vote of 29 yeas to 36 nays. Many Americans, as the result of this Administration's regulatory overreach, already have grave concerns about the government's willingness to impinge upon their personal freedoms and privacy.

The government overreach continues to be a concern as jurisdictions fall subject to calls to "defund the police." However, the Majority rejected an amendment offered by Mr. Nehls of Texas to prevent states and jurisdictions that have proactively chosen to defund their police force from using Federal funds to backfill their disinvestment. The amendment would have in no way reduced the Federal funding a state receives or prevented the use of those NHTSA dollars from being used in other ways to improve safety; it simply would have closed a potential loophole that could allow a jurisdiction that has defunded the police to continue to fund law enforcement activities with NHTSA dollars. Although this amendment simply would have affirmed the actions a jurisdiction has already taken, the amendment failed by a partisan roll call vote of 29 yeas to 36 nays.

Mr. Rouzer of North Carolina also offered an amendment to address the Biden Administration's rushed process to repeal and replace the Trump Administration's Waters of the United States (WOTUS) rule.[17] The Administration's decision throws a settled regulatory situation into turmoil, affecting numerous sectors of the American economy, including transportation, agriculture, housing, and many others. This June, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) announced they would begin the replacement process of the former rule and by August started a series of public meetings and a 30-day comment period for questions posed to the regulated community, which was a wholly inadequate period of time for public input.[18] To remedy this misstep and provide greater needed transparency, the amendment would have required the Agencies to reopen the comment period for an additional 60 days to give the public more time to develop and provide meaningful comments to the Agencies. The amendment would have also directed the EPA and the Corps to conduct a study of the economic burdens to stakeholders where projects involve WOTUS by studying the costs to applicants of permit issuance and compliance under *Clean Water Act* (CWA) Sections 402 and 404. This amendment failed by a vote of 30 yeas to 36 nays.

As demonstrated by the failure to meaningful consider Republican amendments, this reconciliation package is just another progressive wishlist, led by the Speaker and developed and passed on a completely partisan basis, which will amount to nothing more than a messaging exercise that fails to improve our Nation's core infrastructure. The Majority's reconciliation recommendations will not spur infrastructure projects and job growth, will not reduce inflation, and will not promote the safe and efficient transportation of goods and people. Their reconciliation recommendations fail not

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[17] *The Navigable Waters Protection Rule: Definition of "Waters of the United States"*, Final Rule, 85 Fed. Reg. 22250 (Apr. 21, 2020).

[18] EPA, *Army Announce Intent to Revise Definition of WOTUS* (June 9, 2021) https://www.epa.gov/newsreleases/epa-army-announce-intent-revise-definition-wotus; *Notice of Public Meetings Regarding "Waters of the United States"*, Establishment of a Public Docket; Request for Recommendations, 86 Fed. Reg. 41911 (August 4, 2021).

only because they overspend and grow the government, but also because they put forward unwise policies that will lead to more wasteful spending. We may have different views on what the size of government should be, but there should be agreement that – however large the government, spending should not temporarily gloss over problems that will simply increase costs and global carbon emissions down the road.

The Majority's recommendations further their reckless need to spend taxpayers' money instead of pursuing a bipartisan process to carefully identify and address the Nation's true infrastructure needs. This measure will only grow worse as it is merged with other committees' components, because bipartisanship in the House was rejected before the process began. We are concerned that the House Committee on the Budget will only pile on more spending, checking any remaining boxes on the Majority's progressive wish list. For all of these reasons, we strongly oppose the Committee's budget recommendations as well as the partisan reconciliation bill both of which are being compiled without any input from the Members speaking for more than 72 million voters.

Sam Graves
Ranking Member

Garret Graves
Ranking Member
Subcommittee on Aviation

Bob Gibbs
Ranking Member
Subcommittee on Coast Guard
and Maritime Transportation

Daniel Webster
Ranking Member
Subcommittee on Economic
Development, Public Buildings,
and Emergency Management

Rodney Davis
Ranking Member
Subcommittee on Highways and
Transit

Eric A. "Rick" Crawford
Ranking Member
Subcommittee on Railroads,
Pipelines, and Hazardous Materials

David Rouzer
Ranking Member
Subcommittee on Water Resources
and Environment

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MATT REEL
STAFF DIRECTOR

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JAKE ELLZEY, TEXAS

MARIA TRIPPLAAR
REPUBLICAN STAFF DIRECTOR

September 15, 2021

The Honorable John Yarmuth
Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Veterans' Affairs, and the appropriate accompanying material including additional, supplemental, minority, or dissenting views, to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Mark Takano
Chairman

CONTENTS

EXPLANATION OF PROVISIONS 1
VOTES OF THE COMMITTEE 1
BUDGET EFFECTS OF THE PROVISION 2
OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 2
CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 3
SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS 3

EXPLANATION OF PROVISIONS

Title XII - Committee on Veterans' Affairs

Section 12001 provides $15.2 billion to address immediate and long-term infrastructure needs of the Department of Veterans Affairs (VA).

Section 12002 provides $455 million to expand the circumstances under which VA can use its Enhanced-Use Lease (EUL) authority to lease underutilized VA property or buildings to third parties for veteran-focused uses compatible with VA's mission.

Section 12003 provides $1.8 billion to be appropriated and the authority for the Secretary to obligate or expend funds to enter into certain VA major medical leases or clinics.

Section 12004 provides $375 million for the Department of Veterans Affairs (VA) to invest in its statutory mission to conduct an education and training program for health professional students and residents by authorizing VA to increase the number of health professions residency positions at its medical facilities by up to 700 over 7 years.

Section 12005 provides $150 million to enable VA to scan veteran service records held at National Archives and Records Administration (NARA) for living or recently deceased veterans to prevent claims processing delays due to the inability to access information currently in paper form.

Section 12006 provides $15 million for the VA Office of Inspector General (OIG) to provide oversight of VA projects and activities carried out pursuant to the title.

VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives provides that, for each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report.

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BUDGET EFFECTS OF THE PROVISION

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the goals and objectives of this Committee Print, as amended, are to provide resources to the Department of Veterans Affairs to improve and enhance the condition of its capital asset portfolio, to invest in human capital, and to provide resources to improve veteran access to care and benefits.

C. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of the Committee Print, as amended, is known to be

duplicative of another Federal program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARRIF BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of the House of Representatives, the Committee finds that the Committee Print, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

E. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

F. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by the Committee Print, as amended.

G. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations with the meaning of section 102(b)(3) of the Congressional Accountability Act.

H. CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the constitutional authority for this legislation in Article I, section 8, which states that Congress shall have the power to "provide for the common Defense and general Welfare of the United States."

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that each report of a committee on a bill or joint resolution contain the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. A comparative print of changes in existing law made by the Committee Print, as amended, has been requested but not received.

SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The minority views of members of the Committee are as follows:

["2D_Veterans_Affairs_Views_Insert"]

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 1
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Madison Cawthorn
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 12 – 15

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI	X		
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	12	15	

Mr. Chairman, for this vote there are 12 Ayes and 15 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 2
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Mariannette Miller-Meeks
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	17	

Mr. Chairman, for this vote there are 11 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 3
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Barry Moore
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	17	

Mr. Chairman, for this vote there are 11 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 4
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Matt Rosendale
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ			
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	16	

Mr. Chairman, for this vote there are 11 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 5
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Tracey Mann
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 10 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA			
14. Jake Ellzey, TX	X		
Total	10	17	

Mr. Chairman, for this vote there are 10 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 6
Bill No: Banks Amendment #1 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Jim Banks
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 12 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI	X		
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	12	16	

Mr. Chairman, for this vote there are 12 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 7
Bill No: Banks Amendment #2 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Jim Banks
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	17	

Mr. Chairman, for this vote there are 11 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 8
Bill No: Bost Amendment #1 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Mike Bost
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 12 – 15

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP	X		
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	12	15	

Mr. Chairman, for this vote there are 12 Ayes and 15 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 9
Bill No: Bost Amendment #2 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Mike Bost
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	16	

Mr. Chairman, for this vote there are 11 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 10
Bill No: Bost Amendment #3 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Mike Bost
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	16	

Mr. Chairman, for this vote there are 11 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 11
Bill No: Bergman Amendment #1 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Jack Bergman
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	16	

Mr. Chairman, for this vote there are 11 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 12
Bill No: Bergman Amendment #2 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Jack Bergman
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 12 – 15

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI	X		
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC	X		
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	12	15	

Mr. Chairman, for this vote there are 12 Ayes and 15 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 13
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Greg Murphy
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 10 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA			
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC			
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	10	16	

Mr. Chairman, for this vote there are 10 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 14
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Jake Ellzey
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 10 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC			
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	10	17	

Mr. Chairman, for this vote there are 10 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 15
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Amata Radewagen
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 11 – 16

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI	X		
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC			
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	11	16	

Mr. Chairman, for this vote there are 11 Ayes and 16 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 16
Bill No: Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Nancy Mace
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 10 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC			
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	10	17	

Mr. Chairman, for this vote there are 10 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 17
Bill No: Bost Amendment #4 - Amendment to the Amendment in the Nature of a Substitute - Offered by Rep. Mike Bost
Description: A motion to agree to the amendment, not agreed to by a roll call vote of 10 – 17

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman		X	
2. Julia Brownley, CA		X	
3. Conor Lamb, PA		X	
4. Mike Levin, CA		X	
5. Chris Pappas, NH		X	
6. Elaine G. Luria, VA		X	
7. Frank Mrvan, IN		X	
8. Gregorio Kilili Camacho Sablan, MP		X	
9. Lauren Underwood, IL		X	
10. Colin Z. Allred, TX		X	
11. Lois Frankel, FL		X	
12. Anthony Brown, MD		X	
13. Elissa Slotkin, MI		X	
14. David Trone, MD		X	
15. Marcy Kaptur, OH		X	
16. Raul Ruiz, CA		X	
17. Ruben Gallego, AZ		X	
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member	X		
2. Amata Coleman Radewagen, AS	X		
3. Jack Bergman, MI	X		
4. Jim Banks, IN	X		
5. Chip Roy, TX			
6. Greg Murphy, NC			
7. Tracey Mann, KS	X		
8. Barry Moore, AL	X		
9. Nancy Mace, SC	X		
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT	X		
13. Mariannette Miller-Meeks, IA	X		
14. Jake Ellzey, TX	X		
Total	10	17	

Mr. Chairman, for this vote there are 10 Ayes and 17 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 18
Bill No: Amendment in the Nature of a Substitute to the Committee Print - Offered by Rep. Mark Takano
Description: A motion to agree to the amendment in the nature of the substitute, agreed to by a roll call vote of 17 – 12

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman	X		
2. Julia Brownley, CA	X		
3. Conor Lamb, PA	X		
4. Mike Levin, CA	X		
5. Chris Pappas, NH	X		
6. Elaine G. Luria, VA	X		
7. Frank Mrvan, IN	X		
8. Gregorio Kilili Camacho Sablan, MP	X		
9. Lauren Underwood, IL	X		
10. Colin Z. Allred, TX	X		
11. Lois Frankel, FL	X		
12. Anthony Brown, MD	X		
13. Elissa Slotkin, MI	X		
14. David Trone, MD	X		
15. Marcy Kaptur, OH	X		
16. Raul Ruiz, CA	X		
17. Ruben Gallego, AZ	X		
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member		X	
2. Amata Coleman Radewagen, AS		X	
3. Jack Bergman, MI		X	
4. Jim Banks, IN		X	
5. Chip Roy, TX		X	
6. Greg Murphy, NC		X	
7. Tracey Mann, KS		X	
8. Barry Moore, AL		X	
9. Nancy Mace, SC		X	
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT		X	
13. Mariannette Miller-Meeks, IA		X	
14. Jake Ellzey, TX		X	
Total	17	12	

Mr. Chairman, for this vote there are 17 Ayes and 12 Noes

ONE HUNDRED SEVENTEENTH CONGRESS
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

OPEN:	X
MEETING:	X
ROOM NUMBER:	Virtual

FULL COMMITTEE ROLL CALL VOTES

Date: 9/13/21
Roll Call #: 19
Bill No: Committee Print to to comply with the reconciliation directive included in section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, S. Con. Res. 14
Description: A motion to favorably transmit the Committee Print, as amended, to House Committee on the Budget, agreed to by a roll call vote of 17 – 12

NAME	AYE	NO	NOTES
MAJORITY MEMBERS			
1. Mark Takano, CA, Chairman	X		
2. Julia Brownley, CA	X		
3. Conor Lamb, PA	X		
4. Mike Levin, CA	X		
5. Chris Pappas, NH	X		
6. Elaine G. Luria, VA	X		
7. Frank Mrvan, IN	X		
8. Gregorio Kilili Camacho Sablan, MP	X		
9. Lauren Underwood, IL	X		
10. Colin Z. Allred, TX	X		
11. Lois Frankel, FL	X		
12. Anthony Brown, MD	X		
13. Elissa Slotkin, MI	X		
14. David Trone, MD	X		
15. Marcy Kaptur, OH	X		
16. Raul Ruiz, CA	X		
17. Ruben Gallego, AZ	X		
MINORITY MEMBERS			
1. Mike Bost, IL, Ranking Member		X	
2. Amata Coleman Radewagen, AS		X	
3. Jack Bergman, MI		X	
4. Jim Banks, IN		X	
5. Chip Roy, TX		X	
6. Greg Murphy, NC		X	
7. Tracey Mann, KS		X	
8. Barry Moore, AL		X	
9. Nancy Mace, SC		X	
10. Madison Cawthorn, NC			
11. Troy Nehls, TX			
12. Matt Rosendale, MT		X	
13. Mariannette Miller-Meeks, IA		X	
14. Jake Ellzey, TX		X	
Total	17	12	

Mr. Chairman, for this vote there are 17 Ayes and 12 Noes

Minority Views

The following represent the views of the Ranking Member of the Committee on Veterans' Affairs on the following issues consistent with reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022

September 15, 2021

We object to the majority's decision to depart from regular order and to continue using the budget reconciliation process, with its inherent limitations, to usurp the role of the Appropriations Committee and make far-reaching policy decisions with minimal to no deliberation. We believe the majority's current disposition of budget reconciliation instructions, involving scant notice, perfunctory consultation, and hostility to any and all amendments, was even more problematic than the previous use of budget reconciliation. We hope the Committee will return to regular order for the remainder of the Congress.

Urgency to Support Veterans and Families Struggling as a result of the Afghanistan Crisis

The September 13, 2021 budget reconciliation markup came just two days after the 20th anniversary of the September 11th terror attack. That tragic day led to two decades of war, affecting veterans and their families in profound ways. We know many of these veterans and families are also suffering emotionally and morally, as they watch the Biden Administration's ignominious retreat from Afghanistan. Veterans, particularly those who served in Afghanistan, have been left questioning whether their service mattered. Families, particularly those who lost loved ones in Afghanistan, have been left questioning whether their losses mattered. The Department of Veterans Affairs' (VA's) Veterans Crisis Line experienced a 7.05% in the number of calls, a 39.61% increase in the number of chats, and a 97.92% increase in the number of texts from August 13th to through August 29th, 2021, when compared to that same time period in 2020. Those increases are evidence of the toll the crisis in Afghanistan is taking on the veteran community. On August 31st, Committee Republicans wrote to Chairman Takano requesting an oversight hearing on the impact of the crisis in Afghanistan on veterans and families. On September 8th, Ranking Member Bost write to Chairman Takano urging him to postpone the September 13th markup and devote that time to such a hearing. Chairman Takano has yet to respond to either letter. During the markup, Chairman Takano questioned the sincerity of Republican calls for Committee oversight of the Afghanistan crisis in light of a Committee hearing on suicide prevention that was previously scheduled for September 22nd. The September 22nd hearing is not at all responsive to Republican calls for Committee action and has not been set up by the majority to speak to the tragic results of the Biden Administration's failure in Afghanistan. In times of crisis, the Committee should have no higher priority than addressing the needs of veterans and their families through oversight and legislation tailored to the problem at hand. Given that, we continue to strongly believe that the Committee should have used this moment to send a resounding message of support to veterans of Afghanistan and their families and it is unacceptable that the majority failed to do so.

Need for Smarter Investments in VA Infrastructure

While we disagree with the unfortunate timing and the majority's prioritization of issues, we share the majority's interest in improving VA's physical infrastructure. The advanced age of many Veterans Health Administration facilities and the size of VA's construction and maintenance backlog are well established. However, this is not simply the result of alleged disinvestment. In fact, VA's total capital need has increased from $51 billion in fiscal year 2015 to $61 billion this year despite overall appropriations increasing by roughly $80 billion and annual funding for Non-Recurring Maintenance, the largest single component of the capital need, increasing by $2 billion. VA struggles to manage construction dollars and effectively deliver projects. We believe any supplemental funding must be coupled with transparency and accountability measures, and should be allocated to categories of projects with the highest need probability of timely completion.

We oppose the majority's decision to direct $15.2 billion, the bulk of VA's funding in the bill, to an omnibus construction category apparently combining Major Construction, Minor Construction, and Medical Facilities. This has not happened in memory and the merits of this decision are questionable at best. While it may provide VA enhanced convenience and flexibility, it provides even less transparency and certainty about the ultimate use of the funding than the Administration's original proposal (for separate Major Construction and Minor Construction and/or Non-Recurring Maintenance funding). We are deeply concerned at the lack of information about how many medical facilities may be built, where, and for what purpose using this funding or even how much funding had been allocated for which construction category. We believe the responsible course of action will be to obtain the information, which was not obtained during the Committee's markup, when VA seeks authorization of individual Major Construction projects.

Furthermore, it is worth noting that Republicans acted on a bipartisan basis in 2018 to fix V.A.'s infrastructure issues in the Asset and Infrastructure Review (AIR) Act, which was enacted as part of the MISSION Act (Public Law 115-182). Any large-scale commitment of construction resources before VA and the AIR Commission is able to complete its work and recommend the proper alignment of VA facilities would be wasteful and counterproductive. We are disappointed that the Committee squandered a valuable opportunity to harmonize future construction spending with the AIR Commission's timetable in this bill.

Safeguarding Taxpayer Dollars

Finally, given the sheer size and velocity of the funding increases being granted to VA (approximately $55 billion on top of a record-high base appropriation of roughly $270 billion) and the fact that several billion dollars of the nearly $40 billion in COVID-relief funds that have been provided for VA on an emergent basis in the last 18 months remain unspent, we remain focused on instilling transparency and accountability for veterans and taxpayers. We attempted to attach general reporting requirements on obligations and expenditures, similar to those instituted for the American Rescue Plan Act with Chairman Takano's support, as well as construction-specific reporting requirements concerning timeliness and adherence to cost estimates and schedules. While we are disappointed that the majority opposed these amendments, we consider them vital and intend to pursue them through legislation in regular order.



MIKE BOST
Ranking Member

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
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JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

BRANDON CASEY,
MAJORITY STAFF DIRECTOR

Congress of the United States
U.S. House of Representatives

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KEVIN BRADY
TEXAS,
RANKING MEMBER

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KEVIN HERN, OKLAHOMA
CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

The Honorable John Yarmuth Chairman
Committee on the Budget
204-E Cannon House Office Building
Washington, DC 20515

Dear Chairman Yarmuth:

Pursuant to section 2002 of the Concurrent Resolution on the Budget for Fiscal Year 2022, I hereby transmit these recommendations which have been approved by vote of the Committee on Ways and Means, and the appropriate accompanying material including dissenting views to the House Committee on the Budget. This submission is in order to comply with reconciliation directives included in S. Con. Res. 14, the fiscal year 2022 budget resolution, and is consistent with section 310 of the Congressional Budget and Impoundment Control Act of 1974.

Sincerely,

Richard E. Neal
Chair

TABLE OF CONTENTS

Page

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 14

BUDGET EFFECTS OF THE SUBTITLE 15

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 15

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED 16

DISSENTING VIEWS 16

SUBTITLE A – UNIVERSAL PAID FAMILY AND MEDICAL LEAVE

EXPLANATION OF PROVISIONS

Explanation of Provisions

Section 130001. Paid family and Medical Leave.
This section amends the Social Security Act (SSA) to create a new "***Title XXII—Paid Family and Medical Leave Benefits.***" Subsections referred to below in the explanation of provision refer to the sections in the new Title XXII of the SSA.

Section 2201. Table of Contents.
This section provides a table of contents for the new Title XXII.

Section 2202. Paid family and Medical Leave Benefit Eligibility.

Subsection (a). Entitlement.
Individuals are entitled to a federal family and medical leave benefit if they: (1) have filed an application under Section 2204; (2) have (or anticipate having) four or more hours of qualified caregiving (defined in subsection (c)) during a week, in the 90-day period prior to submitting the application (if the application is filed after caregiving begins), or up to 180 days after submitting the application (in advance of an anticipated need for paid leave); and (3) have any wages or self-employment income at any time during the period beginning with the most recent calendar quarter that ends at least four months prior to the start of the individual's benefit period and ending with the month before the benefit period begins. (This most recent calendar quarter is the last quarter of the 8-quarter period used in the benefit calculation under section 2203. If an individual has any wages in that quarter, they do not need to show wages since that time).

All types of workers are covered for benefits: full-time and part-time workers (including gig workers and other self-employed workers) in both the private and public sector (including federal employees, and state and local employees who are covered for the purposes of Medicare Part A) without regard to employer size. Workers are covered without regard to tenure on their current job so long as they meet eligibility criteria under section 2202(a).

Workers will be covered either through a federal benefit, or through a qualifying "legacy state" or a comprehensive employer-sponsored plan for which the state or employer is reimbursed by the federal government, as described in sections 2209 and 2210. Individuals whose employment is covered by such a state or employer-sponsored benefit are not eligible for federal benefits for leave from that job.

Subsection (b). Benefit Period.
The benefit period is the twelve months that begin with the month in which ends the first week in which the individual has at least four hours of qualified caregiving. In the case of retroactive benefits, the benefit period begins with the later of the month in which ends the first week in which the individual has at least four hours of qualified caregiving, or the first month that begins

during the 90 days before the application is filed. No benefit period may begin prior to July 2023.

Subsection (c). Caregiving Hours.

A "caregiving hour" is a one-hour period in which an individual engaged in qualified caregiving.

"Qualified caregiving" is an activity performed in lieu of work, other than for monetary compensation, and for any reason that would qualify for unpaid leave under the Family and Medical Leave Act (FMLA): to address a serious personal or family health issue; to care for a newborn, newly adopted child, or new foster child; or for circumstances arising from a loved one's military deployment or serious injury. However, the provision expands the types of family relationships which allow individuals to seek caregiving leave to include the following: a spouse (or domestic partner as recognized by a state) and a spouse's parent; a child and a child's spouse; a parent and a parent's spouse; a sibling and a sibling's spouse; a grandparent, grandchild, or spouse of a grandparent or grandchild; and any other association by blood or affinity that is equivalent to a family relationship, as defined in regulations by the Secretary of the Treasury. The requirements in section 101 of the FMLA regarding eligible employees (including job tenure) and employers (including size) are not applied. In addition, for leave due to the worker's own serious health condition, the FMLA requirement that the individual be unable to perform the functions of the position is considered met if the individual is unable to satisfy the requirements needed to continue receiving their current wages or self-employment income (or, if recently unemployed, their recent wages or self-employment income), required for eligibility in subsection (a).

Leave from work for bereavement due to the death of a spouse, parent or child is also qualified caregiving (subject to the limitation in subsection (d)).

If an employee receives wages or other compensation (such as paid sick leave, paid vacation, or other paid time off) while performing caregiving, such time generally does not constitute qualified caregiving. However, an employee may receive compensation (such as any accrued paid time off or any non-accrued paid family and medical leave benefits sponsored by the employer) from their employer to supplement (or "top up") their weekly federal benefit amount, so long as the employer compensation plus the federal paid leave benefit combined do not exceed the worker's regular rate of pay.

In addition, leave for caregiving from employment covered under a qualified employer-sponsored paid leave plan under section 2210 or under a legacy state program under section 2209 (including under exempt employer plans under the rules of the legacy state program) does not constitute qualified caregiving for purposes of the federal benefit.

The restrictions above (on receipt of compensation and on leave from employment covered by legacy state or employer-sponsored programs) apply only to the specific hour of qualified caregiving for which paid leave is sought. Such restrictions do not prevent workers with multiple jobs covered by different programs (i.e., the federal benefits program, a legacy state program under section 2209, or an employer-sponsored program under section 2210) from taking leave in lieu of work and receiving benefits from the program that covers each job. Similarly, such

restrictions do not prevent a worker from receiving benefits for the qualified caregiving leave they take from one job, while they continue to work a second job during other hours of the day. Bereavement leave is limited to three days for an individual who works five days per week.

No caregiving hours may be credited to a week in which the individual who was receiving paid family and medical leave benefits dies.

Individuals are ineligible for benefits for five years after any finding that they used false statements to secure family and medical leave benefits.

Section 2203. Benefit Amount.

Subsection (a). In General.
An eligible worker's benefit amount for a month is equal to the sum of the weekly benefit amounts for each week that ends in that month. The weekly benefit amount for a week is based on the worker's weekly benefit rate (as calculated in subsection (b) below, based on a worker's past earnings), prorated for partial leave-taking.

If a worker takes partial leave in a week, the benefit amount they are due for that week is prorated to reflect the fraction of their regular workweek for which they took caregiving leave. Specifically, the individual's weekly benefit rate is multiplied by a fraction that compares the individual's number of caregiving hours credited to that week to their regular workweek hours (as defined in subsection (d) below).

Subsection (b). Weekly Benefit Rate.
A worker's weekly benefit rate is calculated based on their past earnings. The Secretary first calculates the worker's average weekly earnings, which are their earnings and self-employment income (or unemployment compensation) during the most recent eight quarters of wage data, ending with the quarter that ends at least four months prior to the start of the individual's benefit period. This amount is determined based on quarterly wage data from the National Directory of New Hires (NDNH) and self-employment income data from tax returns, except that the Secretary shall also consider any additional evidence of wages or self-employment income voluntarily submitted by the individual.

Using this average weekly earnings amount, a progressive benefit formula is then applied that replaces a greater share of wages for lower-earning workers. Specifically, with respect to benefits payable starting July 2023, the weekly benefit rate is 85 percent of the first $290 of average weekly earnings, plus 75 percent of average weekly earnings between $290 and $659, plus 55 percent of average weekly earnings between $659 and $1,385, plus 25 percent of average weekly earnings between $1,385 and $1,923, plus 5 percent of average weekly earnings between $1,923 and $4,808. (For years after 2024, these dollar amounts will be indexed by the Social Security Average Wage Index so that replacement rates are maintained over time). This computation determines the weekly benefit rate, which is the amount that is paid to a worker who takes a full week of caregiving leave.

Subsection (c). Crediting of Caregiving Hours to a Week.
Hours of qualified caregiving are credited to a week (i.e., will count towards a worker's benefit amount for that week) subject to the following specifications. A worker is eligible to receive up to twelve weeks of leave during the one-year benefit period (or, for those taking partial weeks, the equivalent of twelve full weeks). The minimum number of hours that can be credited to a week is four hours. A worker cannot be paid for more caregiving hours than they currently work in a regular workweek. In addition, the worker must complete a one-week waiting period before benefits can start (defined as having at least four hours of qualified caregiving in that week); they may use employer-provided leave benefits (including sick days, vacation, or paid time off) during this waiting period.

Subsection (d). Number of Hours in a Regular Workweek.
An individual's regular workweek is the number of hours they regularly work in a week for all employers, whether the employment is covered by the federal program under section 2202, a legacy state program under section 2209, or an employer-sponsored plan under section 2210.

Section 2204. Benefit Determination and Payment.

Subsection (a). In General.
To receive benefits, a worker must file an application containing the information described in subsection (b), along with any other information the Secretary may require. The information in the application or periodic benefit claim report shall be presumed to be true and accurate unless the Secretary demonstrates by a preponderance of evidence that the information is false, except that the Secretary shall establish procedures to validate the identity of the individual filing the application.

Subsection (b). Required contents of initial application.
The application must include: (1) an attestation that the individual has, or anticipates having, at least four caregiving hours in a week ending at any time during the period beginning 90 days prior to, and ending 180 days after, the application date; (2) a certification of the need for leave, issued by a relevant authority determined under regulations issued by the Secretary, which shall be no more than the information that is required under the FMLA; (3) an attestation that the worker's employer was provided with notice of the need to be absent from work for qualified caregiving, not later than seven days after such need arises, except in case of hardship or extenuating circumstances or if the individual is self-employed; (4) pay stubs or other evidence of recent wages that the individual may choose to provide to demonstrate recent work (as required for entitlement), except that the Secretary may waive this requirement where such evidence is otherwise available to the Secretary; (5) an attestation of the number of hours in the individual's regular workweek; and (6) an attestation that the worker has not been notified by their employer that their employment is eligible for leave from a legacy state program under section 2209 or an employer-sponsored program under section 2210.

An individual who applies to the Secretary in advance of taking leave may provide the certification of their need for leave, their attestation of employer notification, and any wage evidence after their caregiving hours begin.

Subsection (c). Periodic Benefit Claim Report.
For each month within their twelve-month benefit period, the individual must file a periodic benefit claim report specifying their caregiving hours during each week that ends in that month. The individual must file the report not later than 60 days after the end of a month (with exceptions for good cause). However, an individual who is applying for retroactive benefits may report on their prior caregiving hours as part of their initial application and the 60-day time limit does not apply. No periodic benefit claim report is required for any week in which fewer than four caregiving hours occurred.

Subsection (d). Determination and Notice Requirements.
The Secretary is required to notify an individual of the initial determination of eligibility not more than fifteen days after the application has been filed. The notice must include the initial determination of eligibility; the calendar quarter that begins the period in which recent wages are required for eligibility, the eight calendar quarters used to determine the individual's average weekly earnings, and the amount of wages and self-employment income in each of the eight quarters; the individual's right to submit additional evidence of wages or self-employment income, including a statement that eligibility could change or benefits could increase as a result of submitting such evidence; the estimated weekly benefit amount for a week with four caregiving hours; the estimated weekly benefit amount for a week in which the worker takes full leave (i.e., for all of their regular workweek); the number of caregiving hours credited to weeks ending prior to the application date; the beginning and ending dates of the individual's benefit period; and the individual's appeal rights under section 2205. If an individual submits additional information regarding their application, the Secretary must provide an updated notice, including a specific indication of any information that has been updated.

On the basis of each periodic benefit claim report, the Secretary shall determine the number of caregiving hours credited to each week ending in a month. Within 15 days of the filing of the claim report, the Secretary must provide notice to the individual specifying: whether payment will be made and the amount; if payment shall not be made (or differs from the number of caregiving hours stated in the claim report), the reason for such determination; and the individual's right to appeal under section 2205.

The Secretary must issue regulations to establish a process under which individuals may notify the Secretary if more than one type of circumstance gives rise to the need for caregiving hours during the benefit period. Such hours shall be credited to the weeks within the benefit period regardless of circumstance.

The notices must be written in clear and simple language (in addition to meeting existing federal requirements for language access under Executive Order 13166 and disability access under the Americans with Disabilities Act and the Rehabilitation Act).

Subsection (e). Certification of Payment.
Benefits must be paid not later than fifteen days after the Secretary makes a determination based on a periodic benefit claim report.

Subsection (f). Expedited Benefit Payment in Cases of Missing Payment.
The Secretary must expedite benefit payment in the event that a payment was due but is missing.

Subsection (g). Submission of Required Information.
An application for paid leave, a periodic benefit claim report, and related information may be submitted by phone, mail, or electronically. Information in support of an application, periodic benefit claim report, or appeal may be submitted by any person including the individual, their representative, their employer, or the relevant authority who must certify the need for caregiving for a qualified purpose. The Secretary must provide prompt notice of receipt of such information and shall inform the applicant whenever any other person submits information on the individual's behalf.

Section 2205. Appeals.

Subsection (a). In General.
An individual has the right to appeal to the Secretary any determination of federal paid family and medical leave benefits under section 2202 (including with regard to initial determinations of eligibility, weekly benefit rates, the number of caregiving hours credited to a week, and other determinations) or any determination of a qualified employer plan under section 2210 (if the plan's internal appeal process results in a determination that is unfavorable to the individual), and to appeal a final decision of the Secretary to federal court.

Subsection (b). Procedures.
The Secretary shall ensure that appeals are heard in a timely manner by a decisionmaker who is different from the initial decisionmaker, using procedures similar to those for the non-adversarial appeals of initial determinations of Medicare Low-Income Subsidy (LIS) eligibility by the Social Security Administration.

Subsection (c). Authority to Issue and Enforce Subpoenas.
The Secretary is authorized to issue and enforce subpoenas for the purpose of appeals hearings, investigations, or other proceedings with regard to paid family and medical leave benefits under this bill.

Section 2206. Stewardship.

Subsection (a). Promoting Equity.
The Secretary shall conduct a robust program to analyze and prevent disparities in benefits and access to paid family and medical leave benefits under this bill on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, national origin, family composition, or living arrangements.

Subsection (b). Underpayments and Overpayments.
If more or less than the correct amount of paid family and medical leave benefits has been paid, the Secretary shall promptly pay any underpayment and shall collect any overpayment. The

Secretary shall promptly notify the individual of the incorrect payment and the right to appeal the determination of incorrect payment using the procedures under Section 2205. The Secretary shall collect an overpayment by reducing an individual's paid family and medical leave benefits; however, the individual's weekly benefit amount may not be reduced below $315 (for a full week of leave; this amount is pro-rated for an individual who takes a partial week of leave). This amount is wage-indexed beginning in 2025. The Secretary shall waive an overpayment if the individual was without fault and collection of the overpayment would be against equity or good conscience, or would impede the efficient administration of the paid family and medical leave program.

Subsection (c). Penalties and Other Procedures.
An individual who knowingly makes false statements or representations of fact in an application or appeal (or so conspires), who conceals or fails to disclose information with fraudulent intent (or so conspires), or who knowingly and willfully converts paid family and medical leave benefits to a use other than for the benefit of the applicant will be fined under Title 18 of the United States Code, imprisoned for up to five years, or both.

A person who has been convicted of any of these violations is excluded from representing an individual or submitting evidence in support of an individual's benefit application, periodic benefit claim report, or appeal. The Secretary shall exclude the person for at least ten years if they have one prior violation and shall exclude the person permanently if they have more than one prior violation. The Secretary shall notify the person, the public, and any state or local licensing or certification authority of the person's exclusion and shall request that any state or local authority initiate appropriate investigations and sanctions and keep the Secretary informed about these actions. The person shall have the right to appeal their exclusion to the Secretary and may apply to the Secretary for termination of the exclusion at the end of their exclusion period. These provisions are similar to the anti-fraud procedures and penalties under Sections 1136 and 1632 of the SSA.

The Secretary shall redetermine entitlement promptly if there is reason to believe fraud or similar fault was involved in an application for family and medical leave benefits.

Section 2207. Funding for Benefit Payments, Grants, and Program Administration.

Subsection (a). Funding for Benefit Payments and Grants.
There are appropriated such sums as are necessary to pay the paid family and medical leave benefits under this bill, the grants to legacy states under section 2209, and the grants to eligible employers under section 2210. The total number of weeks eligible for federal payment or reimbursement through a grant to a legacy state under section 2209, within each person's twelve-month benefit period, is limited to twelve (or, for those taking partial weeks, the equivalent of twelve full weeks). Similar limitations for employer-provided, federally-reimbursable leave programs are included in section 2210.

Subsection (b). Funding for Program Administration.

There are appropriated such sums as are necessary for administrative costs, including for the following purposes: service to applicants and beneficiaries, including taking applications, responding to public inquiries, assisting with problem resolution, taking requests for appeals, operating a national toll-free phone number, and mailing notices; determining eligibility; ensuring program integrity and combating fraud, including verifying the identity of applicants and verifying the professional credentials of doctors or other professionals who submit certifications; certifying benefit payments; administering the appeals process; administering the legacy state grant program under section 2209 and the employer-sponsored plan grant program under section 2210; developing the necessary systems of records for administering this program; data exchange and sharing; employee training, including training relating to the prevention of discrimination on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, national origin, family composition, or living arrangements; providing technical assistance to legacy states under section 2209 and to employers (or third-party administrators) under section 2210; and providing technical assistance to small business employers regarding the assistance grants in section 2211 and regarding access to paid leave for their employees. The provision also specifies that certain of these activities cannot be administered through grants or contracts.

Section 2208. Funding for Outreach, Public Education, and Research.

Subsection (a). Funding for Outreach and Public Education.
$150 million is appropriated per year in each of FY2022 through FY2026 for the Secretary to engage in a robust program of culturally and linguistically competent outreach and public education to ensure awareness of and access to the federal paid family and medical leave program, and to increase participation among workers who need it, including providing information to potential beneficiaries and a model notice for employers.

Subsection (b). Funding for Research.
$150 million is appropriated per year in each of FY2023 through FY2027 for the Secretary to fund research to ensure full access to paid family and medical leave benefits, including through the detection and prevention of disparities on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, or national origin, income, language, job classification, family composition, or living arrangement. The Secretary is also required to publish a comprehensive annual report on the federal paid family and medical leave program, including data and analyses of benefit use through the federal program itself as well as through legacy states under section 2209 and employer-sponsored plans under section 2210.

Section 2209. State Administration Option for Legacy States.

Subsection (a). In General.
Legacy states (as defined below) with already-enacted paid leave laws have the option to continue operating their programs and be reimbursed by the Secretary of the Treasury. They can receive an annual grant from the Secretary that is equal to the lesser of the following: (1) the total amount of federal family and medical leave benefits (including administrative costs) that would

otherwise have been paid to individuals who received benefits under a state program, as estimated by the Secretary; or (2) the total cost of the state's paid leave program (including administrative costs).

In determining the annual grant for a state, the Secretary will include the beneficiaries and benefits paid directly by the state as well as those paid by an employer plan that has been approved by the state to provide benefits in lieu of the state paid leave agency. However, the Secretary's calculations will not include workers who do not participate in the state paid family and medical leave program (directly or via an employer) because their employment is not covered by the state program.

Grants are issued annually for the prior calendar year, although the Secretary may issue estimated advance payments during the year. Grants begin in 2024 for benefits paid starting July 1, 2023 (when benefits start under the federal paid family and medical leave program) through December 21, 2023.

Subsection (b). Legacy State.
A legacy state is a state that: (1) had enacted a law providing paid family and medical leave benefits as of the date of enactment of this bill, and (2) beginning with the first calendar year that starts three years after the date of enactment of this bill, has in effect a comprehensive paid leave program that covers all workers in the state who would be covered under the federal benefits program (except as noted below), for all types of caregiving leave covered under the federal benefits program, and provides at least twelve weeks of paid family and medical leave benefits per year, in amounts providing a wage replacement rate that is at least equivalent to that of the federal program. States must also provide an annual notice to each individual whose employment is covered under the state program. Legacy state programs may provide these benefits in any way they choose, including through a public program of family and medical leave and/or temporary disability insurance, or through employer provision. Legacy state programs must cover state and local government employees, except that such employees who are covered by a collective bargaining agreement may be excluded if 90 percent of the employees under the agreement agree to such exclusion; additionally, legacy state programs are not required to cover federal employees, because they are fully covered by the federal program.

Subsection (c). Data Sharing.
As a condition of the grants, legacy states must enter into data-sharing agreements with the Secretary to provide the necessary data on: (1) eligible individuals and benefits paid under the state's paid family and medical leave program; (2) the total cost of the state's paid family and medical leave program; and (3) other information as the Secretary determines may be necessary to carry out this bill, including for promoting equity under subsection 2206(a) and for research under subsection 2208(b).

Subsection (d). Funding for Transitional Costs for Legacy States.
There are appropriated such sums as are necessary for the Secretary to provide qualifying legacy states with grants to assist with transitional costs related to remaining a legacy state. Specifically, the Secretary shall make a grant to each legacy state that certifies it intends to remain a legacy state through the first calendar year that is three calendar years after enactment of this bill and

that agrees to repay the grant if it fails to remain a legacy state through that year or fails to meet the data sharing requirements under subsection (c).

The grant amount is one-half of the legacy state's costs of creating new technology systems to meet the data sharing requirements under subsection (c) and of demonstrating to the Secretary that its plan provides benefits which are equivalent to the federal benefit. Grants will cover eligible costs incurred from the time of enactment of this bill through the first calendar year that is three calendar years after enactment of this bill. The Secretary may issue estimated advance payments of transition grants to legacy states.

Section 2210. Reimbursement Option for Employer-Sponsored Paid Leave Benefits.

Subsection (a). In General.
The Secretary shall make grants to eligible employers for each calendar year, with the amount determined under one of two different payment mechanisms for different kinds of employer-sponsored plans. (Eligible employers are defined in subsection (b), and the requirements the plans must meet are described in subsection (c), including coverage and benefits.

Employers who sponsor a plan that pays family and medical leave benefits through an insurer are reimbursed at a rate equal to 90 percent of the projected national average cost per employee of providing the full benefit package outlined in the model template below, assuming no more administrative cost than the average in the publicly administered program, multiplied by the number of employees (prorated for part-time employees) covered by the plan.

Employers who self-insure and pay family and medical leave benefits directly, whether or not they use a third-party administrator to manage the plan, will be reimbursed for 90 percent of the cost of up to twelve weeks of qualified paid leave benefits, or if lesser, the national average weekly benefit paid in the public plan multiplied by the number of weeks of benefits are provided.

Subsection (b). Eligibility; Application Requirements.
To be eligible for reimbursement, employers must meet several conditions. First, they must have at least one employee who is ineligible for benefits (i.e., who is not covered) under the law of a legacy state (regardless of whether the legacy state coverage is provided via a public state program or via an employer who has been exempted under the state's law). Legacy states (and their political subdivisions) and the federal government cannot be eligible employers. Employers are only eligible for reimbursement once the Secretary determines that their application and their plan's benefits meet all the requirements of the section.

Employers must also notify the Secretary of their intent to seek a grant, certify that they will have in effect a plan that meets all the requirements, provide all documentation by the deadlines specified, and pay an initial application fee of $1,000 or a renewal application fee of $200 each calendar year. The application must include an attestation that the plan will be in effect for the full year (or in the case of a plan started mid-year, for the rest of the year) and must include all information needed to identify the employees and, if needed, pro-rate payments based on

benefits paid to part-time workers, as well as any other information required by the Secretary. Applications must be filed at least 90 days in advance of benefits being provided under a reimbursable plan, and all required documentation in support of an application must be submitted at least 45 days in advance. Employers must retain all records relating to the paid family and medical leave benefits program for at least three years.

As a condition of the grant, the employer must agree to provide certain employee rights. They include: guaranteed reinstatement to the worker's current job or an equivalent job after leave; continuation of the group health insurance; the right to appeal adverse decisions internally, and, if denied benefits at that level, to the Secretary; the right to receive an annual notice of available benefits and appeal rights; and a prohibition on having to pay a fee to receive coverage or benefits. Employers must also provide assurances that employees who exercise their right to paid leave will not be penalized, discriminated against, or retaliated against. These protections are conditions of the employer reimbursement in this section even if the employee's leave is not covered by the FMLA.

An employer seeking reimbursement for a self-insured plan must meet additional requirements: private employers must have at least 50 employees, hold a surety bond to guarantee payment, and place funds to pay benefits within a dedicated account; public agencies which provide self-insured plans do not need to hold a surety bond but must be collectively bargained.

The eligibility and application requirements for employers under this section do not preempt, supersede, limit, or waive any provision of state or local law that authorizes the provision of leave benefits (including similar paid family or medical leave benefits) or establishes other leave rights for employees.

Subsection (c). Employer Program Requirements.
To be reimbursed, an employer-sponsored plan must have all aspects of the plan be part of a written employer policy and be provided via one or more employee benefit plans. The plans may be administered by an employer, an insurer, or a third-party administrator.

The plans must provide benefits to all non-legacy-state employees, regardless of length of service, job type, membership in a labor organization, seniority status, or any other classification, and must meet all of the conditions in subsection (b).

By July 1, 2022, the Secretary must publish a "model template" containing the requirements the plans must meet. Plans must meet or exceed the public plan level in all respects, including the following: providing equal or higher wage replacement at all income levels; providing at least twelve weeks of benefits; allowing leave for all federal qualifying reasons, without any preexisting condition restrictions; providing for intermittent leave; not imposing fees or costs for coverage; paying benefits at least monthly or more frequently, and with application processing and notification provided at least as quickly as under the federal program; and operating under a presumption that information provided by applicants is true unless demonstrated otherwise.

By October 1 of each year, the Secretary shall determine the projected national average cost used to calculate reimbursement for insured plans in the following year. This amount is the national

average cost of providing the required benefits according to the model template, including overall probability of leave taking, projected durations and benefit levels, and assuming administrative cost no higher than for the public program.

Subsection (d). Timing of Payment; Penalty for Late Filing. Payments for eligible insured plans are made within 30 days of the start of each calendar year, or, in the first year, by August 1, 2023. Payments for eligible self-insured plans are made by March 31 of the year after the benefits were paid.

If application or required documentation is late, payment is made 45 days after all requirements are met, and the amount of the grant is reduced by two percent for each week by which it is late.

Subsection (e). Information Submission.
As a condition of the grant, employers must provide to the Secretary information about individuals who received a paid leave benefit under the employer's plan, and other information needed to pay grants and coordinate benefits with the public plan and with legacy state plans.

Subsection (f). Enforcement.
The Secretary must periodically review employers receiving grants under this section, and may withdraw approval for a plan or administering entity to participate on a temporary or permanent basis. The Secretary may also penalize employers if a pattern of inappropriate benefit denial is found. Entities administering a plan on behalf of an employer must notify the employer if the plan is penalized by the Secretary. Employers and administering entities subject to penalties may appeal the penalty within 60 days of the decision.

Subsection (g). Greater Benefits Permitted.
Nothing in Section 2210 is intended to prohibit employers from providing benefits in excess of the model template or the amount of benefit that is reimbursable under the section.

Section 2211. Funding for Small Business Assistance.

Subsection (a). In General.
There are appropriated such sums as are necessary for the Secretary to provide grants for small businesses under this section.

Subsection (b). Small Business Assistance Grants.
The Secretary shall make a grant to each eligible employer (as defined below) who employs one or more covered individuals (as defined below) and satisfies all requirements of the section to receive grants.

Subsection (c). Grant Requirements.
To receive a grant, an employer must: apply for a grant in accordance with rules set by the Secretary and not later than 90 days after an employee returns from paid family and medical leave; attest that the employer incurred costs in excess of the on-leave employee's salary or wages in order to temporarily replace the employee's labor (for example, overtime or a more-

expensive temporary worker); agree to provide job reinstatement protection (to the employee's prior job or an equivalent job); agree to maintain group health insurance coverage as if the employee were not on leave; and upon award of the grant, notify the employee of their right to job protection and continuation of health insurance coverage.

Subsection (d). Amount of Grant.
The amount of the grant for each worker on leave is equal to 2.5 times the average weekly wage for the most recent calendar year in the state in which the worker's worksite is located. The Secretary shall annually determine and publish average weekly wage amounts for each state based on data prepared by the Bureau of Labor Statistics that is based on a quarterly census of employers of wages paid for unemployment insurance-covered employment (currently known as the "Quarterly Census of Employment and Wages").

Subsection (e). Limitations.
A small business can receive no more than one grant per employee per year, and no more than ten grants total per year.

Subsection (f). Enforcement.
The Secretary may recover the full amount of the grant and, in egregious situations, permanently ban an employer from the program if the employer makes false attestations to receive the grant or does not comply with grant requirements.

Subsection (g). Definitions.
A "covered individual" is an individual who is employed by an eligible employer and who takes, or anticipates taking, at least four weeks of qualified leave (defined below) and for whom the employer is not receiving another grant to cover all or part of the costs of replacing the covered individual's labor. An "eligible employer" is an employer with 50 or fewer employees; governmental agencies are not eligible. "Qualified leave" is family and medical leave covered by the public paid leave program established in this subtitle, the plan of a legacy state under Section 2209, or the plan of an employer who qualifies for reimbursement under Section 2210.

Section 2212. Definitions.
As used in Title XXII, the term "group health plan" is defined as in the Internal Revenue Code. "National average wage index" is defined as in the Social Security Act. "Self-employment income" is defined as in the Internal Revenue Code, and the Secretary shall determine rules for crediting annual self-employment income to calendar quarters. "State" includes the states, the District of Columbia, and any territory or possession of the U.S. "Wages" is defined as in the Internal Revenue Code to include all wages covered for purposes of the Medicare Hospital Insurance program, plus railroad compensation and unemployment compensation. "Week" is defined to begin on Sundays.

Section 130002. Access to Wage Information from the National Directory of New Hires for the Purpose of Administering Paid Leave.

This section authorizes the Secretary of the Treasury to access quarterly wage information from the National Directory of New Hires for the purpose of administering the federal paid family and medical leave program.

Effective Date

The Subtitle is effective on enactment, making necessary administrative funding and authority available to the Secretary immediately, including to make transition grants to legacy states.

However, a number of provisions become applicable at later dates. Paid family and medical leave benefits to workers are payable starting July 1, 2023, and eligible legacy states described in Section 2209 and eligible employers described in Section 2210 may receive grants with respect to benefits provided on or after that date. Small businesses also become eligible for grants under Section 2211 once their employees are able to receive benefits paid under Section 2202 or reimbursed under Sections 2209, or 2210. The deadline for states to meet additional conditions to remain "legacy states" under Section 2209 is the calendar year that begins on or after three years after the date of enactment. Dollar amounts in the benefit formula and the overpayment withholding formula are wage-indexed beginning in 2025. The deadline for the Secretary to provide a "model template" for qualified employer plans under Section 2210 is July 1, 2022. Amounts for outreach and public education are appropriated beginning in FY 2022; amounts for research are appropriated beginning in FYyear 2023, and the comprehensive annual report on the program must be provided beginning in FY 2024.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle A, Paid Family and Medical Leave on September 9, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Subtitle A offered by Ms. Walorski was ruled nongermane. Ms. Walorski moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 25 yeas to 17 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED			
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	25			**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to Subtitle A that would strike and replace the text of the subtitle with the FAMILY Act was offered by Mr. Smith of Nebraska. The amendment was defeated by a vote of 0 yeas and 43 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY		X	
MR. THOMPSON		X		MR. NUNES		X	
MR. LARSON		X		MR. BUCHANAN		X	
MR. BLUMENAUER		X		MR. SMITH (NE)		X	
MR. KIND		X		MR. REED		X	
MR. PASCRELL		X		MR. KELLY		X	
MR. DAVIS		X		MR. SMITH (MO)		X	
MS. SANCHEZ		X		MR. RICE		X	
MR. HIGGINS		X		MR. SCHWEIKERT		X	
MS. SEWELL		X		MS. WALORSKI		X	
MS. DELBENE		X		MR. LAHOOD (IL)		X	
MS. CHU		X		DR. WENSTRUP		X	
MS. MOORE		X		MR. ARRINGTON		X	
MR. KILDEE		X		DR. FERGUSON		X	
MR. BOYLE		X		MR. ESTES		X	
MR. BEYER		X		MR. SMUCKER		X	
MR. EVANS		X		MR. HERN		X	
MR. SCHNEIDER		X		MS. MILLER		X	
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**		18	

An amendment to the amendment in the nature of a substitute to Subtitle A that would change effective date to six months after Treasury can certify they have expertise to stand up a new entitlement program was offered by Mr. Kelly. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle A that would require workers to provide 30-days' notice of the need to be absent from work to all employers, with the exception of small employers for which the applicable period would be substituted with 60 days was offered by Dr. Ferguson. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle A that would strike the upper earnings limit of $250,000 and establish a minimum and maximum benefit amount was offered by Mr. Smith of Missouri. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle A that would prohibit individuals in the same household from receiving benefits for the same caregiving hours was offered by Mr. Rice. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle A that would require individuals to be employed in the last 30 days and have an earnings history in at least four of the last five quarters was offered by Mr. Smucker. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle A that would strike self-attestation, require certification from the employer, require validation of identity, and prohibit waiver of documentation of earnings was offered by Dr. Wenstrup. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle A that would strike 90 percent subsidy for employers that already have paid family and medical leave plans and insert 25 percent was offered by Mr. Hern. The amendment was defeated by a vote of 18 yeas to 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment in the nature of a substitute to Subtitle A was agreed to by a voice vote (with a quorum being present).

Subtitle A was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		19	

BUDGET EFFECTS OF THE SUBTITLE

A. Committee Estimate of Budgetary Effects

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. New Budget Authority and Cost Estimate Prepared by the Congressional Budget Office

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to provide paid family and medical leave benefits for U.S. workers who need them.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, (Public Law 104-4) the Committee adopts as its own the federal mandates estimate prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

D. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by the committee print.

E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the committee print does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(2) of the Congressional Accountability Act.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the committee print, as reported.

DISSENTING VIEWS

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
LINDA T. SANCHEZ, CALIFORNIA
BRIAN HIGGINS, NEW YORK
TERRI A. SEWELL, ALABAMA
SUZAN DELBENE, WASHINGTON
JUDY CHU, CALIFORNIA
GWEN MOORE, WISCONSIN
DAN KILDEE, MICHIGAN
BRENDAN BOYLE, PENNSYLVANIA
DON BEYER, VIRGINIA
DWIGHT EVANS, PENNSYLVANIA
BRAD SCHNEIDER, ILLINOIS
TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

BRANDON CASEY,
MAJORITY STAFF DIRECTOR

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KEVIN BRADY
TEXAS,
RANKING MEMBER

DEVIN NUNES, CALIFORNIA
VERN BUCHANAN, FLORIDA
ADRIAN SMITH, NEBRASKA
TOM REED, NEW YORK
MIKE KELLY, PENNSYLVANIA
JASON SMITH, MISSOURI
TOM RICE, SOUTH CAROLINA
DAVID SCHWEIKERT, ARIZONA
JACKIE WALORSKI, INDIANA
DARIN LAHOOD, ILLINOIS
BRAD R. WENSTRUP, OHIO
JODEY ARRINGTON, TEXAS
DREW FERGUSON, GEORGIA
RON ESTES, KANSAS
LLOYD SMUCKER,
PENNSYLVANIA
KEVIN HERN, OKLAHOMA
CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON SUBTITLE A.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO UNIVERSAL PAID FAMILY AND MEDICAL LEAVE

Committee Republicans oppose Subtitle A. Subtitle A lays the groundwork for the Democrats' $3.5 trillion tax hike and spending spree designed to reach the tentacles of the federal government into every aspect of American life – from cradle to grave. Cue President Reagan's nine most terrifying words in the English language, "I'm from the government, and I'm here to help." In this case, it's the IRS and they're here to "help" you balance your work and family life.

Committee Democrats' ill-conceived paid family and medical leave "solution" would result in hundreds of billions of dollars spent on another new entitlement program rife with Washington mandates that will limit choices for families and result in permanently smaller paychecks for workers. This poorly designed program treats every worker and family situation the same while making the IRS their benefits manager. Instead of putting the American people first, Democrats dismissed a unique opportunity to work together to find common ground on an issue that both parties agree on, supporting working families.

Committee Republicans agree on the need for policies that expand access to both child care and paid family leave. In May, Republicans released a commonsense alternative with flexible solutions that working families can count on. The "Protecting Worker Paychecks and Family Choice Act" would ensure more Americans have access to family leave and flexibility that suits their workplaces. The discussion draft is based on the premise that strong economic growth is the foundation for ensuring flexible options for families through better jobs, lower unemployment, and higher wages – not one size-fits-all mandates that put Washington in control. The proposal would:

- ❖ Expand access to paid family and medical leave by incentivizing more employers to provide leave and focusing on gaps in coverage.
- ❖ Preserve what's working by expanding the employer-provided paid family and medical leave tax credit and creating new family savings accounts;
- ❖ Incentivize and reduces costs for small employers to offer paid family leave by providing more generous tax credits and paving the way for pooling and cost sharing; and
- ❖ Promote equitable access to paid leave by targeting policies to low-wage workers, who are least likely to receive paid leave through their employers.

This Republican proposal was put forward in good faith and in direct response to a letter from Chairman Neal that outlined plans to tackle the issues of paid family and medical leave and child care. The letter said, "...we invite you and your members to bring forward your proposals as well. Last week's hearing demonstrated that there is strong bipartisan agreement that the current status quo for working families is untenable and Congress needs to act...we look forward to continuing this Committee's history of bipartisan collaboration."[1]

Five months later, Democrats put forward a short-sighted partisan program that includes zero Republican input or bipartisan collaboration. To ensure the Majority is fully aware of the missed opportunity to work with Republicans, an amendment was offered to strike and replace Subtitle A with the paid family and medical leave proposals in Division A of the "Protecting Worker Paychecks and Family Choice Act." The amendment was unanimously rejected by Committee Democrats.

The Congressional Budget Office (CBO) estimates the cost of the paid family and medical leave program in Subtitle A to be $500 billion over 10 years. Subtitle A is similar in many ways to the FAMILY Act, a longstanding Democrat proposal, cosponsored by 202 House Democrats. The FAMILY Act would create a paid family and medical leave program run by the Social Security Administration (SSA) and funded by a new payroll tax. CBO estimated the cost of the FAMILY Act to be $547 billion over 10 years.[2] An analysis by the American Action Forum found the FAMILY Act would require a 2.9% payroll tax to fully finance.[3] That could cost an average worker making $50,000 well over $1,500 a year in new taxes, whether they use the program or not. Over a career that's more than $60,000 for every worker in America.

Ways and Means Democrats are hiding the ball by not linking this new program to an explicit payroll tax. Don't be fooled. America's middle-class working families will shoulder the burden of the corporate income tax hike from 21 percent to 26.5 percent included in Subtitle I, which is being used to offset the cost of this new forever entitlement program. The Joint Committee on Taxation found that over 66 percent of the corporate tax increase will be borne by middle- and lower-income earners.

Twenty-two Democrat members of this Committee co-sponsored the FAMILY Act this session and every Democrat on this Committee, including Chairman Neal, cosponsored it last Congress. In addition, the American Academy of Pediatrics, Le Leche League, NARAL Pro Choice America, Planned Parenthood, and hundreds of other organizations have endorsed the FAMILY Act, saying "The FAMILY Act is the only paid national family and medical leave proposal that reflects what most people in the United States need."[4] Committee Republicans offered an amendment that would allow supporters of the FAMILY Act to include that proposal, which they cosponsored, in this package. Committee Democrats unanimously rejected the FAMILY Act.

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[1] Letter from Chairman Neal and Worker and Family Support Subcommittee Chair Danny Davis to Ranking Member Brady, April 27, 2021.
[2] CBO letter to Ranking Member Brady, re: Budgetary effects of H.R. 1185, the FAMILY Act, February 13, 2020.
[3] American Action Forum, "Paid Leave and the Reconciliation Bill," Douglas Holtz-Eakin, September 1, 2021.
[4] FAMILY Act Coalition letter addressed to Members of Congress, May 24, 2021.

Before signing-on to Chairman Neal's version of paid family leave, House and Senate Democrats should hit the brakes. In the rush to claim ownership, Committee Democrats have created a shoddily constructed program with serious design flaws.

Let's start with the IRS running a public benefits program. Democrats want to *increase* people's interaction with the IRS by requiring workers to apply for paid family leave benefits through the Department of Treasury. There is zero policy rationale or justification that this new program should be, or could be, run by the Treasury Department.

Committee Democrats have demonstrated an astounding lack of consideration and concern for how this program will actually function for working families. Relying on a lazy, partisan budgetary tool to jam this program through the legislative process with no time for critical review or assessment, throwing out any semblance of sound policymaking. That's what putting politics over the American people looks like.

President Biden's own Treasury Department has firmly rejected Chairman Neal's proposal saying in an email to Minority Committee staff that the Department, "does not have the internal expertise to stand-up a permanent benefit entitlement program…" and "Treasury does not have the functional expertise to administer large benefit entitlement programs.[5] (*See Figure A*) Yet this legislation punts decision-making authority on critical operational components to Treasury forty times. The bill expects the Department to turn around notices of benefits within 15 days of receiving an application.

Committee Republicans offered an amendment to delay the effective date of Subtitle A until six months after Treasury can certify they have the expertise to stand-up this new entitlement program. The amendment was unanimously rejected by Committee Democrats.

Second, Subtitle A provides no protections for small businesses. Small employers across the country are facing a severe worker shortage as they attempt to fully rebound from the pandemic. There are more than 10 million job openings in the U.S., and small employers cannot find workers. Democrats' proposal would create even more uncertainty for the businesses who can least afford to lose a worker on short notice.

Subtitle A only requires employees provide 7-days' notice to their boss that they plan to take leave. The program would de-link employers from workers and leave employers hanging. Worse, the only verification that employer notice was provided is through self-attestation that the individual provides to Treasury.

Committee Republicans offered an amendment to ease the burden of labor challenges created by Subtitle A by creating meaningful protections and predictability for employers to plan around. The amendment would make three significant improvements to the underlying legislation by:

(1) Aligning the bill with the FMLA standard requiring workers to provide 30 days' notice to employers if they plan to take leave;
(2) Strengthening the "self-attestation" standard; and
(3) Requiring 60 days' notice of anticipated leave from work for small employers.

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[5] Email from Treasury to Minority Committee staff dated May 12, 2021, submitted for the record.

The amendment was unanimously rejected by Committee Democrats.

Committee Democrats argue they "took care" of small business by creating a new grant program that reimburses small employers for the costs of labor disruption, up to 10 employees a year. To qualify, small businesses would be required to provide guaranteed job protection and meet strict group health plan coverage requirements. Not to mention the hassle factor of wrangling reimbursement out of Treasury. It's a poor attempt to buy their way out of a serious issue that will negatively impact Main Street businesses who can't afford to lose workers with specialized skills sets with just a weeks' notice.

Figure A. Treasury Department Response to Chairman Neal's Paid Family and Medical Leave proposal:

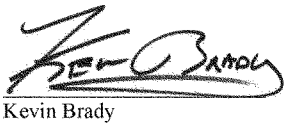
From [redacted]@treasury.gov [redacted]@treasury.gov>
Sent: Wednesday, May 12, 2021 10:42 AM
To: [redacted]@treasury.gov; [redacted]@treasury.gov; [redacted]
[redacted]@mail.house.gov>; [redacted]@mail.house.gov>; [redacted]
[redacted]@mail.house.gov>; [redacted]@mail.house.gov>
Subject: RE: HWM/OTP -- Paid Leave Proposals (high level)

Hi [redacted] – Just wanted to share some high level thoughts from Treasury with you all in advance of our call today. Thanks! Best, [redacted]

- Treasury does not have the internal expertise and is not staffed to stand-up a new, permanent benefit entitlement program. In times of crises, such as the COVID-19 pandemic, Treasury has been responsible for certain emergency programs. However, these programs generally were temporary and Treasury served in a consulting role to support and advise on the programs for which other government entities were taking the lead (i.e., the Small Business Administration and the Federal Reserve). Treasury has no responsibility for large, permanent benefit entitlement programs.

- Treasury does not have the functional expertise to administer large benefit entitlement programs. The proposed legislation would require Treasury to create and staff an entirely new office (or division) to administer the paid leave benefit program, including determining individuals' eligibility for the leave benefits and awarding grants to eligible States and employers that maintain leave programs. The proposed legislation makes Treasury responsible for taking applications from individuals seeking the paid leave benefit, vetting the applications, making determinations whether the individuals are eligible for the benefit, establishing a call center, and creating an appeals process for individuals to challenge denied benefits, among other administrative functions. These are not Treasury functions. Although the proposed legislation provides funding to establish and administer this benefit program, we question whether Treasury is the appropriate agency for this role. There are real questions regarding transferring functions that have historically been housed in other agencies, with systems and adjudication processes in place already, to the Treasury department.

- Treasury is not in a unique position to obtain the wage or income data required to determine an individual's average monthly earnings and calculate the individual's benefits. For employed individuals, the legislation proposes that Treasury use the National Directory of New Hires (NDNH) data base to calculate average monthly wages. Treasury does not maintain this database and has no particular familiarity with the data base. For self-employed individuals, the draft provides Treasury would receive the tax filing information from IRS via a confidentiality disclosure in the same manner as any other agency that would be better suited for program administration could receive the information. The NDNH and IRS self-employed earnings data could just as easily be transmitted to another agency (e.g., the Social Security Administration or HHS) to calculate the average monthly earnings and determine eligibility for the paid leave benefit.



Kevin Brady
Republican Leader
Committee on Ways and Means

Third, as they do throughout the larger budget reconciliation bill, Committee Democrats are unabashedly putting rich over poor by giving preference to high income earners and leaving the working class behind. According to the Congressional Research Service (CRS), under the benefit calculation formula in Subtitle A, a two-earner household making $500,000 would be eligible to claim more than $28,000 in taxpayer funded federal paid family and medical leave benefits—every year.

Meanwhile, the bill provides no minimum benefit for low-income earners.[6] To correct this imbalance in the bill, Committee Republicans offered an amendment to reduce the maximum earnings eligibility limit to $100,000 and provide a minimum and maximum benefit amount of $580 and $4,000, respectively, equivalent to what is included in the FAMILY Act. This amendment represented a simple guardrail to make sure benefits are targeted to those who need it most. The amendment to prohibit benefits for families making half a million dollars was unanimously rejected by Committee Democrats.

Fourth, Chairman Neal's version of paid family and medical leave is not targeted to people who are working. Majority Committee staff confirmed this point in response to technical questions during the mark-up. Further, the bill itself references, providing benefits for those individuals who "does not have (or no longer has) an employer [.]"[7] In order to apply for benefits under this subtitle an individual does not have to be currently working.

The requirement in Subtitle A is that an individual must have worked, at some point, for any length of time, in the previous quarter. Based on data provided by CRS, Minority Committee staff reviewed state paid leave laws already in place across the country. Each of the 10 states that have a paid leave program in place were reasonable enough to implement policies that require workers to have been employed 30-days prior to applying for benefits.[8] Those states include California, Massachusetts, and New York.

Committee Republicans offered an amendment to strengthen the program's connection to work by requiring that the individual applying for benefits must: 1) have wages or self-employment income in the 30-day period prior to applying for benefits, the same policy as state paid leave laws; and 2) been in employed at least 4 of the 5 most recent calendar quarters. The amendment to require applicants for paid leave benefits to be employed was unanimously rejected by Committee Democrats.

Fifth, Subtitle A includes several overt blind spots that make the program incredibly susceptible to fraud. Committee Democrats unanimously rejected two common sense amendments that would have closed loopholes to improve program integrity and protect theft of taxpayer dollars. The first amendment would have prevented two caregivers from qualifying for paid family and medical leave benefits for care provided at the same time, in the same household, to the same

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[6] Congressional Research Service memo to minority staff, re: Benefit Formula as Provided under Subtitle A of the Build Back Better Act (as Released on September 7, 2021), and Hypothetical Benefit Amounts for Individuals with $250,000 in Annual Earnings, September 8, 2021.
[7] Subtitle A, Sec. 2204(b)(3).
[8] Congressional Research Service, Comparison of Selected State Leave Insurance Program Characteristics to the Building an Economy for Families Act (BEFA), May 25, 2021.

individual. CRS confirmed that there is nothing in the bill that would prevent two parents from taking the same paid leave time to care for their child:

> *"The BBBA proposes to calculate benefits on an individual basis (i.e., it does not appear to provide a maximum benefit per household or condition benefits for one household members on caregiving provided by another member). Therefore, by our read, the BBBA would not prohibit parents from claiming benefits for the same caregiving hours, as long as both parents meet the eligibility requirements and engaged in qualified caregiving for 4 hours in a week."*[9]

Duplicate receipt of benefits is bad policy. It shows how poorly thought out this program is and demonstrates how the underlying bill is not ready for prime time. Committee Republicans offered an amendment that would simply prohibit individuals in the same household from being treated as engaging in qualified caregiving for the same caregiving reason for the same caregiving hour. The amendment to prevent duplicate receipt of benefits was unanimously rejected by Committee Democrats.

The most pernicious provision in the bill would allow people to self-certify their identity and earnings in order to receive paid family and medical leave benefits. The word "self-attestation" appears no less than five times in the short description of the application for the program. Self-attestation in this program is ripe for fraud.

Democrats on this Committee have not learned from this same terrible policy that allowed anywhere from $89 to $400 billion in pandemic unemployment benefits to be diverted away from unemployed workers into the hands of criminals using stolen identities. In the CARES Act, Congress created new pandemic unemployment programs that allowed self-certification to expedite emergency payments when businesses were closed. Democrats don't like to talk about it and have not held a single oversight hearing to investigate – but fraudsters took full advantage of this glaring loophole. The Labor Department's Inspector General issued a report in October 2020 that specifically pointed to the self-certification requirement as the primary weakness leading to fraudulent payments.[10]

Committee Republicans offered an amendment to avoid replicating the policies that enabled the largest fraudulent disbursement of taxpayer dollars in our nation's history. The amendment would strike the language that allows for self-certification and require documentation of identity, earnings, and employment prior to Treasury authorizing family leave and or medical leave benefits. The amendment to close this fraud loophole was unanimously rejected by Committee Democrats.

Finally, this bill includes a new grant program designed to buy off large employers that will discourage companies from offering their own paid leave benefits, in favor of a one-size-fits-all federal benefit. In other words: if you like your paid leave, you can't keep your paid leave. Many workers could end up with less flexibility or lose their benefits altogether as a result.

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[9] Congressional Research Service email to minority committee staff dated September 7, 2021.
[10] Department of Labor, Inspector General, "COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with CARES Act UI Program Self Certification Requirement," October 21, 2020.

Subtitle A transfers the liability and cost of paid family and medical leave plans that big business already provides, on to American taxpayers. When Republicans created the first ever national paid family and medical leave program in the Tax Cuts and Jobs Act – the Employer-Provided Paid Family and Medical Leave tax credit – we allowed that credit to cover up to 25 percent of an employer's paid family and medical leave benefits. At the time the Republican benefit which was considered almost too generous.

When the Majority published an initial discussion draft in May, the bill included a 40 percent reimbursement grant program for employers already providing paid family and medical leave to their workers. Now, the underlying bill has increased that to 90 percent reimbursement. Democrats are blatantly attempting to buy off big business. Why should hardworking taxpayers subsidize large employers like Amazon for benefits they are already providing?

This is a shameless give away to corporate interests to buy off their opposition to this bill. Committee Republicans offered an amendment to lower the reimbursement rate for big businesses to a reasonable 25 percent. The amendment was unanimously rejected by Committee Democrats.

The program in Subtitle A is completely disconnected from employers and work. Committee Democrats have not designed a paid leave program, they've designed a new cash benefits program that lacks adequate safeguards to prevent abuse. This is a rushed, fiscally irresponsible, federal takeover of paid leave that threatens existing employer paid parental leave policies and hamstrings Main Street businesses.

There are better ways to support workers when they need time off from work without upending the existing employment and benefits arrangement of every single working American. Washington control means lower paychecks, fewer jobs, and less choice for families.

Committee Republicans have presented flexible solutions that working families can count on and laid out many of these in the "Protecting Worker Paychecks and Family Choice Act." Democrats should hit the brakes on this recklessly flawed program and reach across the aisle to work with Republicans to find lasting bipartisan solutions to expand access to paid family and medical leave for working families.

TABLE OF CONTENTS

Page

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 27

BUDGET EFFECTS OF THE SUBTITLE 29

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 30

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED 32

DISSENTING VIEWS 32

SUBTITLE B — RETIREMENT

EXPLANATION OF PROVISIONS

A. Automatic Contribution Plans and Arrangements

Tax imposed on employers failing to maintain automatic contribution plan or arrangement (sec. 131101 of the bill and sec. 414 and new sec. 4980J of the Code)

Present Law

Whether to offer a retirement plan is a choice by an employer. The Code provides for multiple types of tax-favored employer-sponsored retirement plans, including qualified retirement plans and annuities,[1] tax-deferred annuities,[2] governmental eligible deferred compensation plans,[3] savings incentive match plans for employees ("SIMPLE") individual retirement arrangements ("IRAs"),[4] and simplified employee pensions ("SEPs").[5] Each of these are subject to varying requirements under the Code. Another retirement vehicle available to individuals is an IRA.[6] There are two basic types of IRAs, traditional IRAs and Roth IRAs, as further described below.

Qualified Retirement Plans

Qualified retirement plans are of two general types: defined benefit plans, under which benefits are determined under a plan formula and paid from general plan assets, rather than individual accounts; and defined contribution plans, under which benefits are based on a separate account for each participant, to which are allocated contributions, earnings, and losses. Some qualified retirement plans are referred to as hybrid plans because they have features of both a defined benefit plan and a defined contribution plan; for example, cash balance plans are defined benefit plans, but plan benefits are defined by reference to a hypothetical account balance. Qualified annuity plans are similar to qualified retirement plans in treatment, but plan assets are invested in annuity contracts rather than held in a trust or custodial account.

Defined Contribution Plans

In General

Defined contribution plans may provide for nonelective contributions and matching contributions by employers and pre-tax (that is, contributions are either excluded from income or

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[1] Secs. 401(a) and 403(a). All section references herein are to the Internal Revenue Code of 1986, as amended (herein "Code"), unless otherwise stated.

[2] Sec. 403(b).

[3] Sec. 457(b).

[4] Sec. 408(p).

[5] Sec. 408(k).

[6] The term "IRA" includes both individual retirement accounts, under section 408(a), and individual retirement annuities, under section 408(b).

deductible) or after-tax contributions by employees. Total contributions made to an employee's account for a year cannot exceed the lesser of $58,000 (for 2021)[7] or the employee's compensation. The deduction for employer contributions to a defined contribution plan for a year is generally limited to 25 percent of the participant's compensation. A participant must at all times be fully vested in his or her own contributions to a defined contribution plan and must vest in employer contributions under three-year cliff vesting or two-to-six-year graduated vesting.

Defined contribution plans often provide for loans to participants and generally provide for distributions on severance from employment and, depending on the type of plan, may provide for in-service distributions.[8] Defined contribution plans may provide for distributions to be made in a lump sum or installments; defined contribution plans may offer annuity distributions, but most are not required to offer annuities.

Defined contribution plans may themselves be of different types, specifically, profit-sharing plans, stock bonus plans, or money purchase pension plans, and may include special features, such as a qualified cash or deferred arrangement (section 401(k)) or an employee stock ownership plan ("ESOP"). Rules requiring annuity benefits for surviving spouses and spousal consent to certain distributions apply to money purchase pension plans and, in some cases, other defined contribution plans offering annuities. However, most defined contribution plans are exempt from these requirements as long as they provide that a participant's account balance will be paid to the participant's surviving spouse (unless the spouse consents to a different beneficiary).

Section 401(k) Plans

Under a section 401(k) plan, an employee may elect to have contributions (elective deferrals) made to the plan, rather than receive the same amount in cash. For 2021, elective deferrals of up to $19,500 may be made, plus, for employees aged 50 or older, up to $6,500 in catch-up contributions. Elective deferrals generally cannot be distributed from the plan before the employee's severance from employment, death, disability, or attainment of age 59½, or in the case of hardship or plan termination.

Elective deferrals are generally made on a pre-tax basis. However, a section 401(k) plan may include a qualified Roth contribution program under which elective deferrals are made on an after-tax basis (designated Roth contributions), and certain distributions ("qualified distributions") are excluded from income. Many section 401(k) plans provide for matching contributions and may also provide for employer nonelective contributions and after-tax employee contributions.

Section 401(k) plans may be designed so that elective deferrals are made only if the employee affirmatively elects them. However, a section 401(k) plan may provide for "automatic enrollment," under which elective deferrals are made at a specified rate unless the employee

[7] Plans may permit employees aged 50 or older to make catch-up contributions; in that case the limit (including catch-up contributions) is $64,500 for 2021.

[8] For example, because money purchase pension plans are pension plans, they generally cannot allow for distributions except for at retirement or termination of employment.

affirmatively elects not to make contributions or to make contributions at a different rate. Various rules have been developed to provide favorable treatment for plans that provide for automatic enrollment, subject to certain notice requirements.

Elective deferrals under a section 401(k) plan are subject to a special nondiscrimination test, called the actual deferral percentage test or "ADP" test, which compares the average deferral rates for highly compensated employees and non-highly compensated employees. A similar test, the actual contribution percentage test or "ACP" test, applies to employer matching contributions and after-tax employee contributions. Design-based safe harbors are also available for satisfying the special nondiscrimination requirements.

ESOPs

An ESOP is a stock bonus plan that is designated as an ESOP and is designed to invest primarily in employer stock. An ESOP can be a standalone plan or it can be a portion of another type of defined contribution plan.

ESOPs are subject to additional requirements that do not apply to other plans that hold employer stock, including a requirement that certain participants must be permitted to diversify a portion of their accounts. However, certain benefits are available to ESOPs that are not available to other types of qualified retirement plans, including an exception to the prohibited transaction rules for certain loans and, in the case of a C corporation, higher deduction limits. ESOPs maintained by S corporations are subject to special rules, including restrictions on the provision of employer stock and stock options (or other "synthetic equity") to certain "disqualified persons."

Section 403(b) Plans

Tax-deferred annuity plans (referred to as section 403(b) plans) are generally similar to qualified defined contribution plans but may be maintained only by (1) tax-exempt charitable organizations,[9] and (2) educational institutions of State or local governments (that is, public schools, including colleges and universities).[10] Section 403(b) plans may provide for employees to make elective deferrals (in pre-tax or designated Roth form), including catch-up contributions, or other after-tax employee contributions, and employers may make nonelective or matching contributions on behalf of employees. Contributions to a section 403(b) plan are generally subject to the same contribution limits applicable to qualified defined contribution plans, including the limits on elective deferrals.

Governmental Section 457(b) Plans

Special rules apply with respect to deferred compensation arrangements of State and local government and tax-exempt employers.[11] Amounts deferred under an eligible deferred compensation plan, *i.e.*, a section 457(b) plan, are not currently included in income. In the case

[9] These are organizations exempt from tax under section 501(c)(3). Section 403(b) plans of private, tax-exempt employers may be subject to ERISA as well as the requirements of section 403(b).

[10] Sec. 403(b).

[11] Sec. 457.

of a State or local government employer, a section 457(b) plan is generally limited to elective deferrals and provides tax benefits similar to a section 401(k) or section 403(b) plan in that deferrals are contributed to a trust or custodial account for the exclusive benefit of participants, but are not included in income until distributed (and may be rolled over to another tax-favored plan).[12] Generally, the same contribution limits apply that apply to section 401(k) and section 403(b) plans.[13]

SIMPLE IRA Plan

A small employer that employs no more than 100 employees who earned $5,000 or more during the prior calendar year can establish a simplified tax-favored retirement plan, which is called the SIMPLE retirement plan. A SIMPLE IRA plan is generally a plan under which contributions are made to an IRA for each employee (a "SIMPLE IRA").[14] A SIMPLE IRA plan allows employees to make elective deferrals to a SIMPLE IRA, subject to a limit of $13,500 (for 2021). An individual who has attained age 50 before the end of the taxable year may also make catch-up contributions under a SIMPLE IRA plan up to a limit of $3,000 (for 2021).

Simplified Employee Pensions

A SEP is an IRA to which the employer may make contributions for an employee up to the lesser of 25 percent of the employee's compensation or the dollar limit applicable to contributions to a qualified defined contribution plan ($58,000 for 2021).[15] All contributions must be fully vested. Any employee must be eligible to participate in the SEP if the employee has (1) attained age 21, (2) performed services for the employer during at least three of the immediately preceding five years, and (3) received at least $650 (for 2021) in compensation from the employer for the year. Contributions to a SEP generally must bear a uniform relationship to compensation. Effective for taxable years beginning before January 1, 1997, certain employers with no more than 25 employees could maintain a salary reduction SEP ("SARSEP") under which employees could make elective deferrals.

Individual retirement arrangements

There are two basic types of IRAs: traditional IRAs,[16] to which both deductible and nondeductible contributions may be made,[17] and Roth IRAs, to which only nondeductible contributions may be made.[18] The principal difference between these two types of IRAs is the

[12] In the case of a tax-exempt employer, sections 457(b) and 457(f) limit the amount of unfunded nonqualified deferred compensation that can be provided on a tax-deferred basis.

[13] However, the section 457(b) plan limits apply separately from the combined limit applicable to section 401(k) and section 403(b) plan contributions, so that an employee covered by a governmental section 457(b) plan and a section 401(k) or section 403(b) plan can contribute the full amount to each plan. In addition, under a special catch-up rule, for one or more of the participant's last three years before normal retirement age, the otherwise applicable limit is increased to the lesser of (1) two times the normal annual limit ($39,000 for 2021) or (2) the sum of the otherwise applicable limit for the year plus the amount by which the limit applicable in preceding years of participation exceeded the deferrals for that year.

[14] Sec. 408(p).

[15] Sec. 408(k).

[16] Sec. 408.

[17] Sec. 219.

[18] Sec. 408A.

timing of income tax inclusion. For a traditional IRA, an eligible contributor may deduct the contributions made for the year, but distributions are includible in gross income to the extent attributable to earnings on the account and the deductible contributions. For a Roth IRA, all contributions are after-tax (that is, no deduction is allowed) and, if certain requirements are satisfied, distributions are not includible in gross income.

Annual Contribution Limit

An annual limit applies to contributions to IRAs. The contribution limit is coordinated so that the aggregate maximum amount that can be contributed to all of an individual's IRAs (both traditional and Roth) for a taxable year is generally the lesser of a certain dollar amount ($6,000 for 2021) or the individual's compensation.[19] In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses is at least equal to the contributed amount.

An individual who has attained age 50 before the end of the taxable year may also make catch-up contributions to an IRA. For this purpose, the aggregate dollar limit is increased by $1,000. Thus, for example, if an individual over age 50 contributes $7,000 to a Roth IRA for 2021 ($6,000 plus $1,000 catch-up), the individual will not be permitted to make any contributions to a traditional IRA for that year. In addition, deductible contributions to traditional IRAs and after-tax contributions to Roth IRAs generally are subject to adjusted gross income ("AGI") limits. IRA contributions generally must be made in cash.

Traditional IRAs

An individual may make deductible contributions to a traditional IRA up to the IRA contribution limit if neither the individual nor the individual's spouse is an active participant in an employer-sponsored retirement plan. If an individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan, the deduction is phased out for taxpayers with AGI for the taxable year over certain indexed levels. In the case of an individual who is an active participant in an employer-sponsored plan, the AGI phase-out ranges for 2021 are: (1) for single taxpayers, $66,000 to $76,000; (2) for married taxpayers filing joint returns, $105,000 to $125,000; and (3) for married taxpayers filing separate returns, $0 to $10,000. If an individual is not an active participant in an employer-sponsored retirement plan, but the individual's spouse is, the deduction is phased out for taxpayers with AGI for 2021 between $198,000 and $208,000.

To the extent an individual cannot or does not make deductible contributions to a traditional IRA or contributions to a Roth IRA for the taxable year, the individual may make nondeductible contributions to a traditional IRA (that is, no AGI limits apply), subject to the same contribution limits as the limits on deductible contributions, including catch-up contributions.

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[19] Under a special rule, the contribution limit for nondeductible contributions to an IRA may be increased in certain circumstances by the amount of qualified foster payments that are difficulty of care payments that an individual excludes from gross income. Sec. 408(o)(5). Thus, for example, an individual who receives such difficulty of care payments but has no compensation for a taxable year may nevertheless be permitted to contribute to an IRA.

Roth IRAs

Individuals with AGI below certain levels may make nondeductible contributions to a Roth IRA. The maximum annual contribution that can be made to a Roth IRA is phased out for taxpayers with AGI for the taxable year over certain indexed levels. The AGI phase-out ranges for 2021 are: (1) for single taxpayers, $125,000 to $140,000; (2) for married taxpayers filing joint returns, $198,000 to $208,000; and (3) for married taxpayers filing separate returns, $0 to $10,000.

Automatic Enrollment

Employer-sponsored retirement plans that include salary reduction arrangements are generally designed so that an employee will receive cash compensation unless the employee affirmatively elects to make elective deferrals to the plan. Alternatively, such plans may provide that elective deferrals are made at a specified rate (when the employee becomes eligible to participate) unless the employee elects otherwise (*i.e.*, affirmatively elects not to make contributions or to make contributions at a different rate). This alternative plan design is referred to as automatic enrollment.

Nondiscrimination Test and Automatic Enrollment Safe Harbor

An annual nondiscrimination test, the ADP test, applies to elective deferrals under a section 401(k) plan.[20] The ADP test generally compares the average rate of deferral for highly compensated employees to the average rate of deferral for non-highly compensated employees and requires that the average deferral rate for highly compensated employees not exceed the average rate for non-highly compensated employees by more than certain specified amounts. If a plan fails to satisfy the ADP test for a plan year based on the deferral elections of highly compensated employees, the plan is permitted to distribute deferrals to highly compensated employees ("excess deferrals") in a sufficient amount to correct the failure. The distribution of the excess deferrals must be made by the close of the following plan year.[21]

The ADP test is deemed to be satisfied under two section 401(k) plan designs ("section 401(k) safe harbor plans"), which include requirements relating to certain minimum matching or nonelective contributions, a notice requirement, and certain other required rights and features.[22] One type of section 401(k) safe harbor plan includes automatic enrollment ("automatic enrollment section 401(k) safe harbor plan").

An automatic enrollment section 401(k) safe harbor plan must provide that, unless an employee elects otherwise, the employee is treated as electing to make elective deferrals at a default rate equal to a percentage of compensation as stated in the plan that is at least (1) three percent of compensation through the end of the first plan year that begins after the first deemed election applies to the participant, (2) four percent during the second plan year, (3) five percent during the third plan year, and (4) six percent during the fourth plan year and thereafter. An

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[20] Sec. 401(k)(3).

[21] Sec. 401(k)(8).

[22] Sec. 401(k)(12) and (13). If certain additional requirements are met, matching contributions under a section 401(k) safe harbor plan may also satisfy a nondiscrimination test applicable under section 401(m).

automatic enrollment section 401(k) safe harbor plan generally may provide for default rates higher than these minimum rates, but the default rate cannot exceed 15 percent for any year (10 percent during the first year). The plan also must satisfy either a matching contribution ("matching contribution automatic enrollment section 401(k) safe harbor plan") or nonelective contribution requirement.[23]

A matching contribution automatic enrollment section 401(k) safe harbor plan must also meet a notice requirement. The plan must provide each employee eligible to participate, within a reasonable period before each plan year, with a written notice that describes the employee's rights and obligations under the arrangement. Such notice must be sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and must be written in a manner calculated to be understood by the average employee to whom the arrangement applies. In addition, the notice must (1) explain the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage), and (2) in the case of an arrangement under which the employee may elect among two or more investment options, explain how contributions made under the arrangement will be invested in the absence of any investment election by the employee. The employee also must have a reasonable period of time after receipt of the notice and before the first elective contribution is made to make either such election.

Explanation of Provision

Section 131101 amends section 414 of the code and adds new section 4980J to impose an excise tax on an employer that does not maintain or facilitate an automatic contribution plan or arrangement. There are four general categories of automatic contribution plans and arrangements under the provision:

(1) a defined contribution plan that (a) is a qualified retirement plan, qualified annuity plan, or section 403(b) plan,[24] (b) includes a qualified cash or deferred arrangement or a salary reduction arrangement, and (c) meets the requirements under the provision relating to notices, eligibility, contribution, investment, fees, and lifetime income (as described below);

(2) an automatic IRA arrangement, which in addition to meeting certain requirements applicable to automatic IRA arrangements described below, must meet the requirements relating to eligibility, contribution, investment, and fees;

(3) a SIMPLE IRA that meets the requirements relating to notices, contribution, investment, and fees; and

(4) a grandfathered plan.

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[23] The matching contribution requirement is 100 percent of elective contributions of the employee for contributions not in excess of one percent of compensation, and 50 percent of elective contributions for contributions that exceed one percent of compensation but do not exceed six percent, for a total matching contribution of up to 3.5 percent of compensation. Alternatively, the plan can provide that the employer will make a nonelective contribution of three percent. Section 401(k)(13)(D).

[24] Plans described in section 219(g)(5)(A)(i), (ii), and (iv).

A grandfathered plan is a plan or arrangement that is established and maintained by an employer as of the date of enactment of the provision, and must be a qualified retirement plan, qualified annuity plan, section 403(b) plan, a SEP, or a SIMPLE IRA.[25] In addition, section 403(b) plans that are not subject to title I of ERISA[26] and that offer annuity contracts or custodial accounts as of the date of enactment are also grandfathered. Grandfathered plans are not subject to the notice, eligibility, contribution, investment, fee, or lifetime income requirements described below.

Notice Requirement

For automatic contribution plans and arrangements subject to the notice requirement (generally all except for automatic IRA arrangements, which have a separate notice requirement), a plan or arrangement meets the notice requirement with respect to an employee if it meets the notice requirements applicable to a matching contribution automatic enrollment section 401(k) safe harbor plan (or similar requirements), excluding any notice requirement that is not applicable or relevant to the particular plan or arrangement.

Eligibility Requirement

For automatic contribution plans and arrangements subject to the eligibility requirement (generally all plans and arrangements other than SIMPLE IRAs), the general rule is that all employees of an employer must be eligible to participate in an automatic contribution plan or arrangement maintained or facilitated by the employer.[27] However, certain exclusions apply. The plan or arrangement is not required to extend eligibility for participation to (1) an employee who has not attained age 21, (2) certain categories of employees who can be excluded from minimum coverage testing for qualified plans,[28] and (3) employees who have not met the service requirement. An employee has not met the service requirement if the employee has not completed at least one of the following periods: (1) the period of service applicable to the minimum age and service conditions for qualified plans (generally, the period of service ending with the later of the date the employee attains age 21 or the date the employee completes one year of service),[29] or (2) a period of two consecutive 12-month periods during each of which the employee has at least 500 hours of service.

For purposes of these rules, employers within a controlled group are treated as a single employer, and eligible employees within an employer need not be eligible to participate in the same automatic contribution plan or arrangement. With respect to entry dates, rules similar to the rules applicable to qualified plans apply to employees who have satisfied the applicable age and service requirements and are otherwise entitled to participate in a plan or arrangement.[30]

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[25] Plans or arrangements described in section 219(g)(5)(A)(i), (ii), (iv), (v), or (vi).

[26] 29 C.F.R. sec. 2510.3-2(f).

[27] Automatic contribution plans and arrangements, depending on the type of plan, may also be subject to requirements relating to eligibility under the Code, such as under section 410.

[28] Sec. 410(b)(3).

[29] Sec. 410(a)(1), determined without regard to subparagraph (B)(i) thereof.

[30] Sec. 410(a)(4). Thus, an employee who has attained age 21 and has completed one of the required periods of service applicable to automatic contribution plans and arrangements and who is otherwise entitled to

Contribution Requirements

Under the automatic contribution plan or arrangement, each employee who is eligible to participate must be treated, unless the employee elects otherwise, as having elected to have the employer make elective contributions (payroll deduction contributions in the case of an automatic IRA arrangement) in an amount equal to the applicable qualified percentage of compensation. Such percentage is determined under the terms of the plan or arrangement, subject to certain rules. The qualified percentage must be applied uniformly and must be at least (1) six percent during the period ending on the last day of the first plan year that begins after the date on which the first elective contribution is made with respect to an employee, (2) seven percent during the second plan year, (3) eight percent during the third plan year, (4) nine percent during the fourth plan year, and (5) 10 percent during the fifth plan year and thereafter. The plan or arrangement may generally provide for a qualified percentage higher than these minimum rates, but the qualified percentage cannot exceed 15 percent for any plan year (10 percent during the first plan year). In the case of an automatic IRA arrangement, however, the qualified percentage must equal the minimum percentage applicable to a particular plan year. Thus, for example, an employee's qualified percentage during the second plan year must be seven percent.

The election to make elective contributions at the qualified percentage ceases to apply to an employee if the employee makes an affirmative election not to contribute or to contribute at a different level.

Investment Requirements

Under the provision, the automatic contribution plan or arrangement must provide that, absent an investment election by the participant or beneficiary, amounts are invested only in the specific class of assets or funds described under Department of Labor regulations that is generally referred to as life-cycle and target date funds.[31]

In the case of an automatic IRA arrangement, with respect to any IRA of a trustee or issuer designated by the employer,[32] the IRA must offer the participant the following investment options as alternatives to the default option (and may not offer any other investment options): (1) a class of assets or funds that is designed to protect the principal of the individual on an ongoing basis, (2) the class of assets or funds described under Department of Labor regulations that is generally described as a balanced fund,[33] and (3) any other class of assets or funds determined by the Secretary of Treasury ("Secretary") to be a qualified investment for this purpose.

Fee Requirement

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participate must generally be able to commence participation no later than the earlier of (1) the first day of the first plan year beginning after the date on which the employee satisfies the eligibility requirements, or (2) the date six months after the date on which the employee satisfies such requirements.

[31] The class of assets or funds must constitute a qualified default investment alternative under Department of Labor regulation section 2550.404c-5(e)(4)(i).

[32] Similarly, the default option of a life-cycle or target date fund is required only under an IRA of a trustee or issuer designated by the employer. The automatic IRA arrangement may alternatively permit employees to make payroll deduction contributions to any IRA specified by the employee.

[33] 29 CFR 2550.404c-5(e)(4)(ii).

In the case of an automatic contribution plan or arrangement that is not otherwise subject to title I of ERISA, no participant may be charged unreasonable fees or expenses. This rule applies to an automatic IRA arrangement only in the case of an IRA of a trustee or issuer designated by the employer.

Lifetime Income Requirement

For automatic contribution plans subject to the lifetime income requirement (generally all plans other than SIMPLE IRAs and automatic IRA arrangements), the plan must permit participants to elect to receive at least 50 percent of their vested account balance in the form of a lifetime income feature. A lifetime income feature means either (1) a feature that guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or the joint lives of the employee and the employee's designated beneficiary, or (2) an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the employee or the joint lives of the employee and the employee's designated beneficiary.[34] An exception from this rule applies to a participant whose vested account balance is $200,000 or less at the time of distribution. A plan that applies this rule is not treated as discriminating in favor of highly compensated employees[35] solely by reason of applying such rule.

Automatic IRA Arrangements

Under the provision, an automatic IRA arrangement generally means, with respect to an employer (and trustee or issuer designated by the employer), an arrangement under which an employee may elect to have the employer make deposits on behalf of the individual as payroll deduction contributions to an IRA or to have such payments made directly in cash. The employee must be treated under the arrangement as having made an election to make payroll deduction contributions until the employee makes an affirmative election not to have such contributions made or to make the contributions at a different level, and must be permitted to elect to modify the manner in which such amounts are invested. Such contributions must meet the general requirements applicable to contributions to an automatic contribution plan described above. Automatic IRA arrangements must also meet the requirements relating to eligibility, investment, and fees, as described above.

Contributions and Employee Notices

The provision also subjects automatic IRA arrangements to certain administrative requirements. With respect to payments under the arrangement, the employer must make payments elected or treated as elected by the employee on or before the last day of the month following the month in which the compensation otherwise would have been payable to the employee in cash. The employer also must notify each employee eligible to participate, within a reasonable period of time before the beginning of the year (and, for the first year the employee is eligible, a reasonable period before the first day of eligibility), of (1) the opportunity to elect to have contributions made (or to be so treated), (2) the opportunity to elect not to have payroll deduction contributions made or to have such contributions made at a different percentage or in a

[34] Sec. 401(a)(38)(B)(iii).
[35] Under section 401(a)(4).

different amount, and (3) the opportunity to modify the manner in which such amounts are invested for such year. The notice must be provided in paper form or, if the employee so elects, in electronic form.

Under the provision, an employer is not treated as failing to satisfy any requirements under the Code merely because an individual's aggregate contributions to IRAs exceed the limit on deductible IRA contributions,[36] or merely because the employer chooses to limit contributions under the plan on behalf of an employee for a calendar year in a manner designed to avoid exceeding such limit. In addition, the employer is not treated as failing to satisfy any requirements under the Code merely because the employer makes all payroll deduction contributions on behalf of all employees to an IRA of a trustee or issuer that has been designated by the employer, but only if the provider of such accounts, and the investments therein, are identified on the website established by the Secretary to provide information on automatic IRA arrangements (as described below). However, for such rule to apply, each participant must be notified in writing that the participant's balance may be transferred without cost or penalty to another IRA established by or on behalf of the participant.[37] The employer is permitted, but not required, to provide for an employee election to have payroll deduction contributions made to an IRA specified by the employee. The IRA to which payroll deduction contributions are made on behalf of an employee must be a Roth IRA unless the participant elects otherwise.

Model Notice and Other Directives to the Secretary

The provision directs the Secretary to issue regulations as necessary to carry out the purpose of the rules relating to automatic IRA arrangements, including establishing procedures to assist employers in connecting with certified and available providers of IRAs and to communicate to individuals the importance of investment diversification.

In addition, the provision directs the Secretary to issue a model notice, written in a manner calculated to be understandable to the average worker, that is simple for employers to use, to notify employees of the requirement for the employer to provide certain employees with the opportunity to participate in an automatic IRA arrangement, and to satisfy the notice requirements applicable to automatic IRA arrangements as described above. The Secretary must also provide model forms for enrollment, including automatic enrollment, in an automatic IRA arrangement, and establish a website or other electronic means that small employers and individuals can access and use to obtain information on automatic IRA arrangements (including clear, standardized, easy-to-compare information on fees and expenses and investment returns in a format prescribed by the Secretary) and to obtain notices and forms. The information on such website must be provided in a manner designed to assist employers and providers by facilitating the identification by employers of private-sector providers of IRAs, including the provider's investment options, that are appropriate for use in automatic IRA arrangements.

Under the provision, the Secretary also must establish a process (1) for the provider of an automatic IRA arrangement to demonstrate to the Secretary that the arrangement meets the applicable requirements, and (2) to certify any arrangement that the Secretary determines so

[36] The deductible amount in effect under section 219(b)(5) (determined without regard to subparagraph (B) thereof).

[37] The notice must be provided in paper form or, if the employee so elects, in electronic form.

demonstrates, to regularly monitor compliance and update such determinations and certifications, and to list all arrangements so certified on the website described above as appropriate for use by employers and participants.

Finally, the provision requires the Secretary, not later than 90 days after the date of the enactment of this provision, to establish an Automatic IRA Advisory Group ("Advisory Group"). The purpose of the Advisory Group is to make recommendations, advise, and assist in the Secretary's implementation and administration of the requirements related to automatic IRA arrangements, including the investment and fee requirements. Such implementation and administration includes:

- the procedures and criteria for the periodic certification, website listing, and monitoring of investment options that meet the requirements of those paragraphs,
- user-friendly disclosure regarding investment returns, terms, fees, and expenses to facilitate comparison,
- the use of low-cost investment options,
- the appropriate use of electronic and paper methods to provide notice and disclosure,
- any possible learnings or efficiencies based on the Secretary's procedures and experience in approving nonbank IRA trustees, and
- such other related matters as may be determined by the Secretary.

The Advisory Group must consist of not more than 15 members and be composed of such individuals as the Secretary may consider appropriate to provide expertise regarding the financial needs and challenges of lower- and middle-income households. At least one member must be an expert in retirement-related consumer protections or must represent the general public, and at least one member must be a representative of the Department of the Treasury. The members of the Advisory Group serve without compensation. The Department of the Treasury must provide appropriate administrative support to the Advisory Group, including technical assistance, and the Advisory Group may use the services and facilities of the Department, with or without reimbursement, as determined by the Department. Not later than one year after the date of the enactment of this provision, the Advisory Group must submit to the Secretary a report containing its recommendations. The Secretary may request that the Advisory Group submit subsequent reports.

Safe Harbor for Certain State-Provided Programs

Under the provision, an arrangement facilitated by an employer does not fail to be treated as an automatic IRA arrangement merely because it is provided or otherwise offered, in whole or in part, by a state. This permits a state that currently has an automatic IRA enrollment program for employees working in the state to offer participation in the program to employees of employers who wish to facilitate an automatic IRA arrangement but whose employees work partially or wholly in other states.

Other Rules Applicable to Automatic IRA Arrangements

For purposes of the rules applicable to prohibited transactions,[38] if an employer is required under an automatic IRA arrangement to deposit amounts withheld from an employee's compensation into an IRA but fails to timely do so, such amounts are treated as assets of the IRA.

For purposes of the ten-percent additional tax that applies to early distributions from an IRA,[39] such tax does not apply to a distribution to an individual from an IRA that is part of an automatic IRA arrangement if such distribution is made not later than 90 days after the individual is first deemed to have made an election to contribute to the IRA.

Excise Tax

The provision imposes an excise tax on an employer[40] for failing to maintain or facilitate an automatic contribution plan or arrangement. The tax is $10 (adjusted for inflation) on any failure with respect to an employee for each day in the noncompliance period. The noncompliance period is the period beginning on the date the failure occurs and ending on the earlier of (1) the date such failure is corrected, or (2) the date that is three months after the last date on which the employee is required to be eligible to participate in an automatic contribution plan or arrangement maintained or facilitated by the employer.

Exceptions apply to the imposition of the excise tax. The tax is not imposed on an employer with respect to any employee who is eligible to participate in a different automatic contribution plan or arrangement than one or more other employees of the employer.[41] No tax is imposed on any failure during any period for which it is established to the satisfaction of the Secretary that the employer[42] did not know, nor exercising reasonable diligence would have known, that the failure existed. In addition, no tax is imposed on any failure if (1) such failure was due to reasonable cause and not willful neglect, and (2) the failure is corrected during the nine-and-a-half-month period beginning on the first date the employer knew that such failure existed, or would have known exercising reasonable diligence. In the case of taxes imposed on a failure that is due to reasonable cause and not willful neglect, such tax may not exceed $500,000.[43] The Secretary also may waive part or all of such taxes to the extent that the payment of the tax would be excessive relative to the failure involved.

The provision also exempts certain categories of employers from the excise tax. The tax does not apply to an employer to the extent such employer participates in an arrangement under a qualified state law. A qualified State law is a state law that (1) was enacted before the date of enactment of the provision, and (2) either requires certain employers to facilitate an automatic

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[38] Sec. 4975(c).

[39] Sec. 72(t).

[40] The term employer under the provision includes all employers treated as a single employer under secs. 414(b), (c), (m), or (o). However, all employers, determined without regard to that rule, are jointly and severally liable for liability of any other employer with which they are aggregated for the excise tax under the provision.

[41] For this purpose, "employer" means any employers treated as a single employer under sections 414(b), (c), (m), or (o).

[42] For this purpose, "employer" includes any employer required to be aggregated under sections 414(b), (c), (m), or (o).

[43] If not all persons who are treated as a single employer have the same taxable year, the taxable years taken into account for this purpose are determined under principles similar to the principles of section 1561.

IRA arrangement pursuant to a payroll deduction savings program of the state, or allows certain employers to contribute to, or participate in, a multiple employer plan[44] established and maintained by the state. A qualified state law continues to be treated as such even if it is amended after the date of enactment of the provision.

The tax also does not apply to any employer with respect to a plan or arrangement that, during the prior calendar year, was maintained or facilitated only by employers each of which had no more than five employees receiving at least $5,000 of compensation from the employer for that year. The tax does not apply to a governmental plan[45] or church plan.[46] It also does not apply to any employer that has been in existence for fewer than two years, taking into account all predecessor employers.

Effective Date

The provision is effective for plan years beginning after December 31, 2022.

Deferral-only arrangements (sec. 131102 of the bill and sec. 401(k) of the Code)

Present Law

Section 401(k) Plans

A section 401(k) plan is a type of profit-sharing or stock bonus plan that contains a qualified cash or deferred arrangement. Such arrangements are subject to the rules generally applicable to qualified defined contribution plans. In addition, special rules apply to such arrangements. Employees who participate in a section 401(k) plan may elect to have contributions made to the plan (referred to as "elective deferrals") rather than receive the same amount as current compensation.[47] The maximum annual amount of elective deferrals that can be made by an employee for a year is $19,500 (for 2021) or, if less, the employee's compensation.[48] For an employee who attains age 50 by the end of the year, the dollar limit on elective deferrals is increased by $6,500 (for 2021) (called "catch-up contributions").[49] An employee's elective deferrals must be fully vested. A section 401(k) plan may also provide for employer matching and nonelective contributions.

In order to constitute a qualified cash or deferred arrangement, no benefit under the arrangement may be conditioned, directly or indirectly, on the employee electing to have the

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[44] A plan described in section 413(c).

[45] Sec. 414(d).

[46] Sec. 414(e).

[47] Elective deferrals generally are made on a pre-tax basis and distributions attributable to elective deferrals are includible in income. However, a section 401(k) plan is permitted to include a "qualified Roth contribution program" that permits a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as after-tax Roth contributions. Certain distributions from a designated Roth account are excluded from income, even though they include earnings not previously taxed.

[48] Sec. 402(g).

[49] Sec. 414(v).

employer make or not make contributions under the arrangement in lieu of receiving cash.[50] However, matching contributions are exempt from this rule.

Nondiscrimination Test

Actual Deferral Percentage Test

An annual nondiscrimination test, called the actual deferral percentage test (the "ADP" test) applies to elective deferrals under a section 401(k) plan.[51] The ADP test generally compares the average rate of deferral for highly compensated employees to the average rate of deferral for non-highly compensated employees and requires that the average deferral rate for highly compensated employees not exceed the average rate for non-highly compensated employees by more than specified amounts. If a plan fails to satisfy the ADP test for a plan year based on the deferral elections of highly compensated employees, the plan is permitted to distribute deferrals to highly compensated employees ("excess deferrals") in a sufficient amount to correct the failure. The distribution of the excess deferrals must be made by the close of the following plan year.[52]

The ADP test is deemed to be satisfied if a section 401(k) plan includes certain minimum matching or nonelective contributions under either of two plan designs ("401(k) safe harbor plan"), described below, as well as certain required rights and features and the plan satisfies a notice requirement.[53]

Section 401(k) Safe Harbor Contributions

Under one type of section 401(k) safe harbor plan ("basic section 401(k) safe harbor plan"), the plan either (1) satisfies a matching contribution requirement ("matching contribution basic section 401(k) safe harbor plan") or (2) provides for the employer to make a nonelective contribution to a defined contribution plan of at least three percent of an employee's compensation on behalf of each non-highly compensated employee who is eligible to participate in the plan. The matching contribution requirement under the matching contribution basic section 401(k) safe harbor plan requires a matching contribution equal to at least 100 percent of elective contributions of the employee for contributions not in excess of three percent of compensation, and 50 percent of elective contributions for contributions that exceed three percent of compensation but do not exceed five percent, for a total matching contribution of up to four percent of compensation. The required matching contributions and the three percent nonelective contribution under the basic section 401(k) safe harbor plans must be immediately nonforfeitable (that is, 100 percent vested) when made.

Another safe harbor applies for a section 401(k) plan that includes automatic enrollment ("automatic enrollment section 401(k) safe harbor plan"). Under an automatic enrollment

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[50] Sec. 401(k)(4)(A).

[51] Sec. 401(k)(3). Long-term part-time workers may be excluded from this and other nondiscrimination tests. Sec. 401(k)(2)(D).

[52] Sec. 401(k)(8).

[53] Sec. 401(k)(12) and (13). If certain additional requirements are met, matching contributions under 401(k) safe harbor plan may also satisfy a nondiscrimination test applicable under section 401(m).

section 401(k) safe harbor plan, unless an employee elects otherwise, the employee is treated as electing to make elective deferrals at a default rate equal to a percentage of compensation as stated in the plan and at least (1) three percent of compensation through the end of the first plan year that begins after the first deemed election applies to the participant, (2) four percent during the second plan year, (3) five percent during the third plan year, and (4) six percent during the fourth plan year and thereafter. An automatic enrollment section 401(k) safe harbor plan generally may provide for default rates higher than these minimum rates, but the default rate cannot exceed 15 percent for any year (10-percent during the first year).[54] The matching contribution requirement under this safe harbor is 100 percent of elective contributions of the employee for contributions not in excess of one percent of compensation, and 50 percent of elective contributions for contributions that exceed one percent of compensation but do not exceed six percent, for a total matching contribution of up to 3.5 percent of compensation ("matching contribution automatic enrollment section 401(k) safe harbor plan"). Alternatively, the plan can provide that the employer will make a nonelective contribution of three percent, as under the basic section 401(k) safe harbor plan. However, under the automatic enrollment section 401(k) safe harbor plans, the matching and nonelective contributions are allowed to become 100 percent vested after two years of service (rather than being required to be immediately vested when made).

Section 401(k) Safe Harbor Notice Requirements

Both the matching contribution basic section 401(k) safe harbor plans and the matching contribution automatic enrollment section 401(k) safe harbor plans are subject to an employee notice requirement.[55] Under the requirement, the plan must provide each employee eligible to participate, within a reasonable period before each plan year, with a written notice that describes the employee's rights and obligations under the arrangement. Such notice must be (1) sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and (2) written in a manner calculated to be understood by the average employee to whom the arrangement applies.

Additional notice requirements apply in the case of a matching contribution automatic enrollment section 401(k) safe harbor plan. The notice must (1) explain the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage), and (2) in the case of an arrangement under which the employee may elect among 2 or more investment options, explain how contributions made under the arrangement will be invested in the absence of any investment election by the employee. The employee also must have a reasonable period of time after receipt of the notice and before the first elective contribution is made to make either such election.

Explanation of Provision

[54] These automatic increases in default contribution rates are required for plans using the safe harbor. Rev. Rul. 2009–30, 2009-39 I.R.B. 391, provides guidance for including automatic increases in other plans using automatic enrollment, including under a plan that includes an eligible automatic contribution arrangement.

[55] Secs. 401(k)(12)(A); 401(k)(13)(B).

Section 131102 amends section 401(k) of the code to establish a new type of section 401(k) plan, a "deferral-only arrangement," that is treated as satisfying the ADP test.[56] A deferral-only arrangement is a cash or deferred arrangement that meets certain requirements relating to (1) automatic enrollment, (2) elective contributions, and (3) employee notices.

Under the deferral-only arrangement, each employee who is eligible to participate must be treated (unless the employee elects otherwise) as having elected to have the employer make elective contributions in an amount equal to the applicable qualified percentage of compensation. Such percentage is determined under the terms of the arrangement, subject to certain rules. The qualified percentage must be applied uniformly, and must be at least (1) six percent during the period ending on the last day of the first plan year that begins after the date on which the first elective contribution is made with respect to an employee, (2) seven percent during the second plan year, (3) eight percent during the third plan year, (4) nine percent during the fourth plan year, and (5) 10 percent during the fifth plan year and thereafter. The arrangement may generally provide for a qualified percentage higher than these minimum rates, but the qualified percentage cannot exceed 15 percent for any plan year (10 percent during the first plan year). The election to make elective deferrals at the qualified percentage ceases to apply to an employee if the employee makes an affirmative election not to contribute or to contribute at a different level.

In addition, under the arrangement, the only contributions that may be permitted are elective contributions of employees eligible to participate. Thus, the employer may not make matching or nonelective contributions to the plan. In addition, the aggregate amount of any employee's elective contributions for a calendar year may not exceed the contribution limit that is generally applicable to individual retirement arrangements ($6,000 for 2021).[57] Catch-up contributions are permitted (for an employee who attains age 50 by the end of the year) up to $1,000, indexed for inflation.

The arrangement also must satisfy the notice requirement applicable to a matching contribution automatic enrollment section 401(k) safe harbor plan. Similar to section 401(k) safe harbor plans, deferral-only arrangements are not treated as top-heavy plans.[58]

Effective Date

The provision is effective for plan years beginning after December 31, 2022.

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[56] Sec. 401(k)(3)(A)(ii).

[57] The amount of an employee's elective contributions under the deferral-only arrangement may not exceed the deductible amount in effect for the taxable year under section 219(b)(5), determined without regard to the amount of catch-up contributions described in subparagraph (B) thereof.

[58] Top-heavy requirements apply under the Code to limit the extent to which accumulated benefits or account balances under a qualified retirement plan can be concentrated with key employees. Sec. 416.

Increase in credit limitation for small employer pension plan startup costs including for automatic contribution plan or arrangement (sec. 131103 of the bill and sec. 45E of the Code)

Present Law

Small Employer Startup Credit

A nonrefundable income tax credit is available for qualified startup costs of an eligible small employer that adopts a new qualified retirement plan, SIMPLE IRA plan or SEP (referred to as an eligible employer plan), provided that the plan covers at least one non-highly compensated employee.[59] Qualified startup costs are expenses connected with the establishment or administration of the plan or retirement-related education for employees with respect to the plan. The amount of the credit is equal to 50 percent of the qualified startup costs paid or incurred by the employer during the taxable year and is limited to the greater of (1) a flat dollar amount of $500 per year or (2) the lesser of $250 for each non-highly compensated employee or a flat dollar amount of $5,000. The credit applies for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year.

An eligible employer is an employer that, for the preceding year, had no more than 100 employees with compensation of $5,000 or more. In addition, the employer must not have had a plan covering substantially the same employees as the new plan during the three years preceding the first year for which the credit would apply. Members of controlled groups and affiliated service groups are treated as a single employer for purposes of these requirements.[60] All eligible employer plans of an employer are treated as a single plan.

No deduction is allowed for the portion of qualified startup costs paid or incurred for the taxable year equal to the amount of the credit.

Explanation of Provision

Section 131103 modifies the nonrefundable income tax credit for qualified startup costs of an eligible small employer that adopts an eligible employer plan (*i.e.*, a qualified retirement plan, SIMPLE IRA plan, or SEP), other than a deferral-only arrangement as described in section 131102 of the bill. The credit is not available for the startup costs with respect to deferral-only arrangements as described in section 131102 of the bill. Because an automatic IRA arrangement, as described in section 131101 of the bill, is not an eligible employer plan, the credit is also not available for these arrangements.

The nonrefundable income tax credit is available for qualified startup costs of an eligible small employer for up to five years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year. For an eligible employer

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[59] Sec. 45E. A non-highly compensated employee is an employee who is not a highly compensated employee as defined under section 414(q). A qualified retirement plan is a qualified plan under section 401(a) or a qualified annuity plan under section 403(a).

[60] Secs. 52(a) or (b) and 414(m) or (o).

with 25 or fewer employees with compensation of $5,000 or more, the credit is available for 100 percent of qualified startup costs.

For taxable years beginning after December 31, 2022, no credit is allowed for amounts paid or incurred with respect to an eligible employer plan that is not an automatic contribution plan as defined in section 131101 of the bill.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

Credit for certain small employer automatic retirement arrangements (sec. 131104 of the bill and new sec. 45U of the Code)

Present Law

Small Employer Startup Credit

A nonrefundable income tax credit is available for qualified startup costs of an eligible small employer that adopts a new qualified retirement plan, SIMPLE IRA plan or SEP (referred to as an eligible employer plan), provided that the plan covers at least one non-highly compensated employee.[61] Qualified startup costs are expenses connected with the establishment or administration of the plan or retirement-related education for employees with respect to the plan. The amount of the credit is equal to 50 percent of the qualified startup costs paid or incurred by the employer during the taxable year and is limited to the greater of (1) a flat dollar amount of $500 per year or (2) the lesser of $250 for each non-highly compensated employee or a flat dollar amount of $5,000. The credit applies for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year.

An eligible employer is an employer that, for the preceding year, had no more than 100 employees with compensation of $5,000 or more. In addition, the employer must not have had a plan covering substantially the same employees as the new plan during the three years preceding the first year for which the credit would apply. Members of controlled groups and affiliated service groups are treated as a single employer for purposes of these requirements.[62] All eligible employer plans of an employer are treated as a single plan.

No deduction is allowed for the portion of qualified startup costs paid or incurred for the taxable year equal to the amount of the credit.

Automatic Enrollment

A qualified defined contribution plan may include a qualified cash or deferred arrangement under which employees may elect to have plan contributions ("elective deferrals") made rather

[61] Sec. 45E. A non-highly compensated employee is an employee who is not a highly compensated employee as defined under section 414(q).

[62] Secs. 52 (a) or (b) and 414(m) or (o).

than receive cash compensation (commonly called a "section 401(k) plan"). A SIMPLE IRA plan is an employer-sponsored retirement plan funded with individual retirement arrangements ("IRAs") that also allows employees to make elective deferrals.[63] Section 401(k) plans and SIMPLE IRA plans may be designed so that the employee will receive cash compensation unless the employee affirmatively elects to make elective deferrals to the plan. Alternatively, a plan may provide that elective deferrals are made at a specified rate (when the employee becomes eligible to participate) unless the employee elects otherwise (*i.e.*, affirmatively elects not to make contributions or to make contributions at a different rate). This alternative plan design is referred to as automatic enrollment.

Small Employer Credit

A nonrefundable income tax credit is available for an eligible employer that establishes an eligible automatic contribution arrangement under a qualified employer plan, requiring the plan to include a cash or deferred arrangement under which participants are treated as having made an election to make elective contributions at a uniform percentage of compensation.[64] Qualified employer plans include 401(a) plans, 403(a) plans, SIMPLE IRA plans and SEPs but exclude governmental plans and plans maintained by tax-exempt employers.

The credit is equal to $500 for any taxable year of an eligible employer that occurs during the period of three taxable years beginning with the first taxable year for which an eligible employer includes an eligible automatic contribution arrangement in a qualified employer plan that it sponsors. No taxable year is treated as occurring within the credit period unless the eligible automatic contribution arrangement is included in the plan for the year.

An eligible employer is an employer that, for the preceding year, had no more than 100 employees with compensation of $5,000 or more. Members of controlled groups and affiliated service groups are treated as a single employer for purposes of these requirements.[65] All eligible employer plans of an employer are treated as a single plan.

Explanation of Provision

Section 131104 adds new section 45U to the code, establishing a nonrefundable income tax credit equal to a flat dollar amount of $500 that is available to eligible employers who (1) participate in an automatic IRA arrangement, as described in section 131101 of the bill, including an arrangement pursuant to a qualified State law;[66] or (2) maintain a deferral-only arrangement as described in section 131102 of the bill. The credit is available during the first four years in which the eligible employer participates in an automatic IRA arrangement or maintains a deferral-only arrangement.

An eligible employer is an employer that, on each day of the preceding year, had no more than 100 employees with compensation of $5,000 or more and did not maintain a qualified

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[63] Sec. 408(p).
[64] Sec. 45T.
[65] Secs. 52(a) or (b) and 414(m) or (o).
[66] Described in section 4980J(a)(2)(A), as added by section 131101 of the bill.

employer plan[67] during the portion of the calendar year preceding the adoption of the automatic IRA arrangement or deferral-only arrangement and the two preceding calendar years. Members of controlled groups and affiliated service groups are treated as a single employer for purposes of these requirements.[68] All eligible employer plans of an employer are treated as a single plan. No deduction is allowed for expenses incurred in connection with establishing, maintaining, or facilitating such plan or arrangement, or for expenses incurred in connection with the retirement-related education of employees, equal to the amount of the credit.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

[67] Sec. 4972(d).
[68] Secs. 52(a) or (b) and 414(m) or (o).

Saver's Match

Matching payments for elective deferral and IRA contributions by certain individuals (sec. 131201 of the bill and new sec. 6433 of the Code)

Present Law

Eligible taxpayers may claim a nonrefundable income tax credit for qualified retirement savings contributions to certain retirement accounts.[69] Subject to adjusted gross income ("AGI") limits, the credit is available to individuals who are age 18 or older, other than individuals who are full-time students or claimed as a dependent on another taxpayer's return. The maximum amount of the contribution that may be taken into account is $2,000 with a maximum credit of $1,000 per eligible individual.[70]

The amount of the credit is based on the taxpayer's AGI and filing status. The credit is a percentage of the taxpayer's qualified retirement savings contributions with a percentage of 10 percent, 20 percent, or 50 percent, as shown in the table below. The credit is in addition to any deduction or exclusion that would otherwise apply with respect to the contribution. The credit offsets minimum tax liability as well as regular tax liability.

Table 1.–Credit Rates for Saver's Credit (for 2021)

Joint Filers	Heads of Households	All Other Filers	Credit Rate
$0 – $39,500	$0 – $29,625	$0 – $19,750	50 percent
$39,501 – $43,000	$29,626 – $32,250	$19,751 – $21,500	20 percent
$43,001 – $66,000	$32,251 – $49,500	$21,501 – $33,000	10 percent

Eligible contributions for purposes of the credit include (1) contributions to traditional and Roth IRAs; (2) elective deferrals to a section 401(k) plan, a section 403(b) plan, a governmental section 457(b) plan, a SIMPLE IRA, or a SEP; (3) voluntary after-tax employee contributions to a qualified retirement plan or annuity or a section 403(b) plan; and (4) contributions to a section 501(c)(18)(D) plan. Public Law 115-97 also added a fifth type of eligible contribution for contributions to Achieving a Better Life Experience ("ABLE") accounts for which the taxpayer is a designated beneficiary. ABLE accounts are savings accounts utilized by individuals with disabilities. A credit for such contributions is available from calendar years 2018 through 2025.

The amount of any contribution eligible for the credit is reduced by distributions received by the taxpayer (or by the taxpayer's spouse if the taxpayer files a joint return with the spouse) from any plan or IRA to which eligible contributions can be made during the taxable year for which the credit is claimed, the two taxable years prior to the year the credit is claimed, and during the period after the end of the taxable year for which the credit is claimed and prior to the due date

[69] Sec. 25B; Pub. L. No. 109-290.

[70] See IRS Form 8880, *Credit for Qualified Retirement Savings Contributions.*

for filing the taxpayer's return for the year. Distributions that are rolled over to another retirement plan do not affect the credit.

Explanation of Provision

An eligible individual will be allowed a refundable income tax credit, up to $500 (adjusted for inflation), equal to a percentage of qualified retirement savings contributions made by the individual to his or her retirement account.[71] The refund must be paid by the Secretary as a contribution to the eligible individual's applicable retirement savings vehicle. The contribution will be made as soon as practicable after the eligible individual files a tax return making a claim for the credit.

Qualified Retirement Savings Contributions

The maximum percentage of qualified retirement savings contributions eligible for the credit remains 50 percent, but the maximum amount of qualified retirement savings contributions that may be taken into account is $1,000 (reduced from $2,000 under present law), indexed for inflation. The percentage is reduced by the number of percentage points which bears the same ratio to 50 percentage points as the excess of the taxpayer's modified AGI for the taxable year, over the applicable dollar amount, bears to the phaseout range.[72] For eligible married individuals who file a joint tax return, the applicable dollar amount is $50,000, indexed for inflation, and the phaseout range is $20,000. For eligible individuals who file as head of household, the applicable dollar threshold and phaseout range are 75 percent of that in effect for joint return filers. For all other taxpayers, the applicable dollar amount and phaseout range is 50 percent of the amounts in effect for joint return filers. Taxpayers who are eligible for a credit less than $100 but more than $0 will be allowed a credit of $100 under this provision.

The provision retains the criteria that individuals who have attained age 18 as of the close of the taxable year are eligible for the credit. An eligible individual does not include any individual who would be claimed as a dependent on another individual's return,[73] or any individual who is a student.[74]

The qualified retirement savings contribution is the sum of the amounts of: (1) the qualified retirement contributions made by the eligible individual,[75] (2) any elective deferrals plus elective deferral of compensation by such individuals under a governmental section 457(b) plan,[76] (3) voluntary employee contributions by such individual to a qualified retirement plan,[77] and (4) contributions made by such individuals to an ABLE account of which such individual is the designated beneficiary.[78]

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[71] Sec. 6433.

[72] Modified AGI is determined as AGI without regard to sections 911, 931, and 933, and without regard to any exclusion or deduction allowed for any qualified retirement savings contribution made during the taxable year.

[73] Sec. 151.

[74] Sec. 152(f)(2).

[75] Sec. 219(e).

[76] Secs. 402(g)(3), 457(b), 457(e)(1)(A).

[77] Sec. 4974(c).

[78] Sec. 529A.

The amount of qualified retirement savings contributions is reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which the foregoing contributions may be made. For purposes of determining distributions received by an individual, any distribution received by a spouse of such individual shall be treated as received by such individual if they file a joint return for such taxable year and for the taxable year during which the spouse receives the distribution. An excepted distribution is qualified disability expenses.[79]

The testing period is the period that includes the taxable year plus the two preceding taxable years and the period after such taxable year and before the due date (including extensions) for filing the tax return for such taxable year. Certain distributions made during the testing period are not taken into account for purposes of the reduction.[80] Finally, any portion of a distribution transferred or paid in a rollover contribution[81] to an account or plan to which qualified retirement contributions can be made will not be applied to any reduction in qualified retirement savings contributions for purposes of this provision.

Payment of Credits

As previously noted, the credit will be paid in the form of a contribution to the individual's applicable retirement savings vehicle that is an account or plan elected by the individual. In order to receive the credit, an eligible individual must elect to have the contribution made to an account or plan which (1) is a Roth IRA or designated Roth account (within the meaning of section 402A) of an applicable retirement plan;[82] (2) is for the benefit of the eligible individual; (3) accepts contributions made under this provision, and (4) is designated by such individual, in such form and manner as the Secretary may provide, on the tax return for the taxable year.[83]

A payment of a credit that is a contribution shall be treated as an elective deferral made by the individual which is a designated Roth contribution, if contributed to an applicable retirement plan, or as a Roth IRA contribution made by such individual, if contributed to a Roth IRA, except as provided by the Secretary under regulations. The contribution is not taken into account with respect to any qualified plan limitations.[84]

Any contribution that was erroneously paid, including a payment that is not made to an applicable retirement saving vehicle will be treated as an underpayment of tax[85] for the taxable year in which the Secretary determines that the payment was erroneous. In the case of an

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[79] Sec. 529A(e)(5).

[80] Distributions made during the testing period are not taken into account for purposes of the reduction if made under sections 72(p), 401(k)(8), 401(m)(6), 402(g)(2), 404(k), or 408(d)(4). In addition, distributions to which sections 408(d)(3) or 408A(d)(3) applies are not taken into account for purposes of the reduction.

[81] As defined in sections 402(c), 403(a)(4), 403(b)(8), 408A(e), or 457(e)(16).

[82] Applicable retirement plan is defined in section 402A(e)(1).

[83] A plan or arrangement will not violate any requirement of Code sections 401, 403, 408A, or 457 solely because it accepted such contributions.

[84] As imposed by sections 402(g)(1), 403(b), 408(a)(1), 408(b)(2)(B), 408A(c)(2), 414(v)(2), 415(c), or 457(b)(2). Also, such contributions are disregarded for purposes of sections 401(a)(4), 401(k)(3), 401(k)(11)(B)(i), and 416.

[85] Such a payment shall not be treated as an underpayment of tax for purposes of Part II of subchapter A of Chapter 68.

erroneous credit, section 72 will not apply to the distribution of such contribution (and any income attributable thereto) if the distribution is received no later than the due date (including extensions) for filing the individuals tax return. Any plan or arrangement to which a contribution is made under this provision, or from which a distribution is made, is not be treated as violating the requirements applicable to such plan solely by reason of such contribution or distribution.[86]

Information Related to Payment of Credits

If an eligible individual elects to have the credit contributed to an account or plan, the Secretary shall guidance to the custodian of the account or the plan sponsor, as the case may be, detailing the treatment of such contribution and reporting requirements with respect to such contribution.

The Secretary is required to: (1) amend IRS Form 5500 to require separate reporting of the aggregate amount of contributions received by the plan during the year; and (2) amend IRS Form 5498 to require similar reporting with respect to individual retirement plans.[87]

Treatment of the U.S. Territories

The Secretary shall pay to each territory of the United States that has a mirror Code tax system—the U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands, and Guam—amounts equal to the loss (if any) to that territory by reason of amendments made by this provision. Such amounts will be determined by the Secretary based on information provided by the government of the territory. With respect to any United States territory, a mirror Code tax system means the income tax system of such territory if the income tax liability of the residents of such territory is determined by referenced to the income tax laws of the United States as if that territory were the United States.

For territories that do not have a mirror Code—Puerto Rico and American Samoa--the Secretary will pay amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of that territory by reason of the amendments made by this provision if the territory had a mirror Code. The respective territory must have a plan, which has been approved by the Secretary, under which such territory will promptly distribute such payments to its residents in order for the territory to receive amounts estimated to equal aggregate benefits.

A credit under the provision will not be allowed against income taxes to any person to whom a credit is allowed against taxes imposed by the territory due to this provision, or who is eligible for a payment resulting from a determination of aggregate benefits in a non-mirror Code territory.

Effective Date

[86] The plan is not treated as violating secs. 401, 403, 408A, 457.
[87] Sec. 7701(a)(37) (defining individual retirement plans).

The amendments made by this provision shall apply to taxable years beginning after December 31, 2024.

Deadline to fund IRA with tax refund (sec. 131202 of the bill and sec. 219 of the Code)

Present Law

There are two general types of individual retirement arrangements ("IRAs"): traditional IRAs and Roth IRAs.[88] The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount ($6,000 for 2021); and (2) the amount of the individual's compensation that is includible in gross income for the year.[89] In the case of an individual who has attained age 50 by the end of the year, the dollar amount is increased by $1,000. In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses that is includible in gross income is at least equal to the contributed amount.

An individual may make contributions to a traditional IRA (up to the contribution limit) without regard to his or her adjusted gross income. An individual may deduct his or her contributions to a traditional IRA if neither the individual nor the individual's spouse is an active participant in an employer-sponsored retirement plan. If an individual or the individual's spouse is an active participant in an employer-sponsored retirement plan, the deduction is phased out for taxpayers with adjusted gross income over certain levels.[90]

A taxpayer is deemed to have made a contribution to an IRA on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is not made later than the due date for the filing of the return (not including extensions).[91]

Explanation of Provision

Section 131202 amends the timing rule, under section 219 of the code, regarding when IRA contributions are deemed to have been made by adding that a taxpayer is also deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made pursuant to an election on a tax return to have the Secretary contribute all or a portion of any amount owed to the taxpayer to an IRA of the taxpayer, but only if the return is not filed later than the due date for filing the return (not including extensions). Such a contribution will be treated as a contribution for the taxable year of the return, regardless of when the refund that funds the contribution is actually paid.

Effective Date

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[88] Secs. 408 and 408A.

[89] Sec. 219(b)(2) and (5), as referenced in secs. 408(a)(1) and (b)(2)(B) and 408A(c)(2). Under section 4973, IRA contributions in excess of the applicable limit are generally subject to an excise tax of six percent per year until withdrawn.

[90] Sec. 219(g).

[91] Sec. 219(f)(3).

The amendments made by this provision shall apply to taxable years beginning after December 31, 2022.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle B, Budget Reconciliation Legislative Recommendations Relating to Retirement on September 9, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Subtitle B that would exempt from the federal retirement mandate excise tax small businesses with 50 or fewer employees, minority-owned businesses, women-owned businesses, and veteran owned businesses was offered by Mr. Buchanan. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle B that would strike the requirement for an automatic contribution plan or arrangement to allow participants to receive at least 50% of their vested retirement account balances in the form of a lifetime annuity was offered by Mr. Rice. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE				MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle B offered by Mr. Brady was ruled nongermane. Mr. Brady moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 24 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay		Present	Representative	Yea	Nay	Present
MR. DOGGETT	X				MR. BRADY		X	
MR. THOMPSON	X				MR. NUNES		X	
MR. LARSON	X				MR. BUCHANAN		X	
MR. BLUMENAUER	X				MR. SMITH (NE)		X	
MR. KIND	X				MR. REED		X	
MR. PASCRELL	X				MR. KELLY		X	
MR. DAVIS	X				MR. SMITH (MO)		X	
MS. SANCHEZ	X				MR. RICE		X	
MR. HIGGINS	X				MR. SCHWEIKERT		X	
MS. SEWELL	X				MS. WALORSKI		X	
MS. DELBENE	X				MR. LAHOOD (IL)		X	
MS. CHU	X				DR. WENSTRUP		X	
MS. MOORE	X				MR. ARRINGTON		X	
MR. KILDEE	X				DR. FERGUSON		X	
MR. BOYLE					MR. ESTES		X	
MR. BEYER	X				MR. SMUCKER		X	
MR. EVANS	X				MR. HERN		X	
MR. SCHNEIDER	X				MS. MILLER		X	
MR. SUOZZI	X							
MR. PANETTA	X							
MS. MURPHY	X							
MR. GOMEZ	X							
MR. HORSFORD	X							
MS. PLASKETT	X							
CHAIRMAN NEAL	X							
TOTALS	24				**TOTALS**		18	

An amendment to the amendment in the nature of a substitute to Subtitle B to strike Subtitle B and replace with the text of H.R. 2954 (117th Congress) as reported by the Ways and Means Committee, was offered by Mr. Brady. The amendment was defeated by a vote of 17 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT			
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE				MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	17		

An amendment in the nature of a substitute to Subtitle B was agreed to by a voice vote (with a quorum being present).

Subtitle B was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 22 yeas to 20 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND		X		MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE				MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	22			**TOTALS**		20	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provision(s).

The bill is estimated to decrease Federal fiscal year budget receipts by $47 billion for the period 2022 through 2031.

ESTIMATED BUDGETARY EFFECTS OF THE REVENUE PROVISIONS OF SUBTITLE B OF THE BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2022 - 2031

[Millions of Dollars]

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
SUBTITLE B - RETIREMENT													
A. Automatic Contribution Plans and Arrangements													
1. Tax imposed on employers failing to maintain automatic contribution plan or arrangement [1]	pyba 12/31/22	---	-874	-1,615	-2,096	-2,768	-3,099	-3,269	-3,248	-3,061	-2,717	-7,353	-22,747
2. Deferral-only arrangements	pyba 12/31/22	*Estimate Included in Item A.1. Above*											
3. Increase in credit limitation for small employer pension plan startup costs including for automatic contribution plan or arrangement [1]	tyba 12/31/21	---	-1	-3	-12	-28	-62	-118	-192	-280	-379	-44	-1,075
4. Credit for certain small employers automatic retirement arrangements	tyba 12/31/21	*Estimate Included in Item A.3. Above*											
B. Saver's Match													
1. Matching payments for elective deferral and IRA contributions by certain individuals	tyba 12/31/24	---	---	---	---	-3,755	-3,727	-3,753	-3,827	-3,902	-3,966	-3,755	-22,929
2. Deadline to fund IRA with tax refund	tyba 12/31/22	*Estimate Included in Item A.1. Above*											
NET TOTAL		**---**	**-875**	**-1,618**	**-2,108**	**-6,551**	**-6,888**	**-7,140**	**-7,267**	**-7,243**	**-7,062**	**-11,152**	**-46,751**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be October 1, 2021.

Legend for "Effective" column:
tyba = taxable years beginning after pyba = plan years beginning after

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
[1] Estimate contains the following budget effects:												
Total Revenue Effect	---	-874	-1,615	-2,096	-2,768	-3,099	-3,269	-3,248	-3,061	-2,717	-7,353	-22,747
On-budget effects	---	-881	-1,647	-2,163	-2,884	-3,263	-3,478	-3,497	-3,343	-3,001	-7,575	-24,157
Off-budget effects	---	7	32	67	116	164	209	249	282	284	222	1,410

[2] Negligible Revenue Effect.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the committee print does not contain Federal mandates on the private sector. The Committee has determined that the subtitle does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

E. Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

F. Tax Complexity Analysis

Section 4022(b) of Pub. L. No. 105-266, the Internal Revenue Service Restructuring and Reform Act of 1998 (the "RRA"), requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, for each such provision identified by the staff of the Joint Committee on Taxation, a summary description

of the provision is provided below along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Tax imposed on employers failing to maintain or facilitate automatic contribution plan or arrangement (section 131101 of the bill)

Summary Description of the Provision

Section 131101 of the bill generally imposes an excise tax on an employer that does not maintain or facilitate an automatic contribution plan or arrangement. Automatic contribution plans and arrangements generally include qualified retirement plans (including a deferral-only arrangement under a section 401(k) plan), qualified annuity plans, certain 403(b) plans, SIMPLE IRAs, and automatic IRA arrangements, all of which must meet certain requirements under the bill. Employers that have retirement plans as of the date of enactment are generally grandfathered from this requirement. Additionally, the excise tax does not apply to (1) an employer to the extent such employer participates in an arrangement under a qualified state law; (2) an employer which had no more than five employees receiving at least $5,000 of compensation from the employer during the prior calendar year; (3) an employer that has not been in existence for at least two years, taking into account all predecessor employers; and (4) governmental and church plans.

Number of Affected Taxpayers

It is estimated that the provision will affect over ten percent of taxpayers during the budget window.

Discussion

Employers will need to determine whether they are required to establish or facilitate an automatic contribution plan or arrangement under the provision, or if they are exempt. Employers who are subject to the requirement will need to evaluate the plan and arrangement options, and will need to undertake the administrative tasks associated with establishing or facilitating a plan or arrangement, such as establishing record-keeping systems. Payroll systems may need to be adjusted to facilitate automatic contributions. The employer will also need to monitor compliance with applicable requirements under the provision, which may include (depending on the type of automatic contribution plan or arrangement) requirements relating to notice, contribution, investment, and lifetime income. The provision also includes administrative and reporting requirements. Employees who become eligible to participate in an automatic contribution plan or arrangement will need to understand their rights under the plan (for example, what they need to do to opt-out or elect a different level of contribution, timing, etc.).

The provision may cause employers to seek professional tax advice, potentially raising the cost of tax compliance for these taxpayers.

The provision will require the IRS to create new forms and publications regarding this change, as well as providing guidance including with respect to those matters described above. Additionally, both taxpayers and the IRS will need to monitor compliance with these provisions.

Because of the complexity of the provision, disputes between taxpayers and the IRS may increase.

G. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

H. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the subtitle, as reported.

DISSENTING VIEWS

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MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL, JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
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TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
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STEVEN HORSFORD, NEVADA
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GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON SUBTITLE B.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO RETIREMENT

It is disappointing that our colleagues chose to cast aside years of bipartisan work on retirement security and take a decidedly different and partisan approach. In their rush to enact their $3.5 trillion tax and spending agenda, Democrats rejected bipartisan tradition and created new punitive taxes and mandates on small businesses.

In 2019, the Ways and Means Committee worked on a strongly bipartisan basis to get the Setting Every Community Up for Retirement Enhancement (SECURE) Act signed into law. In October 2020, I was pleased to join Chairman Neal in introducing SECURE 2.0, the Securing a Strong Retirement Act (SSRA), which built on the success of the SECURE Act. Once again, Ways and Means Committee Democrats and Republicans cooperated to refine SSRA, culminating with a unanimous vote out of committee in May 2021.

SSRA helps Americans from all walks of life save for retirement, including several important priorities that share bipartisan support:

- Promotes retirement savings earlier by automatically enrolling employees in their company's 401(k) plan.
- Increases the amount late-career workers can contribute to "catch-up" on their retirement savings.
- Allows employers to match their workers' student loan repayments with contributions to their retirement plans.
- Encourages small businesses to set up retirement plans for their workers by fully offsetting the paperwork costs and providing a per-employee credit of up to $1,000 for employer matching contributions.
- Helps military spouses by providing a tax credit for small employers that make military spouses eligible for plan benefits
- Stands up for survivors of domestic violence by exempting them from any penalty for taking "hardship withdrawals" from a retirement plan.

Instead of working with Republicans toward enactment of SSRA by year-end, Democrats have reversed course and jeopardized its many bipartisan provisions.

Democrats' partisan approach in this subtitle would create a new federal mandate for businesses with as few as six employees to establish an automatic-enrollment plan or participate in an Auto-IRA program. If any such business fails to comply, they are subject to a per-day excise tax penalty. The scope of this program and the lack of consideration for costs and fiduciary duties imposed on small business owners is deeply concerning.

Congress typically seeks to protect small businesses that often lack the resources to deal with complicated rules and onerous mandates. In the Affordable Care Act, Congress exempted firms with 50 or fewer employees from the employer mandate. Another section of this subtitle expands the credit for small employer pension startup costs and uses a threshold of 100 or employees or fewer. So, it remains entirely unclear why Democrats would impose a crippling new mandate on small business owner-operators with more than five employees.

Many employers voluntarily adopt retirement plans and encourage their workers to save. Most employers do so because it is the right thing to do, despite the additional liability they are assuming for failing to adhere strictly to the complex regulatory schemes jointly administered by the Internal Revenue Service and the Department of Labor. In earlier bipartisan legislation, Congress has sought to alleviate that burden in a number of ways, most notably by expanding the availability of multi-employer defined contribution retirement plans (open MEPS) which the Ways and Means Committee endorsed in the SECURE Act and expanded in SSRA.

Instead, this subtitle abandons the voluntary approach to small business employer participation included in SSRA. It is disappointing that Democrats would reverse course and instead impose a coercive and costly mandate on small businesses still struggling to recover from the pandemic.

This subtitle also creates two new loopholes that will allow the proliferation of substandard retirement plans. In this bill, Democrats endorse state-controlled retirement plans that lack federal ERISA protections for retirees. This subtitle misleadingly refers to these plans as "Auto-IRAs," because it suggests that they are equivalent to traditional IRAs that have a long history of success. Numerous states have a poor track record of managing retirement plans, even for their own employees. State-run retirement plans have often received large transfers of federal tax dollars, as recently as this year, to prop up their failing finances. Far from making retirement more secure, these changes will force millions of workers to rely on state-controlled plans rather than the tested and successful federal defined contribution retirement system.

A second loophole in this subtitle is a provision that permits the retirement plan mandate to be met with a so-called deferral-only plan. Employers that adopt these plans that require no employer matching contributions are no longer required to meet significant discrimination testing rules. If employers take advantage of this new opportunity to avoid employer matching contributions it will lead to the adoption of plans that fall short of meeting workers' needs in retirement.

This subtitle includes a requirement that all new automatic-enrollment plans offer a lifetime income option. While it may seem generous to require an option to annuitize up to 50% of an employee's vested benefits, little consideration has been given to the risk of default on these annuities. The SECURE Act included a safe harbor that may protect employers if the annuity

provider they select eventually defaults, but small business owners still face potential personal liability. Instead of rushing through this new annuitization mandate, we should fully examine the risks for employers and savers.

The saver's match program in this subtitle is well-intended, but it opens the door to confusion and administrative challenges for workers and plan custodians alike. Other countries have tried similar approaches with mixed results. A program of this size and scope should have the benefit of Congressional hearings and thorough consideration to avoid unintended consequences and eliminate the need for a major policy reversal in the future.

Trying to be constructive, we offered amendments to improve this legislation. At every turn, we were rebuffed by our colleagues on the other side, who defeated our efforts on technicalities or with prearranged party-line votes.

Here are some of the common-sense amendments that were opposed by our colleagues:

- "The Bipartisan Retirement Options and Main Street Protection Amendment" – would exempt small businesses from the federal retirement mandate and restore the bipartisan agreement reached in SSRA, which was approved unanimously by the Ways and Means Committee in May 2021.
- "The No New Mandates from Washington Amendment" – would exempt small businesses from the federal retirement mandate and restore the bipartisan auto-enrollment provision in SSRA.
- "The Small Business Protection Amendment" – would exempt from the federal retirement mandate small businesses with 50 or fewer employees and minority-, women-, and veteran-owned businesses.
- "The Protecting Workers from Financial Predators Amendment" – would remove the lifetime income annuity requirement.

In Democrats' rush to spend $3.5 trillion, they missed a major opportunity to enact bipartisan solutions to improve our $20 trillion defined-contribution retirement system.



Kevin Brady
Republican Leader
Committee on Ways and Means

TABLE OF CONTENTS

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 7

BUDGET EFFECTS OF THE SUBTITLE 8

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 9

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE Print, AS TRANSMITTED 10

DISSENTING VIEWS 10

SUBTITLE C – CHILD CARE ACCESS AND EQUITY

EXPLANATION OF PROVISIONS

Current Law

Section 418 of the *Social Security Act* (SSA) authorizes and directly appropriates child care funding to be awarded to states, territories, and Indian tribes and tribal organizations. It also sets aside administrative funding for the Department of Health and Human Services (HHS) to administer the funds. Total funding for the section is $3.55 billion a year for fiscal year 2021 and future years.

Explanation of Provisions

Section 132001. Child Care Access.

Present Law

No provision.

Explanation of Provision

This section invests in new tools to make sure parents can find and enroll in child care that meets their needs, as described in the subsections below.

Subsection (a). Establishing Child Care Information Networks.
Invests in all states, tribes, and territories that operate a child care lead agency to support building or expanding a Child Care Information Network (CCIN), which would provide parents and caregivers with frequently updated information about child care in their communities, including information on availability, affordability, and new tools to access available child care.

As a condition of HHS administrative funding, this subdivision requires the Secretary to consult with stakeholders before issuing guidance on use of the funding. Stakeholders include parents, both center and home-based child care providers, child care provider organizations, labor unions, other organizations representing child care providers, and experts in the field.

This subsection also funds the development of national technology and data models for the CCIN, which allow for information sharing while protecting privacy and invests in data interoperability with other HHS programs.

This subsection also describes the conditions of funding that jurisdictions must meet to receive federal aid for their CCIN. They meet the conditions of funding and are eligible for reimbursement if they maintain an up-to-date, publicly available compilation of information which includes the following information for registered, licensed, and regulated child care providers:

- Where the provider is located;

- Services offered and fees charged;
- Whether federal vouchers or reserved slots can be used to pay for care;
- Hours of operation;
- How to apply (including a direct online link, when possible);
- How many children are cared for by the provider, and how many openings are available by age group;
- Whether there is a waiting list, estimated wait time, and how to join the list;
- Whether the care is home-based or in a center, and whether it is licensed;
- Other information the Secretary determines is needed by parents;

To receive funding reimbursement, the subsection specifies that the CCIN must be maintained by (or jointly maintained with) existing child care resource and referral systems, the licensing entity, or another appropriate entity. It also specifies that the jurisdiction must make the information available through the internet and by telephone to families seeking child care, as well as to state, county, and other governmental staff involved in the provision of child care.

Under the subsection, providers (or unions or provider networks they designate) must update information about available slots and waiting lists on a weekly basis and update all other information at least every three months.

Subsection (b). Funding Child Care Information Networks.
This subsection provides funding to states and U.S. territories for a Child Care Information Network (CCIN).

The subsection directly appropriates $200 million per year in FY2022 and FY2023 to provide startup funds for states and territories to build the CCIN or upgrade existing Child Care Resource and Referral systems. The funds are to be allocated using the same shares as the Child Care Entitlement to States funding also provided in Section 418.

The subsection also provides a 75 percent match for expenditures to operate the system in FY2022 through 2026. The match is available to states, the District of Columbia, and U.S. territories, and includes expenditures for technology and other costs related to the network, including, if the state so chooses, developing a common application for all child care slots, and, where needed, financial incentives to participating providers, with attention to the challenges faced by home-based providers. States may also receive the 75 percent match on the cost of reimbursing coordinating partners like unions and other organizations that represent child care providers to assist small providers with the weekly updating and other activities associated with participating in the CCIN.

Subsection (c). HHS Participating Child Care Provider Certification.
This subsection funds the HHS Participating Child Care Provider Certification. To receive the certification, providers must be licensed or in a license-exempt category that meets health and safety standards, offer child care to the general public (although they may have a priority system), participate in the CCIN, and accept federal reimbursement as payment for qualified low-income families. The list will be maintained by the Secretary of HHS and electronically

shared with the Internal Revenue Service one month before the end of each quarter, at the end of each calendar year. Providers may also request written proof of their status. To be on the list, providers must have been qualified for the full prior quarter.

Subsection (d). Administrative Provisions.
In order to determine the level of matching funds, the subsection requires the Secretary to conduct accuracy checks and notify jurisdictions of any excessive levels of errors, issue guidance on data privacy, and issue guidance on expenditures eligible for matching under Section 418A(b). For jurisdictions that have not taken action to correct any excessive levels of errors in their reported list of qualifying providers, the matching rates for costs related to the CCIN would be reduced from 75 percent to 70 percent.

Subsection (e). Appropriation.
The subsection provides the Secretary with $50 million per year in FY2022 through FY2026 for administrative expenses related to the certification and the accuracy checks.

Section 132002. Infrastructure Grants to Improve Child Care Safety.

Present law.

No provision.

Explanation of Provision.

This section provides funding for child care facility construction and major remodeling, which are not normally allowable uses of federal child care funds, as described in the subsections below.

Subsection (a)(1).
This subsection authorizes grants to states, the District of Columbia, and U.S. territories to support child care providers in conducting infrastructure projects related to construction, remodeling, and other investments in the physical infrastructure of child care facilities. The grants must be awarded within 12 months of enactment and obligated within five years. To receive a grant, a jurisdiction must have an approved plan that:

- Includes an analysis of the jurisdiction's child care infrastructure needs;
- Identifies a portion of the grant funds to report to the Secretary on uses of the funds;
- Funds only construction projects that comply with fair labor standards;
- Helps facilities to meet, improve, or surpass health and safety standards for center and home-based child care settings;
- Increases availability of child care in rural, urban, and suburban settings;
- Shows evidence of collaboration with local and state government, nongovernmental organizations such as philanthropic organizations or certified community development financial institutions, local community organizations including child care providers and labor unions, and Child Care Resource and Referral organizations (organizations with history of providing technical assistance or financial assistance);
- Provides grants to child care providers that qualify for the HHS; Participating Child Care Provider Certification and therefore are participating in the CCIN.

The subsection requires a 10 percent match from states and U.S. territories, which may be met with in-kind contributions from private entities. Grants are allocated based on state need and plan quality and are capped at $250 million per state or jurisdiction. As a condition of funding, states must report to the Secretary on uses of the funds within six months of the end of the grant period. States that do not have an approved grant within two years must return funds. $200 million is provided for HHS administrative costs. As a condition of issuing grants, HHS will not retain a federal interest in any property, including any infrastructure project conducted on a privately-owned family child care home.

Subsection (a)(2).
The subsection specifies that the Secretary may also award competitive grants of up to $15 million to intermediary organizations with experience in child care facility financing (such as Certified Community Development Financial Institutions), but no more than $2.25 billion of total funds may be used for this purpose. Intermediary organizations may invest their funds on activities related to developing and financing child care facilities, including capacity-building, technical assistance, and financial products, and must report annually on expenditure activities. Prior to awarding grants, the Secretary must consult with relevant child care facility financing stakeholders.

Subsection (a)(3).
The subsection makes it a condition of funding that all funds must be used for construction projects which meet fair labor standards and a commitment to follow it is referenced in the conditions of funding for states and territories.

Subsection (a)(4).
The subsection limits use of funds to physical infrastructure projects in buildings used primarily for child care and prohibits their use for a building used primarily for sectarian instruction or religious worship, rather than child care. It also limits administrative costs to 5 percent of total grant funds.

Subsection (b). Appropriation.
This subsection directly appropriates $15 billion in fiscal year 2022 for the grants in this section, which shall remain available for obligation through fiscal year 2026.

Subsection (c). Reservations of Funds.
This subsection provides $100 million for grants to U.S. Territories. It also provides $200 million for HHS administrative costs, and up to $100,000 of immediately available funds for plan development in each jurisdiction

Subsection (d).
This subsection caps total spending on grants to intermediary organizations at $2.25 billion.

Section 132003. Technical Assistance.

Present law.

No provision.

Explanation of Provision.

This section funds HHS technical assistance to states and U.S. territories, and directly appropriates $17.5 million in each of fiscal years 2022 through 2026 to provide technical assistance on the provisions in Subtitle C and to supplement existing HHS technical assistance.

Section 132004. Tribal Child Care Access and Growth.

Present law.

No provision.

Explanation of Provision.

This section provides $200 million per year for FY2022 through FY2026 for tribal investments in developing a CCIN, qualifying tribal providers for the HHS Participating Child Care Provider Certification, and physical infrastructure upgrades at child care facilities serving tribal communities. The section requires the Secretary of HHS to conduct tribal consultation to inform guidance and best practices before awarding funds, and to provide technical assistance after awarding. The Secretary shall expend not more than $1 million to conduct tribal consultation and shall award not less than $199 million to Tribal Lead Agencies based on relative need. Funds must supplement, not supplant, existing tribal child care spending.

Section 132005. Raising the Floor for Child Care Provider Wages.

Present law.

No provision.

Explanation of Provision.

This section invests in wage subsidies to sole proprietor and very small child care providers, as described in the subsections below.

Subsection (a). Planning for Child Care Wage Grants for Small Businesses.
This subsection provides $10 million available immediately upon enactment and available through the end of fiscal year 2022 for the Secretary to conduct planning and development activities associated with implementation of the new wage grant program. Funds shall be spent on: issuing guidance or technical assistance to Lead Agencies about proper consultation with field engagement organizations; calculating wage supplements and bonuses; application and reporting requirements; anti-discrimination protection measures; administrative overhead activities; and consulting with relevant stakeholders such as state, local, and tribal governments, and community stakeholders.

Subsection (b). Implementation.

This subsection instructs the Secretary to provide reimbursement grants to State, Tribal, and Territory Lead Agencies to reimburse for the cost of any child care wage grants made to qualifying child care providers and for the cost of administering the program. To qualify for a grant, Lead Agencies shall conduct consultations with field engagement organizations regarding the development and implementation of the program, including applications, eligibility determination, and community engagement. Lead Agencies must submit certification that they have conducted such a consultation and certify that they intend to submit for reimbursement for the program.

To qualify for funds, the program shall be operated by the Lead Agency and grants are to be awarded to qualifying providers for one-year periods in a supplement amount informed by the qualified child care provider's application. Qualified child care providers must report to the Lead Agency on a quarterly basis and include documentation of grant expenditure, wage levels and worker demographics. Lead Agencies may approve an individual request for reporting extensions, but failure to submit all required information will result in future grant award ineligibility.

Jurisdictions must meet specific requirements to receive annual or advanced estimated payments from the Secretary. Lead Agencies operating the program must include all required documentation and an assurance that not more than five percent of costs will be for administrative expenses. Required documentation includes: qualified child care provider application data; qualified child care provider wage subsidy data including demographics of providers and children served; certification that qualified child care providers are not eligible to receive the child care payroll tax credits; and documentation of qualified child care provider eligibility.

Qualified child care providers that have not used the funds to supplement wages will be required to repay all grant funds back to the Lead Agency and will be ineligible for future wage grants for a period of two years.

This subsection provides uncapped federal funds for annual reimbursements or estimated payments to Lead Agencies operating the Child Care Wage Grants for Small Business.

The following terms needed to correctly distribute funding are defined in this section: Applicable Minimum Rate, Child care wages, Child care employee, Eligible child care wage supplement, Field engagement organization, Qualified child care provider.

Section 132006. Common Provisions.

Present Law.

Section 419 of the *Social Security Act* defines "state" as including all 50 states, the District of Columbia, and four of the five US Territories (excluding the Commonwealth of the Northern Mariana Islands).

Explanation of Provision.

This section amends Section 419 of the *Social Security Act* to provide definitions for lead agency and to include all five U.S. territories in the definition of "territory" in order to distribute funding, require reports to Congress on expenditures as a condition of funding, and exempt spending in this subtitle from the territory spending cap in section 1108(a) of the *Social Security Act*.

Effective Dates

Section 132005 and Section 132006 are effective upon enactment.

Section 132001, Section 132002, Section 132003, and Section 132004 are effective in fiscal year 2022.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle C - Child Care Access and Equity on September 10, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Subtitle C offered by Ms. Walorski was ruled nongermane. Ms. Walorski moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 24 yeas to 16 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON			
MR. BOYLE				MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN			
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		16	

An amendment to the amendment in the nature of a substitute to Subtitle C offered by Mr. Reed was ruled nongermane. Mr. Reed moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 24 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE				MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		18	

An amendment to the amendment in the nature of a substitute to Subtitle C that would strike the prohibition on religious providers receiving child care supply was offered by Mr. Kelly. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE				MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle C that support growth and development of women and minority-owned businesses was offered by Mr. Ferguson. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE				MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle C that would increase child care availability for tribal communities and lawfully admitted Afghan special immigrant visa holders was offered by Dr. Wenstrup. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE				MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment in the nature of a substitute to Subtitle C was agreed to by a voice vote (with a quorum being present).

Subtitle C was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 23 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE				MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	23			**TOTALS**		19	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to improve access to safe child care for all families and improve equity by investing in child care worker wages.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, (Public Law 104-4) the Committee adopts as its own the federal mandates estimate prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

D. Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

E. Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the subtitle, as reported.

DISSENTING VIEWS

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
LINDA T. SÁNCHEZ, CALIFORNIA
BRIAN HIGGINS, NEW YORK
TERRI A. SEWELL, ALABAMA
SUZAN DELBENE, WASHINGTON
JUDY CHU, CALIFORNIA
GWEN MOORE, WISCONSIN
DAN KILDEE, MICHIGAN
BRENDAN BOYLE, PENNSYLVANIA
DON BEYER, VIRGINIA
DWIGHT EVANS, PENNSYLVANIA
BRAD SCHNEIDER, ILLINOIS
TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

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CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON SUBTITLE C.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO CHILD CARE ACCESS AND EQUITY

Committee Republicans oppose Subtitle C. Republicans agree that access to affordable, high-quality child care is key to making America's recovery stronger. But we oppose Democrats' unserious claim that we need to spend more money for a new "child care guarantee" for families. Congress just approved $53 billion in new funding for child care since the start of the pandemic. That's more than the entire revenue of the child care industry in 2019. The majority of that money is still sitting in state coffers waiting to be distributed to providers and families.

To justify new spending on child care, Democrats are bending over backwards to push a narrative that lack of child care is keeping workers home and creating a labor shortage. This is simply not the case. A study by the former Chair of President' Obama's Council of Economic Advisers found that the impact of child care challenges on the labor market are not a driver of continuing low employment levels, and quote: "differential job loss among parents, or even mothers specifically, accounts for a negligible share of aggregate job loss." In fact, the overall, employment rates of parents of young children have declined by 4.5 percent as compared with 5.2 percent among people who are not parents of young children.[1]

In the past, Republicans and Democrats have worked together to increase access to child care to support working families. Over the five-year period prior to the pandemic, Congress doubled funding for the child care block grant, and increased funding for Head Start and preschool development grants. In response to COVID-19, Congress took bipartisan action in the CARES Act (P.L. 116-136) to provide $3.5 billion in dedicated emergency resources to assist child care providers and first responders. In December 2020, the bipartisan Consolidated Appropriations Act (P.L. 116-260) included an additional $10 billion in emergency funding to help child care providers safely reopen. In March of 2021, Democrats went it alone and provided another $40 billion in emergency child care funding for states in the American Rescue Plan Act (P.L. 117-2), including a permanent increase of $633 million in the child care entitlement. All told, in 2020 and 2021, Congress has provided more than $53 billion in new funding for child care.

In Subtitle C, Committee Democrats propose yet another major new child care investment. The bill would create four new programs with an estimated cost of $27 billion. This is in addition to

[1] Peterson Institute for International Economics, "How much have childcare challenges slowed the US jobs market recovery?" Jason Furman, Melissa Kearney and Wilson Powell III, May 17, 2021.

funding included in Subtitle D of the Education and Labor Committee's reconciliation print, which establishes two new programs – a birth through five child care and early learning entitlement and a universal pre-kindergarten program – at a cost of $400 billion. This would bring funding for child care up to a staggering $489 billion over ten years. *(See Figure A)*

At no point during the markup did the Majority speak to the prior child care funding provided on a bipartisan basis in response to COVID. Yet, Democrats would scold Republicans for opposing Subtitle C.

It's time to put the brakes on. States are floating in child care money and additional funds will not solve the new problem states face in child care: namely that they have more child care money than they know how to spend, and most child care providers still haven't seen a dime of what Congress passed in March. According to the Department of Health and Human Services (HHS), less than 2 percent of the $24 billion in child care stabilization funds provided by the American Rescue Plan Act have been outlaid by states.

An amendment was offered by Committee Republicans to delay the effective date of new child care funding made available by this bill until all states have provided a certification to the Secretary of HHS that at least half of their child care stabilization funds have been obligated. The amendment was unanimously rejected by Committee Democrats.

Figure A. Current and Proposed Federal Funding for Child Care

Pre-COVID Federal Funding for Child Care (FY 2020)	
Child Care and Development Block Grant	$5.8 billion
Child Care Entitlement	$2.9 billion
Head Start	$10.6 billion
TOTAL	**$19.3 BILLION**
Emergency Funding for Child Care in Response to COVID	
CARES Act (3/27/2020)	$3.5 billion
Consolidated Appropriations Act (12/21/2020)	$10 billion
American Rescue Plan Act: (3/11/2021)	
Child Care Stabilization Funds	$24 billion
Increase in Child Care Development Block Grant	$15 billion
Increase in Child Care Entitlement (permanent)	+$633 million
HHS Administration	$35 million
TOTAL	**$53.5 BILLION**
Ways and Means Subtitle C: "Child Care Access and Equity"	
Child Care Information Network (start-up)	$400 million
Child Care Information Network (matching funds)	*Such sums*
Infrastructure Grants for Child Care	$15 billion
Tribal Child Care Access, Growth, Innovation	$1 billion
Child Care Wages Grants for Small Businesses	*Such sums*
HHS Administrative and Technical Assistance	$537 million

TOTAL NEW FUNDING (CBO 10yr est.)	**$27 billion**
Education & Labor Subtitle D: "Child Care and Pre-Kindergarten"	
Child Care and Early Learning Entitlement	$200 billion
Universal Pre-Kindergarten	$200 billion
TOTAL NEW FUNDING (CBO 10yr est.)	**$400 billion**
Total current and proposed child care funding = $489 billion	

Subtitle C is also particularly concerning because of an apparent lack of coordination between Democrats on the Ways and Means and the Education and Labor Committee. Federal funding for child care and early education in the United States already involves multiple programs, with different eligibility requirements, governance structures, and quality standards. This creates challenges for families and communities in navigating services, and can lead to overlap, gaps in services and wasteful spending. Instead of working to modernize and streamline existing federal programs in order to improve the overall quality of a mixed-delivery system, Democrats are proposing six additional child care programs.

There is no indication that Ways and Means and Education and Labor Democrats considered how these new and existing programs would actually work together as a comprehensive early learning system or if, in their rush to claim jurisdictional domain, there would be unnecessary duplication and redundancy that would breed more bureaucracy and headaches for parents.

In May, Ways and Means Committee Republicans worked with our Republican colleagues on the Education and Labor Committee to put forward a joint package to expand access to affordable child care in the "Protecting Worker Paychecks and Family Choice Act." This bill focused on leveraging existing funding and increasing family flexibility and parent choice. Republican child care proposals included:

- Expanding and improving the employer-provided child care tax credit;
- Increasing parent choice and preventing the child care cliff by requiring states to implement a graduated phase-out period and expanding access to child care vouchers;
- Better targeting child care funds by allocating to states based on the number of children in poverty;
- Improving dependent care flexible spending accounts by tripling contribution limits, allowing funds to roll over at the end of the year without penalty, and expanding eligible expenses;
- Establishing a bipartisan Commission to make recommendations to Congress on streamlining and reducing duplication in financing of early care and education programs;
- Requiring the Secretary of Health and Human Services (HHS) to report to Congress on state and local child care regulations, including overburdensome regulations that increase the cost of child care;
- Allowing states that cannot obligate 50 percent of their Child Care Stabilization Funds by December the option of repurposing unobligated funds aimed at:
    - increasing the supply of child care and emphasizing long-term stability in the sector;
    - supporting creation of family child care networks designed to increase or improve the quality of child care provided by family child care providers;

  - supporting making improvements to child care facilities to meet health and safety standards and to expand child care services; and
  - offering start-up grants to employers to establish and expand child care programs for employees.
- Finally, the bill would require HHS to use a portion of the $35 million designated for child care administration included in the American Rescue Plan Act to monitor compliance with requirements and ensure program integrity.

Ten child care bills were introduced by Republican members of this Committee in the last three months. Many of them with members of the Education and Labor Committee, reflecting the ideas put forward in the "Protecting Worker Paychecks and Family Choice Act." Not one of these proposals received consideration by Committee Democrats when developing Subtitle C, despite continued lip service about bipartisanship.

To ensure the Majority is fully aware of the missed opportunity to work with Republicans, an amendment was offered to strike and replace Subtitle C with the child care proposals in Divisions B and C of the "Protecting Worker Paychecks and Family Choice Act." The amendment was unanimously rejected by Committee Democrats.

Subtitle C authorizes new funding for infrastructure improvements for child care facilities grants to improve child safety. In this section, the Majority went out of their way to expressly prohibit religious child care providers from receiving infrastructure improvement grants. An amendment was offered to strike the prohibition and allow all high-quality child care providers to be eligible for grants to acquire, construct, renovate, or otherwise physically improve the infrastructure of their child care facilities, including faith-based providers. The amendment to preserve family choice of faith-based child care providers was unanimously rejected by Committee Democrats.

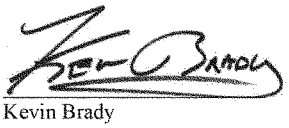
This subtitle authorizes four new child care programs and a whopping $537 million in new administrative dollars for HHS. Committee Republicans offered an amendment to re-direct some of this funding to better use by growing the supply of women and minority-owned child care providers. According to Department of Labor:

- half of child care businesses are minority-owned;
- 93% of child care workers are women; and
- 45% are minorities.

Recognizing the reality of who provides child care in this country, the amendment would redirect administrative money from HHS bureaucrats and instead support the growth and development of women and minority-owned businesses. The amendment was unanimously rejected by Committee Democrats.

Subtitle C would provide $27 billion in new child care spending, even though 98% of funds from the last $40 billion spending package remain unspent. This doesn't count the additional $400 billion in new child care and "universal pre-k" that the Education and Labor Committee is considering. There are more immediate needs to deal with first. An amendment was offered to increase child care availability for tribal communities and lawfully admitted Afghan special immigrant visa holders. The amendment was unanimously rejected by Committee Democrats.

As we continue to deal with this public health and economic emergency, Democrats and Republicans should be working together to ensure the availability of safe, affordable child care for hard working Americans. Subtitle C includes new child care programs that are duplicative and redundant of existing and proposed funding, with no consideration given to the tremendous investment in child care made by Congress in response to the COVID-19 pandemic. Subtitle C is a reckless use of American taxpayer dollars that duplicates existing programs and layers additional mandates on states and providers, at exactly the wrong time.



Kevin Brady
Republican Leader
Committee on Ways and Means

TABLE OF CONTENTS

Page

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 7

BUDGET EFFECTS OF THE SUBTITLE 8

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 8

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED 9

DISSENTING VIEWS 9

SUBTITLE D – TRADE ADJUSTMENT ASSISTANCE

EXPLANATION OF PROVISIONS

Current Law

The Trade Adjustment Assistance (TAA) programs are contained in the Trade Act of 1974, parts 2 through 6 of subchapter II. The programs were most recently amended by the Trade Adjustment Assistance Reauthorization Act of 2015 (P.L. 144-27).

Explanation of Provision

Section 133001. Short Title.
This section provides the short title.

Section 133002. Application of Provisions Relating to Trade Adjustment Assistance.
This section provides that the effective date of this legislation will be the date of enactment and it repeals the provision in existing law that drastically cuts benefits in the program's last year.

Part 1 – Trade Adjustment Assistance for Workers

Section 133101. Filing Petitions.
This section allows one or more trade-impacted workers from the same firm to petition for TAA benefits. Current TAA law requires three or more workers in the same firm to file a petition. This section also clarifies that workforce intermediaries may file petitions on behalf of workers.

Section 133102. Group Eligibility Requirements.
This section removes the requirement under current law that imports contributed "importantly" to their job loss. Further, this section ensures that workers can successfully apply for TAA when a layoff has been announced but production has not yet decreased, and clarifies that eligible workers include teleworkers and workers employed by other firms under the operational control of the firm subject to the petition.

Finally, this section expands eligibility to workers who lose their job because a firm has decreased exports.

Section 133103. Application of Determinations of Eligibility to Workers Employed by Successors-In-Interest.
This section clarifies that trade-impacted workers at firms that undergo mergers, acquisitions, or name changes remain eligible for TAA benefits.

Section 133104. Provision of Benefit Information to Workers.
This section expands outreach regarding benefits available from the U.S. Department of Labor (DOL). It also requires DOL to make every effort to reach out to workers in their native languages.

Additionally, this section allows states to utilize TAA funding to collect email addresses and telephone numbers of workers from employers, partner with union representatives, hire peer support workers within a certified group to perform outreach, and use advertising methods and public information campaigns.

Section 133105. Qualifying Requirements for Workers.
This section removes the requirement that a worker be employed for one year prior to losing the worker's job in order to receive income support under TAA.

Further, this section restores previous flexibility in the program for workers that are unable to enroll in training because the worker is recalled to the worker's previous employment or the worker is within two years of retirement and expects to receive retirement benefits.

Section 133106. Modification to Trade Readjustment Allowances.
This section would enhance Trade Readjustment Allowances (TRA) by providing workers with up to 130 weeks of income support if they are enrolled in a qualified training program. Workers enrolled in prerequisite education or remedial education, such as language and math classes, may receive an additional 26 weeks of TRA benefits. This section also removes the restriction on workers receiving TRA during work-based learning or training.

Section 133107. Automatic Extension of Trade Readjustment Allowances.
This section automatically extends income support for six months to workers who complete training but are unable to find suitable employment because of poor economic conditions. Specifically, this provision provides that the period during which trade readjustment allowances are payable to an adversely affected worker can be automatically extended for 26 weeks if the worker has completed training and cannot find a job during a period of heightened unemployment.

Section 133108. Employment and Case Management Services.
This section requires DOL, through the states, to provide workers with information about registered apprenticeships, on-the-job training, and information related to direct job placement. It also requires DOL to conduct sustained outreach to groups of workers that are potentially eligible for TAA.

Section 133109. Training.
This section places a new emphasis on ensuring that training providers approved by DOL have a demonstrated ability to place workers into jobs upon the completion of training. Further, this section adds pre-apprenticeships to the category of authorized training programs for workers and requires DOL to reimburse workers for out-of-pocket expenses related to an approved training program.

Section 133110. Job Search, Relocation, and Child Care Allowances.
This section updates the funding levels for the existing job search and relocation allowances provided to workers. This change increases the limit to $2,000 per worker from $1,250 and ensures that 100% (instead of just 90%) of these costs can be covered under the limit.

Additionally, this section establishes a childcare allowance of up to $2,000 for workers in TAA. Childcare accessibility and costs are often highlighted as a key barrier to workers' ability to successfully take advantage of the training benefits under TAA.

Finally, this section requires states to provide these allowances. States currently have discretion to do so. It also ties the limit of each allowance to inflation, so that the allowance automatically rises, and new legislation is not required every time an adjustment is warranted.

Section 133111. Agreements with States.
This section requires each state to consider when approving a training program whether training providers have a proven track record in placing workers into good jobs after completing training. It also calls for states to work with training providers that have a proven track record in serving underserved communities.

This section also requires states to adopt an aggressive outreach model to workers who are potentially eligible for TAA. It requires states to complete proactive searches for potential eligible workers and to then conduct outreach to such workers.

This section requires states to perform outreach to workers from underserved communities and develop plans to address common barriers those diverse communities face in accessing services.

Lastly, this section reinstates a requirement that TAA be administered by merit-based staff at the state level.

Section 133112. Reemployment Trade Adjustment Assistance Program.
This section provides increased access to Reemployment Trade Adjustment Assistance (RTAA), which is a wage insurance program available to workers over 50 who obtain a new job but at a lower wage. Current TAA law limits this program to workers making less than $50,000 and limits the benefit to a maximum of $10,000. This section makes the program available to workers making $70,000 and increases the maximum benefit to $20,000. To ensure that these figures do not become stagnant, this section also requires these figures to rise with inflation.

Section 133113. Extension of Trade Adjustment Assistance to Public Agency Workers.
This section ensures that public sector workers are also eligible for TAA. This provision would apply when public sector services have been outsourced by a state or the federal government to an offshore service provider (e.g., a call center).

Section 133114. Definitions.
This section extends eligibility to TAA for Workers to territories including Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

This section also defines an 'underserved community' as a group of people who have been systematically denied the full opportunity to participate in aspects of economic, social, and civic life. Underserved communities include Black, Latino, Indigenous and Native American persons, Asian American and Pacific Islanders, other persons of color, members of other minority

communities, persons with disabilities, person who live in rural areas, and other populations affected by persistent poverty or inequality.

Section 133115. Subpoena Power.
The current TAA statute provides DOL with explicit authority to subpoena firms to produce evidence necessary to certify a group of workers for TAA benefits. This section confers this authority to states and allows states to seek compliance with a subpoena under state law and by petitioning a federal court.

Part 2 – Trade Adjustment Assistance for Firms

Section 133201. Petitions and Determinations.
This section removes the requirement that imports contribute "importantly" to lost sales or employment at a firm, and expands eligibility to firms that have suffered because of a decrease in exports. Further, this section provides that a firm is eligible for the program if it has seen a decrease in employment or sales (either of which must be caused by trade), instead of requiring both.

This section requires that DOC accept a petition within 15 days of receipt and deems a petition approved if DOC has not approved or denied it within 55-days. This will ensure that all petitions are approved or denied within 70 days.

Section 133202. Approval of Adjustment Proposals.
This section requires firms to assess the potential employment outcomes of their adjustment proposal to ensure that a proposal does not lead to decreased employment at the firm. This section also clarifies that a firm may receive up to $300,000 in support under the program, subject to the firm matching the funds contributed by DOC. This funding level will automatically rise with inflation to ensure it does not remain stagnant.

Section 133203. Technical Assistance.
This section clarifies that assistance provided to a firm may be used to provide skills training programs to employees of the firm.

Section 133204. Definitions.
This section provides the definition for the term underserved community.

Section 133205. Plan for Sustained Outreach to Potentially-Eligible Firms.
This section requires DOC to develop a plan and submit it Congress regarding outreach to potentially eligible firms, including:

- the U.S. International Trade Commission (ITC) and firms in the industries with increased imports identified in an annual ITC report;
- firms in the service sector and small businesses;
- firms that that are minority or women-owned; and
- firms that employ a majority or substantial percentage of workers from underserved communities.

Part 3 – Trade Adjustment Assistance for Communities and Community Colleges

Section 133301. Trade Adjustment Assistance for Communities.
This section establishes the TAA for Communities program by adding new sections to the Trade Act of 1974. The following descriptions refer to the new sections of the Trade Act as added by the provision.

Section 271. Definitions.
This section provides the definitions for agricultural commodity producer, community, eligible community, eligible entity, Secretary, and underserved community.

Section 272. Establishment of Trade Adjustment Assistance for Communities Program.
This section provides DOC, acting through the Economic Development Administration, with 180 days to establish the TAA for Communities program.

Section 273. Eligibility; Notification of Eligibility.
This section provides that communities impacted by trade are eligible for the program. It further defines "impacted by trade" as a community (1) in which a certification has been made under the TAA for Workers, Firms, or Farmers programs, and (2) a community that (a) has a per capita income of 80% or less of the national average, (b) has an unemployment rate at least 1% higher than the national average over the past two years, or (c) is significantly affected by the threat or the loss of jobs associated with a TAA certification. This section also requires the federal government to proactively reach out to a potentially eligible community to notify it of benefits potentially available under the program.

Section 274. Grants to Eligible Communities.
This section requires DOC to provide grant funding to eligible communities that apply for assistance (described in the next section). This section requires that entities that receive assistance under the TAA for Community Colleges program coordinate with eligible communities in section, if applicable.

This section provides DOC with flexibility to administer revolving loan fund grants and construction grants, similar to flexibilities provided in other programs the agency administers.

This section limits the maximum award to a community to $25,000,000. It also requires DOC to prioritize historically distressed communities and ensure that grants are provided to geographically diverse communities.

Section 275. Strategic Plans.
This section requires communities to develop a strategic plan to adjust to the impact that trade has had on it. In developing this plan, the community is required to consult with

local officials, labor organizations, and organizations representing underserved communities, among others.

A community's strategic plan is required to describe the capacity of the community to adjust to trade, evaluate economic opportunities, including for young workers, describe economic adjustment projects, assess the impact on underserved communities, and training programs available to workers, among other things. This section also requires DOC to provide individualized technical assistance to communities in developing its strategic plan.

Section 276. Coordination of Federal Response and Other Additional Technical Assistance.
This section requires DOC to coordinate the federal response for an eligible community, including identifying other funding opportunities available through other federal agencies and assisting the community in accessing such assistance. It also provides DOC with flexibility to transfer funds to and from agencies to carry out the provisions of the TAA for Communities program.

Section 277. General Provisions.
This section provides DOC with the authority to issue regulations to carry out the program and to consult with the Committee on Ways and Means and the Senate Finance Committee regarding such regulations. It also requires DOC to rely on existing regulations to the maximum extent possible to carry out this program and to use expertise from its existing work.

Section. 133302. Trade Adjustment Assistance for Community Colleges and Career Training.
This section updates the funding levels for grants distributed to community colleges under the TAA for Community Colleges program and requires DOL to develop a plan to ensure that the program effectively serves populations from underserved communities. Finally, this section ensures that a portion of grant funding can be used to support the needs of students taking courses at community colleges.

Part 4 – Trade Adjustment Assistance for Farmers

Section 133401. Definitions.
This section provides the definition for the term underserved community.

Section 133402. Group Eligibility Requirements.
This section removes the requirement that imports contribute "importantly" to decreased sales. This section requires only a decrease in sales and production, instead of requiring a 15% decrease, and expands eligibility to farmers who lost export sales.

Section 133403. Benefit Information to Agricultural Commodity Producers.
This section requires USDA to develop an outreach plan to producers from underserved communities that could benefit under the program.

Section 133404. Qualifying Requirements and Benefits for Agricultural Commodity Producers.
This section increases the benefits available to farmers under the program from $12,000 to $36,000. Funding levels will automatically rise with inflation to ensure they do not remain stagnant.

Part 5 – Appropriations and Other Matters

Section 133501. Extension of and Appropriations for Trade Adjustment Assistance Program.
This section extends the TAA for Workers, Firms, and Farmers programs for seven years, appropriates $1,000,000,00 for TAA for Workers per year for training funds, and appropriates $50,000,000 per year to both the Firms and Farmers programs.

It also provides $1,000,000,000 per year in appropriations to the TAA for Communities program for five years. Finally, it provides $1,300,000,000 per year in appropriations to the TAA for Communities Colleges program for seven years.

Section 133502. Applicability of Trade Adjustment Assistance Provisions.
This section provides that all TAA workers will be moved into the current version of TAA, as amended by the provisions of subtitle D.

This section also requires DOL and DOC to review petitions for eligibility to the TAA for Workers and Firms programs, respectively, that have been denied since January 1, 2021, and provides a window for recently denied petitions to be certified under the expanded eligibility criteria.

Effective Date

As provided in section 133002, all the provisions in the subtitle are effective upon enactment.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle D – Budget Reconciliation Legislative Recommendations Relating to Trade Adjustment Assistance on September 10, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Subtitle D offered by Mr. Buchanan was ruled nongermane. Mr. Buchanan moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 25 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	25			**TOTALS**		18	

An amendment to the amendment in the nature of a substitute to Subtitle D that would make communities harmed by job losses and decreased economic activity as a result of the stop to construction of the Keystone XL Pipeline eligible to receive TAA for Communities benefits was offered by Mr. Arrington. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Subtitle D that would make workers displaced by the expiration of the Generalized System of Preferences and the Miscellaneous Tariff Bill eligible to receive TAA for workers, and reserve $100 million of the $1 billion appropriated annually for these workers was offered by Ms. Walorski. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment in the nature of a substitute to Subtitle D was agreed to by a voice vote (with a quorum being present).

Subtitle D was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		19	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE'S ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to provide increased resources and make key improvements to the Trade Adjustment Assistance programs for Workers, Firms, Communities, Community Colleges, and Farmers, respectively.

C. INFORMATION RELATING TO UNFUNDED MANDATES

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, (Public Law 104-4) the Committee adopts as its own the federal mandates estimate prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

The Committee has determined that the committee print does not contain Federal mandates on the private sector. The Committee has determined that the subtitle does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the subtitle, as reported.

DISSENTING VIEWS

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
LINDA T. SÁNCHEZ, CALIFORNIA
BRIAN HIGGINS, NEW YORK
TERRI A. SEWELL, ALABAMA
SUZAN DELBENE, WASHINGTON
JUDY CHU, CALIFORNIA
GWEN MOORE, WISCONSIN
DAN KILDEE, MICHIGAN
BRENDAN BOYLE, PENNSYLVANIA
DON BEYER, VIRGINIA
DWIGHT EVANS, PENNSYLVANIA
BRAD SCHNEIDER, ILLINOIS
TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

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VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON SUBTITLE D.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO TRADE ADJUSTMENT ASSISTANCE

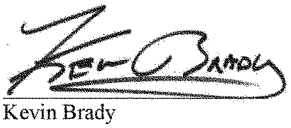
Committee Republicans agree that when workers, firms, farmers, and communities lose jobs because of increased foreign competition that results from trade liberalization, the federal government should help them adjust. New trade agreements benefit the United States by both increasing export opportunities and providing consumers with increased choices and lower prices, but they also can have negative effects on domestic workers and firms whose products are displaced by imports. Congress created Trade Adjustment Assistance in the Trade Expansion Act of 1962 to help such workers and firms adjust to import surges that may result from our trade agreements. For this reason, Congress typically reauthorizes the program alongside expansionary trade policies with the potential to create good American jobs through trade, like votes on Trade Promotion Authority (TPA) and specific free trade agreements.

Committee Republicans find it lamentable that the Majority has chosen to reauthorize and dramatically expand TAA in this partisan context, rather than considering program reauthorization in the context of a vote on a balanced trade package that also includes TPA renewal or a new free trade agreement. Meanwhile, Democrats have not prioritized the reauthorization of two job-creating trade programs that have long enjoyed bipartisan support, the Generalized System of Preferences (GSP) and the Miscellaneous Tariff Bill (MTB).

With respect to TAA for Workers, the Majority has proposed to more than double the prior authorization for this program (from $450 million to $1 billion per year) at a time when many job-creators are eager to hire but cannot find enough workers. At the same time, we know that enrollment in the program dropped significantly from 230,000 in 2010 to 23,436 in 2019. Moreover, the bill relaxes one of the most important statutory requirements for participation in the program—namely, a showing that an increase in imports contributed "importantly" to underlying job losses—a change that raises concerns because it makes the program's relationship to adverse impacts from trade liberalization far less clear. This bill also makes the same change to weaken the connection between TAA and trade in the other TAA programs.

Committee Republicans believe the bill contains too few provisions to streamline and improve program administration. Committee Republicans support the bill's provisions that require the Department of Labor to certify only those job training providers that have demonstrated an ability to place workers in jobs at the completion of training and to recognize pre-apprenticeships in the category of authorized training programs.

Subtitle D represents a missed opportunity. A missed opportunity to reauthorize various TAA programs in a way that makes them more efficient and responsive to the needs of program beneficiaries. A missed opportunity to examine why prior TAA programs have been underutilized or failed entirely. And a missed opportunity to work together in a bipartisan way to advance a proactive U.S. trade agenda that helps our firms and farmers create new, export-oriented American trade jobs with trade agreements that secure expanded market access opportunities.



Kevin Brady
Republican Leader
Committee on Ways and Means

TABLE OF CONTENTS

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 3

BUDGET EFFECTS OF THE SUBTITLE 4

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 5

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED 6

DISSENTING VIEWS 6

SUBTITLE E PART 1 – PATHWAYS TO HEALTH CAREERS

EXPLANATION OF PROVISIONS

Current Law

Section 2008 of the *Social Security Act*, "Demonstration Projects to Address Health Professions Workforce Needs" funded grants to eligible entities for demonstration projects to provide education and training to disadvantaged individuals for occupations experiencing labor shortages or in-high-demand allied health professions (HPOG demonstration grants) through September 30, 2021. Section 2008 also authorizes use of already-appropriated funding for research evaluation and reporting through September 30, 2022.

Explanation of Provisions

Sec. 134101. Pathways to Health Careers Act.

Transition Funding.
Appropriates $15 million to the Secretary of the U.S. Department of Health & Human Services (HHS Secretary) to provide Technical Assistance (TA) and cover administrative costs associated with the national Health Profession Opportunity Grant (HPOG) Program as authorized and funded by this subtitle.

Career Pathways Through Health Profession Opportunity Grants.
Amends Title XX of the *Social Security Act* to authorize new HPOG competitive grants and demonstration 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 in order to receive funding. Grant applications must include:

- Descriptions of how the applicant will implement or provide: a career pathway, adult basic skills, case management, 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 the applicant will train to fill such jobs.
- A commitment to provide all requested data, hire a project director, and accept TA.

The subsection has additional application requirements for the new demonstration projects:

- For demonstration projects that train individuals with arrest or conviction records, applications must additionally include certification that local laws allow for credentials to be awarded in the professions for which the applicant will be training and descriptions of local

policies or appeals processes that offer opportunity to demonstrate rehabilitation to obtain health care credentials. Applicants must have staff experienced in working with people with records, partner with employers experienced in working with people with records, proof of concept, and a plan for participant recruitment and job placement.

- For demonstration projects that train individuals for a pregnancy and childbirth career pathway, applications must also include partnerships and a program design that will support such a career pathway, and certify that local laws permit doulas and midwives to practice.

Subsection (b). Preferences in Considering Applications.
Requires the Secretary to consider the following applicant characteristics: prior HPOG grantees; cross-sector partnerships; coaching and mentoring; rural applicants; 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. Requires HHS to award at least two grants per state and the District of Columbia, at least 10 tribal grants, and at least two territory grants per grant cycle. The grant period shall be not less than five years, which may include a planning period of no more than the first 12 months of the grant cycle.

Establishes grant authority for new HPOG demonstrations to train: (I) Individuals with Arrest or Conviction Records, and (II) Pregnancy and Childbirth Career Pathway. Each demonstration project shall be conducted for no less than five years. Dedicated funding is provided such that each demonstration receives at least $6,375,000 per grant cycle.

Subsection (d). Use of Grant.
Requires grantees 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. For new demonstration projects for individuals with records, grantees must provide connections to legal assistance for addressing arrest or conviction records and associated workforce barriers.

Funds may be spent on: stipends, emergency funds, training materials such as uniforms and personal protective equipment, in-kind donations such as interview clothing, basic education or high school equivalency, and the supports necessary to address arrest or conviction 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. At least 10 percent of enrolled participants must meet the income threshold for the state Temporary Assistance for Needy Families program.

Grantees may not spend funds on ineligible individuals or 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 TA to applicants and to grantees to assist with all stages of project administration, including the needs of new demonstration projects and 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 Demonstration Projects.
Requires HHS to conduct evaluations of new demonstration projects. For the demonstration project for arrest or conviction records, 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 demonstration project for pregnancy and childbirth career pathway, 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. The evaluations may include a randomized control trial but are not required to use that methodology.

Subsection (g). Reports.
Grantees must report data on participant outcomes to the HHS Secretary. The HHS Secretary must report to Congress regarding rural applicants and rural awards, and, if the agency was not able to award the minimum required number of grants to states, territories, and tribal communities, the explanations for such.

Subsection (h). Definitions.
Provides definitions for terms used in the legislation.

Subsection (i). Funding.
Directly appropriates $425,000,000 for each of FY2022 through FY2026, of which $318,750,000 is for general competitive grants, $17,000,000 is for tribal grants, $21,250,000 is for territory grants, $25,500,000 is for the new demonstration projects, $25,500,000 is for TA, and $17,000,000 is for studying the effects of HPOG grants including the short-term and long-term effects of the new demonstration grants.

Effective Date

Subtitle E Part 1, Pathways to Health Careers, is effective October 1, 2022.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle E, Part 1, Pathways to Health Careers on September 10, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Part 1 of Subtitle E offered by Ms. Miller was ruled nongermane. Ms. Miller moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 25 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	25			**TOTALS**	18		

An amendment in the nature of a substitute to Part 1 of Subtitle E was agreed to by a voice vote (with a quorum being present).

Part 1 of Subtitle E was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		19	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to invest in grants demonstrated to help disadvantaged workers advance in health careers and address shortages of allied health workers.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, (Public Law 104-4) the Committee adopts as its own the federal mandates estimate prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

D. Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

E. Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or

reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the committee print, as reported.

DISSENTING VIEWS

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
LINDA T. SÁNCHEZ, CALIFORNIA
BRIAN HIGGINS, NEW YORK
TERRI A. SEWELL, ALABAMA
SUZAN DELBENE, WASHINGTON
JUDY CHU, CALIFORNIA
GWEN MOORE, WISCONSIN
DAN KILDEE, MICHIGAN
BRENDAN BOYLE, PENNSYLVANIA
DON BEYER, VIRGINIA
DWIGHT EVANS, PENNSYLVANIA
BRAD SCHNEIDER, ILLINOIS
TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

BRANDON CASEY,
MAJORITY STAFF DIRECTOR

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JACKIE WALORSKI, INDIANA
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RON ESTES, KANSAS
LLOYD SMUCKER,
PENNSYLVANIA
KEVIN HERN, OKLAHOMA
CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON PART 1 SUBTITLE E.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO HEALTH PROFESSION OPPORTUNITY GRANTS

Committee Republicans oppose Part 1 of Subtitle E. As part of their $3.5 trillion expansion of the welfare state, Democrats want to quadruple funding for a program that has proven to be ineffective at helping low-income individuals find jobs. Part 1 of Subtitle E reauthorizes and increases funding for the Health Professional Opportunity Grant (HPOG) program. The program awards grants to organizations to provide education and training to welfare recipients and other low-income individuals for occupations in the health care field that are expected to either experience labor shortages or be in high demand.

Under the Democrats plan, this program would grow from $85 million to $425 million at a total cost of $2.1 billion. We know from rigorous evaluations that the Health Profession Opportunity Grants program has little to no impact on the earnings or employment participants.

HPOG is a rare federal program that has actually received a robust randomized control trial evaluation to determine its impact on outcomes of participants. A 10-year, $100 million "gold standard" randomized control trial evaluation conducted by the Department of Health and Human Services (HHS) found no evidence of the program's impact on recipient earnings or employment. A November 2019 report issued by the HHS Office of Planning, Research, and Evaluation looked at outcomes of participants three years after completion. The report found:

> *The HPOG logic model suggests the training and services provided by HPOG should produce earnings gains for participants. However, despite the increase in training completion…we found no evidence of earnings impacts in the three years after random assignment.*

A more recent publication looking at short-term impacts on the second round of HPOG participants found that the program increased educational progress and training completion in the short run. However, HPOG 2.0 did not have an impact on overall employment – nor did it increase earnings in the short run. There is no sound justification for significantly expanding spending on this program.

Further, Committee Republicans are concerned about the duplication HPOG has with other existing workforce programs. Committee Republicans want to remind our Democrat colleagues that American taxpayers already fund a social safety net to the tune of more than 80 programs and $1 trillion every year. Instead of doing the hard work to streamline, modernize and re-design our existing safety net. Democrats want us to double down on broken forever programs.

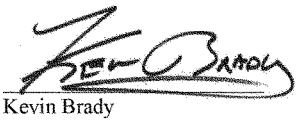
States have the ability to use Temporary Assistance for Needy Family (TANF) funds for similar activities targeted at the same population. In addition, other programs operated by HHS such as the Health Career Opportunity Program (HCOP) focus on disadvantaged populations. The Department of Labor also runs a rural health professions program.

Instead of quadrupling-down on a duplicative program that fails to meet its objectives, Republicans suggested an alternative. In the past, Republicans and Democrats worked together on a bipartisan basis to introduce evidence-based policymaking into child welfare programs – creating the Families First Evidence-Based Clearinghouse and providing federal funding for programs with proven results, such as the Maternal, Infant, Early Childhood Home Visiting (MIECHV) program.

Committee Republicans offered an amendment to redirect additional funding for HPOG to fund the evidence-based programs offered by MIECHV. MIECHV builds upon decades of scientific research showing that home visits by a nurse, social worker, early childhood educator, or other trained professional during pregnancy and in the first years of a child's life helps:

- prevent child abuse and neglect,
- supports positive parenting,
- improve maternal and child health;
- and promote child development and school readiness.

Through the voluntary home visiting services offered through the MIECHV program, case managers provide tools to children and families during critical early years that will set up our kids for future success. Because the program is foundationally evidence-based, families across the nation experience the life altering results of this program every day. MIECHV, unlike HPOG, proves that connecting children and adults in need with compassionate human support will uplift families and change lives. The amendment was unanimously rejected by Committee Democrats.



Kevin Brady
Republican Leader
Committee on Ways and Means

TABLE OF CONTENTS

Page

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 6

BUDGET EFFECTS OF THE SUBTITLE 6

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 7

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED 7

DISSENTING VIEWS 8

SUBTITLE E, PART 2 – PROVISIONS RELATING TO ELDER JUSTICE

EXPLANATION OF PROVISIONS

Current Law

Subtitle B part II of Title XX of the Social Security Act (SSA) authorizes appropriations for grants to states that promote equity, safety, and care for older adults, including investing in the long-term care workforce, adult protective services for seniors and people with disabilities, long-term care ombudsmen, and conducting evaluations of elder justice programs.

Explanation of Provisions

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.

Present Law

Section 2041 of the Elder Justice Act authorized $20 million in discretionary funding in FY2011, $17.5 million in FY2012, and $15 million per year in FY2013 and FY2014 for grant and incentive programs to address challenges for the long-term care staffing workforce. Authorized grant uses include programs to create career ladders or wage and benefit increases for long-term care workers and improve management practices in long-term care facilities. The section also authorizes the Secretary of Health and Human Services (HHS) to make grants to long-term care facilities to cover costs related to purchasing, leasing, developing, and implementing electronic health record technology to improve patient safety. This section also authorizes the Secretary to adopt electronic data standards for clinical data in long-term care facilities.

Explanation of Provision

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:

Sec. 2041. Nursing Home Worker Training Grants.

Subsection (a). Appropriation.
This section directly appropriates $392 million for states per year for FY2022 through FY2025 and $8 million for Indian tribes and tribal organizations per year for FY2022 through FY2025 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 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: as defined in Section 4 of the Indian Self-Determination and Education Assistance Act.

Subsection (b). Funding for Adult Protective Services Functions and Grant Programs.

Present Law

Section 2042 of the SSA authorizes the Secretary of HHS to provide funding to state and local Adult Protective Services (APS) offices that investigate reports of elder abuse, neglect, and exploitation; work with the Department of Justice to collect and disseminate data; develop and disseminate best practices and training on APS; conduct research related to the provision of APS; and provide technical assistance to states and other entities that provide or fund APS. Section 2042 authorized appropriations of $25 million in FY2011 through FY2014.

Explanation of Provision

This subsection revises Section 2042 of the SSA to authorize and directly appropriate funding for adult protective services. This subsection provides $8 million for HHS administrative costs per year for FY2023 through FY2025.

This subsection also funds two existing grant programs. The first awards grants to enhance state and local APS services. For each year in FY2023 through FY2025, 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. This provision directly appropriates $75 million for APS demonstration grants per year in FY2023 through FY2025.

Subsection (c). Funding for Long-Term Care Ombudsman Program Grants and Training.

Present Law

Section 2043 of the SSA authorizes the Secretary of HHS to award grants to eligible entities with relevant expertise and experience in abuse and neglect in LTC facilities or LTC ombudsman programs and responsibilities. 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. Section 2043 authorized appropriations of $5 million in FY2011, $7.5 million in FY2012, and $10 million per year in FY2013 and FY2014.

Explanation of Provision

This subsection reauthorizes and revises Section 2043 and directly appropriates $22.5 million for FY2023 and $30 million per year for FY2024 and FY2025 for grants to states for 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 of HHS 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 per year for FY2023 through FY2025 for this purpose.

Subsection (d). Incentives for Developing and Sustaining Structural Competency in Providing Health and Human Services.

Present Law

No provision.

Explanation of Provision

This subsection creates a new Section 2047 in Title XX of the SSA to provide funding to address structural gaps in providing services and supports to older adults and people with disabilities. 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 outlaid by the end of FY2028 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 – 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 outlaid by the end of FY2028 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 of HHS to establish programs to provide and improve training for AAAs and other community-based organizations to address and prevent social isolation and loneliness.

The Secretary of HHS 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.

Present Law

This section specifies a reference to the meaning of the term "Indian tribe" under section 4 of the Indian Self-Determination and Education Assistance Act at 25 U.S.C. 450(b).

Explanation of Provision

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

Section 134202. Appropriation for Assessments.

Present Law

No provision.

Explanation of Provision

This provision directly appropriates $5 million per year for FY2022 through FY2025 to carry out assessments of the programs funded under the Elder Justice Act. This provision requires the Secretary of HHS 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.

Effective Date

All of the provisions in this part of the subtitle are effective upon enactment. Additional funding for the new Sections 2041 and 2047 is appropriated starting in FY2022, and all other funding is appropriated starting in FY2023.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle E, Part 2, Provisions Related to Elder Justice on September 10, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Part 2 of Subtitle E offered by Mr. Kelly was ruled nongermane. Mr. Kelly moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 25 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	25			**TOTALS**		18	

An amendment in the nature of a substitute to Part 2 of Subtitle E was agreed to by a voice vote (with a quorum being present).

Part 2 of Subtitle E was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas to 18 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN			
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		18	

BUDGET EFFECTS OF THE SUBTITLE

A. Committee Estimate of Budgetary Effects

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. New Budget Authority and Cost Estimate Prepared by the Congressional Budget Office

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print provides funding is to improve and expand upon the existing programs in the Elder Justice Act, including addressing the qualified workforce challenges, inadequate adult protective services funding, access to legal services, and social isolation and loneliness.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, (Public Law 104-4) the Committee adopts as its own the federal mandates estimate prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

D. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by these provisions.

E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(2) of the Congressional Accountability Act.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the committee print, as reported.

DISSENTING VIEWS

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
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STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

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DAVID SCHWEIKERT, ARIZONA
JACKIE WALORSKI, INDIANA
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CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON PART 2 SUBTITLE E.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO ELDER JUSTICE

Committee Republicans oppose Part 2 of Subtitle E. Committee Democrats are in a hurry to push through huge new, duplicative spending programs – recklessly jamming through partisan progressive priorities under the guise of "elder justice" and helping seniors.

Subtitle E – Part 2 would create a loosely defined $4 billion grant program with a buffet of random supportive services for individuals who work with the elderly, such as home health aides, and nursing home workers, including: (1) workforce training, (2) student loan repayment and tuition assistance, (3) guaranteed child care, and (4) funding to provide employees with not less than 2 weeks of paid leave. What Democrats are really doing is exploiting seniors as a bait and switch to create new welfare programs.

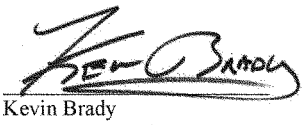
Meanwhile, prior to Subtitle E, Democrats voted to pass out of Committee Subtitles A and C, which provides $27 billion in new funding for child care and a $500 billion paid family and medical leave entitlement program. Also, Education and Labor Democrats are marking up another $400 billion for child care and universal pre-k and $55 billion for free community college. In addition to all that new spending, we have the Social Services Block Grant (SSBG), which is an existing $1.6 billion program that provides funding for Adult protectives services similar to those described in this title.

Why are Democrats proposing another $4 billion specialty program for the same worker supports? Are nursing home workers not covered under those new entitlements? This Subtitle is just one more in a grab bag of pet-projects included in the Democrats' partisan, reckless reconciliation bill.

Republicans would welcome an examination of the actual elder justice program created by the Affordable Care Act. The Committee has held no hearings on the Elder Justice Act since the inception of the program. Last year, on a bipartisan basis, the Consolidated Appropriations Act, 2021 invested $100 million to administer elder justice programs—which was an exponential funding increase. But while the ink was still drying on that deal, the majority used what should have been a COVID-19 relief package to force through an additional $276 million. While

combating elder abuse is a worthy endeavor, it is one that should be addressed on a bipartisan basis through regular order and hearings.

Committee Republicans offered an amendment to redirect all duplicative funding increases for the Elder Justice Act for bills that the Biden Administration identified as immediate needs coming due now. In his request, the President is asking for $8 billion for the Office of Refugee Resettlement to deal with the surge of unaccompanied children coming over the border because the Biden Administration has failed to secure our border. The President also requested additional funds to assist Afghan refugees, disabled American veterans, and evacuating Afghanistan. The amendment was unanimously rejected by Committee Democrats.



Kevin Brady
Republican Leader
Committee on Ways and Means

TABLE OF CONTENTS

Page

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 4

BUDGET EFFECTS OF THE SUBTITLE 5

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 6

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE'S RECONCILLIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 7

SUPPLEMENTAL, ADDITIONAL, DISSENTING, OR MINORITY VIEWS 7

SUBTITLE E, PART 3 – SKILLED NURSING FACILITIES

EXPLANATION OF PROVISIONS

Current Law

The Centers for Medicare & Medicaid Services (CMS) oversees certain institutional care facilities that participate in Medicare and/or Medicaid, which CMS refers to as long-term care facilities (LTCFs). Federal law designates Medicare LTCFs as skilled nursing facilities (SNFs) and Medicaid LTCFs as nursing facilities (NFs). The majority of federally certified LTCFs participate in both Medicare and Medicaid and thus constitute SNFs and NFs. In the United States, 15,340 LTCFs participated in Medicare and/or Medicaid as of January 2021. Of this total, 94 percent of LTCFs were dually certified to participate in both Medicare and Medicaid, four percent were certified as Medicare only, and two percent were certified as Medicaid only.

Explanation of Provisions

Part 3 – Skilled Nursing Facilities

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

Present Law

The Protecting Access to Medicare Act of 2014 (PAMA; P.L. 113-93) added subsections 1888(g) and 1888(h) to Section 1888 of the Social Security Act (SSA) requiring the Secretary to establish the SNF Value-Based Purchasing (VBP) program. The Consolidated Appropriations Act, 2021 (P.L. 116-260) subsequently required the Secretary to validate all VBP program quality measures and provided $5 million from the Medicare Hospital Insurance (HI) Trust Fund to support validation activities for each of fiscal years (FY) 2023 through 2025.[1]

Explanation of Provision

Section 134301 amends section 1888 of the SSA in paragraph (h)(12) by directly appropriating $50 million to the Secretary of the Department of Health and Human Services (HHS), 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 SSA to reduce SNF payments by two percentage points beginning in fiscal year (FY) 2025 for SNFs that submit inaccurate data through any of these three data systems.

[1] Division CC, Title I, Subtitle B, Section 111 of the Consolidated Appropriations Act, 2021.

Section 134302. Ensuring Accurate Information on Cost Reports.

Present Law

Like other Medicare providers, SNFs are required to submit an annual cost report to CMS. The cost report contains provider information, such as service cost and charges (in total and for Medicare), and financial statement data. Under section 1888 of the SSA, SNFs are required annually to separately report expenditures for wages and benefits for direct care staff, breaking out (at a minimum) registered nurses, licensed professional nurses, certified nurse assistants, and other medical and therapy staff. The Secretary is required to categorize reported SNF expenditures, regardless of any source of payment, into four categories on an annual basis: (1) direct care services (including nursing, therapy, and medical services), (2) indirect care (including housekeeping and dietary services), (3) capital assets, and (4) administrative services cost.

Explanation of Provision

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 calendar year 2022 and ending in 2031.

Section 134303. Survey Improvements.

Present Law

To participate in Medicare, SNFs must adhere to a set of federal requirements known as the Conditions of Participation (CoPs). To determine whether SNFs are in compliance with the CoPs, the Secretary is required to work in collaboration with state agencies, known as State Survey Agencies (SAs), to inspect SNFs.[2] Generally, SAs perform an initial survey after a SNF has been operational for a short period of time. After the initial certification, SAs conduct regular, unannounced inspections (known as standard surveys) and abbreviated standard surveys in response to any indicators of particular concern, which can include complaints from residents or other entities or a change in a SNF's ownership or management.[3, 4] Federal requirements also include enforcement procedures the Secretary and/or states may impose against noncompliant providers. The remedies imposed upon a SNF depend on the severity of the deficient behavior. Available remedies include a directed plan of correction, directed in-service training, state monitoring, civil money penalties, temporary management, denial of Medicare payment (either for all residents or for all new admissions), transfer of residents, termination from the Medicare program, and others.

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[2] SSA §1819(g). Typically the SAs also have responsibility for state licensing and oversight of these and other institutional care settings.
[3] Under SSA §1819(g)(2)(A)(iii)(I), a standard surveys must occur at least every 15 months at each facility. An SA's average survey interval across facilities in the state cannot exceed one year, or 12 months.
[4] SSA §1819(g)(2)(A)(iii)(II).

Explanation of Provision

Section 134303 amends section 1819 of the SSA by inserting a new subsection (l) that appropriates $325 million for FYs 22 through 2031 to the Secretary of HHS for the purposes of improving existing surveys and enforcement processes to improve compliance with the SNF CoPs. 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.
Present Law

Under Section 1819 of the SSA, SNFs generally must provide 24-hour licensed nursing services sufficient to meet the needs of its residents including, at a minimum, providing services of a registered professional nurse at least eight consecutive hours a day, seven days a week. Although CMS has not established staffing "ratio" requirements (i.e., a minimum number for staff-to-residents), SNFs report billable staffing hours to CMS using the Payroll Based Journal (PBJ) system. Information on staffing ratios is available to the public and are incorporated in the Five-Star Quality Rating System, reported on the CMS website, *Care Compare*.

Explanation of Provision

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 2022 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 CoPs, subject to limited waivers, within two years of each report (updated periodically to reflect any changes in recommendations from the latest report).

Effective Date

All of the provisions in the subtitle are effective on enactment. Funding for Sec. 134301 will begin to be disbursed in FY 2026; Sec. 134302 will be available beginning in FY 2023; Secs. 134303 and 134304 will be available beginning in FY 2022.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle E, Part 3, Skilled Nursing Facilities on September 10, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Part 3 of Subtitle E which would prioritize seniors' safety and ensure state accountability during the continuing pandemic was offered by Mr. Kelly, Mr. Smucker and Mr. Reed. The amendment was defeated by a vote of 18 yeas and 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	
MR. DOGGETT	X			MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP			
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN			
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD	X						
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		23		**TOTALS**	18		

An amendment in the nature of a substitute to Part 3 of Subtitle E was agreed to by a voice vote (with a quorum being present).

Part 3 of Subtitle E was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas to 17 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP			
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN			
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		17	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provision(s).

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether this/these provision(s) contain(s) any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to improve oversight, data reliability, and staffing in skilled nursing facilities.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the committee print does not contain Federal mandates on the private sector. The Committee has determined that the committee print does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by the committee print.

E. Applicability to Legislative Branch

The Committee finds that the committee print does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(2) of the Congressional Accountability Act.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the committee print, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the committee print, as reported.

DISSENTING VIEWS

Clause 2(c) of rule XIII of the Rules of the House of Representatives requires each report by a committee on a public matter to include any additional, minority, supplemental, or dissenting views submitted pursuant to clause 2(1) of rule XI of the Rules of the House of Representatives by one or more members of the committee. The _____ views of members of the Committee are as follows:

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
LINDA T. SÁNCHEZ, CALIFORNIA
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PENNSYLVANIA
KEVIN HERN, OKLAHOMA
CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

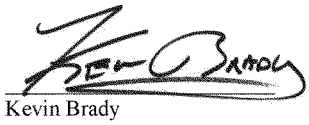
DISSENTING VIEWS ON PART 3 SUBTITLE E.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO SKILLED NURSING FACILITIES

There is no doubt the Committee could have worked on improving reporting at skilled nursing homes on a bipartisan basis. In fact, in the midst of the COVID-19 pandemic, House Republicans have continually raised concerns that states like New York and Pennsylvania have systematically reported false information about COVID-19 nursing home deaths not only to the families who have lost loved ones living in their state but frankly the rest of the country. They have engaged in this cover-up for purely political purposes. Looking at the provisions in the Reconciliation recommendation related to skilled nursing homes, we see our shared goal to ensure information from nursing homes is reported accurately and that the federal government must take the necessary action to correct any inaccuracies. Committee Republicans simply wish our colleagues on the other side of the aisle held governors in their home states to the same standard from the onset of this pandemic.

Committee Republicans gave our Democrat colleagues this opportunity during the consideration of this policy, restricting dollars from flowing to states that have reported inconsistent COVID-19 nursing home deaths to the federal government. It was rejected.

For the second time this year, Committee Republicans saw the majority take a partisan path and make mandatory funding for programs that can and should go through the annual appropriations process. It is disappointing. If Committee Democrats heeded Republican calls on nursing home transparency and accountability sooner, maybe there wouldn't be a rush to shove these requirements into a heavily partisan package.

For these reasons and more, Ways and Means Republicans reject the Democrats' skilled nursing facility legislative recommendation as ordered reported by Committee Democrats.



Kevin Brady
Republican Leader
Committee on Ways and Means

TABLE OF CONTENTS

Page

EXPLANATION OF PROVISIONS 1

VOTES OF THE COMMITTEE 5

BUDGET EFFECTS OF THE SUBTITLE 6

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 6

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE RECONCILLIATION LEGISLATIVE RECOMMENDATIONS, AS TRANSMITTED 7

DISSENTING VIEWS 7

SUBTITLE E, PART 4 – MEDICARE DENTAL, HEARING, AND VISION COVERAGE

EXPLANATION OF PROVISIONS

Current Law

Medicare benefits are financed through two trust funds maintained by the Department of the Treasury – the Hospital Insurance (HI) trust fund for Medicare Part A and the Supplementary Medical Insurance (SMI) trust fund for Medicare Parts B and D. Part B is financed through a combination of beneficiary premiums and federal general revenues. The standard Part B premiums are set to cover 25 percent of projected average per capita Part B program costs for the aged, with federal general revenues accounting for the remaining amount.

In general, Medicare Part A covers inpatient services, including hospitalization and stays at facilities, like skilled nursing facilities, whereas Medicare Part B covers outpatient services, including professional fees paid to physician and non-physician practitioners, and certain prosthetic devices that replace all or part of an internal body organ.[1,2] Medicare-covered prosthetics may include such items as prosthetic limbs, breasts, ostomy bags and certain related supplies, as well as certain surgically implanted devices.

Several criteria must be met for Medicare to pay for an item or service. It must be eligible for one of the defined Medicare benefit categories (e.g., hospital care; physician's services; durable medical equipment, prosthetics and orthotics; etc.); it must not be an item that is specifically, statutorily excluded from coverage (e.g., hearing aids, dentures, and in general, eyeglasses); and as specified in Section 1862(a)(1)(A) of the Social Security Act (SSA), it must be "reasonable and necessary for the diagnosis or treatment of illness or injury, or to improve the functioning of a malformed body member." Alternatively, an item or service may be specified in statutes as being covered by Medicare even if it would not otherwise meet the above criteria (e.g., preventive services).

[1] Section 1812 of the Social Security Act (42 U.S.C. § 1395d).
[2] Section 1832 of the Social Security Act (42 U.S.C. § 1395k).

Explanation of Provisions

Part 4 – Medicare Dental, Hearing, and Vision Coverage

Section 134401. Providing Coverage for Dental and Oral Health Care Under the Medicare Program.

Present Law

Medicare covers and makes payments under Part A or Part B for dental care, as appropriate, when such services are a necessary part of a covered service. Examples include reconstruction of the jaw following an accident, or teeth extractions done in preparation for radiation treatments. Medicare also covers dentures only when they are integral to a Medicare covered prosthetic, such as one designed to replace the palate. However, routine dental care, treatment filling, removal or replacement of teeth, or structures directly supporting teeth are statutorily excluded from Medicare coverage.[3]

Explanation of Provision

Section 134401 amends section 1861 of the SSA by adding a new subsection (lll) to create coverage for dental and oral health services under Medicare Part B. Beginning January 1, 2028, Medicare will provide coverage for preventive and screening services (furnished by a dentist or oral health professional) as well as basic and major dental treatments, as defined by the Secretary of the Department of Health and Human Services (HHS) and furnished by a dentist or oral health professional. The section defines an oral health professional as a health professional licensed under state law to furnish dental and oral health care (other than a dentist) operating within a given state's scope-of-practice laws.

This section defines preventive and screening services as: oral exams, dental cleanings, dental x-rays performed in a dentist or oral health professionals' office, and fluoride treatments. Basic treatments may include basic tooth restorations, basic periodontal services, tooth extractions, and oral disease management services. Major treatments may include major tooth restorations, major periodontal services, bridges, crowns, and root canals.

The section amends section 1834 of the SSA to create a new subsection (z) to pay for dental and oral health services under the Physician Fee Schedule in section 1848 of the SSA or through another fee schedule that may include fees paid through TRICARE, under the Federal Employee Health Benefits Program, by the Secretary of Veterans Affairs, under Medicare Advantage plans under part C of Title XVIII of the SSA, under State plans under Title XIX, or by other health care payers or payers of dental and oral health services.

Beneficiaries will be responsible for 20 percent of cost-sharing for preventive and screening services as well as basic services. Beneficiary cost-sharing for major services will be phased in over time, reaching 50 percent in 2032.

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[3] Section 1862(a)(12) of the Social Security Act (42 U.S.C. § 1395y).

The section also limits payment to two oral exams and two dental cleanings annually. The section permits the Secretary to set additional frequencies with respect to the benefit, allows the Secretary to pay for dentures and the associated professional services furnished through a bundle, and excludes dentists from the Merit-based Incentive Payment System (MIPS).

The section amends section 1842 of the SSA in subparagraph (b)(18)(C) to add oral health professionals to the list of providers receiving payment on an assignment-related basis from Medicare.

The new benefit also covers a full or partial set of dentures once every five years, or more frequently in cases where a dentist determines the dentures no longer fit the beneficiary. Payment for dentures may be made through Medicare's competitive bidding program for orthotics and prosthetics, as determined appropriate by the Secretary. Dentures furnished by a physician or other practitioner (as defined by the Secretary) to the physician's own patients as part of a professional service may be excluded from competitive bidding.

The section transfers $20 million from the Federal Supplementary Trust Fund to the Centers for Medicare & Medicaid Services (CMS) Program Management Account for each of fiscal years (FYs) 2022 through 2028 for the purposes of implementing the dental benefit.

Section 134402. Providing Coverage for Hearing Under the Medicare Program.

Present Law

The Code of Federal Regulations states that with respect to hearing services Medicare covers (1) auditory osseointegrated implants, (2) cochlear implants, and (3) auditory brain stem implants when they produce perceptions of sound by replacing the functions of the middle ear, cochlea, or auditory nerve, respectively.[4] Medicare Part B also covers auditory services such as hearing and balance assessments when furnished by a qualified audiologist legally authorized to perform such services under state law.[5] However, hearing aids or examinations for the purpose of prescribing, fitting, or changing hearing aids are statutorily excluded from Medicare coverage.[6]

Explanation of Provision

Section 134402 amends section 1861 paragraph (ll)(3) of the SSA to allow qualified audiologists to deliver aural rehabilitation and treatment services, beginning on October 1, 2023.

The section also invests in coverage of hearing aids as a prosthetic device under Medicare Part B by amending paragraph 1861(s)(8) of the SSA. Payment for hearing aids is for individuals with severe or profound hearing loss in one or both ears once every five years if furnished through a written order by a physician or qualified audiologist.

The section directs that payment will be made through Medicare's competitive bidding program

[4] 42 C.F.R. 411.15(d)(2).
[5] Section 1861(ll)(3) of the Social Security Act (42 U.S.C. § 1395y).
[6] Section 1862(a)(7) of the Social Security Act (42 U.S.C. § 1395y).

for orthotics and prosthetics for hearing aids that are not included in the definition of "over-the-counter hearing aids" described in the Federal Food, Drug, and Cosmetic Act. Hearing aids furnished by a physician or other practitioner (as defined by the Secretary) to the physician's own patients as part of a professional service may be excluded from competitive bidding.

The section amends section 1842 of the SSA in subparagraph (b)(18)(C) to add audiologists to the list of providers receiving payment on an assignment-related basis from Medicare.

The section transfers $20 million from the Federal Supplementary Trust Fund to the CMS Program Management Account for each of FYs 2022 through 2023 for the purposes of implementing the dental benefit.

Section 134403. Provision Coverage for Vision Care Under the Medicare Program.

Present Law

Medicare covers intraocular lenses, hospital facility and physician charges, and one pair of eyeglasses or contact lenses as part of a Medicare-covered cataract surgery. Medicare also covers eye prostheses for patients with absence or shrinkage of the eye due to birth defect, trauma, or surgical removal. Medicare also covers certain physician services and tests associated with vision care, such as glaucoma screenings for beneficiaries at high risk of glaucoma, eye exams to evaluate eye disease in patients with diabetes, and certain tests and treatments associated with macular degeneration. However, eyeglasses (other than as part of cataract surgery) and routine eye examinations for the purpose of prescribing, fitting, or changing eyeglasses or contact lenses are statutorily excluded from Medicare coverage.[7]

Explanation of Provision

Section 134403 amends section 1861 of the SSA to add a new subsection (mmm) to create coverage for vision services under Medicare Part B. This section defines vision services as routine eye examinations to determine the refractive state of the eye and contact lens fitting services furnished on or after October 1, 2022, by an ophthalmologist or optometrist legally authorized to perform such examinations, procedures, and fitting services under state law.

The section amends section 1834 of the SSA by adding a new subsection (aa) that limits coverage for routine eye examinations and contact lens fitting services to once every two years.

The section also adds vision services to payment through the Physician Fee Schedule in Section 1848 of the SSA.

Beginning on October 1, 2022, Medicare will begin reimbursing ophthalmologists and

[7] Section 1862(a)(7) of the Social Security Act (42 U.S.C. § 1395y).

optometrists for one routine eye examination and one session of contact or eyeglass fitting services every two years. Beneficiaries will be responsible for 20 percent of the cost-sharing for such services.

The section amends section 1834 of the SSA in paragraph (h)(8) by investing in coverage for either one pair of eyeglasses and lenses during a two-year period or a two-year supply of contact lenses. Medicare will pay up to $85 toward the cost of either the eyeglass frames and $85 toward lenses or $85 toward contact lenses. Payment for eyeglasses and contact lenses may be made through Medicare's competitive bidding program for orthotics and prosthetics, as determined appropriate by the Secretary. Eyeglasses or contact lenses furnished by a physician or other practitioner (as defined by the Secretary) to the physician's own patients as part of a professional service may be excluded from competitive bidding.

The section transfers $20 million from the Federal Supplementary Trust Fund to the CMS Program Management Account for each of FYs 2022 through 2023 for the purposes of implementing the dental benefit.

Effective Dates

Section 134401 is effective on January 1, 2028; Section 134402 is effective on October 1, 2023, and Section 134403 is effective on October 1, 2022.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitle E, Part 4, Medicare Dental, Hearing, and Vision Coverage on September 10, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to Part 4 of Subtitle E which would preserve the Medicare plans seniors like and want to keep was offered by Dr. Ferguson. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER				MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Part 4 of Subtitle E which would require patients' exposure to supplemental benefit costs be no more than that of the average Medicare Advantage plan for enrollees with chronic conditions was offered by Mr. Smith of Nebraska. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Part 4 of Subtitle E offered by Mr. Hern was ruled nongermane. Mr. Hern moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 24 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY							
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		18	

An amendment to the amendment in the nature of a substitute to Part 4 of Subtitle E which would save and strengthen Medicare for those in and near retirement was offered by Mr. Estes. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to Part 4 of Subtitle E offered by Mr. Schweikert was ruled nongermane. Mr. Schweikert moved to appeal the ruling of the Chair and Mr. Thompson moved to table the appeal. Mr. Thompson's motion to table the appeal of the ruling of the Chair was agreed to by a vote of 25 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY	X						
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	25			**TOTALS**		18	

An amendment in the nature of a substitute to Part 4 of Subtitle E was agreed to by a voice vote (with a quorum being present).

Part 4 of Subtitle E was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas to 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		19	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provisions.

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to expand Medicare coverage to include dental, hearing, and vision services.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the committee print does not contain Federal mandates on the private sector. The Committee has determined that the committee print does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(2) of the Congressional Accountability Act.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the subtitle, as reported.

DISSENTING VIEWS

RICHARD E. NEAL,
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL, JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
LINDA T. SÁNCHEZ, CALIFORNIA
BRIAN HIGGINS, NEW YORK
TERRI A. SEWELL, ALABAMA
SUZAN DELBENE, WASHINGTON
JUDY CHU, CALIFORNIA
GWEN MOORE, WISCONSIN
DAN KILDEE, MICHIGAN
BRENDAN BOYLE, PENNSYLVANIA
DON BEYER, VIRGINIA
DWIGHT EVANS, PENNSYLVANIA
BRAD SCHNEIDER, ILLINOIS
TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
STACEY PLASKETT, VIRGIN ISLANDS

BRANDON CASEY,
MAJORITY STAFF DIRECTOR

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JACKIE WALORSKI, INDIANA
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JODEY ARRINGTON, TEXAS
DREW FERGUSON, GEORGIA
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LLOYD SMUCKER,
PENNSYLVANIA
KEVIN HERN, OKLAHOMA
CAROL MILLER, WEST
VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON PART 4 SUBTITLE E.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO MEDICARE DENTAL, HEARING, AND VISION COVERAGE

This subtitle expands the fee-for-service Medicare entitlement to include hearing, vision, and dental benefits. Yet, this critical program is already suffering from funding shortfalls as waves of baby boomers continue to enroll. The Hospital Insurance (HI) Trust Fund that funds Part A of Medicare is expected to be insolvent by 2026, less than five years from today. That means benefits will have to be cut, taxes will have to be raised, or some combination of both.

The Medicare fee-for-service system, as operated today, is simply unsustainable. For years, Washington has punted on structural changes to these entitlement programs. The result has been a slowly crumbling social safety net that is failing health care providers and, most importantly, our seniors who rely on them most.

Either we tackle these problems now or they will tackle seniors who rely on the program.

Fortunately, there is a bright spot: Medicare Advantage, private plans competing for seniors' business, is delivering lower costs, and providing more generous benefits for seniors than the antiquated fee-for-service Medicare.

Premiums for 2021 are expected to be 34% lower than in 2017, which is the lowest monthly premiums have been in 14 years. And since 2017, seniors enrolled in Medicare Advantage plans have seen about $3.4 billion in total savings.

Privately administered Medicare Advantage plans already provide supplemental hearing, vision and dental benefits to seniors. In fact, nearly nine out of ten total Medicare Advantage plans offer some form of dental, vision, and hearing coverage.

Of course, "Medicare for All" would eliminate these plans that seniors like. Republicans are steadfast in our opposition to that radical scheme.

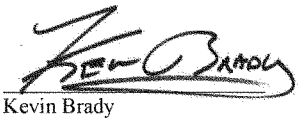
Republicans also oppose supplanting private plans who are already delivering these benefits with the broken fee-for-service program, and spending hundreds of billions of dollars to bribe these seniors into an antiquated program. To that end, Ways and Means Republicans offered an

amendment allowing for the Democrats' benefit expansion to exist, but only in places where seniors can't get a better deal from private plans. Democrats rejected that commonsense amendment.

Republicans also sought to make sure these new fee-for-service benefits were as accessible and affordable as those in private Medicare Advantage plans. Democrats also rejected that, committing seniors to a shoddily designed benefit that providers reject.

Republicans are also focused on the true pressing issue in Medicare, the looming insolvency of the HI Trust Fund. To that end, Ways and Means Republicans offered an amendment to ensure no further Medicare benefits were added until the future of Medicare as we currently know it had been secured. Democrats rejected our amendment to refocus our attention to Medicare's truly pressing challenges.

For these reasons and more, Ways and Means Republicans reject the Democrats' Medicare irresponsibility as ordered reported by Committee Democrats.



Kevin Brady
Republican Leader
Committee on Ways and Means

CONTENTS

Page

EXPLANATION OF PROVISIONS 10

VOTES OF THE COMMITTEE 448

BUDGET EFFECTS OF THE SUBTITLE 449

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE 449

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED 456

DISSENTING VIEWS 456

SUBTITLE F — INFRASTRUCTURE FINANCING AND COMMUNITY DEVELOPMENT

EXPLANATION OF PROVISIONS

PART I — INFRASTRUCTURE FINANCING

Bond Financing

1. Credit to issuer for certain infrastructure bonds (sec. 135101 of the bill and new sec. 6431A of the Code)

Present Law

In General

Interest paid on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes.[1] Because of the income exclusion, investors generally are willing to accept a lower interest rate on tax-exempt bonds than they might otherwise accept on a taxable investment. This, in turn, lowers the borrowing costs for the beneficiaries of such financing.

As an alternative to tax-exempt interest, a variety of tax credit and direct pay bonds have been authorized, subject to applicable requirements, to lower borrowing costs on certain bonds issued by State and local governments. The interest on these bonds is taxable to the bondholder. Because of the tax credit available to the holders of tax credit bonds, investors generally are willing to accept a lower interest rate than they might otherwise accept on a taxable investment. For direct pay bonds, the issuer of the bond receives a payment from the federal government to offset a portion of the interest expense on the bonds.

State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met.

Private Activity Bonds

[1] Sec. 103.

The Code defines a private activity bond as any bond that satisfies (1) the private business use test and the private security or payment test (the "private business test"); or (2) the "private loan financing test."[2]

Private Business Test

Under the private business test, a bond is a private activity bond if it is part of an issue in which:

1. More than 10 percent of the proceeds of the issue (including use of the bond-financed property) are to be used in the trade or business of any person other than a governmental unit ("private business use"); and

2. More than 10 percent of the payment of principal or interest on the issue is, directly or indirectly, (a) secured by property used or to be used for a private business use or payments in respect of such property or (b) to be derived from payments in respect of property, or borrowed money, used or to be used for a private business use ("private payment test").[3]

A bond is not a private activity bond unless both parts of the private business test (*i.e.*, the private business use test and the private payment test) are met. Thus, a facility that is 100 percent privately used does not cause the bonds financing such facility to be private activity bonds if the bonds are not secured by or paid with private payments. For example, land improvements that benefit a privately-owned factory may be financed with governmental bonds if the debt service on such bonds is not paid by the factory owner or other private parties.

Private Loan Financing Test

A bond issue satisfies the private loan financing test if proceeds exceeding the lesser of $5 million or five percent of such proceeds are used directly or indirectly to finance loans to one or more nongovernmental persons. Private loans include both business and other (*e.g.*, personal) uses and payments by private persons; however, in the case of business uses and payments, all private loans also constitute private business uses and payments subject to the private business test.

Arbitrage Requirements

The exclusion from income for interest on State and local bonds does not apply to any arbitrage bond.[4] An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments.[5] In

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[2] Sec. 141.

[3] The 10 percent private business test is reduced to five percent in the case of private business uses (and payments with respect to such uses) that are unrelated to any governmental use being financed by the issue.

[4] Sec. 103(a) and (b)(2).

[5] Sec. 148.

general, arbitrage profits may be earned only during specified periods (*e.g.*, defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (*e.g.*, "reasonably required reserve or replacement funds"). Subject to limited exceptions, arbitrage profits that are earned during these periods or on such investments must be rebated to the Federal Government.

Prior Tax credit and Direct Pay Bonds

In General

As an alternative to tax-exempt interest, a variety of tax credit and direct pay bonds have been authorized, subject to applicable requirements, to lower borrowing costs on certain bonds issued by State and local governments, including the Build America Bonds program, part of the American Recovery and Reinvestment Act of 2009 ("ARRA").6 The authority to issue new tax credit and direct-pay bonds was prospectively repealed by An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, also known as the Tax Cuts and Jobs Act of 2017 ("TCJA"),7 effective for bonds issued after December 31, 2017. The authority to issue two types of tax-credit and direct pay bonds, recovery zone economic development bonds and Build America Bonds, expired on December 31, 2010. Because bonds can have repayment terms of several years, a substantial amount of bonds issued prior to such repeal and expiration, as applicable, remain outstanding.

Tax-credit bonds provide tax credits to investors to replace a prescribed portion of the interest cost. The borrowing subsidy generally is measured by reference to the credit rate set by the Treasury Department. An issuer could elect to issue certain tax credit bonds as "direct-pay bonds." Instead of a credit to the holder, for a "direct-pay bond" the Federal government pays the issuer a percentage of the interest on the bonds.

Qualified Tax Credit Bonds (Prior Law)

In lieu of interest, holders of qualified tax credit bonds receive a tax credit that accrues quarterly. The following bonds are qualified tax credit bonds: qualified forestry conservation bonds, new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, and qualified school construction bonds.[8] Section 54A of the Code sets forth general rules applicable to qualified tax credit bonds.

A taxpayer who holds a qualified tax credit bond on one or more credit allowance dates of the bond during the taxable year is allowed a credit against the taxpayer's income tax for the taxable year. The annual credit is determined by multiplying the applicable credit rate by the outstanding face amount of the bond. The applicable credit rate for the bond is the rate that the Secretary estimates will permit the issuance of the qualified tax credit bond with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The Secretary determines credit rates for tax credit bonds based on general assumptions about

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[6] Pub. L. No. 111-5, February 17, 2009.

[7] Pub. L. No. 115-97, December 22, 2017.

[8] See secs. 54B, 54C, 54D, 54E, and 54F (as in effect prior to repeal by sec. 13404(a) of Pub. L. No. 115-97).

credit quality of the class of potential eligible issuers and such other factors as the Secretary deems appropriate. The Secretary may determine credit rates based on general credit market yield indexes and credit ratings.

The Hiring Incentives to Restore Employment Act added section 6431(f) to the Code authorizing the issuance of certain qualified tax credit bonds as direct pay bonds.[9]

Build America Bonds (Prior Law)

The Build America Bonds program provides a subsidy to State and local governments to finance capital projects, including the development of infrastructure. Under the program, an issuer could elect to have an otherwise tax-exempt bond (other than a private activity bond), issued prior to January 1, 2011, treated as a "Build America Bond."[10] In general, Build America Bonds are taxable governmental bonds the interest on which is subsidized by the Federal government by means of a tax credit to the holder ("tax-credit Build America Bonds") or, in the case of certain qualified bonds, a direct payment to the issuer ("direct-pay Build America Bonds").[11]

Unlike the tax credit for bonds issued under section 54A, the credit rate for tax-credit Build America Bonds is not calculated by the Secretary, but rather is set by law at 35 percent. The actual credit that a taxpayer may claim is determined by multiplying the interest payment that the taxpayer receives from the issuer (*i.e.*, the bond coupon payment) by 35 percent.[12]

In lieu of the tax credit to the holder, the issuer of a direct-pay Build America Bond is allowed a refundable credit equal to 35 percent of each interest payment made under such bond.[13] Although the authority existed to issue tax-credit Build America Bonds, most Build America Bonds were issued as direct-pay Build America Bonds.

Sequestration and Direct Pay Bonds

Pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, sequestration applies to qualified tax credit bonds and Build America Bonds issued as

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[9] Pub. L No. 111-147, sec. 301, March 18, 2010.

[10] Sec. 54AA (as in effect prior to its repeal by sec. 13404(a) of Pub. L. No. 115-97).

[11] Tax-credit Build America Bonds could be issued to finance any governmental purpose for which tax-exempt governmental bonds (excluding private activity bonds under section 141) could be issued under section 103. The eligible uses of proceeds and types of financings for direct-pay Build America Bonds are more limited than for tax-credit Build America Bonds. Direct-pay Build America Bonds could be issued to finance only capital expenditures that could have been financed with tax-exempt governmental bonds.

[12] Original issue discount ("OID") is not treated as a payment of interest for purposes of determining the tax credit to the taxpayer under the provision.

[13] Sec. 54AA(g)(1) (as in effect prior to its repeal by sec. 13404(a) of Pub. L. No. 115-97). OID is not treated as a payment of interest for purposes of calculating the refundable credit to the bond issuer under the provision.

direct pay bonds. For such bonds, refund payments and refund offset transactions processed are subject to a percentage reduction (5.7 percent for fiscal year 2021).[14]

Explanation of Provision

In General

The provision creates a new direct pay bond called a "qualified infrastructure bond." Under the provision, an issuer may elect to have an otherwise tax-exempt bond treated as a qualified infrastructure bond, subject to satisfaction of additional requirements. A "qualified infrastructure bond" is any obligation (other than a private activity bond) if the interest on such obligation would be (but for the bond being a qualified infrastructure bond) excludable from gross income under section 103, the issuer makes an irrevocable election to have the provision apply, and the additional requirements are satisfied. In determining if an obligation would be tax-exempt under section 103, the credit allowed to the issuer (discussed below) is not treated as a Federal guarantee. For arbitrage purposes, the yield on a qualified infrastructure bond is reduced by the credit allowed to the issuer (the reduction does not apply in determining the amount of gross proceeds of an issue that qualifies as a reasonably required reserve or replacement fund). A qualified infrastructure bond does not include any bond if the issue price has more than a de minimis amount of premium over the stated principal amount of the bond.

Taxable Interest and Credit Payment To Issuer

The interest on a qualified infrastructure bond is taxable to the bondholder and the issuer of the bond is allowed a credit equal to the applicable percentage of each interest payment made under such bond, subject to the limitation on the applicable percentage discussed below.[15] The applicable percentage for a qualified infrastructure bond (other than current refunding bonds, as discussed below) depends on the calendar year in which the bond is issued as follows:

2022 through 2024 .....35 percent

2025 .....32 percent

2026 .....30 percent

2027 and thereafter (and current refunding bonds).....28 percent

For example, if an issuer of a qualified infrastructure bond issued in 2022 pays a $1,000 coupon payment, unless the limitation described in the following paragraph applies, the taxpayer who holds such a bond would include $1,000 of interest in their income and the issuer would receive a payment of 35 percent of each $1,000 coupon paid to bondholders. (The net interest cost to the issuer would be $650.) The payment by the Secretary to the issuer is to be

[14] Additional information, including a summary of prior-year sequestration reduction rates, is available on the IRS's website, at https://www.irs.gov/tax-exempt-bonds/effect-of-sequestration-on-state-local-government-filers-of-form-8038-cp.

[15] OID is not treated as a payment of interest for purposes of calculating the refundable credit under the provision. OID is the excess of an obligation's stated redemption price at maturity over the obligation's issue price (sec. 1273(a)).

made contemporaneously with the interest payment made by the issuer and may be made either in advance or as reimbursement. In lieu of payment to the issuer, the payment may (at the direction of the issuer) be made to a person making interest payments on behalf of the issuer.

For purposes of calculating the credit allowed with respect to a payment of interest on a qualified infrastructure bond, the amount of any interest payment taken into account with respect to a bond for any payment date shall not exceed the amount of interest which would have been payable under such bond for such payment date if interest were determined at the applicable credit rate multiplied by the applicable amount for such bond for such payment date.[16]

The "applicable credit rate" is the rate which the Secretary estimates will permit the issuance of qualified infrastructure bonds with a specified maturity or redemption date without discount and without additional interest cost to the issuer.[17] The Secretary determines credit rates for qualified infrastructure bonds based on general assumptions about credit quality of the class of potential eligible issuers and such other factors as the Secretary deems appropriate. The Secretary may determine credit rates based on general credit market yield indexes and credit ratings. The applicable credit rate with respect to any qualified infrastructure bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

The "applicable amount" for a bond for any payment date is (i) in the case of any bond that has more than a de minimis amount of original issue discount (determined under the rules of section 1273(a)(3)), the issue price of such bond (within the meaning of section 148), as adjusted for any principal payments made prior to such date, and (ii) in the case of any other bond, the outstanding principal amount of such bond on such payment date (determined without taking into account any principal payment on such bond on such date).

Regarding sequestration, the provision would provide that in the case of any payment of the credit to or at the direction of the issuer of a qualified infrastructure bond to which sequestration applies, the amount of such payment is increased to an amount equal to (1) such payment (determined before such sequestration), multiplied by (2) the quotient obtained by dividing 1 by the amount by which 1 exceeds the percentage reduction in such payment pursuant to such sequestration. For these purposes, the term "sequestration" means any reduction in direct spending ordered in accordance with a sequestration report prepared by the Director of the Office and Management and Budget pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 or the Statutory Pay-As-You-Go Act of 2010. TCJA repealed the authority to issue certain direct pay bonds after December 31, 2017, and the authority to issue other direct pay bonds expired on December 31, 2010; however, bonds can have repayment terms of several

[16] For example, if an issuer of a qualified infrastructure bond issued in 2022 in a principal amount of $20,000 (with no premium or discount) and an interest rate of 10 percent per annum pays a $1,000 semiannual coupon payment and the applicable credit rate for such bond is 8 percent per annum, the taxpayer who holds such a bond would include $1,000 of interest in their income and the issuer would receive a payment of 35 percent of an $800 portion (the 8 percent per annum applicable credit rate multiplied by $20,000, the applicable amount for the bond) of the $1,000 coupon paid to the bondholders. The net interest cost to the issuer would be $720.

[17] Given the differences in credit quality and other characteristics of individual issuers, the Secretary cannot set credit rates in a manner that will allow each issuer to issue tax credit bonds at par.

years, and direct pay bonds issued prior to such repeal or expiration, as applicable, remain outstanding and subject to sequestration.

Additional Provisions for Qualified Infrastructure Bonds

To qualify as a "qualified infrastructure bond," 100 percent of the excess of available project proceeds of the issue of which the bond is a part over the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue must be used for (i) capital expenditures or operations and maintenance expenditures in connection with property the acquisition, construction, or improvement of which would be a capital expenditure, or (ii) payments made by a State or political subdivision of a State to a custodian of a rail corridor for purposes of the transfer, lease, sale, or acquisition of an established railroad right-of-way consistent with section 8(d) of the National Trails Act of 1968, but only if the Surface Transportation Board has issued a certificate of interim trail use or notice of interim trail use for purposes of authorizing such transfer, lease, sale, or acquisition.

The term "available project proceeds" means (A) the excess of (i) the proceeds from the sale of an issue, over (ii) issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds) and (B) the proceeds from any investment of such excess.

A bond issued to currently refund a qualified infrastructure bond is not a qualified infrastructure bond unless (i) the average maturity date (determined in accordance with section 147(b)(2)(A)) of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, (ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, (iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond, and (iv) the refunded bond was issued more than 30 days after the date of the enactment. The applicable percentage with respect to any qualified infrastructure bond issued to currently refund another qualified infrastructure bond is 28 percent. Another section of the provision provides authority for certain advance refunding bonds (when the refunded bond is redeemed more than 90 days after the date of issuance of the refunding bond) to be issued as tax-exempt bonds, subject to applicable requirements. Bonds issued to advance refund qualified infrastructure bonds are not qualified infrastructure bonds.

The requirements of the Davis-Bacon Act in Subchapter IV of chapter 31 of title 40, United States Code apply to projects financed with the proceeds of qualified infrastructure bonds.

Effective Date

The provision is effective for bonds issued after December 31, 2021.

2. Advance refunding bonds (sec. 135102 of the bill and secs. 148 and 149 of the Code)

Present Law

Section 103 generally provides that gross income does not include interest received on State or local bonds. State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are

primarily used to finance governmental facilities or that are repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons (*e.g.*, private businesses or individuals).[18] Bonds issued to finance the activities of charitable organizations described in section 501(c)(3) (qualified 501(c)(3) bonds") are one type of private activity bond. The exclusion from income for interest on State and local bonds only applies if certain Code requirements are met.

The exclusion from income for interest on State and local bonds applies to refunding bonds subject to certain limits. A refunding bond is defined as any bond used to pay principal, interest, or redemption price on a prior bond issue (the refunded bond). Different rules apply to current refunding bonds as opposed to advance refunding bonds.

A current refunding occurs when the refunded bond is redeemed within 90 days of issuance of the refunding bond. There is no statutory limitation on the number of times that tax-exempt bonds may be currently refunded.

A bond is classified as an advance refunding if it is issued more than 90 days before the redemption of the refunded bond.[19] Proceeds of advance refunding bonds are generally invested in an escrow account and held until a future date when the refunded bond may be redeemed. The primary Federal tax policy concern with advance refundings is that (when permitted on a tax-exempt basis) they result in two issues of tax-exempt bonds outstanding simultaneously for more than 90 days to finance the same project or activity and thereby result in increased Federal revenue cost. Prior to An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, also known as the Tax Cuts and Jobs Act of 2017 ("TCJA"),[20] the exclusion from gross income for State and local bonds applied, in certain limited circumstances, to advance refundings. For example, governmental bonds and qualified 501(c)(3) bonds generally could be advance refunded one time,[21] while private activity bonds other than qualified 501(c)(3) bonds could not be advance refunded at all.[22] Furthermore, in the case of an advance refunding bond that resulted in interest savings (*e.g.*, a high interest rate to low interest rate refunding), the refunded bond was required to be redeemed on the first call date 90 days after the issuance of the refunding bond that resulted in debt service savings.[23] TCJA amended section 149 to repeal the exclusion from gross income for interest on a bond issued to advance refund another tax-exempt bond, effective for refunding bonds issued after December 31, 2017.

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[18] Sec. 141.

[19] Sec. 149(d)(2).

[20] Pub. L. No. 115-97, December 22, 2017.

[21] Sec. 149(d)(3) (as in effect prior to Public Law 115-97).

[22] Sec. 149(d)(2) (as in effect prior to Public Law 115-97).

[23] Sec. 149(d)(3)(A)(iii) and (B) (as in effect prior to Public Law 115-97); Treas. Reg. sec. 1.149(d)-1(f)(3). A "call" provision provides the issuer of a bond with the right to redeem the bond prior to the stated maturity.

Explanation of Provision

The provision amends section 149 of the Code to allow the exclusion from gross income for interest on a bond issued to advance refund another tax-exempt bond, subject to limitations similar to those applicable to tax-exempt advance refunding bonds issued prior to December 31, 2017.

Effective Date

The provision is effective for advance refunding bonds issued more than 30 days after the date of enactment.

3. Permanent modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions (sec. 135103 of the bill and sec. 265 of the Code)

Present Law

Present law disallows a deduction for interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is exempt from tax.[24]

In the case of a financial institution, the Code generally disallows a deduction for that portion of the taxpayer's interest expense that is allocable to tax-exempt interest.[25] The amount of interest that is disallowed is an amount which bears the same ratio to such interest expense as the taxpayer's average adjusted bases of tax-exempt obligations acquired after August 7, 1986, bears to the average adjusted bases for all assets of the taxpayer.

The general rule in section 265(b), denying financial institutions' interest expense deductions allocable to tax-exempt obligations, does not apply to "qualified tax-exempt obligations."[26] Instead, as discussed below, only 20 percent of the interest expense allocable to "qualified tax-exempt obligations" is disallowed.[27] A "qualified tax-exempt obligation" is a tax-exempt obligation that (1) is issued after August 7, 1986, by a qualified small issuer, (2) is not a private activity bond, and (3) is designated by the issuer as qualifying for the exception from the general rule of section 265(b). For purposes of the definition of qualified tax-exempt obligation, qualified bonds issued to finance the activities of charitable organizations described in section 501(c)(3) ("qualified 501(c)(3) bonds") and refunding bonds issued to refund certain obligations issued before August 8, 1986 are not treated as private activity bonds.

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[24] Sec. 265(a).

[25] Sec. 265(b)(1). A "financial institution" is any person that (1) accepts deposits from the public in the ordinary course of such person's trade or business and is subject to Federal or State supervision as a financial institution, or (2) is a corporation described in section 585(a)(2). Sec.265(b)(5).

[26] Sec. 265(b)(3).

[27] Secs. 265(b)(3)(A), 291(a)(3) and 291(e)(1).

A "qualified small issuer" is an issuer that reasonably anticipates that the amount of tax-exempt obligations that it will issue during the calendar year will be $10 million or less.[28] The Code specifies the circumstances under which an issuer and all subordinate entities are aggregated.[29] For purposes of the $10 million limitation, an issuer and all entities that issue obligations on behalf of such issuer are treated as one issuer, and all obligations issued by a subordinate entity are treated as being issued by the entity to which it is subordinate. An entity formed (or availed of) to avoid the $10 million limitation and all entities benefiting from the device are treated as one issuer.

Generally, composite issues (*i.e.*, combined issues of bonds for different entities) qualify for the "qualified tax-exempt obligation" exception only if the requirements of the exception are met with respect to (1) the composite issue as a whole (determined by treating the composite issue as a single issue), and (2) each separate lot of obligations that is part of the issue (determined by treating each separate lot of obligations as a separate issue).[30] Thus, a composite issue may qualify for the exception only if the composite issue itself does not exceed $10 million, and if each issuer benefitting from the composite issue reasonably anticipates that it will not issue more than $10 million of tax-exempt obligations during the calendar year, including through the composite arrangement.

Section 291(a)(3) reduces by 20 percent the amount allowable as a deduction with respect to any financial institution preference item. Financial institution preference items include interest on debt to acquire tax-exempt obligations acquired after December 31, 1982, and before August 8, 1986.[31] Section 265(b)(3) treats qualified tax-exempt obligations as if they were acquired on August 7, 1986. As a result, the amount allowable as a deduction by a financial institution with respect to interest incurred to carry a qualified tax-exempt obligation is reduced by 20 percent.

The American Recovery and Reinvestment Act of 2009 made certain adjustments to section 265 for tax-exempt obligations issued during 2009 and 2010, including increasing from $10 million to $30 million the annual limit for qualified small issuers, treating qualified 501(c)(3) bonds as if they were issued by the 501(c)(3) organization for whose benefit they were issued (and not by the actual issuer of such bonds), and, for certain qualifying issues, applying the annual volume limitation at the borrower level (rather than at the level of the pooled financing issuer).[32]

Explanation of Provision

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[28] Sec. 265(b)(3)(C).

[29] Sec. 265(b)(3)(E).

[30] Sec. 265(b)(3)(F).

[31] Sec. 291(e)(1).

[32] Pub. L. No. 111-5, Division B, sec. 1502, February 17, 2009.

The provision increases from $10 million to $30 million the annual limit for qualified small issuers and indexes the annual limit for inflation after 2021.

For "qualified financing issues," the provision applies the annual volume limitation at the borrower level (rather than at the level of the pooled financing issuer). Thus, for the purpose of applying the requirements of the section 265(b)(3) qualified small issuer exception, the portion of the proceeds of a qualified financing issue that are loaned to a ''qualified borrower'' that participates in the issue are treated as a separate issue with respect to which the qualified borrower is deemed to be the issuer.

A ''qualified financing issue'' is any composite, pooled or other conduit financing issue the proceeds of which are used directly or indirectly to make or finance loans to one or more ultimate borrowers each of whom is a qualified borrower. A "qualified borrower" means (1) a State or political subdivision of a State, or (2) an organization described in section 501(c)(3) and exempt from tax under section 501(a). Thus, for example, a $100 million pooled financing issue could qualify for the section 265(b)(3) exception if the proceeds of such issue were used to make four equal loans of $25 million to four qualified borrowers. However, if (1) more than $30 million (or such increased annual limit as may be applicable under the adjustment for inflation) was loaned to any qualified borrower, (2) any borrower was not a qualified borrower, or (3) any borrower would, if it were the issuer of a separate issue in an amount equal to the amount loaned to such borrower, fail to meet any of the other requirements of section 265(b)(3), the entire $100 million pooled financing issue would fail to qualify for the exception.

Additionally, for purposes of determining whether an obligation is a qualified tax-exempt obligation under section 265(b)(3), the provision would treat qualified 501(c)(3) bonds as if they were issued by the 501(c)(3) organization for whose benefit they were issued (and not by the actual issuer of such bonds).

Effective Date

The provision is generally effective for obligations issued after the date of enactment.

4. Modifications to qualified small issue bonds (sec. 135104 of the bill and sec. 144 of the Code)

Present Law

Interest paid on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes.[33] Because of the income exclusion, investors generally are willing to accept a lower interest rate on tax-exempt bonds than they might otherwise accept on a taxable investment. This, in turn, lowers the borrowing costs for the beneficiaries of such financing.

Bonds issued by State and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the State or local government

[33] Sec. 103.

serves as a conduit providing financing to nongovernmental persons (*e.g.*, private businesses or individuals). The exclusion from income for interest paid on State and local bonds does not apply to private activity bonds unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met.

Qualified private activity bonds are tax-exempt private activity bonds issued to provide financing for specified privately used facilities. The definition of a qualified private activity bond includes an exempt facility, qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. Generally, qualified private activity bonds are subject to a number of eligibility restrictions that do not apply to governmental bonds. For example, the aggregate volume of most qualified private activity bonds is restricted by annual State volume limitations (the "State volume cap").[34] For calendar year 2021, the State volume cap, which is indexed for inflation, equals $110 per resident of the State, or $324,995,000, if greater.[35] Qualified small issue bonds are subject to State volume cap.

Qualified small issue bonds (commonly referred to as "industrial development bonds" or "small issue IDBs") are tax-exempt qualified private activity bonds issued by State and local governments to finance private business manufacturing facilities (including certain directly related and ancillary facilities) or the acquisition of land and equipment by certain farmers. A manufacturing facility is any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property). Manufacturing facilities include facilities that are directly related and ancillary to a manufacturing facility (as described in the previous sentence) if (1) such facilities are located on the same site as the manufacturing facility, and (2) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.

Qualified small issue bonds are subject to limits on the amount of financing that may be provided, both for a single borrowing and in the aggregate. In general, no more than $1 million of small issue bond financing may be outstanding at any time for property of a business (including related parties) located in the same municipality or county. Generally, this $1 million limit may be increased to $10 million if, in addition to outstanding bonds, all other capital expenditures of the business (including related parties) in the same municipality or county are counted toward the limit over a six-year period that begins three years before the issue date of the bonds and ends three years after such date. Outstanding aggregate borrowing is limited to $40 million per borrower (including related parties) regardless of where the property is located. The Code permits up to $10 million of capital expenditures to be disregarded, in effect increasing from $10 million to $20 million the maximum allowable amount of total capital expenditures by an eligible business in the same municipality or county.

The American Recovery and Reinvestment Act of 2009 ("ARRA") made certain temporary adjustments to section 144(a) that expanded the availability of qualified small issue bonds to facilities creating intangible property and modified the related facilities eligible for treatment as part of a manufacturing facility.[36] For bonds issued after the date of enactment of

[34] Certain private activity bonds are not subject to the State volume cap.

[35] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

[36] Pub. L. No. 111-5, Division B, sec. 1301, February 17, 2009.

ARRA and before January 1, 2011, the definition of manufacturing facilities was expanded to mean any facility that is used in the manufacturing, creation, or production of tangible property or intangible property (within the meaning of section 197(d)(1)(C)(iii)). For this purpose, intangible property means any patent, copyright, formula, process, design, knowhow, format, or other similar item. This includes among other items, the creation of computer software, and intellectual property associated bio-tech and pharmaceuticals. In lieu of the directly related and ancillary test otherwise applicable (described above), a special rule for bonds issued after the date of enactment and before January 1, 2011, provides that facilities that are functionally related and subordinate to the manufacturing facility are treated as a manufacturing facility. Functionally related and subordinate facilities must be located on the same site as the manufacturing facility. Because bonds can have repayment terms of several years, a substantial amount of bonds issued under the temporary adjustment may remain outstanding.

Explanation of Provision

The provision increases the limit on qualified small issue bonds that may be outstanding at any time for property of a business (including related parties) located in the same municipality or county from $10 million to $30 million and indexes the limit for inflation after 2021. The issuer can elect to have this limit apply (instead of the generally applicable $1 million limit) if, in addition to outstanding bonds, all other capital expenditures of the business (including related parties) in the same municipality or county are counted toward the limit over a six-year period that begins three years before the issue date of the bonds and ends three years after such date.

Additionally, the provision expands the availability of qualified small issue bonds to finance manufacturing facilities creating intangible property and adds to the related facilities treated as part a manufacturing facility. The definition of manufacturing facility is expanded to include intangible property (within the meaning of section 197(d)(1)(C)(iii)). For this purpose, intangible property means any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item. It is intended to include among other items, the creation of computer software, and intellectual property associated bio-tech and pharmaceuticals. The provision adds facilities that are functionally related and subordinate to a manufacturing facility as part of the manufacturing facility for purposes of eligible uses of qualified small issue bonds.[37] Functionally related and subordinate facilities must be located on the same site as the manufacturing facility. Directly related and ancillary facilities that are not functionally related and subordinate to a manufacturing facility are eligible for financing by qualified small issue bonds if (1) such facilities are located on the same site as the manufacturing facility and (2) not more than 25 percent of the net proceeds of the issue are used to provide such directly related and ancillary facilities.

The provision includes a limitation that precludes the issuance of qualified small issue bonds to refund qualified small issue bonds (refunded bonds) issued prior to the date of enactment for qualified small issue bonds to finance manufacturing facilities for intangible

[37] The provision is based in part on a similar rule applicable to exempt facility bonds. Treas. Reg. sec. 1.103–8(a)(3) provides: "(3) Functionally related and subordinate. An exempt facility includes any land, building, or other property functionally related and subordinate to such facility. Property is not functionally related and subordinate to a facility if it is not of a character and size commensurate with the character and size of such facility."

property or functionally related and subordinate facilities, unless such refunded bonds financed such facilities pursuant to the temporary rule applicable pursuant to ARRA (discussed above), either directly or in a series of refundings.

Effective Date

The provision is generally effective for obligations issued after the date of enactment.

5. Expansion of certain exceptions to the private activity bond rules for first-time farmers (sec. 135105 of the bill and secs. 144 and 147 of the Code)

Present Law

Interest paid on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes.[38] Because of the income exclusion, investors generally are willing to accept a lower interest rate on tax-exempt bonds than they might otherwise accept on a taxable investment. This, in turn, lowers the borrowing costs for the beneficiaries of such financing.

Bonds issued by State and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons (*e.g.*, private businesses or individuals). The exclusion from income for interest paid on State and local bonds does not apply to private activity bonds unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met.

Qualified private activity bonds are tax-exempt private activity bonds issued to provide financing for specified privately used facilities. The definition of a qualified private activity bond includes an exempt facility, qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. Generally, qualified private activity bonds are subject to a number of eligibility restrictions that do not apply to governmental bonds. For example, the aggregate volume of most qualified private activity bonds is restricted by annual State volume limitations (the "State volume cap").[39] For calendar year 2021, the State volume cap, which is indexed for inflation, equals $110 per resident of the State, or $324,995,000, if greater.[40] Qualified small issue bonds are subject to State volume cap.

Qualified small issue bonds (commonly referred to as "industrial development bonds" or "small issue IDBs") are tax-exempt qualified private activity bonds issued by State and local governments to finance private business manufacturing facilities (including certain directly related and ancillary facilities) or the acquisition of land and equipment by certain farmers.

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[38] Sec. 103.

[39] Certain private activity bonds are not subject to the State volume cap.

[40] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

In general, qualified private activity bonds, including qualified small issue bonds, may not be issued for the acquisition of land to be used for farming purposes[41] or for the acquisition of used property.[42] Under exceptions to these general rules, qualified small issue bonds can be used for the acquisition of land and used property by first-time farmers for farming purposes, subject to certain limitations. The amount of proceeds that can be used for the acquisition of land by a first-time farmer is limited to a specified amount of $450,000, indexed for inflation for calendar years after 2008.[43] The limit is $558,000 for 2021.[44] Used equipment to be used for farming purposes on any land satisfying the requirements for acquisition by a first-time farmer is also eligible for a qualified small issue bond up to a limit of $62,500. Additionally, there is a $250,000 limit on the amount of net proceeds of a qualified small issue bond used to provide depreciable farm property.

"First-time farmer" means any individual if such individual (including their spouse and minor children) has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated and has not received financing under the exception permitting the acquisition of land by a first-time farmer in an amount which, when added to the financing to be provided, exceeds the applicable annual limit ($558,000 for calendar year 2021).[45] "Substantial farmland" means any parcel of land unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.[46]

Explanation of Provision

The provision increases the dollar limitations applicable to the use of qualified small issue bonds for the acquisition of land to be used for farming purposes, prior to indexing for inflation, from $450,000 (which was increased after indexing for inflation in calendar year 2021 to $558,000) to $552,500 for bonds issued after the date of enactment and in calendar year 2021, and indexes such limit for inflation after 2021. The provision eliminates the lower dollar limitation on used farm equipment, increases the dollar limitation on acquisition of depreciable farm property from $250,000 to $552,500, and indexes such limit for inflation after 2021. Additionally, for purposes of determining if an individual is a first time farmer, the 30 percent size limit used to determine if a parcel of land is substantial farmland will be based on the average, rather than the median, size of a farm in the county in which such parcel is located.

Effective Date

The provision is effective for bonds issued after the date of enactment.

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[41] Sec. 147(c)(1)(B).

[42] Sec. 147(d).

[43] Sec. 147(c)(2).

[44] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

[45] Sec. 147(c)(2)(C).

[46] Sec. 147(c)(2)(E).

6. Certain water and sewage facility bonds exempt from volume cap on private activity bonds (sec. 135106 of the bill and sec. 146 of the Code)

Present Law

Interest paid on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes.[47] Because of the income exclusion, investors generally are willing to accept a lower interest rate on tax-exempt bonds than they might otherwise accept on a taxable investment. This, in turn, lowers the borrowing costs for the beneficiaries of such financing.

Bonds issued by State and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons (*e.g.*, private businesses or individuals). The exclusion from income for interest paid on State and local bonds does not apply to private activity bonds unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met.

Qualified private activity bonds are tax-exempt private activity bonds issued to provide financing for specified privately used facilities. The definition of a qualified private activity bond includes an exempt facility, qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond.

Exempt facility bonds are often used to finance infrastructure projects. To qualify as an exempt facility bond, 95 percent of the net proceeds must be used to finance an eligible facility. Facilities eligible include, among others, facilities for the furnishing of water and sewage facilities[48] that, generally, may be privately owned. A facility for the furnishing of water must meet the following two requirements: (1) the water is or will be made available to the public (including electric utility, industrial, agricultural, or commercial users); and (2) either the facility is operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

Generally, qualified private activity bonds are subject to a number of eligibility restrictions that do not apply to governmental bonds. For example, the aggregate volume of most qualified private activity bonds is restricted by annual State volume limitations (the "State

[47] Sec. 103.

[48] Sec. 142(a).

volume cap").[49] For calendar year 2021, the State volume cap, which is indexed for inflation, equals $110 per resident of the State, or $324,995,000, if greater.[50]

Exempt facility bonds issued to provide facilities for the furnishing of water and sewage facilities are subject to the State volume cap requirement.

Explanation of Provision

The provision provides an exception to the State volume cap requirement for exempt facility bonds issued to provide facilities for the furnishing of water and sewage facilities if 95 percent or more of the net proceeds of the bonds are used to provide facilities which will be used (i) by a person who was, as of July 1, 2020, engaged in operation of a facility of the type provided, and (ii) to provide service within the area served by such person on such date (or within a county or city any portion of which is within such area), or by a successor in interest to such person for the same use and within the same service area.

Effective Date

The provision is effective for bonds issued after the date of enactment.

7. Exempt facility bonds for zero-emission vehicle infrastructure (sec. 135107 of the bill and sec. 142 of the Code)

Present Law

Qualified private activity bonds are tax-exempt private activity bonds issued to provide financing for specified privately used facilities. The definition of a qualified private activity bond includes an exempt facility, qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond.[51]

Exempt facility bonds are often used to finance infrastructure projects. To qualify as an exempt facility bond, 95 percent of the net proceeds must be used to finance an eligible facility.[52] Facilities eligible for this financing include the following:

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[49] The following private activity bonds are not subject to the State volume cap: qualified 501(c)(3) bonds, exempt facility bonds for airports, docks and wharves, environmental enhancements for hydroelectric generating facilities, and exempt facility bonds for solid waste disposal facilities that are to be owned by a governmental unit. The State volume cap does not apply to 75 percent of exempt facility bonds issued for high-speed intercity rail facilities (100 percent if the high-speed intercity rail facility is to be owned by a governmental unit). Qualified veterans mortgage bonds and exempt facility bonds for qualified public educational facilities, qualified green building and sustainable design projects, and qualified highway or surface freight transfer facilities also are not subject to the State volume cap, but the Code subjects such bonds to volume limitations specific to the category of bonds.

[50] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

[51] Sec. 141(e).

[52] Sec. 142(a).

- Airports,
- Ports (docks and wharves),
- Mass commuting facilities,
- Facilities for the furnishing of water,
- Sewage facilities,
- Solid waste disposal facilities,
- Qualified residential rental projects,
- Facilities for the local furnishing of electric energy or gas,
- Local district heating or cooling facilities,
- Qualified hazardous waste facilities,
- High-speed intercity rail facilities,
- Environmental enhancements of hydro-electric generating facilities,
- Qualified public educational facilities,
- Qualified green building and sustainable design projects, and
- Qualified highway or surface freight transfer facilities.[53]

Generally, qualified private activity bonds are subject to a number of eligibility restrictions that do not apply to governmental bonds. For example, the aggregate volume of most qualified private activity bonds is restricted by annual State volume limitations (the "State volume cap").[54] For calendar year 2021, the State volume cap, which is indexed for inflation, equals $110 per resident of the State, or $324,995,000, if greater.[55]

Explanation of Provision

The provision adds a new category of exempt facility bonds for zero-emission vehicle infrastructure.

"Zero-emission vehicle infrastructure" means any property (not including a building and its structural components) if such property is part of a unit which is used to charge or fuel

[53] Sec. 142(a)(1)-(15).

[54] The following private activity bonds are not subject to the State volume cap: qualified 501(c)(3) bonds, exempt facility bonds for airports, docks and wharves, environmental enhancements for hydroelectric generating facilities, and exempt facility bonds for solid waste disposal facilities that are to be owned by a governmental unit. The State volume cap does not apply to 75 percent of exempt facility bonds issued for high-speed intercity rail facilities (100 percent if the high-speed intercity rail facility is to be owned by a governmental unit). Qualified veterans mortgage bonds and exempt facility bonds for qualified public educational facilities, qualified green building and sustainable design projects, and qualified highway or surface freight transfer facilities also are not subject to the State volume cap, but the Code subjects such bonds to volume limitations specific to the category of bonds.

[55] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

zero-emissions vehicles, is located where the vehicles are charged or fueled, is of a character subject to the allowance for depreciation (or amortization in lieu of depreciation), is made available for use by members of the general public, accepts payment via a credit card reader (including a credit card reader that uses contactless technology), and is capable of charging or fueling vehicles produced by more than one manufacturer (within the meaning of section 30D(d)(3)). For property which is part of a unit which is used exclusively by fleets of commercial or governmental vehicles, the last three requirements listed do not apply. "Zero-emission vehicle infrastructure" also includes any utility service connections, utility panel upgrades, line extensions and conduit, transformer upgrades, or similar property, in connection with property meeting the applicable requirements.

The term "zero-emissions vehicle" means either a zero-emission vehicle as defined in section 88.102–94 of title 40, Code of Federal Regulations, or a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes and conditions.

Any zero-emission vehicle infrastructure located within another type of facility or project eligible for financing by exempt facility bonds, or an area adjacent to such a facility or project that primarily serves vehicles traveling to or from such facility or project, is treated as that type of facility or project for purposes of eligibility restrictions applicable to exempt facility bonds.

Except to the extent not applicable due to the treatment described in the preceding paragraph, the State volume cap applies to exempt facility bonds issued for zero-emission vehicle infrastructure.

Effective Date

The provision is effective for obligations issued after December 31, 2021.

8. Application of Davis-Bacon Act requirements with respect to certain exempt facility bonds (sec. 135108 of the bill and sec. 142 of the Code)

Present Law

Qualified private activity bonds are tax-exempt private activity bonds issued to provide financing for specified privately used facilities. The definition of a qualified private activity bond includes an exempt facility, qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond.[56]

Exempt facility bonds are often used to finance infrastructure projects. To qualify as an exempt facility bond, 95 percent of the net proceeds must be used to finance an eligible facility.[57] Facilities eligible for this financing include the following:

- Airports,

[56] Sec. 141(e).

[57] Sec. 142(a).

- Ports (docks and wharves),
- Mass commuting facilities,
- Facilities for the furnishing of water,
- Sewage facilities,
- Solid waste disposal facilities,
- Qualified residential rental projects,
- Facilities for the local furnishing of electric energy or gas,
- Local district heating or cooling facilities,
- Qualified hazardous waste facilities,
- High-speed intercity rail facilities,
- Environmental enhancements of hydro-electric generating facilities,
- Qualified public educational facilities,
- Qualified green building and sustainable design projects, and
- Qualified highway or surface freight transfer facilities.[58]

Generally, qualified private activity bonds are subject to a number of eligibility restrictions that do not apply to governmental bonds. For example, the aggregate volume of most qualified private activity bonds is restricted by annual State volume limitations (the "State volume cap"). For calendar year 2021, the State volume cap, which is indexed for inflation, equals $110 per resident of the State, or $324,995,000, if greater.[59]

Explanation of Provision

The provision adds a new requirement for exempt facility bonds issued to provide facilities for the furnishing of water, sewage facilities, qualified highway or surface freight transfer facilities, and zero-emission vehicle infrastructure. These facilities would only be eligible for financing with exempt facility bonds if each entity that receives bond proceeds to conduct construction, alteration, or repair of such facilities agrees to comply with the provisions of subchapter IV of chapter 31 of title 40, United States Code with respect to such construction, alteration, or repair.

Effective Date

The provision is effective for bonds issued after the date of enactment.

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[58] Sec. 142(a)(1)-(15).

[59] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

Other Provisions Related to Infrastructure Financing

9. Credit for operations and maintenance costs of government-owned broadband (sec. 135111 of the bill and new sec. 6431B of the Code)

Present Law

While certain broadband property may qualify for some general tax incentives,[60] no broadband specific tax incentives exist in the Code.

Explanation of Provision

In general

Under the provision, a new credit is provided for the applicable percentage of qualified broadband expenses paid or incurred by an eligible government entity. The Secretary shall pay the credit to an eligible governmental entity upon receipt of information as the Secretary may require.

Credit amount

The applicable percentage is 30 percent in taxable years beginning in 2021 through 2026, 26 percent in taxable years beginning in 2027, and 24 percent in taxable years beginning in 2028.

Qualified broadband expenses for purposes of the credit may not exceed $400 times the number of qualified households subscribed to the relevant qualified broadband service determined at any time during the taxable year.

Eligible government entities and qualified households

Eligible government entities are any State, local, or Indian tribal government, any political subdivision or instrumentality of such a government, or any entity wholly owned by one or more government or political subdivision or instrumentality thereof.[61] The taxable year for an eligible governmental entity means the fiscal year of the eligible governmental entity.

A qualified household is a personal residence located in a low-income community[62] that did not have access to qualified broadband service from the eligible governmental entity as of the beginning of the taxable year of the entity.

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[60] Certain broadband related property may be eligible for accelerated depreciation under section 168. The IRS has issued several safe harbors on the recovery of various costs and assets used in providing broadband service. For examples, see Rev. Proc. 2015-12, 2015-2 I.R.B. 266, Rev. Proc. 2011-28, 2011-18 I.R.B. 743, Rev. Proc. 2011-27, 2011-18 I.R.B. 740, and Rev. Proc. 2011-22, 2018-18 I.R.B 737.

[61] For this purpose, State includes any possession of the United States.

[62] Under the meaning of section 45D(e).

Qualified Broadband

Qualified broadband expenses are amounts paid or incurred for the operation and maintenance of a qualified broadband network that are properly allocable to qualified households subscribed to the qualified broadband service provided by the network. A qualified broadband network is property owned by an eligible governmental entity used for the purpose of providing qualified broadband service. Qualified broadband service is fixed, terrestrial broadband service providing downloads (uploads) at a speed of at least 25 (three) megabits per second. Amounts are properly allocated if they are allocated ratably among subscribers to the qualified broadband service. Qualified broadband expenses do not include any amount paid or reimbursed by any Federal grant.

Credit Termination

No credit is allowed for any taxable year beginning after December 31, 2028.

Effective Date

The provision is effective for taxable years beginning after December 31, 2020.

PART II — NEW MARKETS TAX CREDIT

1. Permanent extension of new markets tax credit (sec. 135201 of the bill and secs. 45D and 38(c)(4)(B) of the Code)

Present Law

In General

The New Markets Tax Credit ("NMTC") is a geography-based tax credit program. Under section 45D(a), an investor may claim tax credits for a qualified equity investment in a qualified community development entity ("CDE"). The qualified CDE designates equity investments as qualified equity investments, rendering the investor eligible to receive tax credits. The qualified CDE can only designate up to an amount allocated to it by the Department of the Treasury's Community Development Financial Institutions Fund ("CDFI Fund"). The CDFI Fund allocates amounts to qualified CDEs through a competitive application process.

The amount of the NMTC is determined on a credit allowance date as an amount equal to the applicable percentage of the qualified equity investment in the qualified CDE on that date. The applicable percentage is five percent for the first three years of the investment and six percent for the remaining four years, for a total credit of 39 percent over seven years. The credit allowance date is the date of the investment and the next six anniversary dates of the investment.

To continue to be eligible for tax credits, the taxpayer must continue to hold the qualified equity investment on the credit allowance date of each year. In other words, if the qualified equity investment ceases, or ceases to be qualified, the remaining tax credits are no longer allowed. The credits already claimed may also be subject to recapture if the CDE ceases to be qualified, if the proceeds of the investment cease to be used in a qualified manner, or if the taxpayer redeems its qualified equity investment.

Regulated financial institutions provide most of the equity for NMTC transactions. In addition to receiving the NMTC, financial institutions often receive credit under the Community Reinvestment Act for investing in low-income census tracts.

Substantially all of the qualified equity investment must be used by the qualified CDE to provide investments in low-income communities through qualified active low-income community businesses.

Qualifying Geography

The NMTC provisions require CDEs to serve or provide investment capital for low-income communities or low-income persons. A low-income community is either (1) a population census tract that meets certain criteria, or (2) a specific area designated by the Secretary. Specifically, a "low-income community" is a population census tract with either (1) a poverty rate of at least 20 percent, or (2) median family income which does not exceed 80 percent of the greater of metropolitan area median family income or statewide median family income (for a nonmetropolitan census tract, does not exceed 80 percent of statewide median family income). In the case of a population census tract located within a high migration rural county, low-income is defined by reference to 85 percent (as opposed to 80 percent) of statewide

median family income. For this purpose, a high migration rural county is any county that, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period. In addition, a population census tract with a population of less than 2,000 is treated as a low-income community for purposes of the NMTC if such tract is within an empowerment zone (the designation of which is in effect under section 1391) and is contiguous to one or more low-income communities.

CDEs may also qualify for the NMTC if they serve targeted populations, as designated by the Secretary, regardless of the composition of the population census tract or tracts in which the targeted populations live. Under this rule, the targeted population is treated as a low-income census tract. For this purpose, a "targeted population" is defined by reference to section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (the "Act") to mean individuals, or an identifiable group of individuals, including an Indian tribe, who are low-income persons or otherwise lack adequate access to loans or equity investments. Section 103(17) of the Act provides that "low-income" means (1) for a targeted population within a metropolitan area, less than 80 percent of the area median family income; and (2) for a targeted population within a nonmetropolitan area, less than the greater of 80 percent of the area median family income or 80 percent of the statewide nonmetropolitan area median family income.

Project Structures

In a typical NMTC structure, an intermediary entity (the "investment fund LLC") receives equity investments from investors (usually financial institutions) and debt from other sources. The investment fund LLC's proceeds are then invested as equity investment into a qualified CDE. The qualified CDE in turn makes a qualified low-income community investment in a qualified active low-income community business.

A qualified CDE is any domestic corporation or partnership: (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons; (2) that maintains accountability to residents of low-income communities by their representation on any governing board of or any advisory board to the CDE; and (3) that is certified by the Secretary as being a qualified CDE. A qualified equity investment means stock (other than nonqualified preferred stock) in a corporation or a capital interest in a partnership that is acquired directly from a CDE for cash and includes an investment of a subsequent purchaser if such investment was a qualified equity investment in the hands of the prior holder. Substantially all the investment proceeds must be used by the CDE to make qualified low-income community investments. For this purpose, qualified low-income community investments include: (1) capital or equity investments in, or loans to, qualified low-income community businesses; (2) certain financial counseling and other services to businesses and residents in low-income communities; (3) the purchase from another CDE of any loan made by such entity that is a qualified low-income community investment; or (4) an equity investment in, or loan to, another CDE.

Although equity investments in qualified active low-income community businesses qualify under the NMTC rules, generally, such investments are in the form of loans. Equity investors that own a majority interest in a low-income community business can have their NMTC credits recaptured if the business violates the rules for qualification. However, Treasury regulations provide a "reasonable expectation" safe harbor for CDEs that lend to such a business;

if the CDE "reasonably expects" that the rules are being satisfied, NMTC credits are not subject to recapture.[63]

A qualified active low-income community business is defined as a business that satisfies, with respect to a taxable year, the following requirements: (1) at least 50 percent of the total gross income of the business is derived from the active conduct of trade or business activities in any low-income community; (2) a substantial portion of the tangible property of such business is used in a low-income community; (3) a substantial portion of the services performed for such business by its employees is performed in a low-income community; and (4) less than five percent of the average of the aggregate unadjusted bases of the property of such business is attributable to certain financial property or to certain collectibles. A business which operates a racetrack or other gambling facility cannot meet the definition of a qualified business and is therefore ineligible to receive allocations from the CDFI Fund.[64]

Allocation Process

The CDFI Fund annually allocates NMTCs to CDEs under a competitive application process. CDEs, in turn, allocate NMTCs to equity investors. The maximum annual amount of NMTCs that the CDFI Fund can allocate is $3.5 billion for calendar years 2010 through 2019 and $5 billion for calendar years from 2020 through 2025. No amount of unused allocation limitation may be carried to any calendar year after 2030.[65]

For the 2020 allocation application round, the CDFI Fund awarded 100 CDEs $5.0 billion in NMTCs from a total of 208 applications requesting $15.1 billion.[66] Out of the total awarded, approximately $3.8 billion (78 percent) of NMTC investment proceeds will likely be used to finance and support loans to or investments in operating businesses in low-income

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[63] Treas. Reg. sec. 1.45D-1(d)(6)(i).

[64] Treas. Reg. sec. 1.45D-1(d)(5)(iii)(B).

[65] A total of $66 billion of credits had been allocated as of September 2021. As originally enacted in 2000, $15 billion was authorized for the new markets tax credit program through 2007. Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, sec. 121, December 21, 2000. In 2005, an additional $1 billion of credits was authorized for qualified areas affected by Hurricane Katrina over a period of three years. Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135, sec. 101, December 21, 2005. In 2006 and again in 2008, another $3.5 billion was authorized. Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, sec. 102, December 20, 2006, and the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, sec. 302, October 3, 2008. In 2009, the allocation amount was increased for 2008 and 2009 from $3.5 billion to $5 billion. American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, sec. 1403, February 17, 2009. In 2010, an additional 3.5 billion was allocated for 2010 and 2011. Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, sec. 733, December 17, 2010. In 2013, an additional $3.5 billion was allocated for 2012 and 2013. American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, sec. 305, January 2, 2013. In 2014, an additional $3.5 billion was allocated for 2014. Tax Increase Prevention Act of 2014, Pub. L. No. 113-295, sec. 115, December 19, 2014. In 2015, an additional $3.5 billion was allocated for five years through 2019. Protecting Americans From Tax Hikes ("PATH") Act, Division Q of Pub. L. No. 114-113, sec. 141, December 18, 2015. In 2019, an additional $5 billion was allocated for 2020. Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, sec. 141, December 20, 2019. In 2020, an additional $5 billion was allocated for each of calendar years 2020 through 2025. Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, sec. 112, December 27, 2020.

[66] Information is available at https://home.treasury.gov/news/press-releases/jy0340 (last visited September 10, 2021).

communities, and approximately $1.1 billion (22 percent) of NMTC investment proceeds will likely be used to finance and support real estate projects in low-income communities.[67]

Applications for NMTCs are reviewed in two phases.[68] In Phase 1, applications are reviewed, scored, and ranked based on two criteria: business strategy and community outcomes. Applicants that meet the minimum scoring thresholds in Phase 1 advance to Phase 2 review and will be provided with "preliminary" awards, in descending order of final rank score, until the available allocation authority is fulfilled. Final rank scores are determined by evaluating management capacity, capitalization strategy, and information regarding previous awards.[69]

In Phase 1, in evaluating and scoring the business strategy criteria, the CDFI Fund is looking for a CDE to articulate, with specificity, its strategy to use an allocation and to describe a long track record serving low-income communities, and of providing products and services like those that it intends to provide through its investments. The CDE can earn "priority points" if it has a track record of five or more years of experience providing capital and/or technical assistance to disadvantaged businesses and communities. For the community outcomes criteria, the CDFI Fund considers the extent to which the CDE is working in particularly economically distressed or otherwise underserved communities, shows that its projected financing activities will generate demonstrable community outcomes, and demonstrates meaningful engagement with community stakeholders when vetting potential investments. In general, the highest ranked applications provide specifics concerning job creation, community development benefits, and a track record of providing capital and/or technical assistance to disadvantaged businesses and communities.

In Phase 2, management capacity is evaluated based on management experience in low-income communities, asset and risk management, and fulfilling government compliance requirements. Capitalization is evaluated based on an applicant's track record of raising capital, investor commitments (or a strategy to secure such commitments), plan to pass along the benefits of the credit to the underlying businesses, and willingness to invest in amounts that exceed the minimum statutory requirements. Applicants with prior year allocations are evaluated on their effective use of prior-year allocations and whether they have substantiated a need for additional allocation authority.

Alternative Minimum Tax

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[67] Information is available in the 2020 NMTC Award Book. It is available at www.cdfifund.gov/sites/cdfi/files/2021-08/CY2020_NMTC_Program_Award_Book_FINAL.pdf (last visited September 10, 2021).

[68] The 2020 NMTC program allocation application provides information on reviewer criteria. It is available at https://www.cdfifund.gov/sites/cdfi/files/202104/Updated_CY_2020_NMTC_Allocation_Application_FINAL_21OCT2020.pdf (last visited September 10, 2021). The term "infrastructure" is provided as a business type on page 58 of the application.

[69] Information on the allocation application review process, general characteristics of a highly ranked application, and application ratings is available at https://www.cdfifund.gov/sites/cdfi/files/2021-09/CY2020_NMTC_Application_Review_Process_26AUG2021.pdf (last visited September 10, 2021).

Individual Alternative Minimum Tax

Individuals and trusts and estates may be subject to the alternative minimum tax ("AMT"), in an amount by which the tentative minimum tax exceeds the regular income tax for the taxable year.[70] The tentative minimum tax is determined by reference to an alternative minimum taxable income ("AMTI"), which is the taxpayer's taxable income increased by the taxpayer's tax preferences and adjusted by determining the tax treatment of certain items in a manner that negates the deferral of income resulting from the regular tax treatment of those items.[71] This amount is compared to an exemption amount that varies by filing status.[72]

Among the tax preferences and adjustments included in AMTI are an inclusion of certain tax-exempt interest[73] and the disallowance of the deduction for State and local taxes, the standard deduction, and certain itemized deductions.[74]

An individual may generally use credits against both regular tax liability and tentative minimum tax liability.[75]

However, the new markets tax credit cannot be used to offset AMT liability because the general business credit (which is the sum of various business tax credits) generally may not exceed the excess of the taxpayer's net income tax[76] over the tentative minimum tax (or, if greater, 25 percent of so much of the taxpayer's net regular tax liability[77] as exceeds $25,000).[78] Any general business credit in excess of the limitation may be carried back one year and forward up to 20 years.[79]

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[70] Sec. 55.

[71] Secs. 56, 57 and 58.

[72] For taxable years beginning in 2021, the exemption amount is $114,600 for married individuals filing jointly and surviving spouses, $73,600 for other unmarried individuals, and $57,300 for married individuals filing separately. For taxable years beginning in 2021, the phase-out threshold is $1,047,200 for married taxpayers filing a joint return, and $523,600 for all other taxpayers (other than estates and trusts). These exemption amounts and the exemption amount phase-out thresholds were increased for taxable years beginning after December 31, 2017 and beginning before January 1, 2026, and the amounts are indexed for inflation.

[73] Sec. 57(a)(5).

[74] Sec. 56(b).

[75] See sec. 26(a).

[76] The term "net income tax" means the sum of the regular tax liability and AMT, reduced by the credits allowable under sections 21 through 30D. Sec. 38(c)(1).

[77] The term "net regular tax liability" means the regular tax liability reduced by the sum of certain nonrefundable personal and other credits. Sec. 38(c)(1).

[78] Sec. 38(c).

[79] Sec. 39.

In applying the tax liability limitation to a list of "specified credits" that are part of the general business credit, the tentative minimum tax is treated as being zero.[80] Thus, the specified credits generally may offset both regular tax and AMT liabilities.

Corporate Alternative Minimum Tax

The corporate AMT was repealed for taxable years beginning after December 31, 2017.

Explanation of Provision

The provision increases the allocation amount from $5 billion to $7 billion for calendar year 2022 and from $5 billion to $6 billion for calendar year 2023. The allocation amounts for calendar years 2024 and 2025 remain $5 billion.

The provision also extends the new markets tax credit permanently, with a new allocation amount of $5 billion for each calendar year after 2025. New carryover periods for unused new markets tax credits automatically follow five calendar years after each allocation year, starting in 2026. The allocation amounts are indexed for inflation after 2024.

The provision also adds the new markets tax credit to the list of specified credits. Thus, the new markets tax credit may offset both regular tax and AMT liabilities.

Effective Date

The provisions to increase the allocation amounts, permanently extend the new markets tax credit, and index the allocation amounts are effective for calendar years after 2021.

The provision to allow the new markets tax credit to be used to offset AMT liability is effective for qualified equity investments initially made after December 31, 2021.

[80] See section 38(c)(4)(B) for the list of specified credits, which does not presently include the NMTC determined under section 45D.

PART III — REHABILIATION TAX CREDIT

Rehabilitation Tax Credit
(secs. 135301-135306 of the bill and secs. 47 and 50 of the Code)

Present Law

A 20-percent tax credit is provided for qualified rehabilitation expenditures with respect to a certified historic structure.[81] A certified historic structure means any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district. The credit is generally allowable ratably in each taxable year over the five-year period beginning in the taxable year in which the qualified rehabilitated building is placed in service, for amounts paid or incurred after December 31, 2017.

The basis of the property is reduced by the amount of the rehabilitation credit.[82]

For qualified rehabilitation expenditures to be eligible for the credit, the building must be substantially rehabilitated. A building is treated as having met the substantial rehabilitation requirement only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the taxable year exceed the greater of (1) the adjusted basis of the building (and its structural components), or (2) $5,000.[83] Taxpayers are required to use straight-line depreciation in order for rehabilitation expenditures to be treated as qualified.

Qualified rehabilitation expenditures with respect residential property generally do not include any expenditure in connection with the rehabilitation of the portion of a building that is (or expected to be) leased to a tax-exempt entity.[84] In the case of nonresidential real property, qualified rehabilitation expenditures generally do not include any expenditure in connection with the rehabilitation of a building that is more than 50 percent leased to a tax-exempt entity in a disqualified lease. In general, a disqualified lease includes a lease of tax-exempt-bond-financed property, a lease with a sale option (or its equivalent) to the tax-exempt entity, a lease with a term greater than 20 years, or a sale-leaseback arrangement involving a tax-exempt entity.[85] For this purpose, a tax-exempt entity generally includes the United States, a state or political subdivision, possession, or any agency or instrumentality of the foregoing ("governmental entity").[86]

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[81] Sec. 47.

[82] Sec. 50(c).

[83] Sec. 47(c)(1)(B). A special rule for phased rehabilitation substitutes a 60-month period for the 24-month period. Sec. 47(c)(1)(B)(ii).

[84] Secs. 47(c)(2)(B)(5) and 168(h).

[85] Sec. 168(h)(1)(B).

[86] Sec. 168(h)(2). Certain exceptions also apply.

Explanation of Provision

The provision makes several changes to the rehabilitation tax credit. The credit rate under the provision is increased temporarily from 20 percent. The credit rate is increased to 30 percent in taxable years beginning in 2020 through 2025, 26 percent in taxable years beginning in 2026, and 23 percent in taxable years beginning in 2027. The credit rate reverts to 20 percent in taxable years beginning after 2027. If qualified rehabilitation expenditures with respect to a qualified rehabilitated building are incurred in taxable years with differing credit rates, the credit rate for the taxable year in which an expenditure is paid or incurred applies to that expenditure.

The provision adds a taxpayer election to increase the credit percentage to 30 percent for certain smaller projects. The amount of qualified rehabilitation expenditures taken into account for this purpose for a qualified rehabilitated building cannot exceed $2,500,000. A smaller project is defined generally as a qualified rehabilitated building for which the qualified rehabilitation expenditures do not exceed $3,750,000, and for which no rehabilitation credit was allowed for the two taxable years preceding the first year for which such expenditures are paid or incurred.

The provision modifies the substantial rehabilitation requirement so that the qualified rehabilitation expenditures must exceed the greater of (1) 50 percent (not 100 percent) of the adjusted basis of the building (and its structural components), or (2) $5,000.

The provision eliminates the limitation requiring reduction of the basis of the property by the amount of the rehabilitation credit.

The provision modifies the definition of tax-exempt use property for purposes of the rehabilitation credit by limiting the relevance of a disqualified lease with respect to tax-exempt entities that are not governmental entities. Under the provision, except in the case of a tax-exempt entity that is a governmental entity, nonresidential real property is not treated as tax-exempt use property even if a lease with respect to the property to a tax-exempt entity comes within the present-law definition of a disqualified lease. Under the provision, rehabilitated nonresidential real property generally is tax-exempt use property if more than 50 percent of the property is leased to any tax-exempt entity that is a governmental entity.

The provision modifies the limitation on leasing a rehabilitated building to tax-exempt entities in the case of certain public schools. Under the provision, this limitation on certain leases does not apply in the case of rehabilitation of a building that was used as a qualified public educational facility[87] at any time during the five-year period ending with the date the rehabilitation begins, and is used as such immediately after the rehabilitation. A Treasury Department report on the effects of the provision is required within five years after the date of enactment.

Effective Date

The temporary credit rate increase is effective for property placed in service after March 31, 2021. The elective credit rate increase for smaller projects is effective for taxable

[87] As defined in section 142(k)(1) without regard to section 142(k)(1)(B).

years beginning after December 31, 2021. The modification of the substantial rehabilitation requirement is effective for 24-month (or 60-month) periods ending after December 31, 2021. The elimination of the rehabilitation credit basis adjustment is effective for property placed in service after December 31, 2022. The provision relating to disqualified leases with tax-exempt entities (other than governmental entities) is effective for leases entered into after December 31, 2021. The provision permitting leasing of rehabilitated public schools is effective for property placed in service after December 31, 2021.

PART IV — DISASTER AND RESILIENCY

1. Exclusion of amounts received from State-based catastrophe loss mitigation programs (sec. 135401 of the bill and sec. 139 of the Code)

Present Law

In General

Any amount that an individual receives as a qualified disaster relief payment or that is received as a qualified disaster mitigation payment is excluded from gross income.[88]

Qualified Disaster Relief Payment

A qualified disaster relief payment is any amount paid to or for the benefit of the individual (1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster; (2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for the repair, rehabilitation, or replacement is attributable to a qualified disaster; (3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster; or (4) if the amount is paid by a Federal, State, or local government, or by an agency or instrumentality of the government, in connection with a qualified disaster in order to promote the general welfare, but only to the extent that any expense compensated by the payment is not otherwise compensated by insurance or other sources.[89]

A qualified disaster is a disaster that results from a terrorist or military action; a Federally declared disaster;[90] a disaster that results from an accident involving a common carrier, or from any other event, that the Secretary determines is of a catastrophic nature; or, in respect of general welfare payments by a government, a disaster that by determination of an applicable Federal, State, or local authority, warrants assistance from the Federal, State, or local government (or an agency or instrumentality of the government).[91]

Qualified Disaster Mitigation Payment

A qualified disaster mitigation payment is any amount that is paid under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act to or

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[88] Sec. 139(a), (g)(1).

[89] Sec. 139(b).

[90] A Federally declared disaster is a disaster declared by the President to be eligible for Federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

[91] Sec. 139(c).

for the benefit of the owner of any property for hazard mitigation with respect to the property.[92] The term does not include any amount received for the sale or disposition of any property.[93]

Special Rules

For purposes of the Code provisions for employment tax and self-employment tax, qualified disaster relief payments and qualified disaster mitigation payments are not treated as net earnings from self-employment, wages, or compensation subject to tax.[94]

If with respect to any property an amount is excluded from gross income as a qualified disaster mitigation payment, no increase in the basis or adjusted basis of the property may result from the excluded amount.[95]

The person for whose benefit a qualified disaster relief payment or a qualified disaster mitigation payment is made is not allowed a deduction or credit for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to the expenditure (a "no-double-benefit rule").[96]

Explanation of Provision

The provision allows an exclusion from gross income for any amount that an individual receives as a qualified catastrophe mitigation payment under a program established by a State or a political subdivision or instrumentality of a State for the purpose of making these payments.[97]

For this purpose, a qualified catastrophe mitigation payment is any amount that an individual receives to make improvements to the individual's residence for the sole purpose of reducing the damage that would be done to the residence by a windstorm, earthquake, or wildfire.

For purposes of the employment tax and self-employment tax provisions of the Code, qualified catastrophe mitigation payments are not treated as net earnings from self-employment, wages, or compensation subject to tax.

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[92] Sec. 139(g)(2).

[93] *Ibid.*

[94] Sec. 139(d).

[95] Sec. 139(g)(3).

[96] Sec. 139(h).

[97] Such programs include programs established by a joint powers authority or an entity created by state law to ensure the availability of an adequate market of last resort for essential property insurance over which a State agency or State department of insurance has regulatory oversight. A technical correction may be needed to reflect this intent.

Rules similar to the rule denying an increase in the basis of property with respect to which an amount is excluded as a qualified disaster mitigation payment apply in the case of qualified catastrophe mitigation payments.

The provision extends to qualified catastrophe mitigation payments the present law no-double-benefit rule that applies to qualified disaster relief payments and qualified disaster mitigation payments.

Effective Date

The provision is effective for taxable years beginning after December 31, 2020.

2. Repeal of temporary limitation on personal casualty losses (sec. 135402 of the bill and sec. 165 of the Code)

Present Law

Personal Casualty Losses

A taxpayer may generally claim a deduction for any loss sustained during the taxable year, not compensated by insurance or otherwise. For individual taxpayers, deductible losses must be incurred in a trade or business or other profit-seeking activity or consist of property losses arising from fire, storm, shipwreck, or other casualty, or from theft.[98]

The term "other casualty" has been defined to mean the complete or partial damage, destruction, or loss of property resulting from an identifiable event of a sudden, unexpected, and unusual nature.[99] Damage or loss resulting from progressive deterioration of property through a steadily operating cause is not a casualty loss.[100]

A casualty loss generally is allowed as a deduction only for the taxable year in which the loss is sustained.[101] If the taxpayer has a claim for reimbursement of the loss from insurance or otherwise for which there is a reasonable prospect of recovery, no portion of the loss for which reimbursement may be received is deductible until it can be ascertained with reasonable certainty whether the reimbursement will be received.[102]

The amount of a taxpayer's casualty loss generally is the decrease in the fair market value of the property as a result of the casualty, limited to the taxpayer's adjusted basis in the property.[103] Treasury regulations allow taxpayers to use an alternative method of valuation that

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[98] Sec. 165(c).

[99] Rev. Rul. 72-592, 1972-2 C.B. 101.

[100] See *Matheson v. Commissioner*, 54 F.2d 537 (2d Cir. 1931).

[101] Treas. Reg. sec. 1.165-1(d)(1).

[102] Treas. Reg. sec. 1.165-1(c)(4), (d)(2).

[103] Treas. Reg. sec. 1.165-7(b).

allows the cost of repairs to the damaged property as evidence of the decrease in value of the property.[104]

Personal casualty or theft losses are deductible only if they exceed $100 per casualty or theft. In addition, aggregate net personal casualty and theft losses are deductible only to the extent they exceed 10 percent of an individual taxpayer's adjusted gross income.[105]

For losses incurred in taxable years beginning after December 31, 2017, and before January 1, 2026, personal casualty or theft losses are further limited.[106] An individual may claim an itemized deduction for a personal casualty loss (subject to the limitations described above) only if such loss is attributable to a disaster declared by the President to be eligible for Federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. An exception applies to the extent an individual's personal casualty loss does not exceed the individual's personal casualty gains.

Deteriorating Concrete Foundations

Revenue Procedure 2017-60

On November 23, 2017, prior to enactment of the temporary limitation on personal casualty loss deductions, the IRS published Revenue Procedure 2017-60.[107] The revenue procedure provides a safe harbor that allows an individual to deduct amounts paid to repair damage to his or her personal residence caused by deteriorating concrete foundations containing the mineral pyrrhotite. The revenue procedure describes that residents in the northeastern part of the United States have reported problems with certain residential concrete foundations, which resulted in investigations by the Connecticut Office of the Attorney General and the Connecticut Department of Consumer Protection. Investigators concluded that the presence of pyrrhotite in the concrete used in the foundations was causing the concrete to deteriorate prematurely.

The safe harbor method allows taxpayers to treat certain damage resulting from deteriorating concrete foundations as a casualty loss and provides a formula for determining the amount of the loss. A taxpayer who pays to repair damage to the taxpayer's personal residence caused by a deteriorating concrete foundation may treat the amount paid as a casualty loss in the year of payment. To utilize the safe harbor, the taxpayer must obtain a written evaluation from a

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[104] Treas. Reg. sec. 1.165-7(a)(2)(ii).

[105] Congress has chosen to modify these requirements in certain recent disaster relief bills. For example, in the Taxpayer Certainty and Disaster Tax Relief Act of 2020, Pub. L. No. 116-260, Div. EE, sec. 304(b), with respect to losses arising from certain qualified disasters in 2020, a taxpayer is allowed a deduction for a personal casualty loss without regard to whether the individual's aggregate net losses exceed 10 percent of AGI, but such a loss is deductible only if it exceeds $500. See also Pub. L. No. 116-94, sec. 204(b), December 20, 2019 (certain disasters occurring in 2018 and 2019); sec. 20104(b) of Pub. L. No. 115-123 (certain California wildfires); Sec. 504(b) of Pub. L. No. 115-63 (Hurricanes Harvey, Irma, and Maria); and former sec. 1400S(b) (Hurricanes Katrina, Rita, and Wilma).

[106] The temporary limitation on personal casualty or theft loss deductions was enacted in Pub. L. No. 115-97, on December 22, 2017.

[107] 2017-50 I.R.B. 559.

licensed engineer stating that the foundation was made with defective concrete and may have to satisfy other criteria. The amount of loss that may be claimed under the safe harbor is equal to all unreimbursed amounts paid during the taxable year to repair damage to the taxpayer's personal residence caused by the deteriorating foundation, limited to the taxpayer's adjusted basis in the property. Additional rules apply for taxpayers who have pending claims for reimbursement or intend to pursue reimbursement.

Revenue Procedure 2018-14

On February 18, 2018, following enactment of the temporary limitation on personal casualty loss deductions, the IRS published Revenue Procedure 2018-14, which modified Revenue Procedure 2017-60.[108] Because of the newly-enacted temporary limitation on personal casualty losses for losses incurred in taxable years beginning after December 31, 2017, the IRS stated that a taxpayer generally must have paid to repair damage caused by a deteriorating concrete foundation before January 1, 2018, to claim a casualty loss under the safe harbor in Revenue Procedure 2017-60.

The Treasury Department and IRS modified the safe harbor method in Revenue Procedure 2017-60 to give taxpayers additional time to pay to repair damage to their personal residences. The modified safe harbor allows a taxpayer who pays to repair damage caused by a deteriorating foundation after filing an original 2017 income tax return and before the last day for filing a timely amended return for the 2017 tax year to treat the amount paid as a casualty loss on a timely filed amended return for the 2017 tax year. Accordingly, a taxpayer utilizing the safe harbor method provided by Revenue Procedure 2017-60, as modified by Revenue Procedure 2018-14, for damage caused by a deteriorating concrete foundation generally must have paid to repair the damage prior to May 17, 2021 (or October 15, 2021, if the taxpayer received a filing extension).[109]

Explanation of Provision

The provision repeals the temporary limitation on personal casualty or theft losses that limited such losses to those attributable to a Federally declared disaster. The provision repeals the limitation for losses incurred in taxable years beginning after December 31, 2017. Losses previously limited by the temporary limitation are no longer so limited.

The provision directs the Secretary to issue regulations or other guidance as necessary to implement the amendments made by the provision, including regulations or guidance consistent with Revenue Procedure 2017-60. Regulations or guidance consistent with Revenue Procedure 2017-60 would continue to provide a safe harbor to a taxpayer who pays to repair damage to the taxpayer's personal residence caused by a deteriorating concrete foundation, without the time limitation imposed by the modification in Revenue Procedure 2018-14. In addition, the provision extends the period of limitations to file a claim for credit or refund by one year in the case of a claim for credit or refund properly allocable to a personal casualty loss described in Revenue Procedure 2017-60, as modified by Revenue Procedure 2018-14, and

[108] 2018-9 I.R.B. 378.

[109] See sec. 6511(a); see also Notice 2021-21, 2021-15 I.R.B. 986 (granting an extension to the period of limitations to file a claim for credit or refund of Federal income tax from April 15, 2021, to May 17, 2021).

claimed for taxable years beginning after December 31, 2016. The extension allows a taxpayer utilizing the existing safe harbor method provided by Revenue Procedure 2017-60, as modified by Revenue Procedure 2018-14, an additional year to file an amended return for the 2017 tax year.

Effective Date

The provision to repeal the temporary limitation of personal casualty and theft losses is effective for losses incurred in taxable years beginning after December 31, 2017.

3. Credit for qualified wildfire mitigation expenditures (sec. 135403 of the bill and new sec. 28 of the Code)

Present Law

A deduction is allowed for ordinary and necessary expenses paid or incurred in carrying on a trade or business.[110]

A taxpayer's basis in real property generally increases as a result of expenditures to improve the property.[111]

Certain enumerated credits for various activities undertaken in connection with a business are allowed in the computation of the general business credit.[112]

There is no credit specifically for expenditures with respect to real property for wildfire mitigation.

Explanation of Provision

In General

The provision provides a credit against income tax for 30 percent of the qualified wildfire mitigation expenditures paid or incurred by a taxpayer with respect to real property that the taxpayer owns or leases.

Qualified Wildfire Mitigation Expenditures

Qualified wildfire mitigation expenditures are any specified wildfire mitigation expenditure made under a qualified State wildfire mitigation program of a State that requires expenditures for wildfire mitigation to be paid by the taxpayer and the State. An expense item is not a qualified wildfire mitigation expenditure unless the ratio of the State's expenditure for the item to the sum of the State's and taxpayer's expenditures for the item is at least 25 percent.

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[110] Sec. 162.

[111] Sec. 1016(a).

[112] Sec. 38.

A specified wildfire mitigation expenditure is, with respect to real property owned or leased by a taxpayer, any amount paid or incurred to reduce the risk of wildfire by removing accumulations of vegetation (including establishing, expanding, or maintaining fuel breaks to serve as fire breaks) on the real property.

A qualified State wildfire mitigation program is any program of a State the primary purpose of which is to mitigate the risk of wildfires in the State.

An amount that is originally paid or incurred by a taxpayer and is reimbursed by a State under a qualified wildfire mitigation program of that State is treated as paid by the State, not by the taxpayer.

Rules of Application

The portion of the credit that is attributable to expenditures made in the ordinary course of the taxpayer's trade or business is treated as a credit that is allowed in the computation of the general business credit. This rule also applies to expenditures made by a State that would have been expenditures made in the ordinary course of a taxpayer's trade or business if they had been made by the taxpayer.

To the extent the credit is not allowed as part of the general business credit, the credit is treated as a nonrefundable personal credit.

Reduction in Credit Percentage

If a taxpayer's expenditure percentage for any item of qualified wildfire mitigation expenditure is less than 30 percent, the credit percentage for that item equals that expenditure percentage rather than the generally applicable 30-percent credit rate. For this purpose, a taxpayer's expenditure percentage for any item of qualified wildfire mitigation expenditure any portion of which is paid or incurred by a state is the ratio (expressed as a percentage) of the taxpayer's expenditure for the item divided by the sum of the taxpayer's and the State's expenditures for the item.

Special Rules

An expenditure is not taken into account in determining the credit if the expenditure is properly allocable to timber that the taxpayer sells or exchanges. This treatment of expenditures related to marketable timber does not apply to the extent that the expenditure exceeds the gain on a sale or exchange of the timber.

If the basis of property otherwise would be determined by taking into account a qualified wildfire mitigation expenditure, the basis of that property is reduced by the amount of the credit allowed with respect to the expenditure (determined without regard to the rule treating the credit as part of the general business credit).

The amount of any deduction or other credit allowable for any expenditure for which the qualified wildfire mitigation expenditure credit is allowable is reduced by the amount of the qualified wildfire mitigation expenditure credit allowed for the expenditure (determined without regard to the rule treating the credit as part of the general business credit).

Effective Date

The provision applies to expenditures paid or incurred after the date of enactment, in taxable years ending after that date.

PART V — HOUSING

Low Income Housing Tax Credit

1. Increases in State allocations (sec. 135501 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year period for the costs of building or rehabilitating rental housing occupied by low-income tenants. To be eligible for the credit, a low-income building must have received a credit allocation from the State or been financed with the proceeds of certain tax-exempt bonds that are subject to the private activity bond volume limit. For any calendar year, the total amount of housing credits available for allocation by a State is limited to the State housing credit ceiling. However, the amount of housing credit allocated to a low-income building reduces the State housing credit ceiling only once, in the year the housing credit is allocated.

State Housing Credit Ceiling

The State housing credit ceiling is an amount equal to the sum of four components: (1) the unused State housing credit ceiling (if any) for the preceding calendar year (the "unused carryforward component"), (2) the population component, (3) the amount of State housing credit ceiling returned in the calendar year (the "returned credit component"), plus (4) the amount (if any) that the Secretary allocates to the State from the national pool of unused housing credits (the "national pool component").[113]

The unused carryforward component is the excess, if any, of (1) the sum of the population, returned credit, and national pool components for the preceding calendar year, over (2) the aggregate amount of housing tax credits actually allocated by the State for such year, reduced by the amount of credits allocated from such year's unused State housing credit ceiling.[114] Any credits in the unused carryforward component that are not allocated in the current calendar year are forfeited to the national pool.

For calendar year 2021, the population component of the State housing credit ceiling is equal to the greater of (1) $2.8125 multiplied by the State population or (2) $3,245,625.[115]

Explanation of Provision

The provision modifies the population component of the State housing credit ceiling. For 2022, the population component of the State housing credit ceiling is equal to the greater of (1) $3.22 multiplied by the State population, or (2) $3,711,575. For 2023, the population component of the State housing credit ceiling is equal to the greater of (1) $3.70 multiplied by

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[113] Sec. 42(h)(3)(C); Treas. Reg. sec. 1.42-14(a)(1).

[114] Sec. 42(h)(3)(C); Treas. Reg. sec. 1.42-14(b).

[115] Rev. Proc. 2020-45. These amounts include a temporary increase enacted in the Consolidated Appropriations Act of 2018, Pub. L. No. 115-141. These limits do not apply in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit.

the State population, or (2) $4,269,471. For 2024, the population component of the State housing credit ceiling is equal to the greater of (1) $4.25 multiplied by the State population, or (2) $4,901,620. For 2025, the population component of the State housing credit ceiling is equal to the greater of (1) $4.88 multiplied by the State population, or (2) $5,632,880. These amounts are adjusted for inflation in calendar years 2026, 2027, and 2028.

Effective Date

The provision is effective for calendar years beginning after December 31, 2021.

2. Tax-exempt bond financing requirement (sec. 135502 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year period for the costs of building or rehabilitating rental housing occupied by low-income tenants. The amount of credit that may be claimed each year is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.

Credit Calculations

The applicable percentage for non-Federally subsidized newly constructed housing and non-Federally subsidized substantial rehabilitation is calculated such that the present value of the credit amounts is at least 70 percent of a building's qualified basis, depending on the prevailing interest rate.[116] These credits are sometimes referred to as "nine-percent credits."

The applicable percentage for Federally subsidized newly constructed housing, Federally subsidized substantial rehabilitation, and certain housing acquisition costs, is calculated such that the present value of the credit amounts is at least 30 percent of a building's qualified basis, depending on the prevailing interest rate.[117] These credits are sometimes referred to as "four-percent credits."

Credit Allocations

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[116] See sec. 42(b) and (e). This credit is referred to as the 70-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Housing and Economic Recovery Act of 2008, the minimum applicable percentage for such credits was temporarily set at nine percent (the "nine-percent floor"). The Consolidated Appropriations Act, 2016 made the nine-percent floor permanent. The enactment of the nine-percent floor on the credit implies that, under the statutory formula, the present value is always 70 percent or greater.

[117] This credit is referred to as the 30-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Consolidated Appropriations Act, 2020, the minimum applicable percentage for such credits was set at four percent (the "four-percent floor"). The enactment of the four-percent floor on the credit implies that, under the statutory formula, the present value is always 30 percent or greater.

A low-income housing tax credit is generally allowable only if the building owner receives a housing credit allocation from a State or local housing credit agency. The amount of housing credit allocated by a State to a low-income building reduces the State housing credit ceiling only once, in the year the housing credit is allocated.

Special rule for buildings financed by tax-exempt bonds

If 50 percent or more of the aggregate basis of the building and the land on which the building is located is financed by the proceeds of tax-exempt bonds, a low-income housing tax credit is allowable with respect to the entire eligible basis of the project without an allocation from the State or local housing credit agency and at no charge to the States' housing tax credit cap. If less than 50 percent of the aggregate basis is so financed, a low-income housing tax credit is allowable only with respect to the portion financed by the proceeds of tax-exempt bonds. The tax-exempt bonds must be subject to the volume cap for private activity bonds and once bond proceeds are used to finance a project, principal payments on such financing must be applied within a reasonable period to redeem the bonds.[118]

Explanation of Provision

The provision modifies the rule which allows a low-income housing tax credit on the entire eligible basis of a building without an allocation from the State or local housing credit agency and at no charge to the States' housing tax credit cap as long as more than 50 percent of the aggregate basis is financed with certain tax-exempt bonds. The percent limitation is lowered from 50 percent to 25 percent for buildings which are financed by the proceeds of certain tax-exempt bonds issued in calendar year 2022, 2023, 2024, 2025, 2026, 2027, or 2028 (and not by any obligation taken into account during any taxable year beginning during calendar year 2019, 2020, or 2021).

Effective Date

The provision applies to buildings placed in service in taxable years beginning after December 31, 2021.

3. Buildings designated to serve extremely low-income households (sec. 135503 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year period for the costs of building or rehabilitating rental housing occupied by low-income tenants.

To be eligible for the credit, a low-income building must have received a credit allocation from the State or been financed with the proceeds of certain tax-exempt bonds that are subject to the private activity bond volume limit. For any calendar year, the total amount of housing credits available for allocation by a State is limited to the State housing credit ceiling.

[118] Sec. 42(h)(4)(A).

Under present law, at least 10 percent of the State housing credit ceiling of a State must be set aside and allocated to qualified low-income housing projects.[119] For this purpose, the term "qualified low-income housing project" means a project in which a qualified nonprofit organization owns an interest (directly or through a partnership) and materially participates in the development and operation of the project throughout the project's compliance period.

Generally, buildings located in high cost areas are eligible for enhanced low-income housing tax credit, which is effectuated by increasing such buildings' eligible basis or the rehabilitation expenditures taken into account for purposes of the credit. For this purpose, qualified census tracts and difficult development areas are treated as high cost areas.[120] Buildings designated by a State housing credit agency as requiring enhanced credit in order to be financially feasible are also treated as located in difficult development areas. For a building located in a high cost area, the eligible basis of such building is increased to 130 percent of the otherwise applicable eligible basis, or, in the case of a substantial rehabilitation, the rehabilitation expenditures taken into account are increased to 130 percent of the otherwise applicable rehabilitation expenditures.

Explanation of Provision

The provision adds a new set-aside requirement for certain buildings with extremely low-income households. The provision requires that at least 10 percent of the State housing credit ceiling of a State be allocated to certain buildings with extremely low-income households. Such buildings are buildings where 20 percent or more of the residential units are rent-restricted (determined as if the imputed income limitation applicable to such units was 30 percent of area median gross income), which have been designated by the taxpayer for occupancy by households the aggregate household income of which does not exceed the greater of (1) 30 percent of area median gross income, or (2) 100 percent of an amount equal to the Federal poverty line ("extremely low-income buildings"). The requirements of the new set-aside do not apply to allocations after December 31, 2031.

The provision also makes certain extremely low-income buildings eligible for enhanced low-income housing tax credit. For any extremely low-income building which is designated by the State housing credit agency as requiring an increase in credit in order for the building to be financially feasible, such building's eligible basis is increased to 150 percent of the otherwise applicable eligible basis. However, a housing credit agency may not allocate more than 15 percent of the portion of the State housing credit ceiling amount to such buildings. In addition, in the case of projects financed by tax-exempt bonds, a State may not issue more than 10 percent of its private activity bond volume cap to such buildings. The enhanced credit is not available for allocations made after December 31, 2031.

Effective Date

The provision is effective for allocations, and determinations, of housing credit dollar amount after December 31, 2021.

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[119] Sec. 42(h)(5).

[120] See sec. 42(d)(5)(B).

4. Inclusion of rural areas as difficult development areas (sec. 135504 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year period for the costs of building or rehabilitating rental housing occupied by low-income tenants. The amount of credit that may be claimed each year is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.[121]

Credit Calculations

Determination of applicable percentage

The applicable percentage for non-Federally subsidized newly constructed housing and non-Federally subsidized substantial rehabilitation is calculated such that the present value of the credit amounts is at least 70 percent of a building's qualified basis, depending on the prevailing interest rate.[122] These credits are sometimes referred to as "nine-percent credits."

The applicable percentage for Federally subsidized newly constructed housing, Federally subsidized substantial rehabilitation, and certain housing acquisition costs, is calculated such that the present value of the credit amounts is at least 30 percent of a building's qualified basis, depending on the prevailing interest rate.[123] These credits are sometimes referred to as "four-percent credits."

Calculation of eligible basis

The qualified basis for purposes of determining the amount of low-income housing credit to be claimed each year is an amount equal to the applicable fraction of eligible basis.[124] The eligible basis of a new building is its adjusted basis as of the close of the first taxable year of the credit period. The eligible basis of an existing building is zero unless the building meets the following requirements: the building is acquired by purchase; there is a period of at least 10

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[121] Sec. 42.

[122] See sec. 42(b) and (e). This credit is referred to as the 70-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Housing and Economic Recovery Act of 2008, the minimum applicable percentage for such credits was temporarily set at nine percent (the "nine-percent floor"). The Consolidated Appropriations Act, 2016 made the nine-percent floor permanent. The enactment of the nine-percent floor on the credit implies that, under the statutory formula, the present value is always 70 percent or greater.

[123] This credit is referred to as the 30-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Consolidated Appropriations Act, 2020, the minimum applicable percentage for such credits was set at four percent (the "four-percent floor"). The enactment of the four-percent floor on the credit implies that, under the statutory formula, the present value is always 30 percent or greater.

[124] Sec. 42(c)(1)(A).

years between the date of its acquisition by the taxpayer and the date the building was last placed in service; the building was not previously placed in service by the taxpayer or a related person; and the building was rehabilitated and is eligible for the low income housing credit for rehabilitation expenditures treated as a separate new building.

Generally, buildings located in high cost areas are eligible for enhanced low-income housing tax credit, which is effectuated by increasing such buildings' eligible basis or the rehabilitation expenditures taken into account for purposes of the credit. For this purpose, qualified census tracts and difficult development areas are treated as high cost areas.[125] A qualified census tract is a census tract designated by the Secretary of Housing and Urban Development in which 50 percent or more of households have an income of less than 60 percent of area median gross income, or which has a poverty rate of at least 25 percent. A difficult development area is an area designated by the Secretary of Housing and Urban Development in which construction, land, or utility costs are high relative to area median gross income.

In the case of a new building located in a qualified census tract or difficult development area, the eligible basis is increased to 130 percent of such basis calculated without regard to this increase. In the case of a substantial rehabilitation to an existing building, the rehabilitation expenditures taken into account are increased to 130 percent of such expenditures calculated without regard to this increase.

Qualified Allocation Plans

A low-income housing tax credit is allowable only if the building owner receives a housing credit allocation from a State or local housing credit agency. Generally, the aggregate credit authority provided annually to each State for calendar year 2021 is $2.8125 multiplied by the State population, with a minimum annual cap of $3,245,625 for certain small population States and territories.[126] In turn, each State and local housing credit agency allocates credits to developers of low income rental housing pursuant to a qualified allocation plan which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions; which gives preference to serving the lowest income tenants, projects obligated to serve qualified tenants for the longest periods, and projects which are located in qualified census tracts that contribute to community revitalization; and which provides a procedure for the housing credit agency to follow in monitoring for noncompliance.

Explanation of Provision

The provision amends the definition of difficult development area to include any rural area for the purpose of determining eligible basis. A rural area is defined to be any non-

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[125] Sec. 42(d)(5)(B).

[126] See Notice 2021-19, 2021-11 I.R.B. 920, March 15, 2021. Section 42(h)(3)(I) provides for an increase in the State housing credit ceiling for 2018, 2019, 2020, and 2021. The increase is calculated by multiplying the State housing credit ceiling by 1.125.

In 2021, the most recent year for which the IRS has issued population estimates for purposes of the low-income housing tax credit, the small population States are Alaska, Delaware, the District of Columbia, Montana, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming. The small population territories are American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. *Ibid.*

metropolitan area, or any open country, place, town, village, or city which is not part of or associated with an urban area and either has low population or is not contained within a standard metropolitan statistical area and has a serious lack of mortgage credit for lower and moderate-income families, as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development[127] and which is identified by the qualified allocation plan of the housing credit agency.

Effective Date

The provision applies to buildings placed in service after December 31, 2021.

5. Repeal of qualified contract option (135505 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year credit period for the costs of building or rehabilitating rental housing occupied by low-income tenants.[128] The amount of credit that may be claimed each year is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.[129]

State Housing Credit Ceiling

A low-income housing tax credit is generally allowable only if the building owner receives a housing credit allocation from a State or local housing credit agency.[130] The aggregate credit authority provided annually to each State for calendar year 2021 is $2.8125 multiplied by the State population, with a minimum annual cap of $3,245,625 for certain small population States.[131] The amount of housing credit allocated by a State to a low-income building reduces the State housing credit ceiling only once, in the year the housing credit is allocated. However, credit allocations are not needed for buildings that receive 50 percent or more of their financing from the proceeds of tax-exempt bonds that are subject to the private activity bond volume limit.[132] These projects must still satisfy the qualified allocation plan

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[127] 42 U.S.C. 1490

[128] Sec. 42.

[129] Sec. 42(a).

[130] Sec. 42(h)(1).

[131] See Notice 2021-19, 2021-11 I.R.B. 920, March 15, 2021. Section 42(h)(3)(I) provides for an increase in the State housing credit ceiling for 2018, 2019, 2020, and 2021. The increase is calculated by multiplying the State housing credit ceiling by 1.125.

In 2021, the most recent year for which the IRS has issued population estimates for purposes of the low-income housing tax credit, the small population States were Alaska, Delaware, the District of Columbia, Montana, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming. *Ibid.*

[132] Sec 42(h)(4)(B). If less than 50 percent of a building is financed with tax-exempt bonds, only the portion of credits attributable to the bond-financed portion of the building is allowed without allocation. Sec. 42(h)(4)(A).

("QAP") requirements and financial feasibility determinations that apply to projects receiving allocations.[133]

Qualified Low-Income Housing Projects And Qualified Low-Income Buildings

A qualified low-income building is a building that is subject to a 15-year compliance period and is part of a qualified low-income housing project.[134] The 10-year credit period and 15-year compliance period generally start in the first taxable year in which the building is placed into service.[135]

Minimum Set-Aside Requirement

To meet the minimum set-aside requirement, a qualified low-income housing project must satisfy one of three tests (whichever is elected by the taxpayer):[136]

- 20-50 test. The 20-50 test is met if 20 percent or more of the residential units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.
- 40-60 test. The 40-60 test is met if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.
- Average income test. The average income test is met if 40 percent or more (25 percent or more in the case of a project located in a high cost housing area) of the residential units in such project are both rent-restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. The imputed income limitation is determined in 10-percentage-point increments, and may be designated as 20, 30, 40, 50, 60, 70, or 80 percent. The average of the imputed income limitations designated must not exceed 60 percent of area median gross income.[137]

Extended Use Period

To be eligible for housing credits, a building owner is generally required to enter into an extended low-income housing commitment with the housing credit agency to maintain housing affordability restrictions on the property for an additional 15 years following the end of

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[133] Sec. 42(m)(1)(D), (m)(2)(D).

[134] Sec. 42(c)(2).

[135] Sec. 42(f), (i)(1).

[136] Sec. 42(g)(1). The 40-60 test is used to satisfy the minimum set-aside requirement in the majority of projects. For example, in 2019, the 40-60 test was used for 100 percent of units in 16 States. In only three States was the 40-60 test used for less than 50 percent of the units in the State (45 percent in Indiana, 35 percent in Nevada, and 45 percent in Virginia). NCSHA, HFA Factbook: 2019 Annual Survey Results, Table 9.

[137] In October 2020, the IRS published proposed regulations setting forth guidance on administering the average income test. 85 Fed. Reg. 68816, October 30, 2020.

the initial 15-year compliance period (the "extended use period").[138] However, the extended use period may be terminated early under three scenarios: (1) if the building is acquired by foreclosure,[139] (2) if the building owner exercises the qualified contract option,[140] or (3) where a qualified nonprofit organization or other qualified buyer has a right of first refusal, if such buyer exercises the right.[141]

Qualified Contracts

To exercise the qualified contract option, the building owner must submit to the housing credit agency a written request to find a buyer that agrees to acquire the owner's interest in the low-income portion of the building.[142] An owner may only make such a request after the 14th year of the compliance period.[143]

The housing credit agency has a period of one year beginning on the date the owner makes the written request to produce a qualified contract, in which a buyer agrees to acquire the building at a specified statutory price.[144]

For any non-low-income portion of the building the price is the fair market value.[145] For the low-income portion of the building the price is an amount not less than the applicable fraction of the sum of (1) the outstanding indebtedness secured by, or with respect to, the building; (2) the adjusted investor equity in the building; plus (3) other capital contributions; but reduced by (4) cash distributions from the project.[146]

If the agency is unable to present a qualified contract before the end of the one-year period, the building's extended use period terminates and the housing affordability restrictions are removed.[147]

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[138] Sec. 42(h)(6).

[139] Sec. 42(h)(6)(E)(i)(I).

[140] Sec. 42(h)(6)(E)(i)(II), (F); see also Treas. Reg. sec. 1.42-18(a).

[141] See sec. 42(i)(7).

[142] Sec. 42(h)(6)(I).

[143] *Ibid.*

[144] Sec. 42(h)(6)(E)(i)(II).

[145] Sec. 42(h)(6)(F).

[146] *Ibid.*

[147] Sec. 42(h)(6)(E)(i)(II).

The qualified contract exception does not apply to the extent more stringent termination requirements are provided in the agreement with the housing credit agency or in State law.[148]

Explanation of Provision

The provision eliminates the qualified contract exception for buildings receiving allocations after January 1, 2022. Specifically, the provision limits the use of the exception to (1) buildings that received housing credit allocations before January 1, 2022, or (2) with respect to buildings financed with tax-exempt bonds, buildings that received before January 1, 2022 a determination from the issuer of the tax-exempt bonds or the housing credit agency that the building has satisfied the QAP requirements and the financial feasibility determination.

In addition, for buildings that may still make use of the qualified contract exception, the provision modifies the specified statutory price. The price for any non-low income portion remains the fair market value. The price for the low-income portion is the fair market value, determined by the housing credit agency taking into account the rent restrictions required to continue to satisfy the minimum set aside requirements. The Secretary is directed to prescribe regulations necessary or appropriate to the determination of the specified statutory price.

Effective Date

The provision is generally effective on the date of enactment.

The provision to modify the specified statutory price applies to buildings with respect to which the building owner submits, after the date of enactment, a written request to find a buyer that agrees to acquire the owner's interest in the low-income portion of the building.

6. Modification and clarification of rights relating to building purchase (sec. 135506 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year credit period for the costs of building or rehabilitating rental housing occupied by low-income tenants.[149] The amount of credit that may be claimed each year is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.[150]

State housing credit ceiling and QAPs

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[148] Sec. 42(h)(6)(E)(i).

[149] Sec. 42.

[150] Sec. 42(a).

A low-income housing tax credit is generally allowable only if the building owner receives a housing credit allocation from a State or local housing credit agency.[151] The aggregate credit authority provided annually to each State for calendar year 2021 is $2.8125 multiplied by the State population, with a minimum annual cap of $3,245,625 for certain small population States.[152] The amount of housing credit allocated by a State to a low-income building reduces the State housing credit ceiling only once, in the year the housing credit is allocated. However, credit allocations are not needed for buildings that receive 50 percent or more of their financing from the proceeds of tax-exempt bonds that are subject to the private activity bond volume limit.[153] These projects must still satisfy the qualified allocation plan ("QAP") requirements and financial feasibility determinations that apply to projects receiving allocations.[154]

The low-income housing credit must be allocated pursuant to a housing credit agency's QAP.[155] A QAP is defined as any plan that (1) sets forth the selection criteria to be used to determine the housing priorities of the housing credit agency which are appropriate to local conditions, (2) which give preference in allocating housing credit to certain projects (*e.g.*, projects serving the lowest income tenants), and (3) which provide a procedure that the agency will follow in monitoring for noncompliance and in notifying the IRS of such noncompliance and in monitoring for noncompliance with habitability standards through regular site visits.[156] QAPs must use the following selection criteria: project location, housing needs characteristics, project characteristics, sponsor characteristics, tenant populations with special housing needs, public housing waiting lists, tenant populations of individuals with children, projects intended for eventual tenant ownership, the energy efficiency of the project, and the historic nature of the project.[157]

Qualified Low-Income Housing Projects And Qualified Low-Income Buildings

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[151] Sec. 42(h)(1).

[152] See Notice 2021-19, 2021-11 I.R.B. 920, March 15, 2021. Section 42(h)(3)(I) provides for an increase in the State housing credit ceiling for 2018, 2019, 2020, and 2021. The increase is calculated by multiplying the State housing credit ceiling by 1.125.

In 2021, the most recent year for which the IRS has issued population estimates for purposes of the low-income housing tax credit, the small population States were Alaska, Delaware, the District of Columbia, Montana, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming. *Ibid.*

[153] Sec 42(h)(4)(B). If less than 50 percent of a building is financed with tax-exempt bonds, only the portion of credits attributable to the bond-financed portion of the building is allowed without allocation. Sec. 42(h)(4)(A).

[154] Sec. 42(m)(1)(D), (m)(2)(D).

[155] Sec. 42(m).

[156] Sec. 42(m)(1)(B).

[157] Sec. 42(m)(1)(C).

A qualified low-income building is a building that is subject to a 15-year compliance period and is part of a qualified low-income housing project.[158] The 10-year credit period and 15-year compliance period generally start in the first taxable year in which the building is placed into service.[159]

Extended Use Period

To be eligible for housing credits, a building owner is generally required to enter into an extended low-income housing commitment with the housing credit agency to maintain housing affordability restrictions on the property for an additional 15 years following the end of the initial 15-year compliance period (the "extended use period").[160] However, the extended use period may be terminated early under three scenarios: (1) if the building is acquired by foreclosure,[161] (2) if the building owner exercises the qualified contract option,[162] or (3) where a qualified nonprofit organization or other qualified buyer has a right of first refusal, if such buyer exercises the right.[163]

Right of First Refusal

Ownership structures

The low-income housing tax credit may be claimed against income tax liability, but it is not refundable.[164] Investors in credit projects may also be entitled to other benefits such as depreciation[165] or interest deductions.[166] Certain entities, such as nonprofit organizations that foster low-income housing or tenant cooperatives or resident management corporations, may have an interest in developing or continuing qualified low-income housing projects. However, to the extent that these entities have no Federal income tax liability, they are unable to claim the credit or related deductions.[167]

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[158] Sec. 42(c)(2).

[159] Sec. 42(f), (i)(1).

[160] Sec. 42(h)(6).

[161] Sec. 42(h)(6)(E)(i)(I).

[162] Sec. 42(h)(6)(E)(i)(II), (F); *see also* Treas. Reg. sec. 1.42-18(a).

[163] *See* sec. 42(i)(7).

[164] See sec. 38. Additionally, the credit generally may offset alternative minimum tax. Sec. 38(c).

[165] See sec. 167. The credit does not reduce the taxpayer's basis in the qualified low-income building. *Cf.* sec. 50(c) (providing that, if a credit is determined under the investment credit with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined).

[166] See sec. 163.

[167] Sec. 501.

In order to use these benefits, the nonprofit organization or other entity may develop low-income housing projects in an ownership structure with taxable investors. For example, a nonprofit organization may join with taxable investors to form a partnership. Under such a structure, the partnership owns the qualified low-income building and generally allocates the low-income housing tax credit and deductions to taxable investors.[168]

Right Of First Refusal Safe Harbor

At the time of acquisition of a building, credit investors may want to grant an option or other right to a nonprofit organization or other entity, in a contract or other agreement, to acquire the building at the end of the compliance period. For example, credit investors in a partnership may want to grant a right to acquire the building at the end of the compliance period to the nonprofit organization developer partner.

A taxpayer's grant of an option or other right to acquire property to another party may, depending on the terms, cause the taxpayer to not be treated as the owner of the property for Federal income tax purposes.[169] If the taxpayer is not treated as the tax owner of the property, the taxpayer generally is not able to claim credits or deductions with respect to the property.

The low-income housing tax credit rules provide a safe harbor where the grant by a taxpayer of certain rights to acquire a qualified low-income building will not cause a loss in Federal income tax benefits. Under the safe harbor, no Federal income tax benefit fails to be allowable to a taxpayer with respect to any qualified low-income building merely by reason of a right of first refusal that is (1) held by a qualified nonprofit organization or certain other qualified buyers (2) to purchase the building (3) after the end of the compliance period (4) for a price not less than the minimum purchase price.[170]

A qualified nonprofit organization is (1) a nonprofit organization[171] (2) determined by the State housing credit agency not to be affiliated with a or controlled by a for-profit organization, (3) that has as an exempt purpose the fostering of low-income housing.[172]

The minimum purchase price is an amount equal to the sum of the principal amount of indebtedness secured by the building (other than indebtedness incurred within the five-year period ending on the date of the sale), plus certain exit taxes.[173]

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[168] See sec. 704(b); Treas. Reg. sec. 1.704-1(b)(4)(ii).

[169] See, *e.g.*, *Frank Lyon Co. v. Commissioner*, 435 U.S. 561 (1978), *Dettmers v. Commissioner*, 430 F.2d 1019 (6th Cir. 1970).

[170] Sec. 42(i)(7)(A).

[171] The organization must be exempt from tax under sections 501(c)(3) or (4).

[172] Sec. 42(h)(5).

[173] Sec. 42(i)(7)(B).

The safe harbor is silent as to whether the right to purchase all of the interests in a partnership that owns a qualified low-income building satisfies the safe harbor,[174] or whether the right to purchase assets relating to the building satisfies the safe harbor.

The safe harbor does not require credit building owners to grant a right of first refusal. However, in some states, housing credit agencies favor low-income housing credit applications that give qualified nonprofit organizations or certain other parties a right of first refusal.

Right of First Refusal Safe Harbor And State Law

A right of first refusal is a contractual right defined under State law. In general, a right of first refusal is "a potential buyer's contractual right to meet the terms of a third party's highest offer."[175]

A right of first refusal is a subset of a purchase option, which is a "contractual provision by which an owner of realty enters an agreement with another allowing the latter to buy the property at a specified price within a specified time, or within a reasonable time in the future, but without imposing an obligation to purchase on the person to whom it is given."[176] In general, an option does not require a third-party offer, while a right of first refusal does.

A number of State courts have come to different conclusions as to what criteria must be satisfied in order to trigger a right of first refusal grant that meets the low-income housing tax credit safe harbor. For example, in *Homeowner's Rehab*, the court held that neither a bona fide third-party offer nor the approval of the offer by the building owner is needed.[177] In contrast, in *Senior Housing Assistance Group*, the court held that a bona fide third-party offer acceptable to the property owner is needed.[178]

Explanation of Provision

The provision changes the right of first refusal safe harbor into an option safe harbor.

For existing agreements, the provision clarifies, for purposes of the safe harbor, that the right to acquire the building includes the right to acquire all of the partnership interests relating to the building.[179] It also clarifies that the right to acquire the building includes the right to acquire assets held for the development, operation, or maintenance of the building. Thus,

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[174] But see Rev. Rul. 99-6, 1999-6 I.R.B. 6.

[175] Black's Law Dictionary (11th ed. 2019), right of first refusal.

[176] Black's Law Dictionary (11th ed. 2019), definition 5, option to purchase real property.

[177] *Homeowner's Rehab, Inc v. Related Corp. V SLP, L.P.*, 479 Mass. 741 (2018).

[178] *Senior Housing Assistance Grp. v. AMTAX Holdings 260, LLC*, No. C17-1115 RSM, 2019 WL 1417299 (W.D. Wash. Mar. 29, 2019), *appeal dismissed*, No. 19-35354, 2019 WL 5576461 (9th Cir. Sept. 13, 2019).

[179] This excludes partnership interests of the right holder or a related person within the meaning of section 267(b) or 707(b)(1).

agreements which provide for the right to acquire these partnership interests or building assets do not fail to satisfy the safe harbor.

For existing agreements, the provision also clarifies that the right of first refusal safe harbor may be satisfied by the grant of an option. A right of first refusal may be exercised in response to an offer by a related party; a bona fide third-party offer is not needed. A right of first refusal may be exercised without the approval of any owner of a credit project. Thus, agreements with these terms do not fail to satisfy the safe harbor.

Finally, the provision amends the minimum purchase price to exclude exit taxes. Thus, agreements that do not include exit taxes as part of the minimum purchase price do not fail to satisfy the safe harbor.

Effective Date

The provisions to change the right of first refusal safe harbor into an option safe harbor and to exclude exit taxes from the minimum purchase price are effective for agreements entered into or amended after the date of enactment.

The other provisions of the provision are effective for agreements entered into before, on, or after the date of enactment. However, none of the changes of the provision are intended to supersede express language in any agreement with respect to the terms of a right of first refusal or option permitted under the safe harbor.

7. Increase in credit for bond-financed projects designated by housing credit agency (sec. 135507 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year period for the costs of building or rehabilitating rental housing occupied by low-income tenants. The amount of credit that may be claimed each year is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.[180]

Credit Calculations

Determination of Applicable Percentage

The applicable percentage for non-Federally subsidized newly constructed housing and non-Federally subsidized substantial rehabilitation is calculated such that the present value of the credit amounts is at least 70 percent of a building's qualified basis, depending on the prevailing interest rate.[181] These credits are sometimes referred to as "nine-percent credits."

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[180] Sec. 42.

[181] See sec. 42(b) and (e). This credit is referred to as the 70-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Housing and Economic Recovery Act of 2008, the minimum applicable percentage for such credits was temporarily set at nine percent (the

The applicable percentage for Federally subsidized newly constructed housing, Federally subsidized substantial rehabilitation, and certain housing acquisition costs, is calculated such that the present value of the credit amounts is at least 30 percent of a building's qualified basis, depending on the prevailing interest rate.[182] These credits are sometimes referred to as "four-percent credits."

Calculation of Eligible Basis

The qualified basis for purposes of determining the amount of low-income housing credit to be claimed each year is an amount equal to the applicable fraction of eligible basis.[183] The eligible basis of a new building is its adjusted basis as of the close of the first taxable year of the credit period. The eligible basis of an existing building is zero unless the building meets the following requirements: the building is acquired by purchase; there is a period of at least 10 years between the date of its acquisition by the taxpayer and the date the building was last placed in service; the building was not previously placed in service by the taxpayer or a related person; and the building was rehabilitated and is eligible for the low income housing credit for rehabilitation expenditures treated as a separate new building.

Special statutory rules for determining eligible basis include increased credit amounts for buildings located in qualified census tracts or difficult development areas.[184] A qualified census tract is a census tract designated by the Secretary of Housing and Urban Development in which 50 percent or more of households have an income of less than 60 percent of area median gross income, or which has a poverty rate of at least 25 percent. A difficult development area is an area designated by the Secretary of Housing and Urban Development in which construction, land, or utility costs are high relative to area median gross income.

In the case of a new building, the eligible basis in qualified census tracts or difficult development areas is increased to 130 percent of such basis calculated without regard to this increase. For an existing building, the rehabilitation expenditures are increased to 130 percent of such expenditures calculated without regard to this increase.

State housing credit agencies may designate a building as requiring an increase in credit in order for such building to be financially feasible as part of a qualified low-income housing project. A building so designated is treated as though it were located in a difficult development area for purposes of determining eligible basis. However, a designated building is

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"nine-percent floor"). The Consolidated Appropriations Act, 2016 made the nine-percent floor permanent. The enactment of the nine-percent floor on the credit implies that, under the statutory formula, the present value is always 70 percent or greater.

[182] This credit is referred to as the 30-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Consolidated Appropriations Act, 2020, the minimum applicable percentage for such credits was set at four percent (the "four-percent floor"). The enactment of the four-percent floor on the credit implies that, under the statutory formula, the present value is always 30 percent or greater.

[183] Sec. 42(c)(1)(A).

[184] Sec. 42(d)(5)(B).

not treated as located in a difficult development area if the building is financed with the proceeds of tax-exempt bonds which are subject to the volume cap for private activity bonds and for which principal payments on such financing are applied within a reasonable period to redeem the bonds after bond proceeds are used to finance a project.[185]

Explanation of Provision

The provision modifies the rule which treats as difficult development areas for purposes of determining eligible basis, those buildings designated by housing credit agencies as requiring an increase in credit. Under the provision, buildings so designated and financed with the proceeds of certain tax-exempt bonds are treated as difficult development areas for purposes of determining eligible basis as long as the determinations of housing credit dollar amounts are not made after December 31, 2028.

Effective Date

The provision applies to buildings which receive a determination of housing credit dollar amount pursuant to section 42(m)(2)(D) of the Code after the date of enactment.

[185] Sec. 42(h)(4)(A).

B. Neighborhood Homes Credit

1. Neighborhood Homes Credit (sec. 135511 of the bill and sec. 38 and new sec. 42A of the Code)

Present Law

Several provisions of the Code provide favorable tax treatment to homeowners. These include: (1) the home mortgage interest deduction; (2) the capped deduction for real property taxes; (3) the exclusion of gain from sale of a principal residence; (4) tax-exempt bonds for owner-occupied housing; (5) mortgage credit certificates; (6) qualified first-time homebuyer distributions from an individual retirement plan; (7) exclusion from gross income of the rental value of parsonages and military housing allowances; and (8) exclusion from gross income of discharge of certain qualified principal residence indebtedness.

Certain tax benefits are also available for rental housing. These include: (1) the low-income housing tax credit, (2) the rehabilitation credit, (3) the exclusion of interest on State and local government qualified private activity bonds, (4) expensing of qualified improvement property and tangible personal property under bonus depreciation, (5) exceptions from the passive activity loss rules for certain rental real estate activities, (6) the rental real estate safe harbor for the section 199A deduction, and (7) the election out of the interest limitation for real property trades or businesses.[186]

The Code does not presently provide a general business credit to subsidize the new construction or substantial rehabilitation of owner-occupied affordable housing.

Explanation of Provision

The provision adds a new neighborhood homes credit as part of the general business credit.[187] The credit may be provided to (1) taxpayers that develop or rehabilitate property that will be sold to an eligible purchaser who will use the property as the purchaser's principal residence, or (2) taxpayers that rehabilitate certain owner-occupied property.

Credit calculation and definitions

Generally, the credit amount for a taxable year with respect to a qualified residence sold by a taxpayer in an affordable sale is the lesser of (1) the excess (if any) of (i) the reasonable development costs paid or incurred by the taxpayer with respect to the qualified residence, over (ii) the sale price of the qualified residence (reduced by any reasonable expenses paid or incurred by the taxpayer in connection with such sale); or (2) 35 percent of the lesser of (i) the eligible development costs paid or incurred by the taxpayer with respect to the qualified residence, or (ii) 80 percent of the national median sale price for new homes (as determined pursuant to the most recent census data available as of the credit allocation date). As discussed below, an alternative

[186] Sec. 163(j)(7).

[187] See sec. 38.

method for calculating credit amounts is used in the case of certain rehabilitations of owner-occupied residences.

For purposes of the credit, the term "reasonable development costs" means amounts paid or incurred for the acquisition of buildings and land, construction, substantial rehabilitation, demolition of structures, or environmental remediation, to the extent that such amounts are determined by the neighborhood homes credit agency (as of the date on which the construction or substantial rehabilitation is substantially complete) as meeting the standards promulgated by the agency.[188] The term "neighborhood homes credit agency" means the agency designated by the governor of a State[189] as the State's neighborhood homes credit agency. The term "eligible development costs" means the amount which would be reasonable development costs if the amounts taken into account as paid or incurred for the acquisition of buildings and land did not exceed 75 percent of the costs determined without regard to any amount paid or incurred for the acquisition of buildings and land.[190]

Reasonable development costs and eligible development costs do not include any amounts paid or incurred before the date on which an allocation is made to a taxpayer with respect to the qualified project of which the qualified residence is part. unless the amount paid or incurred is for the acquisition of buildings or land. Amounts paid or incurred for the acquisition of buildings or land are included only if paid or incurred not more than three years before the allocation date. If a taxpayer acquires any building or land from an entity (or any related party to the entity) that holds an ownership interest in the taxpayer, the entity must also have acquired the property within the three-year period, and taxpayer's acquisition costs may not exceed the amount paid or incurred by the entity to acquire the property.

The term "substantial rehabilitation" means amounts paid or incurred for the rehabilitation of a qualified residence if such amounts exceed the greater of (1) $20,000, or (2) 20 percent of the amounts paid or incurred for the acquisition of buildings and land.

In the case of qualified residences that are condominium units or houses or apartments owned by a cooperative housing corporation,[191] the reasonable development costs and eligible development costs of the qualified residence are equal to the costs of the entire

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[188] In making its determination, the agency must consider: (1) the sources and uses of funds and total financing, (2) any proceeds or receipts expected to be generated by reason of tax benefits, and (3) the reasonableness of the development costs and fees.

[189] For purposes of this provision, the term "State" includes the District of Columbia and the possessions of the United States.

[190] Under this definition, eligible development costs will be lower than reasonable development costs for a qualified residence when the acquisition costs of buildings and land are significantly higher than the other reasonable development costs for such residence. For example, assume a qualified residence had reasonable development costs of $1800, with $800 of acquisition costs for building and land and $1000 of other reasonable development costs. In that case, the $800 of acquisition costs exceeds 75 percent of the other costs (75 percent of $1000 = $750). Therefore, the eligible development costs are equal to the sum of 75 percent of the other costs ($750) and the other costs ($1000), or $1750.

[191] With respect to cooperative housing corporations (as such term is defined in section 216(b)), tenant-stockholders are treated as owning the house or apartment which they are entitled to occupy.

condominium or cooperative housing property, multiplied by the qualified residence's share of the total floor space (relative to the total floor space of all residences within the property).

"Qualified residence" means a residence that (1) is real property affixed on a permanent foundation, (2) is (i) a house which contains four or fewer residential units, (ii) a condominium unit, or (iii) a house or apartment owned by a cooperative housing; (3) is part of a qualified project which has received an allocation from a neighborhood homes credit agency, and (4) is located in a qualified census tract (determined as of the date of such allocation).

To be a qualified census tract, a census tract must satisfy one of the following sets of conditions:

1. The census tract must (i) have a median family income[192] which does not exceed 80 percent of the median family income for the applicable area, (ii) has a poverty rate that is not less than 130 percent of the poverty rate of the applicable area, and (iii) has a median value for owner-occupied homes that does not exceed the median value for owner-occupied homes in the applicable area;

2. The census tract must (i) be located in a city with a population of at least 50,000 and a poverty rate that is at least 150 percent of the poverty rate of the applicable area, (ii) has a median family income which does not exceed the median family income for the applicable area, and (iii) has a median value for owner-occupied homes that does not exceed 80 percent of the median value for owner-occupied homes in the applicable area;

3. The census tract must be located in a nonmetropolitan county and (i) have a median family income which does not exceed the median family income for the applicable area, and (ii) have been designated by a neighborhood homes credit agency; or

4. The census tract is located in a disaster area.[193]

In the case of a metropolitan census tract, "applicable area" means the metropolitan area in which the census tract is located. In any other case, "applicable area" refers to the State in which the census tract is located. The provision requires that the Secretary of Housing and Urban Development make publicly available a list of qualified census tracts each year.

The term "affordable sale" means a sale to a qualified homeowner of a qualified residence that (1) the agency certifies as meeting the standards promulgated by the agency (2) for a price that does not exceed (i) in the case of a house containing two residential units, an amount equal to five times the median family income for the applicable area; (ii) in the case of a house containing three residential units, an amount equal to six times the median family income for the applicable area; (iii) in the case of a house containing four residential units, an amount equal to

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[192] Rules similar to the rules of section 143(f)(2) apply for determinations of family income.

[193] "Disaster area" is as defined in section 7508A(d)(3), but only with respect to any period for which the President of the United States has determined that the area warrants individual or individual and public assistance by the Federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

seven times the median family income for the applicable area; or (iv) in the case of any qualified residence not described in (i), (ii), or (iii), an amount equal to four times the median family income for the applicable area. As discussed below, sales between related parties do not qualify as affordable sales.

The term "qualified homeowner" means an individual who owns and uses a qualified residence as the individual's principal residence, and whose family income (determined as of the date that a binding contract for the affordable sale of the residence is entered into) is 140 percent or less of the median family income for the applicable area in which the residence is located. Qualified project means a project that a neighborhood homes credit agency certifies will build or substantially rehabilitate one or more qualified residences.

For purposes of the credit, dollar amounts are inflation adjusted, using calendar year 2021 as the base year.

Credit Limitations

In general, the credit allowed to a taxpayer in a taxable year with respect to one or more qualified residences that are part of the same qualified project cannot exceed the excess (if any) of (1) the amount allocated by the agency to the taxpayer for the qualified project, over (2) the aggregate amount of credit previously allowed to the taxpayer for all prior taxable years.

No amount may be allowed with respect to any qualified residence unless, during the five-year period that begins on the date of the allocation to the qualified project of which the residence is a part, either the affordable sale or the substantial rehabilitation of the residence is completed (the "required five-year period"). If the required event does not occur within the required five-year period, the amount of the unallocated credit is returned to the State's neighborhood homes credit ceiling, as discussed below.

Repayment Rules, Denial of Rental Deductions, and Related Party Sales

Generally, if a qualified residence is sold during the five-year period that begins immediately after the affordable sale of the residence (the "repayment period"), the seller is required to transfer an amount equal to the repayment amount to the relevant neighborhood homes credit agency. The repayment amount is an amount equal to 50 percent of the gain from the sale, reduced by 20 percent for each year of the five-year period which has ended before the date of the sale. The agency may only use such repayment amounts for purposes of qualified projects. As discussed below, qualified rehabilitations of owner-occupied rehabilitations are subject to different repayment rules.

Neighborhood homes credit agencies must place a lien on each qualified residence that is built or rehabilitated as part of a qualified project for the amount that the agency deems is necessary to ensure potential repayment. However, an agency may waive repayment in the event that a homeowner is experiencing a hardship.

If, during the five-year period beginning after the affordable sale of a qualified residence, the owner of the qualified residence fails to use the residence as the owner's principal residence for any period of time, no deduction will be allowed for rental expenses paid or incurred by the owner with respect to renting the residence during this time period.

In general, a sale between related persons is not treated as an affordable sale. A related person is related to another person if the related person bears a relationship to the other person, or the related person and the other person are engaged in trades or businesses under common control.

Alternative Rules and Definitions for Owner-Occupied Rehabilitations

The credit may also be provided to a taxpayer that rehabilitates certain owner-occupied residences. To be eligible, the taxpayer may not be the owner of the qualified residence or a related person with respect to the owner. For purposes of owner-occupied rehabilitations, certain alternative rules and definitions apply.

An alternative method of determining credit amounts is used for owner-occupied rehabilitations. For such rehabilitations, credit is allowed in the taxable year in which the qualified rehabilitation is completed, and the credit amount is equal to the least of (1) the excess (if any) of (i) the amounts paid or incurred by the taxpayer for the qualified rehabilitation of the qualified residence, to the extent the amounts are certified by the neighborhood homes credit agency (at the time of the completion of such rehabilitation) as meeting the standards promulgated by the agency, over (ii) any amounts paid to the taxpayer for the rehabilitation; (2) 50 percent of the amounts in (1)(i); or (3) $50,000.

For purposes of owner-occupied rehabilitations, the term "qualified rehabilitation" means a rehabilitation performed pursuant to a written binding contract between the taxpayer and the qualified homeowner, if the amount paid or incurred by the taxpayer in the performance of the rehabilitation exceeds $20,000. Substantial rehabilitation costs do not include any amount paid or incurred before the date on which an allocation is made to the taxpayer with respect to the qualified residence.

For purposes of owner-occupied rehabilitations, the term "qualified homeowner" means an individual (1) who owns and uses a qualified residence as the individual's principal residence, and (2) whose family income (determined as of the date that the binding contract between the taxpayer and homeowner is entered into) does not exceed the median family income for the applicable area in which the residence is located.

For purposes of owner-occupied rehabilitations, the term "qualified census tract" includes (1) any census tract which (i) has a median family income which does not exceed 80 percent of the median family income for the applicable area or has a poverty rate that is not less than 130 percent of the poverty rate of the applicable area, and (ii) is designated by the neighborhood homes credit agency; and (2) any census tract which is located in a disaster area.[194]

For owner-occupied rehabilitations, the repayment period is the time period that (1) begins on the earlier of (i) the date that the owner enters into a binding contract for the performance of the rehabilitation or (ii) the date on which such rehabilitation begins, and (2)

[194] "Disaster area" is as defined in section 7508A(d)(3), but only with respect to any period for which the President of the United States has determined that the area warrants individual or individual and public assistance by the Federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

ends on the date that the rehabilitation is completed. This repayment period is in lieu of the five-year repayment period discussed above.

State Neighborhood Homes Credit Ceiling

For any calendar year, the aggregate amount allocated to qualified projects by the neighborhood homes credit agency of a State may not exceed the State neighborhood homes credit ceiling for such calendar year. Further, the credit allocated to any qualified project may not exceed the amount that the neighborhood homes credit agency determines (as of the date of the allocation) is necessary to ensure the financial feasibility of the qualified project.

The State neighborhood homes credit ceiling for a calendar year is an amount equal to the sum of (1) the greater of (i) $6 multiplied by the State population or (ii) $8,000,000, and (2) any amount previously allocated to a qualified project by the agency which can no longer be allocated to a qualified residence because the required five-year period expired during the calendar year.[195]

In addition, the credit ceiling is increased by the excess (if any) of the State credit ceiling for the prior calendar year, over the aggregate amount allocated by the agency during the prior calendar year (such amount, a "carryforward"). The amount of carryforward does not carry past the third calendar year after the calendar year in which the credit amount originally arose, determined on a first-in, first-out basis.

Responsibilities of Neighborhood Homes Credit Agencies

The State neighborhood homes credit dollar amount is zero for a calendar year unless the neighborhood homes credit agency of the State (1) allocates the credit amount pursuant to a qualified allocation plan, (2) in the prior year, allocates not more than 20 percent of such amount to qualified residences which (i) are in certain qualified census tracts or (ii) are not located in qualified census tracts but meet certain requirements for pyrrhotite remediation, (3) promulgates standards with respect to reasonable qualified development costs and fees, (4) promulgates standards with respect to construction quality, (5) promulgates standards with respect to protecting the owners of owner-occupied residences, in the event of an owner-occupied rehabilitation, with consideration to the ability of such owners to pay rehabilitation costs not covered by the credit and providing for the disclosure to owners of their rights and responsibilities, (6) and submits to the Secretary (at such time and in such manner as the Secretary may prescribe) an annual report.

Annual reports by neighborhood homes credit agencies must include the following information: (1) the amount of the credits allocated to each qualified project for the previous year, and (2) with respect to each qualified residence completed in the prior year, (i) the census tract in which such qualified residence is located, (ii) the year in which the qualified project including the qualified residence received an allocation, (iii) whether the qualified residence was new or substantially rehabilitated, (iv) the eligible basis of the qualified residence, (v) the amount

[195] For example, if a qualified project has a required five-year period that expires in 2027, the credit that was previously allocated to the project would be included in the State credit ceiling for that year. Rules similar to the rules of section 42(h)(5) apply for purposes of determining the portion of the State credit ceiling set-aside for certain nonprofit organizations.

of the credit with respect to the qualified residence, (vi) the sales price of the qualified residence, or, in the case of a substantially rehabilitated qualified residence, the cost of the substantial rehabilitation, (vii) the family income of the qualified homeowner (expressed as a percentage of the applicable area median family income for the location of the qualified residence), and (viii) such other information as the Secretary may require.

A qualified allocation plan is any plan which (1) sets forth the selection criteria to be used to prioritize qualified projects for allocations of State neighborhood homes credit dollar amounts, including (i) the need for new or substantially rehabilitated owner-occupied homes in the area addressed by the project, (ii) the expected contribution of the project to neighborhood stability and revitalization, (iii) the capability of the project sponsor, and (iv) the likelihood the project will result in long-term homeownership; (2) has been made available for public comment; and (3) provides a procedure that the neighborhood homes credit agency (or any agent or contractor of such agency) must follow for purposes of (i) identifying noncompliance with any provisions of this provision and (ii) notifying the IRS of any such noncompliance of which the agency becomes aware.

The Secretary is required to produce an annual report, to be made available to the public, which contains the information in the annual reports submitted by neighborhood homes credit agencies discussed above. Any information made public must exclude any information that would allow for the identification of qualified homeowners.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

PART VI — INVESTMENTS IN TRIBAL INFRASTRUCTURE

1. Treatment of Indian tribes as States with respect to bond issuance (sec. 135601 of the bill and sec. 7871(c) of the Code)

Present Law

Treatment of Indian Tribal Governments as states for Certain Purposes

Section 7871 expressly provides that Indian tribal governments are treated as States for certain tax purposes. For example, tribal governments are extended the treatment provided to States in connection with any exemption from, credit or refund of, or payment with respect to the following excise taxes: tax on special motor fuels, manufacturers excise taxes, communications excise tax, and tax on use of certain highway vehicles.[196] Special treatment relating to excise taxes is available to tribal governments only with regard to transactions involving the exercise of an essential governmental function by the Indian tribal government. Section 7871(e) limits the term essential governmental function to exclude any function that is not customarily performed by State and local governments with general taxing powers.

Indian tribal governments are also treated as States in that they may issue tax-exempt bonds, subject to certain conditions described further below.

Tax-Exempt Bonds

In General

Under present law, gross income does not include interest on State or local bonds. State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental facilities or the debt is repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons. For these purposes, the term "nongovernmental person" includes the Federal government and all other individuals and entities other than States or local governments. Interest on private activity bonds is taxable, unless the bonds are issued for certain purposes permitted by the Code and other requirements are met.

States may issue tax-exempt private activity bonds subject to a per-State volume cap. For calendar year 2021, the State volume cap, which is indexed for inflation, equals $110 per resident of the State, or $324,995,000, if greater.[197]

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[196] Sec. 7871(b).

[197] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1022, November 9, 2020.

Issuance of Tax-Exempt Bonds by Indian Tribal Governments

Indian tribal governments may issue tax-exempt bonds[198] in several types of circumstances if they meet requirements applicable to bonds issued by States and local governments as well as certain other rules applicable only to Indian tribal governments. Indian tribal governments may issue tax-exempt bonds for governmental purposes, subject to the requirement that substantially all of the proceeds of the issue are used in an essential governmental function, as discussed below.[199] Indian tribal governments also may issue private activity bonds but only for the purpose of financing manufacturing facilities.[200]

The Code provides that Indian tribal governments may also issue a third type of tax-exempt bond called "tribal economic development bonds" to finance projects and facilities (but not certain gambling facilities) if the bonds would be tax-exempt if issued by a State or local government.[201] The restriction of essential government function and the limitation on private activity bonds to certain manufacturing facilities do not apply. However, this Code provision is subject to an allocation limit of $2 billion.

Governmental Bonds

Like States and local governments, Indian tribal governments may issue so-called "governmental bonds." These bonds are bonds the proceeds of which are primarily used to finance governmental facilities or which are repaid with governmental funds. The Code does not expressly define governmental bonds. Instead, bonds are generally treated as governmental bonds if they limit private involvement sufficiently to avoid classification as private activity bonds,[202] contain arbitrage restrictions,[203] and satisfy bond registration and information reporting requirements and various other restrictions described in the Code.[204]

Indian tribal governments must meet an additional requirement to issue governmental bonds. Specifically, all bond proceeds must be used in an essential governmental function,[205]

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[198] Generally, gross income does not include interest on State or local bonds. Sec. 103.

[199] Sec. 7871(c)(1).

[200] Secs. 7871(c)(3), 103.

[201] The American Recovery and Reinvestment Act of 2009 ("ARRA"), Pub. L. No. 111-5, sec. 1402, added section 7871(f) to the Code.

[202] The exclusion from income of interest on State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met. Secs. 103, 141.

[203] Secs. 103(b), 148.

[204] Secs. 103(b), 149.

[205] Sec. 7871(c)(1).

and such function must be customarily performed by State and local governments with general taxing powers.[206]

Private Activity Bonds for Tribal Manufacturing Facilities

As with governmental bonds, Indian tribal governments are more restricted than States and local governments in their ability to issue private activity bonds. Section 7871(c)(3) permits tribal governments to issue private activity bonds[207] so long as the bond proceeds are used for manufacturing facilities[208] that are owned and operated by the tribal government on "qualified Indian lands,"[209] and that employ tribal members.[210]

A project financed by manufacturing facility bonds must meet requirements as to use, location and ownership, and employment. The use requirement provides that at least 95 percent of the net proceeds of the issue are to be used for the acquisition, construction, or improvement of property that is part of a manufacturing facility and subject to an allowance for depreciation. The location and ownership requirement provides that at least 95 percent of the net proceeds are to be used to finance property to be located on qualified Indian lands of the issuer, which is to be owned and operated by the issuer.[211] At the time of issuance, it must be reasonably expected that the employment requirements will be met with respect to the facility financed by the bonds. As of the close of each calendar year in the testing period, the aggregate face amount of all outstanding tax-exempt bonds financing the facility cannot be more than 20 times greater than the aggregate wages paid during the preceding calendar year to enrolled members of the Indian tribe of the issuer (or spouse of such member) for services rendered. The employment requirement must be met each year beginning two years after the date of issuance. If the employment requirement is not met for any year for which it applies with respect to an issuance,

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[206] Sec. 7871(e).

[207] Outside the Indian tribal government context, private activity bonds are generally bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons. For these purposes, the term "nongovernmental person" includes the Federal government and all other individuals and entities other than States or local governments. Interest on private activity bonds is taxable, unless the bonds are issued for certain purposes permitted by the Code and other requirements are met. Section 7871(c)(3)(C) provides that an obligation to which this paragraph (dealing with the exception for certain private activity bonds used for certain tribal manufacturing facilities) applies shall be treated as a private activity bond.

[208] The term "manufacturing facility" is defined by cross reference to section 144(a)(12)(C) as any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property).

[209] "Qualified Indian lands" means land which is held in trust by the United States for the benefit of an Indian tribe. The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Sec. 7871(c)(3)(E).

[210] Sec. 7871(c)(3)(D).

[211] Tribes may jointly finance a manufacturing facility, and the employment test may be met in such case by *pro rata* apportionment of wages by tribe according to the relative participation of each tribe.

all bonds that are part of that issuance cease to be tax-exempt to their holders. The annual tribal employment test is in lieu of an annual aggregate volume limit.[212]

Tribal Economic Development Bonds

Indian tribal governments are also permitted to issue "tribal economic development bonds."[213] A tribal economic development bond is any bond issued by an Indian tribal government (1) the interest on which would be tax-exempt if issued by a State or local government, and (2) that is designated by the Indian tribal government as a tribal economic development bond.[214]

The aggregate face amount of bonds that may be designated by any Indian tribal government cannot exceed the amount of national tribal economic development bond limitation allocated to such government.[215] There is a national bond limitation of $2 billion, allocated as the Secretary determines appropriate, in consultation with the Secretary of the Interior.[216] As of this writing, approximately $58.7 million in volume limitation is available for allocation (subject to the forfeiture of unused volume limitation previously awarded).[217]

Under the tribal economic development bond program, Indian tribal governments have the authority to issue bonds to finance projects and facilities owned by Indian tribes and located on Indian reservations, but outside the scope of "essential governmental function" bonds, such as convention centers, golf courses, hotels, restaurants, certain entertainment facilities, etc. In addition, Indian tribal governments have the authority to issue private activity bonds for any

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[212] Manufacturing facility private activity bonds issued by tribes are not subject to State volume caps. See H.R. Conf. Rep. No. 100-495 (1987). Thus, the private activity bonds issued by tribes do not count against the volume cap of the State where the reservation is located. However, persons living on Indian reservations within a State are counted for purposes of calculating that State's volume cap, thus, States could issue bonds for the benefit of tribal reservations located within the State.

[213] Sec. 7871(f).

[214] Sec. 7871(f)(3). Tribal economic development bonds issued by an Indian tribal government are treated as if such bonds were issued by a State except that section 146 (relating to State volume limitations) does not apply. Sec. 7871(f)(2).

[215] Sec. 7871(f)(3)(C).

[216] Sec. 7871(f)(1)(B). Announcement 2011-71, 2011-46 I.R.B. 770, November 14, 2011 (IRS sought comment from Indian tribal governments on the reallocation of available amounts of national bond volume limitation authority that were previously allocated and have been, or subsequently are, forfeited under Notice 2009-51, 2009-28 I.R.B. 128, July 13, 2009, and Announcement 2010-88, 2010-47 I.R.B. 753, November 22, 2010). In Notice 2-12-48, 2012-31 I.R.B. 102, July 30, 2012, the Treasury department and IRS solicited applications for allocations of available volume cap (including amounts previously allocated and subsequently forfeited) and provided detailed guidance regarding the requirements for such applications and the method that will be used to allocate volume cap.

[217] Seehttps://www.irs.gov/tax-exempt-bonds/published-volume-cap-limit-for-tribal-economic-development-bonds#:~:text=The%20Published%20Volume%20Cap%20Limit,or%20(2)%20%24100%2C000%2C000) (as of August 1, 2021).

one of the seven types of "qualified bonds" used for purposes that Congress has permitted[218] and are not limited to financing tribal manufacturing facilities. The six other types of qualified private activity bonds include (1) exempt facility bonds;[219] (2) qualified mortgage bonds[220] to finance the purchase or repair or rehabilitation of owner-occupied single-family homes located in the jurisdiction of the issuer; (3) qualified veteran's mortgage bonds[221] to finance veterans' purchases of owner-occupied single-family homes (as long as a State issued such bonds before June 22, 1984); (4) qualified student loan bonds;[222] (5) qualified redevelopment bonds[223] to finance the redevelopment of blighted areas; and (6) qualified 501(c)(3) bonds[224] to fund the exempt activities of a section 501(c)(3) organization.

Tribal economic development bonds cannot be used to finance any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted, or housed, or any other property used in the conduct of such gaming. Nor can tribal economic development bonds be used to finance any facility located outside of the Indian reservation.[225]

Explanation of Provision

The provision allows Indian tribal governments to issue governmental bonds and private activity bonds on a basis similar to State and local governments, but with certain location and gambling facility restrictions applicable to private activity bonds.

First, under the provision, the essential governmental function standard does not apply to the issuance of tax-exempt bonds by Indian tribal governments.

Second, for private activity bonds, the provision requires the Secretary annually to establish a national Tribal private activity bond volume cap for all Indian tribes based on the

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[218] Sec. 141(e) (provides the list of seven categories of qualified private activity bonds). For purposes of tribal economic development bonds, use of bond proceeds by an Indian tribe, or instrumentality thereof, is treated as use by a State. Sec. 7871(f)(2)(B).

[219] Sec. 142. Business facilities eligible for this financing include transportation (airports, ports, local mass commuting, high-speed intercity rail facilities, and qualified highway or surface freight transfer facilities); privately owned and/or operated public works facilities (sewage, solid waste disposal, water, local district heating or cooling, and hazardous waste disposal facilities); privately-owned and/or operated residential rental housing; and certain private facilities for the local furnishing of electricity or gas. Bonds issued to finance "environmental enhancements of hydro-electric generating facilities," qualified public educational facilities, and qualified green building and sustainable design projects also may qualify as exempt facility bonds.

[220] Sec. 143.

[221] Sec. 143. Sec. 142(l)(2).

[222] Sec. 144(b).

[223] Sec. 144(c).

[224] Sec. 145.

[225] Sec. 7871(f)(3)(B).

greater of (1) the State population formula approach in section 146(d)(1)(A) (using national tribal population estimates supplied annually by the Department of the Interior in consultation with the Census Bureau), and (2) the minimum State ceiling amount in section 146(d)(1)(B) (as adjusted for the cost of living). The Secretary also is required annually to allocate the national bond volume cap among Indian tribal governments seeking an allocation in a particular year under regulations prescribed by the Secretary. The present-law limits on using State volume cap to finance a facility located outside of the State (section 146(k)(1)) do not apply to volume cap allocated under the provision to the extent that such cap is used with respect to financing for a facility located on qualified Indian lands.

No portion of volume cap allocated to an Indian tribal government under the provision may be used with respect to the financing of any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any property actually used in the conduct of such gaming.

There is no volume cap for governmental bonds issued by an Indian tribal government.

For purposes of the provision, the term "Indian tribal government" means the governing body of an Indian tribe, band, nation, or other organized group or community, or of Alaska Natives, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The term "Indian tribal government" also includes any agencies, instrumentalities, or political subdivisions thereof. The term "qualified Indian lands" means an Indian reservation as defined in section 3(d) of the Indian Financing Act of 1974,[226] including lands that are within the jurisdictional area of an Oklahoma Indian tribe (as determined by the Secretary of the Interior). The term "qualified Indian lands" also includes lands outside a reservation where the facility is to be placed in service in connection with (1) the active conduct of a trade or business by an Indian tribe on, contiguous to, within reasonable proximity of, or with a substantial connection to, an Indian reservation or Alaska Native village, or (2) infrastructure (including roads, power lines, water systems, railroad spurs, and communication facilities) serving an Indian reservation or Alaska Native village.

The provision includes a special rule for situations where an Indian tribal government has authorized an intertribal consortium, a Tribal organization, or an Alaska Native regional or village corporation[227] to plan for, coordinate, or otherwise administer services, finances, functions, or activities on its behalf. In such cases, the authorized entity shall have the rights and responsibilities of the authorizing Indian tribal government only to the extent provided in the authorizing resolution.

Effective Date

The provision is effective for obligations issued in calendar years beginning after the date of enactment.

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[226] 25 U.S. C. 1452(d).

[227] As defined in, or established pursuant to, the Alaska Native Claims Settlement Act.

2. New markets tax credit for Tribal Statistical Areas (sec. 135602 of the bill and sec. 45D of the Code)

Present Law

New Markets Tax Credit

In General

The New Markets Tax Credit ("NMTC") is a geography-based tax credit program. Under section 45D(a), an investor may claim tax credits for a qualified equity investment in a qualified community development entity ("CDE"). The qualified CDE designates equity investments as qualified equity investments, rendering the investor eligible to receive tax credits. The qualified CDE can only designate up to an amount allocated to it by the Department of the Treasury's Community Development Financial Institutions Fund ("CDFI Fund"). The CDFI Fund annually allocates NMTCs to CDEs under a competitive application process.

Qualifying Geography

The NMTC provisions require CDEs to serve or provide investment capital for low-income communities or low-income persons. A low-income community is either (1) a population census tract that meets certain criteria or (2) a specific area designated by the Secretary. Specifically, a "low-income community" is a population census tract with either (1) a poverty rate of at least 20 percent or (2) median family income which does not exceed 80 percent of the greater of metropolitan area median family income or statewide median family income (for a nonmetropolitan census tract, generally does not exceed 80 percent of statewide median family income).

CDEs may also qualify for the NMTC if they serve targeted populations, as designated by the Secretary, regardless of the composition of the population census tract or tracts in which the targeted populations live. Under this rule, the targeted population is treated as a low-income census tract. For this purpose, a "targeted population" is defined by reference to section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (the "Act") to mean individuals, or an identifiable group of individuals, including an Indian tribe, who are low-income persons or otherwise lack adequate access to loans or equity investments. Section 103(17) of the Act provides that "low-income" means (1) for a targeted population within a metropolitan area, less than 80 percent of the area median family income; and (2) for a targeted population within a nonmetropolitan area, less than the greater of 80 percent of the area median family income or 80 percent of the statewide nonmetropolitan area median family income.

Allocation Process

The CDFI Fund annually allocates NMTCs to CDEs under a competitive application process. CDEs, in turn, allocate NMTCs to equity investors. The maximum annual amount of NMTCs that the CDFI Fund can allocate is $3.5 billion for calendar years 2010 through 2019 and $5 billion for calendar years from 2020 through 2025. No amount of unused allocation limitation may be carried to any calendar year after 2030.

In general, there is no set aside of any portion of the allocation limitation to a subset of low-income communities. However, Congress has allocated specific amounts to areas affected by certain natural disasters.[228] In addition, the CDFI Fund is required to assure that non-metropolitan counties receive a proportional allocation of the limitation.[229]

Applicability of the NMTC for Projects in Native American Areas

The NMTC provisions require CDEs to serve or provide investment capital for low-income communities. CDEs formed to support Native American projects may satisfy this requirement in two ways.

First, the CDE may invest in a project in a population census tract designated as a low-income community; a population census tract in a Native American area[230] can qualify as a "low-income community." Second, the CDE may invest in a project that serves a targeted population, as designated by the Secretary. Targeted populations are treated as low-income communities regardless of the composition of the population census tract or tracts in which the targeted population lives.[231] Certain Indian tribes are included in the list of groups that may be designated as targeted populations.[232]

Tribal and Other Census Designations

The United States Census Bureau has several designations for tribal and other areas.[233] Tribal Census Tracts are areas within Federally recognized American Indian reservations and off-reservation trust land areas. Tribal Designated Statistical Areas are areas relating to Federally recognized American Indian tribes that do not currently have a federally

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[228] See Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135, sec. 101, December 21, 2005 (allocated an additional $1 billion of credits over a period of three years for qualified areas affected by Hurricane Katrina).

[229] Sec. 45(i)(6).

[230] "Native American area" is the term used by the U.S. Department of Treasury, CDFI Fund, Office of Financial Strategies and Research to describe land designated as Indian reservations by Federal or State authorities. These areas are composed of U.S. Census Bureau "American Indian/Alaska Native/Native Hawaiian Areas," available at https://catalog.data.gov/dataset/tiger-line-shapefile-2018-nation-u-s-current-american-indian-alaska-native-native-hawaiian-area (last visited May 14, 2021).

[231] Sec. 45D(e)(2).

[232] Sec. 45D(e)(2); 12 U.S.C. sec. 4702(20); see also Treas. Reg. 1.45D-1(d)(9). An Indian tribe may be designated as a targeted population if the tribe are (i) low income persons or (ii) otherwise lack adequate access to loans or equity investments. 12 U.S.C. sec. 4702(20). A targeted population is "low-income" for this purpose if (1) in the case of a metropolitan area, the group's median family income does not exceed 80 percent of the area median family income, or (2) in the case of a non-metropolitan area, the group's median family income does not exceed 80 percent of either area median family income or statewide nonmetropolitan area median family income. 12 U.S.C. sec. 4702(17); Treas. Reg. sec. 1.45D-1(d)(9).

[233] See generally U.S. Census Bureau, TIGERweb Geography, American Indian, Alaska Native, and Native Hawaiian Areas, *available at* *https://tigerweb.geo.census.gov/tigerwebmain/TIGERweb_geography_details.html* (last accessed August 26, 2021); U.S. Census Bureau, Tribal Glossary, *available at* *https://www.census.gov/tribal/tribal_glossary.php* (las accessed August 26, 2021).

recognized land base. Oklahoma Tribal Statistical Areas are areas relating to Federally recognized American Indian tribes based in Oklahoma. Alaska Native Village Statistical Areas are areas that represent a portion of Alaska Native villages. Hawaiian Home Lands are areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act of 1920, as amended.[234]

Explanation of Provision

The provision broadens the definition of low-income community to include an area used for a project which services a significant population of Tribal or Alaska Native Village members who are residents of a low-income community. This tribal population rule only applies if the relevant Indian Tribal government, within the meaning of section 7871(c),[235] documents the eligibility of such project.

In addition, beginning in 2022, the provision provides an additional allocation limitation of NMTC of $175 million, which may be allocated only with respect to low-income communities that are Tribal Statistical Areas. Low-income communities that are Tribal Statistical Areas remain eligible for the general allocation limitation. For calendar years after 2024, the $175 million amount is indexed to inflation.

Unused additional allocation limitation for low-income communities that are Tribal Statistical Areas increases the additional allocation limitation in the subsequent year. Thus, for example, if $10 million in additional allocation limitation is not used in calendar year 2022, the additional allocation limitation in 2023 is increased by the $10 million. However, if unused additional allocation limitation is carried over unused for five calendar years, on the sixth calendar year it increases the general allocation limitation.

A low-income community that is a Tribal Statistical Area is any low-income community located in any Tribal Census Tract, Oklahoma Tribal Statistical Area, Tribal-Designated Statistical Area, Alaska Native Village Statistical Area, or Hawaiian Home Land. It also includes low-income communities that are areas used for projects which service a significant population of tribal or Alaska Native Village members. The Treasury Secretary is directed to prescribe regulations related to such projects, including procedures that must take into account the particular location needs of the projects, especially with respect to projects that serve multiple tribal communities.

Effective Date

The provision applies to the new markets tax credit limitation determination for calendar years after December 31, 2021.

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[234] *Ibid.* See also Hawaiian Homes Commission Act, 1920, 42 Stat. 108, *et seq.*

[235] Under section 7871(c), as amended by this bill, an Indian Tribal government means the governing body of an Indian Tribe, band, nation, or other organized group or community, or of Alaska Natives, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and also includes any agencies, instrumentalities or political subdivisions thereof.

3. Inclusion of Indian areas as difficult development areas for purposes of certain buildings (sec. 135603 of the bill and sec. 42 of the Code)

Present Law

A taxpayer may claim the low-income housing tax credit annually over a 10-year period for the costs of building or rehabilitating rental housing occupied by low-income tenants. The amount of credit that may be claimed each year is an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.[236]

Credit Calculations

Determination of Applicable Percentage

The applicable percentage for non-Federally subsidized newly constructed housing and non-Federally subsidized substantial rehabilitation is calculated such that the present value of the credit amounts is at least 70 percent of a building's qualified basis, depending on the prevailing interest rate.[237] These credits are sometimes referred to as "nine-percent credits."

The applicable percentage for Federally subsidized newly constructed housing, Federally subsidized substantial rehabilitation, and certain housing acquisition costs, is calculated such that the present value of the credit amounts is at least 30 percent of a building's qualified basis, depending on the prevailing interest rate.[238] These credits are sometimes referred to as "four-percent credits."

Calculation of Eligible Basis

The qualified basis for purposes of determining the amount of low-income housing credit to be claimed each year is an amount equal to the applicable fraction of eligible basis.[239] The eligible basis of a new building is its adjusted basis as of the close of the first taxable year of the credit period. The eligible basis of an existing building is zero unless the building meets the following requirements: the building is acquired by purchase; there is a period of at least 10

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[236] Sec. 42.

[237] See sec. 42(b) and (e). This credit is referred to as the 70-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Housing and Economic Recovery Act of 2008, the minimum applicable percentage for such credits was temporarily set at nine percent (the "nine-percent floor"). The Consolidated Appropriations Act, 2016 made the nine-percent floor permanent. The enactment of the nine-percent floor on the credit implies that, under the statutory formula, the present value is always 70 percent or greater.

[238] This credit is referred to as the 30-percent credit. See Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1986* (JCS-10-87), May 4, 1987. This document can be found on the Joint Committee on Taxation website at www.jct.gov. However, under the Consolidated Appropriations Act, 2020, the minimum applicable percentage for such credits was set at four percent (the "four-percent floor"). The enactment of the four-percent floor on the credit implies that, under the statutory formula, the present value is always 30 percent or greater.

[239] Sec. 42(c)(1)(A).

years between the date of its acquisition by the taxpayer and the date the building was last placed in service; the building was not previously placed in service by the taxpayer or a related person; and the building was rehabilitated and is eligible for the low income housing credit for rehabilitation expenditures treated as a separate new building.

Generally, buildings located in high cost areas are eligible for enhanced low-income housing tax credit, which is effectuated by increasing such buildings' eligible basis or the rehabilitation expenditures taken into account for purposes of the credit. For this purpose, qualified census tracts and difficult development areas are treated as high cost areas.[240] A qualified census tract is a census tract designated by the Secretary of Housing and Urban Development in which 50 percent or more of households have an income of less than 60 percent of area median gross income, or which has a poverty rate of at least 25 percent. A difficult development area is an area designated by the Secretary of Housing and Urban Development in which construction, land, or utility costs are high relative to area median gross income.

In the case of a new building located in a qualified census tract or difficult development area, the eligible basis is increased to 130 percent of such basis calculated without regard to this increase. In the case of a substantial rehabilitation to an existing building, the rehabilitation expenditures taken into account are increased to 130 percent of such expenditures calculated without regard to this increase.

Indian Areas

Present law does not require housing credit agencies to allocate credits to projects located in Native American areas.[241] However, agencies are allowed to give preference in allocating credits to projects serving the lowest-income tenants and to set project selection criteria that reflect the housing priorities of the agency and are appropriate to local conditions.[242]

Depending on the rules of the particular State or locality, a Native American tribe may be involved in a low-income housing tax credit project in various ways. For example, an applicant for housing credits may be required to obtain legal authorization or permits from a tribal government for a project that is located on land controlled by the tribe. A tribe may also be more directly involved and serve as the lender, developer, or property manager for a project.[243]

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[240] Sec. 42(d)(5)(B).

[241] The term "Native American area" refers to Federal- and State-designated Native American areas, off-reservation trust lands, Hawaiian home lands, State-designated tribal statistical areas, tribal designated statistical areas, Oklahoma tribal statistical areas, and Alaskan Native village statistical areas. See Census Bureau, *Class Codes and Definitions*, available at https://www.census.gov/library/reference/code-lists/class-codes.html; Census Bureau, *TIGER/Line Shapefile, 2017, nation, U.S., Current American Indian/Alaska Native/Native Hawaiian Areas National (AIANNH) National*, October 17, 2019, available at https://catalog.data.gov/dataset/tiger-line-shapefile-2017-nation-u-s-current-american-indian-alaska-native-native-hawaiian-area.

[242] Sec. 42(m)(1).

[243] For more detailed information regarding projects located on Native American lands, see Joint Committee on Taxation, *Overview of Federal Tax Provisions and Analysis of Selected Issues Relating to Native American Tribes and Their Members* (JCX-8-20), February 28, 2020, pp. 49-51. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

Explanation of Provision

The provision amends the definition of difficult development area to include any Indian area for the purpose of determining eligible basis. An Indian area is defined to be an area in which a Federally recognized tribe or a State recognized tribe ("Indian tribe"), or a tribally designated housing entity that is authorized by one or more Indian tribes provides assistance for affordable housing, including permanent housing for homeless persons with disabilities, transitional housing, and single room occupancy housing.[244] A tribally designated housing entity may include existing Indian housing authorities as well as other entities that provide assistance for affordable housing for Indians.

In the case of an area which is a difficult development area solely because it is an Indian area, a building is not considered to be located in a difficult development area for the purpose of determining eligible basis unless the building is financed under the Native American Housing Assistance and Self Determination Act of 1996,[245] sponsored by an Indian tribe or a tribally designated housing entity, or wholly owned or controlled by an Indian tribe or a tribally designated housing entity.

Effective Date

The provision applies to buildings placed in service after December 31, 2021.

[244] 25 U.S.C. 4103.

[245] 25 U.S.C. 4101 et seq.

PART VII — INVESTMENTS IN THE TERRITORIES

1. Possessions economic activity credit (sec. 135701 of the bill and new sec. 45V of the Code)

Present Law

Federal tax rules apply to the territories in a manner that is different from their application in relation to both the States and foreign countries. Broadly, an individual resident of a territory is exempt from U.S. tax on income that has a source in that territory but is subject to U.S. tax on U.S.-source and non-possession-source income. A corporation that is organized in a territory is generally treated as a foreign corporation for U.S. tax purposes. On the other hand, a number of Code provisions have effect in one or all of the territories as if the territories were States. For example, the tax credit for research and experimentation has been available for research conducted in a territory.

Historically, the Federal tax rules also have included preferences for territory activities. Until its expiration in 2006, the section 936 possession tax credit permitted qualifying U.S. corporations a credit against their U.S. tax liability in respect of possession-source income.[246] After section 936 expired, a similar, temporary provision was enacted for American Samoa activities,[247] and the section 199 domestic production activities deduction was expanded temporarily to include production activities conducted in Puerto Rico. The latter has since

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[246] For taxable years beginning before January 1, 2006, certain domestic corporations with business operations in the U.S. possessions were eligible for the possession tax credit. Secs. 27(b) and 936. This credit offset the U.S. tax imposed on certain income related to operations in the U.S. possessions. Subject to certain limitations, the amount of the possession tax credit allowed to any domestic corporation equaled the portion of that corporation's U.S. tax that was attributable to the corporate taxable income from (1) the active conduct of a trade or business within a U.S. possession, (2) the sale or exchange of substantially all of the assets that were used in such a trade or business, or (3) certain possessions investment. No deduction or foreign tax credit was allowed for any possessions or foreign tax paid or accrued with respect to taxable income that was taken into account in computing the credit under section 936. Under the economic activity-based limit, the amount of the credit could not exceed an amount equal to the sum of (1) 60 percent of the taxpayer's qualified possession wages and allocable employee fringe benefit expenses, (2) 15 percent of depreciation allowances with respect to short-life qualified tangible property, plus 40 percent of depreciation allowances with respect to medium-life qualified tangible property, plus 65 percent of depreciation allowances with respect to long-life qualified tangible property, and (3) in certain cases, a portion of the taxpayer's possession income taxes. A taxpayer could elect, instead of the economic activity-based limit, a limit equal to the applicable percentage of the credit that otherwise would have been allowable with respect to possession business income. Beginning in 1998, the applicable percentage was 40 percent.

To qualify for the possession tax credit for a taxable year, a domestic corporation was required to satisfy two conditions. First, the corporation was required to derive at least 80 percent of its gross income for the three-year period immediately preceding the close of the taxable year from sources within a possession. Second, the corporation was required to derive at least 75 percent of its gross income for that same period from the active conduct of a possession business. Sec. 936(a)(2). The section 936 credit was phased out during the 10-year period starting in 1996. During this phase-out period, the Puerto Rico economic activity credit of section 30A was available for trade or business activity in Puerto Rico.

[247] Section 199 was repealed for taxable years beginning after December 31, 2017, by "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018," Pub. L. No. 115-97 (the "2017 Act"), section 13305.

expired.[248] At present, there is no economic development credit in the Code applicable only to activities in the U.S. possessions. The credit for American Samoa activities remains in effect for taxable years ending before January 1, 2022.[249]

The credit applicable to activities in American Samoa was first enacted in 2006. The credit is not part of the Code but is computed based on the rules of former sections 30A, 199, and 936. For purposes of this credit, the Code is applied without regard to the repeal of sections 30A and 936 in 2018,[250] or the repeal of section 199 in 2017.[251]

For taxable years beginning before January 1, 2011, as originally enacted, the credit was limited to domestic corporations that were existing credit claimants with respect to American Samoa who had elected the application of section 936 for its last taxable year beginning before January 1, 2006. The credit is based on the corporation's economic activity-based limitation with respect to American Samoa. An existing claimant is a domestic corporation that (1) was engaged in the active conduct of a trade or business within American Samoa on October 13, 1995, and (2) elected the benefits of the possession tax credit in an election in effect for its taxable year that included October 13, 1995, or that acquired all of the assets of a trade or business that met the foregoing conditions. A corporation that added a substantial new line of business (other than in a qualifying acquisition of all the assets of a trade or business of an existing credit claimant) ceased to be an existing credit claimant as of the close of the taxable year ending before the date on which that new line of business was added.

The amount of the credit allowed to a qualifying domestic corporation under the provision is equal to the sum of the amounts used in computing the corporation's economic activity-based limitation with respect to American Samoa, except that no credit is allowed for the amount of any American Samoa income taxes. Thus, for any qualifying corporation the amount of the credit equals the sum of (1) 60 percent of the corporation's qualified American Samoa wages and allocable employee fringe benefit expenses and (2) 15 percent of the corporation's depreciation allowances with respect to short-life qualified American Samoa tangible property, plus 40 percent of the corporation's depreciation allowances with respect to medium-life qualified American Samoa tangible property, plus 65 percent of the corporation's depreciation allowances with respect to long-life qualified American Samoa tangible property.

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[248] Sec. 199(d)(8).

[249] This credit was again extended during the 116th Congress by section 139 of the Taxpayer Certainty and Disaster Relief Act of 2020 (Division EE of the "Consolidated Appropriations Act, 2021," Pub. L. No. 116-260), described in Part Seven of this document.

[250] See *The Consolidated Appropriations Act 2018*, Pub. L. No. 115-141, Division U, Title IV, at sec. 401(d)(1)(C) (the repeal of section 936) and sec. 401(d)(1)(D)(viii)(I) (definition of intangible property added to section 367(d)) (March 23, 2018).

[251] Pub. L. No. 115-97, section 13305(a).

The rule denying a credit or deduction for any possessions tax or foreign tax paid with respect to taxable income that is taken into account in computing the credit under section 936[252] does not apply with respect to the credit allowed by this provision.

For taxable years beginning after December 31, 2011, the credit rules are modified in two ways. First, domestic corporations with operations in American Samoa are allowed the credit even if those corporations are not existing credit claimants. Second, the credit is available to a domestic corporation (either an existing credit claimant or a new credit claimant) only if the corporation has qualified production activities income (as defined in section 199(c) by substituting "American Samoa" for "the United States" in each place that the latter term appears).

In the case of a corporation that is an existing credit claimant with respect to American Samoa and that elected the application of section 936 for its last taxable year beginning before January 1, 2006, the credit applies to the first 16 taxable years of the corporation which begin after December 31, 2005, and before January 1, 2022. For any other corporation, the credit applies to the first ten taxable years of that corporation which begin after December 31, 2011, and before January 1, 2022.

Explanation of Provision

The provision creates a new economic activity credit related to active businesses conducted in U.S. territory or possessions. The new credit is a general business credit equal to 20 percent of the sum of qualified possessions wages and fringe benefits paid or incurred by a qualified domestic corporation for a taxable year. For purposes of this credit, "possessions" include American Samoa, Guam, Commonwealth of Northern Marianas, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

"Qualified domestic corporation" encompasses both U.S. corporations and a U.S. shareholder of a foreign qualified corporation that is wholly owned by the same U.S. group if they meet both source of income and active conduct of trade or business tests.

The source of income test requires that the qualified corporation have received 80 percent or more of its income from sources within a possession of the United States for a three-year period that precedes the close of the year for which the credit is claimed. Where applicable, a shorter period ending on the close of the taxable year may be used for the test period. The amount is determined without regard to the rules for determining overall foreign losses under the foreign tax credit limitation rules of section 904(f).

The trade or business test also looks to the three-year period preceding the close of the taxable year. During that period, at least 75 percent of gross income of the corporation must be derived from the active conduct of a trade or business in the possession.

Qualified possessions wages are defined as wages paid as part of the active conduct of a trade or business in a possession to an employee whose principal place of employment is the in the possession and whose services were in fact performed in a possession. The amount of wages per employee that may be taken into account as qualified possessions wages is limited to

[252] See sec. 936(c).

$50,000. If an employee is part-time or performs such services outside the possession, the amount of wages eligible for the credit are reduced accordingly. Wages paid to an employee for services performed for another party are ineligible, unless the business of the taxpayer is providing temporary employees for others.

Allocable employee fringe benefits are also taken into account in determining the credit. The portion of fringe benefits allocable to possession wages is the amount of that bears the same proportion to total fringe benefits as the amount of possession wages bears to total wages paid by the qualified domestic corporation, up to 15 percent of the amount of qualified possession wages. In determining the employee fringe benefits, expenses for employer contributions to certain retirement or profit-sharing funds and for health benefits to employees are taken into account.

Finally, the provision creates a defined subset of qualified domestic corporations that are eligible for an enhanced credit if certain parameters are met. A "qualified small domestic corporation" is a qualified domestic corporation (including any foreign subsidiaries that are themselves qualified corporations) that meets two additional tests with respect to gross receipts and number of employees. First, the qualified small domestic corporation may have annual gross receipts of no more than $50 million in each year of the three-year test period. Second, a qualified small domestic corporation may have no more than 30 employees group-wide, at least five of whom must be full-time employees in a U.S. possession.

For employers within these parameters, the possession wage credit is increased from 20 percent to 50 percent of eligible possessions wages and allocable fringe benefits for each employee. In addition, the maximum amount of wages taken into account for each such employee is increased from $50,000 per employee to $139,500.[253] For purposes of determining eligibility for the enhanced credit, the gross receipts and number of employees of other persons who would be considered related to the qualified small domestic corporation for purposes of section 52 (as amended by this bill) are taken into account. These rules treat corporations, partnerships (and other non-corporate entities such as sole proprietorships) as a single employer and generally apply to entities linked through 50-percent-or-greater direct ownership interests. Foreign entities are included.[254]

Effective Date

The provision is generally effective for taxable years beginning after date of enactment. For qualified corporations that are foreign corporations, the provision is effective for taxable years beginning after date of enactment and to the taxable year of United States shareholders that includes the date on which such taxable year of the foreign corporation ends.

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[253] The intent of the provision is to increase the maximum per-employee wages taken into account to the social security wage base for 2021, which is $142,800 per employee. A technical correction may be necessary to carry out this intent.

[254] Section 52(a) references section 1563(a) and section 52(b) applies using principles similar to the principles of section 52(a). For purposes of section 1563(a), the exclusions in 1563(b) are not relevant and thus both domestic and foreign entities are subject to aggregation under section 52.

2. Additional new markets tax credit allocations for the territories (sec. 135702 of the bill and sec. 45D of the Code)

Present Law

New Markets Tax Credit

In General

The New Markets Tax Credit ("NMTC") is a geography-based tax credit program. Under section 45D(a), an investor may claim tax credits for a qualified equity investment in a qualified community development entity ("CDE"). The qualified CDE designates equity investments as qualified equity investments, rendering the investor eligible to receive tax credits. The qualified CDE can only designate up to an amount allocated to it by the Department of the Treasury's Community Development Financial Institutions Fund ("CDFI Fund"). The CDFI Fund annually allocates NMTCs to CDEs under a competitive application process.

Qualifying Geography

The NMTC provisions require CDEs to serve or provide investment capital for low-income communities or low-income persons. A low-income community is either (1) a population census tract that meets certain criteria or (2) a specific area designated by the Secretary. Specifically, a "low-income community" is a population census tract with either (1) a poverty rate of at least 20 percent or (2) median family income which does not exceed 80 percent of the greater of metropolitan area median family income or statewide median family income (for a nonmetropolitan census tract, generally does not exceed 80 percent of statewide median family income). For population census tracts within the U.S. territories, this definition is applied using possession-wide median family income.

CDEs may also qualify for the NMTC if they serve targeted populations, as designated by the Secretary, regardless of the composition of the population census tract or tracts in which the targeted populations live. Under this rule, the targeted population is treated as a low-income census tract. For this purpose, a "targeted population" is defined by reference to section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (the "Act") to mean individuals, or an identifiable group of individuals, including an Indian tribe, who are low-income persons or otherwise lack adequate access to loans or equity investments. Section 103(17) of the Act provides that "low-income" means (1) for a targeted population within a metropolitan area, less than 80 percent of the area median family income; and (2) for a targeted population within a nonmetropolitan area, less than the greater of 80 percent of the area median family income or 80 percent of the statewide nonmetropolitan area median family income.

Allocation Process

The CDFI Fund annually allocates NMTCs to CDEs under a competitive application process. CDEs, in turn, allocate NMTCs to equity investors. The maximum annual amount of NMTCs that the CDFI Fund can allocate is $3.5 billion for calendar years 2010 through 2019 and $5 billion for calendar years from 2020 through 2025. No amount of unused allocation limitation may be carried to any calendar year after 2030.

In general, there is no set aside of any portion of the allocation limitation to a subset of low-income communities. However, Congress has allocated specific amounts to areas affected by certain natural disasters.[255] In addition, the CDFI Fund must assure that non-metropolitan counties receive a proportional allocation of the limitation.[256]

U.S. Territories

Citizens of the United States are generally subject to Federal income tax on their U.S. and foreign income regardless of whether they live in a State, a foreign country, or a U.S. territory. Residents of the five U.S. territories[257] are generally subject to the Federal income tax system based on their status as U.S. citizens or residents of the territories, with certain special rules for determining residence and source of income specific to the territory. Broadly, a bona fide individual resident of a territory is exempt from U.S. tax on income derived from sources within that territory but is subject to U.S. tax on U.S.-source and non-territory-source income.[258] A bona fide resident of a territory for a taxable year is generally an individual (1) who is present for at least 183 days during the taxable year in the territory, and (2) who does not have either a tax home outside the territory or a closer connection to the United States or a foreign country than to the territory.[259]

The application of the Federal tax rules to the territories varies from one territory to another. Three territories—Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands—are referred to as mirror Code territories because the Code serves as the internal tax law of those territories (substituting the particular territory for the United States wherever the Code refers to the United States).[260] Thus, there is a mirror Code version of the child and dependent care tax credit under the internal revenue laws of each mirror Code territory. A resident of one of those territories generally files a single tax return only with the territory of which the individual is a resident, and not with the United States.[261]

American Samoa and Puerto Rico, by contrast, are non-mirror Code territories. These two territories have their own internal tax laws, and a resident of either American Samoa or Puerto Rico may be required to file income tax returns with both their territory of residence and the United States.

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[255] See Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135, sec. 101, December 21, 2005 (allocated an additional $1 billion of credits over a period of three years for qualified areas affected by Hurricane Katrina).

[256] See sec. 45(i)(6).

[257] The Code refers to the territories as "possessions."

[258] See secs. 932, 933, and 937; see also former sec. 935 (1986), which remains in effect pursuant to the Tax Reform Act of 1986, Pub. L. No. 99-514, sec. 1277(b), October 22, 1986; 48 U.S.C. sec. 1801 note, sec. 601.

[259] Sec. 937.

[260] 48 U.S.C. sec. 1397 (U.S. Virgin Islands); 48 U.S.C. sec. 1421i (Guam); 48 U.S.C. 1801 note, sec. 601 (Commonwealth of the Northern Mariana Islands).

[261] Sec. 932 and former sec. 935.

For purposes of the NMTC, low-income communities include population census tracts and targeted populations in the U.S. territories. Thus, taxpayers subject to U.S. tax may claim the NMTC for qualifying investments in projects in the territories.

Explanation of Provision

Beginning in 2022, the provision provides an additional allocation limitation of NMTC of $80 million, which may be allocated only with respect to low-income communities located in Puerto Rico. The provision also provides an additional allocation limitation of NMTC of $20 million, which may be allocated only with respect to low-income communities located in the territories of Guam, the Commonwealth of the Northern Marian Islands, the U.S. Virgin Islands, or American Samoa. Low-income communities in the territories remain eligible for the general allocation limitation.

For calendar years after 2024, the $80 million and $20 million amounts are indexed to inflation.

Unused additional allocation limitation for either Puerto Rico or the other territories increases the respective additional allocation limitation in the subsequent year. Thus, for example, if $10 million in additional allocation limitation for Puerto Rico is not used in calendar year 2022, the additional allocation limitation for Puerto Rico in 2023 is increased by the $10 million. However, if unused additional allocation limitation is carried over unused for five calendar years, on the sixth calendar year it increases the general allocation limitation.

Effective Date

The provision is effective for calendar years after December 31, 2021.

SUBTITLE G — GREEN ENERGY

Summary of Present Law Renewable Electricity and Certain Other Energy-Related Tax Incentives

The Internal Revenue Code contains a number of tax incentives to encourage zero or low carbon electricity production, including credits relating to renewable power, nuclear power, other forms of energy efficient power, as well as carbon oxide sequestration. The following tables provide summaries of these incentives.

Summary of Credit for Electricity Produced from Certain Renewable Resources		
Eligible Electricity Production Activity (sec. 45)[262]	**Credit Rate for 2021**[263] **(cents per kilowatt-hour)**	**Expiration**[264]
Wind	2.5	January 1, 2022
Closed-loop biomass	2.5	January 1, 2022
Open-loop biomass	1.3	January 1, 2022
Geothermal	2.5	January 1, 2022
Municipal solid waste (including landfill gas facilities and trash combustion facilities)	1.3	January 1, 2022
Qualified hydropower	1.3	January 1, 2022
Marine and hydrokinetic	1.3	January 1, 2022

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262 Except where otherwise provided, all section references are to the Internal Revenue Code of 1986, as amended (the "Code").

263 Credit rates are adjusted annually for inflation. See 86 Fed. Reg. 22300, April 27, 2021. In general, the credit is available for electricity produced during the first 10 years after a facility has been placed in service. Taxpayers may also elect to get a 30-percent investment tax credit in lieu of this production tax credit. In the case of wind facilities, the available production tax credit or investment tax credit is reduced by 20 percent for facilities the construction of which began in 2017, by 40 percent for facilities the construction of which began in 2018, by 60 percent for facilities the construction of which began in 2019, and by 40 percent for facilities the construction of which began after 2019

264 Expires for property the construction of which begins after this date.

Summary of Investment Tax Credits for Energy Property and Personal Credit for Residential Energy Efficient Property			
Qualified Energy Property (sec. 48)	**Credit Rate**	**Maximum Credit**	**Expiration[4]**
Equipment to produce energy from a geothermal deposit	30% (in lieu of production tax credit)	None	January 1, 2022
	10%	None	None
Equipment to use ground or ground water for heating or cooling	10%	None	January 1, 2024
Equipment that uses fiber-optics to distribute sunlight inside a structure	30%	None	January 1, 2020
	26%		January 1, 2023
	22%		January 1, 2024
Microturbine property (< 2 megawatt electrical generation power plants of ≥ 26% efficiency)	10%	$200 per kilowatt of capacity	January 1, 2024
Combined heat and power property (simultaneous production of electrical/mechanical power and useful heat > 60% efficiency)	10%	None	January 1, 2024
Solar electric or solar hot water property	30%	None	January 1, 2020
	26%		January 1, 2023
	22%		January 1, 2024
	10%		None
Fuel cell property (generates electricity through electrochemical process)	30%	$1,500 for each ½ kilowatt of capacity	January 1, 2020
	26%		January 1, 2023
	22%		January 1, 2024
Small (< 100 kilowatt capacity) wind electrical generation property	30%	None	January 1, 2020
	26%		January 1, 2023

Summary of Investment Tax Credits for Energy Property and Personal Credit for Residential Energy Efficient Property (cont'd)			
Qualified Energy Property (sec. 48)	**Credit Rate**	**Maximum Credit**	**Expiration[265]**
Waste energy recovery property[266]	26%	None	January 1, 2023
	22%		January 1, 2024
Wind, biomass, municipal solid waste, qualified hydropower, and marine and hydrokinetic property	30% (in lieu of production tax credit)	None	January 1, 2022[267] January 1, 2026, in the case of offshore wind facilities[268]
Credit for residential energy efficient property (sec. 25D)	30%	$500 per ½ kilowatt of capacity for fuel cells	December 31, 2019[269]
Personal credit for residential solar water heating or solar electric property, fuel cell, small wind property, geothermal heat pump property, qualified biomass fuel property (wood/pellet stoves)	26%		December 31, 2022
	22%		December 31, 2023
Summary of Credits Relating to Nuclear Power and Carbon Oxide Sequestration			

265 For all eligible property, construction of the property must begin before the expiration date, except where otherwise noted. For credits subject to a rate phase down, except where noted, construction must begin before the dates listed and placed in service before January 1, 2026.

266 In the case of waste energy recovery property, the phrase "if the primary purpose of such building or equipment is not the generation of electricity" under paragraph (A) of subsection (c)(5) is intended to refer to building or equipment that is a utility-scale power plant or enterprise whose primary purpose is the generation of electricity. Electrical generation equipment that generates waste heat as a byproduct at industrial, commercial, or residential facilities is eligible for the credit so long as it otherwise meets subsection (c)(5).
Any sources of waste heat that generate electricity without additional emissions or fuel, including pressure drop applications, qualify for the credit.

267 In the case of wind facilities other than offshore wind facilities, the available investment tax credit is reduced by 20 percent for facilities the construction of which begins in 2017, by 40 percent for facilities the construction of which begins in 2018, by 60 percent for facilities the construction of which begins in 2019, and by 40 percent for facilities the construction of which begins after 2019.

268 In the case of an offshore wind facility, energy property includes such offshore wind property as the project-owned export cable that brings the electricity to shore and project-owned substation and transformer onshore. Offshore wind facilities may be located in the waters of the Great Lakes or in the territorial seas of the United States, the exclusive economic zone of the United States, and the outer Continental Shelf of the United States.

269 Residential energy efficient property must be placed in service by the dates listed in order to be eligible for a credit.

Eligible Activity	Description	Credit Amount	Expiration
Advanced nuclear power production credit (sec. 45J)	• Credit for production of nuclear power from new facilities that use modern designs and have received an allocation from the Secretary • Secretary may allocate up 6,000 megawatts of credit-eligible capacity	• 1.8 cents per kilowatt-hour for the eight-year period starting when the facility was placed in service. • Not inflation adjusted.	None
Carbon oxide sequestration credit (sec. 45Q)	• Credit for the sequestration of carbon oxides captured at qualified U.S. facilities • Sequestered carbon oxides can be captured from either industrial sources or directly from the ambient air, within the U.S. • The credit amount varies depending on the method by which captured carbon oxides are sequestered (geologic storage versus use commercially or as a tertiary injectant)	• In 2021, the credit amount is $22.68 per metric ton of carbon dioxide captured and used as a tertiary injectant for fossil fuel extraction or utilized for certain other commercial purposes. • In 2021, the credit amount is $34.81 per metric ton of carbon dioxide captured and sequestered in secure geological storage. • The credit period is the 12-year period beginning on the date the carbon capture equipment was originally placed in service	January 1, 2026[7]

[7] Carbon capture equipment must be placed in service at a qualified facility the construction of which begins before that date.

Summary of Certain Other Energy Provisions		
Eligible Activity	**Description of Provision**	**Expiration**
Five-year cost recovery for certain energy property (secs. 168(e)(3)(B)(vi) and 48(a)(3)(A))	• A five-year Modified Accelerated Cost Recovery System ("MACRS") recovery period is generally provided for equipment using solar and wind energy to generate electricity (*e.g.*, solar panels), to heat or cool (or provide hot water for use in) a structure, or to provide solar (or wind) process heat; equipment using solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight; equipment used to produce, distribute, or use energy derived from a geothermal deposit; qualified fuel cell or microturbine property; combined heat and power system property; equipment using the ground or ground water as a thermal energy source (or sink) to heat (or cool) a structure; and waste energy recovery property • A five-year MACRS recovery period is also provided for certain small power production biomass facilities (*i.e.*, a qualifying small power production facility within the meaning of section 3(17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)), as in effect on September 1, 1986, that also qualifies as certain biomass property, including (i) a boiler, the primary fuel for which will be an alternate substance; (ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance; (iii) equipment for converting an alternate substance into a qualified fuel; (iv) certain pollution control equipment; and (v) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternative substance for use in equipment described in (i), (ii) or (iii))	January 1, 2024, for all property except for solar and wind energy property
Certain publicly traded partnerships treated as corporations (secs. 7704 and 851)	• General rule that a publicly traded partnership is taxed as a corporation is not applicable if 90 percent of gross income is interest, dividends, real property rents, or certain other types of qualifying income • Other types of qualifying income include income and gains from certain activities with respect to natural resources. These activities include the exploration, development, mining or production, processing, refining, transportation (including pipelines), or the marketing of any mineral or natural resource, industrial source carbon dioxide, or the transportation or storage of certain renewable fuels.	None

PART I — RENEWABLE ELECTRICITY AND REDUCING CARBON EMISSIONS

1. Extension and modification of credit for electricity produced from certain renewable resources (sec. 136101 of the bill and secs. 45 and 48 of the Code)

Explanation of Provision

Facilities with a maximum output of less than one megawatt

For facilities with a maximum output of less than one megawatt of electricity, the provision extends the section 45 credit for electricity produced from certain renewable resources for twelve years, through December 31, 2033. The provision applies this extension to electricity produced from solar energy, which had expired at the end of 2005. The provision also extends for twelve years the election to claim a 30-percent investment tax credit in lieu of this production tax credit for these facilities.

For these smaller facilities, the provision modifies the credit rate phasedown for wind power such that wind facilities that are placed in service after December 31, 2021, and the construction of which begins before January 1, 2032, are entitled to the full credit. For calendar year 2032, the credit rate is for all facilities reduced to 80 percent of the otherwise applicable rate. For calendar year 2033, the credit rate for all facilities is reduced to 60 percent of the otherwise applicable rate. These phasedown rules apply to both the renewable electricity production tax credit and the investment credit in lieu of the production tax credit.

Facilities with a Maximum Output of at Least One Megawatt

For facilities with a maximum output of at least one megawatt of electricity, the provision extends the section 45 credit for electricity produced from certain renewable resources for twelve years, through December 31, 2033. The provision applies this extension at a base rate to electricity produced from solar energy facilities with at least one megawatt of maximum output. The provision also extends for twelve years at the base rate the election to claim a 30-percent investment tax credit in lieu of this production tax credit for these facilities. The base rate is equal to 20 percent of the otherwise applicable rate. Thus, for example, the 30-percent investment tax credit is extended at a 6 percent rate for these larger facilities.

For these larger facilities, the provision modifies the credit rate phasedown for wind power such that wind facilities that are placed in service after December 31, 2021, and the construction of which begins before January 1, 2032, are not further reduced by a phasedown calculation, after the application of the reduced rate. For calendar year 2032, the base credit rate for all facilities is further reduced to 80 percent of the otherwise applicable rate. For calendar year 2033, the base credit rate for all facilities is further reduced to 60 percent of the otherwise applicable rate. These phasedown rules apply to both the renewable electricity production tax credit and the investment credit in lieu of the production tax credit.

Enhanced Credit Rate Where Certain Wage and Workforce Requirements are Met

Prevailing Wages

For facilities with a maximum output of at least one megawatt, an enhanced credit rate equal to 80 percent of the otherwise applicable rate is added to the base credit rate during the extension period if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such facility prior to it being placed in service or during the 10-year credit period are paid wages at a rate not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

With respect to any facility, a taxpayer is not entitled to the enhanced credit rate unless the prevailing wage requirements are met during construction, before such facility is placed in service. However, a taxpayer may bring a facility into compliance, and have the facility qualify, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must pay a penalty to the IRS equal to $5,000 per affected worker.

Once a qualifying facility has been placed in service, a taxpayer that does not meet the prevailing wage requirements associated with the alteration or repair of such facility is ineligible for any enhanced production credits for energy produced during the taxable year of noncompliance. A taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

In the case where an election for an investment tax credit in lieu of a production tax credit has been made, once a qualifying facility has been placed in service, if it does not meet prevailing wage requirements associated with any alterations or repairs, the enhanced credits are recaptured under rules similar to the rules governing the disposal of investment credit property under the rules of section 50(a)(1). As with the production tax credit, a taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction, alteration, or repair work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for

taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program. Facilities that began construction prior to date of enactment are also eligible for the enhanced credit, without regard to wage and apprenticeship requirements.

Domestic Content

The provision increases the otherwise applicable section 45 credit rate (after the application of all other enhancements) by 10 percent with respect to facilities which certify that the steel, iron, and manufactured products used in such facility were produced in the United States. For purposes of steel and iron, this requirement shall be applied consistent with section 661.5(b) of title 49, Code of Federal Regulations. In the case of manufactured products, the manufactured product shall be considered manufactured in the United States if the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product.

With respect to facilities that do not meet domestic content requirements and have a maximum net output of at least one megawatt of electricity, the election for direct payment shall be limited to 90 percent of otherwise allowable credit value in calendar year 2024, to 85 percent of otherwise allowable credit value in calendar year 2025, and to zero percent of credit value in calendar year 2026 and later. Taxpayers making a direct payment election under this rule forfeit 100 percent of their otherwise allowable tax credits, notwithstanding the reduction in the direct payment. This rule may be waived if the Secretary, after consultation with Secretary of Commerce and the United States Trade Representative, determines that, (1) the application of the domestic content requirements would be inconsistent with the public interest, (2) such materials and products are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality, or (3) inclusion of domestic material will increase the construction cost of the qualified facility by more than 25 percent.

These domestic content rules shall be applied in a manner consistent with the United States' obligations under international agreements.

Effective Date

The provision is effective for facilities placed in service after December 31, 2021.

2. Extension and modification of energy credit (sec. 136102 of the bill and sec. 48 of the Code)

Explanation of Provision

Energy Projects with a Maximum Output of Less Than One Megawatt

For property energy projects with a maximum output of less than one megawatt of electricity, the provision extends the enhanced credit rates and expiring portions of the section 48 energy investment tax credit for ten years, through December 31, 2033. This extension does not apply to the election to claim an investment credit in lieu of the renewable power production credit, which is extended under a different provision.

The phaseout rules under present law are modified such that qualified property used in these smaller projects gets the full credit through calendar year 2031. Property entitled to a 30 percent credit has its credit rate reduced to 26 percent for property the construction of which begins in 2032. Such property has its credit rate further reduced to 22 percent for property the construction of which begins in 2033. Qualified property must be placed in service before January 1, 2036.

Energy Projects with a Maximum Output of at Least One Megawatt

For energy projects with a maximum output of at least one megawatt of electricity, the provision extends at a base rate the enhanced credit rates and expiring portions of the section 48 energy investment tax credit for ten years, through December 31, 2033. This extension does not apply to the election to claim an investment credit in lieu of the renewable power production credit, which is extended under a different provision. The ten percent permanent investment tax credits available for qualified solar and geothermal property are also subject to this base credit rate once the enhancements have expired.

The base rate for property used in these larger projects is equal to 20 percent of the otherwise applicable rate. Thus, for example, the 30-percent investment tax credit is extended at a 6 percent rate for property used in these larger projects. The 26 percent and 22 percent phasedown rates describe above with respect to property used in smaller projects for calendar years 2032 and 2033, respectively, also apply to property used in larger projects, but the base rate is 20 percent of those amounts.

Energy Storage Technology

The provision adds energy storage technology property to the energy investment tax credit. Energy storage technology property is allowed a 30 percent credit, subject to the credit rate phasedown described above. The credit expires for property the construction of which begins after December 31, 2033, and is subject to the same phasedown rules described above for calendar years 2032 and 2033.

Qualified property used in energy projects with a maximum output of at least one megawatt of electricity are subject to the base rate described above.

Energy storage technology means equipment (other than equipment primarily used in the transportation of good or individuals and not for the production of electricity) which uses batteries, compressed air, pumped hydropower, hydrogen storage, thermal energy storage, regenerative fuel cells, flywheels, capacitors, superconducting magnets, or other technologies identified by the Secretary, after consultation with the Secretary of Energy, to store energy for conversion to electricity (except for hydrogen storage property) and has a capacity of not less than 5 kilowatt hours.

If otherwise eligible property that has a capacity of less than 5 kilowatt hours is modified to increase its capacity to at least 5 kilowatt hours, such property shall be treated as qualified property, except that its credit-eligible basis shall not include the basis of such property prior to its modification. Similarly, qualified property with a capacity of at least 5 kilowatt hours that increases its capacity shall also be eligible for a credit, with its credit-eligible basis reduced by the basis of such property prior to its modification.

Biogas Property

The provision adds qualified biogas property to the energy investment tax credit. Such property is allowed a 30 percent credit, subject to the phasedown described above. The credit expires for property the construction of which begins after December 31, 2033, and is subject to the same phasedown rules described above for calendar years 2032 and 2033.

All property used in a biogas facility is subject to the base rate described above (regardless of the size of the facility).

Qualified biogas property is property comprising a system that converts biomass into a gas which consists of not less than 52 percent methane, or is concentrated into a gas which consists of not less than 52 percent methane, and which captures such gas for productive use. Such property incudes any property that is part of such system which cleans or conditions such gas.

Qualified biogas property cannot be used in a facility eligible for the renewable electricity production tax credit.

Microgrid Controllers

The provision adds microgrid controllers to the energy investment tax credit. Such property is allowed a 30 percent credit, subject to the phasedown described above. The credit expires for property the construction of which begins after December 31, 2033, and is subject to the same phasedown rules described above for calendar years 2032 and 2033.

Qualified property used in energy projects with a maximum output of at least one megawatt of electricity are subject to the base rate described above.

Microgrid controllers are property that is part of a qualified microgrid and designed and used to monitor and control the energy resources and loads on such microgrid to maintain acceptable frequency, voltage, or economic dispatch. A qualified microgrid is an electrical system that (1) includes equipment that is capable of generating not less than 4 kilowatts and not greater than 20 megawatts of electricity, (2) is capable of operating in connection with the electrical grid and as a single controllable entity with respect to such grid, and independently (and disconnected) from such grid, and (3) is not part of a bulk-power system (as defined in section 215 of the Federal Power Act.

Linear Generator Assemblies

The provision adds linear generator assemblies to the definition of fuel cells eligible for the energy investment tax credit. Linear generator assemblies must have a nameplate

capacity of at least 1 kilowatt of electricity using an electromechanical process that does not contain any rotating parts.

Qualified property used in energy projects with a maximum output of at least one megawatt of electricity are subject to the base rate described above.

Electrochromic Glass

The provision adds electrochromic glass to the energy investment tax credit. Such property is allowed a 30 percent credit, subject to the phasedown described above. The credit expires for property the construction of which begins after December 31, 2033, and is subject to the same phasedown rules described above for calendar years 2032 and 2033. Electrochromic glass is property that uses electricity to change its light transmittance properties in order to heat or cool a structure.

Qualified property used in energy projects with a maximum output of at least one megawatt of electricity are subject to the base rate described above.

Enhanced Credit Rate Where Certain Wage and Workforce Requirements are Met

Prevailing Wages

For property subject to the base credit rate, an enhanced credit rate equal to 80 percent of the otherwise applicable rate is added to the base credit rate during the extension period if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such facility prior to it being placed in service are paid wages at a rate not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

With respect to any facility, a taxpayer is not entitled to the enhanced credit rate unless the prevailing wage requirements are met during construction, before such facility is placed in service. However, a taxpayer may bring the facility into compliance, and have the facility qualify, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Once a qualifying facility has been placed in service, if it does not meet prevailing wage requirements associated with any alterations or repairs during the five year period beginning after it has been placed in service, the enhanced credits shall be recaptured under rules similar to the rules governing the disposal of investment credit property under section 50(a)(1). A taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction, alteration, or repair work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program. Energy projects that began construction prior to date of enactment are also eligible for the enhanced credit, without regard to wage and apprenticeship requirements.

Domestic Content

The provision increases the otherwise applicable section 48 credit rate (after the application of all other enhancements and reductions) by two percentage points (10 percentage points where the wage and workforce standards have been met) with respect to energy projects which certify that the steel, iron, and manufactured products used in such facility were produced in the United States. For purposes of steel and iron, this requirement shall be applied consistent with section 661.5(b) of title 49, Code of Federal Regulations. In the case of manufactured products, the manufactured product shall be considered manufactured in the United States if the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product.

With respect to energy projects that do not meet domestic content requirements, the election for direct payment shall be limited to 90 percent of otherwise allowable credit value in calendar year 2024, to 85 percent of otherwise allowable credit value in calendar year 2025, and to zero percent of credit value in calendar year 2026 and later.

These domestic content rules shall be applied in a manner consistent with the United States' obligations under international agreements.

Effective Date

The provision is generally effective for property placed in service after December 31, 2021. The addition of energy storage property, biogas property, microgrid controllers, and the extension of waste energy recovery property are effective for periods after December 31, 2021, under rules similar to the rules of section 48(m)(as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

3. Increase in energy credit for solar facilities placed in service in connection with low-income communities (sec. 136103 of the bill and sec. 48 of the Code)

Explanation of Provision

In General

The provision creates a bonus energy investment credit for certain property placed in service at a qualified solar facility in connection with low-income communities. The bonus credit is equal to either 10 or 20 percent of the investment, depending on the project specifications. Only projects that receive an allocation from the Secretary, after consultation with the Secretary of Energy and the EPA Administrator, are eligible for the bonus credit. The Secretary is authorized under the provision to allocate credits to projects representing a maximum of 1.8 gigawatts per year of nameplate capacity for each calendar year starting in calendar year 2022 and ending after calendar year 2031.

Credit Rate

Qualified projects located in a low-income community (as defined in section 45D(e) are eligible for a 10 percent bonus credit. Qualified projects that are part of a qualified low-income residential building project or qualified low-income economic benefit project are eligible for a 20 percent bonus credit. If a project is both located in a low-income community and is part of a qualified low-income residential building project or qualified low-income economic benefit project, the bonus credit amount is capped at 20 percent.

Definitions

Qualified Solar Facility

A qualified solar facility is a solar power generation facility with a nameplate capacity of 5 megawatts or less that is either (1) located in a low-income community (as defined in section 45D(e) or (2) part of a qualified low-income residential building project or qualified low-income economic benefit project. A qualified solar facility includes energy storage property and qualified interconnection property installed in connection with the production of solar power at the facility.

Qualified Interconnection Property

The term "qualified interconnection property" means, with respect to a qualified facility which is not a microgrid, any tangible property which is part of an addition, modification, or upgrade to a transmission or distribution system which is required at or beyond the point at which the qualified facility interconnects to such transmission or distribution system in order to accommodate such interconnection, which is constructed, reconstructed, or erected by the taxpayer, or for which the cost with respect to the construction, reconstruction, or erection of such property is paid or incurred by such taxpayer, and the original use of which, pursuant to an interconnection agreement, commences with the utility.

Qualified Low-Income Residential Building Project

A facility is treated as part of a qualified low-income residential building project if such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. sec. 12491(a)(3)), a Housing Development Fund Corporation cooperative under Article XI of the New York State Private Housing Finance Law, a housing assistance program administered by the U.S. Department of Agriculture under Title V of the Housing Act of 1949, 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 among the occupants of the dwelling units of such building.

Qualified Low-Income Economic Benefit Project

A facility is part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of less than 200 percent of the poverty line applicable to a family of the size involved or less than 80 percent of area median gross income (as determined under section 142(d)(2)(B).

Allocation Criteria and Other Rules

In determining to which qualified solar facilities to allocate environmental justice solar capacity limitation under this paragraph, the Secretary must take into consideration which facilities will result in the greatest health and economic benefits, including the ability to withstand extreme weather events, for individuals described in section 45D(e)(2), 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 Secretary shall, upon making an allocation of environmental justice solar capacity limitation under this paragraph, publicly disclose the identity of the applicant, facility location, and the amount of the environmental justice solar capacity limitation allocated to such applicant and facility.

Facilities receiving an allocation must be placed in service within four years of the date credits are allocated to such facility. Allocated bonus credits may be recaptured if allocated to projects that cease to qualify based upon the above requirements under rules similar to the rules of section 50(a).

Under the provision, this credit is added to the section 48 energy investment tax credit, and is subject to all the other rules applicable to that credit, including the base credit for property used in larger facilities, the enhanced credit for property used in facilities that satisfy certain wage and workforce requirements, and the domestic content rules. The enhanced credit rates under this provision are applied after the application of all other enhancements and reductions.

Effective Date

The provision is effective for periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)

4. Elective payment for energy property and electricity produced from certain renewable resources, etc. (sec. 136104 of the bill and new sec. 6417 of the Code)

Explanation of Provision

In General

The provision permits taxpayers to elect a direct payment in lieu of the section 30C credit for alternative fuel refueling property, the section 45 renewable electricity production credit, the section 45Q carbon oxide sequestration credit, the section 48 energy investment tax credit, and the section 48C qualifying advanced energy project credit. For purposes of this election, tax-exempt entities, including State and local governments and Indian tribal governments, shall not fail to be treated as taxpayers eligible to elect a direct payment[270]. In the case of a partnership or S-corporation, elections and direct payments are made at the entity level (*i.e.*, by and to the partnership or S corporation).

If the election is made, the direct payment is generally treated as a payment against the tax imposed by subtitle A for the taxable year with respect to which the credit was determined, and the amount of the credit is reduced to zero and the taxpayer shall be deemed to have taken such credit. The Secretary shall issue guidance to ensure that the amount of payment or deemed payment made under this section is commensurate with the amount of credit that would be otherwise allowable. Special rules apply to tax-exempt and governmental entities, partnerships, and S corporations.

If the Secretary determines that a payment made to a taxpayer was an excessive payment (*i.e.*, in excess of the amount otherwise allowable as a credit for the taxable year) that did not result from reasonable cause, the taxpayer's income tax for the taxable year for which such determination is made will be increased by the amount of the excessive payment plus 20 percent of such amount.

Special Rules for United States Territories

The provision establishes special rules in the case of United States territories. For non-mirror code jurisdictions, Treasury will reimburse a territorial government for any direct payments if such jurisdiction establishes similar program to the satisfaction of Secretary. For mirror-code jurisdictions, this provision shall not be treated as part of the income tax laws of the United States for purposes of determining the income tax law of such possession unless such possession elects to have it be so treated.

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[270] A technical correction may be needed to reflect intent.

Effective Date

The provision is generally effective for property placed in service after December 31, 2021.

5. Investment credit for electric transmission property (sec. 136105 of the bill and new sec. 48D of the Code)

Explanation of Provision

In General

The provision creates a new 6 percent investment tax credit for investments in qualifying electric transmission property. For this purpose, qualifying electric transmission property is tangible depreciable property which is a qualifying electric transmission line or related transmission property, the construction, reconstruction, or erection of which is completed by the taxpayer, or which is acquired by the taxpayer if the original use of such property commences with taxpayer. The credit sunsets for property placed in service after December 31, 2031.

Definitions

A qualifying electric transmission line is an electric transmission line capable of transmitting at least 275 kilovolts, with a capacity of not less than 500 megawatts.

Related transmission property, with respect to any electric transmission line, is any property listed as "transmission plant" in the Uniform System of Accounts for the Federal Energy Regulatory Commission under part 101 of Subchapter C of chapter I of title 18, Code of Federal Regulations, which is necessary for the operation of 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 line to which it relates.

Upgrades of an existing electric transmission line are treated as a replacement of such line. In the case of any qualifying electric transmission line which replaces an existing electric transmission line, the 500 megawatt amount is increased by the existing amount of capacity, and the basis attributable to such existing transmission line is not eligible for the credit.

Enhanced Credit Rate Where Certain Wage And Workforce Requirements Are Met

Prevailing Wages

During the extension period, an enhanced credit equal to 24 percentage points is available if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such facility prior to it being placed in service are paid wages at a rate not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

With respect to any facility, a taxpayer is not entitled to the enhanced credit rate unless the prevailing wage requirements are met during construction, before such facility is placed in service. However, a taxpayer may bring the facility into compliance, and have the facility qualify, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Once a qualifying facility has been placed in service, if it does not meet prevailing wage requirements associated with any alterations or repairs during the five year period beginning after it has been placed in service, the enhanced credits shall be recaptured under rules similar to the rules governing the disposal of investment credit property under the rules of section 50(a)(1). A taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction, alteration, or repair work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program.

Domestic Content

The provision increases the otherwise applicable credit rate (after the application of all other enhancements and reductions) by two percentage points (10 percentage points where the wage and workforce standards have been met) with respect to facilities which certify that the steel, iron, and manufactured products used in such facility were produced in the United States. For purposes of steel and iron, this requirement shall be applied consistent with section 661.5(b) of title 49, Code of Federal Regulations. In the case of manufactured products, the manufactured product shall be considered manufactured in the United States if the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product.

With respect to facilities that do not meet domestic content requirements, the election for direct payment (described below) shall be limited to 90 percent of otherwise allowable credit

value in calendar year 2024, to 85 percent of otherwise allowable credit value in calendar year 2025, and to zero percent of credit value in calendar year 2026 and later.

These domestic content rules shall be applied in a manner consistent with the United States' obligations under international agreements.

Special Rules

No Credit for Certain Projects Already in Progress

No credit is allowed for with respect to (1) any property if the Federal Energy Regulatory Commission or any regional transmission organization or similar rate-making body has, before January 1, 2022, selected for cost allocation such property for cost recovery, or (2) any property if the construction of such property 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.

Progress Expenditures

The progress expenditures rules apply to this credit.

Election for Direct Payment

In lieu of this credit, taxpayers may elect a direct payment under the rules applicable to direct payments described in the preceding provision.

Effective Date

The provision is effective for property placed in service after December 31, 2021.

6. Zero emissions facility credit (sec. 136106 of the bill and new sec. 48E of the Code)

Explanation of Provision

In General

The provision creates a capped 30-percent investment tax credit for qualified investments in qualified property which is part of a zero emissions facility. A zero emissions facility is a facility which (1) generates electricity, (2) does not generate greenhouse gases, (3) utilizes a technology or process which, in the calendar year preceding the calendar year in which construction of the qualified facility began, achieved a market penetration level of less than three percent for the commercial generation of electricity, and (4) does not otherwise meet the definitions for eligible property or facilities under the renewable electricity production credit, the advanced nuclear power credit, the carbon oxide sequestration, or the energy investment tax credit. Eligible property is tangible, depreciable property, not including a building or its structural components, that is necessary for the generation of electricity.

Credits are allocated by the Secretary through an application process. The Secretary is authorized to allocate up to $250 million in credits for calendar year starting with calendar year 2022 and ending with calendar year 2031. Unallocated credits may be allocated in subsequent

years, increasing the limitation for those years. No unallocated amount may be carried forward past calendar year 2031. To be credit eligible, qualified property must be placed in service within four years from the date of credit allocation. Credits allocable to projects that fail to meet this four-year deadline may be reallocated by the Secretary.

In selecting projects for credit allocations, the Secretary take into consideration facilities that (1) will result in the greatest reduction in greenhouse gas emissions, (2) have the greatest potential for technological innovation and commercial deployment, and (3) will result in the greatest reduction of local environmental effects that are harmful to human health.

The Secretary must publicly disclose the identity of any applicant receiving a credit allocation, the location of the facility, along with the amount of the credit allocation with respect to such applicant and facility.

Taxpayers may elect to receive a direct payment in lieu of this credit under the rules described in the earlier provision providing for an elective payment for energy property and electricity from certain renewable resources.

Wage and Workforce Requirements

Prevailing Wages

For property to be qualified property for purposes of this provision, the taxpayer must ensure that the any laborers and mechanics employed by contractors and subcontractors in the construction of such property are paid wages at a rate not less than the prevailing wage rates for construction of a similar character in the locality as determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

With respect to any property used at a facility, a taxpayer is not entitled to this credit unless the prevailing wage requirements are met during construction, before such facility is placed in service. However, a taxpayer may bring the facility into compliance, and have the property qualify, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Once a qualifying facility has been placed in service, if it does not meet prevailing wage requirements associated with any alterations or repairs during the five year period beginning on the date it has been placed in service, the property comprising such facility shall be treated as disposed of under the rules of section 50(a)(1). A taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be qualified property, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent

for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction, alteration, or repair work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program.

Effective Date

The provision is effective for periods after December 31, 2021, under rules similar to the rules of section 48(m) as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990.

7. Extension and modification of credit for carbon oxide sequestration (sec. 136107 of the bill and sec. 45Q of the Code)

Explanation of Provision

In General

The provision changes the base credit rate for new section 45Q carbon oxide sequestration facilities to $10 per ton for direct sequestration in secure geological storage and to $7 per ton of carbon that is used for enhanced oil recovery or utilized in a permitted manner. The provision also extends the credit for six years, through December 31, 2031, and makes other modifications.

Minimum Capture Requirements

The provision reduces the minimum amount of carbon oxide a qualified facility must capture annually to 1,000 metric tons of qualified carbon oxide in the case of a direct air capture facility, to 18,750 metric tons of qualified carbon oxide (not less than 75 percent of which would otherwise have been released into the atmosphere) in the case of an electricity generating facility, and 12,500 metric tons in the case of any other facility (not less than 50 percent of which would otherwise have been released into the atmosphere).

Increased Credit Rate for Direct Air Capture Facilities

The provision changes the base credit rate for direct air capture facilities to $36 per metric ton for carbon oxide that is captured and disposed of in secure geological storage without being first used as tertiary injectant. The provision increases the credit for direct air capture facilities to $26 per metric for carbon oxide that is captured and (1) used a tertiary injectant before being disposed of in secure geological storage or (2) utilized by the taxpayer in an approved manner. These amounts are adjusted for inflation.

Enhanced Credit Rate Where Certain Wage and Workforce Requirements are Met

Prevailing Wages

An enhanced credit equal to four times the otherwise applicable base credit is added to that applicable base credit if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such facility prior to it being placed in service or during the 12-year credit period are paid wages at a rate not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

With respect to any facility, a taxpayer is not entitled to the enhanced credit rate unless the prevailing wage requirements are met during construction, before such facility is placed in service. However, a taxpayer may bring a facility into compliance, and have the facility qualify, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must pay a penalty to the IRS equal to $5,000 per affected worker.

Once a qualifying facility has been placed in service, a taxpayer that does not meet the prevailing wage requirements associated with the alteration or repair of such facility during the twelve-year period beginning after it has been placed in service is ineligible for any enhanced carbon oxide sequestration credits with respect to such facility during the taxable year of noncompliance. A taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program. Carbon capture equipment and a qualified facility are eligible for the enhanced credit amount if construction on such facility began before the date of enactment, without regard to the wage and apprenticeship requirements.

Effective Date

The extension is effective for facilities the construction of which begins after December 31, 2025. The other changes are effective for taxable years beginning after December 31, 2021.

8. Green energy publicly traded partnerships (136108 of the bill and sec. 7704 of the Code)

Explanation of Provision

The provision expands the rules governing publicly traded partnerships in section 7704 to include as qualified income the following items:

- The generation of electric power or thermal energy exclusively using as its energy source wind, biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower (as defined in section 45), and marine and hydrokinetic renewable energy.
- Tipping fees paid to open loop biomass or municipal solid waste facilities for accepting or processing open loop biomass or municipal solid waste.
- Income from the operation of energy investment credit property (as defined in section 48(a)(3)) without regard to any date by which the construction of such property must begin.
- The production, storage, or transportation of any fuel which (1) uses as its primary feedstock carbon oxides captured from an anthropogenic source or the atmosphere, (2) does not sue as its primary feedstock carbon oxide which is deliberately released from naturally occurring subsurface springs, and (3) is determined by the Secretary, in consultation with the Secretary of Energy and the EPA Administrator to achieve a reduction of not less than a 60 percent in lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(H) of the Clean Air Act, as in effect on the date of the enactment of this clause) compared to baseline lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(C) of such Act, as so in effect).
- Income from the operation of a facility that qualifies under section 45Q(d)(without regard to any sunset date).

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

9. Zero-emission nuclear power production credit (sec. 136109 of the bill and sec. 45W of the Code)

Explanation of Provision

In General

The provision creates a new 0.3 cents per kilowatt-hour credit for electricity produced at a qualified nuclear power facility and sold to an unrelated person. 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 (and related products and services) produced and sold by such facility over the product of 0.5 cents times the amount of electricity sold during the taxable year. Under this formula, the credit is totally phased out if the qualified facility is able to sell its electricity for an average of at least 0.875 cents per kilowatt-hour during the taxable year. The 0.3 cent credit amount and 0.5 cent amounts used in the credit reduction formula are both adjusted for inflation using 2022 as the base year.

A qualified nuclear power facility is a facility owned by the taxpayer that uses nuclear energy to produce electricity, which has not received an allocation under section 45J, and which is placed in service before the date of the enactment of this section.

The credit expires for taxable years beginning after December 31, 2026.

Enhanced Credit Rate Where Certain Wage and Workforce Requirements are Met

Prevailing Wages

An additional enhanced credit equal to 1.2 cents per kilowatt-hour is available if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the alteration or repair of such facility during the taxable year are paid wages at a rate not less than the prevailing wage rates for alteration or repair work of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

In addition to the enhanced credit, the phaseout range is increased from 0.5 cents to 2.5 cents if the wage and workforce requirements are met. These enhanced amounts are also adjusted for inflation under the same rules as the base credit.

A taxpayer that fails to meet these standards may bring a facility into compliance, and have the facility qualify for the additional enhanced credit and increased phaseout range, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of alteration or repair work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the alteration or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program.

Effective Date

The provision is effective for electricity produced and sold after December 31, 2021, in taxable years beginning after such date.

PART II — RENEWABLE FUELS

Summary of Present Law Clean Transportation Energy-Related Tax Incentives

The Code contains a number of tax incentives for biofuels, alternative fuels, alternative fuel vehicles, and related infrastructure. The following tables provide summaries of these incentives.

Summary of Certain Renewable and Alternative Fuel Incentives		
Fuel Type	**Per Gallon Incentive Amount**	**Expiration**
Agri-biodiesel and biodiesel (secs. 40A, 6426, and 6427)	$1.00 per gallon, plus $0.10 per gallon for small agri-biodiesel producers	January 1, 2023
Renewable diesel (secs. 40A, 6426, and 6427)	$1.00 per gallon	January 1, 2023
Second generation biofuel (cellulosic and algae) (sec. 40(b)(6))	$1.01 per gallon[1]	January 1, 2022
Alternative fuel and alternative fuel mixtures (secs. 6426 and 6427):[2] • liquefied petroleum gas • P Series Fuels • compressed or liquefied natural gas • liquefied hydrogen • any liquid fuel derived from coal through the Fischer-Tropsch process • compressed or liquefied gas derived from biomass • liquid fuel derived from biomass	$0.50 per gallon[3]	January 1, 2022

[1] Income tax only credit which is not refundable.

[2] The refundable component of the alternative fuel mixture credit sunset for alternative fuel mixtures sold or used after December 31, 2011 (sec. 6427(e)(6)(D)).

[3] For alternative fuels that are used or sold "neat" (not as part of a mixture with taxable fuel) the incentive can be claimed two ways: (1) as an excise tax credit against fuel tax liability, or (2) as a cash (outlay) payment if the taxpayer has insufficient fuel tax liability. For alternative fuel in a mixture, only excise tax credits are allowed.

0. Extension of incentives for biodiesel, renewable diesel and alternative fuels (sec. 136201 of the bill and secs. 40A, 6426, and 6427(e) of the Code)

Explanation of Provision

Biodiesel and Renewable Diesel

The provision extends the biodiesel and renewable diesel tax incentives (income tax credit, excise tax credit and related payment provision) through December 31, 2031.

Alternative Fuel and Alternative Fuel Mixtures

The provision extends the alternative fuel credit and related payment provision through December 31, 2031. The alternative fuel mixture credit is also extended through December 31, 2031.

Effective Date

The provision applies to fuel sold or used after December 31, 2021.

1. Extension of second generation biofuel incentives (sec. 136202 of the bill and sec. 40(b)(6)(J)(i) of the Code)

Explanation of Provision

The provision extends the income tax credit for second generation biofuels through December 31, 2031.

Effective Date

The provision applies to qualified second generation biofuel production after December 31, 2021.

2. Sustainable aviation fuel credit (sec. 136203 of the bill and new secs. 40B, 6426(k), and 6427(e)(6)(E) of the Code)

Explanation of Provision

The provision creates a new general business credit, the sustainable aviation fuel credit. For this purpose, "sustainable aviation fuel" is a liquid fuel that (1) meets the requirements of either ASTM International Standard D7566 or the Fischer Tropsch provisions of ASTM International Standard D1655, Annex, (2) is not derived from palm fatty acid distillates or petroleum, and (3) has been certified, as provided by the provision, to achieve at least a 50 percent lifecycle greenhouse gas reduction percentage of at least 50 percent in comparison with petroleum-based jet fuel.

Calculation of the Credit

The sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture which occurs during such taxable year, an amount equal to the product of the number of gallons of sustainable aviation fuel in such mixture multiplied by (1) a base credit amount of $1.25 plus (2) the applicable supplementary credit amount.

The applicable supplementary credit amount is one cent for every percentage point above 50 percent for which the aviation fuel is certified, as described below, to reduce emissions as in comparison with petroleum jet fuel. The maximum applicable supplementary amount is 50 cents.

A "qualified mixture" means a mixture of sustainable aviation fuel and kerosene if (1) such mixture is produced by the taxpayer in the United States, (2) such mixture is used by the taxpayer (or sold by the taxpayer for use) in an aircraft, (3) such sale or use is in the ordinary course of the trade or business of the taxpayer, and (4) the transfer of such mixture to the fuel tank of such aircraft occurs in the United States.

Under rules prescribed by the Secretary, the amount of the income tax credit with respect to any sustainable aviation fuel is to be reduced to account for any benefit provided with respect to such sustainable aviation fuel under the related excise tax and payment provisions (described below). The Secretary is required to prescribe coordination rules for this purpose.

Certification Requirements and Registration

No credit shall be allowed unless the sustainable aviation fuel has been certified to achieve at least a 50 percent lifecycle greenhouse gas reduction percentage of at least 50 percent in comparison with petroleum-based jet fuel. For purposes of certification, the certification (including the methodology and process of such certification) must conform to all requirements (including requirements related to traceability and information transmission) of the most recent Carbon Offsetting and Reduction Scheme for International Aviation that has been adopted by the International Civil Aviation Organization ("ICAO") with the agreement of the United States. Not later than 24 months after the date of enactment of the provision, the Secretary, after consultation with the Administrator of the Environmental Protection Agency ("EPA Administrator"), shall establish procedures pursuant to which taxpayers may obtain a certification from the Secretary that meets the aforementioned certification requirements.

No credit shall be allowed with respect to any sustainable aviation fuel unless the producer of such fuel has entered into an agreement with the Secretary to provide the Secretary such information with respect to such fuel as the Secretary may require for purposes of carrying out the provision.

Excise Tax and Payment Provisions

The sustainable aviation fuel credit may be used to offset fuel excise tax liability or if there is insufficient fuel excise tax liability, the taxpayer may apply for a payment of the excess credit. The registration requirements and definitions for the income tax credit also apply for this purpose.

Inclusion in Gross Income

The sustainable aviation fuel credit is included in gross income under section 87.

Sunset

The sustainable aviation fuel credit does not apply to any sale or use after December 31, 2031.

Renewable diesel credit for aviation eliminated

The provision eliminates the category of renewable diesel relating to aviation fuel meeting Department of Defense specifications for military fuel or an ASTM for aviation turbine fuel. Fuel that qualifies as sustainable aviation fuel cannot qualify as biodiesel or renewable diesel.

Effective Date

The provision applies to fuel sold or used after December 31, 2022.

3. Clean hydrogen (sec. 136204 of the bill and new sec. 45X of the Code)

Explanation of Provision

Credit for production of clean hydrogen

The provision creates a new credit for hydrogen, the "clean hydrogen production credit." For any taxable year, the credit is an amount equal to the product of (1) the applicable amount multiplied by (2) the kilograms of qualified clean hydrogen (a) produced by the taxpayer at a qualified clean hydrogen production facility during the ten-year period beginning on the date the facility was placed in service.

The "applicable amount" is equal to $0.60 (or $3.00 in the case of the enhanced credit described below), rounded to the nearest 0.1 cent.[271] The "applicable percentage" is 20 percent in the case of qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is at least 40 percent but less than 75 percent. If the percentage reduction is at least 75 percent but less than 85 percent, the applicable percentage is 25 percent. If the percentage reduction is at least 85 percent but less than 95 percent, the applicable percentage is 34 percent. If the percentage reduction is at least 95 percent, the applicable percentage is 100 percent.

[271] The $0.60 amount (or the $3.00 in the case of the enhanced credit) is indexed for inflation beginning after December 31, 2021.

Definitions

The term "lifecycle greenhouse gas emissions" has the same meaning given such term under subparagraph (H) of section 211(o)(1) of the Clean Air Act as in effect on the date of enactment of this provision.

"Qualified clean hydrogen" means hydrogen that is produced through a process that, as compared to hydrogen produced by steam-methane reforming of non-renewable natural gas, achieves a percentage reduction in lifecycle greenhouse gas emissions of at least 40 percent. The hydrogen must be produced in the United States or a possession of the United States in the ordinary course of a trade or business of the taxpayer for sale or use.

A "qualified clean hydrogen production facility" is a facility owned by the taxpayer that produces qualified clean hydrogen. To qualify for the enhanced credit a qualified clean hydrogen production facility must also satisfy certain wage and workforce requirements described below.

The term "steam-methane reforming" means a hydrogen production process in which high-temperature steam is used to produce hydrogen from natural gas, without carbon capture and sequestration.

Special Rules

Rules similar to the rules of section 45(e)(3) apply for purposes of the provision. No credit is allowed with respect to qualified clean hydrogen produced at a facility which includes property for which a credit is allowed under section 45Q.

Guidance

Not later than one year after the date of enactment, the Secretary, in consultation with the Secretary of Energy and EPA Administrator shall publish regulations or other guidance to carry out the purposes of the provision, including prescribing methods for determining the credit based on lifecycle greenhouse gas emissions and requiring verification by one or more unrelated third parties of the production and sale or use of qualified clean hydrogen with respect to which credit is otherwise allowed under the provision.

Termination

No credit is available for facilities the construction of which begins after December 31, 2028.

Enhanced credit rate where certain wage and workforce requirements are met

Prevailing Wages

An enhanced credit equal to the applicable percentage of $3.00 if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such facility prior to it being placed in service or during the 10-year credit

period are paid wages at a rate not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code. Facilities for which construction began prior to the date of enactment are exempt from the requirement as it relates to construction. Such facilities must remain compliant with respect to alterations or repairs during the 10-year credit period.

With respect to any facility, a taxpayer is not entitled to the enhanced credit rate unless the prevailing wage requirements are met during construction, before such facility is placed in service. However, a taxpayer may bring a facility into compliance, and have the facility qualify, by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must pay a penalty to the IRS equal to $5,000 per affected worker.

Once a qualifying facility has been placed in service, a taxpayer that does not meet the prevailing wage requirements associated with the alteration or repair of such facility is ineligible for any enhanced production credits for qualified clean hydrogen produced during the taxable year of noncompliance. A taxpayer may bring the facility into compliance by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction, alteration, or repair work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction, alteration, or repair work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program.

Election for Direct Payment

In lieu of the clean hydrogen production credit, taxpayers may elect a direct payment under the rules applicable to direct payments as described in the provision entitled "Elective payment for energy property and electricity produced from certain renewable resources," which is discussed earlier in this document.

Credit for Electricity Produced from Renewable Resources Allowed if Electricity is Used to Produce Clean Hydrogen

The provision permits a taxpayer to receive both the section 45 credit for electricity produced from renewable resources and the credit for production of clean hydrogen. The electricity will be treated as sold to an unrelated person if such electricity is used at a qualified clean hydrogen production facility to produce clean hydrogen.

Election to Treat Clean Hydrogen Production Facilities as Energy Property

In lieu of the clean hydrogen production credit, the provision permits a taxpayer to elect to treat clean hydrogen facilities (or any portion of such facility) as energy property. The energy percentage with respect to such property ranges from six to 30 percent depending on the type of qualified clean hydrogen that the facility is designed and reasonably expected to produce. The election is irrevocable. The specified clean hydrogen facility must be placed in service after December 31, 2021 and with respect to which no credit has been allowed under the new section 45X (the clean hydrogen production credit) or section 45Q (the credit for carbon oxide sequestration). The Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, is required to issue regulations or other guidance necessary to carry out the provision, including guidance on verification that the facility produces hydrogen consistent with the hydrogen such facility was designed and expected to produce and recaptures any excess credit amounts based on the actual verified production.

Termination of Excise Tax Credit for Hydrogen

The provision terminates the alternative fuel excise tax credit as it relates to hydrogen.

Effective Date

The provision as it relates to the clean hydrogen production credit applies to hydrogen produced after December 31, 2021.

The provision as it relates to renewable electricity used to produce clean hydrogen applies to electricity produced after December 31, 2021.

The provision as it relates to the energy property election for clean hydrogen production facilities applies periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

The termination of the alternative fuel excise tax credit incentives for hydrogen applies to fuel sold or used after December 31, 2021.

PART III — GREEN ENERGY AND EFFICIENCY INCENTIVES FOR INDIVIDUALS

Summary of Certain Present Law Energy Efficiency-Related Tax Incentives

The Code contains a number of tax incentives to encourage energy efficiency. The following tables provide summaries of a number of these incentives.

Summary of Certain Energy Efficiency Tax Incentives				
		Credit Rate or Amount	Maximum Credit	Expiration[2]
Personal credits:				
Credit for nonbusiness energy property installed at a principal residence (sec. 25C)	Insulation to 2009 international energy conservation code standard	10%	$500 (overall sec. 25C credit maximum)	December 31, 2021
	Energy efficient windows, doors, skylights, roofs	10%	$500 ($200 for windows and skylights)	December 31, 2021
	Advanced main air circulating fans	100%	$50	December 31, 2021
	Qualified natural gas, propane, or oil furnace or hot water boilers	100%	$150	December 31, 2021
	Qualified electric heat pump water heaters or natural gas, propane, or oil water heaters	100%	$300	December 31, 2021
	Qualified central air conditioners	100%	$300	December 31, 2021

Summary of Certain Energy Efficiency Tax Incentives				
		Credit Rate or Amount	**Maximum Credit**	**Expiration**[2]
Credit for residential energy efficient property (sec. 25D)	Personal credit for residential solar water heating or solar electric property, fuel cell, small wind property, geothermal heat pump property, qualified biomass fuel property (wood/pellet stoves)	30%	$500 per ½ kilowatt of capacity for fuel cells	December 31, 2019
		26%		December 31, 2022
		22%		December 31, 2023
Business Credit:				
Manufacturer credit for new energy efficient home (sec. 45L)	Homes 30 percent more efficient than standard or Energy Star manufactured homes	$1,000 per home	None	December 31, 2021
	Homes 50 percent more efficient than the specified standard or is a manufactured home that meets the requirements of the Energy Star Labeled Homes program	$2,000 per home	None	December 31, 2021
Exclusions and Deductions:				
Eligible Activity	**Description**			**Expiration**
Energy conservation subsidies provided by public utilities (sec. 136)	Exclusion from gross income for energy conservation subsidies provided by public utilities for energy conservation measures designed to reduce electricity or natural gas consumption or to improve energy demand management with respect to a residential dwelling unit.			None
Energy efficient commercial buildings deduction (sec. 179D)	A taxpayer may take in the placed-in-service year an additional deduction of $1.80 per square foot of commercial building property that exceeds certain energy efficiency standards. If a section 179D deduction is allowed, the basis of the property is reduced by the amount of the deduction; the remaining basis is recovered under otherwise applicable rules			None

[2] Expires for property placed in service (acquired in the case of section 45L) after the expiration date.

0. Extension, increase, and modifications of nonbusiness energy property credit (sec. 136301 of the bill and sec. 25C of the Code)

Explanation of Provision

The provision extends the section 25C credit for nonbusiness energy property for ten years, through December 31, 2031. The provision also increases from 10 percent to 30 percent the credit rate for qualified energy efficient improvements. The provision replaces the lifetime credit limitation with an annual limitation of $1,200. The limit for windows is changed to $200 for any taxable year, $600 in the case of the most efficient Energy Star certified windows. The limit for an exterior door is changed to $250 for any taxable year, $500 with respect to all exterior doors.

The provision modifies the standards for energy efficient building envelope components such that a qualifying component must meet (1) in the case of an exterior window, a skylight, or an exterior door, the applicable Energy Star program requirements, and (2) in the case of any other component, the prescriptive criteria for such component established by the International Energy Conservation Code (IECC) standard in effect as of the beginning of the calendar year which is 2 years prior to the calendar year in which such component is placed in service.

The provision eliminates roofs as building envelope components for purposes of the credit but clarifies that air barrier insulation can qualify.

The provision expands the definition of residential energy efficient property expenditures to include expenditures at any dwelling unit located in the United States that is used as a residence by the taxpayer, regardless of whether the taxpayer owns such dwelling unit or whether such dwelling unit is the taxpayer's principal residence.

The provision modifies the definition of "qualified energy property" to mean any of the following which meet or exceed the highest efficiency tier (not including any advanced tier) established by the Consortium for Energy Efficiency which is in effect as of the beginning of the calendar year in which the property is placed in service:

- An electric heat pump water heater;
- An electric heat pump;
- A central air conditioner;
- A natural gas, propane, or oil water heater; or
- A natural gas, propane, or oil furnace or hot water boiler.

The provision also adds a 30 percent credit, up to $150, for the amount paid or incurred by the taxpayer during the taxable for home energy audits. For this purpose, a home energy audit means an inspection and written report with respect to a dwelling unit located in the United States owned or used by the taxpayer as the taxpayer's principal resident that (1) identifies the most significant and cost-effective energy efficiency improvements with respect to

such dwelling unit, including an estimate of the energy and cost savings with respect to each such improvement, and (2) is conducted and prepared by a home energy auditor that meets the certification or other requirements specified by the Secretary (after consultation with the Secretary of Energy).

Finally, the provision adds several compliance related rules, consisting of (1) rules giving Treasury authority to treat certain errors related to section 25C as mathematical or clerical errors, and (2) a product identification number requirement, requiring that various credit-eligible products (not including insulation) be assigned a unique identification number by that product's manufacturer.

Effective Date

The provision is generally effective for property placed in service after December 31, 2021. The portion of the provision related to home energy audits is effect for amounts paid or incurred after December 31, 2021. The product identification number requirement is effective for property placed in service after December 31, 2023.

1. Residential energy efficient property (sec. 136302 of the bill and sec. 25D of the Code)

Explanation of Provision

The provision extends the section 25D residential energy efficient property credit for 10 years, through December 31, 2033. The credit modifies the phaseout rules such that eligible property is entitled to a 30-percent credit for property placed in service after December 31, 2021 and before January 1, 2032, to a 26-percent credit for property placed in service in calendar year 2032, and to a 22-percent credit for property placed in service in calendar year 2033.

The provision also adds qualified battery storage technology expenditures to the list of expenditures eligible for the residential energy efficiency property credit. For this purpose, a qualified battery storage technology expenditure is an expenditure for battery storage technology (1) installed in connection with a dwelling unit located in the United States used as a residence by the taxpayer (2) that has a capacity of not less than 3 kilowatt hours.

Effective Date

The provision is effective for expenditures made after December 31, 2021.

2. Energy efficient commercial buildings deduction (sec. 136303 of the bill and sec. 179D of the Code)

Explanation of Provision

In general

The provision temporarily modifies the section 179D energy efficient commercial buildings deduction. The modifications are in effect for taxable years beginning after December 31, 2021, and before January 1, 2032.

The provision also permanently updates the application of the standard set forth in section 179D(c). Under the modified rule, any change to that standard under the prescribed rules must be published two years before date upon which the property to which that new standard would apply is placed in service.

Modification of Efficiency Standard

The provision reduces the amount by which a building must increase its efficiency relative to a reference building in order to be eligible for the section 179D deduction from 50 percent to 25 percent.

Maximum Amount of Deduction

Under the provision, the maximum energy efficient commercial buildings deduction is changed to an amount equal $0.50 per square foot increased (but not above $1.00) by $0.02 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25 percent. This maximum amount represents the total 179D deduction that may be claimed for a building with respect to the current taxable year plus the three preceding taxable years. These amounts are adjusted for inflation and replace both the $1.80 per square foot maximum deduction and the partial allowance rule.

Alternative Deduction for Energy Efficient Retrofit Building Property

Under the provision, at the election of the taxpayer, there is allowed as a deduction for the taxable year which includes the date of a building's qualifying final certification with respect to a qualified retrofit plan, an amount equal to the lesser of (1) the maximum amount described above or (2) the aggregate adjusted basis of energy efficient retrofit building property placed in service by the taxpayer pursuant to such qualified retrofit plan.

A qualified retrofit plan is a written plan prepared by a qualified professional which specifies modifications to a building which, in the aggregate, are expected to reduce such building's energy usage intensity by 25 percent or more in comparison to the baseline energy usage intensity of such building. Such plan shall provide for a qualified professional to certify the energy intensity of the building both before and after the retrofit and certify the status of any energy efficient building property installed on the building pursuant to the retrofit plan.

Energy efficient building property is depreciable (or amortizable) property installed on or in any qualified building, which is installed as part of the interior lighting systems, the heating, cooling, ventilation, and hot water systems, or the building envelope, and which is certified under the rules described above.

A qualified building must be located in the United States and have been originally placed in service not less than 5 years before the establishment of the qualified retrofit plan with respect to such building.

The qualifying final certification is, with respect to any qualified retrofit plan, the certification by a qualified professional after the retrofit has been completed certifying that the energy usage intensity of the retrofitted building is not more than 75 percent of the baseline energy usage intensity of such building.

The baseline energy usage intensity means the energy usage intensity certified by a qualified professional prior to the retrofit. The energy intensity comparison may be adjusted to take into account weather under such rules as the Secretary, after consultation with the EPA Administrator, may provide.

A qualified professional is an individual who is a licensed architect or licensed engineer and who meets such other requirements as the Secretary may provide.

Allocation of Deduction by Certain Tax-Exempt Entities

The provision allows certain tax-exempt entities to allocate the deduction to the person primarily responsible for designing the property. These entities comprise the Federal government, any State or political subdivision, any possession of the United States, or any agency or instrumentality of any of the foregoing, any Indian tribal government, and any tax-exempt organization.

Enhanced Deduction Where Certain Wage and Workforce Requirements are Met

Prevailing Wages

During the 10-year period of the provision, an enhanced deduction equal to four times the deduction described above is available in addition to that above-deduction if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction of such facility prior to it being are paid wages at a rate not less than the prevailing wage rates for construction of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

No enhanced deduction is allowed unless the prevailing wage requirements are satisfied. However, a taxpayer may come into compliance and qualify for the enhanced incentive by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced deduction, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction work on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State

apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction, alteration, or repair work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program.

Effective Date

The provision is generally effective for taxable years beginning after December 31, 2021. The alternative deduction for energy efficient retrofit property is effective for property placed in service after December 31, 2021, in taxable years ending after such date, if such property is placed in service pursuant to a qualified retrofit plan established after such date.

3. Extension, increase, and modifications of new energy efficient home credit (sec. 136304 of the bill and sec. 45L of the Code)

Explanation of Provision

The provision extends for ten years, through December 31, 2031, the section 45L credit for new energy efficient homes. The provision replaces the existing credit amounts with a $2,500 credit for new homes that meet certain energy efficiency standards and a $5,000 credit for new homes that are certified as zero-energy ready homes. The credit for multifamily dwelling units is reduced to 20 percent of the otherwise applicable amount.

For single-family homes, to be eligible for the $2,500 credit, a dwelling unit must meet the following standards, as applicable: (1) in the case of a dwelling unit acquired before January 1, 2025, the Energy Star Single-Family New Homes National Program Requirements 3.1, and (2) in the case of dwelling unit acquired after December 31, 2024, the Energy Star Single-Family New Homes National Program Requirements 3.2. In addition, such dwelling unit must meet the most recent Energy Star Single-Family Homes Program Requirements applicable to the location of such dwelling unit (as in effect on the latter of January 1, 2022, or the January 1 that is two calendar years prior to the date such dwelling unit is acquired).

A multifamily dwelling unit is eligible for $500 credit if such unit (1) meets the most recent Energy Star Multifamily New Construction National Program Requirements as in effect on the latter of January 1, 2022, or the January 1 that is three calendar years prior to the date such dwelling unit is acquired, and (2) meets the most recent Energy Star Multifamily New Construction Regional Program Requirements applicable to the location of such dwelling unit as in effect on the latter of January 1, 2022, or the January 1 that is three calendar years prior to the date such dwelling unit is acquired.

For the $5,000 credit ($1,000 in the case of multifamily housing), a dwelling unit must be certified as a zero-energy ready home under the zero-energy ready home program of the Department of Energy (or any successor program determined by the Secretary) as in effect as on January 1, 2022.

Enhanced Credit Amount for Multifamily Housing Where Certain Wage Requirements are Met

Prevailing Wages

During the extension period, an additional enhanced credit equal to 80 percent of the otherwise applicable credit amount is available with respect to multifamily housing units if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction of such residence prior to it being placed in service are paid wages at a rate not less than the prevailing wage rates for construction of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

No enhanced credit is allowed unless the prevailing wage requirements are satisfied. However, a taxpayer may come into compliance and qualify for the enhanced incentive by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Effective Date

The provision is effective for dwelling units acquired after December 31, 2021.

4. Modification to income exclusion for conservation subsidies (sec. 136305 of the bill and sec. 136 of the Code)

Explanation of Provision

The provision expands the section 136 income exclusion for energy conservation subsidies to exclude from income the following items:

- Amounts provided (directly or indirectly) by a public utility to a customer, or by a State of local government to a resident of such State or locality, for the purchase or installation of any water conservation or efficiency measure;
- Amounts provided (directly or indirectly) by a storm water management provider to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any storm water management measure; or
- Amounts provided (directly or indirectly) by a State or local government to a resident of such State or locality for the purchase or installation of any wastewater management measure, but only if such measure is with respect to the taxpayer's principal residence.

Effective Date

The provision is effective for amounts received after December 31, 2018.

PART IV — GREENING THE FLEET AND ALTERNATIVE VEHICLES

Summary of Present Law Alternative Fuel Vehicle and Related Infrastructure Incentives

The Code contains a number of tax incentives for alternative fuel vehicles and related infrastructure. The following table provides a summary of these incentives.

Summary of Alternative Fuel Vehicle Credits			
Type of Property	**Description of Qualifying Property**	**Credit Amount and Explanation**	**Expiration**
Fuel cell vehicles (sec. 30B)	Vehicles propelled by chemically combining oxygen with hydrogen and creating electricity	• Base credit of $4,000 for vehicles weighing 8,500 pounds or less • Heavier vehicles can get up to a $40,000 credit, depending on weight • An additional $1,000 to $4,000 credit is available to cars and light trucks to the extent fuel economy exceeds 2002 base fuel economy	December 31, 2021
Alternative fuel refueling property (sec. 30C)	Property that dispenses alternative fuels, including ethanol, biodiesel, natural gas, hydrogen, and electricity	30 percent credit up to $30,000 for business property and $1,000 for property installed at a principal residence	December 31, 2021
Plug-in electric-drive motor vehicles (sec. 30D)	Four-wheeled vehicles (excluding low speed vehicles and vehicles weighing 14,000 or more) propelled by a battery with at least 4 kilowatt-hours of electricity that can be charged from an external source	Base credit of $2,500, plus $417 for each kilowatt-hour of additional battery capacity in excess of 4 kilowatt-hours (up to $5,000) for a maximum combined credit of up to $7,500	200,000 vehicles per manufacturer limitation
Plug-in electric-drive motorcycles (sec. 30D)	Two-wheeled vehicles able to achieve speeds of at least 45 miles per hour propelled by a battery with at least 2.5 kilowatt-hours of electricity that can be charged from an external source	Credit is 10 percent of cost, up to $2,500	December 31, 2021

0. Refundable new qualified plug-in electric drive motor vehicle credit for individuals (sec. 136401 of the bill and sec. 30D and new sec. 36C of the Code)

Explanation of Provision

In General

The provision extends and modifies the section 30D credit for new qualified plug-in electric drive motor vehicles (the "EV credit").

Manufacturer Limitation

The provision eliminates the EV credit's limitation on the number of credit eligible EVs each manufacturer can sell.

EV Credit Made Refundable

Beginning January 1, 2022, the provision makes the EV credit a refundable personal income tax credit for vehicles acquired on or after that date.[272] The provision adds a requirement that taxpayers must list the vehicle identification number ("VIN") on their returns for the taxable year to claim the EV credit. The provision also gives the IRS mathematical error authority for taxpayers who omit the VIN.

EV Credit Amount

The base amount of the credit is increased to $4,000 (from $2,500). An additional credit of $3,500 is available for vehicles with a battery capacity of not less than 40 kilowatt hours acquired before January 1, 2027. This additional credit of $3,500 is available for vehicles with a battery capacity of not less than 50 kilowatt hours acquired after December 31, 2026.

The provision also provides another additional credit amount of $4,500 for new qualified plug-in electric drive motor vehicles for which the final assembly is at a facility located in the United States[273] operating under a collective bargaining agreement negotiated by an employee organization.[274] An additional credit amount of $500 for new qualified plug-in electric drive motor vehicles with battery cells manufactured in the U.S. and at least 50-percent of the component parts for final assembly are domestic content (including such battery cells).

Therefore, under the provision a new qualified plug-in electric drive motor vehicle is eligible for a maximum credit of $12,500, for a vehicle that meets the battery capacity, domestic assembly and collective bargaining, and domestic content standards listed above. However, the credit may not exceed 50-percent of the purchase price of the vehicle.

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[272] Proposed sec. 36C.

[273] A technical correction may be necessary to reflect this intent.

[274] As defined in section 412(c)(4).

Vehicle Price and AGI Limitations

The provision requires that a new qualified plug-in electric drive motor vehicle purchased by the taxpayer have a manufacturer's suggested retail price ("MSRP") not in excess of certain limitations. That is, the credit amount is reduced to $0 if the MSRP for the vehicle exceeds the applicable limitation. This limitation is $74,000 in the case of a pickup truck, $69,000 in the case of a sport utility vehicle, $64,000 in the case of a van, and $55,000 in the case of a sedan. The Secretary is directed to release regulations to characterize vehicles into the appropriate category by applying rules similar to those employed by the EPA and the Department of Energy to determine vehicle class and size.

Additionally, the credit is reduced by $200 for each $1,000 (or fraction thereof) by which the taxpayer's modified AGI exceeds $800,000 in the case of a joint return or surviving spouse, $600,000 in the case of a head of household, or $400,000 in the case of any other taxpayer.[275] For this limitation and phaseout, the taxpayer may elect to apply the modified AGI of the preceding taxable year rather the modified AGI of the current taxable year.

Modification to New Qualified Plug-In Electric Drive Motor Vehicle Definition

The provision modifies the definition of new qualified plug-in electric drive motor vehicle to mean a motor vehicle[276] (a) the original use of which commences with the taxpayer; (b) which is acquired for use by the taxpayer and not for resale; (c) which is made by a qualified manufacturer; (d) which is treated as a motor vehicle for purposes of title II of the Clean Air Act; (e) which has a gross vehicle weight rating of less than 14,000 pounds; (f) which is propelled to a significant extent by an electric motor drawing electricity from a battery of a capacity of not less than seven kilowatt hours in the case of vehicles placed in service in 2022 or 2023 or ten kilowatt hours in the case of vehicles placed in service after 2023 and which is capable of being recharged from an external source of electricity; and (g) which is not of a character subject to an allowance for depreciation.

Qualified Manufacturer

The provision requires that new qualified plug-in electric drive motor vehicles and two- and three-wheeled plug-in electric vehicles be made by qualified manufacturers. A qualified manufacturer is a manufacturer[277] which agrees to ensure that VINs are assigned to certain vehicles and to make periodic written reports to the Secretary providing VINs and other information related to such vehicles as the Secretary may require. These certain vehicles are

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[275] For this purpose modified AGI is AGI increased by any amount excluded from gross income under section 911, 931, or 933.

[276] For this purpose, a motor vehicle is a vehicle manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels. Sec. 30D(d)(2).

[277] For this purpose, manufacturer has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.)

vehicles which (a) are treated as motor vehicles for purposes of title II of the Clean Air Act, (b) have a gross vehicle weight rating of less than 14,000 pounds, (c) are propelled to a significant extent by an electric motor drawing electricity from a battery of a capacity of not less than seven kilowatt hours in 2022 or 2023 or ten kilowatt hours after 2023 (2.5 kilowatt hours in the case of a two- or three-wheeled vehicle) and that is capable of being recharged from an external source of electricity, and (d) are in compliance with applicable air quality and motor vehicle safety standards.[278]

Modifications for Two- and Three-Wheeled Plug-In Electric Vehicles

The provision extends the credit in section 30D for two- and three-wheeled plug-in electric vehicles[279] for vehicles acquired after December 31, 2021. The provision makes the credit a refundable personal income tax credit for vehicles acquired on or after that date. For two- and three-wheeled plug-in electric vehicles, the provision requires that taxpayers must list the VIN on their returns for the taxable year to claim the credit and grants the IRS mathematical error authority for taxpayers who omit the VIN.

Transfer of Credit

The Secretary is directed to issue regulations or guidance to allow a taxpayer who has purchased a vehicle to elect to transfer the credit to an eligible entity[280] The eligible entity is then treated as the taxpayer with respect to the credit for purposes of allowing a credit to the eligible entity in the amount that would have otherwise been allowed to the electing taxpayer. The Secretary is directed to establish a program to provide advance payments of these credit amounts to eligible entities. An election to transfer the credit must be made on or before the date of vehicle purchase.

An eligible entity is a dealer[281] which meets the following requirements: First, the dealer must be registered with the Secretary. Second, prior to the election of transfer, the dealer must disclose information to the buyer on the MSRP price of the vehicle, value of the credit or other incentives available, associated fees related to the purchase, and the amount provided by the dealer as a condition of an election to transfer. Third, the dealer must pay the taxpayer for the amount of the credit allowable. Finally, the dealer must ensure that the availability or use of any other available manufacturer or dealer incentive does not limit the ability of the taxpayer to make an election and that the election will not limit the value or use of any such incentive. The Secretary may revoke the registration of dealers that fail to comply with these requirements.

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[278] These are equivalent to the standards under section 30D(f)(7).

[279] The credit for three-wheeled plug-in electric vehicles expired for vehicles acquired after December 31, 2013.

[280] A technical correction may be needed to reflect intent.

[281] A dealer is a person licensed by a State, territory of the U.S., or Indian tribe to engage in the sale of vehicles.

The payment made by dealers to buyers in connection with a credit transfer election is not includable in the gross income of the taxpayer and is not deductible to the dealer.

Special Rules[282]

The basis of any property for which an EV credit is taken must be reduced by the amount of such credit[283]. The amount of any deduction or other credit allowable for an EV must be reduced by the amount of EV credit taken. EVs used outside of the United States do not qualify for the credit.[284] The Secretary is directed to issue regulations to require recapture of the credit for property which ceases to be eligible. The taxpayer may elect not to have the EV credit apply to an EV. To qualify for the credit, a vehicle must be in compliance with applicable air quality and motor vehicle safety standards.[285]

Payments to Territories

Mirror Code Territories

The provision directs the Secretary to makes payments to each of Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands in an amount equal to the loss in revenue by reason of the application of the EV credit to the territory's mirror Code for the taxable year. The amount is determined by the Secretary based on information provided by the government of the territory.

Nonmirror Code Territories

The provision directs the Secretary to make payments to each of American Samoa and Puerto Rico in an amount equal to the loss in revenue for operating a similar EV credit, if the territory establishes a similar EV credit approved by the Secretary with a plan to promptly distribute such payments to its residents.

EV Credit Termination

The credit does not apply to vehicles acquired after December 31, 2031.

Effective Date

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[282] Proposed sec. 36C(f).

[283] In the case of a taxpayer electing to transfer the credit to a dealer, the electing taxpayer shall reduce credit by the amount of payment received from the dealer. A technical correction may be needed to reflect this intent.

[284] No credit is allowable with respect to property referred to in section 50(b)(1).

[285] These are equivalent to the standards under section 30D(f)(7).

The provision to allow for transfer of the credit is effective for vehicles purchased after December 31, 2022.

The other provisions of the provision are effective for vehicles acquired after December 31, 2021.

1. Credit for previously-owned qualified plug-in electric drive motor vehicles (sec. 136402 of the bill and new sec. 36D of the Code)

Explanation of Provision

In General

The provision creates a new credit for each previously-owned qualified plug-in electric drive motor vehicle placed in service by a qualified buyer (the "previously-owned EV credit").

Credit Amount and Limitations

The credit amount is $1,250 plus $208.50 times the number of kilowatt hours by which the capacity of the battery of the vehicle exceeds four kilowatt hours (determined at time of sale). The credit amount cannot exceed the lesser of $2,500 or 30 percent of the sale price of the vehicle.

Additionally, the credit is reduced by $200 for each $1,000 (or fraction thereof) by which the taxpayer's AGI exceeds $150,000 in the case of a joint return or surviving spouse, $112,500 in the case of a head of household, or $75,000 in the case of any other taxpayer.

Previously-Owned Qualified Plug-In Electric Drive Motor Vehicles

A previously-owned qualified plug-in electric drive motor vehicle is a vehicle (1) with a model year at least two years earlier than the calendar year of acquisition, (2) for which original use commences with a person other than the buyer, (3) acquired in a qualified sale, (4) registered by the taxpayer for operation in a State or territory of the U.S., and (5) that meets certain requirements of new qualified plug-in electric drive motor vehicles. These requirements are that the vehicle (1) is made by a qualified manufacturer, (2) is treated as a motor vehicle for purposes of title II of the Clean Air Act, (3) weighs less than 14,000 pounds, (4) is propelled to a significant extent by an electric motor drawing electricity from a battery of a capacity of not less than four kilowatt hours and which is capable of being recharged from an external source of electricity, and (5) is not of a character subject to an allowance for depreciation.

Qualified Sale

A qualified sale is a sale of motor vehicle by a seller holding such vehicle in inventory[286] for sale or lease, with a sales price not in excess of $25,000, which is the first

[286] Within the meaning of section 471.

transfer since the date of enactment to a person other than the person who originally placed the vehicle in service.

Qualified Buyer

A qualified buyer is an individual who (1) purchases a vehicle for use and not for resale, (2) is not a dependent of another taxpayer, (3) has not been allowed a previously-owned EV credit during the three years preceding the date of the vehicle's purchase, and (4) possesses a certificate issued by the seller. This certificate must certify (1) that the vehicle is a previously-owned qualified plug-in electric drive motor vehicle, (2) the VIN, (3) the battery capacity at time of sale, and (4) other information that the Secretary may require.

Special Rules

For a vehicle to qualify, a taxpayer must list the VIN of each vehicle on the return for the taxable year. The provision also gives the IRS mathematical error authority for taxpayers who omit the VIN. The Secretary may also require the certificate for qualified buyers to be submitted by the issuer.

Rules similar the rules in proposed section 36C(f) apply to the previously-owned EV credit.[287]

Payments to Territories

Mirror Code Territories

The provision directs the Secretary to makes payments to each of Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands in an amount equal to the loss in revenue by reason of the application of the used EV credit to the territory's mirror Code for the taxable year. The amount is determined by the Secretary based on information provided by the government of the territory.

Nonmirror Code Territories

The provision directs the Secretary to make payments to each of American Samoa and Puerto Rico in an amount equal to the loss in revenue for operating a similar used EV credit, if the territory establishes a similar used EV credit approved by the Secretary with a plan to promptly distribute such payments to its residents.

Previously-Owned EV Credit Termination

The credit does not apply to vehicles acquired after December 31, 2031.

Effective Date

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[287] A description of these rules is provided above in the section describing the modifications to the electric vehicle credit. These rules are similar to rules in section 30D(f).

The provision is effective for vehicles acquired after December 31, 2021.

2. Qualified commercial electric vehicles (sec. 136403 of the bill and new sec. 45Y of the Code)

Explanation of Provision

In General

The provision creates a new credit for each qualified commercial electric vehicle ("qualified commercial EV") placed in service by the taxpayer. The credit amount is 30 percent of the basis of a qualified vehicle.

Qualified Commercial Vehicles

To be a qualified commercial EV, the vehicle must be depreciable and (1) have original use commence with the taxpayer, (2) be acquired for use or lease by the taxpayer and not for resale, (3) be made by a qualified manufacturer,[288] and (4) be treated as a motor vehicle for purposes of title II of the Clean Air Act or be mobile machinery.[289] In addition, the vehicle must have a battery that has a capacity of at least 30 kilowatt-hours that is capable of being recharged from an external source and is not powered or charged by an internal combustion engine.

Additionally, a qualified commercial EV includes a new qualified fuel cell motor vehicle. To be a new qualified fuel cell motor vehicle for purposes of the qualified commercial EV credit, the vehicle must meet the requirements of a qualified commercial EV above except in place of the battery capacity and power source requirements the vehicle must (1) be propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle and (2) in the case of a passenger automobile or light truck meet or exceed certain emissions levels.[290] [291]

Special Rules

For a vehicle to qualify, a taxpayer must list the VIN of each vehicle on the return for the taxable year. The provision also gives the IRS mathematical error authority for taxpayers who omit the VIN.

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[288] Qualified manufacturer has the meaning as in proposed section 36C(e)(3) without regard to the 14,000 pound weight limit. A description of qualified manufacturer is provided above in the section describing the modifications to the electric vehicle credit.

[289] Sec. 4053(8).

[290] See sec. 30B(b)(3)(B).

291 A technical correction may be necessary to reflect this intent.

Rules similar the rules in proposed section 36C(f) apply to the commercial EV credit.[292] In the case of vehicle used by certain tax-exempt entities,[293] if the vehicle is not subject to a lease, the seller of a vehicle can be treated as the taxpayer that places the vehicle in service.

Commercial Alternative Fuel Vehicle Credit Termination

The credit does not apply to vehicles acquired after December 31, 2031.

Effective Date

The provision applies to vehicles acquired after December 31, 2021.

3. Qualified fuel cell motor vehicles (sec. 136404 of the bill and sec. 30B of the Code)

Explanation of Provision

The provision extends the sunset date for the credit for new qualified fuel cell motor vehicles in section 30B for ten years (through December 31, 2031).

The definition of new qualified fuel cell motor vehicle is modified such that the vehicle may not be of a character subject to an allowance for depreciation.

Effective Date

The provision is effective for property placed in service after December 31, 2021.

4. Alternative fuel refueling property credit (sec. 136405 of the bill and sec. 30C of the Code)

Explanation of Provision

In General

The provision extends the sunset date for the alternative fuel refueling property credit[294] for ten years (through December 31, 2031). For depreciable property, the credit is extended at a base rate equal to 20 percent of the rate currently available under present law. Thus, for depreciable property placed in service in calendar years 2022 through 2031, the credit rate is six percent. The credit rate remains unchanged at 30 percent for nondepreciable property. The provision also modifies the credit limitation for certain fuel refueling property.

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[292] A description of these rules is provided above in the section describing the modifications to the electric vehicle credit. These rules are similar to rules in section 30D(f).

[293] Vehicles the use of which is described in sections 50(b)(3) or (4).

[294] Sec. 30C.

Supplemental Credit

In addition, the provision adds a supplemental four-percent credit (in addition to the base six-percent credit) on costs above the $100,000 limit for qualified property that is depreciable property if such property refuels only electricity or fuel consisting of at least 85 percent hydrogen by volume and is intended for general public use (and accept payments via a credit card reader, including contactless technology, or has no associated fee or payment arrangement) or is intended for use exclusively by fleets of commercial or government vehicles.

Modification of Qualified Alternative Fuel Vehicle Refueling Property Definition

The provision clarifies the definition of qualified alternative fuel vehicle refueling property to include property that can charge the battery of a motor vehicle propelled by electricity and allows discharging electricity from such battery to an electric load external to the motor vehicle.

In addition, the definition is modified to include property designed to charge two- and three-wheeled electric bikes and scooters manufactured for primary use on public streets, roads, or highways. This property must be depreciable, must refuel only electricity or fuel consisting of at least 85 percent hydrogen by volume, and be intended for general public use (and accept payments via a credit card reader, including contactless technology, or has no associated fee or payment arrangement) or be intended for use exclusively by fleets of commercial or government vehicles.

Enhanced Credit Rate Where Certain Wage and Workforce Requirements are Met

Prevailing Wages

During the extension period for depreciable property, an enhanced base credit rate equal to 30 percent and an enhanced supplemental credit rate of 20 percent are available if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction of such property prior to it being placed in service are paid wages at a rate not less than the prevailing wage rates for construction of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code.

No enhanced incentive is allowed unless the prevailing wage requirements are satisfied. However, a taxpayer may come into compliance and qualify for the enhanced incentive by paying any affected workers the difference between the actual compensation paid to such workers and the wages required to be paid to those workers to meet prevailing wage requirements, plus any applicable interest. In addition, such taxpayer must also pay a penalty to the IRS equal to $5,000 per affected worker.

Apprenticeship Requirements

To be eligible for the enhanced credit rates for depreciable property, a taxpayer must also ensure that certain qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar

year 2023 and 10 percent for projects beginning in calendar year 2023) of the total labor hours of construction on any applicable project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor or applicable State apprenticeship agency. Exceptions from these requirements are provided for taxpayers that demonstrate a lack of available qualified apprentices in the geographic area of the construction work and make a good faith effort to comply with the requirements of the provision. Labor hours are the total number of hours devoted to construction work by employees of the contractor or subcontractor and excludes certain hours worked by managers or owners. A qualified apprentice is an employee of the contractor or subcontractor who is participating in a registered apprenticeship program. A project that commences construction prior to the date of enactment is eligible for the enhanced credit rates, without regard to the wage and apprenticeship requirements,

Alternative Fuel Refueling Property Credit Termination

No credit is allowed for any property placed in service after December 31, 2031.

Effective Date

The provision is effective for property placed in service after December 31, 2021.

5. Reinstatement and expansion of employer-provided fringe benefits for bicycle commuting (sec. 136406 of the bill and sec. 132 of the Code)

Present law

In General

The exclusion for qualified bicycle commuting reimbursement is suspended by Public Law No. 115-97 for taxable years beginning after December 31, 2017, and before January 1, 2026.

Qualified Bicycle Commuting Reimbursements

Qualified transportation fringe benefits include mass transit passes, qualified parking, transportation in a commuter highway vehicle, and any qualified bicycle commuting reimbursement.[295] Qualified bicycle commuting reimbursements of up to $20 per qualifying bicycle commuting month in a calendar year are excludable from an employee's gross income.[296] A qualifying bicycle commuting month is any month during which the employee regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment and during which the employee does not receive any qualified transportation fringe

[295] Sec. 132(f)(1).

[296] Secs. 132(a)(5), 132(f)(1)(D), and 132((f)(5)(F)(ii).

benefit for transportation in a commuter highway vehicle (in connection with travel between the employee's residence and place of employment), a transit pass, or qualified parking.[297]

A qualified bicycle commuting reimbursement for a calendar year is an employer reimbursement during the 15-month period beginning with the first day of the calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if the bicycle is regularly used for travel between the employee's residence and place of employment.[298]

Qualified bicycle commuting reimbursements that are excludable from gross income for income tax purposes are also excluded from wages for employment tax purposes.

Deduction Allowed

Qualified bicycle commuting reimbursements are intended to be allowed as a deductible expense to the employer during years in which the exclusion for qualified bicycle commuting reimbursement is suspended.[299]

Explanation of Provision

In General

The provision restores and modifies the exclusion for qualified bicycle commuting reimbursements.

Modified Qualified Bicycle Commuting Benefit

The provision modifies the definition of qualified transportation fringe benefits to include any qualified bicycle commuting benefit (in place of any qualified bicycle commuting reimbursement).[300]

The provision defines a qualified bicycle commuting benefit for a calendar year as (1) any employer reimbursement during the 15-month period beginning with the first day of the calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase (including associated finance charges), lease, rental (including a bikeshare), improvement, repair, or storage of qualified commuting property, or (2) the direct or indirect provision by the employer to the employee during the calendar year of the use (including a

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[297] Sec. 132(f)(5)(F)(iii).

[298] Sec. 132(f)(5)(F)(i).

[299] A technical correction may be necessary to reflect that the suspension relates to the exclusion (under subsection (a)(5) of section 132) rather than the definition of a qualified bicycle commuting reimbursement as a qualified transportation fringe, so that such taxable benefits are excepted from the deduction disallowance of section 274(a). See IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits* (revised Feb 5, 2021), p. 22.

[300] Sec. 132(f)(1).

bikeshare), improvement, repair, or storage of qualified commuting property. To constitute a qualified bicycle commuting benefit the employee must use the qualified commuting property for travel between the employee's residence, place of employment, or a mass transit facility that connects an employee to their residence or place of employment. Such benefit may be provided in the form of an account available to the employee for expenses, rather than limited to reimbursements after expenses are made.

Qualified commuting property is a bicycle (not equipped with any motor), an electric bicycle,[301] a two- or three-wheeled scooter (not equipped with any motor), or a two- or three-wheeled electric scooter weighing not more than 100 pounds that either (1) does not provide assistance at speeds exceeding 20 mile per hour or (2) cannot reach speeds exceeding 20 miles per hour.

A bikeshare is a rental operation at which qualified commuting property is made available to customers to pick up and drop off for point-to-point use withing a defined geographic area.

Modified Limitations on Exclusion

Qualified bicycle commuting reimbursements are excludable from an employee's gross income up to 30 percent of the dollar limitation on qualified transportation fringe benefits per month.[302]

The provision modifies the limitation on constructive receipt such that qualified bicycle commuting benefits are treated the same as other qualified transportation fringe benefits.[303] That is, a bicycle commuting benefit can be funded by an elective salary contribution on the part of an employee.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

6. Credit for certain new electric bicycles (sec. 136407 of the bill and new sec. 36E of the Code)

Present Law

Certain bicycle commuting expenses provided to employees are deductible to employers under present law. A description of this provision may be found above in the section

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[301] Within the meaning of proposed section 36E regarding the electric bicycle credit.

[302] The monthly limitation for qualified transportation fringe benefits is $270 for taxable years beginning in 2021. See section 3.18 of Rev. Proc. 2020-45, 2020-46 I.R.B 1016 (November 9, 2020).

[303] The provision modifies section 132(f)(4) such that the exception applies to qualified bicycle commuting benefits.

describing the reinstatement and expansion of employer-provided fringe benefits for bicycle commuting.

Explanation of Provision

In General

The provision creates a new refundable credit for each qualified electric bicycle placed in service by a taxpayer (the "electric bicycle credit"). The credit amount is 15 percent of the cost of a qualified electric bicycle.

Limitations on Credit Amount

The cost taken into account for calculating the amount of credit my not exceed $5,000 for any qualified electric bicycle.

The number of bicycles taken into account for calculating the amount of the credit for a taxpayer for a taxable year cannot exceed one (two in the case of joint return) and must be reduced by the aggregate number of bicycles for which a credit was claimed by the taxpayer for the preceding two taxable years.

The credit is reduced by $200 for every $1,000 by which the taxpayer's modified AGI exceeds $150,000, $112,500, or $75,000 in the case of a joint return or surviving spouse, head of household, or any other taxpayer, respectively. For this purpose, modified AGI means AGI increased by any amount excluded from gross income under section 911, 931, or 933.

Qualified Electric Bicycle

A qualified electric bicycle is a bicycle (1) for which the original use commences with the taxpayer, (2) acquired for use by the taxpayer and not for resale, (3) made by a qualified manufacturer and labeled with a qualified vehicle identification number, (4) that costs not more than $8,000, and (5) that satisfies certain equipment requirements. These equipment requirements are (1) fully operable pedals, (2) a saddle or seat for the rider, and (3) an electric motor of less than 750 watts designed to provide assistance in propelling the vehicle and (a) does not provide assistance if the bicycle is moving in excess of 20 miles per hour, or (b) if assistance is provided only while the rider is pedaling, does not provide assistance if the bicycle is moving in excess of 28 miles per hour.

The provision adds a requirement that taxpayers must list the qualified vehicle identification number on their returns for the taxable year to claim the electric bicycle credit. The provision also gives the IRS mathematical error authority for taxpayers who omit the qualified vehicle identification number.

Qualified Manufacturer

The provision requires that qualified electric bicycles be made by qualified manufacturers. A qualified manufacturer is a manufacturer which agrees to (1) ensure that vehicle identification numbers are assigned to each qualified electric bicycle, (2) label each

qualified electric bicycle in a manner as the Secretary may provide, and (3) make periodic written reports to the Secretary providing vehicle identification numbers assigned to qualified electric bicycles and other information the related to such qualified electric bicycles as the Secretary may require. The vehicle identification numbers required for qualified manufacturers must use a methodology that ensures that each number is unique to each bicycle.[304]

Special Rules

The provision requires that the basis of any property for which an electric bicycle credit is taken be reduced by the amount of such credit. The amount of any deduction or other credit allowable for a qualified electric bicycle must be reduced by the amount of electric bicycle credit taken. Electric bicycles must be used in United States in order to qualify for the credit. The Secretary is directed to issue regulations to require the recapture of the credit for property that ceases to be eligible. Finally, a taxpayer may elect not to have the electric bicycle credit apply to any bicycle.

Payments to Territories

Mirror Code Territories

The provision directs the Secretary to makes payments to each of Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands in an amount equal to the loss in revenue by reason of the application of the electric bicycle credit to the territory's mirror Code for the taxable year. The amount is determined by the Secretary based on information provided by the government of the territory.

Nonmirror Code Territories

The provision directs the Secretary to make payments to each of American Samoa and Puerto Rico in an amount equal to the loss in revenue for operating a similar electric bicycle credit, if the territory establishes a similar electric bicycle credit approved by the Secretary with a plan to promptly distribute such payments to its residents.

Electric Bicycle Credit Termination

The credit does not apply to bicycles placed in service after December 31, 2031.

Effective Date

The provision applies to property placed in service after the date of enactment, in taxable years ending after such date.

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[304] This may be achieved by using numbers or letters unique to each manufacturer or by some other method as the Secretary may provide.

PART V — INVESTMENT IN THE GREEN WORKFORCE

1. Extension of the advanced energy project credit (sec. 136501 of the bill and sec. 48C of the Code)

Present Law

Eligible Activity	Description	Credit Amount	Expiration
Advanced energy project credit (sec. 48C)	• Investment credit for qualified projects that re-equip, expand, or establish a manufacturing facility for the production of specified energy related products • Credits are allocated by the Secretary and are capped at $2.3 billion • All credits have been fully allocated	30 percent	None

Explanation of Provision

In General

Under the provision, the 30-precent credit for investment in qualified property used in a qualified advance energy manufacturing project is provided new allocations and modified as follows.

Qualified Advanced Energy Projects

A qualified advanced energy project is a project that re-equips, expands, or establishes a manufacturing or industrial facility for the production of: (1) property designed to be used to produce energy from the sun, water, geothermal deposits, or other renewable resources; (2) fuel cells, microturbines, or energy storage systems and components; (3) electric grid modernization equipment or components; (4) property designed to capture and use or sequester carbon oxide emissions; (5) property designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies); (6) certain alternative fuel vehicles[305] or components which are designed specifically for use with such vehicles, including electric motors, generators, power control units, and equipment used for charging or refueling; (7) property designed to be used to

[305] These are vehicles described in proposed sections 36C (the refundable credit for new qualified plug-in electric drive motor vehicles), 45Y (the credit for qualified commercial electric vehicles), and 36E (the refundable credit for electric bicycles).

produce qualified clean hydrogen;[306] or (8) other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary.

A qualifying advanced energy project also includes a facility that recycles batteries or similar energy storage property.[307]

Qualified property must be depreciable (or amortizable) property used in a qualified advanced energy project. Only tangible personal property and other tangible property (not including a building or its structural components) are credit-eligible. The basis of qualified property must be reduced by the amount of credit received.

Additional Allocations

Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy. The Secretary of Treasury must establish a certification program no later than 180 days after the date of enactment this provision. The provision provides additional base annual allocations of $2.5 billion in credits for calendar years 2022 through 2031. $400 million of each base annual allocation must be allocated to projects in automotive communities.[308] Unallocated credit amounts may be allocated in succeeding calendar years. The amount of credits allocated in a year may not exceed the sum of the base annual allocation and any unallocated credit amounts from prior calendar years. While no base annual allocations are provided for calendar years after 2031, unallocated credit amounts may still be allocated until 2036, five years after the final base annual allocation. No credit is allowed for any qualified investment that was allowed a credit under sections 48, 48A, or 48B.

Selection Criteria

In selecting projects, the Secretary may consider only those projects where there is a reasonable expectation of commercial viability and which will ensure that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such projects are paid wages at a rate not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31, of title 40, United States Code and that qualified apprenticeship requirements are satisfied by ensuring that not less than 15 percent (five percent for projects the construction of which begins before calendar year 2023

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[306] As defined in proposed section 45X.

[307] As defined in section 48(c)(1)(A)(i).

[308] An automotive community is a census tract that has experienced major job losses in the automotive manufacturing sector since January 1, 1994, as determined by the Secretary in consultation with the Secretary of Energy and Secretary of labor, or a census tract that is immediately adjacent to one such census tract.

and 10 percent for projects beginning in calendar year 2023) of the total labor hours are performed by qualified apprentices.[309]

In addition, the Secretary must give highest priority to projects that manufacture (other than primarily assembly of components) property, or components thereof, in any of the eight categories listed above which define a qualified advanced energy project, and have the greatest potential for commercial deployment of new applications. The Secretary must also consider other selection criteria, including which projects (1) will provide the greatest net impact in avoiding or reducing anthropogenic emissions of greenhouse gases as determined by the Secretary in consultation with the EPA administrator, (2) will provide the greatest domestic job creation during the credit period, (3) will provide the greatest job creation within the vicinity of the project, particularly with respect to low-income communities[310] and dislocated workers previously employed in manufacturing, coal power plants, or coal mining, (4) will provide the greatest job creation in areas with a population at risk of experiencing higher or more adverse human health or environmental effects where a significant portion of such population is comprised of communities of color, low-income communities, Tribal and Indigenous communities, or individual formerly employed in the fossil fuel industry, (5) have the lowest levelized cost of generated or stored energy, or of measured reduction in energy consumption of greenhouse gas emissions, and (6) have the shortest project time from certification to completion.[311]

Certification

Each project application must be submitted at such time and manner as the Secretary may require. An applicant for certification has two years from the date the Secretary accepts the application to provide the Secretary with evidence that the requirements for certification have been met. Upon certification, the applicant has two years from the date of issuance of the certification to place the project in service.

Disclosure

Upon allocation of a credit, the Secretary is directed to publicly disclose the identity of the applicant, the amount of credit, and the location of the project for which the allocation is provided.

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[309] These apprenticeship requirements are similar to those that apply for section 30C. A description of these requirements is provided above in the section describing the enhanced alternative refueling property credit.

[310] Within the meaning of section 45D(e).

[311] The provision adds several new criteria as described in addition to factors described in section 48C(d)(3)(B).

Direct Pay

Taxpayers may elect to receive a direct payment in lieu of this credit under the rules described in the earlier provision providing for an elective payment for energy property and electricity from certain renewable resources.

Effective Date

The provision is effective on date of enactment.

2. Labor costs of installing mechanical insulation property (sec. 136502 of the bill and new sec. 45Z of the Code)

Present Law

Present law does not contain any specific tax incentives for the installation of mechanical insulation.

Explanation of Provision

The provision creates a new 10-percent general business credit for mechanical insulation labor costs paid or incurred by the taxpayer during a taxable year. Mechanical insulation labor costs are the labor costs of installing mechanical insulation property with respect to a mechanical system located in the United States. Mechanical insulation property is depreciable property consisting of insulation materials, as well as facings and accessory products installed in connection to such insulation materials, placed in service in connection with a mechanical system that meets the requirements of title 10, section 434.403 of the Code of Regulations, which results in a reduction in energy loss from the mechanical system that is greater than the expected reduction from the installation of insulation materials meeting the minimum requirements of Reference Standard 90.1 (as defined in section 179D(c)(2)). The credit expires for costs paid or incurred after December 31, 2031.

Effective Date

The provision is effective for amounts paid or incurred after December 31, 2021, in taxable years ending after such date.

PART VI — ENVIRONMENTAL JUSTICE

1. Qualified environmental justice program Credit (sec. 136601 of the bill and new sec. 36F of the Code)

Present Law

Present law does not provide a tax incentive specifically for costs incurred as part of an environmental justice program.

Explanation of Provision

The provision creates a new refundable tax credit for eligible educational institutions that incur costs during the taxable year as part of a qualified environmental justice program that receives a credit dollar allocation from the Secretary.[312] The provision establishes an application process by which eligible institutions apply to the Secretary for an allocation of credit for an applicable percentage of costs incurred with respect to their qualified environmental justice programs. The applicable percentage is 30 percent with respect to a program involving material participation of faculty and students of an institution described in section 371(a) of the Higher Education Act of 1965, and 20 percent in all other cases. The Secretary is required to publish the identity of each eligible educational institution receiving an allocation and the amount of the allocation.

The Secretary is authorized to allocate $1 billion per year for the period 2022 through 2031 to the selected eligible educational institutions. Applications are submitted in such form and at such time as prescribed by the Secretary. After consultation with the Secretaries of Energy, Education, and Health and Human Services, the Secretary is to select programs for an allocation based on the following criteria:

- The extent of participation of faculty and students of an institution described in section 371(a) of the Higher Education Act of 1965.
- The extent of the expected effect on the health or economic outcomes of individuals residing in areas within the United States that are low-income areas or areas that experience, or are at risk of experiencing, multiple exposures to qualified environmental stressors
- The creation or significant expansion of qualified environmental justice programs.

The Secretary is required to publish the identity of each eligible educational institution receiving an allocation and the amount of the allocation.

Applicants selected to receive an allocation are required to make their submitted applications publicly available and are required to report annually to the Secretary the amounts

[312] The term 'eligible educational institution' means an institution of higher education (as such term is defined in section 101 or 102(c) of the Higher Education Act of 1965) that is eligible to participate in a program under title IV of such Act.

paid or incurred, and the expected impact of the project. Failure to comply with these requirements reduces the eligible educational institution's allocation to zero.

The eligible educational institution has five years after receiving an allocation to incur costs eligible for the credit. The amount of credit for any taxable year is limited to the credit dollar amount allocated to such program less any credits previously claimed for such program.

Effective Date

The provision is effective on the date of enactment.

PART VII — SUPERFUND

1. Reinstatement of Superfund (sec. 136701 of the bill and section 4611 of the Code)

Prior Law

The Superfund program addresses cleanup activity of hazardous substances at contaminated sites. Before January 1, 1996, an excise tax on domestic crude oil and imported petroleum products (the "Hazardous Substance Superfund financing rate") was imposed at the rate of 9.7 cents per barrel.[313] The Hazardous Substance Superfund financing rate ceased to apply after December 31, 1995.

A Superfund chemicals tax was imposed on taxable chemicals sold by a manufacturer, producer or importer at rates that varied between $0.22 to $4.87 per ton. In addition, imported substances made with these taxable chemicals also were subject to tax. The taxes on taxable chemicals and imported substances also expired after December 31, 1995, when the Hazardous Substance Superfund financing rate ceased to apply.[314]

Explanation of Provision

The Hazardous Substance Superfund financing rate is reinstated at 16.4 cents per barrel. The tax is annually indexed for inflation beginning with calendar year 2023. The taxes on taxable chemicals and imported substances will apply, at twice the rates enacted in prior law, during any period when the Hazardous Substance Superfund financing rate applies.[315] [316]

Effective Date

The provision is effective on January 1, 2022.

PART VIII — APPROPRIATIONS

1. Appropriations (Sec. 136801 of the bill)

Explanation of Provision

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

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[313] Sec. 4611(c)(2)(A).

[314] Sec. 4661(c) and sec. 4671(e).

[315] Section 9507(d)(1) authorizes to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund. The authority for repayable advances expired December 31, 1995, with all advances required to be repaid on or before such date. The provision allows further advances to be made and that such advances must be repaid on or before December 31, 2031.

[316] A technical change is needed to reflect the intent of this provision

1098

Effective Date

The provision is effective on date of enactment.

SUBTITLE H — SOCIAL SAFETY NET

PART I — CHILD TAX CREDIT

1. Child tax credit (secs. 137101-137104 of the bill, secs. 24 and 7527A of the Code, and new secs. 24A, 24B, and 7527B of the Code)

Present Law

In General

Taxpayers are allowed a child tax credit for each qualifying child. Due to recent temporary expansions of the child tax credit, different sets of rules apply for taxable years beginning in ("tax years") (i) 2021, (ii) 2022 through 2025, and (iii) after 2025.[317] For tax year 2021, the amount of the child tax credit is $3,000, or $3,600 for children who have not attained the age of 6 as of the close of the calendar year.[318] For tax years 2022 through 2025, the amount of the child tax credit is $2,000.[319] After tax year 2025, the amount of the credit is $1,000.

In tax year 2021, the aggregate amount of otherwise allowable child tax credit is reduced under two separate phaseouts. The initial phaseout applies to taxpayers with modified adjusted gross income ("AGI") over an applicable threshold amount of $150,000 for married taxpayers filing jointly and for surviving spouses, $112,500 for head of household taxpayers, and $75,000 for all other taxpayers.[320] The secondary phaseout applies at higher applicable threshold amounts of $400,000 for taxpayers filing jointly and $200,000 for all other taxpayers.[321] For both phaseouts, the amount of child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified AGI over the applicable threshold amount. However, the initial phaseout is limited so that it only applies to the temporary increased child tax credit amount for 2021 ($1,600 per child under age six and $1,000 per child age six and older); it does not reduce the child tax credit amount below $2,000. For purposes of the modified AGI limitations, modified AGI means AGI increased by any amount excluded from gross income under section 911 (foreign earned income exclusion), 931 (exclusion of income for a bona fide resident of American Samoa), or 933 (exclusion of income for a bona fide resident of Puerto Rico).[322]

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[317] For taxable years beginning in 2021, rules enacted in the American Rescue Plan Act (ARPA), Pub. L. No. 117-2, apply. For taxable years 2018 through 2025, temporary rules enacted in Pub. L. No. 115-97 apply, except to the extent they were superseded by temporary rules enacted in ARPA for 2021. After 2025, all temporary child tax credit provisions expire.

[318] Sec. 24(i)(3).

[319] Sec. 24(a), (h)(2).

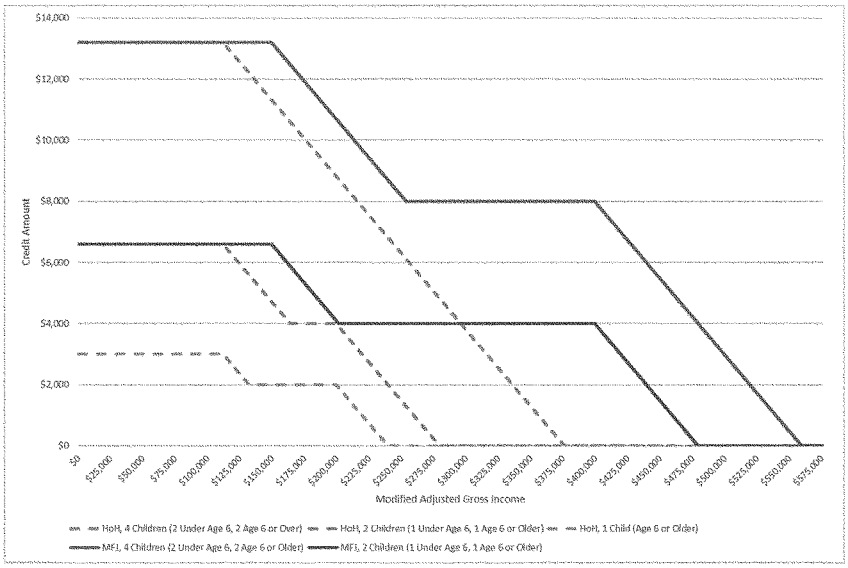
[320] Sec. 24(i)(4).

[321] Sec. 24(b), (h)(3).

[322] Sec. 24(b)(1).

Figure 1 illustrates the 2021 child tax credit by modified AGI for selected combinations of filing status and number of qualifying children.

Figure 1.– Child Tax Credit for 2021
by Modified AGI for Selected Taxpayers*



* Joint Committee staff calculations.

For tax years 2022 through 2025, the initial phaseout is not in effect, so the applicable threshold amounts at which the credit begins to phase out are $400,000 for taxpayers filing jointly and $200,000 for all other taxpayers. For tax years after 2025, the applicable threshold amounts at which the credit begins to phase out are $75,000 for individuals who are not married, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns.[323]

Through 2025, the name and Social Security number ("SSN") of the qualifying child must appear on the return, and the SSN must be issued before the due date for filing the return.[324] The SSN also must be issued to a citizen or national of the United States or pursuant to a provision of the Social Security Act relating to the lawful admission for employment in the

[323] Sec. 24(b)(2).

[324] Sec. 24(h)(7).

United States.[325] For tax years after 2025, the child tax credit may be claimed if any valid taxpayer identification number ("TIN") of the qualifying child, rather than only the SSN of the child, appears on the return.[326] In all years, the TIN of the taxpayer must be issued on or before the due date for filing the return.[327]

Dependents

Under section 152, a taxpayer's dependents include both the taxpayer's qualifying children and the taxpayer's qualifying relatives.[328] A dependent must be a citizen, national,[329] or resident of the United States or of a country contiguous to the United States (*i.e.*, Canada or Mexico).[330]

Generally, a qualifying child of a taxpayer is any child who (1) meets the age test,[331] and (2) is the taxpayer's son, daughter, stepson, stepdaughter, adopted child, foster child, brother, sister, stepbrother, stepsister, or a descendant of any such individual.[332] The child also (3) must share the same principal place of abode as the taxpayer for more than one-half of the taxable year,[333] (4) may not have provided over one-half of his or her own support for the taxable year,[334] and (5) may not file a joint return with a spouse.[335] The age test for purposes of determining a qualifying child dependent under section 152 (which differs from the child tax credit age test, as described below) requires that the qualifying child must be either (1) under the age of 19 at the end of the calendar year, (2) under the age of 24 at the end of the calendar year

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[325] See sec. 205(c)(2)(B)(i)(I) (or that portion of subclause (III) that relates to subclause (I)) of the Social Security Act.

[326] Sec. 24(e)(1).

[327] Sec. 24(e)(2).

[328] Sec. 152.

[329] Non-citizen U.S. nationals include (i) individuals born in American Samoa or (ii) certain individuals born in the Commonwealth of the Northern Mariana Islands who have chosen to be U.S. nationals instead of U.S. citizens. See 8 U.S.C. sec. 1408; *Tuaua v. United States*, 788 F.3d 300 (D.C. Cir. 2015); 48 U.S.C. sec. 1801 note, Article III.

[330] Sec. 152(b)(3). There are special rules for certain adopted children.

[331] Sec. 152(c)(1)(C), (c)(3).

[332] Sec. 152(c)(1)(A), (c)(2), (f)(1).

[333] Sec. 152(c)(1)(B).

[334] Sec. 152(c)(1)(D).

[335] Sec. 152(c)(1)(E); see also sec. 152(b)(2).

and a full-time student,[336] or (3) permanently and totally disabled at any time during the calendar year, regardless of age.[337]

A qualifying relative of a taxpayer is any individual who (1) bears the appropriate relationship to the taxpayer,[338] (2) has gross income for the taxable year that does not exceed the personal exemption amount,[339] (3) receives over one-half of his or her support from the taxpayer,[340] and (4) is not a qualifying child of the taxpayer.[341] A qualifying relative who files a joint return with a spouse does not qualify as a dependent.[342]

For purposes of the definition of qualifying relative, an individual bears the appropriate relationship to the taxpayer if the individual is the taxpayer's lineal descendent or ancestor, brother, sister, aunt, uncle, niece, or nephew.[343] Some relations by marriage also qualify, including stepmothers, stepfathers, stepbrothers, stepsisters, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law, and sisters-in-law. In addition, an individual bears the appropriate relationship if the individual has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.[344]

Qualifying Child for Purposes of the Child Tax Credit

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[336] Sec. 152(c)(3), (f)(2). To qualify as a full-time student, the individual must be, during five calendar months during a calendar year: (1) a full-time student at a school that has a regular teaching staff, course of study, and regular student body at the school, or (2) a student taking a full-time, on-farm training course given by a school described in (1), or a state, county, or local government.

[337] An individual is permanently and totally disabled if he or she cannot engage in any substantial gainful activity because of a physical or mental condition and a doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death. Secs. 22(e)(3) and 152(c)(3)(B).

[338] Sec. 152(d)(1)(A), (d)(2).

[339] Sec. 152(d)(1)(B). For tax years 2018 through 2025, the reduction of the personal exemption amount to zero under section 151(d)(5) will not be taken into account in determining whether an individual is a qualifying relative under section 152(d)(1)(B). The exemption amount referenced in section 152(d)(1)(B) will be treated as $4,150 (adjusted for inflation for taxable years beginning after 2018). See Prop. Treas. Reg. sec. 1.152-3(c)(3), 85 Fed. Reg. 35233; Notice 2018-70, 2018-38 I.R.B. 441. The personal exemption amount for this purpose is $4,300 for tax year 2021. Rev. Proc. 2020-45, 2020-46 I.R.B. 1016.

[340] Sec. 152(d)(1)(C).

[341] Sec. 152(d)(1)(D).

[342] Sec. 152(b)(2).

[343] Sec. 152(d)(2).

[344] Sec. 152(d)(2)(H).

Generally, for purposes of the child tax credit, a qualifying child is a qualifying child under section 152 who is under the age of 17.[345] For 2021 only, the age limit was increased to a qualifying child who is under the age of 18.[346] Only a child who is a U.S. citizen, national, or resident may be a qualifying child; citizens of contiguous countries are ineligible under the child tax credit definition of qualifying child.

Refundability

Prior to tax year 2021, the child tax credit was partially refundable under two separate formulas as described below. The credit is allowable against both the regular tax and the alternative minimum tax.[347]

For tax year 2021, the child tax credit is made fully refundable for taxpayers with a principal place of abode in the United States for more than one half of the taxable year.[348] Thus, the child tax credit is generally refundable up to $3,000 (or $3,600) per qualifying child. In the case of a joint return, at least one spouse must satisfy the principal place of abode requirement. Principal place of abode is determined as provided in section 32.[349] The modified AGI limitation on the credit still applies (regardless of refundability).

After tax year 2021, the refundable portion of the child tax credit (the "additional child tax credit") is subject to certain limits.[350] For tax years 2022 through 2025, the credit is treated as refundable in an amount equal to 15 percent of earned income in excess of $2,500 (the "earned income formula").[351] For tax years after 2025, the earned income threshold for the refundable child tax credit is increased to $3,000. Earned income generally has the same definition as for purposes of the EITC and is defined as the sum of wages, salaries, tips, and

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[345] Sec. 24(c). The age requirement must be met at the close of the taxable year. See 2020 Instructions 1040 (rev. April 2021), p.18.

[346] Sec. 24(i)(2).

[347] Sec. 26(a).

[348] Sec. 24(i)(1). For purposes of the principal place of abode rule, the United States includes the States and the District of Columbia. Sec. 7701(a)(9).

A refundable income tax credit means that if the amount of a taxpayer's refundable income tax credits exceeds the taxpayer's income tax liability (net of other nonrefundable credits), these credits create an overpayment, which may generate a refund or be credited against any other internal revenue tax liability. See secs. 37, 6401, and 6402. A refund or credit is authorized for a taxable year only if an overpayment exists, that is, if the amounts paid or deemed paid exceed the tax liability for that year. See sec. 6402(a).

[349] Thus, a member of the Armed Forces of the United States stationed outside the United States while serving on extended active duty is treated as having a principal place of abode in the United States. Sec. 32(c)(4).

[350] Sec. 24(d).

[351] Sec. 24(d)(1)(B)(i), (h)(6).

other taxable employee compensation plus net self-employment earnings.[352] For purposes of the additional child tax credit, only items taken into account in computing taxable income are treated as earned income.[353] However, combat pay that is excluded from gross income under section 112 is also taken into account.

In addition, after 2021, a taxpayer with three or more qualifying children may determine the additional child tax credit using the "alternative formula," if this results in a larger additional child tax credit than determined under the earned income formula. Under the alternative formula, the additional child tax credit equals the amount by which the taxpayer's Social Security taxes exceed the taxpayer's EITC.[354] After 2021, there is no principal place of abode requirement for the additional child tax credit.

For tax years 2022 through 2025, the maximum amount of the additional child tax credit is $1,400 per qualifying child.[355] This amount is indexed for inflation, although the amount may not exceed the $2,000 total amount of the child tax credit. For tax years after 2025, there is no separately stated maximum amount of the additional child tax credit; however, the refundable credit may not exceed the total amount of the credit of $1,000 for tax years after 2025.

Credit for Other Dependents

For tax years prior to 2025, a taxpayer is allowed a $500 nonrefundable credit for each dependent of the taxpayer as defined in section 152, other than a qualifying child as defined for purposes of the child tax credit.[356] For tax years after 2025, there is no tax credit for other dependents.

Withholding

Chapter 24 of the Code provides rules for employers to deduct and withhold amounts from employee wages for the payment of income tax. Under rules determined by the Secretary, an employee may be entitled to a withholding allowance that reduces the amount of income tax

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[352] Sec. 32(c)(2).

[353] Sec. 24(d)(1)(B)(i). For example, some ministers' parsonage allowances are considered self-employment income (see section 1402(a)(8)) and thus are considered earned income for purposes of computing the EITC, but they are excluded from gross income for income tax purposes and thus are not considered earned income for purposes of the additional child tax credit.

[354] Sec. 24(d)(1)(B)(ii).

[355] Sec. 24(h)(5).

[356] Sec. 24(h)(4). A child who is a qualifying child for purposes of the dependent rules under section 152, but not a qualifying child for purposes of the child tax credit (*e.g.*, a child who is age 18, or a full-time student under age 24) is eligible to be a qualifying dependent for purposes of the $500 nonrefundable credit for other dependents.

withholding. A taxpayer's withholding allowances take into account the number of children for whom it is reasonably expected that the taxpayer is entitled to a child tax credit.[357]

Temporary Advance Payments of the Child Tax Credit

In General

Effective for tax year 2021, pursuant to section 7527A, the Secretary is directed to establish a program to make periodic advance payments of the child tax credit to eligible taxpayers.[358] In aggregate, the advance payments are to equal the annual advance amount for the calendar year and, in general, are to be made in equal amounts. Monthly advance payments are only to be made for months between July 1, 2021, and December 31, 2021.[359]

The Secretary must make advance payments by electronic funds transfer as if such payments were non-tax Federal payments.[360]

Annual Advance Amount

A taxpayer's annual advance amount for a calendar year is 50 percent of the taxpayer's child tax credit for the taxable year beginning in such calendar year, but calculated based on a reference taxable year ("reference year").[361] For purposes of this calculation, (1) the taxpayer's principal place of abode is determined based on the reference year;[362] (2) the taxpayer's modified AGI for the reference year is used to determine any phaseout of credit; and (3) the taxpayer is treated as having only the number of qualifying children the taxpayer had in the reference year.[363] For purposes of this calculation, the age of any qualifying children and their status as qualifying children is determined by taking into account the passage of time. Thus, for example, a qualifying child who was 17 in the reference year would not be a qualifying child for purposes of the calculation. In addition, a qualifying child is not taken into account for the annual advance amount if the child is deceased as of the beginning of the calendar year for which the credit is determined.[364] Thus, for 2021, a child that is known to the Secretary as being

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[357] Sec. 3402(f)(1)(C).

[358] Sec. 7527A(a).

[359] Sec. 7527A(f).

[360] Sec. 7527A(e)(1). Electronic payment requirements for non-tax Federal payments are described in 31 U.S.C. sec. 3332.

[361] Sec. 7527A(b).

[362] If the information on the taxpayer's tax return for the reference year is insufficient to determine the taxpayer's principal place of abode, the Secretary may make that determination based on other information sources. Sec. 7527A(b)(4).

[363] Sec. 7527A(b)(1).

[364] Sec. 7527A(b)(5).

deceased as of January 1, 2021, is not taken into account for the advance amount for taxable year 2021.

The reference year is the taxpayer's tax year beginning in the preceding calendar year or, if the taxpayer did not file a tax return for that year, the taxpayer's taxable year beginning in the second preceding calendar year.[365] The Secretary may modify the advance annual amount for a calendar year to take into account a tax return filed by the taxpayer, including by treating the tax year of the return as the new reference year.[366] The Secretary may also modify the advance annual amount to take into account any other information provided to the Secretary by the taxpayer that allows the Secretary to more closely determine the taxpayer's child tax credit for the tax year.[367] Finally, if the Secretary does modify the advance annual amount, the Secretary may increase or decrease subsequent advance payments in the calendar year in order to account for excessive or deficient prior advance payments based on the pre-modified advance annual amount.[368]

The Secretary is directed to create an online portal to allow taxpayers to provide information regarding (1) a change in the number of the taxpayer's qualifying children, including by reason of the birth of a qualifying child; (2) a change in the taxpayer's marital status; (3) a significant change in the taxpayer's income; and (4) any other factors that the Secretary may provide.[369] A taxpayer may also use the online portal to elect out of advance payments.[370]

Withholding and Administrative Provisions

The Secretary must take the receipt of advance payments of the child tax credit into account in determining the rules regarding withholding allowances.

The Secretary must provide notice to the taxpayer of the aggregate amount of advance payments made to the taxpayer during the calendar year and other information as the Secretary determines appropriate by no later than January 31 of the calendar year following the year in which any such payments were made.[371]

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[365] Sec. 7527A(b)(2).

[366] Sec. 7527A(b)(3)(A).

[367] *Ibid.*

[368] Sec. 7527A(b)(3)(B).

[369] Sec. 7527A(c)(2).

[370] Sec. 7527A(c)(1).

[371] Sec. 7527A(d).

Any advance payment is not subject to reduction or offset by other assessed Federal taxes that would otherwise be subject to levy or collection, by other taxes, or by non-tax debts owed to the Federal government or State governments.[372]

Reconciliation

The amount of the child tax credit allowed for any tax year is reduced by the aggregate advance payments made during the tax year.[373] A failure to so reduce the credit is treated as a mathematical or clerical error.

If the taxpayer receives advance payments in excess of the taxpayer's allowable child tax credit during a tax year, the taxpayer's tax liability for the taxable year is increased by the excess amount.[374] This increase in tax liability is not considered to be part of a taxpayer's regular tax liability.[375] However, for taxpayers that have modified AGI below certain thresholds, the excess amount may be reduced by a safe harbor amount, limiting the increase in tax liability and allowing the taxpayer to retain a portion of the excess amount. The safe harbor amount is $2,000 for each child incorrectly taken into account in determining the advance payment amount, subject to a phaseout based on taxpayer modified AGI.[376]

Regulatory Authority

The Secretary is directed to issue regulations or other guidance the Secretary determines is necessary or appropriate to carry out the advance payment program, the temporary changes to the child tax credit, and the reconciliation of the child tax credit and advance payments.[377] This includes regulations or other guidance that provide for the application of these rules in cases where the filing status of the taxpayer changes between taxable years.

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[372] Sec. 7527A(e)(3).

[373] Sec. 24(j)(1).

[374] Sec. 24(j)(2).

[375] See sec. 26(b). Because of this, the taxpayer may not use nonrefundable tax credits to offset the increase. Sec. 26(a).

[376] The safe harbor amount is $2,000 multiplied by the difference in number of qualifying children used to determine the advance amount and number of qualifying children used to determine the credit for the taxable year. The full safe harbor amount is allowed to taxpayers with modified AGI of up to $60,000 for married taxpayers filing jointly and surviving spouses, $50,000 for heads of households, and $40,000 for all other taxpayers. The safe harbor amount is reduced ratably over these same sized intervals for each filing status, respectively. Thus, the safe harbor amount is $0 if modified AGI equals or exceeds $120,000 for married taxpayers filing jointly and surviving spouses, $100,000 for heads of households, and $80,000 for all other taxpayers.

[377] Sec. 7527A(g).

Application of the Child Tax Credit in the Territories of the United States

The three mirror Code territories (Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands) have, under their mirror Codes, a child tax credit identical to that in the U.S. Code. A resident of one of these territories claims the child tax credit on the income tax return filed with the territory's revenue authority. The non-mirror Code territories (Puerto Rico and American Samoa) do not have a mirror child tax credit because they have their own internal revenue laws.

Prior to 2021, residents of the territories with three or more qualifying children could receive the additional child tax credit under the alternative formula in the U.S. Code. The U.S. Treasury historically has made payments to each territory other than Puerto Rico to cover the cost of this credit. Residents of Puerto Rico could claim the additional child tax credit under the alternative formula by filing a Form 1040-SS or Form 1040-PR with the IRS.

Application of the Child Tax Credit in the Territories Beginning in 2021

Beginning in 2021, the Secretary must make payments to each territory that relate to the cost or approximate cost of that territory's child tax credit or make payments of the credit directly to territory residents. These payments reflect the full child tax credit, not just the additional child tax credit under the alternative formula.

The Secretary must make payments to each of Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands in an amount equal to the loss in revenue by reason of the application of the child tax credit to the territory's mirror Code for the taxable year.[378] This amount is determined by the Secretary based on information provided by the government of the territory. Because of their mirror Codes, the temporary changes to the child tax credit apply to these territories for 2021. No child tax credit under the Internal Revenue Code is permitted for any resident of a mirror Code territory with respect to whom a child tax credit is allowed against income taxes of the territory.

For 2021, the child tax credit is made fully refundable for taxpayers who are bona fide residents of Puerto Rico for the taxable year, claimed by filing a tax return with the IRS.[379] Thus, for bona fide residents of Puerto Rico, the child tax credit is generally refundable up to $3,000 (or $3,600) per qualifying child, without regard to the earned income formula or alternative formula, but subject to the modified AGI phaseouts.

For tax years after 2021, bona fide residents of Puerto Rico may claim an additional child tax credit up to the maximum amount[380] from the U.S. Treasury under the alternative

[378] Sec. 24(k)(1).

[379] Sec. 24(i)(1).

[380] This amount is $1,400 for taxable years beginning in 2021, prior to being increased by ARPA.

formula, but determined without regard to the requirement that the taxpayer have three or more children, by filing a return with the IRS.[381]

The Secretary must make payments to American Samoa in an amount estimated by the Secretary as being equal to the aggregate benefits that would have been allowed to residents of American Samoa under the child tax credit if a mirror Code tax system had been in effect in American Samoa in that taxable year.[382] These amounts include, for 2021, amounts resulting from the temporary expansion of the child tax credit. The Secretary is prohibited from making these payments unless American Samoa has a plan approved by the Secretary to promptly distribute the payments to its residents. For years with respect to which American Samoa has an approved plan, no child tax credit under the Internal Revenue Code is permitted for any person who is eligible for a payment under the plan. If American Samoa does not have a plan in place for a taxable year, a bona fide resident of American Samoa may claim a child tax credit by filing a return with the IRS under rules similar to those for Puerto Rico, described above.

Each of the mirror Code territories and American Samoa may elect to provide territory residents with advance payments of the child tax credit, as administered by the territory government.[383] The Secretary shall provide administrative expenses to a territory making such election.[384] The child tax credit advance payment program does not apply to Puerto Rico.[385]

Explanation of Provision

Modifications Applicable Beginning in 2021

For tax year 2021, the provision makes several modifications to the child tax credit and advance payment rules. First, recapture is allowed without taking into account the safe harbor amount for a child if the Secretary determines that the child was taken into account in determining the annual advance amount due to fraud by the taxpayer or intentional disregard of rules and regulations by the taxpayer. For this purpose, intentional disregard of the rules and regulations includes, with respect to any child taken into account in determining the annual advance amount of a taxpayer, such taxpayer entering into a plan or other arrangement with, or expecting, another taxpayer to take the child into account in determining the credit for the tax year.

The provision also provides a rule regarding advance payments with respect to a joint return by treating half of such payment as being made to each individual filing the return.

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[381] Sec. 24(k)(2).

[382] Sec. 24(k)(3).

[383] Sec. 7527A(e)(4)(B), (C).

[384] Sec. 7527A(e)(4)(C).

[385] Secs. 24(k)(2)(A)(ii) and 7527A(e)(4)(A).

Finally, the provision clarifies that the annual advance amount used to make advance payments may be determined based on other information known to the Secretary.

Each of these modifications also will apply for tax year 2022.

Extension and Modification of Child Tax Credit, Modification of Other Dependent Credit, and Advance Payment for 2022

The provision extends many of the ARPA expansions that otherwise expire after 2021 through tax year 2022. These extensions include (i) full refundability for taxpayers who have a principal place of abode in the United States for more than one-half of the year or who are bona fide residents of Puerto Rico for the tax year, (ii) the increase in the age limit of a qualifying child for purposes of the child tax credit to include children who have not attained age 18, (iii) the increase in child tax credit amount to $3,000, and $3,600 for qualifying children who have not attained the age of 6, (iv) the application of the initial phaseout to the increased child tax credit amount at the following applicable threshold amounts: $150,000 for taxpayers filing jointly or surviving spouses, $112,500 for head of household taxpayers, and $75,000 for all other taxpayers, and (v) certain rules regarding payments to the territories and payments directly to the territory residents with respect to the child tax credit.

The provision changes the modified AGI used for purposes of the income phaseout of the credit to be the modified AGI of the taxpayer for the preceding tax year (2021) if such modified AGI is less than the modified AGI of the current tax year (2022).

Under the provision, for tax year 2022, the child tax credit may be claimed if any valid taxpayer identification number ("TIN") of the qualifying child, rather than only the SSN of the child, appears on the return. The TIN must be issued on or before the due date of the return.

For purposes of reconciling the aggregate advance payments with the child tax credit, the safe harbor amount for tax year 2022 is $3,000 ($3,600 in the case of a qualifying child who has not attained age 6) for each qualifying child taken into account in determining the annual advance amount with respect to the taxpayer for months beginning in the tax year, but not taken into account in determining the credit allowed to such taxpayer for the tax year.

The provision also adjusts the $3,000 and $3,600 child tax credit amounts, the $500 other dependent credit, and the child tax credit initial phaseout thresholds for inflation, from 2021, beginning in 2022. The new safe harbor amount is also adjusted for inflation to match the child tax credit amounts. The inflation adjustment is made using the CPI (as opposed to the chained CPI).

The provision also extends advance payments of the child tax credit under section 7527A through December 31, 2022, and removes the 50 percent limit on the annual advance

amount that was applicable for 2021. Accordingly, advance payments will be made for the full year in 2022, rather than one-half of the year as in 2021.[386]

Establishment of Monthly Child Tax Credit for 2023 through 2025

The provision creates, for tax years 2023 through 2025, a new monthly refundable child tax credit in section 24A in lieu of the existing child tax credit in section 24.[387] The credit allowed for the tax year is the sum of the monthly specified child allowances for the taxpayer for each calendar month during the tax year. The monthly specified child allowance for any month is $250 for each specified child, or $300 for each specified child who will not, as of the close of the tax year which includes such month, have attained age six.

The credit is fully refundable for any month for which the taxpayer (in the case of a joint return, either spouse) has a principal place of abode in the United State or Puerto Rico for more than one-half of the calendar month.[388]

A central feature of the new monthly child tax credit is the requirement of the taxpayer to establish presumptive eligibility. Presumptive eligibility, as described in detail below, allows a child to be treated as the specified child of a taxpayer and therefore allows a taxpayer to claim a monthly child tax credit and receive advance payments for such child. In addition, presumptive eligibility provides protection from recapture. Advance payments generally may not be recaptured unless they are made outside of a period of presumptive eligibility (for example, a period of presumptive eligibility ends if the taxpayer was found to have committed fraud or intentionally disregarded rules or regulations in establishing presumptive eligibility or if a child moved and another taxpayer established presumptive eligibility).

Monthly Specified Child Allowance

The monthly specified child allowance is reduced under two separate phaseouts. The initial phaseout applies to taxpayers with modified AGI over an applicable threshold amount of $150,000 for married taxpayers filing jointly and for surviving spouses, $75,000 for married individuals filing a separate return, and $112,500 for all other taxpayers. The secondary phaseout applies at higher applicable threshold amounts of $400,000 for taxpayers filing jointly and for surviving spouses, $300,000 for heads of households, and $200,000 for all other taxpayers. For both phaseouts, the amount of monthly child tax credit is reduced by 1/12 of five percent of the excess (if any) of modified AGI for the applicable taxable year over the applicable threshold amount. However, the initial phaseout is limited so that it does not reduce the monthly

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[386] The Secretary remains obligated to take the receipt of advance payments of the child tax credit into account in determining the rules regarding withholding allowances.

[387] During this period the existing child tax credit in section 24 does not apply.

[388] All determinations of principal place of abode under the provision are determined as provided in section 32.

specified child allowance below $166.67.[389] For purposes of the modified AGI limitations, modified AGI means AGI increased by any amount excluded from gross income under section 911 (foreign earned income exclusion), 931 (exclusion of income for a bona fide resident of American Samoa), or 933 (exclusion of income for a bona fide resident of Puerto Rico).

Modified AGI for the applicable taxable year means the tax year for which the taxpayer has the lowest modified AGI among the current tax year and the two preceding tax years.

The provision adjusts the monthly specified child allowance and the initial phaseout thresholds for inflation, from 2021, beginning in tax year 2023 and using the CPI. The provision reflects that the annualized monthly specified child allowance for a specified child is the $3,000 (or $3,600 for qualifying or specified children who have not attained the age of 6) first in effect for 2021, adjusted consistently for inflation in each subsequent year.

Specified Child

Under the provision a specified child with respect to a taxpayer for a calendar month is defined as a child:

1. Who has the same principal place of abode as the taxpayer for more than one-half of the month,

2. Who is younger than the taxpayer and will not, as of the close of the tax year which includes such month, have attained age 18,[390]

3. Who receives care from the taxpayer during the month that is not compensated,

4. Who is not the spouse of the taxpayer during the month,

5. Who is not a taxpayer with respect to whom any child is a specified child for the month, and

6. Who is either a citizen, national, or resident of the United States, or, if the taxpayer is a citizen or national of the United States, who is legally adopted by the taxpayer or is lawfully placed with the taxpayer for legal adoption by the taxpayer

In determining principal place of abode, a temporary absence is treated as a day at the child's principal place of abode and not a day at any other location. An absence is treated as

[389] Thus, the annualized amount for a specified child cannot be reduced below $2,000 under the initial phaseout.

[390] A taxpayer receives no monthly specified child allowances for any months in the calendar year during which a child turns 18 years old, meaning credits may be made for a total of 18 years for a given child (12 months for each calendar year during which the child is age zero to 17).

temporary if the child would have resided at the place of abode but for the absence and it is reasonable to assume that the child will return to reside at the place of abode.

The provision provides that, except as otherwise provided by the Secretary, whether a child receives care from the taxpayer is a facts and circumstances determination based on the following factors: (i) the supervision provided by the taxpayer regarding the daily activities and needs of the child, (ii) the maintenance by the taxpayer of a secure environment at which the child resides, (iii) the provision or arrangement by the taxpayer of, and transportation by the taxpayer to, medical care for the child at regular intervals and as required, (iv) the involvement by the taxpayer in, and financial and other support by the taxpayer for, educational or similar activities of the child, and (v) any other factor that the Secretary determines appropriate. For determining whether care is compensated, compensation from the Federal government, a State or local government, a tribal government, or territorial government is not taken into account.

The provision provides special rules regarding the birth and death of a specified child. In the case of a birth, the child is treated as a specified child of the relevant taxpayer for each month in the calendar year that precedes the first calendar month that the child is a specified child with respect to any taxpayer. That is, a taxpayer properly claiming a newborn may receive a monthly specified child allowance for the entire year of the birth (*e.g.*, a December birth results in 12 monthly allowances for the year of birth).[391] In the case of death, the child is treated as a specified child of the relevant taxpayer for each month in the calendar year that follows the last month the child is alive. The relevant taxpayer is the first (in the case of birth) or last (in the case of death) taxpayer for whom the child is a specified child.

Tie-Breaking Rules

The provision provides for tie-breaking rules similar to tie-breaking rules in section 152, but with certain modifications. Under the provision, if a child would otherwise be a specified child with respect to more than one individual for a month (*e.g.*, a child lives with his or her mother and grandmother in the same residence) and more than one taxpayer claims the credit with respect to that child, then the following rules apply. First, if only one of the individuals claiming the child as a specified child is the child's parent, the child is treated as the specified child of the parent. Second, if the child is not a specified child of any parent, the child is treated as the specified child of the specified relative with the highest AGI for the tax year that includes the month at issue.[392] Third, if the child is not a specified child of any parent or specified relative, the child is treated as the specified child of the taxpayer claiming the child with the highest AGI for the tax year that includes the month at issue. Fourth, if both parents claim the child and the parents do not file a joint return, then the child is deemed a specified child first with respect to the parent with whom the child resides for the longest period of time during the month, and second with respect to the parent with the highest AGI for the tax year that

[391] Thus, a specified child, regardless of when the child is born during the year, will have the same number of (i) total months for which the child may be claimed for the credit for children under 6 and (2) total months for which the child may be claimed for the credit.

[392] A specified relative for this purpose is (i) an ancestor of a parent of the specified child, (ii) a brother or sister of a parent of the specified child, or (iii) a brother, sister, stepbrother, or stepsister of the specified child.

includes the month at issue. If a parent of the child elects not to treat the child as a specified child for the month, then such parent is disregarded in applying the tie-breaking rules if the claimant's AGI is higher than the highest AGI of any parent of the child for the tax year that includes the month at issue.[393] A similar rule applies for specified relatives electing not to treat the child as a specified child for the month.

Rules similar to the special rules provided for divorced parents in section 152(e) apply for purposes of the provision. In general, these rules allow divorced parents to share the child tax credit by agreement. In addition, the rules for missing children in section 152(f)(6) apply for purposes of the provision.

Presumptive Eligibility

In determining specified child status, the provision provides that if a period of presumptive eligibility has been established under the advance payment rules in proposed section 7527B for a child with respect to a taxpayer, then the child is treated as the specified child of such taxpayer for any month in the period of presumptive eligibility, and is not treated as the specified child of any taxpayer for whom a period of presumptive eligibility has not been established. If a taxpayer does not elect to receive advance payments, such taxpayer is not precluded from establishing a period of presumptive eligibility for any specified child for purposes of claiming the monthly child tax credit on a tax return.

Identification Requirement

The provision provides that the name and TIN of the specified child must appear on the return, and the TIN must be issued on or before the due date for filing the return. In addition, the TIN of the taxpayer must be issued on or before the due date for filing the return for the tax year.

Disallowance for Prior Fraudulent, Reckless, or Improper Claims

The monthly child tax credit and advance payments of the credit are disallowed for certain periods after a taxpayer has made a fraudulent, reckless, or other improper claim for the credit. If there is a final determination that a taxpayer's claim of the monthly child tax credit or receipt of advance payment is fraudulent, the taxpayer is not allowed the monthly child tax credit or advance payment for any period beginning on the date of the final determination and for the 10 taxable years after the year of the fraudulent claim. If there is a final determination that a taxpayer's claim of the monthly child tax credit or receipt of advance payment is due to reckless or intentional disregard of rules and regulations, the taxpayer is not allowed the monthly child tax credit or advance payment for any period beginning on the date of the final determination and for the two taxable years after the reckless claim. If a taxpayer makes a monthly child tax credit claim that is not determined to be fraudulent or reckless but that is denied under the deficiency

[393] Thus, for example, if a child would otherwise be the specified child of a parent and grandparent for a month, and the grandparent has a higher AGI for the tax year that includes the month, the parent may elect not to treat the child as a specified child, allowing the child to be the specified child of the grandparent. If the parent has a higher AGI for the tax year that includes the month, no such election is allowed.

procedures of subchapter B of chapter 63 of the Code, the taxpayer is not allowed the monthly child tax credit for any subsequent year and the advance payments for any subsequent month unless the taxpayer provides such information that the Secretary may require to demonstrate eligibility for the credit.

Advance Payment of the Monthly Child Tax Credit for 2023 through 2025

For tax years 2023 through 2025, pursuant to proposed section 7527B, the Secretary is directed to establish a program to make monthly advance child payments of the monthly child tax credit.

Monthly Advance Child Payment

The monthly advance child payment with respect to a taxpayer for a calendar month is the amount estimated by the Secretary as the monthly specified child allowance under proposed section 24A (monthly child tax credit) for the taxpayer for the calendar month, but calculated based on a reference month and a reference taxable year. For purposes of this calculation, (1) unless determined by the Secretary, based on any information known to the Secretary, the taxpayer is treated as having only the specified children the taxpayer had for the reference month; (2) unless determined by the Secretary, based on any information known to the Secretary, the ages of such children (and the status of such children as specified children) are determined by taking into account the passage of time since the reference month; (3) the taxpayer's modified AGI for the reference taxable year, rather than the applicable taxable year, is used to determine any phaseout of the credit; and (4) unless determined by the Secretary, based on any information known to the Secretary, no monthly specified child allowance is determined for the taxpayer unless the taxpayer (in the case of a joint return, either spouse) has a principal place of abode in the United States or Puerto Rico for more than one-half of the reference month.

The name and TIN of the specified child must be provided on the tax return for the reference taxable year or via a specified alternative mechanism (if information for purposes of advance payments was provided via a specified alternative mechanism).[394]

A specified child is not taken into account for the monthly advance child payment if the child is deceased as of the beginning of the calendar year that includes the month at issue if the Secretary knows of the child's death as of date on which the Secretary estimates the monthly payment. Thus, for 2023, a child that is known to the Secretary as being deceased as of January 1, 2023, is not taken into account for any monthly advance child payment in 2023.

For purposes of determining monthly advance child payments, the reference month with respect to any taxpayer for any calendar month is the most recent of (i) in the case of a taxpayer who filed a tax return for the last tax year ending before the calendar month, the last month of such tax year, (ii) in the case of a taxpayer who filed a tax return for the tax year preceding the last tax year ending before the calendar month, the last month of such preceding tax year, and (iii) in the case of a taxpayer who provided information through a specified alternative mechanism which is sufficient to estimate the taxpayer's monthly advance child

[394] In addition, the TIN must be issued on or before the due date for filing the return for the tax year.

payment for the month, such month. The reference taxable year is the most recent of (i) the taxpayer's last tax year ending before the calendar month, (ii) the tax year preceding the last tax year ending before the calendar month, or (iii) in the case of a taxpayer who provided information through a specified alternative mechanism which is sufficient to estimate the taxpayer's modified AGI for the tax year that includes such month, such tax year.

No month or year described above shall be taken into account for purposes of determining the reference month or reference taxable year unless all relevant information is available to the Secretary and the Secretary has adequate time to make estimates on the basis of the information before the beginning of the calendar month at issue. If the taxpayer has not provided sufficient information under any of the methods described above, the monthly advance child payment is zero, unless the Secretary determines that the Secretary can make estimates on the basis of reasonably reliable information known to the Secretary.

The Secretary is directed to create an on-line portal to allow taxpayers to provide information regarding the monthly advance child payment, including (1) the number of the taxpayer's specified children, including by reason of the birth of a specified child; (2) the taxpayer's marital status; (3) the taxpayer's income; (4) the taxpayer's principal place of abode, and (5) any other factors that the Secretary may provide. A taxpayer may also use the on-line portal to elect in or out of advance payments.

A specified alternative mechanism includes the on-line portal described above, the on-line portal established for purposes of advance payments of the child tax credit under section 7527A, and any other mechanism or method established by the Secretary to allow taxpayers to provide the information described above for the on-line portal. Such mechanism includes the filing of a tax return.

Presumptive Eligibility for Monthly Advance Child Payments

In addition to the above rules, a child shall be treated as a specified child of a taxpayer for purposes of determining the monthly advance child payment for a month only if the month is part of a period of presumptive eligibility for the taxpayer. A taxpayer establishes presumptive eligibility with respect to a specified child for a month at the time and in the manner provided by the Secretary. Except as otherwise provided by the Secretary, to establish the period of presumptive eligibility for a specified child, the taxpayer must express a reasonable expectation and intent that the taxpayer will continue to be eligible with respect to the specified child for at least two months following the month for which presumptive eligibility is established. Presumptive eligibility may be established by providing information on the prior-year tax return, through the on-line portal, or in such other manner as the Secretary may provide.

Except as otherwise provided by the Secretary, a period of presumptive eligibility begins with the month for which presumptive eligibility is established and ends with the earliest of (i) the beginning of that same month if the Secretary determines the taxpayer committed fraud or intentionally disregarded rules or regulations in establishing presumptive eligibility (*i.e.*, no presumptive eligibility), (ii) in the case of notification from the Secretary that the period of presumptive eligibility has been terminated or suspended because of a question regarding the taxpayer's eligibility, the month specified in the notification as when termination or suspension

begins, and (iii) the month following any failure of the taxpayer to make the required annual renewal of presumptive eligibility by the date prescribed by the Secretary. Periods of presumptive eligibility include any period of hardship or grace period as described below.

Under the provision, the Secretary shall issue regulations or other guidance to establish procedures to the maximum extent administratively feasible allowing for automatic presumptive eligibility for the birth of a child. In addition, the Secretary shall issue regulations or other guidance to establish procedures allowing for automatic presumptive eligibility, and termination of such eligibility, for a parent or specified relative of a child based on information provided to the Secretary by one or more government entities.

If a taxpayer's period of presumptive eligibility ends because of a failure to make the required annual renewal of presumptive eligibility, the Secretary shall provide written notice to the taxpayer.

Specified Child of More than one Taxpayer

In the event of competing claims for a monthly advance child payment with respect to a specified child by more than one taxpayer for the same calendar month, the child shall be taken into account only by the taxpayer with the most recent reference month. If more than one taxpayer has the same reference month, or if any taxpayer uses the specified alternative method to receive the monthly advance child payment for a specified child of another taxpayer, the Secretary shall establish procedures under which the Secretary expeditiously adjudicates the competing claims of presumptive eligibility. The procedures shall provide for an expedited process and for appeals.

The Secretary may make a one-time retroactive payment following the adjudication of a competing claim if the Secretary determines that a child is a specified child of a taxpayer and the Secretary did not make payments to the taxpayer with respect to the child during the period of the determination. The retroactive payment shall be limited to the increase in the aggregate amount of monthly advance child payments that the taxpayer would have received during the determination period if the determination had been made immediately.

If the Secretary makes payments during the determination period with respect to a child, the Secretary shall provide notice to each taxpayer that such payments may be subject to recapture. Upon making a determination to resolve competing claims, the Secretary shall determine whether any such payments should be subject to recapture and notify the affected taxpayers.

The provision provides for information sharing with other Federal agencies; State, local, tribal, and territorial governments; and other individuals or entities as appropriate for purposes of adjudicating a competing claim. Such an adjudication shall not be treated as an assessment, examination, or inspection of the taxpayer for purposes of administrative provisions in the Code.[395]

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[395] See secs. 6201 and 7605(b).

Grace Periods and Hardships

In the event of a failure or delay in establishing presumptive eligibility for a specified child, a taxpayer may elect to receive a retroactive advance payment or monthly child tax credit for a period of up to three months. The grace-period payment or credit is allowed to a taxpayer only once in a 36-month period. No grace-period payment or credit may be made or allowed in the event of fraud or reckless or intentional disregard of rules and regulations.

In the event of a failure or delay in establishing presumptive eligibility for a specified child due to hardship, a taxpayer is allowed a retroactive advance payment or monthly child tax credit for a period of up to six months. A hardship includes domestic violence, serious illness, natural disaster, or any other hardship, as determined by the Secretary.

Reconciliation of Credit and Monthly Advance Child Payments

The amount of the monthly child tax credit allowed for any tax year is reduced by the aggregate advance payments made during the tax year. A failure to so reduce the credit is treated as a mathematical or clerical error.

If a taxpayer is subject to recapture and receives advance payments in excess of the taxpayer's allowable monthly child tax credit during a tax year, the taxpayer's tax liability for the tax year is increased by the excess amount. This increase in tax liability is not considered to be part of a taxpayer's regular tax liability.[396] Taxpayers are subject to recapture if they are described in any of the following:

1. The Secretary determined that the aggregate amount of advance payments with respect to the taxpayer for the tax year was determined on the basis of fraud or reckless or intentional disregard of rules and regulations.

2. The aggregate amount of advance payments with respect to the taxpayer for the tax year was determined on the basis of modified AGI that was less than the taxpayer's modified AGI for appliable taxable year (the lowest modified AGI of the current tax year and the two preceding tax years). The amount subject to recapture is limited to the increase in advance payments due to the use of the lower modified AGI. A similar rule applies if the aggregate amount of advance payments with respect to the taxpayer for the tax year was determined on the basis of a filing status that differs from the taxpayer's filing status for the applicable tax year.

3. An advance payment was made to a taxpayer with respect to a child for a month which was not part of a period of presumptive eligibility for the child. The amount subject to recapture is limited to the amount of advance payments made outside of a period of presumptive eligibility.

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[396] See sec. 26(b). Because of this, the taxpayer may not use nonrefundable tax credits to offset the increase. Sec. 26(a).

4. The Secretary notifies the taxpayer under procedures established to adjudicate competing claims of presumptive eligibility with respect to the same child that the taxpayer is subject to recapture with respect to certain advance payments. The amount subject to recapture is limited to the aggregate amount of such payments.

5. The taxpayer has a principal place of abode in the United States or Puerto Rico for more than one-half of one or more calendar months during the tax year but does not have such a principal place of abode for all calendar months during the tax year, pursuant to regulations or other guidance issued by the Secretary for purposes of minimizing advance payments made to ineligible individuals.

6. Other recapture circumstances described in regulations or other guidance issued by the Secretary to facilitate administration and enforcement of advance payments and to minimize the amount of advance payments made to ineligible individuals and to prevent abuse.

The provision also provides a rule regarding advance payments with respect to a joint return by treating half of such payment as being made to each individual filing the return.

Administrative Provisions

The Secretary must make advance payments by electronic funds transfer as if such payments were non-tax Federal payments.[397]

Any advance payment is not subject to reduction or offset by other assessed Federal taxes that would otherwise be subject to levy or collection, by other taxes, or by non-tax debts owed to the Federal government or State governments.[398]

The Secretary must provide notice to the taxpayer of the aggregate amount of advance payments made to the taxpayer during the calendar year and other information as the Secretary determines appropriate by no later than January 31 of the calendar year following the year in which any such payments were made. If the Secretary has determined that any payments made to the taxpayer are subject to recapture, the notice shall include the amounts subject to recapture.

The Secretary must take the receipt of advance payments of the monthly child tax credit into account in determining the rules regarding withholding allowances.

The monthly advance payment program established pursuant to proposed section 7527B terminates for any month beginning after December 31, 2025.

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[397] Electronic payment requirements for non-tax Federal payments are described in 31 U.S.C. sec. 3332.

[398] See rules in sec. 6402(c) through (f).

Application of the Monthly Child Tax Credit and Advance Payments in the Territories for 2023 through2025

Under the provision, the Secretary must make payments to each territory, with the exception of Puerto Rico, that relate to the cost or approximate cost of that territory's monthly child tax credit or make payments of the credit directly to territory residents for tax years 2023 through 2025. Puerto Rican residents claim the credit directly from the IRS.

The Secretary must make payments to each of Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands in an amount equal to the loss in revenue by reason of the application of the monthly child tax credit to the territory's mirror Code for the taxable year. This amount is determined by the Secretary based on information provided by the government of the territory. No monthly child tax credit under the Internal Revenue Code is permitted for any resident of a mirror Code territory with respect to whom a monthly child tax credit is allowed against income taxes of the territory.

For 2023 through 2025, the monthly child tax credit is made fully refundable for taxpayers with a principal place of abode in Puerto Rico for more than one-half of any calendar month during the tax year, claimed by filing a tax return with the IRS. In addition, such taxpayers may receive advance payment of the monthly child tax credit from the IRS.

The Secretary must make payments to American Samoa in an amount estimated by the Secretary as being equal to the aggregate benefits that would have been allowed to residents of American Samoa under the monthly child tax credit if a mirror Code tax system had been in effect in American Samoa in 2023 through 2025. The Secretary is prohibited from making these payments unless American Samoa has a plan approved by the Secretary to promptly distribute the payments to its residents. For years with respect to which American Samoa has an approved plan, no monthly child tax credit under the Internal Revenue Code is permitted for any person who is eligible for a payment under the plan. If American Samoa does not have a plan in place for a tax year, a taxpayer with a principal place of abode in American Samoa for more than one-half of any calendar month during the tax year may claim a monthly child tax credit by filing a return with the IRS under rules similar to those for Puerto Rico, described above.

Each of the mirror Code territories and American Samoa may elect to provide territory residents with advance payments of the monthly child tax credit for tax years 2023 through 2025, as administered by the territory government. The Secretary shall provide administrative expenses to a territory making such election.

Regulatory Authority

The Secretary is directed to issue regulations or other guidance the Secretary determines is necessary or appropriate to carry out the purposes of the monthly child tax credit. This includes regulations or other guidance (1) for determining whether an individual receives care from a taxpayer for purposes of the specified child definition, and (2) to coordinate or modify the application of the monthly child tax credit with the child tax credit under section 24 and the advance payment provisions in section 7527A and proposed section 7527B, (i) in the case of any taxpayer whose tax year is other than a calendar year, (ii) whose filing status for a tax year is

different from the status used for determining advance payments during such tax year, or (iii) whose principal place of abode for any month is different than the principal place of abode used for determining the monthly advance payment for such month.

Credit for Certain Other Dependents

For tax years 2023 through 2025, the provision modifies the existing credit for other dependents by creating a new credit in proposed section 24B with similar rules to the existing credit. Under the provision, a taxpayer is allowed a $500 nonrefundable credit for each dependent of the taxpayer as defined in section 152, other than a specified child as defined for purposes of the monthly child tax credit. In addition, the dependent must be a citizen, national, or resident of the United States. The $500 credit amount is indexed for inflation, from 2021, beginning in 2023 and using the CPI.[399]

The credit for other dependents is reduced by $50 for each $1,000 (or fraction thereof) of modified AGI over the threshold amount. The threshold amounts are $400,000 for taxpayers filing jointly and for surviving spouses, $300,000 for heads of households, and $200,000 for all other taxpayers. The phaseout is separate from the monthly child tax credit phaseout of proposed section 24A.

The provision provides that the name and TIN of the dependent must appear on the return, and the TIN must be issued on or before the due date for filing the return. In addition, the TIN of the taxpayer must be issued on or before the due date for filing the return.

For tax years after 2025, there is no tax credit for other dependents.

Refundable Child Tax Credit after 2025

For tax years after 2025, the child tax credit under section 24 is made fully refundable for taxpayers (in the case of a joint return, either spouse) who have a principal place of abode in the United States for more than one-half of the tax year. The credit is also fully refundable for taxpayers who are bona fide residents of Puerto Rico and, in the absence of a plan by American Samoa to administer its own child tax credit program, who are bona fide residents of American Samoa. Bona fide residents of Puerto Rico and American Samoa (in the absence of a plan by American Samoa to administer its own program) may claim the credit directly from the IRS.

The provision does not modify the current law requirement that the Secretary continue its cover over to the mirror Code territories and (if it has a plan to administer its own program) American Samoa.

There is no provision for advance payments after 2025.

Effective Date

[399] The policy reflects that the credit amount of $500 is first adjusted for inflation in 2022, and then adjusted consistently for inflation in each subsequent year.

The provision modifying the child tax credit rules for 2021 is effective for taxable years beginning, and payments made, after December 31, 2020.

The provision providing a one-year extension of the ARPA expansions of the child tax credit (*i.e.*, for 2022) is effective for taxable years beginning, and payments made, after December 31, 2021.

The provision providing for establishment of a monthly child tax credit through 2025 is effective for taxable years beginning after December 31, 2022. The provision providing for advance payments of such credit is effective for payments made for calendar months beginning after December 31, 2022.

The provision providing for a refundable child tax credit after 2025 is effective for taxable years beginning after December 31, 2025.

2. Appropriations (Sec. 136105 of the bill)

Explanation of Provision

This provision appropriates $10,000,000,000 to remain available through September 30, 2026, $9,000,000 of which is for the IRS to administer the child tax credit, and $1,000,000 of which is designated for the IRS to increase out reach and enrollment efforts for the child tax credit. c.

Effective Date

The provision is effective on date of enactment of this Act.

PART II — CHILD AND DEPENDENT CARE TAX CREDIT

1. Certain improvements to the child and dependent care credit made permanent (sec. 137201 of the bill and sec. 21 of the Code)

Present Law

Child and Dependent Care Tax Credit

General Structure

Under section 21, a taxpayer with one or more qualifying individuals may claim a credit against income tax liability for employment-related expenses for child and dependent care.[400] For this purpose, employment-related expenses are expenses for household services and expenses for the care of a qualifying individual.[401] These expenses must be incurred to enable the taxpayer to be gainfully employed during any period for which there are one or more qualifying individuals with respect to the taxpayer.

The amount of employment-related expenses that may be taken into account for purposes of the credit is subject to a limitation. The applicable limitation is reduced by any amount excluded from income under an employer-provided dependent care assistance program under section 129.

Generally, a qualifying individual is: (1) a dependent[402] of the taxpayer who is under the age of 13, or (2) a dependent or spouse of the taxpayer if the dependent or spouse is physically or mentally incapable of caring for himself or herself and shares the same principal place of abode with the taxpayer for over one half the year.[403] Married taxpayers must file a joint return in order to claim the credit.

Credit for 2021

For taxable years beginning in 2021, the credit is refundable for a taxpayer who has a principal place of abode in the United States for more than one half of the taxable year.[404] In the case of a joint return, refundability is allowed if at least one spouse satisfies the principal place of

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[400] Sec. 21.

[401] Sec. 21(b)(2). Expenses do not include amounts paid for a camp where a qualifying individual stays overnight. Household services are the performance in and about the taxpayer's home of ordinary and usual services necessary to the maintenance of the household and attributable to the care of the qualifying individual. Treas. Reg. sec. 1.21-1(d)(3).

[402] See sec. 152 for the definition of dependent.

[403] Sec. 21(b)(1).

[404] Sec. 21(g)(1).

abode requirement. Principal place of abode is determined as provided in section 32.[405] A taxpayer who does not satisfy the principal place of abode requirement may still be able to claim a nonrefundable credit.

The amount of the credit is 50 percent of employment-related expenses up to a limitation of $8,000 in the case of one qualifying individual and $16,000 if there are two or more qualifying individuals.[406] Thus, the maximum credit is $4,000 if there is one qualifying individual and $8,000 if there are two or more qualifying individuals.

The credit is subject to a two-part phaseout to the 50-percent credit rate.[407] Under the first part, the 50-percent credit rate is reduced, but not below 20 percent, by one percentage point for each $2,000 (or fraction thereof) of adjusted gross income ("AGI") above $125,000. Under the second part, the 20-percent credit rate is reduced, but not below zero, by one percentage point for each $2,000 (or fraction thereof) of AGI above $400,000. Thus, for taxpayers with AGI between $183,000 and $400,000, the credit rate is 20 percent and, for taxpayers with AGI above $438,000, the credit is fully phased out. Figure 2 illustrates the credit amount by AGI for a taxpayer with one qualifying individual and for a taxpayer with two or more qualifying individuals, in each case assuming that the taxpayer has the maximum amount of employment-related expenses ($8,000 and $16,000, respectively).[408]

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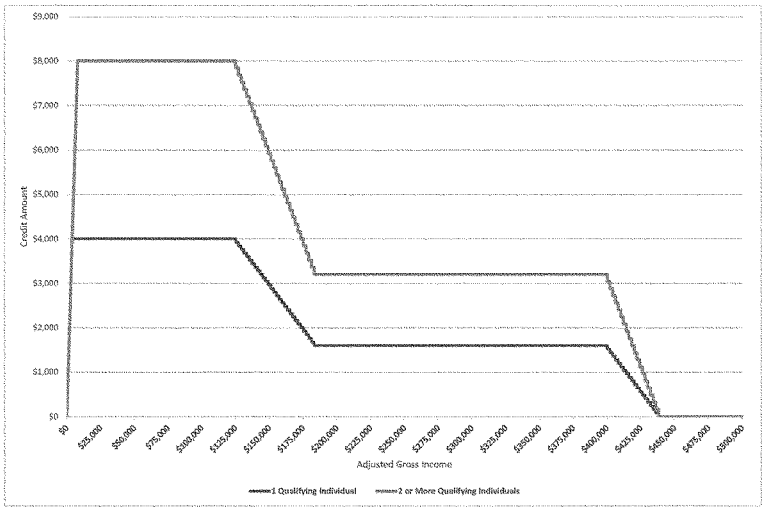
[405] Thus, a member of the Armed Forces of the United States stationed outside the United States while serving on extended active duty is treated as having a principal place of abode in the United States.

[406] Sec. 21(g)(2), (3).

[407] Sec. 21(g)(4).

[408] Figure 1 assumes AGI and earned income are equal for these taxpayers.

Figure 2.– Child and Dependent Care Tax Credit for 2021 by AGI for Selected Taxpayers*



* Joint Committee staff calculations.

Credit for Years after 2021

For taxable years beginning after 2021, the credit is nonrefundable. A taxpayer's employment-related expenses for which the credit is allowed are limited to $3,000 if the taxpayer has one qualifying individual or $6,000 if the taxpayer has two or more qualifying individuals.[409] The maximum credit rate is 35 percent. Thus, the maximum credit is $1,050 if there is one qualifying individual and $2,100 if there are two or more qualifying individuals.

The 35-percent credit rate is reduced, but not below 20 percent, by one percentage point for each $2,000 (or fraction thereof) of AGI above $15,000.[410] Thus, for taxpayers with AGI above $43,000, the credit rate is 20 percent, and the maximum credit is $600 if the taxpayer has one qualifying individual or $1,200 if the taxpayer has two or more qualifying individuals. The phaseout threshold and the amount of expenses eligible for the credit are not indexed for inflation.

[409] Sec. 21(c).

[410] Sec. 21(a).

Earned Income Limitation

Employment-related expenses generally cannot exceed the taxpayer's earned income.[411] In the case of a joint return, expenses cannot exceed the earned income of the spouse with the least earned income.

A special rule applies in the case of a joint return, where one spouse is either (1) a full-time student or (2) physically or mentally incapable of caring for himself or herself and shares the same principal place of abode with the taxpayer for over one half of the year. Under this rule, for each month in which the student or incapacitated spouse qualifies, the spouse is deemed to have $250 of earned income in the case of one qualifying individual and $500 if there are two or more qualifying individuals.[412] Thus, if the spouse qualifies under the rule for 12 months, the spouse is deemed to have $3,000 in the case of one qualifying individual and $6,000 if there are two or more qualifying individuals, equal to the applicable limitations for taxable years beginning after 2021. Only one spouse may have deemed earned income under this rule.

Child and Dependent Care Tax Credit in the U.S. territories

General Income Tax Rules for the Territories

Citizens of the United States are generally subject to Federal income tax on their U.S. and foreign income regardless of whether they live in a State, a foreign country, or a U.S. territory. Residents of the five U.S. territories[413] are generally subject to the Federal income tax system based on their status as U.S. citizens or residents of the territories, with certain special rules for determining residence and source of income specific to the territory. Broadly, a bona fide individual resident of a territory is exempt from U.S. tax on income derived from sources within that territory but is subject to U.S. tax on U.S.-source and non-territory-source income.[414] A bona fide resident of a territory for a taxable year is generally an individual (1) who is present for at least 183 days during the taxable year in the territory, and (2) who does not have either a tax home outside the territory or a closer connection to the United States or a foreign country than to the territory.[415]

The application of the Federal tax rules to the territories varies from one territory to another. Three territories—Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands—are referred to as mirror Code territories because the Code serves as the

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[411] Sec. 21(d). Earned income has the same definition as for purposes of the EITC. Treas. Reg. sec. 1.21-2(b)(3).

[412] Sec. 21(d)(2).

[413] The Code refers to the territories as "possessions."

[414] See secs. 931, 932, 933, and 937; see also former sec. 935 (1986), which remains in effect pursuant to the Tax Reform Act of 1986, Pub. L. No. 99-514, sec. 1277(b), October 22, 1986; 48 U.S.C. sec. 1801 note, sec. 601.

[415] Sec. 937.

internal tax law of those territories (substituting the particular territory for the United States wherever the Code refers to the United States).[416] Thus, there is a mirror Code version of the child and dependent care tax credit under the internal revenue laws of each mirror Code territory. A resident of one of those territories generally files a single tax return only with the territory of which the individual is a resident, and not with the United States.[417]

American Samoa and Puerto Rico, by contrast, are non-mirror Code territories. These two territories have their own internal tax laws, and a resident of either American Samoa or Puerto Rico may be required to file income tax returns with both their territory of residence and the United States.

The non-mirror Code territories may offer individual refundable income tax credits to their residents under their own tax laws. In addition, residents of the territories may be entitled to individual refundable income tax credits from the U.S. Treasury under the Code.

The Child and Dependent Care Credit in the Territories

With respect to taxable years beginning in 2021, the Secretary is directed to make payments to each of the mirror Code territories of Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands that relate to the cost to that territory of the child and dependent care tax credit. The Secretary is further directed to make similar payments for 2021 to each non-mirror Code territory.

The Secretary is directed to pay to each mirror Code territory amounts equal to the aggregate amount of the credits allowable by reason of the application of section 21. This amount is determined by the Secretary based on information provided by the government of the territory.[418]

The Secretary is directed to pay to each of non-mirror Code territories of Puerto Rico and American Samoa amounts estimated by the Secretary as being equal to the aggregate benefits that would have been provided to the residents of the territory under section 21 if a mirror Code tax system had been in effect in the territory.[419] The Secretary is prohibited from making these payments unless the territory has a plan approved by the Secretary to promptly distribute the payments to its residents.

No credit against U.S. income taxes is permitted for any person to whom a credit is allowed against territory income taxes as a result of the territory's mirror Code.[420] Similarly, no

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[416] 48 U.SC. sec. 1397 (U.S. Virgin Islands); 48 U.S.C. sec. 1421i (Guam); 48 U.S.C. 1801 note, sec. 601 (Commonwealth of the Northern Mariana Islands).

[417] Sec. 932 and former sec. 935.

[418] Sec. 21(h)(1).

[419] Sec. 21(h)(2).

[420] Sec. 21(h)(3).

credit against U.S. income taxes is permitted for any person who is eligible for a payment under a non-mirror Code territory's plan for distributing to its residents the payment described above from the Secretary.

Explanation of Provision

The provision makes permanent the provisions of the child and dependent care credit that only apply for taxable years beginning in 2021. Thus, the credit is fully refundable for taxpayers with a principal place of abode in the United States for more than one-half of the taxable year. The amount of the credit is 50 percent of employment-related expenses up to a limitation of $8,000 in the case of one qualifying individual and $16,000 if there are two or more qualifying individuals. The credit is subject to a two-part phaseout to the 50-percent credit rate. Under the first part, the 50-percent credit rate is reduced, but not below 20 percent, by one percentage point for each $2,000 (or fraction thereof) of adjusted gross income ("AGI") above $125,000. Under the second part, the 20-percent credit rate is reduced, but not below zero, by one percentage point for each $2,000 (or fraction thereof) of AGI above $400,000.

The $8,000 and $16,000 limitations as well as the $125,000 phaseout threshold are adjusted for inflation for taxable years beginning after 2021.

The provision also modifies the special rule for earned income in the case of a joint return, where one spouse is either (1) a full-time student or (2) physically or mentally incapable of caring for himself or herself and shares the same principal place of abode with the taxpayer for over one half of the year. Under the provision, for each month in which the student or incapacitated spouse qualifies, the spouse is deemed to have earned income equal to one-twelfth of $8,000 (adjusted for inflation) in the case of one qualifying individual or one-twelfth of $16,000 (adjusted for inflation) if there are two or more qualifying individuals.

Finally, the provision makes permanent the payments by the Secretary to the territories to cover the cost of the territorial child and dependent care tax credit or analogous benefit.

Effective Date

The provision applies to taxable years beginning after December 31, 2021.

2. Increase in exclusion for employer-provided dependent care assistance made permanent (sec. 137202 of the bill and sec. 129 of the Code)

Present Law

An annual exclusion[421] from the gross income of an employee is allowed for employer-provided dependent care assistance if such assistance is provided pursuant to a "dependent care assistance program." The amount of the exclusion was $5,000 ($2,500 in the case of a separate return by a married individual) through taxable years beginning in 2020. The

[421] Sec. 129(a).

ARPA temporarily increased the amount of the exclusion for employer-provided dependent care assistance for taxable years beginning in 2021 from $5,000 to $10,500 (and half of such amount in the case of a separate return by a married individual).[422] Amounts attributable to dependent care assistance that are excludable from gross income are also excludable from wages for employment tax purposes.[423]

Among other requirements, a dependent care assistance program[424] must be a separate written plan of an employer for the exclusive benefit of the employer's employees to provide such employees with dependent care assistance that does not discriminate in favor of highly compensated employees or their dependents as to contributions, benefits, and eligibility.[425]

A dependent care assistance program may be structured to allow contributions on a pre-tax basis through a cafeteria plan.[426] A cafeteria plan is a written plan maintained by an employer whereby all participants are employees who may choose among two or more benefits including qualified benefits and cash.[427] Qualified benefits provided under a cafeteria plan include dependent care assistance.

The amount excludable for any taxable year cannot exceed the earned income of the employee or, if the employee is married, the lesser of the earned income of the employee or the earned income of the employee's spouse.[428]

The ARPA provided that a plan that otherwise satisfied the requirements of a dependent care assistance program and cafeteria plan would not fail to meet those requirements if the plan was amended to reflect the increased temporary thresholds allowed pursuant to the bill and the amendment was retroactive if the following were satisfied: (1) the amendment is adopted no later than the last day of the plan year in which the amendment is effective; and (2) the plan is operated consistently with the amendment terms beginning on the effective date of the amendment and ending on the date the amendment is adopted.

Explanation of Provision

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[422] Pub. L. No. 117-2.

[423] Secs. 3401(b)(18), 3121(a)(18), 3306(b)(14).

[424] Sec. 129(d).

[425] Sec. 129(d)(2) and (3). The exclusion applies if the contributions or benefits under the program do not discriminate in favor of highly compensated employees, within the meaning of section 414(q), or their dependents, and the program benefits employees under a classification established by the employer found not to be discriminatory in favor or such highly compensated employees or their dependents.

[426] Sec. 125.

[427] Sec. 125(d).

[428] Sec. 129(b). The provisions of section 21(d)(2) apply in determining the earned income of a spouse who is a student or incapable of caring for himself. Sec. 129(b)(2).

The provision amends section 129(a)(2)(A) to make permanent the 2021 increase to the annual threshold from $5,000 to $10,500 (and half of such amount in the case of a separate return filed by married taxpayers). This amount will also be adjusted for inflation. For any taxable year beginning after December 31, 2021, the $10,500 amount in section 129(a)(2)(A) is increased by an amount equal to $10,500 multiplied by the cost-of-living adjustment determined for that taxable year.[429]

A plan that otherwise satisfies the requirements of a dependent care assistance program and cafeteria plan would not fail to meet those requirements if the plan was amended to reflect the provision and the amendment was retroactive if the following were satisfied: (1) the amendment is adopted no later than the last day of the plan year in which the amendment is effective; and (2) the plan is operated consistently with the amendment terms beginning on the effective date of the amendment and ending on the date the amendment is adopted.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

[429] Sec. 1(f)(3).

PART III — SUPPORTING CAREGIVERS

1. Payroll tax credit for child care workers (sec. 137301 of the bill and new sec. 3135 of the Code)

Present Law

Federal Employment Taxes

Federal employment taxes are imposed on wages paid to employees with respect to employment and include taxes imposed under the Federal Insurance Contributions Act ("FICA"), the Federal Unemployment Tax Act ("FUTA"), and Federal income tax.[430] In addition, Tier 1 of the Railroad Retirement Tax Act ("RRTA") imposes a tax on compensation paid to railroad employees and representatives.[431]

FICA taxes are comprised of two components: the Old-Age, Survivors, and Disability Insurance ("OASDI") and Hospital Insurance ("Medicare").[432] With respect to Medicare taxes, the applicable rate is 2.9 percent with half of such rate (1.45 percent) imposed on the employee and the remainder (1.45 percent) imposed on the employer.[433] The employee portion of Medicare taxes must be withheld and remitted to the Federal government by the employer during the quarter, as required by the applicable deposit rules.[434] The employer is liable for the employee portion of Medicare taxes, in addition to its own share, whether or not the employer withholds the amount from the employee's wages.[435] OASDI and Medicare taxes are generally allocated by statute among separate trust funds: the OASDI Trust Funds, Medicare's Hospital Insurance Trust Fund, and Supplementary Medical Insurance Trust Fund.[436]

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[430] Secs. 3101, 3111, 3301, and 3401.

[431] Sec. 3221.

[432] The Hospital Insurance tax includes two components: Medicare tax and Additional Medicare tax. Additional Medicare taxes are imposed on wages in excess of certain thresholds and are only imposed on the employee. Sec. 3101(b). There is no employer match for Additional Medicare tax. For purposes of this explanation, when referencing Medicare taxes, the term does not include Additional Medicare tax.

[433] Sec. 3101(b); 3111(b).

[434] Sec. 3102(a) and Treas. Reg. sec. 31.3121(a)-2. Sec. 6302.

[435] Sec. 3102(b).

[436] Secs. 201 and 1817 of the Social Security Act, Pub. L. No. 74-271 as amended (42 U.S.C. secs. 401 and 1395i). This section appropriates to the OASI and DI trust funds 100 percent of "the taxes imposed . . . by chapter 21 (other than sections 3101(b) and 3111(b)[*i.e.*, 3101(a) and 3111(a)]) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such Code)" "determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages." Accordingly, the amount appropriated is based on the tax rate in effect on wages as defined in the statute. Similarly, section 1817 of the Social Security Act, 42 U.S.C. sec. 1395i, appropriates to the HI trust fund 100 percent of "the taxes imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1986 with

Generally, the term "wages" for Medicare tax purposes means all remuneration for "employment," including the cash value of all remuneration (including benefits) paid in any medium other than cash, with certain exceptions.[437] The name given to the remuneration for employment is immaterial. Medicare wages includes salaries, vacation allowances, bonuses, deferred compensation, commissions, and fringe benefits. The term "employment" is generally defined for FICA tax purposes as any service, of whatever nature, performed by an employee for the person employing him or her, with certain specific exceptions.

Railroad Retirement Program

Railroad workers do not participate in the FICA tax system. Compensation subject to RRTA tax is exempt from FICA taxes.[438] Instead, the railroad retirement system, while separate from and parallel to the Social Security Administration ("SSA"), is overseen by the SSA and the Railroad Retirement Board ("RRB"). The SSA collects taxes to fund the program, while the RRB is tasked with distributing benefits to eligible railroad industry employees and their family members to provide income assurance during retirement. These two governing bodies cooperate in determining an individual's benefits.

RRTA Tax Rates

The RRTA imposes a tax on compensation paid by covered employers to employees in recognition for the performance of services.[439] Employees whose compensation is subject to RRTA are ultimately eligible for railroad retirement benefits that fall under a two-tier structure. Rail employees and employers pay tier 1 taxes at the same rate as other employment taxes.[440] In addition, rail employees and employers both pay tier 2 taxes which are used to finance railroad retirement benefits over and above social security benefit levels.[441] Tier 2 benefits are similar to a private defined benefit pension. Those taxes are funneled to the railroad retirement system and

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respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages."

[437] Sec. 3121(a).

[438] Sec. 3121(b)(9).

[439] Secs. 3201 through 3233. Instead of FICA taxes, railroad employers and employees are subject, under the RRTA, to taxes equivalent to the Social Security and Medicare taxes under FICA. Under the RRTA, employers and employees are also subject to an additional tax, referred to as the "tier 2" tax, on compensation up to a certain amount.

[440] 7.65 percent, consisting of 6.2 percent for retirement on earnings up to $137,700 in 2020, and 1.45 percent for Medicare hospital insurance on all earnings. An additional 0.9 percent in Medicare taxes are withheld from employees on earnings above $200,000.

[441] In 2020, the tier 2 tax rate on earnings up to $102,300 is 4.9 percent for employees and 13.1 percent for employers.

used to fund basic retirement benefits for railroad workers and an investment trust that generates returns for the pension fund.

Employment Tax and Income Tax in the U.S. Territories

FICA Tax

Employers and employees in the U.S. territories are generally subject to FICA payroll tax obligations.[442] In contrast, employers and employees in the territories are generally not subject to withholding at the source for Federal income tax, although they are subject to withholding of local taxes.[443] These payroll obligations of the employers are generally applicable to Federal agencies with personnel in the territory. Employers in the territories file quarterly tax returns with the Federal government to report and pay FICA taxes for employees in the respective territories.

Income Tax

Citizens of the United States are generally subject to Federal income tax on their worldwide income, including those citizens in the U.S. territories. Residents of the U.S. territories are generally subject to the Federal income tax system based on their status as U.S. citizens or residents in the territories, with certain special rules for determining residence and source of income specific to the territory. Broadly, a bona fide individual resident of a territory is exempt from U.S. tax on income derived from sources within that territory but is subject to U.S. tax on U.S.-source and non-territory-source income.[444]

The application of the Federal income tax rules to the territories varies from one territory to another. Three territories, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, are referred to as mirror Code territories because the Code serves as the internal tax law of those territories (substituting the particular territory for the United States wherever the Code refers to the United States). A resident of one of those territories generally files a single tax return only with the territory of which the individual is a resident, and not with the United States. American Samoa and Puerto Rico, by contrast, are referred to as non-mirror Code territories that have their own internal tax laws. A resident of either American Samoa or Puerto Rico may be required to file income tax returns with both the territory of residence and the United States.

Payroll Tax Credits

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[442] The U.S. territories referred to in this document are American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.

[443] Under section 3401(a)(8), most wages paid to U.S. persons for services performed in one of the territories are excluded from withholding of Federal income tax if the payments are subject to withholding by the territory, or, in the case of Puerto Rico, the payee is a bona fide resident of the territory for the full year.

[444] See secs. 931, 932, 933, and 937; see also former sec. 935 (1986), which remains in effect pursuant to the Tax Reform Act of 1986, Pub. L. No. 99-514, sec. 1277(b), October 22, 1986; 48 U.S.C. sec. 1801 note, sec. 601.

Under present law, there is no tax credit against FICA taxes for child care wages. Recently enacted credits against OASDI or Medicare taxes include paid sick or expanded family and medical leave,[445] employee retention,[446] and COBRA premium assistance.[447]

Explanation of Provision

An eligible child care employer is allowed a refundable credit against the applicable employment taxes imposed on the employer for each calendar quarter in an amount equal to 50 percent of the qualified child care wages paid with respect to each eligible employee of such employer for such calendar quarter. The amount of qualified child care wages for an eligible employer which may be taken into account for any calendar quarter shall not exceed $2,500, indexed to inflation. An eligible child care employer may elect (at such time and in such manner as the Secretary may prescribe) not to take certain qualified wages into account. In addition, no credit is allowed for the United States Government or to an agency or instrumentality thereof, except any section 501(c)(1) organization exempt from tax under section 501(a).

The credit is applied against an eligible employer's applicable employment taxes, which includes the employer's share of Medicare taxes and the equivalent amount of RRTA taxes imposed on railroad employers.[448] The term wages includes amounts paid or incurred by the eligible child care employer to provide and maintain a group health plan,[449] but only to the extent such amounts are excluded from the employees' income as coverage under an accident or health plan.[450] Qualified health plan expenses are allocated to child care wages in such manner as the Secretary of Treasury (or the Secretary's delegate) may prescribe. Except as otherwise

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[445] Pub. L. No. 116-127; Secs. 3131, 3132. The expiration of the credits was extended by the Taxpayer Certainty and Disaster Relief Act of 2020, to March 30, 2021. Pub. L. No. 116-260. The ARPA allowed certain employers to claim refundable tax credits for the cost of providing paid sick and expanded family and medical leave to employees to receive or recover from vaccination for COVID-19. The ARPA extension and expansion of the tax credits were for paid sick and expanded family and medical leave from April 1, 2021 through September 30, 2021. Sec. 3131; 3132.

[446] Pub. L. No. 117-136. The Taxpayer Certainty and Disaster Relief Act of 2020 amended and extended the employee retention credit to June 30, 2021, and the ARPA added section 3134 to amend and extend the employee retention credit to December 31, 2021.

[447] Pub. L. No. 117-2; sec. 6432. The ARPA provided a credit against the employer's share of Medicare tax, or the equivalent amount of RRTA tax, in an amount equal to COBRA premiums payable for continuation coverage not paid by assistance eligible individuals.

[448] Secs. 3111(b); 3221(a). The term "wages" means wages, as defined in section 3121(a) for FICA purposes without regards to the exclusions enumerated in paragraphs (1) through (22) of section 3121(b), and compensation, as defined in section 3231(e) without regards to any exclusions from the term enumerated in paragraph (1). Any credit allowed under this provision shall be treated as a credit of the customer of the certified professional employer organization as described in section 3511(d)(2).

[449] Sec. 5000(b)(1).

[450] Sec. 106(a).

provided by the Secretary, such allocations are treated as properly made under the provision if made on the basis of being pro rata on the basis of periods of coverage.

An eligible child care employer is any employer that operates one or more qualified child care facilities.[451] A qualified child care facility for purposes of this provision is any facility which is certified as an "HHS Participating Child Care Provider" by the Secretary of Health and Human Services under section 418A(c) of the Social Security Act. The provision has an aggregation rule requiring persons to be treated as a single employer to the extent subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, apply for purposes of this section.

An eligible employee is any employee of an eligible child care employer for any calendar quarter who meets two criteria: (1) the aggregate wages paid to the employee in the quarter may not exceed 25 percent of the dollar amount in effect for the quarter for highly-compensated employees ($130,000 annually in 2021),[452] and (2) the aggregate wages paid to such employee for the one-year period ending with the close of such quarter do not exceed 100 percent of such dollar amount.

Child care wages are wages paid for the employee's services to provide child care at a qualified child care facility or to provide support services for such a facility.[453] The qualified child care wages taken into account for this credit are the child care wages paid by the child care employer in excess of the applicable minimum rate. Applicable minimum rate means the rate of basic pay which is payable for GS-3, step 1, of the General Schedule,[454] at the time the wages are paid and determined based on the locality in which the services are provided. Qualified child care wages does not include any wages paid by an eligible child care employer during a period where the employer does not have the HHS certification, described above.

Qualified child care wages paid by an eligible child care employer cannot include the following taken into account as payroll costs in connection with: (1) a covered loan under section 7(a)(37) or 7A of the Small Business Act; (2) a grant under section 324 of the Economic Aid to Hard-Hit Small Businesses, Non-Profits, and Venues Act, or (3) a restaurant revitalization grant under section 5003 of the ARPA. The Secretary is directed to issue guidance providing that payroll costs paid during the covered period may be included in qualified child care wages to the extent that: (1) a covered loan under section 7(a)(37) of the Small Business Act is not forgiven by reason of a decision under section 7(a)(37)(J) of such Act; or (2) a covered loan of the taxpayer under section 7A of the Small Business Act is not forgiven by reason of a decision under section 7A(g) of such Act.

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[451] All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as one employer for purposes of this provision.

[452] Sec. 414(q)(1)(B)(i).

[453] Child care wages does not include wages taken into account under sections 41, 45A, 45P, 45R, 51, 1396, 3131, 3132, 3134, or 6432.

[454] Subchapter III, Chapter 53, Title 5, United States Code.

The provision provides that the credit allowed may not exceed the tax imposed on the employer, reduced by certain other payroll tax credits[455] for that calendar quarter on the wages paid with respect to all the employer's employees. However, if for any calendar quarter the amount of the credit exceeds the applicable employment taxes imposed on the employer, reduced as described in the prior sentence, such excess is treated as a refundable overpayment.[456] The credit may be advanced according to forms and instructions provided by the Secretary.

The provision also includes a denial of double benefit rule. The gross income of the employer, for the taxable year which includes the last day of the quarter with respect to which a credit is allowed under this provision, shall be increased by the amount of such credit for purposes of the income tax under Chapter 1.

The Secretary will prescribe regulations or other guidance to prevent avoidance of the purposes of this provision, to minimize compliance and record-keeping burdens under this provision, providing for a waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under the provision, for recapturing the benefit of credits determined under this proposed in cases where a subsequent adjustment to the credit is determined, to permit advancement of the credit, and for determining qualified child care wages of eligible employees not paid at a single rate of pay.

Effective Date

The amendments made by this provision shall apply to calendar quarters beginning after December 31, 2021.

2. Credit for caregiver expenses (sec. 137302 of the bill and new sec. 25E of the Code)

Present Law

Child and Dependent Care Tax Credit

A taxpayer with one or more qualifying individuals is allowed a credit against income tax liability for employment-related expenses for child and dependent care.[457] For this purpose, employment-related expenses are expenses for household services and expenses for the care of a qualifying individual.[458] These expenses must be incurred to enable the taxpayer to be gainfully

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[455] Applicable employment taxes for this purpose are reduced by any credits allowed under sections 3131, 3132, 3134, and 6432.

[456] The excess is treated as an overpayment and refunded under sections 6402(a) and 6413(b). In addition, any amount that is due to an employer is treated in the same manner as a refund due from a credit provision. 31 U.S.C. sec. 1324. Thus, amounts are appropriated to the Secretary of the Treasury for refunding such excess amounts.

[457] Sec. 21.

[458] Sec. 21(b)(2). Expenses do not include amounts paid for a camp where a qualifying individual stays overnight. Household services are the performance in and about the taxpayer's home of ordinary and usual services

employed during any period for which there are one or more qualifying individuals with respect to the taxpayer.

A qualifying individual is, in general: (1) a dependent[459] of the taxpayer who is under the age of 13, or (2) a dependent or spouse of the taxpayer if the dependent or spouse is physically or mentally incapable of caring for himself or herself and shares the same principal place of abode with the taxpayer for over one half the year.[460]

Employment-related expenses taken into account in determining the credit generally may not exceed a taxpayer's earned income.[461] In the case of a joint return, expenses taken into account generally may not exceed the earned income of the spouse with the lower earned income.[462] The amount of employment-related expenses that may be taken into account is reduced by any amount excluded from income under an employer-provided dependent care assistance program under section 129.[463]

The maximum allowable credit for a taxable year beginning in 2021 is 50 percent of employment-related expenses up to $8,000 for a taxpayer with one qualifying individual and $16,000 for a taxpayer with two or more qualifying individuals.[464] The maximum credit is therefore $4,000 if there is one qualifying individual and $8,000 if there are two or more qualifying individuals.

The credit for 2021 is subject to a two-part income-based phaseout.[465] The 50-percent credit rate is reduced, but not below 20 percent, by one percentage point for each $2,000 (or fraction thereof) of adjusted gross income ("AGI") above $125,000. The 20-percent credit rate is reduced, but not below zero, by one percentage point for each $2,000 (or fraction thereof) of AGI above $400,000. Thus, for taxpayers with AGI between $183,000 and $400,000, the credit rate is 20 percent and, for taxpayers with AGI above $438,000, the credit is fully phased out.

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necessary to the maintenance of the household and attributable to the care of the qualifying individual. Treas. Reg. sec. 1.21-1(d)(3).

[459] See sec. 152 for the definition of dependent.

[460] Sec. 21(b)(1).

[461] Sec. 21(d). Earned income has the same definition as for purposes of the EITC. Treas. Reg. sec. 1.21-2(b)(3).

[462] Special rules apply to married couples in cases where one spouse is either a full-time student or physically or mentally incapable of caring for himself or herself. Sec. 21(d)(2). In these cases, the student or incapacitated spouse is deemed to be employed and deemed to have earned income of no less than $250 (if the household has one qualifying individual) or $500 (if the household has two or more qualifying individuals).

[463] Sec. 21(c).

[464] Sec. 21(g)(2), (3).

[465] Sec. 21(g)(4).

The credit is refundable in 2021 for a taxpayer who has a principal place of abode in the United States for more than one half of the taxable year.[466] In the case of a joint return, refundability is allowed if at least one spouse satisfies the principal place of abode requirement. Principal place of abode is determined as provided in the rules for the earned income tax credit.[467] A taxpayer who otherwise is allowed the child and dependent care credit but does not satisfy the principal place of abode is allowed a nonrefundable credit.

For taxable years beginning after 2021, the maximum allowable credit is 35 percent of employment-related expenses up to $3,000 for a taxpayer with one qualifying individual, and $6,000 for a taxpayer with two or more qualifying individuals.[468] The maximum credit is, therefore, $1,050 in respect of one qualifying individual and $2,100 in respect of two or more qualifying individuals. The 35-percent credit rate is reduced, but not below 20 percent, by one percentage point for each $2,000 (or fraction thereof) of AGI above $15,000.[469] For a taxpayer with AGI above $43,000 the credit rate is, therefore, 20 percent, and the maximum credit is $600 for one qualifying individual and $1,200 for two or more qualifying individuals. The credit is nonrefundable in taxable years beginning after 2021.

For taxpayers in the U.S. territories, special rules apply.

Exclusions and Deductions for Dependent Care and Medical Expenses

For 2021 an employee generally is allowed to exclude from gross income up to $10,000 ($5,000 for a married individual filing a separate return) for amounts paid or incurred by the employer for dependent care assistance to the employee under a dependent care assistance program.[470]

An individual generally is allowed an itemized deduction for expenses, not compensated by insurance or otherwise, paid for medical care of the individual, the individual's spouse, or a dependent to the extent that the expenses exceed 7.5 percent of adjusted gross income.[471]

An individual who is covered under a high deductible health plan and who satisfies certain other requirements generally is allowed an itemized deduction for a limited amount paid in cash by or on behalf of the individual to the individual's health savings account.472 For an

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[466] Sec. 21(g)(1).

[467] See sec. 32(c)(3)(C).

[468] Sec. 21(c).

[469] Sec. 21(a).

[470] Sec. 129. The child and dependent care tax credit is not allowed (and no other deduction or credit is allowed) for amounts excluded under section 129. See sec. 129(e)(7).

[471] Sec. 213. This deduction is not allowed for any expense for which the child and dependent care tax credit is allowed. Sec. 213(e).

[472] Sec. 223.

individual with family coverage, the maximum amount of the deduction in 2021 is $7,200. For an individual with self-only coverage, the maximum deduction in 2021 is $3,600. Distributions from health savings accounts used to pay qualified medical expenses are not includible in gross income.

Explanation of Provision

In General

The provision provides a nonrefundable credit against income tax (the "caregiver credit") for an individual for whom there is at least one qualified care recipient. The credit generally equals 50 percent of the amount that the individual pays or incurs in a taxable year (and for which the individual is not compensated by insurance or otherwise) for qualified expenses of up to $4,000. This 50-percent credit rate is reduced by 1 percentage point for every $2,500 or fraction thereof by which the individual's adjusted gross income exceeds $75,000.

Qualified Care Recipient

For purposes of the caregiver credit, an individual is a qualified care recipient for a taxable year with respect to the person claiming the credit if the individual (1) is the spouse of the person claiming the credit or bears to the person claiming the credit any one of the relationships described in subparagraphs (A) through (H) of section 152(d)(2); (2) has been certified before the tax return filing due date for the taxable year (but within the 18-month period ending on that due date (or another period prescribed by the Secretary)) by a licensed health practitioner (as defined in section 7702B(c)(4)) as being an individual with certain long-term care needs (described below) for a period that is expected to be at least 180 consecutive days and a portion of which occurs within the taxable year; and (3) resides in a personal residence, not an institutional care facility.

An individual is considered to have long-term care needs if the individual satisfies any one of several age-based requirements. An individual who is at least six years of age has long-term care needs if the individual (1) is unable to perform without substantial assistance from another individual at least two activities of daily living (defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or (2) requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment and (a) is unable to perform without reminding or cuing assistance at least one activity of daily living (defined in section 7702B(c)(2)(B)), or (b) to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities. An individual who is at least two but not six years of age is considered to have long-term care needs if the individual is unable, due to a loss of functional capacity, to perform without substantial assistance from another individual at least two of the following activities: eating, transferring, and mobility. An individual who is under the age of two is considered to have long-term care needs if the individual requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

An institutional care facility (including two or more places, establishments, or institutions owned by the same legal entity) includes any congregate, protected living residential arrangement that provides or coordinates personal or health care services, including assistance with the activities of daily living and social care, for two or more adults who are aged, infirm, or disabled.

Qualified Expenses

Qualified expenses for which the caregiver credit is allowed are expenses for certain goods, services, and supports that assist a qualified care recipient with accomplishing activities of daily living (as defined in section 7702B(c)(2)(B)) and instrumental activities of daily living (as defined in section 1915(k)(6)(F) of the Social Security Act) and that are provided solely for use by the qualified care recipient. The goods, services, and supports for which qualified care expenses may be paid are human assistance, supervision, cuing, and standby assistance; health maintenance tasks (such as medication management); respite care; assistive technologies and devices (including remote health monitoring); accessibility modifications of the qualified care recipient's residence; counseling, support groups, or training related to caring for a qualified care recipient; and any other items that directly relate to the health and safety of a qualified care recipient, as determined by the Treasury Secretary after consultation with the Secretary of Health and Human Services.

An amount may not be taken into account as a qualified expense if it is taken into account for purposes of the child and dependent care tax credit, the exclusion for amounts paid to employees under dependent care assistance programs, the itemized deduction for medical expenses that exceed 7.5 percent of adjusted gross income, or as an amount for which an exclusion from gross income is allowed for a distribution from a health savings account.

An individual may treat an amount as a qualified expense only if the individual substantiates the expense under regulations or other guidance prescribed by the Secretary.

Special Rules

Under rules similar to those for the child and dependent care tax credit, no credit is allowed for expenses paid to certain related individuals.[473]

The licensed health care practitioner making the certification of long-term care needs must satisfy the following requirements. The individual may not be related (within the meaning of section 51(i)(1)) to, or have a conflict of interest (under regulations prescribed by the Secretary) with respect to, the individual claiming the credit or the qualified care recipient. The individual must be licensed and eligible under applicable State law to certify limitations in performing activities of daily living. The individual must be a participant in either the Medicare program (under section 1866(j) of the Social Security Act)[474], Medicaid program (under sections

[473] See sec. 21(e)(6).

[474] A technical change required to match intent of this provision

1902(a)(77) and 1932(d)(6) of the Social Security Act) or the State Children's Health Insurance Program (under Social Security Act section 2107(e)(1)(G)).

An individual is allowed the caregiver credit with respect to a qualified care recipient only if the individual includes on the tax return the name and specified provider identification number of the licensed health care practitioner who makes the long-term care certification. A specified provider identification number is a valid National Provider Identifier as authorized under Social Security Act section 1173. Similarly, an individual is allowed the caregiver credit with respect to a qualified care recipient only if the individual includes on the tax return the taxpayer identification number of that recipient. The omission of a correct specified provider identification number or a correct taxpayer identification number is an error for which the provision gives the IRS math error authority.[475]

An individual may be treated as a qualified care recipient with respect to only one taxpayer for a taxable year.

Termination

The caregiver credit is not allowed for any taxable year beginning after December 31, 2025.

Effective Date

The provision applies to taxable years beginning after December 31, 2021.

[475] See sec. 6213(g)(2).

PART IV — EARNED INCOME TAX CREDIT

1. Certain improvements to the earned income tax credit made permanent and funds for administration of earned income tax credits in the possessions (secs. 137401 and 137402 of the bill and secs. 32 and 7530 of the Code)

Present law

In General

Low- and moderate-income workers may be eligible for the refundable earned income tax credit ("EITC"). The amount of the EITC is based on the presence and number of qualifying children in the worker's family, filing status, AGI, and earned income.[476]

The EITC generally equals a specified percentage of earned income.[477] Earned income for this purpose cannot exceed a maximum dollar amount, known as the earned income amount. The maximum EITC amount applies over a certain income range and then diminishes to zero over a specified phaseout range. For a taxpayer with earned income (or AGI, if greater) in excess of the beginning of the phaseout range, the maximum EITC amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For a taxpayer with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed. The specified percentage, maximum dollar amount, and phaseout rate and range vary with filing status and number of children. Four separate credit percentage schedules apply: one for taxpayers with no qualifying children, one for taxpayers with one qualifying child, one for taxpayers with two qualifying children, and one for taxpayers with three or more qualifying children.[478]

For an individual to be a qualifying child for purposes of the EITC, generally that individual must meet the relationship, age, and residency tests under section 152.[479]

The EITC may be claimed by a taxpayer if the taxpayer is a U.S. citizen or a resident alien.[480] An individual who is a nonresident alien for any portion of the taxable year is not eligible to claim the EITC unless an election is in effect for the year under section 6013(g) or (h) (relating to an individual who is married to a citizen or resident of the United States at the end of the year). In addition, individuals who claim the benefits of section 911 (relating to the income

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[476] Sec. 32.

[477] Sec. 32(a), (b).

[478] Sec. 32(b). All income thresholds are indexed for inflation annually.

[479] Sec. 32(c)(3)(A). See section 152(c)(1) for the definition of qualifying child. For purposes of the EITC the support test in section 152(c)(1)(D) is disregarded. The residency test in section 152(c)(1)(B) is only satisfied if the principal place of abode is in the United States.

[480] Sec. 32(c)(1)(D).

exclusion election available to U.S. citizens or resident aliens living abroad) are not eligible to claim the EITC.[481]

A taxpayer with certain investment income in excess of $10,000 for the taxable year may not claim the EITC.[482]

The earned income amount, beginning of the phaseout range, and $10,000 investment income thresholds are adjusted for inflation.[483]

To claim the EITC, the taxpayer must include the taxpayer's valid SSN and valid SSN for the qualifying child (and, if married, the spouse's valid SSN) on his or her tax return.[484] For these purposes, a valid SSN is an SSN issued to an individual, other than an SSN issued to an individual solely for the purpose of applying for or receiving Federally funded benefits, on or before the due date for filing the return for the year.[485]

Credit Structure for EITC for Taxpayers with No Qualifying Children

For taxable years beginning in 2021

A taxpayer with no qualifying children may claim a credit if the taxpayer satisfies the age requirements (discussed below), has a principal place of abode in the United States for more than half of the taxable year, and cannot be claimed as a dependent on anyone else's return.[486] For purposes of the principal place of abode requirement, a member of the Armed Forces of the United States stationed outside the United States while serving on extended active duty is treated as having a principal place of abode in the United States.[487]

ARPA expanded the EITC for taxpayer with no qualifying children for one year. For taxable years beginning in 2021, the credit is 15.3 percent of earned income up to an earned income amount of $9,820, resulting in a maximum credit of $1,502.[488] The maximum credit is available for a taxpayer with earned income between $9,820 and $11,610 ($17,560 if married filing jointly). The credit begins to phaseout out at a rate of 15.3 percent of earned income or

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[481] Sec. 32(c)(1)(C).

[482] Sec. 32(i).

[483] Sec. 32(j).

[484] Sec. 32(c)(1)(E), (c)(3)(D), (m).

[485] Sec. 205(c)(2)(B)(i)(II) (and that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act.

[486] Sec. 32(c)(1)(A)(ii).

[487] Sec. 32(c)(4).

[488] Sec. 32(n)(3), (4).

AGI above $11,610 ($17,560 if married filing jointly), resulting in a $0 credit at $21,430 of earned income or AGI ($27,380 if married filing jointly).[489]

For taxable years beginning after 2021

For taxable years beginning in 2022, the credit is 7.65 percent of earned income up to an earned income amount of $7,200, resulting in a maximum credit of $551.[490] The maximum credit is available for a taxpayer with earned income between $7,200 and $9,010 ($15,050 if married filing jointly). The credit begins to phase out at a rate of 7.65 percent of earned income or AGI above $9,010 ($15,050 if married filing jointly) resulting in a $0 credit at $16,210 of earned income or AGI ($22,250 if married filing jointly).

For taxable years beginning after 2022, these amounts are adjusted for inflation.

Age Requirements for EITC for Taxpayers with No Qualifying Children

For Taxable Years Beginning in 2021

For taxable years beginning in 2021, the minimum age for taxpayer's claiming the EITC for taxpayers with no qualifying children is generally 19.[491] However, if the individual is a specified student (or, in the case of a married individual, if both the individual and the individual's spouse are specified students), the minimum age is 24.[492] A specified student means, with respect to a taxable year, an individual who is an eligible student during at least five calendar months during the year. An eligible student is defined in section 25A(b)(3) (relating to the American opportunity tax credit) as a student who, with respect to any academic period, meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 and is carrying at least half the normal full-time work load for the course of study the student is pursuing.

The minimum age is 18 for any qualified former foster youth or qualified homeless youth.[493] A qualified former foster youth is an individual who, at the age of 14 or older, was in foster care provided under the supervision or administration of an entity administering (or eligible to administer) a plan under part B[494] or part E[495] of Title IV of the Social Security Act.

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[489] Rev. Proc. 2021-23.

[490] See sec. 32(b), (j).

[491] Sec. 32(n)(1)(A), (B)(i).

[492] Sec. 32(n)(1)(A), (B)(ii). The Secretary is required to develop and implement procedures for confirming a taxpayer's status as a specified student using information returns made with respect to such taxpayer under section 6050S (returns relating to higher education tuition and related expenses).

[493] Sec. 32(n)(1)(B)(iii), (D), (C).

[494] 42 U.S.C. secs. 621-628b.

[495] 42 U.S.C. secs. 670-679c.

A qualified former foster youth must give the applicable entity consent to disclose to the Secretary information related to the taxpayer's status as a qualified former foster youth.

A qualified homeless youth is an individual who is certified by a local educational agency or a financial aid administrator during the year as being either (1) an unaccompanied youth who is a homeless child or youth or (2) unaccompanied, at risk of homelessness, and self-supporting.[496] A qualified homeless youth must give the applicable educational agency or financial aid administrator consent to disclose to the Secretary information related to the taxpayer's status as a qualified homeless youth.

For taxable years beginning in 2021, there is no upper age limit on the credit for taxpayers with no qualifying children.[497] Therefore, taxpayers 65 and older without qualifying children may claim the credit in 2021.

For Taxable Years Beginning after 2021

A taxpayer with no qualifying children may claim the EITC if the taxpayer is age 25 or older and below age 65.

Earned Income Lookback

For taxable years beginning in 2021, a taxpayer may elect to calculate the taxpayer's EITC using 2019 rather than 2021 earned income, if the taxpayer's earned income in 2021 is less than in 2019.[498]

In the case of a joint return, the earned income which is attributable to the taxpayer for 2019 is the sum of the earned income which is attributable to each spouse for 2019.

For administrative purposes, the incorrect use on a return of earned income pursuant to an election under this provision is treated as a mathematical or clerical error. An election under the provision is disregarded for purposes of calculating gross income in the election year.

EITC in the Territories

If Puerto Rico enacts changes to its EITC which increase the percentage of earned income allowed as a credit in a manner designed to substantially increase workforce participation, the Secretary is required to pay to Puerto Rico each calendar year, starting in 2021, a specified matching amount of the cost of its EITC.[499] For each calendar year 2021 through 2025, the Secretary is also required to pay to Puerto Rico the lesser of (1) Puerto Rico's

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[496] See section 480(d)(1) of the Higher Education Act of 1965, 20 U.S. Code § 1087vv, for the meaning of terms used in this definition.

[497] Proposed sec. 32(n)(2).

[498] ARPA, Pub. L. No. 117-2, sec. 9626.

[499] Sec. 7530(a).

expenditures for education efforts with respect to taxpayers and tax return preparers regarding the EITC, or (2) $1 million.

The Secretary is required to make payments to Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands each calendar year starting in 2021 equal to the cost to that territory of its EITC in the year.[500] For each calendar year 2021 through 2025, the Secretary is also required to pay to each territory an amount equal to the lesser of (1) the territory's expenditures for education efforts with respect to taxpayers and tax return preparers regarding the EITC, or (2) $50,000.

The Secretary is required to make a payment to American Samoa in each calendar year during which American Samoa has a refundable EITC designed to substantially increase workforce participation.[501] The amount of the annual payment is the lesser of (1) the cost to American Samoa of such credit each year, or (2) $16 million, indexed for inflation. For each calendar year 2021 through 2025, the provision also directs the Secretary to pay the lesser of (1) American Samoa's expenditures in that year for education efforts with respect to taxpayers and tax return preparers regarding the EITC, or (2) $50,000.

The determination of the cost of the EITC to each territory is determined without taking into account administrative costs.

Explanation of Provision

EITC for Taxpayers with No Qualifying Children

The provision makes permanent the credit structure for the EITC for taxpayers with no qualifying children that currently applies only to taxable years beginning in 2021. Thus, it makes permanent the 15.3 percent credit percentage and increased earned income amounts and beginning amounts of the phaseout range.

The provision also makes permanent the changes to the minimum and maximum age for the EITC for taxpayers with no qualifying children that currently apply only to taxable years beginning in 2021.

Earned Income Lookback

Under the provision, a taxpayer may elect to calculate the taxpayer's EITC using preceding taxable year rather than current taxable year earned income, if the taxpayer's earned income in the preceding year is less than in the current year.

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[500] Sec. 7530(b).

[501] Sec. 7530(c).

In the case of a joint return, the earned income which is attributable to the taxpayer for the preceding year is the sum of the earned income which is attributable to each spouse for the preceding year.

For administrative purposes, the incorrect use on a return of earned income pursuant to an election under this provision is treated as a mathematical or clerical error. An election under the provision is disregarded for purposes of calculating gross income in the election year.

EITC in the Territories

Under the provision, for each calendar year beginning in 2021, Puerto Rico is provided up to $4,000,000 to pay for the reasonable administrative costs of implementing its EITC.[502]

Under the provision, for each calendar year beginning in 2021, the mirror Code territories are provided up to $200,000 to pay for the reasonable administrative costs of implementing their EITCs.

Under the provision, for each calendar year beginning in 2021, American Samoa is provided up to $200,000 to pay for the reasonable administrative costs of implementing its EITC.[503]

Effective Date

The provision generally applies to taxable years beginning after December 31, 2021.

The provision with respect to the EITC in the territories is effective on the date of enactment for payments made for calendar years beginning after December 31, 2021.

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[502] This payment is only required for years in which the Secretary, because Puerto Rico has enacted changes to its EITC designed to substantially increase workforce participation, is required to make payments to Puerto Rico to cover a portion of the cost of its EITC

[503] This payment is only required for years in which the Secretary, because American Samoa has enacted an EITC designed to substantially increase workforce participation, is required to make payments to American Samoa to cover the cost of its EITC.

PART V — EXPANDING ACCESS TO HEALTH COVERAGE AND LOWERING COSTS

1. Improve affordability and reduce premium costs of health insurance for consumers and other provisions to modify the premium assistance credit (secs. 137501-137504, and sec. 137507 of the bill and secs. 36B and 4980H of the Code)

Present Law

In General

A refundable tax credit (the "premium assistance credit") is provided for eligible individuals and families to subsidize the purchase of "qualified health plans,"[504] health insurance plans offered through an American Health Benefit Exchange ("Exchange") created by the Patient Protection and Affordable Care Act ("PPACA").[505] In general, the Treasury Department makes advance payments with respect to the premium assistance credit during the year directly to the insurer, as discussed below.[506] However, eligible individuals may choose to pay their total health insurance premiums without advance payments and to claim the credit for the taxable year on a Federal income tax return.

The premium assistance credit is generally available for individuals (single or joint filers) with household incomes between 100 percent and 400 percent of the Federal poverty level ("FPL") for the applicable family size.[507] For taxable years beginning in 2021 and 2022, eligibility for the premium assistance credit was expanded to individuals with household incomes above 400 percent of FPL.[508]

Household income is defined as the sum of (1) the individual's modified AGI, plus (2) the aggregate modified AGI of all other individuals taken into account in determining the individual's family size (but only if the other individuals are required to file tax returns for the

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[504] Sec. 36B. Qualified health plans generally must meet certain requirements. Secs. 1301 and 1302 of the PPACA, 42 U.S.C. secs. 18021 and 18022.

[505] Pub. L. No. 111-148, March 23, 2010. The PPACA was modified by the Health Care and Education Reconciliation Act of 2010 ("HCERA"), Pub. L. No. 111-152, Title I, sec. 1001, March 30, 2010. PPACA and HCERA are referred to collectively as the Affordable Care Act ("ACA").

[506] Sec. 1412 of the PPACA, 42 U.S.C sec. 18082.

[507] Sec. 36B(c)(1). Federal poverty level refers to the most recently published poverty guidelines determined by the Secretary of Health and Human Services ("HHS"). Levels for 2021 and previous years are available at https://aspe.hhs.gov/prior-hhs-poverty-guidelines-and-federal-register-references.

Under sec. 36B(c)(1)(B), a taxpayer with household income less than 100 percent of FPL who is an alien lawfully present but is ineligible for Medicaid under title XIX of the Social Security Act by reason of such alien status may be treated as an applicable taxpayer with a household income equal to 100 percent of FPL.

[508] Sec. 36B(c)(1)(E). This temporary expansion was enacted in ARPA, sec. 9661.

taxable year).[509] Modified AGI is defined as AGI increased by (1) any amount excluded from gross income for citizens or residents living abroad,[510] (2) any tax-exempt interest received or accrued during the tax year, and (3) any portion of the individual's Social Security benefits not included in gross income.[511] To be eligible for the premium assistance credit, individuals who are married must file a joint return.[512] Individuals who are listed as dependents on a return are not eligible for the premium assistance credit.

An individual who is eligible for minimum essential coverage from a source other than the individual insurance market generally is not eligible for the premium assistance credit.[513] However, an individual who is offered minimum essential coverage under an employer--sponsored health plan may be eligible for the premium assistance credit if (1) the coverage is either unaffordable or does not provide minimum value, and (2) the individual declines the employer-offered coverage.[514] Thus, an individual who enrolls in an employer--sponsored health plan generally is ineligible for the premium assistance credit even if the coverage is considered unaffordable or does not provide minimum value. Coverage is considered unaffordable if an employee's share of the premium for self-only coverage under the plan exceeds 9.83 percent (for 2021)[515] of the employee's household income. Coverage is considered to not provide minimum value if the plan's share of total allowed costs of plan benefits is less than 60 percent of such costs.

Qualified Small Employer Health Reimbursement Arrangements

Employees and their family members who are provided a qualified small employer health reimbursement arrangement ("QSEHRA") that constitutes affordable coverage are not eligible for the premium assistance credit.[516] The affordability determination for QSEHRAs is similar to the affordability determination for an employer-sponsored health plan. Specifically, a QSEHRA is treated as constituting affordable coverage for a month if an employee's share of the premium for self-only coverage under the second lowest cost silver plan offered in the relevant individual health insurance market does not exceed 9.83 percent (for 2021) of the employee's household income. A QSEHRA is defined in section 9831(d)(2).

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[509] Sec. 36B(d)(2).

[510] Sec. 911.

[511] Under section 86, only a portion of an individual's Social Security benefits is included in gross income.

[512] Sec. 36B(c)(1)(C).

[513] Sec. 36B(c)(2). Minimum essential coverage is defined in section 5000A(f).

[514] Sec. 36B(c)(2)(C).

[515] Rev. Proc. 2020-36, 2020-32 I.R.B. 244.

[516] Sec. 36B(c)(4)(C).

Amount of Credit

The premium assistance credit amount is generally the lower of (1) the premium for the qualified health plan in which the individual or family enrolls, and (2) the premium for the second lowest cost silver plan in the rating area where the individual resides,[517] reduced by the individual's or family's share of premiums.[518] As shown in Table 1 below, an individual's or a family's share of premiums is a certain percentage of household income. The percentage is indexed annually to the rate of premium growth over income growth for the preceding calendar year.

Prior to amendment by ARPA, for 2021, the share of premiums was 2.07 percent of household income up to 133 percent of FPL and is determined on a sliding scale in a linear manner up to 9.83 percent as household income rises from 133 percent of FPL to 400 percent of FPL.[519] However ARPA reduced or eliminated the individual's or family's share of premiums used in determining the amount of the premium assistance credit for taxable years beginning in 2021 and 2022. ARPA also extended eligibility to individuals and families with household income above 400 percent of FPL. Table 1 below shows an individual's or family's modified share of premiums applicable for 2021 and 2022 under ARPA. The share of premiums ranges from 0.0 percent of household income (up to 150 percent of FPL) up to 8.5 percent of household income, determined on a sliding scale in a linear manner. The share of premiums is not indexed for 2022 under ARPA.

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[517] A "silver plan" refers to the level of coverage provided by the health plan. PPACA sec. 1302(d), 42 U.S.C. sec. 18022. Most health plans sold through an Exchange are required to meet actuarial value ("AV") standards, among other requirements. AV is a summary measure of a plan's generosity, expressed as a percentage of medical expenses estimated to be paid by the insurer for a standard population and set of allowed charges. Silver-level plans are designed to provide benefits that are actuarially equivalent to 70 percent of the full AV of the benefits provided under the plan. The premium assistance credit looks to the second lowest cost plan of all of the silver plans available in the relevant rating area.

An individual's "rating area" refers to the geographical unit within the State where the individual resides. Insurers may vary individual market premiums based on rating areas, among other factors. See PPACA sec. 1201, 42 U.S.C. 300gg.

[518] Sec. 36B(b). The amount of the premium assistance credit is determined on a monthly basis, and the amount of the credit for a year is the sum of the monthly amounts.

[519] Rev. Proc. 2020-36, 2020-32 I.R.B. 244. The percentages are indexed to the excess of premium growth over income growth for the preceding calendar year. After 2018, if the aggregate amount of premium assistance credits (and cost-sharing reductions under section 1402 of PPACA) exceeds 0.504 percent of the gross domestic product for that year, the percentage of household income is also adjusted to reflect the excess (if any) of premium growth over the rate of growth in the Consumer Price Index for the preceding calendar year. Such an adjustment was not required for 2021.

Table 1.–Household's Share of Premiums (for 2021)

Household income (expressed as a percent of FPL)	Prior to ARPA		Under ARPA	
	Initial percentage of household income*	Final percentage of household income*	Initial percentage of household income*	Final percentage of household income*
Less than 133%	2.07	2.07	0.0	0.0
133% up to 150%	3.10	4.14	0.0	0.0
150% up to 200%	4.14	6.52	0.0	2.0
200% up to 250%	6.52	8.33	2.0	4.0
250% up to 300%	8.33	9.83	4.0	6.0
300% up to and including 400%	9.83	9.83	6.0	8.5
400% and higher	not eligible	not eligible	8.5	8.5

* The initial percentage of household income corresponds to the bottom of the corresponding FPL range, and the final percentage of household income corresponds to the top of the corresponding FPL range.

Advance Payments of the Premium Assistance Credit

As part of the process of enrollment in a qualified health plan through an Exchange, an individual may apply and be approved for advance payments with respect to a premium assistance credit ("advance payments").[520] The individual must provide information on income, family size, changes in marital or family status or income, and citizenship or lawful presence status.[521] Eligibility for advance payments is generally based on the individual's income for the

[520] Secs. 1411 and 1412 of PPACA, 42 U.S.C. secs. 18081 and 18082. Under section 1402 of PPACA, 42 U.S.C sec. 18071, certain individuals eligible for advance premium assistance payments also are eligible for a reduction in their share of medical costs, such as deductibles and copays, under the plan, referred to as reduced cost-sharing. Eligibility for reduced cost-sharing is also determined as part of the Exchange enrollment process. HHS is responsible for rules relating to Exchanges and the eligibility determination process.

[521] Under section 1312(f)(3) of PPACA, 42 U.S.C. sec. 18032(f)(3), an individual may not enroll in a qualified health plan through an Exchange if the individual is not a citizen or national of United States or an alien lawfully present in the United States. Thus, such an individual is not eligible for the premium assistance credit.

taxable year ending two years prior to the enrollment period. The Exchange process is administered by HHS and includes a system through which information provided by the individual is verified using information from the IRS and certain other sources.[522] If an individual is approved for advance payments, the Secretary pays the advance amounts on a monthly basis directly to the issuer of the health plan in which the individual is enrolled. The individual then pays to the issuer of the plan the difference between the advance payment amount and the total premium charged for the plan.

An individual on whose behalf advance payments of the premium assistance credit for a taxable year are made is required to file an income tax return to reconcile the advance payments with the credit that the individual is allowed for the taxable year.[523]

If the advance payments of the premium assistance credit exceed the amount of credit that the individual is allowed, the excess ("excess advance payments") is treated as an additional tax liability on the individual's income tax return for the taxable year (is "recaptured"), subject to a limit on the amount of additional liability in some cases.[524] For an individual with household income below 400 percent of FPL, recapture for a taxable year generally is limited to a specific dollar amount (the "applicable dollar amount") as shown in Table 2 below. One-half of the applicable dollar amount shown in Table 2 applies to an unmarried individual who is not a surviving spouse or filing as a head of household.

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[522] Under section 6103, returns and return information are confidential and may not be disclosed, except as authorized by the Code, by IRS employees, other Federal employees, State employees, and certain others having access to such information. Under section 6103(l)(21), upon written request of the Secretary of HHS, the IRS is permitted to disclose certain return information for use in determining an individual's eligibility for advance premium assistance payments, reduced cost-sharing, or certain other State health subsidy programs, including a State Medicaid program under title XIX of the Social Security Act, 42 U.S.C. secs. 1396w-1 through 1396w-5, a State's Children's Health Insurance Program under title XXI of the Social Security Act, 42 U.S.C. secs. 1397aa though 1397mm, and a Basic Health Program under section 1331 of PPACA, 42 U.S.C. sec. 18051.

[523] Treas. Reg. sec. 1.6011-8. Under section 6055, health insurance issuers are required to report to the IRS and to the individual the months during a year for which the individual was covered by minimum essential coverage issued by the insurer. In Notices 2019-63 and 2020-76, however, the IRS announced that for 2019 and 2020 it will not assess penalties for the failure to provide the required statement to individuals if certain conditions are met, following the reduction of the individual shared responsibility payment in section 5000A to $0. 2019-51 I.R.B. 1390; 2020-47 I.R.B. 1058.

In addition, under section 36B(f)(3), an Exchange is required to report to the IRS and to the individual the months during a year for which the individual was covered by a qualified health plan purchased through the Exchange; the level of coverage; the name, address, and TIN of the primary insured and each individual covered by the policy; the total premiums paid by the individual; and, if applicable, advance premium assistance payments made on behalf of the individual.

[524] For a taxable year beginning in 2020, ARPA temporarily removed the requirement that excess advance payments are treated as an additional tax liability on the individual's income tax return for the taxable year. Accordingly, for 2020, no excess advance payment was subject to recapture. Sec. 36B(f)(2)(B)(iii).

Table 2.–Recapture Limits (for 2021)[525]

Household income (expressed as a percent of FPL)	Applicable dollar amount
Less than 200%	$650
At least 200% but less than 300%	$1,600
At least 300% but less than 400%	$2,700

If the advance payments of the premium assistance credit for a taxable year are less than the amount of the credit that the individual is allowed, the additional credit amount is allowed when the individual files an income tax return for the year.

Employer Shared Responsibility Payment

An applicable large employer, as defined below, may be subject to a tax, called an "assessable payment," for a month if one or more of its full-time employees is certified to the employer as receiving for the month a premium assistance credit with respect to health insurance purchased through an Exchange (commonly referred to as the "employer mandate").[526] As discussed below, the amount of the assessable payment depends on whether the employer offers its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under a group health plan sponsored by the employer and, if it does, whether the coverage offered is affordable and provides minimum value.

Definitions of Full-Time Employee and Applicable Large Employer

An applicable large employer generally means, with respect to a calendar year, an employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year. For purposes of these rules, full-time employee means, with respect to any month, an employee who is employed on average at least 30 hours of service per week. Solely for purposes of determining whether an employer is an applicable large employer (that is, whether the employer has at least 50 full-time employees), besides the number of full-time employees, the employer must include the number of its full-time equivalent employees for a month, determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120. In addition, in determining whether an employer is an applicable large employer, members of the same controlled group, group under common

[525] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016. The applicable dollar amounts are indexed to reflect cost-of-living increases, with the amount of any increase rounded down to the next lowest multiple of $50.

[526] Sec. 4980H.

control, and affiliated service group are treated as a single employer.[527] If the group is an applicable large employer under this test, each member of the group is an applicable large employer even if any member by itself would not be an applicable large employer.

Assessable Payments

If an applicable large employer does not offer coverage or offers coverage to less than 95 percent of its fulltime employees and their dependents under an employer-sponsored plan and at least one fulltime employee is so certified to the employer, the employer may be subject to an assessable payment (for 2021) of $2,700 (divided by 12 and applied on a monthly basis) multiplied by the number of its fulltime employees in excess of 30, regardless of the number of fulltime employees so certified.

Generally, an employee who is offered minimum essential coverage under an employer sponsored plan is not eligible for a premium assistance credit or reduced cost-sharing unless the coverage is unaffordable or fails to provide minimum value. However, if an employer offers coverage to at least 95 percent of its fulltime employees and their dependents under an employer-sponsored plan and at least one fulltime employee is certified as receiving a premium assistance credit or reduced cost-sharing (because the coverage is unaffordable or fails to provide minimum value), the employer may be subject to an assessable payment (for 2021) of $4,060 (divided by 12 and applied on a monthly basis) multiplied by the number of such fulltime employees. However, the assessable payment in this case is capped at the amount that would apply if the employer failed to offer its fulltime employees and their dependents minimum essential coverage.

Income Taxation of Social Security Benefits

Section 86 provides rules for determining what amount, if any, of a taxpayer's Social Security benefits are includible in gross income. Social Security benefits that are not taxed under section 86 are excluded from gross income. For purposes of section 86, Social Security benefits generally include monthly retirement benefits payable under title II of the Social Security Act and tier 1 Railroad Retirement benefits.[528]

Portion of Social Security Benefits Includible in Gross Income

The amount of Social Security benefits includible in gross income is determined under a two-tier system. Taxpayers receiving Social Security benefits are not required to include any portion of such benefits in gross income if their provisional income does not exceed a first-tier threshold, which is $25,000, in the case of unmarried individuals, or $32,000, in the case of

[527] The rules for determining controlled group, group under common control, and affiliated service group under section 414(b), (c), (m), and (o) apply for this purpose.

[528] If a taxpayer's Social Security benefits or Railroad Retirement benefits are offset by worker's compensation benefits, then the amount of the taxpayer's Social Security benefits is increased by the amount of such offset.

married individuals filing jointly.[529] A second--tier threshold for provisional income is $34,000, in the case of unmarried individuals, or $44,000, in the case of married individuals filing joint returns.[530] These thresholds are not indexed for inflation.

If the taxpayer's provisional income exceeds the first-tier threshold but does not exceed the second-tier threshold, then the amount required to be included in gross income is the lesser of: (1) 50 percent of the taxpayer's Social Security benefits, or (2) 50 percent of the excess of the taxpayer's provisional income over the first-tier threshold.

If the amount of provisional income exceeds the second-tier threshold, then the amount required to be included in gross income is the lesser of: (1) 85 percent of the taxpayer's Social Security benefits; or (2) the sum of (a) 85 percent of the excess of the taxpayer's provisional income over the second-tier threshold, plus (b) the smaller of (i) the amount of benefits that would have been included in income if the 50-percent inclusion rule (described in the previous paragraph) were applied, or (ii) one-half of the difference between the taxpayer's second-tier threshold and first-tier threshold.[531]

Treatment of Lump-Sum Payment of Social Security Benefits

In the event of a lump-sum payment of Social Security benefits received during the taxable year that are attributable in any part to prior years, an individual may make an election to compute the taxable amount of the payment of benefits as if the benefits had been received in the prior taxable years to which they are attributable. A Social Security benefit may be attributed to a particular taxable year if the generally applicable payment date for such benefit occurred during the taxable year. If the election is made, the taxpayer will determine the tax for the taxable year of receipt of the lump-sum payment by including in gross income for the current year the sum of the increases in gross income that result solely from taking into account the appropriate portions of the lump-sum payment in the taxable year to which they are attributable.

Unemployment Compensation

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[529] In the case of a married individual who files a separate return, the first-tier threshold is generally zero. However, if the individual lives apart from his or her spouse for the entire year, the first-tier threshold is $25,000.

For purposes of these computations, a taxpayer's provisional income is defined as AGI increased by certain amounts, including, generally: (1) tax-exempt interest; (2) excludable interest on educational savings bonds; (3) adoption assistance payments; (4) certain deductible student loan interest; (5) certain excludable foreign-source earned income; (6) certain U.S. possession income; and (7) one-half of the taxpayer's Social Security benefits.

[530] In the case of a married individual who files a separate return, the second-tier threshold is generally zero. However, if the individual lives apart from his or her spouse for the entire year, the second-tier threshold is $34,000.

[531] Special rules apply in some cases. In the case of nonresident individuals who are not U.S. citizens, 85 percent of Social Security benefits are includible in gross income and subject to the 30-percent withholding tax (sec. 871(a)(3)). The taxation of Social Security benefits may also be specified in income tax treaties between the United States and other countries.

Unemployment compensation benefits are includible in gross income.[532] Unemployment compensation is defined as any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.[533]

ARPA provided a temporary special rule in the case of a taxpayer who has received, or has been approved to receive, unemployment compensation (as defined in section 85(b)) for any week during calendar year 2021.[534] Under the rule, for a taxable year beginning in 2021, (i) such a taxpayer is treated as an applicable taxpayer, and (ii) the taxpayer's household income is not taken into account to the extent it exceeds 133 percent of FPL for a family of the size involved. Accordingly, under the provision, a taxpayer receiving unemployment compensation during 2021 and whose household income exceeds 133 percent of FPL may receive a larger premium assistance credit and may by subject to lower recapture than under present law. In addition, a taxpayer receiving unemployment compensation during 2021 whose household income is less than 100 percent of FPL for a family of the size involved may be allowed a premium assistance credit.

Explanation of Provision

Improve Affordability and Reduce Premium Costs of Health Insurance for Consumers

The provision makes permanent the reduction in ARPA of the share of premiums that individuals or households must contribute towards the cost of health insurance in calculating the amount of their premium assistance credit. The provision also makes permanent the expansion in ARPA of eligibility for the premium assistance credit to individuals and families with household incomes above 400 percent of FPL for a family of the size involved, provided the other eligibility criteria are met. The provision permanently repeals indexing of the individual or household's share of premiums used in determining the premium assistance credit.

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

The provision lowers the affordability percentage for employer-sponsored plans from 9.83 percent (for 2021) to 8.5 percent. Accordingly, an individual who is offered minimum essential coverage under an employer-sponsored health plan may be eligible for the premium assistance credit if (1) the employee's share of the premium for self-only coverage under the plan exceeds 8.5 percent or does not provide minimum value, and (2) the individual declines the employer-offered coverage.

The provision also lowers the affordability percentage for QSEHRAs from 9.83 percent (for 2021) to 8.5 percent.

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[532] Sec. 85.

[533] Sec. 85(b); see also Treas. Reg. sec. 1.85-1(b)(1).

[534] Sec. 36B(g).

Under the provision, the 8.5 percent affordability percentages for employer-sponsored plans and QSEHRAs are not indexed for inflation.

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

For purposes of determining household income with respect to the premium assistance credit, the provision excludes from the definition of modified AGI any portion of a lump-sum payment of Social Security benefits received during the taxable year that is attributable to months ending before the beginning of the taxable year. A lump-sum payment of Social Security benefits means any payment of Social Security benefits which constitutes more than one month of benefits. For any taxable year beginning after the termination date described below, a taxpayer may elect to not exclude the portion of a lump-sum payment of Social Security benefits allowed to be excluded under the provision.

The provision applies with respect to the amount of Social Security benefits includible in gross income and the amount of Social Security benefits not includible in gross income (but included in modified AGI for purposes of the premium assistance credit).

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

The provision provides temporary rules for the premium assistance credit to certain low-income taxpayers. The temporary rules are effective for taxable years beginning after December 31, 2021 and before the termination date. The termination date is the later of (i) January 1, 2025, or (ii) the date on which the Secretary of Health and Human Services makes a written certification that the Secretary of Health and Human Services has fully implemented the program described in section 1948 of the Social Security Act (relating to the Federal Medicaid program).

First, the provision expands eligibility for the premium assistance credit to individuals and families with household incomes below 100 percent of FPL for a family of the size involved.

Second, the provision expands eligibility for the premium assistance credit to an employee who is offered an affordable employer-sponsored health plan (and an individual who is eligible to enroll in the plan by reason of a relationship to the employee) that provides minimum value if (1) the taxpayer's household income does not exceed 138 percent of FPL for a family of the size involved, and (2) the employee (or individual) declines the employer-offered coverage. The provision also expands eligibility to an employee (or any spouse or dependent of such employee) who is provided an affordable QSEHRA if the employee's household income does not exceed 138 percent of FPL for a family of the size involved.

Third, the provision reduces the recapture limitation for a taxpayer whose household income is less than 200 percent of FPL for a family of the size involved from $650 (for 2021) to $300 ($150 for an unmarried individual who is not a surviving spouse or filing as a head of household).

Finally, the provision provides special rules for certain taxpayers whom the Exchange has determined are low-income. For a taxpayer for any taxable year who would not be required

to file an income tax return but for any requirement to reconcile advance payments, and who an Exchange determines (i) is eligible for advance payments of the premium tax credit for any portion of the taxable year and (ii) such taxpayer's household income is projected to not exceed 138 percent of FPL for a family of the size involved, the taxpayer is not subject to recapture and shall not be required to file such return. An Exchange is required to report to the Secretary and to the taxpayer information necessary to determine that the Exchange made the determinations described above with respect to the taxpayer. The employer shared responsibility provision is modified under the provision to not be applicable if a premium assistance credit is allowed or paid for a taxable year of an employee where an Exchange has determined that the employee's household income for the taxable year is projected to not exceed 138 percent of FPL for a family of the size involved or such employee's household income for the taxable year does not exceed 138 percent of FPL for a family of the size involved.

Extension of Special Rule for Individuals Receiving Unemployment Compensation

The provision temporarily extends the special rule enacted in ARPA for a taxpayer who has received, or has been approved to receive, unemployment compensation (as defined in section 85(b)) for an applicable week. [535] Under the provision, for any week beginning after December 31, 2020, and before January 1, 2026, for the taxable year in which such week begins, such taxpayer is treated as an applicable taxable and such taxpayer's household income is not taken into account to the extent it exceeds 150 percent of FPL for a family of the size involved.

Effective Date

The provisions are effective for taxable years beginning after December 31, 2021.

2. Ensuring affordability of coverage for certain low-income populations (sec. 137505 of the bill).

Present Law

Certain Exchange enrollees may receive cost-sharing reductions (CSRs) that decrease cost-sharing requirements under qualified health plans (QHPs) sold through Exchanges. To be eligible for CSRs, individuals must have annual household incomes between 100% and 250% of FPL, be enrolled in a silver Exchange plan, and meet other criteria. A silver plan is a plan with an actuarial value (AV) of 70%; AV measures a plan's generosity expressed as the percentage of estimated medical expenses paid by the health insurance issuer for a standard population and set of allowed charges.

For eligible individuals, the cost-sharing requirements (for the plans in which they have enrolled, e.g., copayments, coinsurance, and deductibles) are reduced to ensure that the plans cover a certain percentage of allowed health care expenses, on average. The practical effect

[535] Sec. 36B(g).

of this CSR is to increase the AV of the Exchange plan in which the person is enrolled. Under present law, the increased AV by household income FPL tier is as follows:

Household Income Tier By FPL	New AV for CSR Recipients
100% to 150%	94%
Greater than 150% to 200%	87%
Greater than 2005 to 250%	73%

Consumers may enroll in coverage through the exchanges only during specified enrollment periods. Generally, consumers qualify for special enrollment periods (SEPs) for a certain amount of time (e.g., 60 days) after a triggering event. During an SEP, a qualified individual can enroll in or change from one qualified health plan to another.

The ACA generally requires that the private health insurance plans offered through an Exchange are QHPs. To be a certified as a QHP, a plan must be offered by a state-licensed health insurance issuer and must meet specified requirements, including covering the essential health benefits (EHB). Beyond applicable state and federal requirements (including those that apply to plans sold both on and off the Exchanges), plans may differ in terms of specific benefit packages and provider networks offered, and in terms of premium and cost-sharing amounts.

Federal statute and regulations require exchanges to carry out certain consumer outreach and assistance functions. These functions generally include in-person and other forms of outreach and assistance. Each Exchange must have a Navigator program. Navigators are entities whose employees and/or volunteers conduct public outreach and education activities about the exchanges and QHPs; provide impartial information to consumers about their insurance options; help consumers access Exchange coverage, Exchange financial assistance, and/or public program coverage (e.g., Medicaid or CHIP) if they qualify; and refer consumers to any applicable consumer assistance programs as needed, such as state agencies that assist consumers with questions or complaints about their plans. Navigators are funded by the exchanges, via grants provided to qualifying organizations. These grants, and other exchange consumer education and outreach activities, are federally funded for federally facilitated exchanges (FFEs).

Besides facilitating in-person assistance, Exchanges must conduct consumer outreach and education activities that meets specified standards, including regarding accessibility for individuals with disabilities or with limited English proficiency.

Explanation of Provision

The section would amend current law applicable to CSRs to (1) make a temporary change to income eligibility criteria and (2) provide special access for a limited time to individuals with incomes below 138% of FPL. Such individuals would be treated as having household income at 100% of FPL for any month beginning on January 1, 2022 and ending on

December 31, 2022. For plan years 2023 and 2024, the provision would reduce cost-sharing requirements to increase the AV—of the exchange plan in which a specified enrollee is enrolled—to 99%.

This section would create a new federal SEP to allow individuals with household income of less than 138% of FPL who are not otherwise eligible for certain types of "government sponsored program" minimum essential coverage to enroll in Exchange coverage at a CSR level that would be continuous through the end of the plan year.

This section would require QHP issuers to provide certain non-emergency medical transportation services and family planning services and supplies benefits (without any restriction on the choice of a qualified provider) to CSR eligible individuals with household income less than 138% of FPL, via certain plans, in plan year 2024 without any imposition of cost sharing. QHP issuers would be required to include the benefits in their silver level QHPs for which CSRs are applicable.

This section would amend 42 U.S.C. §18041 to require the HHS Secretary to carry out consumer outreach and education activities focused on informing specified individuals in Medicaid non-expansion states about the availability of QHPs and of financial assistance for such Exchange coverage. The specified individuals would be defined as those who are eligible through the ACA Medicaid expansion in states that have not taken up the ACA Medicaid expansion.

For purposes of conducting these outreach activities, $15 million for FY 2022 and $30 million for each of FYs 2023 and 2024 would be appropriated, and would remain available until expended.

The section would also amend 42 U.S.C. §18031 to require the HHS Secretary to obligate $10 million for FY 2022 and $20 million for each of FYs 2023 and 2024, for the purpose of awarding grants to Navigator entities in FFEs. These funds would be obligated from exchange issuer user fee amounts collected, and would remain available until expended.

Effective Date

The provision is effective for any month occurring during the period beginning on January 1, 2022.

3. Establishing a health insurance affordability fund (sec. 137506 of the bill).

Present Law

The ACA, at 42 U.S.C. §18061, established the Transitional Reinsurance Program, which was a temporary federal reinsurance program that provided reimbursement to most individual health insurance issuers that enrolled high-cost enrollees. Under the program, if an enrollee's total claims exceed a specified level (referred to as the attachment point), the issuer would be

paid a proportion of claims costs (referred to as the coinsurance rate) beyond the attachment point until total claims costs reached a cap (referred to as the reinsurance cap). The Transitional Reinsurance Program operated from plan year 2014 through plan year 2016.

Explanation of Provision

This section would establish the "Improve Health Insurance Affordability Fund," which would be used to provide funding to the 50 states and the District of Columbia for specified purposes beginning on January 1, 2023.

The section specifies that states would be required to use any funding it receives from the Fund for one of two purposes: (1) to provide reinsurance payments to issuers with respect to their individual health insurance coverage enrollees, or (2) to provide other types of assistance to reduce out-of-pocket costs (e.g., copayments, coinsurance, and deductibles) for individuals enrolled in QHPs offered through an individual market health insurance exchange and individuals enrolled in plans offered through a Basic Health Plan. Any reinsurance payments would not account for individuals enrolled in grandfathered health plans, transitional plans, student health insurance coverage, or excepted benefits. States must submit an application to the CMS Administrator in order to be eligible for an allocation from the Fund.

This section would appropriate $10 billion in 2023 and each subsequent year for the HHS Secretary to allocate funding to states (including non-expansion states in 2023 and 2024) and would require the HHS Secretary to allocate funding to states by certain deadlines. State allocation amounts would be determined by the HHS Secretary using a formula that assumes all funding would go to reinsurance payments.

This section applies different rules to non-expansion Medicaid states in 2023 and 2024. For 2023 and 2024, states that had not implemented the Medicaid expansion as of January 1 of the prior year would be prevented from submitting an application for an allocation from the Fund for the respective year. Instead, for non-expansion states in 2023 and 2024, the CMS Administrator, in consultation with applicable state authorities, would be required to provide reinsurance payments to issuers in such states with respect to their individual health insurance coverage enrollees.

Effective Date

The fund established under Section 137506 would be used to provide funding beginning on January 1, 2023.

4. Permanent credit for health insurance costs (sec. 137508 of the bill and sec. 35 of the Code)

Present Law

Eligible Coverage Months

An eligible individual is allowed a refundable tax credit for 72.5 percent of the individual's premiums for qualified health insurance of the individual and qualifying family members for each eligible coverage month beginning in the taxable year.[536] The credit is commonly referred to as the health coverage tax credit. The credit is available only with respect to amounts paid by the individual for qualified health insurance. Advance monthly payments paid by the Secretary directly to the health plan administrator are available.[537]

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if (1) the month begins before January 1, 2022, and (2) as of the first day of the month, (i) the individual is an eligible individual; (ii) is covered by qualified health insurance the premium for which is paid by the individual; (iii) does not have other specified coverage; and (iv) is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements.

Eligible Individuals

An eligible individual is an individual who is (1) an eligible Trade Adjustment Assistance ("TAA") recipient, (2) an eligible alternative TAA recipient or an eligible reemployment TAA recipient, or (3) an eligible Pension Benefit Guaranty Corporation ("PBGC") pension recipient. In general, an individual is an eligible TAA recipient for a month if the individual (1) receives for any day of the month a trade readjustment allowance under the Trade Act of 1974 or would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits before being eligible to receive an allowance, and (2) with respect to such allowance, is covered under a required certification. An individual is an eligible alternative TAA recipient or an eligible reemployment TAA recipient for a month if the individual participates in certain programs under the Trade Act of 1974 providing wage supplements and receives a related benefit for the month. Generally, an individual is an eligible PBGC pension recipient for any month if the individual (1) is age 55 or over as of the first day of the month, and (2) receives a benefit for the month, any portion of which is paid by the PBGC. A person who may be claimed as a dependent on another person's tax return is not an eligible individual. In addition, an otherwise eligible individual is not eligible for the credit for a month if, as of the first day of the month, the individual has certain specified coverage, such as certain employer-provided coverage or coverage under certain governmental health programs.

Qualified Health Insurance

Qualified health insurance in respect of which the credit is allowed is: (1) coverage under a COBRA continuation provision;[538] (2) State-based continuation coverage provided by

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[536] Qualifying family members are the individual's spouse and any dependent for whom the individual is entitled to claim a dependency exemption. Any individual who has certain specified coverage is not a qualifying family member.

[537] Sec. 7527.

[538] As defined in section 9832(d)(1).

the State under a State law that requires such coverage; (3) coverage offered through a qualified State high risk pool; (4) coverage under a health insurance program offered to State employees or a comparable program; (5) coverage through an arrangement entered into by a State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer; (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool; (7) coverage under a State-operated health plan that does not receive any Federal financial participation; (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse; (9) coverage under individual health insurance[539] (other than coverage purchased through an American Health Benefit Exchange);[540] and (10) coverage under an employee benefit plan funded by a voluntary employee beneficiary association ("VEBA")[541] established pursuant to an order of a bankruptcy court (or by agreement with an authorized representative).[542]

Qualified health insurance does not include any State-based coverage (*i.e.*, coverage described in (2)-(7) in the preceding paragraph) unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain consumer-protection requirements.[543] Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium. In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must be the same as (or substantially similar to) benefits provided to similarly situated individuals who are not qualifying individuals.

A qualifying individual for this purpose is an eligible individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[544] of three months or longer, does not have other specified coverage, and is not imprisoned.

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[539] For this purpose, "individual health insurance" means any insurance that constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[540] The premium assistance credit is provided for eligible individuals and families who purchase health insurance through an American Health Benefit Exchange. See sec. 36B.

[541] As defined in section 501(c)(9).

[542] See 11 U.S.C. sec. 1114.

[543] For guidance on how a State elects a health program to be qualified health insurance for purposes of the credit, see Rev. Proc. 2004-12, 2004-1 C.B. 528.

[544] Creditable coverage is determined under section 9801(c).

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is for excepted benefits.

Explanation of Provision

The provision makes the health coverage tax credit permanent (instead of expiring for months beginning on or after January 1, 2022). It also increases the amount of the credit from 72.5 percent of the individual's premiums for qualified health insurance to 80 percent.

Effective Date

The provision is effective for coverage months beginning after December 31, 2021.

PART VI — PATHWAY TO PRACTICE TRAINING PROGRAMS

Present Law

There are a number of programs intended to increase the number of physicians practicing in rural and underserved communities. For example, the Health Resources and Services Administration (HRSA) within the Department of Health and Human Services (HHS), administers a scholarship program, authorized under 42 U.S.C. §293a, the provides scholarships for individuals from disadvantaged backgrounds to attend health professional school, including medical school. This program does not include support for medical school preparation or residency training.

The Department of Defense also offers the Health Professions Scholarship Program for medical and dental students, the program provides scholarships for tuition, fees, other educational expenses (e.g., books), and a monthly living stipend. In exchange for this support, the recipient must spend one year for each year of support received working for the military branch which supported their training.[545]

Programs throughout the federal government make student loan forgiveness benefits available to individuals. In some cases, programs are targeted to health professionals and incur a service commitment.[546] For example, National Health Service Corps, administered by HRSA, provides loan repayment benefits to health professionals, including but not exclusive to physicians, in exchange for providing care in a health professional shortage area, which may include a rural area.[547]

Given HRSA's focus on health care access for underserved populations, the agency annually designates areas or populations as being in shortage or being medically underserved to determine area/population eligibility for certain HRSA programs, such as the National Health Service Corps.[548] HRSA also administers workforce programs that seek to connect individuals from disadvantaged backgrounds to health professions. These include the Health Careers Opportunity Program (HCOP), authorized under 42 U.S.C. §293c, which provides funds to

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[545] Air Force Medical Service, "Health Professions Scholarship Program (HPSP) Fact Sheet," June 2021, https://www.airforcemedicine.af.mil/Media-Center/Fact-Sheets/Display/Article/425437/hpsp-fact-sheet/.

[546] CRS Report R43571, *Federal Student Loan Forgiveness and Loan Repayment Programs*.

[547] This program also provides scholarships, and prioritizes individuals from disadvantaged backgrounds when making scholarships awards; the majority of program awards are for loan repayment. See CRS Report R44970, *The National Health Service Corps*.

[548] CRS Infographic IG10015, *Health Professional Shortage Areas (HPSAs)*.

health professional schools to assist with recruiting qualified individuals from disadvantaged backgrounds into health professions and providing enrichment programs and community-based training for HCOP participants.[549] Another HRSA program, the Area Health Education Centers (AHEC), funds medical and nursing schools to provide health care training experiences in rural and underserved areas for those seeking to enter health careers or start clinical practice. In academic year 2019-2020, more than 40 percent of AHEC's participants were from a rural area or come from a disadvantaged background.[550]

Scholarships received by an educational institution on behalf of a student for educational expenses are not tax deductible to the institution under current law (although like other payments for educational expenses, they would generally be included in the institution's revenue). Students, in contrast, may receive a tax benefit from a scholarship. Specifically, students generally do not have to pay tax on a scholarship as long as it is not considered compensation for services (e.g., research, student teaching). Scholarship or fellowship income that is considered compensation for services generally is taxable, unless specifically excluded by law—statutory exceptions include amounts received under the National Health Service Corps Scholarship Program and the Armed Forces Health Professions Scholarship and Financial Assistance program.[551]

Medicare pays hospitals with an approved medical residency program for the direct and indirect costs of a medical residency training program.[552] Direct costs include resident stipends, supervisory physician salaries, and administrative costs. Indirect costs associated with residency programs relate to the higher patient care costs in teaching hospitals relative to non-teaching hospitals. For example, resident-provided care may be more costly due to additional tests that residents may order as part of their training. Medicare uses different formulae for determining payments for direct GME (referred to as Direct Graduate Medical Education or DGME) costs and indirect GME (referred to as Indirect Medical Education or IME) costs—DGME is a lump sum (or pass-through) payment and IME is a per-discharge payment.[553]

Medicare DGME and IME payments to hospitals are not open-ended. Rather, Medicare's GME (DGME and IME) payments to a hospital in a given year are subject to a hospital-specific full-time equivalent (FTE) limit or "cap" for allopathic and osteopathic

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[549] U.S. Department of Health and Human Services, "Health Resources and Services Administration: Justification of Estimates for Appropriations Committees FY2022, pp. 101-103.

[550] U.S. Department of Health and Human Services, "Health Resources and Services Administration: Justification of Estimates for Appropriations Committees FY2022, pp. 126-130.

[551] See Internal Revenue Code (IRC) §117(c)(2).

[552] 42 C.F.R. §413.75(b).

[553] See CRS In Focus IF10960, *Medicare Graduate Medical Education Payments: An Overview* or CRS Report R44376, *Federal Support for Graduate Medical Education: An Overview* for details about DGME and IME payment formulas.

residents.[554] The FTE cap is based on the number of FTE residents that a hospital was training in its base year, which is the hospital's most recent cost-reporting period ending on or before December 31, 1996.[555]

1. Establishing rural and underserved pathway to practice training programs for post-baccalaureate students and medical students (sec. 137601 of the bill).

Present Law

No provision.

Explanation of Provision

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

[554] Generally, the FTE cap is determined at the hospital level. However, under Medicare GME rules, groups of hospitals may enter into formal affiliation agreements that permit these hospitals to "pool" their FTEs. This permits some hospitals within the affiliated group to reduce their FTE cap and others to increase their FTE cap for purposes of Medicare GME payments as long as the aggregate number of FTEs among the affiliated group remains the same. For further information about Medicare GME affiliated groups and affiliation agreements, see 42 C.F.R. §413.75 and §413.79(f).

[555] 42 U.S.C. §1395g. Generally, Medicare pays hospitals for inpatient services in a given fiscal year based on the Center for Medicare & Medicaid Services' (CMS) prospective estimate of payment rates and eligibility for certain payment adjustments using the most recently available data. Medicare determines the appropriate amount of some payment adjustments based on the cost report data hospitals provide. The Medicare Provider Reimbursement Manual, Chapter 1, Section 102 permits a hospital to choose when its annual cost-reporting period begins and ends, within certain parameters. For the DGME FTE "cap," see 42 U.S.C. §1395ww(h)(4)(F); for the IME FTE "cap," see 42 U.S.C. §1395ww(d)(5)(B)(v).

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, public hospital, 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.

2. Funding for the Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate and Medical Students (sec. 137602 of the bill and new sec. 36G of the Code)

Present Law

The Code does not presently provide a tax credit to educational institutions for the purpose of subsidizing scholarship awards to post-baccalaureate and medical students who agree to practice in certain medically underserved or rural areas after graduation.

Generally, gross income of a scholarship recipient does not include any amount received as a qualified scholarship by a recipient who is a candidate for a degree at an education organization.[556] A "qualified scholarship" means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was used for qualified tuition and related expenses.

Explanation of Provision

The provision creates a new refundable Pathway to Practice medical scholarship voucher credit 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 a Pathway to Practice medical scholarship voucher awarded to a qualifying student enrolled at the institution.

Amounts are treated as paid or incurred pursuant to an annual award of a Pathway to Practice medical scholarship voucher only if such amount is paid or incurred in reimbursement, or anticipation of, a qualifying expense and is subject to verification in such manner as the Secretary of Health and Human Services may provide. In the case of any amount credited by a qualified educational institution against a liability owed by the qualifying student to the

[556] Sec. 117. For this purpose, an educational organization is an organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. Sec. 170(b)(1)(A)(ii).

institution, such amount will be treated as paid by the institution to the student as of the date that the liability would otherwise be due.

The credit allowed to a qualified educational institution for a taxable year with respect to a Pathway to Practice medical scholarship voucher may not exceed the amount of the voucher, which is for qualifying expenses, reduced by any voucher amounts for which credit was allowed in any prior taxable years.

Qualified educational institutions are qualifying medical schools and providers of post-baccalaureate programs that meet the requirements of the Program.[557] A qualifying student is a student to whom the Secretary of Health and Human Services has made an annual award of a Pathway to Practice medical scholarship voucher. An annual award of a Pathway to Practice medical scholarship voucher is an award to a qualifying student for each year of enrollment in a post-baccalaureate program and a qualifying medical school, as appropriate.[558]

Information Sharing

The provision requires the Secretary of Health and Human Services to provide to the Secretary of the Treasury annually such information[559] regarding the Program as the Secretary of the Treasury may require to administer the credit, including information to identify (1) qualifying students and the qualified educational institutions at which such students are enrolled and (2) the amount of each annual award of the Pathway to Practice medical scholarship voucher awarded to each qualifying student at the institution.

Income Exclusion for Medical Scholarship Voucher Recipients

General rules under section 117 apply with respect to the Pathway to Practice medical scholarship vouchers awarded to qualifying students. A scholarship voucher recipient who is a candidate for a degree at an educational organization generally may exclude from gross income any amounts paid or incurred for qualified tuition and related expenses, in accordance with the conditions of the Pathway to Practice medical scholarship voucher.

3. Establishing Rural and Underserved Pathway to Practice Training Programs for Medical Residents (sec. 137603 of the bill)

Present Law

The amount Medicare pays for each FTE—the per-resident amount or PRA—for DGME is based on a hospital's costs for a resident FTE in a base period which is the hospital's cost-reporting period that began during FY1984 (October 1, 1983-September 30, 1984), updated

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[557] Section 1899C(b)(2)(A) and (c)(6) of the Social Security Act, as added by this provision.

[558] Section 1899C(d)(3) of the Social Security Act, as added by this provision.

[559] Section 1899C of the Social Security Act, as added by this provision.

by the Consumer Price Index for All Urban Consumers (CPI-U).[560] The IME statute does not explicitly set a PRA since the IME payment is an adjustment to the Medicare inpatient per-discharge payment; however, the IME payment formulae in statute indirectly limits IME payments through use of resident-to-beds and resident-to-average daily census ratios which are subject to the FTE cap.[561]

In some cases, the FTE cap is not absolute—Medicare provides GME funding for *new* medical residency programs sponsored either by a new hospital, or an existing hospital that develops a new residency program, or one that was not training residents during its base period (i.e., the most recent cost-reporting period ending on or before December 31, 1996). For these hospitals and programs, there is a 5-year cap-building period.[562] The PRA for residency programs established after the PRA base period (October 1, 1983-September 30, 1984) is the lower of a hospital's actual costs or the average PRA for all hospitals located in the same geographic area. In comparison, a hospital that already has an FTE cap and wishes to grow its medical residency training program to correspond with the growth of the hospital, its service area, or population served cannot receive additional Medicare GME funding to support additional residents.

Explanation of Provision

This section amends subsection 1886(h)(4)(H) of the SSA by adding a new clause (vii) to incentivize additional residency training by increasing physician residency training positions to 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. There are 1,000 slots per year for these residency positions, beginning on October 1, 2026.

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[560] For the DGME PRA, see 42 U.S.C. §1395ww(h)(2)(A).

[561] 42 U.S.C. §1395ww(d)(5)(B).

[562] The Medicare FTE cap for new residency training programs is the highest number of FTE residents in any program year as determined in the fifth year of the new program's existence multiplied by the number of years residents are expected to take to complete the program based on the minimum accredited length for each type of program. CMS considers a number of factors on a case-by-case basis to determine whether a residency program is truly "new." For a more extensive discussion of CMS's perspective on these factors, see CMS, "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2010 Rates; and Changes to the Long Term Care Hospital Prospective Payment System and Rate Years 2010 and 2009 Rates," 74 *Federal Register* 43754, August 27, 2009, p. 43908.

4. Administrative funding of the Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate Students, Medical Students, and Medical Residents (sec. 137604 of the bill)

Present Law

No provision.

Explanation of Provision.

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

Effective Dates

Section 137601 directs awards to begin in 2023; section 137602 is effective for taxable years ending after the date of enactment; section 137603 is effective for cost reporting years on or after October 1, 2026; and section 137604 is effective upon enactment.

PART VII — HIGHER EDUCATION

1. Credit for public university research infrastructure (sec. 137701 of the bill and new sec. 45AA of the Code)

Present Law

General Business Credits

For any taxable year, a taxpayer may be allowed a general business credit under section 38 against income tax, in an amount equal to the sum of the (1) business credit carryforwards carried to such taxable year, (2) the amount of the current year business credit, and (3) the business credit carrybacks carried to such taxable year.

The amount of the current year business credit is the sum of the credits identified in section 38(b)(2). The credit allowed for any taxable year is subject to the income tax liability restrictions under section 38(c).

Charitable Contributions in General

An income tax deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the recipient organization.[563] Charitable contributions of cash generally are deductible in the amount contributed.

The Code does not presently allow a general business credit for qualified cash contributions to a public university for research infrastructure.

Percentage Limitations on the Deductible Amount of Charitable Contributions Made in Cash

Contributions by Individuals

For individuals, in any taxable year, the amount deductible as a charitable contribution is limited to a percentage of the taxpayer's contribution base. The contribution base is defined as the taxpayer's adjusted gross income computed without regard to any net operating loss carryback. The applicable percentage of the contribution base varies depending on the type of recipient organization and property contributed.

Contributions by an individual taxpayer of cash and property (other than appreciated capital gain property) to a public charity[564] may not exceed 50 percent of the taxpayer's contribution base. For contributions taken into account for taxable years beginning after

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[563] Sec. 170.

[564] For this purpose, the term "public charity" means an organization described in section 170(b)(1)(A), *e.g.*, public charities, private foundations other than private non-operating foundations, and certain governmental units.

December 31, 2017, and before January 1, 2026, the percentage limit for contributions by an individual taxpayer of cash to a public charity is increased to 60 percent.[565] A State college or university generally is treated as a public charity for this purpose; as such, a charitable contribution of cash to a State college or university generally qualifies for the percentage limits described in this paragraph.

Contributions by Corporations

For corporations, in any taxable year, charitable contributions generally are not deductible to the extent the aggregate contributions exceed 10 percent of the corporation's taxable income computed with certain modifications.

Contributions by Estates and Trusts

Estates and certain trusts may generally deduct charitable contributions without a percentage limitation.[566]

Carryforwards of Excess Contributions

Charitable contributions that exceed the applicable percentage limitation may be carried forward for up to five years.[567] The amount that may be carried forward from a taxable year ("contribution year") to a succeeding taxable year may not exceed the applicable percentage of the contribution base for the succeeding taxable year less the sum of contributions made in the succeeding taxable year plus contributions made in taxable years prior to the contribution year and treated as paid in the succeeding taxable year under this rule.

Temporary Modifications to Charitable Contribution Limitations

A temporary rule increases the percentage limits for individuals and corporations for certain cash contributions paid during 2020 or 2021.[568]

Explanation of Provision

The provision adds a new public university research infrastructure credit as part of the section 38 general business credit.

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[565] Sec. 170(b)(1)(G).

[566] Sec. 642(c).

[567] Sec. 170(d).

[568] In general, cash contributions by an individual taxpayer made during 2020 and 2021 to certain public charities are allowed up to the amount by which the taxpayer's contribution base exceeds the deduction for other charitable contributions. In the case of a corporation, the deduction for such contributions is allowed up to 25 percent of the corporation's taxable income. See Pub. L. No. 116-260 (December 27, 2020), Div. EE, sec. 213 (extending section 2205 of the CARES Act, Pub. L. No. 116-136 (March 27, 2020)).

Amount of Credit and Definitions

The credit for a taxable year is an amount equal to 40 percent of the qualified cash contributions made by a taxpayer during the taxable year.[569]

For this purpose, a qualified cash contribution for a taxable year is the aggregate amount contributed in cash by a taxpayer during such taxable year to a certified educational institution in connection with a qualifying project, provided that the contribution would have been treated as a charitable contribution for purposes of the income tax charitable deduction (section 170(c) of the Code), if the credit were not available.[570] A contribution is treated as a qualified cash contribution only to the extent that it is designated as such by a certified educational institution, as outlined below. No other credit or deduction is allowed for a qualified cash contribution for which is credit is allowed under the provision.

The term "qualifying project" means a project to purchase, construct, or improve research infrastructure property. The term "research infrastructure property" means any portion of a property, building, or structure of an eligible educational institution, or any land associated with such property, building, or structure, that is used for research. An "eligible educational institution" is: (1) an institution of higher education (as defined in section 101 or 102(c) of the Higher Education Act of 1965) that is a college or university described in section 511(a)(2)(B) (generally describing State colleges and universities); or (2) an organization described in section 170(b)(1)(A)(iv)[571] or a supporting organization described in section 509(a)(3) to which authority has been delegated by an institution of higher education described in (1), above, for purposes of applying for or administering credit amounts on behalf of such institution.

As indicated above, a qualified cash contribution must be made to a certified educational institution. The term "certified educational institution" means an eligible educational institution that has been allocated a credit amount for a qualifying project, has received a certification for the project (as described below), and designates credit amounts to taxpayers for qualifying cash contributions toward such project (as also described below).

Establishment of Qualifying University Research Infrastructure Program

The provision requires the Secretary, in consultation with the Secretary of Education, to establish the qualifying university research infrastructure program within 180 days of the date of enactment. The program must: (1) certify and allocate credit amounts for qualifying projects

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[569] No other credit or deduction is allowed for a qualified cash contribution for which a credit is allowed under the provision. In addition, in the case of a trust or estate, rules similar to the rules of section 52(d) (generally relating to the apportionment of the credits between the trust or estate and the beneficiaries) shall apply.

[570] A qualified cash contribution for which a credit is allowed is taken into account in determining the taxpayer's annual percentage limitations for purposes of the income tax charitable deduction under section 170(b).

[571] Section 170(b)(1)(A)(iv) describes certain organizations organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a State college or university.

to eligible educational institutions; and (2) allow certified educational institutions to designate cash contributions for qualifying projects of such institutions as qualified cash contributions.

The total amount of qualifying project credit amounts that may be allocated shall not exceed $500 million for each of calendar years 2022, 2023, 2024, 2025, and 2026, and $0 for each subsequent year. Any portion of this overall limitation that remains unallocated during a calendar year is carried to the succeeding calendar year and added to the limitation allowable for such succeeding year. Credit amounts allocated to any one certified educational institution for all projects shall not exceed $50 million per calendar year.

The Secretary, after consultation with the Secretary of Education, must select applications from eligible education institutions: (1) based on the extent of the expected expansion of the institution's targeted research within disciplines in science, mathematics, engineering, and technology; and (2) in a manner that ensures consideration is given to institutions with full-time student populations of less than 12,000. The provision also requires the Secretary, after consultation with the Secretary of Education, to establish a process by which certified educational institutions must designate cash contributions to such institution as qualified cash contributions.

The aggregate amount of cash contributions which are designated by a certified educational institution as qualifying cash contributions with respect to any qualifying project may not exceed 250 percent of the credit amount allocated by the Secretary. For example: The Secretary allocates a $10 million credit amount to a certified educational institution for a qualifying project. The institution may designate up to $25 million (250 percent of $10 million) in qualifying cash contributions. These qualifying cash contributions, in turn, may generate up to $10 million (40 percent of $25 million) in credits for taxpayers. Thus, each dollar of credit amount is equal to a dollar of credit.

The provision requires disclosure of allocations and designations. The Secretary is required, upon allocating credit amounts to an applicant, to publicly disclose the identity of the applicant and the credit amount allocated to the applicant. Each certified educational institution shall, upon designating contributions of a taxpayer as qualified cash contributions, publicly disclose the identity of the taxpayer and the amount of contributions designated in such time, form, and manner as the Secretary may require.

Regulations and Other Guidance

The provision requires the Secretary, after consultation with the Secretary of Education, to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the purposes of the provision, including regulations for prevention of abuse, establishment of reporting requirements, establishment of selection criteria for applications, and disclosure of allocations.

Penalties for Noncompliance

The provision includes rules that apply if, at any time during the five-year period beginning on the date of the allocation of credit amounts to a certified educational institution, there is a noncompliance event with respect to such credit amounts. In general, in the case of a

noncompliance event, any cash contribution designated as a qualifying cash contribution with respect to a qualifying project for which such credit amounts were allocated shall be treated as unrelated business taxable income (within the meaning of section 512) of the certified educational institution. In addition, where (1) there is a failure to designate cash contributions as qualified cash contributions within the two years after December 31 of the year in which the credit amount was allocated (as described below), and (2) the Secretary identified such unused credits during a review by the Secretary (as also described below), the Secretary shall reallocate such unused credit amounts to other certified education institutions in lieu of imposing the general rule described in the preceding sentence.

The term "noncompliance event" means, with respect to a credit amount allocated to a certified educational institution: (1) cash contributions equaling the amount of such credit amount are not designated as qualified cash contributions within two years after December 31 of the year such credit amount is allocated; (2) a qualifying project with respect to which such credit amount was allocated is not placed in service within either (a) four years after December 31 of the year such credit amount is allocated or (b) a period of time that the Secretary determines is appropriate; or (3) the research infrastructure property placed in service as part of a qualifying project with respect to which such credit amount was allocated ceases to be used for research within five years after such property is placed in service.

Review and Reallocation of Credit Amounts

Not later than five years after the date of enactment, the Secretary shall review the credit amounts allocated under the provision. The Secretary may reallocate credit amounts allocated under the provision if the Secretary determines, as of the date of the review, that such credit amounts are subject to a noncompliance event. If the Secretary determines that credits are available for reallocation, the Secretary is authorized to conduct an additional program for applications for certification, but the Secretary shall not certify any project, or reallocate any credit amount after December 31, 2031.

Termination

The provision does not apply to qualified cash contributions made after December 31, 2033.

Effective Date

The provision is effective for qualified cash contributions made after December 31, 2021.

2. Modification of excise tax on investment income of private colleges and universities (sec. 137702 of the bill and sec. 4968 of the Code)

Present Law

Section 4968 imposes an excise tax on an applicable educational institution for each taxable year equal to 1.4 percent of the net investment income of the institution for the taxable

year. Net investment income is determined using rules similar to the rules of section 4940(c) (relating to the net investment income of a private foundation).

An applicable educational institution is an eligible educational institution (as defined in section 25A):[572] (1) that has at least 500 tuition-paying students during the preceding taxable year; (2) more than 50 percent of the tuition-paying students of which are located in the United States; (3) that is not described in the first section of section 511(a)(2)(B) (generally describing State colleges and universities); and (4) the aggregate fair market value of the assets of which at the end of the preceding taxable year (other than those assets that are used directly in carrying out the institution's exempt purpose)[573] is at least $500,000 per student. For these purposes, the number of students of an institution is based on the average daily number of full-time students attending the institution, with part-time students being taken into account on a full-time student equivalent basis.

For purposes of determining whether an educational institution meets the asset-per-student threshold[574] and for purposes of determining net investment income, assets and net investment income of a related organization with respect to the educational institution are treated as assets and net investment income, respectively, of the educational institution, except that:

- No such amount is taken into account with respect to more than one educational institution; and
- Unless the related organization is controlled by the educational institution or is a supporting organization (described in section 509(a)(3)) with respect to the institution for the taxable year, assets and net investment income that are not intended or available for the use or benefit of the educational institution are not taken into account. For example, assets of a related organization that are earmarked or restricted for (or fairly attributable to) the educational institution would be treated as assets of the educational institution, whereas assets of a related organization that are held for unrelated purposes (and are not fairly attributable to the educational institution) would be disregarded.

An organization is treated as related to the institution for this purpose if the organization: (1) controls, or is controlled by, the institution; (2) is controlled by one or more

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[572] Section 25A(f)(2) defines an eligible educational institution as an institution that (1) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. sec. 1088), as in effect on August 5, 1977, and (2) is eligible to participate in a program under title IV of such Act.

[573] Assets used directly in carrying out the institution's exempt purpose include, for example, classroom buildings and physical facilities used for educational activities and office equipment or other administrative assets used by employees of the institution in carrying out exempt activities, among other assets.

[574] In cross-referencing the asset-per-student threshold for this purpose, section 4968(d)(1) includes a reference to subsection "(b)(1)(C)" that should instead read "(b)(1)(D)." A clerical correction may be necessary to correct this cross-reference.

persons that control the institution; or (3) is a supported organization[575] or a supporting organization[576] during the taxable year with respect to the institution.

Explanation of Provision

Phaseout of Excise Tax

The provision provides for a phaseout of the section 4968 excise tax for certain institutions providing qualified aid awards. The amount of excise tax determined under section 4968(a) (without regard to the phaseout rules) is reduced (not below zero) by the amount that bears the same ratio to such amount of tax as (1) the excess (if any) of (a) the aggregate amount of qualified aid awards provided by the institution to its first-time, full-time undergraduate students for academic periods beginning during the taxable year, over (b) an amount equal to 20 percent of the aggregate undergraduate tuition and fees received by the institution from first-time, full-time undergraduate students for such academic periods, bears to (2) an amount equal to 13 percent of such aggregate undergraduate tuition and fees so received.

For this purpose, the term "first-time, full-time undergraduate student" has the same meaning as when used in section 132 of the Higher Education Act of 1965.[577] The term "qualified aid awards" means, with respect to an applicable educational institution, grants and scholarships to the extent used for undergraduate tuition and fees. The term "undergraduate tuition and fees" means, with respect to any institution, the tuition and fees required for the enrollment or attendance of a student as an undergraduate student at the institution.

To qualify for the excise tax phaseout described above, an institution must meet certain reporting requirements. The institution must furnish to the Secretary, and make widely available, a statement detailing the average aggregate amount of Federal student loans received by a student for attendance at the institution, averaged among each of the following groups of first-time, full-time undergraduate students who during the taxable year completed a course of study for which the institution awarded a baccalaureate degree: (1) all such students; (2) the students who have been awarded a Federal Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965 for attendance at the institution; (3) the students who received work-study assistance under part C of title IV of such Act for attendance at such institution; and (4) the students who were provided such Federal student loans. For this purpose, the term "Federal student loans" means a loan made under part D of title IV of the Higher Education Act of 1965, except such term does not include a Federal Direct PLUS Loan made on behalf of a dependent student. The statement must be furnished at such time and in such form and manner, and made widely available, under such regulations as the Secretary may prescribe.

Example.–Institution A is an applicable educational institution. Its excise tax liability computed under section 4968(a) (without regard to the phaseout rules) for taxable year 2023 is

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[575] Sec. 509(f)(3).

[576] Sec. 509(a)(3).

[577] 20 U.S.C. 1015a.

$2 million. Institution A provides $25 million in qualified aid awards to its first-time, full-time undergraduate students for academic periods beginning during the taxable year. Institution A receives $100 million in aggregate undergraduate tuition and fees from its first-time, full-time undergraduate students for such academic periods. Because Institution A satisfied the above-described reporting requirements, it is eligible to reduce its excise tax liability under the provision. To compute Institution A's reduction in excise tax liability, one must first determine the ratio of (a) the excess of its qualified aid awards in excess of 20 percent of its undergraduate tuition and fees to (b) 13 percent of such tuition and fees. This ratio can be expressed as follows: ($25 million - (20% of $100 million, or $20 million)) / (13% of $100 million, or $13 million) = 5/13. This ratio is then applied to the amount of Institution A's excise tax liability to determine the amount of Institution A's reduction in tax liability ($2 million excise tax liability x (5 / 13) = $769,231 phaseout of excise tax liability). Institution A could fully phase out its $2 million excise tax liability by making qualified aid awards equal to or greater than 33 percent of its aggregate undergraduate tuition and fees, or $33 million (($33 million - (20% of $100 million, or $20 million)) / (13% of $100 million, or $13 million) = 13/13, or 1).

Inflation Adjustment and Clarification

In the case of any taxable year beginning after 2022, the $500,000-per-student asset threshold used for determining whether an institution is an applicable educational institution is adjusted for inflation. In addition, the requirement that an applicable educational institution must have had at least 500 tuition-paying students during the preceding taxable year is clarified to apply only to tuition-paying students below the graduate level. Thus, for example, the excise tax would not apply to a graduate-only institution.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

3. Treatment of Federal Pell Grants for income tax purposes (sec. 137703 of the bill and secs. 25A and 117 of the Code)

Present Law

Qualified Scholarships

Present law provides an exclusion from gross income for amounts received as a qualified scholarship by an individual who is a candidate for a degree at a qualifying educational organization.[578] In general, a qualified scholarship is any amount received by such an individual as a scholarship or fellowship grant if the amount is used for qualified tuition and related expenses.

Qualified tuition and related expenses include tuition and fees required for enrollment or attendance, or fees, books, supplies, and equipment required for courses of instruction, at the

[578] Sec. 117.

qualifying educational organization.[579] This definition does not include regular living expenses, such as room and board. A qualifying educational organization is an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.[580]

The exclusion for qualified scholarships does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition for receiving the scholarship.[581] Instead, amounts received as a qualified scholarship that constitute payments for such services are included in gross income and wages. An exception to this rule applies in the case of the National Health Services Corps Scholarship Program, the Armed Forces Health Professions Scholarship and Financial Assistance Program, and a comprehensive student work-learning-service program operated by a work college. Amounts received as a qualified scholarship that represent payment for teaching, research, or other services by the student that are required under these programs is excluded from gross income and wages.

American Opportunity Tax Credit and Lifetime Learning Credit

The American Opportunity Tax Credit ("AOTC") is a partially refundable income tax credit for certain costs associated with postsecondary education. The amount of the AOTC is 100 percent of the first $2,000 of qualifying expenses and 25 percent of the next $2,000 of these expenses. The AOTC is determined on a per-student basis, with a maximum credit of $2,500 for any single eligible student.[582] As an example of the per-student calculation, a taxpayer who pays $4,000 or more of qualified expenses for each of two eligible students may, subject to other AOTC rules, be allowed a credit of $5,000.

Expenses for which the credit are allowed are qualified tuition and related expenses that an individual pays in the taxable year for education furnished in any academic period that begins in that year to an eligible student for whom an election is in effect for the year.[583]

Qualified tuition and related expenses are tuition, fees, and course materials required for the taxpayer's, the taxpayer's spouse's, or the taxpayer's dependent's enrollment or attendance at an eligible educational institution for courses of instruction.[584] Qualified tuition and related expenses do not, however, include (1) expenses for any course or other education involving sports, games, or hobbies unless the course or other education is part of the

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[579] Sec. 117(b)(2).

[580] Sec. 117(a); sec. 170(b)(1)(A)(ii).

[581] Sec. 117(c).

[582] See Treas. Reg. sec. 1.25A-3(b).

[583] Sec. 25A(a)(1), (b)(1).

[584] Sec. 25A(f)(1)(A), (D).

individual's degree program or (2) student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.[585] Examples of nonqualifying expenses are room and board and transportation expenses.[586]

The Lifetime Learning Credit (also in section 25A) generally allows a taxpayer a 20-percent credit for up to $10,0000 in qualified tuition and related expenses that the taxpayer pays during a taxable year for education furnished in an academic period beginning that year.[587] Qualified tuition and related expenses taken into account for the AOTC may not be taken into account for determining the Lifetime Learning Credit.[588]

For the purpose of determining the amount of the AOTC and the Lifetime Learning Credit, qualified tuition and related expenses that may be taken into account for an individual for any academic period must be reduced by the amount of tax-free educational assistance that is paid for the benefit of that individual and is allocable to that period.[589] For this purpose, tax-free educational assistance means a qualified scholarship that is excludable from gross income under section 117; a veterans or member-of-the-armed-forces educational assistance allowance under certain provisions of the U.S. Code; employer-provided educational assistance that is excludable from income under section 127; or any other educational assistance that is excludable from gross income (other than as a gift, bequest, devise, or inheritance within the meaning of section 102(a)).[590]

Explanation of Provision

The provision expands the definition of a qualified scholarship excludable from gross income to include any amount received by an individual as a Federal Pell grant under section 401 of the Higher Education Act of 1965. To the extent Federal Pell grants are used for qualified tuition and related expenses, they are excluded from gross income under present law. To the extent Federal Pell grants are used for expenses that are not qualified tuition and related expenses, such as room and board, the provision would exclude such amounts from gross income.

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[585] Sec. 25A(f)(1)(B), (C).

[586] See Treas. Reg. sec. 1.25A-2(d)(3).

[587] Sec. 25A(a)(2), (c). In contrast with the AOTC, the Lifetime Learning Credit is a per-taxpayer (rather than per-student) credit. As a consequence, the maximum Lifetime Learning Credit is $2,000. In contrast with the AOTC scope of qualifying expenses, qualified tuition and related expenses for the Lifetime Learning Credit do not include course materials. See sec. 25A(f)(1)(D). By contrast, for the Lifetime Learning Credit, solely for purposes of the Lifetime Learning Credit, qualified tuition and related expenses includes required tuition and fees with respect to any course of instruction at an eligible educational institution to acquire or improve job skills of the individual. Sec. 25A(c)(2)(B).

[588] Sec. 25A(c)(2)(A).

[589] Secs. 25A(g)(2); Treas. Reg. sec. 1.25A-5(c).

[590] Treas. Reg. sec. 1.25A-5(c)(1).

Under the provision, the amount of expenses eligible for the AOTC or the Lifetime Learning Credit shall not be reduced by any amount paid for the benefit of an individual as a Federal Pell grant.

Effective Date

The amendments made by the provision shall apply to taxable years beginning after December 31, 2021.

4. Repeal of denial of American Opportunity Tax Credit on basis of felony drug conviction (sec. 137704 of the bill and sec. 25A of the Code)

Present Law

In General

The American Opportunity Tax Credit ("AOTC") is a partially refundable income tax credit for certain costs associated with postsecondary education.[591] The amount of the AOTC is 100 percent of the first $2,000 of qualifying expenses and 25 percent of the next $2,000 of these expenses.

The AOTC is determined on a per-student basis, with a maximum credit of $2,500 for any single eligible student.[592] As an example of the per-student calculation, a taxpayer who pays $4,000 or more of qualified expenses for each of two eligible students may, subject to other AOTC rules, be allowed a credit of $5,000.

Expenses for which the credit are allowed are qualified tuition and related expenses that an individual pays in the taxable year for education furnished in any academic period that begins in that year to an eligible student for whom an election is in effect for the year.[593]

Qualified tuition and related expenses are tuition, fees, and course materials required for the taxpayer's, the taxpayer's spouse's, or the taxpayer's dependent's enrollment or attendance at an eligible educational institution for courses of instruction.[594] Qualified tuition

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[591] Sec. 25A.

[592] See Treas. Reg. sec. 1.25A-3(b).

[593] Sec. 25A(a)(1), (b)(1). Generally, the AOTC is allowed only for qualified tuition and related expenses that are paid for an academic period that begins in the year of payment. Sec. 25A(b)(1). For example, under this rule the credit would not be allowed for a payment in December 2020 for a winter semester beginning in January 2021. Under a special prepayment rule, if a taxpayer pays qualified tuition and related expenses during a year for an academic period that starts in the first three months of the next year, that academic period is treated as beginning during the earlier year of payment. Sec. 25A(g)(4).

[594] Sec. 25A(f)(1)(A), (D). For the purpose of determining the amount of the AOTC, qualified tuition and related expenses that may be taken into account for an individual for any academic period must be reduced by the amount of tax-free educational assistance that is paid for the benefit of that individual and is allocable to that period. Sec. 25A(g). For this purpose, tax-free educational assistance means a qualified scholarship that is excludable from

and related expenses do not, however, include (1) expenses for any course or other education involving sports, games, or hobbies unless the course or other education is part of the individual's degree program or (2) student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.[595] Examples of nonqualifying expenses are room and board and transportation expenses.[596]

Income-Based Phaseout and Refundability

The AOTC is reduced or eliminated for taxpayers with incomes above certain levels. For a taxpayer other than a married individual filing a joint return, the amount of the AOTC otherwise allowed is reduced ratably over a $10,000 phaseout range by the excess of the taxpayer's modified AGI over $80,000. For a taxpayer that does not file a joint return, therefore, the credit is fully phased out at $90,000 of modified AGI. The phaseout range for a married taxpayer filing a joint return is $160,000 to $180,000 of modified AGI.[597] For purposes of the phaseout, modified AGI means AGI increased by any amount excluded from gross income under section 911 (foreign earned income exclusion), section 931 (exclusion for a bona fide resident of American Samoa), or section 933 (exclusion for a bona fide resident of Puerto Rico).[598]

Forty percent of the amount of the AOTC otherwise determined (after application of any income-based reduction) is treated as a refundable credit except in the case of a taxpayer who is a child to whom the section 1(g) "kiddie tax" applies.[599]

Restrictions

The AOTC is subject to several restrictions in addition to the dollar limitations and the income-based phaseout. The credit may be claimed in respect of an eligible student for only four taxable years.[600] The AOTC is allowed for a taxable year in respect of the qualified tuition and related expenses of an individual only if the individual is an eligible student for at least one academic period that starts during that year. The AOTC is allowed for a taxable year in respect of an eligible student's qualified tuition and related expenses only if the student has not already

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gross income under section 117; a veterans or member-of-the-armed-forces educational assistance allowance under certain provisions of the U.S. Code; employer-provided educational assistance that is excludable from income under section 127; or any other educational assistance that is excludable from gross income (other than as a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

[595] Sec. 25A(f)(1)(B), (C).

[596] See Treas. Reg. sec. 1.25A-2(d)(3).

[597] Sec. 25A(d)(1).

[598] Sec. 25A(d)(2).

[599] Sec. 25A(i).

[600] Sec. 25A(b)(2).

completed (before the beginning of the year) the first four years of post-secondary education at an eligible educational institution.

The credit is not allowed for qualified tuition and related expenses for a student's enrollment or attendance for any academic period if the student has been convicted of a Federal or State felony drug possession or distribution offense before the end of the taxable year with or within which the academic period ends.[601]

A taxpayer who is a married individual (within the meaning of section 7703) may claim the AOTC in a taxable year only if the taxpayer and the taxpayer's spouse file a joint return for that year.[602] A taxpayer who is a nonresident alien individual for any portion of the taxable year may claim the AOTC for that year only if the individual is treated as a resident alien for the year because an election is made under section 6013(g) or (h) (resident alien election for certain married individuals).[603]

The AOTC is allowed only if certain identification requirements related to the taxpayer, the student, and the educational institution are satisfied and only if the taxpayer receives a payee statement from the educational institution to which the qualified tuition and related expenses are paid.[604]

Rules for Eligible Students and Eligible Educational Institutions

For purposes of the rules for determining the amount of the AOTC and the rules limiting the AOTC, an eligible student is, for any academic period, a student who carries at least half the normal full-time workload for the course of study the student is pursuing and who satisfies certain requirements prescribed by the Higher Education Act of 1965 for eligibility for Federal grants, loans, and work assistance.[605]

An eligible educational institution is an institution that is described in section 481 of the Higher Education Act of 1965[606] as in effect on August 5, 1997 (generally all accredited public, nonprofit, and private postsecondary institutions) and that participates or is eligible to participate in a Federal financial aid program under title IV of the Higher Education Act of 1965.[607]

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[601] Sec. 25A(b)(2)(D).

[602] Sec. 25A(g)(6).

[603] Sec. 25A(g)(7).

[604] See sec. 25A(g)(1), (g)(8). Payee statements generally are provided on a Form 1098-T. Prop. Treas. Reg. sec. 1.25A-1(f); Treas. Reg. sec. 1.6050S-1(b)(2).

[605] Sec. 25A(b)(3).

[606] 20 U.S.C. sec. 1088.

[607] Sec. 25A(f)(2); Treas. Reg. sec. 1.25A-2(b)(1).

Disallowance for Prior Fraudulent, Reckless, or Improper Claims

The AOTC is disallowed for certain periods after a taxpayer has made a fraudulent, reckless, or other improper claim for the credit.[608] If there is a final determination that a taxpayer's claim of the AOTC is fraudulent, the taxpayer is not allowed the AOTC for the 10 taxable years after the year of the fraudulent claim. If there is a final determination that a taxpayer's claim of the AOTC is due to reckless or intentional disregard of rules and regulations, the taxpayer is not allowed the AOTC for the two taxable years after the reckless claim. If a taxpayer makes an AOTC claim that is not determined to be fraudulent or reckless but that the IRS denies by notice of deficiency, the taxpayer is not allowed the AOTC for any subsequent year unless the taxpayer provides such information that the Secretary may require to demonstrate eligibility for the credit.

Explanation of Provision

The provision repeals the restriction that the AOTC is not allowed for qualified tuition and related expenses for a student's enrollment or attendance for any academic period if the student has been convicted of a Federal or State felony drug possession or distribution offense before the end of the taxable year with or within which the academic period ends.

Effective Date

The amendments made by the provision shall apply to taxable years beginning after December 31, 2021.

[608] Sec. 25A(b)(4).

SUBTITLE I — RESPONSIBLY FUNDING OUR PRIORITIES

PART I — CORPORATE AND INTERNATIONAL TAX REFORMS

A. Corporate Tax Rate

1. Increase in corporate tax rate (sec. 138101 of the bill and sec. 11 of the Code)

Present Law

In General

Corporate taxable income is generally subject to a tax rate of 21 percent.[609] While no separate rate structure exists for corporate capital gains, a corporation may not deduct the amount of capital losses in excess of capital gains for any taxable year.

Dividends-Received Deduction

Corporations are allowed a deduction with respect to dividends received from other taxable domestic corporations.[610] The amount of the deduction is generally equal to 50 percent of the dividend received.

In the case of any dividend received from a 20-percent owned corporation, the amount of the deduction is equal to 65 percent of the dividend received.[611] The term "20-percent owned corporation" means any corporation if 20 percent or more of the stock of such corporation (by vote and value) is owned by the taxpayer. For this purpose, certain preferred stock is not taken into account.

In the case of a dividend received from a corporation that is a member of the same affiliated group, a corporation is generally allowed a deduction equal to 100 percent of the dividend received.[612]

Explanation of Provision

Corporate Tax Rate

The provision taxes corporate taxable income under a three-step graduated rate structure. The top corporate tax rate is 26.5 percent on taxable income in excess of $5,000,000. The corporate taxable income brackets and tax rates are as set forth in the table below.

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[609] Sec. 11.

[610] Sec. 243(a).

[611] Sec. 243(c).

[612] Sec. 243(a)(3) and (b)(1). For this purpose, the term "affiliated group" generally has the meaning given such term by section 1504(a). Sec. 243(b)(2).

Taxable Income	Tax rate (percent)
Not over $400,000	18
Over $400,000 but not over $5,000,000	21
Over $5,000,000	26.5

An additional three-percent tax is imposed on a corporation's taxable income in excess of $10,000,000. The maximum additional tax is $287,000.

Certain personal service corporations[613] pay tax on their entire taxable income at the rate of 26.5 percent.

In addition, for taxpayers subject to the normalization method of accounting (*e.g.*, regulated public utilities), the provision clarifies the normalization of the tax reserve deficit resulting from the change in the corporate income tax rate structure (with respect to prior depreciation or recovery allowances taken on assets placed in service as of the day before the corporate rate change takes effect).

The tax reserve deficit is the difference in the reserve for deferred taxes as of the day before the corporate rate change takes effect compared to what the reserve would have been if the corporate rate change had been in effect for all prior periods. If a tax reserve deficit is reduced less rapidly or to a lesser extent than such reserve would be reduced under the average rate assumption method, the taxpayer will not be treated as using a normalization method with respect to the corporate rate change. If the taxpayer does not use a normalization method of accounting for the corporate rate change, such taxpayer will not be treated as using a normalization method of accounting for purposes of section 168(f)(2) and (i)(9)(C).

The average rate assumption method reduces the tax reserve deficit over the remaining regulatory lives of the property that gave rise to the reserve for deferred taxes during the years in which the deferred tax reserve related to such property is reversing. Under this method, the tax reserve deficit is reduced as the timing differences (*i.e.*, differences between tax depreciation and regulatory depreciation with respect to the property) reverse over the remaining life of the asset. The reversal of timing differences generally occurs when the amount of the tax depreciation taken with respect to an asset is less than the amount of the regulatory depreciation taken with respect to the asset. To ensure that the deferred tax reserve, including the tax reserve deficit, is reduced to zero at the end of the regulatory life of the asset that generated the reserve, the amount of the timing difference which reverses during a taxable year is multiplied by the ratio of (1) the aggregate deferred taxes as of the beginning of the period in question, to (2) the aggregate timing differences for the property as of the beginning of the period in question.

Instead of the average rate assumption method, a taxpayer may also use the alternative method as its normalization method if certain requirements are met. If, as of the first

[613] As defined in section 448(d)(2).

day of the taxable year that includes the date of enactment, (i) the taxpayer was required by a regulatory agency to compute depreciation for public utility property on the basis of an average life or composite rate method, and (ii) the taxpayer's books and underlying records do not contain the vintage account data necessary to apply the average rate assumption method,[614] the taxpayer is treated as using a normalization method of accounting if, with respect to such jurisdiction, the taxpayer uses the alternative method for public utility property that is subject to the regulatory authority for that jurisdiction.[615] Under the alternative method, the taxpayer (i) computes the tax reserve deficit on all public utility property included in the plant account based on the weighted average life or composite rate used to compute depreciation for regulatory purposes, and (ii) reduces the tax reserve deficit ratably over the remaining regulatory life of the property.[616]

The Secretary is directed to issue regulations or other guidance the Secretary determines is necessary or appropriate to carry out the normalization requirements, including regulations or other guidance to provide appropriate coordination between the provision, section 13001(d) of Public Law 115-97, and section 203(e) of the Tax Reform Act of 1986.[617]

Dividends-Received Deduction

The provision increases the 50 percent dividends-received deduction to 60 percent and the 65 percent dividends-received deduction to 72.5 percent.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

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[614] See, *e.g.*, in the case of corporate tax rate reductions, sec. 2.05 of Rev. Proc. 88-12, 1988-1 C.B. 637, and secs. 2.07 and 2.08 of Rev. Proc. 2020-39, 2020-36 I.R.B. 546.

[615] If a taxpayer is subject to the jurisdiction of more than one regulatory body, the taxpayer may use a single method, provided that the regulatory bodies agree. See sec. 4.01(5) of Rev. Proc. 2020-39, 2020-36 I.R.B. 546.

[616] See, *e.g.*, in the case of corporate tax rate reductions, sec 4 of Rev. Proc. 88-12, 1988-1 C.B. 637, and sec. 2.08 of Rev. Proc. 2020-39, 2020-36 I.R.B. 546.

[617] Pub. L. No. 99-514.

B. Limitations on Deduction for Interest Expense

1. Limitations on deduction for interest expense (sec. 138111 of the bill and new sec. 163(n) of the Code)

Present Law

Limitation on Deduction of Business Interest Expense

Interest paid or accrued by a business generally is deductible in the computation of taxable income, subject to a number of limitations.[618] In particular, the deduction for business interest expense[619] is generally limited to the sum of (1) business interest income of the taxpayer for the taxable year,[620] (2) 30 percent of the adjusted taxable income[621] of the taxpayer for the taxable year (not less than zero), and (3) the floor plan financing interest[622] of the taxpayer for

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[618] Sec. 163(a). Additional limitations include: denial of the deduction for the disqualified portion of the original issue discount on an applicable high yield discount obligation (sec. 163(e)(5)), denial of deduction for interest on certain obligations not in registered form (sec. 163(f)), reduction of the deduction for interest on indebtedness with respect to which a mortgage credit certificate has been issued under section 25 (sec. 163(g)), disallowance of deduction for interest on debt with respect to certain life insurance contracts (sec. 264(a)), and disallowance of deduction for interest relating to tax-exempt income (sec. 265(a)(2)). Interest may also be subject to capitalization. See, *e.g.*, secs. 263A(f) and 461(g). Section 385 also may recharacterize certain debt instruments as equity, effectively denying the deductibility of certain payments as nondeductible dividends.

[619] Business interest means any interest paid or accrued on indebtedness properly allocable to a trade or business and does not include investment interest (within the meaning of section 163(d)). Sec. 163(j)(5). Section 163(j) applies only to business interest that would otherwise be deductible in the current taxable year, absent the application of section 163(j). Treas. Reg. sec. 1.163(j)-3(b)(1). Thus, section 163(j) applies after the application of provisions that subject interest to deferral, capitalization, or other limitation (*e.g.*, secs. 163(e)(3), 163(e)(5)(A)(ii), 246A, 263A, 263(g), 267, 1277, and 1282), but before application of sections 461(l), 465, and 469. See Treas. Reg. secs. 1.163(j)-3(b)(2)-(6).

[620] Business interest income means the amount of interest includible in the gross income of the taxpayer for the taxable year that is properly allocable to a trade or business and does not include investment income (within the meaning of section 163(d)). Sec. 163(j)(6).

[621] Adjusted taxable income means the taxable income of the taxpayer computed without regard to: (1) any item of income, gain, deduction, or loss that is not properly allocable to a trade or business; (2) any business interest or business interest income; (3) the amount of any net operating loss deduction; and (4) the amount of any deduction allowed under section 199A. Additionally, for taxable years beginning after December 31, 2017 and before January 1, 2022, adjusted taxable income is computed without regard to any deduction allowable for depreciation, amortization, or depletion. For taxable years beginning after December 31, 2021, adjusted taxable income is computed with regard to deductions allowable for depreciation, amortization, or depletion. Sec. 163(j)(8)(A). Treasury regulations provide other adjustments to the definition of adjusted taxable income. Treas. Reg. sec. 1.163(j)-1(b)(1).

[622] Floor plan financing interest means interest paid or accrued on floor plan financing indebtedness. Floor plan financing indebtedness means indebtedness used to finance the acquisition of motor vehicles held for sale or lease to retail customers and secured by the inventory so acquired. A motor vehicle means a motor vehicle that is: (1) any self-propelled vehicle designed for transporting person or property on a public street, highway, or road; (2) a boat; or (3) farm machinery or equipment. Sec. 163(j)(9).

the taxable year.[623] Thus, other than floor plan financing interest, business interest expense in excess of business interest income is generally deductible only to the extent of 30 percent of adjusted taxable income.[624] The amount of any business interest expense not allowed as a deduction for any taxable year may be carried forward indefinitely.

The limitation generally applies at the taxpayer level (although special rules apply in the case of partnerships, described below). In the case of a group of affiliated corporations that file a consolidated return, the limitation applies at the consolidated tax return filing level.[625]

Carryforward of Disallowed Business Interest

The amount of any business interest expense not allowed as a deduction for any taxable year is generally treated as business interest expense paid or accrued by the taxpayer in the succeeding taxable year. Such business interest expense may be carried forward indefinitely.[626]

Application to Passthrough Entities

In General

In the case of a partnership, the business interest limitation is generally applied at the partnership level.[627] Once business interest is determined to be deductible at the partnership level, the deduction is allocated to the partners and not tested again at the partner level. Disallowed business interest expense, or excess business interest expense ("EBIE"), is carried forward at the partner level, but is not allocated to the partner until the partnership can allocate to the partner taxable income that can support such business interest expense deduction, or excess

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[623] These rules were modified for taxable years beginning in 2019 or 2020 to permit certain taxpayers to deduct more business interest than would be allowed under the rules described herein. See sec. 163(j)(10).

[624] The business interest limitation does not apply in certain cases. The business interest limitation does not apply to any taxpayer (other than a tax shelter prohibited from using the cash method under section 448(a)(3)) that meets the $26 million gross receipts test of section 448(c). At the taxpayer's election, any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business (*i.e.*, any electing real property trade or business) is not treated as a trade or business for purposes of the limitation, and therefore the limitation does not apply to such trades or businesses. Similarly, at the taxpayer's election, any farming business or any business engaged in the trade or business of a specified agricultural or horticultural cooperative (collectively, any electing farming business) is not treated as a trade or business for purposes of the limitation, and therefore the limitation does not apply to any such trade or business. The limitation does not apply to certain regulated public utilities. See sec. 163(j)(7).

[625] See Treas. Reg. sec. 1.163(j)-4(d) (providing that a consolidated group has a single section 163(j) limitation and generally treating all members of the consolidated group as a single taxpayer for section 163(j) purposes).

[626] Sec. 163(j)(2). With respect to corporations, any carryforward of disallowed business interest of a corporation is an item taken into account in the case of certain corporate acquisitions described in section 381 and is subject to limitation under section 382. Secs. 381(c)(20) and 382(d)(3).

[627] Sec. 163(j)(4)(A)(i).

taxable income ("ETI"), or until the partnership can allocate to the partner excess business interest income ("EBII").

A partner generally must perform its own section 163(j) calculation for business interest expense it incurs at the partner level. To prevent double counting, the business interest income and adjusted taxable income of each partner are generally determined without regard to such partner's distributive share of any items of income, gain, deduction, or loss of the partnership.[628] However, in cases where the partnership has an excess amount of business interest income, an excess amount of adjusted taxable income, or both, section 163(j) may allow for partnership items to support additional business interest expense deductions by the partnership's partners. Specifically, a partner's business interest deduction limitation is increased by the sum of the partner's distributive share of the partnership's EBII and 30 percent of the partner's distributive share of the partnership's ETI.[629]

Similar rules apply with respect to any S corporation and its shareholders.[630]

Carryforward Rules for Partnerships

Special rules for the carryforward of disallowed business interest expense apply only to partnerships and their partners.[631] Partnerships deduct BIE arising at the partnership level to the extent allowed by section 163(j). Unlike other taxpayers, however, partnerships do not treat BIE suspended under section 163(j) for a tax year as BIE paid or accrued by the partnership in the succeeding tax year. Instead, the disallowed amount creates a partner-level tax attribute, excess business interest expense ("EBIE"). The statute provides that a partnership's EBIE is allocated to each partner in the same manner as the partnership's non-separately stated taxable income or loss and that EBIE allocated to a partner may be deducted by that partner in succeeding tax years only to the extent the partner is allocated excess taxable income ("ETI") or excess business interest income ("EBII") from the same partnership and from the same activities of which gave rise to the disallowed business interest expense carryforward.[632] ETI is generally a partnership's ATI that is not used to support a partnership-level BIE deduction. EBII is generally a partnership's BII that is not used to support a partnership-level BIE deduction. Any amount that is not allowed as a deduction generally continues to be carried forward.

Thus, for example, a partner that is allocated EBIE in a particular year that also has ATI from other sources in that year is not able to deduct any of the EBIE to reduce its taxable

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[628] Sec. 163(j)(4)(A)(ii)(I); Treas. Reg. sec. 1.163(j)-6(e)(1).

[629] Sec. 163(j)(4)(A)(ii)(II); Treas. Reg. sec. 1.163(j)-6(e)(1).

[630] Sec. 163(j)(4)(D).

[631] Sec. 163(j)(4)(B).

[632] Sec. 163(j)(4)((B)(ii)(I); Treas. Reg. sec. 1.163(j)-6(g)(2). See also Joint Committee on Taxation, *General Explanation of Public Law 115–97* (JCS–1–18), December 2018, pp. 175-178 (describing section 163(j)(4) as it was intended to work).

income from other sources. Instead, the partner will be able to deduct the EBIE only if and when, in a subsequent year, the same partnership allocates the partner ETI.

Section 163(j) requires that a partner perform its own section 163(j) calculation for BIE it incurs. The statute provides that a partner generally computes its ATI without regard to the partner's distributive share of any items of income, gain, deduction, or loss from a partnership. A partner may, however, increase its ATI by the partner's distributive share of a partnership's ETI, which is allocated to each partner in the same manner as the partnership's non-separately stated taxable income or loss. More specifically, ETI must first be used by a partner to apply against any EBIE allocated by the same partnership and carried forward by the partner. Once all such EBIE has been treated as used by the partner as a result of the allocation of ETI, any additional ETI is taken into account by the partner in computing the partner's ATI.

All amounts of business interest expense, including EBIE, decrease the partner's basis in the partnership interest. When the partner disposes of a portion of or all of its partnership interest, special rules provide for add-back adjustments to a partner's basis in its partnership interest for EBIE that had previously decreased the partner's basis in the partnership interest.[633]

These special carryforward rules do not apply to S corporations and their shareholders.[634]

Explanation of Provision

The provision limits the amount of net interest expense (*i.e.*, interest expense in excess of interest income) deductible by a "specified domestic corporation," defined as a domestic corporation which is a member of a multinational group (*i.e.* a group of two or more entities if either at least one entity is a foreign corporation engaged in a trade or business within the United States, or at least one entity is a foreign corporation and another entity is a domestic corporation) that prepares an applicable financial statement[635] (an "international financial reporting group") and which has average business interest expense for the three-taxable-year reporting period ending with such taxable year in excess of $12 million annually.[636] The provision applies regardless of whether the parent corporation of the international financial reporting group is a domestic corporation or a foreign corporation. All domestic corporations that are members of the same international financial reporting group are treated as a single corporation for purposes of applying the annual net interest expense exception. A specified domestic corporation does not include certain small businesses to which section 163(j) does not apply, or any S corporation, real estate investment trust, or regulated investment company. Foreign corporations that are engaged in a U.S. trade or business are considered "domestic

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[633] See sec. 163(j)(4)(B).

[634] Sec. 163(j)(4)(D).

[635] As defined in section 451(b)(3).

[636] The provision does not expressly modify interest with "business" because it is limited to domestic corporations (and foreign corporations engaged in a U.S. trade or business), to whom all interest is treated as business interest.

corporations" that may be determined to be specified domestic corporations for purposes of the provision.

A specified domestic corporation may elect (at such time and in such manner as the Secretary may provide) to treat any eligible corporation as a member of the international financial reporting group of which such specified domestic corporation is a member if such eligible corporation maintains (and such specified domestic corporation has access to) such books and records as the Secretary determines are satisfactory to allow for the application of this provision with respect to such eligible corporation. Any such election only applies with respect to the specified domestic corporation making such election. An "eligible corporation" is, with respect to any international financial reporting group, any corporation if at least 20 percent of the stock of such corporation (determined by vote and value) is held (directly or indirectly) by members of such international financial reporting group (determined without regard to the election).

For such specified domestic corporations, the deductible amount of interest expense is capped at the "allowable percentage" of 110 percent of its net interest expense (*i.e.*, interest expense in excess of interest income for the taxable year). The allowable percentage for a specified domestic corporation for any taxable year is equal to the ratio of (a) the member's "allocable share" of the international financial reporting group's reported net interest expense over (b) such corporation's reported net interest expense. For this purpose, "reported net interest expense" means, with respect to an international financial reporting group for any reporting year, the excess of the aggregated amount of interest expense reported in such group's applicable financial statements for the taxable year, over the aggregate amount of interest income reported in such group's applicable financial statements for such taxable year. With respect to a specified domestic corporation for any reporting year, "reported net interest expense" means the amount of interest expense of such corporation reported in the books and records of the international financial reporting group which are used in preparing such group's applicable financial statements for such taxable year, over the amount of interest income of such corporation reported in such books and records.

The specified domestic corporation's "allocable share" of the international financial reporting group's reported net interest expense is equal to the ratio of (a) the member's earnings before interest income and interest expense, taxes, depreciation, depletion, and amortization "("EBITDA") for the reporting year to (b) the group's EBITDA for the reporting year.

A specified domestic corporation's EBITDA is determined without regard to any distribution received by such corporation from any other member of the international financial reporting group. Any foreign corporation engaged in a trade or business within the United States is treated as a domestic corporation with respect to any EBITDA which is effectively connected with the conduct of a trade or business in the United States. The provision does not apply to any specified domestic corporation which is a member of an international financial reporting group with EBITDA or zero or less. In addition, the allowable percentage is zero percent in the case of any specified domestic corporation with EBITDA of zero or less.

The provision's limitation would operate concurrently with the limitation applicable to partnerships under section 163(j)(4), and the amount of interest that may be deductible in any tax year would be determined by the more restrictive of the two limitations.

Any interest deduction that is disallowed as a result of the provision is carried forward for up to five taxable years after the taxable year in which such interest was so paid or accrued.

The provision gives the Secretary authority to address several issues, including coordination with section 163(j)(4)) and the ability to include or exclude any corporation as a member of any international financial reporting group.

The provision modifies the rules with respect to business interest expense incurred by partnerships and S corporations. Under the provision, the limitation with respect to business interest expense under section 163(j) is applied at the partner level and at the S corporation shareholder level. Transition rules are provided.

Effective Date

The provision is effective to taxable years beginning after December 31, 2021.

C. Outbound International Provisions

1. Modifications to deduction for foreign-derived intangible income and global intangible low-taxed income (sec. 138121 of the bill and sec. 250 of the Code)

Present Law

Deduction Percentages for FDII and GILTI

Domestic corporations generally are taxed at preferential rates on their foreign-derived intangible income ("FDII") and their global intangible low-taxed income ("GILTI") by means of a deduction under section 250.

The preferential rate on FDII is achieved by allowing corporations a deduction equal to 37.5 percent of their FDII.[637] For taxable years beginning after December 31, 2025, the deduction for FDII is reduced to 21.875 percent.[638]

The preferential rate on GILTI is achieved by allowing corporations a deduction equal to 50 percent of their GILTI (including the corresponding section 78 gross-up amount).[639] For taxable years beginning after December 31, 2025, the deduction for GILTI is reduced to 37.5 percent.[640]

Taxable Income Limitation

If the sum of a domestic corporation's FDII and GILTI exceeds its taxable income determined without regard to section 250, then the amount of FDII and GILTI (including the corresponding section 78 gross-up amount) for which a deduction is allowed is reduced (but not below zero) by an amount determined by such excess. The deduction under section 250 is not taken into account for purposes of determining a net operating loss ("NOL") of the taxpayer.[641]

Explanation of Provision

The provision changes the percentages with respect to FDII and GILTI. The percentage for FDII is changed to 21.875 percent (from 37.5 percent) and the percentage for

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[637] Sec. 250(a)(1)(A).

[638] Sec. 250(a)(3)(A). In other words, for taxable years beginning before January 1, 2026, the effective U.S. tax rate (*i.e.*, taking into account the effect of the deduction) on FDII is 13.125 percent. For taxable years beginning after December 31, 2025, the effective U.S. tax rate on FDII is 16.406 percent.

[639] Sec. 250(a)(1)(B). Under section 78, a taxpayer claiming the foreign tax credit with respect to foreign-source income generally must include in income the amount of the related foreign taxes paid.

[640] Sec. 250(a)(3)(B). In other words, for taxable years beginning before January 1, 2026, the effective U.S. tax rate (*i.e.*, taking into account the effect of the deduction) on GILTI is 10.5 percent. For taxable years beginning after December 31, 2025, the effective U.S. tax rate on GILTI is 13.125 percent.

[641] Sec. 172(d)(9).

GILTI is changed to 37.5 percent (from 50 percent). In other words, the provision accelerates the changes that under current law are in effect for taxable years beginning after December 31, 2025.

The provision repeals the taxable income limitation and allows for the deduction under section 250 to be taken into account for purposes of determining the NOL of the taxpayer.

The provision includes several technical amendments to rules relating to the section 250 deduction. These amendments identify income that is not taken into account for purposes of determining the amount of a deduction allowed to a domestic corporation on its FDII. Such excluded income includes (i) any income received or accrued which is of a kind which would be foreign personal holding company income (as defined in section 954(c)),[642] (ii) any amount included in the gross income of such corporation under section 1293,[643] and (iii) any disqualified extraterritorial income.[644]

Effective Date

The provision generally is effective for taxable years beginning after December 31, 2021.

The provision provides a transition rule for fiscal-year taxpayers. In the case of any taxable year which includes December 31, 2021 (other than a taxable year with respect to which such date is the last day of such taxable year) the percentage in effect for FDII is treated as being equal to the sum of (i) the pre-effective date percentage of 37.5 percent plus (ii) the post-effective date percentage of 21.875 percent, and the percentage in effect for GILTI (including the corresponding section 78 gross-up amount) is treated as being equal to the sum of (i) the pre-effective date percentage of 50 percent plus (ii) the post-effective date percentage of 37.5 percent.

For purposes of the transition rule, with respect to any taxable year, the pre-effective date percentage means the ratio that the portion of such taxable year which precedes January 1,

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[642] This clause is intended to exclude passive income, not active income. See, *e.g.*, Treas. Reg. sec. 1.904-4(b)(2)(iii).

[643] Section 1293 provides that every U.S. person who owns or is treated (under section 1298(a)) as owning stock of a qualified electing fund (i.e., any passive foreign investment company for which an appropriate election has been made) at any time during the taxable year of such fund must include in gross income (i) as ordinary income, such shareholder's pro rata share of the ordinary earnings of such fund for such year, and (ii) as long-term capital gain, such shareholder's pro rata share of the net capital gain of such for such year.

[644] For these purposes, disqualified extraterritorial income means any amount included in the gross income of the corporation with respect to any transaction for any taxable year if any amount could (determined after application of rule allowing the corporation to elect out of extraterritorial income benefits but without regard to any election under section 942(a)(3) as in effect before its repeal) be excluded from the gross income of the corporation with respect to such transaction for such taxable year by reason of section 114 pursuant to the application of subsection (d) or (f) of section 101 of the American Jobs Creation Act of 2004.

2022, bears to the entire taxable year and the post-effective date percentage means the ratio that the remainder of such taxable year bears to the entire taxable year.

2. Repeal of election for one-month deferral in determination of taxable year of specified foreign corporations (sec. 138122 of the bill and sec. 898 of the Code)

Present Law

In general, controlled foreign corporations ("CFCs") and other specified foreign corporations are required to use as a taxable year the taxable year of their majority U.S. shareholder (the "majority U.S. shareholder year").[645] A CFC, however, may elect a taxable year beginning one month earlier than the majority U.S. shareholder year (a "one-month deferral year").

Explanation of Provision

The provision repeals the election for a one-month deferral year. Thus, a CFC using a one-month deferral year is required to change to use its majority U.S. shareholder year.

Effective Date

The provision applies to taxable years of specified foreign corporations which would (but for the amendments made by the provision) begin after November 30, 2021.

A transition rule provides that a taxpayer's first taxable year beginning after November 30, 2021, ends at the same time as the first required year (within the meaning of section 898(c)(1)) ending after such date.

3. Modifications of foreign tax credit rules applicable to certain taxpayers receiving specific economic benefits (sec. 138123 of the bill and new sec. 901(n) of the Code)

Present Law

To be a tax eligible for the foreign tax credit, a foreign levy must require a compulsory payment pursuant to the authority of a foreign country to levy taxes.[646] Neither a penalty, fine, interest, nor customs duty is a tax.

In certain cases, foreign countries may seek to charge a foreign company a fee or a royalty for a specific economic benefit bestowed on the company. Instead of doing so directly, however, the foreign country may try to disguise the charge as a tax, knowing that in many cases the foreign company (a "dual capacity" taxpayer)[647] may receive a foreign tax credit from its home country. A foreign country may do so by applying a higher rate or a different base with

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[645] Sec. 898(a) and (c).

[646] Sec. 901; Treas. Reg. sec. 1.901-2(a)(2)(i).

[647] Treas. Reg. sec. 1.901-2(a)(2)(ii)(A).

respect to certain taxpayers or activities. If a foreign levy requires a compulsory payment pursuant to the authority of a foreign country to levy taxes and requires such compulsory payment in exchange for a specific economic benefit, the levy is considered to have two distinct elements: a tax and a requirement of compulsory payment in exchange for such specific economic benefit.[648]

In general, no foreign tax credit is allowable with respect to a foreign levy paid by a dual capacity taxpayer unless the taxpayer establishes, based on all the relevant facts and circumstances, that an amount paid is pursuant to the distinct element of the levy that is a tax.[649] Instead of the facts-and-circumstances method, however, a taxpayer may elect with respect to a foreign country a safe-harbor method, which determines by formula the element of a foreign levy that is a tax, which is eligible for a foreign tax credit, and the element that is attributable to a payment for an economic benefit, which is not.[650]

In general, the safe-harbor method yields an amount that is approximately equal to the amount the dual capacity taxpayer would pay under the generally applicable foreign income tax (if the taxpayer were not a dual capacity taxpayer), with any additional amounts paid deemed to have been paid in exchange for economic benefits pursuant to the foreign levy not eligible for a foreign tax credit but allowed as a deduction.[651] If the foreign country has no generally applicable income tax, however, then the safe-harbor method uses the U.S. corporate rate (if less than the rate of the foreign levy).[652]

Explanation of Provision

The provision generally codifies the regulatory safe-harbor method. With respect to a foreign levy of a country with no generally applicable income tax, no amount paid by a dual capacity taxpayer is allowable for purposes of the foreign tax credit.

In general, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period is not considered a tax (A) if, for the period, such foreign country or possession does not impose a generally applicable income tax or (B) to the extent such amount exceeds the amount which would be paid or accrued by the dual capacity taxpayer under the generally applicable income tax imposed by such country or possession if the taxpayer were not a dual capacity taxpayer.

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[648] Treas. Reg. sec. 1.901-2(a)(2)(i) and (ii)(B) (defining "specific economic benefit").

[649] Treas. Reg. sec. 1.901-2(a)(2)(i) and -2A(b) (describing the burden of proof for dual capacity taxpayers).

[650] Treas. Reg. sec. 1.901-2A(c)(3), (d), and (e).

[651] Treas. Reg. sec. 1.901-2A(e)(1).

[652] Treas. Reg. sec. 1.901-2A(e)(5).

Nothing in the preceding paragraph is to be construed to imply the proper treatment of any amount not in excess of the amount determined under (B) above.

A dual capacity taxpayer, with respect to any foreign country or possession of the United States, is a person who is subject to a levy of such country or possession and receives (or will receive) directly or indirectly a specific economic benefit from the country or possession.

A generally applicable income tax is an income tax (or a series of income taxes) of a foreign country or possession of the United States which is generally imposed on citizens or residents that are not dual capacity taxpayers.

Effective Date

The provision applies taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

4. Modifications to foreign tax credit limitations (sec. 138124 of the bill and new sec. 904(e) of the Code)

Present Law

Foreign Tax Credit

Subject to certain limitations, U.S. citizens, resident individuals, and domestic corporations are allowed a credit for foreign income taxes they pay directly. In addition, a domestic corporation is allowed a credit for foreign income taxes paid by a CFC with respect to income included by the corporation as subpart F income and GILTI; such taxes are deemed to have been paid by the domestic corporation for purposes of calculating the foreign tax credit.[653]

The foreign tax credit generally is limited to a taxpayer's U.S. tax liability on its foreign-source taxable income. The limit is intended to ensure that the credit mitigates double taxation of foreign-source income without offsetting U.S. tax on U.S.-source income.[654] The limit is computed by multiplying a taxpayer's total pre-credit U.S. tax liability for the year by the ratio of the taxpayer's foreign-source taxable income for the year to the taxpayer's total taxable income for the year. If the total amount of foreign income taxes paid and deemed paid for the year exceeds the taxpayer's foreign tax credit limitation for the year, the taxpayer may (in certain cases) carry back the excess foreign taxes to the previous year or carry forward to one of the succeeding 10 years.[655] No carryback or carryover of excess foreign tax credits are allowed in the GILTI foreign tax credit limitation category.

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[653] Secs. 901 and 960; see also secs. 1291(g) and 1293(f) (providing, in the PFIC context, coordination with foreign tax credit rules).

[654] Secs. 901 and 904.

[655] Sec. 904(c).

Deemed Paid Taxes

For any subpart F income included in the gross income of a domestic corporation, the corporation is deemed to have paid foreign taxes equal to the aggregate foreign income taxes paid or accrued with respect to such income by the CFC.

For any GILTI included in the gross income of a domestic corporation, the corporation is deemed to have paid foreign taxes equal to 80 percent of the corporation's inclusion percentage multiplied by the aggregate foreign income taxes paid or accrued with respect to tested income (but not tested loss) by each CFC with respect to which the domestic corporation is a U.S. shareholder.[656]

Allocation and Apportionment of Deductions

To determine its foreign tax credit limitation, a taxpayer must first determine its taxable income from foreign sources by allocating and apportioning deductions between U.S.-source gross income and foreign-source gross income in each limitation category. In general, deductions are allocated and apportioned to the gross income to which the deductions "definitely related."[657] In other words, allocations and apportionments are made based on the factual relationship of deductions to gross income. If a deduction is not definitely related to any gross income, the deduction must be apportioned ratably. Thus, subject to certain exceptions, deductions for interest expense, stewardship expenses, and research and experimental expenses are apportioned based on certain ratios.[658] For example, interest expense is apportioned based on the ratio of the corporation's foreign or domestic (as applicable) assets to its worldwide assets.[659]

Certain other special rules also apply for purposes of determining a taxpayer's foreign tax credit limitation. For example, in the context of a domestic corporation that is a U.S. shareholder of a specified 10-percent owned foreign corporation, such taxpayer must determine its foreign-source taxable income (and entire taxable income) by disregarding any dividend for which a dividends-received deduction under section 245A is taken, and any deductions properly allocable or apportioned to income (other than amounts includible under section 951(a)(1) or 951A(a)) with respect to stock of such foreign corporation, or the stock to the extent income with respect to the stock is other than amounts includible under section 951(a)(1) or 951A(a).[660] In addition, a special rule set forth in section 864(e)(3) provides that for purposes of allocating and apportioning any deductible expense, any tax-exempt asset, and any income from such an asset,

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[656] Sec. 960(d)(1). The inclusion percentage means, with respect to any domestic corporation, the ratio of such corporation's GILTI divided by the aggregate amount of its pro rata share of the tested income (but not tested loss) of each CFC with respect to which it is a U.S. shareholder. Tested foreign income taxes do not include any foreign income tax paid or accrued by a CFC that is properly attributable to the CFC's tested loss (if any).

[657] Treas. Reg. sec. 1.861-8(b) and (c) and Temp. Treas. Reg. sec. 1.861-8T(c).

[658] Treas. Reg. sec. 1.861-8 through Temp. Treas. Reg. sec. 1.861-14T and Treas. Reg. sec. 1.861-17 set forth detailed rules relating to the allocation and apportionment of expenses.

[659] Sec. 864(e)(2).

[660] Sec. 904(b)(4).

is not taken into account. A similar rule applies for the portion of any dividend (other than a qualifying dividend (as defined in section 243(b)) equal to the dividends received deduction allowable under section 243 or 245(a) with respect to such dividend and the like portion of any stock the dividends on which would be so deductible.[661] In other words, section 864(e)(3) provides that dividends described in section 243 and section 245(a) are treated in a manner similar to tax-exempt income to the extent of the deductions allowed under those sections and, in doing so, excludes such amounts from the allocation and apportionment formula.

Limitation Categories ("Baskets")

The foreign tax credit limitation is applied separately to any amount includible in gross income under section 951A (GILTI), foreign branch income,[662] passive category income, and general category income.[663] For this purpose, GILTI and foreign branch income include only income that is not passive category income. Passive category income includes passive income, such as portfolio interest and dividend income, and certain specified types of income.[664] All other income is in the general category. Passive income is treated as general category income if earned by a qualifying financial services entity or if highly taxed (*i.e.*, if the foreign tax rate is determined to exceed the highest tax rate specified in section 1 or 11, as applicable).[665] Dividends (and subpart F inclusions), interest, rents, and royalties received by a U.S. shareholder from a CFC are assigned to the passive category to the extent the payments or inclusions are allocable to passive category income of the CFC.[666] Dividends received by a 10-percent corporate shareholder of a foreign corporation that is not a CFC are also categorized on a look-through basis.[667]

Special rules apply to the allocation of income and losses from foreign and U.S. sources within each category of income.[668] Foreign losses from one category first offset foreign-source income from that category and then other categories. Any remaining overall foreign loss offsets U.S.-source income. The same principle applies to losses from U.S. sources. In subsequent years, any losses deducted against another category or source of income are

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[661] Sec. 864(e)(3).

[662] Foreign branch income is defined for this purpose as "the business profits of [the U.S. taxpayer] which are attributable to 1 or more qualified business units (as defined in section 989(a)) in 1 or more foreign countries. For purposes of the preceding sentence, the amount of business profits attributable to a qualified business unit shall be determined under rules established by the Secretary." Sec. 904(d)(2)(J)(i).

[663] Sec. 904(d); Treas. Reg. sec. 1.904-4(a). The foreign tax credit limitation is also applied separately to certain additional separate categories. See Treas. Reg. sec. 1.904-4(m).

[664] Sec. 904(d)(2)(A)(i) and (B).

[665] Sec. 904(d)(2)(B).

[666] Sec. 904(d)(3).

[667] Sec. 904(d)(4).

[668] Sec. 904(f) and (g).

recaptured. That is, an equal amount of income from the same category or source that generated a loss in a prior year is recharacterized as income from the other category or source against which the loss was deducted. Foreign-source income in a particular category may be fully recharacterized as income in another category, whereas only up to 50 percent of income from one source in any subsequent year may be recharacterized as income from the other source.

A taxpayer's ability to claim a foreign tax credit may be further limited by a matching rule that prevents the separation of creditable foreign taxes from the associated foreign income. Under this rule, a foreign tax generally is not taken into account for U.S. tax purposes, and thus no foreign tax credit is available with respect to that foreign tax, until the taxable year in which the related income is taken into account for U.S. tax purposes.[669]

Other Special Rules

Foreign Oil and Gas Taxes

Special rules set forth in section 907 apply with respect to foreign oil and gas taxes paid or accrued during a taxable year. In addition to the foreign tax credit limitations that apply to all foreign tax credits, a special limitation is placed on foreign oil and gas taxes.[670] Under this special limitation, amounts claimed as taxes paid on the amount of combined foreign oil and gas income are creditable in a given taxable year (if they otherwise so qualify) only to the extent that the amount of such taxes do not exceed the product of the highest U.S. tax rate on corporations (in the case of corporations) multiplied by such combined foreign oil and gas income for such taxable year. The amount of any such taxes paid or accrued (or deemed paid) in any taxable year in excess of the special limitation (*i.e.*, excess foreign taxes) may be carried back to the immediately preceding taxable year and carried forward 10 taxable years and credited, but not deducted, to the extent that the taxpayer otherwise has excess limitation with regard to combined foreign oil and gas income in a carryover year.[671]

Section 338 and Foreign Tax Credits

Section 338(a) permits a unilateral election by a buyer corporation to treat a qualified stock purchase of a corporation as a deemed asset acquisition, whether or not the seller of the stock is a corporation (or an S corporation is the target). In such a case, the seller or sellers recognize gain or loss on the stock sale, and the target corporation recognizes gain or loss on the deemed asset sale. The target corporation generally has a fair market value basis in its assets following the transaction.

In certain circumstances, taxpayers can make an election under section 338(h)(10) to treat a qualifying purchase of 80 percent of the stock of a target corporation by a corporation from a corporation that is a member of an affiliated group (or a qualifying purchase of 80 percent of the stock of an S corporation by a corporation from S corporation shareholders) as a sale of

[669] Sec. 909.

[670] Sec. 907(a).

[671] Sec. 907(f)(1).

the assets of the target corporation, rather than as a stock sale. The election must be made jointly by the buyer and seller of the stock and is due by the 15th day of the ninth month beginning after the month in which the acquisition date occurs. An agreement for the purchase and sale of stock often may contain an agreement of the parties to make a section 338(h)(10) election.

Section 338(h)(16) generally provides that section 338 does not apply for purposes of determining the source or character of any item for purposes of the foreign tax credit rules in sections 901 through 909. Section 338(h)(16), however, only applies to certain qualified stock purchases of a target corporation and not to transactions that produce results similar to a qualified stock purchase for which a section 338 election is made.

Foreign Tax Redeterminations

Taxpayers are entitled to either deduct or claim a credit with respect to foreign income taxes. If such taxes are redetermined, taxpayers may change such election on a timely claim for refund or amended return.[672] Foreign taxes are deductible in the year in which the all-events test is met,[673] while credits relate back to the date actually paid. A special exception to the limitations period for claiming refunds extends the period for filing a claim arising from foreign tax credits "actually paid or accrued" to ten years after the filing of the return for the taxable year, but not for claims arising from claims for deductions of foreign taxes.[674] There is no analogous special exception with respect to a change in a foreign tax credit in the statute of limitations for assessment of additional tax.[675] Instead, taxpayers are required to notify the IRS of adjustments to foreign taxes for which a credit or deduction was claimed. Such adjustments include instances in which accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, accrued taxes are not paid before the date two years after the close of the taxable year to which such taxes relate, or any tax paid is refunded in whole or in part. The Secretary is then required to redetermine the amount of the tax for the year or years affected.[676] The

[672] Secs. 164 (authorizing a deduction for creditable foreign income taxes) and 275(a)(4) (providing no deduction permitted for taxes with respect to which a credit is claimed under section 901).

[673] *Dixie Pine Products Company v. Commissioner*, 320 U.S. 516 (1944) (holding that an accrual-basis taxpayer could not simultaneously contest a liability and claim a deduction for unpaid taxes).

[674] Sec. 6511(d)(3); see also *Trusted Media Brands v. United States*, 899 F. 3d 175 (2d Cir. 2018). The general rule in section 6511(a) requires that claims be filed within a three-year period following the due date (or actual filing date if later) of the original return. Additional special rules are provided for claiming refunds arising from adjustments to other business credits or net operating losses. Section 6511(b) further limits refunds to taxes paid within the two years preceding the claim.

[675] See section 6501 generally. In contrast, special provisions therein permit additional periods for assessment of deficiencies resulting from net operating loss or capital loss carrybacks (section 6501(h)) or changes in elections of and deficiencies attributable to certain credits (section 6501(m)).

[676] Sec. 905(c)(1).

interaction of the limitations on changes to foreign tax credit claims, special rules for net operating losses and other business credits is presently under reconsideration by the Secretary.[677]

Explanation of Provision

Country-by-Country Application of Section 904 Foreign Tax Credit Limitations

In General

The provision applies the foreign tax credit limitation rules, including the rules relating to foreign oil and gas taxes and deemed paid credits, on a country-by-country basis, thereby preventing taxpayers from using excess foreign tax credits from foreign taxes paid to high-tax countries to reduce their U.S. tax liability on income earned in low-tax countries. Such rules each must be applied separately with respect to each country by taking into account the aggregate income properly attributable or otherwise allocable to a taxable unit[678] of the taxpayer that is a tax resident of such country. In other words, after identifying all taxable units of the taxpayer (as described below) and attributing or otherwise allocating all items, the corresponding aggregate amounts in each country are used for purposes of applying the relevant foreign tax credit rules on a country-by-country basis. For these purposes, each item is attributable or otherwise allocable to one, and only one, taxable unit of the taxpayer.[679]

The taxable units of a taxpayer include (i) each CFC with respect to which the taxpayer is a U.S. shareholder; (ii) each interest held (directly or indirectly) by the taxpayer, or any CFC with respect to which the taxpayer is a U.S. shareholder, in a pass-through entity[680] if such pass-through entity is a tax resident of a country other than the country with respect to which such taxpayer or CFC (as the case may be) is a tax resident; (iii) each branch[681] (or portion thereof) the activities of which are directly or indirectly carried on by the taxpayer, or any CFC with respect to which the taxpayer is a U.S. shareholder, and which give rise to a taxable presence in a country other than the country in which the taxpayer or any such CFC (as the case

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[677] Rev. Rul. 2020-08, in which Rev. Rul. 71-533 is suspended and Rev. Rul. 68-150 is suspended in part.

[678] The taxable unit standard is intended to serve as a proxy for determining the type of entity or level of activities subject to tax under the tax law of a particular foreign jurisdiction, whether that be as a result of tax residence or a taxable presence.

[679] Further guidance may be necessary to address situations in which the same item of income may be attributable to more than one taxable unit in a tier of taxable units. This may occur, for example, in situations in which a CFC operates a branch in a country other than the country in which the CFC is a tax resident and income earned by the branch is reflected on the books of both the CFC and the branch. Such item is expected to be treated for these purposes as properly attributable to the branch (*i.e.*, the lowest tier).

[680] A pass-through entity includes any partnership or other entity or arrangement to the extent that income, gain, deduction, or loss of the entity or arrangement is taken into account in determining the income or loss of a person that owns (directly or indirectly) an interest in such entity or arrangement.

[681] A branch is defined as a taxable presence of a tax resident in a country other than its country of residence as determined under such other country's tax law or as otherwise provided by the Secretary to activities in a country that does not subject income to tax on the basis of residence or taxable presence.

may be) is a tax resident; and (iv) the person that is the taxpayer and not otherwise described in (i), (ii), or (iii).[682] For these purposes, tax resident means a person or arrangement subject to tax under the tax law of a country as a resident, or a person or arrangement that gives rise to a taxable presence by reason of its activities in such country.[683] If an entity is organized under the law of a country or resident in a country that does not impose an income tax with respect to such entity, such entity is treated as subject to tax under the laws of such country.

The provision provides the Secretary with the authority to issue regulations or other guidance as may be necessary or appropriate to carry out, or prevent avoidance of, the purposes of the provision, including regulations or other guidance (i) providing for the application of provision to entities, arrangements, and branches that are otherwise considered a resident of more than one country or no country; (ii) providing for the application of the provision to hybrid entities or hybrid transactions (as such terms are used for purposes of section 267A), pass-through entities, passive foreign investment companies, trusts and other entities or arrangements not otherwise described in this subsection; and (iii) providing for the assignment of any item (including foreign income taxes and deductions) to taxable units, including in the case of amounts not otherwise taken into account in determining taxable income.

Application of Recapture of Overall Foreign Loss

The provision applies the separate limitation loss rules on a country-by-country basis, modifying the definition of income category to mean each separate category of income described for purposes of the foreign tax credit limitation applied separately with respect to each relevant country in which the taxpayer has a taxable unit.

Application of Separate Limitation Losses with Respect to GILTI

The provision provides a special separate limitation loss rule with respect to income in the GILTI foreign tax credit limitation category. Pursuant to the provision, the amount of the separate limitation losses for any taxable year reduce income in the GILTI basket for such year only to the extent the aggregate amount of such losses exceeds the aggregate amount of the separate limitation incomes (not including income in the GILTI basket) for such taxable year.

Repeal of Separate Application to Foreign Branch Income

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[682] Therefore, the general taxable unit is similar to a residual taxable unit, one that is a tax resident of a country not otherwise described in the other clauses. For example, foreign source royalty income earned, and corresponding withholding tax incurred on such income, by the U.S. taxpayer from intangible property held in the United States is properly attributable to this general taxable unit. If, however, intangible property were held by the taxpayer through a taxable unit (*e.g.*, pass-through entity that is a tax resident of a foreign country), royalty income earned, and corresponding tax paid with respect to such income, would be properly attributable to such taxable unit and not the general taxable unit of the taxpayer.

[683] For these purposes, any fiscally autonomous jurisdiction and each possession of the United States is treated as a separate country. For this purpose, possession of the United States means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands. Fiscally autonomous is not intended to include, *e.g.*, subnational tax systems that apply in addition to national tax systems.

The provision repeals the foreign branch income basket, thereby reducing the number of foreign tax credit limitation categories from four to three.

Several conforming changes are made to account for the elimination of the concept of foreign branch income, which include replacing the exclusion of foreign branch income from gross income taken into account for purposes of determining the amount of a section 250 deduction allowed to a domestic corporation on its FDII. The provision expands the scope of income subject to this exclusion to include income of a U.S. person that is attributable to one or more taxable units of the taxpayer that are branches or pass-through entities in one or more foreign countries.

Modification of Foreign Tax Credit Carryback and Carryforward

The provision repeals the carry back of excess taxes paid or accrued to foreign countries or possessions of the United States for any taxable year and limits the carry forward of such excess foreign taxes to any of the first five succeeding taxable years. A similar change is made with respect to excess foreign oil and gas taxes paid or accrued during any taxable year subject to the special limitation provision relating to such taxes. A conforming change is made to section 6511(d)(3) with respect to the special period of limitation on a credit or refund claim relating to an overpayment attributable to foreign taxes paid or accrued. The provision also extends application of the foreign tax credit carry forward rules to excess foreign taxes in the section 951A foreign tax credit limitation category.

Treatment of Certain Tax-Exempt Dividends

The provision repeals the provision requiring that, for purposes of the foreign tax credit limitation, a domestic corporation that is a U.S. shareholder of a specified 10-percent owned foreign corporation must determine its foreign-source taxable income (and entire taxable income) by disregarding any dividend for which a dividends-received deduction under section 245A is taken, and any deductions properly allocable or apportioned to income (other than amounts includible under section 951(a)(1) or 951A(a)) with respect to stock of such foreign corporation, or the stock to the extent income with respect to the stock is other than amounts includible under section 951(a)(1) or 951A(a). In addition, for purposes of allocating and apportioning any deductible expense, the portion of any dividend equal to the dividends received deduction allowable under section 245A with respect to such dividend and the like portion of any stock the dividends on which would be so deductible are treated similarly to exempt income and exempt assets, meaning such amounts are excluded from the allocation and apportionment formula.

Rules for Allocation of Certain Deductions to Certain Foreign Source Income

Under the provision, for purposes of determining a domestic corporation's foreign tax credit limitation with respect to GILTI, such taxpayer's taxable income from sources without the United States is determined by allocating any deduction allowed under section 250 to such income and by treating any expense of such domestic corporation as not allocable to such income. As a result, deductions for interest expense, stewardship expenses, and research and

experimental expenses do not reduce the taxpayer's foreign tax credit limitation with respect to GILTI.

Treatment of Certain Asset Dispositions

The provision extends the principles of section 338(h)(16) to transactions that produce results similar to a qualified stock purchase for which a section 338 election is made, which may include a sale of an interest in an entity that is treated as a corporation for foreign tax purposes but as a partnership or a disregarded entity for U.S. tax purposes, or a taxable change in the classification of an entity for U.S. tax purposes that is not recognized for foreign tax purposes. Pursuant to the provision, the principles of section 338(h)(16) apply in determining the source and character of any item recognized in connection with a "covered asset disposition" for purposes of applying the foreign tax credit rules. A covered asset disposition means any transaction which is treated as a disposition of assets for U.S. tax purposes but is treated as a disposition of stock of a corporation (or is disregarded) for purposes of the tax laws of the relevant foreign country or possession of the United States. The provision also grants authority to the Secretary to issue regulations or other guidance as may be necessary or appropriate to carry out, or prevent the avoidance of, the purposes of the provision.

Redetermination of Foreign Taxes and Related Claims

The provision establishes the period in which elections to either claim a credit or a deduction with respect to foreign taxes under section 901. Absent a consent to extend the time within which an assessment may be made by the IRS with respect to a taxable year, the election to claim a credit is limited by the special limitations period for refunds, and the time to elect to deduct foreign taxes is limited by the general period for seeking a refund. In addition, such changes to the election to claim a credit or deduct foreign taxes, as well as any change in the amount or treatment of foreign taxes which affect a taxpayer's U.S. tax liability, are added to the list of adjustments within the scope of section 905(c) authorizing the IRS to redetermine taxes. The scope and effect of these additions are intended to parallel proposed regulatory changes.[684] For this purpose, changes in treatment of foreign taxes may include changes that are not the result of determinations by a foreign jurisdiction, such as voluntary elections or changes to elections that result in inconsistent treatment. Finally, the provision clarifies that special limitations period for filing a claim for refund with respect to foreign tax credits is limited to refunds arising by reason of changes in the foreign tax liability and is shortened to from ten to five years.

Effective Date

The provision generally is effective for taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end. With respect to the modifications to the foreign tax credit carryback, the provision is effective for excess foreign taxes arising in tax years beginning after December 31, 2021, and with respect to the modifications to the foreign tax credit carryforward, the provision is effective for excess foreign taxes that (without regard to the

[684] Prop. Treas. Reg. sec. 1.905-3(c), REG-101657-20, 85 Fed. Reg. 72028 (November 12, 2020).

amendments made by this provision) may be carried to any tax year beginning after December 31, 2021.[685] The modifications relating to the redetermination of foreign taxes are effective 60 days after the date of enactment.

5. Foreign oil and gas extraction income and foreign oil related income to include income with respect to minerals from oil shale and tar sands (sec. 138125 of the bill and sec. 907(c) of the Code)

Present Law

Special Foreign Tax Credit Limitation for Foreign Oil and Gas Taxes

For purposes of calculating the foreign tax credit allowable, a special limitation applies to certain foreign taxes related to foreign oil and gas income.[686] In general, for a corporation applying the foreign tax credit limitation, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year that is limited to the amount of the taxpayer's combined foreign oil and gas income for the taxable year multiplied by the corporate tax rate (*i.e.*, 21 percent).

Combined foreign oil and gas income with respect to any taxable year is the sum of foreign oil and gas extraction income ("FOGEI") and foreign oil related income ("FORI").[687] Foreign oil and gas taxes generally are any income taxes paid or accrued (or deemed paid or accrued) during the taxable year with respect to FOGEI or FORI.[688]

FOGEI includes taxable income derived from sources without the United States and its possessions from the extraction (by the taxpayer or any other person) of minerals from oil or gas wells.[689] FORI includes taxable income derived from sources outside the United States and its possessions from (A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products, (B) the transportation of such minerals or primary products, and (C) the distribution or sale of such minerals or primary products.[690]

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[685] A technical correction may be necessary to reflect this intent.

[686] Sec. 907(a).

[687] Sec. 907(b)(1).

[688] Sec. 907(b)(2) and (c)(5).

[689] Sec. 907(c)(1).

[690] Sec. 907(c)(2).

Exclusion of FOGEI and Inclusion of FORI under GILTI

In general, FORI is tested income for purposes of GILTI.[691] FOGEI, however, is expressly excluded from tested income.[692] Neither FOGEI nor FORI is subpart F income.

Explanation of Provision

The provision amends the definitions of FOGEI and FORI, such that oil and gas wells include oil shale and tar sands.

Effective Date

The provision applies to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

6. Modifications to inclusion of global intangible low-taxed income (sec. 138126 of the bill and new sec. 951A(g) of the Code)

Present Law

Global Intangible Low-Taxed Income

A U.S. shareholder of a controlled foreign corporation ("CFC")[693] must include in gross income its GILTI.[694] GILTI is the excess of the shareholder's net CFC tested income over the shareholder's net deemed tangible income return.[695] The shareholder's net deemed tangible income return equals the excess of 10 percent of the aggregate of its *pro rata* share of the qualified business asset investment ("QBAI") of each CFC over certain interest expense.[696]

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[691] Sec. 951A(c).

[692] Sec. 951A(c)(2)(A)(i)(V). Section 138126(e) of the bill repeals this exclusion.

[693] U.S. shareholders are U.S. persons that own at least 10 percent (measured by vote or value) of the stock of a foreign corporation. A CFC generally is any foreign corporation in which U.S. shareholders own (directly, indirectly, or constructively) more than 50 percent of the corporation's stock (measured by vote or value). See secs. 951(b), 957, and 958.

[694] See also sec. 951A(f)(1) (treating any GILTI inclusion in the same manner as subpart F income under section 951(a)(1)(A) for purposes of applying sections 168(h)(2)(B), 535(b)(10), 851(b), 904(h)(1), 959, 961, 962, 993(a)(1)(E), 996(f)(1), 1248(b)(1), 1248(d)(1), 6501(e)(1)(C), 6654(d)(2)(D), and 6655(e)(4)) and (2) (providing rules relating to the allocation of GILTI inclusions to CFCs).

[695] Sec. 951A(b)(1).

[696] The interest expense that reduces a U.S. shareholder's net deemed tangible income return is that which is taken into account in determining its net CFC tested income for the taxable year to the extent that the interest income attributable to such interest expense is not taken into account in determining the shareholder's net CFC tested income. Sec. 951A(b)(2)(B).

The formula for GILTI is:

$$GILTI = Net\ CFC\ Tested\ Income - [(10\% \times QBAI) - Interest\ Expense]$$

Net CFC Tested Income

Net CFC tested income means the excess of the aggregate of the shareholder's *pro rata* share of the tested income of each CFC over the aggregate of its *pro rata* share of the tested loss of each CFC.[697] In other words, GILTI is calculated on a worldwide basis.

The tested income of a CFC is the excess of the gross income of the CFC determined without regard to certain amounts that are excluded from tested income (referred to in this document as "gross tested income") over deductions (including taxes) properly allocable to such gross tested income.[698] The exclusions from gross tested income are: (1) any effectively connected income described in section 952(b); (2) any gross income taken into account in determining the CFC's subpart F income;[699] (3) any gross income excluded from foreign base company income or insurance income by reason of the high-tax exception under section 954(b)(4);[700] (4) any dividend received from a related person (as defined in section 954(d)(3)); and (5) any foreign oil and gas extraction income (as defined in section 907(c)(1)).[701]

The tested loss of a CFC means the excess of deductions (including taxes) properly allocable to the CFC's gross tested income over the amount of such gross tested income.[702]

Qualified Business Asset Investment

QBAI means, with respect to any CFC for a taxable year, the average of the aggregate of the CFC's adjusted bases in specified tangible property that is both used in its trade or

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[697] Sec. 951A(c)(1). *Pro rata* shares are determined under subpart F principles (*i.e.*, the rules of section 951(a)(2) and the regulations thereunder). See sec. 951A(e).

[698] Sec. 951A(c)(2)(A).

[699] Earnings of a CFC may constitute income to U.S. shareholders under the traditional anti-deferral regime of subpart F of the Code, which applies to certain passive income and certain other related-party income that is readily movable from one jurisdiction to another. Subpart F income is taxed at full rates with related foreign income taxes generally eligible for the foreign tax credit.

[700] In general, subpart F income excludes any item of income if the taxpayer establishes that the income was subject to an effective foreign income tax rate greater than 90 percent of the maximum U.S. corporate income tax rate (currently 21 percent). See sec. 954(b)(4).

[701] Section 951A does not, however, exclude from gross tested income any foreign oil related income (as defined in section 907(c)(2)).

[702] Sec. 951A(c)(2)(B).

business and of a type with respect to which a deduction is generally allowable under section 167.[703]

Specified tangible property means any tangible property used in the production of tested income.[704] In the case of property used both in the production of tested income and income which is not tested income, such property shall be treated as specified tangible property in the same proportion that the gross tested income produced with respect to such property bears to the total gross income produced with respect to such property.

Explanation of Provision

Country-by-Country Application of Section 951A Based on CFC Taxable Units

The provision applies section 951A on a country-by-country basis, incorporating a CFC taxable unit concept (based on the taxable unit standard adopted for purposes of applying the foreign tax credit limitation provisions) as the mechanism for identifying each relevant country with respect to which a CFC is subject to tax or in which a CFC has a taxable presence. For these purposes, the term "CFC taxable unit" means, with respect to any CFC with respect to which the taxpayer is a U.S. shareholder, (i) the controlled foreign corporation itself, (ii) each interest held (directly or indirectly) by the CFC in a pass-through entity[705] if such pass-through entity is a tax resident of a country other than the country with respect to which such CFC is a tax resident; and (iii) each branch[706] (or portion thereof) the activities of which are directly or indirectly carried on by the CFC and which give rise to a taxable presence in a country other than the country in which such CFC is a tax resident. The terms used for purposes of applying section

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[703] Sec. 951A(d)(1).

[704] Sec. 951A(d)(2). Specified tangible property does not include property used in the production of tested loss; thus, a CFC with a tested loss in a taxable year does not have QBAI for such taxable year.

[705] A pass-through entity includes any partnership or other entity or arrangement to the extent that income, gain, deduction, or loss of the entity or arrangement is taken into account in determining the income or loss of a person that owns (directly or indirectly) an interest in such entity or arrangement.

[706] A branch is defined as a taxable presence of a tax resident in a country other than its country of residence as determined under such other country's tax law or as otherwise provided by the Secretary to activities in a country that does not subject income to tax on the basis of residence or taxable presence.

951A on a country-by-country basis have the same meaning when used for purposes of applying the foreign tax credit limitation rules on a country-by-country basis (*e.g.*, tax resident[707]).[708]

The provision provides that if a CFC taxable unit of a U.S. shareholder is a tax resident of a country that is different from the country with respect to which at least one other CFC taxable unit of such U.S. shareholder is a tax resident, then such shareholder's GILTI equals the sum of the amounts of GILTI determined separately with respect to each country with respect to which any CFC taxable unit of such shareholder is a tax resident. For purposes of determining such separate amounts, section 951A(b), (c), and (d) apply on a country-by-country basis by treating any reference in those provisions to a CFC of such shareholder to a CFC taxable unit of such shareholder. In addition, the provision provides that net CFC tested income, net deemed tangible income return, QBAI, interest expense described in section 951A(b)(2)(B), and such other items and amounts as the Secretary may provide, must be determined separately with respect to each such country by determining such amounts with respect to each CFC taxable unit of such shareholder which is a tax resident of such country. Rules similar to those applicable for purposes of applying the foreign tax credit limitation provisions on a country-by-country basis also apply for purposes of applying section 951A on a country-by-country basis. In short, after identifying all CFC taxable units and the country in which each taxable unit is a tax resident, the corresponding aggregate relevant items and amounts in each country are used for purposes of making the necessary determinations.

The provision also provides that, except as otherwise provided by the Secretary, the rules relating to the allocation of GILTI to CFCs set forth in section 951A(f)(2) must be applied separately with respect to each CFC taxable unit.

The provision moves the grant of regulatory authority under section 951A(d)(4) to new section 951A(g) to clarify that such authority is not limited to section 951A(d), and expands that grant of authority to account for the country-by-country application of section 951A based on CFC taxable units.

Carryover of Net CFC Tested Loss

The provision provides that, if, after determining the net CFC tested income of a U.S. shareholder in a particular country for any taxable year, such U.S. shareholder has a net CFC tested loss, such net CFC tested loss of the U.S. shareholder carries over to, and is treated as a tested loss in, the next succeeding taxable year with respect to such country. Proper

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[707] For these purposes, tax resident means a person or arrangement subject to tax under the tax law of a country as a resident, or a person or arrangement that gives rise to a taxable presence by reason of its activities in such country. If an entity is organized under the law of a country, or resident in a country, that does not impose an income tax with respect to such entity, such entity is treated as subject to tax under the tax law of such country. In addition, any fiscally autonomous jurisdiction and each possession of the United States is treated as a separate country. For this purpose, possession of the United States means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands. Fiscally autonomous is not intended to include, *e.g.*, subnational tax systems that apply in addition to national tax systems.

[708] See section 138124 of the bill for a description of the provision applying the foreign tax credit limitation rules on a country-by-country basis.

adjustments must be made in allocating the total amount of GILTI included by such U.S. shareholder to take into account any decrease in GILTI by reason of the net CFC tested loss carryover. The provision also provides for coordination with the country-by-country application of section 951A, and that, for purposes of applying the limitation on NOL carryforwards following an ownership change, any excess net CFC tested loss carried over to a future year be included as a "pre-change loss" under rules similar to section 382(d)(1).

Reduction in Net Deemed Tangible Income Return for Purposes Of Determining GILTI

The provision generally reduces the deemed rate of return on the aggregate of a U.S. shareholder's pro rata share of the QBAI of each of its CFC taxable units in a country from 10 percent to five percent for purposes of determining the U.S. shareholder's net deemed tangible income return. A special rule applies to specified tangible property located in a possession of the United States, which retains the 10 percent deemed rate of return on the aggregate amount of such property in such possession.

Inclusion of Foreign Oil and Gas Extraction Income in Determining Tested Income and Loss

The provision repeals the exclusion from gross tested income for foreign oil and gas extraction income (as defined in section 907(c)(1)). As a result, foreign oil and gas extraction income must be taken into account in determining tested income and tested loss.

Coordination with Other Provisions

The provision clarifies that references to section 951 or section 951(a) in sections 959, 961, 962, and such other sections as the Secretary may identify shall include references to section 951A or 951A(a), respectively.

Effective Date

The provision generally applies to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end. The provision clarifying the coordination of section 951A with other provisions applies to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

7. Modifications to determination of deemed paid credit for taxes properly attributable to tested income (sec. 138127 of the bill and sec. 960(d) of the Code)

Present Law

Subject to certain limitations, U.S. citizens, resident individuals, and domestic corporations are allowed a credit for foreign income taxes they pay. In addition, a domestic corporation is allowed a credit for foreign income taxes paid by a CFC with respect to income

included by the corporation as subpart F income and GILTI; such taxes are deemed to have been paid by the domestic corporation for purposes of calculating the foreign tax credit.[709]

The foreign tax credit generally is limited to a taxpayer's U.S. tax liability on its foreign-source taxable income. The limit is intended to ensure that the credit mitigates double taxation of foreign-source income without offsetting U.S. tax on U.S.-source income.[710] The limit is computed by multiplying a taxpayer's total pre-credit U.S. tax liability for the year by the ratio of the taxpayer's foreign-source taxable income for the year to the taxpayer's total taxable income for the year. If the total amount of foreign income taxes paid and deemed paid for the year exceeds the taxpayer's foreign tax credit limitation for the year, the taxpayer may (in certain cases) carry back the excess foreign taxes to the previous year or carry forward to one of the succeeding 10 years.[711] No carryback or carryover of excess foreign tax credits are allowed in the GILTI foreign tax credit limitation category.

Deemed-Paid Taxes

For any subpart F income included in the gross income of a domestic corporation, the corporation is deemed to have paid foreign taxes equal to the aggregate foreign income taxes paid or accrued with respect to such income by the CFC.

For any GILTI included in the gross income of a domestic corporation, the corporation is deemed to have paid foreign taxes equal to 80 percent (the "20-percent haircut") of the corporation's inclusion percentage multiplied by the aggregate foreign income taxes paid or accrued with respect to tested income (but not tested loss) by each CFC with respect to which the domestic corporation is a U.S. shareholder.[712]

The inclusion percentage means, with respect to any domestic corporation, the ratio of such corporation's GILTI divided by the aggregate amount of its pro rata share of the tested income (but not tested loss) of each CFC with respect to which it is a U.S. shareholder. Tested foreign income taxes do not include any foreign income tax paid or accrued by a CFC that is properly attributable to the CFC's tested loss (if any).[713]

Explanation of Provision

The provision replaces, in section 960(d)(1), "80 percent" with "95 percent (100 percent in the case of tested foreign income taxes paid or accrued to a possession of the United

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[709] Secs. 901 and 960; see also secs. 1291(g) and 1293(f) (providing, in the PFIC context, coordination with foreign tax credit rules).

[710] Secs. 901 and 904.

[711] Sec. 904(c).

[712] Sec. 960(d)(1).

[713] Sec. 960(d)(3).

States)." In other words, the provision generally replaces the 20-percent haircut with a five-percent haircut.

The provision expands the definition of tested foreign income taxes to include foreign income taxes that are properly attributable to amounts taken into account in determining tested income or tested loss under section 951A.

In addition, the provision grants the Secretary the authority to expand the definition of tested foreign income taxes to include foreign income taxes paid or accrued by a foreign corporation (other than such CFC) which owns, directly or indirectly, 80 percent or more (by vote or value) of the stock in such domestic corporation but only if (i) such foreign income taxes are properly attributable to amounts of such controlled foreign corporation taken into account in determining tested income or tested loss under section 951A and (ii) no credit is allowed, in whole or in part, for such foreign taxes in any foreign jurisdiction.

Effective Date

The provision applies to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

8. Deduction for foreign-source portion of dividends limited to controlled foreign corporations, etc. (sec. 138128 of the bill; sec. 245A and new sec. 951B of the Code)

Present Law

In the case of any dividend received from a specified 10-percent owned foreign corporation by a domestic corporation which is a U.S. shareholder with respect to the foreign corporation, a deduction is allowed equal to the foreign-source portion of the dividend.[714]

In general, a specified 10-percent owned foreign corporation is any foreign corporation with respect to which any domestic corporation is a U.S. shareholder.[715]

For purposes of determining when a person is a U.S. shareholder, section 958 applies the constructive ownership rules of section 318(a), with a few modifications. Section 318(a)(3) provides rules for when a corporation, partnership, trust, or estate is considered to own stock owned by a shareholder, partner, or beneficiary (so-called "downward attribution"). For example, under section 318(a)(3)(C), a corporation is considered as owning stock owned, directly or indirectly, by or for any shareholder that owns 50 percent or more of the corporation. Before the repeal of section 958(b)(4), stock owned by a foreign person was not attributed

[714] Sec. 245A(a). The foreign-source portion of any dividend equals the amount of the dividend multiplied by the percentage of undistributed earnings that are attributable neither to ECI nor to certain dividends received from domestic corporations. Sec. 245A(c).

[715] Sec. 245A(b)(1). U.S. shareholders are U.S. persons that own at least 10 percent of the stock (measured by vote or value) of a foreign corporation. Sec. 951(b).

downward to a U.S. person.[716] As a result, a wholly owned domestic subsidiary of a foreign corporation was not treated as owning stock in other foreign corporations owned by the foreign parent. Since the repeal of section 958(b)(4), attribution of certain stock of a foreign corporation owned by a foreign person to a related U.S. person is required for purposes of determining whether the U.S. person is a U.S. shareholder of the foreign corporation and, therefore, whether the foreign corporation is a CFC.

Explanation of Provision

First, the provision limits the deduction under section 245A to dividends received from a CFC.

Second, the provision allows U.S. shareholders of a foreign corporation which is not a CFC to elect, along with the foreign corporation, to treat the foreign corporation as a CFC (but not for purposes of new section 951B (described below) or for any other purpose determined by the Secretary). The election requires the consent of all current U.S. shareholders and is binding also on all future U.S. shareholders of the foreign corporation. The election is revocable only with consent of the Secretary.

Third, the provision restores former section 958(b)(4).

Fourth, the provision provides a narrow rule in new section 951B for downward attribution from a foreign person in certain cases. In general, the rules of subpart F apply to a foreign controlled U.S. shareholder ("FCUSS") of a foreign controlled foreign corporation ("FCFC") as if the former were a U.S. shareholder and the latter were a CFC. An FCUSS is a U.S. person that would be a U.S. shareholder with respect to a foreign corporation if (1) to be a U.S. shareholder the U.S. person must own more than 50 percent of the stock of the foreign corporation and (2) downward attribution from foreign persons applies. An FCFC is a foreign corporation, other than a CFC, more than 50 percent of which is owned by FCUSS. Given that a U.S. person is an FCUSS only with respect to a foreign corporation of which the U.S. person owns more than 50 percent, the foreign corporation with respect to which the U.S. person is an FCUSS is always an FCFC.

The provision grants the Secretary regulatory authority to determine when any such U.S. person or foreign corporation should be considered a U.S. shareholder or CFC, respectively, and to prescribe anti-avoidance measures consistent with the intent of the provision.

Effective Date

The provision generally applies to distributions made after the date of enactment.[717]

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[716] See former sec. 958(b)(4) (repealed by sec. 14213 of Pub. L. 115-97).

[717] A technical correction may be necessary to reflect the intent that the new election (the second change described above) applies to elections made after the date of enactment and applies prospectively.

With respect to the modifications related to the restoration of former section 958(b)(4) and the enactment of new section 951B, the provision applies to (A) the last taxable year of foreign corporations beginning before January 1, 2018, and each subsequent taxable year of such foreign corporations and (B) taxable years of U.S. persons in which or with which such taxable years of foreign corporations end.

9. Limitation on foreign base company sales and services income (sec. 138129 of the bill and sec. 954 of the Code)

Present Law

Subpart F Income

Under subpart F of the Code, U.S. shareholders of a CFC must include in income their *pro rata* shares of subpart F income, without regard to whether the income is distributed to the shareholders.[718] In effect, U.S. shareholders of a CFC are treated as having received a current distribution of the CFC's subpart F income. With exceptions described below, subpart F income generally includes passive income and other income that is readily movable from one jurisdiction to another. Subpart F income consists of foreign base company income,[719] insurance income,[720] and certain income relating to international boycotts and other violations of public policy.[721]

Foreign base company income consists of foreign personal holding company income, foreign base company sales income, and foreign base company services income.[722] Foreign personal holding company income includes passive income such as dividends, interest, rents, and royalties. Foreign base company sales income generally includes income derived in connection with (i) the purchase of personal property from a related person and its sale to any person, (ii) the sale of personal property to any person on behalf of a related person, (iii) the purchase of personal property from any person and its sale to a related person, or (iv) the purchase of personal property from any person on behalf of a related person, but only if (1) the property which is purchased (or in the case of property sold on behalf of a related person, the property which is sold) is manufactured, produced, grown, or extracted outside the country under the laws of which the controlled foreign corporation is created or organized, and (2) the property is sold for use, consumption, or disposition outside such foreign country, or, in the case of property purchased on behalf of a related person, is purchased for use, consumption, or disposition outside such foreign country.[723] In other words, foreign base company sales income includes income

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[718] Sec. 951(a).

[719] Secs. 952(a)(2) and 954.

[720] Secs. 952(a)(1) and 953.

[721] Sec. 952(a)(3)-(5).

[722] Sec. 954.

[723] See also sec. 954(d)(2) (providing a special rule applicable in situations in which the carrying on of activities by a CFC through a branch or similar establishment outside the country of incorporation of the CFC has

derived by a CFC from a purchase or sale of personal property involving a related party in which the goods are both manufactured and sold for use or consumption outside the CFC's country of organization. Foreign base company services income generally includes income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which are performed (i) for, or on behalf of, any related person, and (ii) outside the country under the laws of which the controlled foreign corporation is created or organized.[724] For purposes of determining foreign base company sales or services income, a person is a related person with respect to a CFC, if such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the CFC, or such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the CFC.

Insurance income subject to current inclusion under subpart F includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization.[725]

Investments in U.S. Property

U.S. shareholders also must include their *pro rata* shares of a CFC's untaxed earnings invested in certain items of U.S. property.[726] For this purpose, U.S. property generally includes tangible property located in the United States, stock of a U.S. corporation, an obligation of a U.S. person, and certain intangible assets, such as patents and copyrights, acquired or developed by the CFC for use in the United States.[727] There are specific exceptions to the general definition of U.S. property, including for bank deposits, certain export property, and certain trade or business obligations.[728]

Exceptions

Subpart F income does not include certain dividends, interest, rents, and royalties received by a CFC from a related corporation organized and operating in the same foreign

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substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary corporation deriving such income; in such situations, pursuant to regulations prescribed by the Secretary, the income attributable to the carrying on of such activities of such branch or similar establishment shall be treated as income derived by a wholly owned subsidiary of the CFC and shall constitute foreign base company sales income of the CFC).

[724] See also sec. 954(e)(2) (providing an exception for income derived in connection with the performance of services which are directly related to (i) the sale or exchange by the CFC of property manufactured, produced, grown, or extracted by it and which are performed before the time of the sale or exchange, or (ii) an offer or effort to sell or exchange such property).

[725] Sec. 953(a) and (c).

[726] Secs. 951(a)(1)(B) and 956.

[727] Sec. 956(c)(1).

[728] Sec. 956(c)(2).

country in which the CFC is organized.[729] The same-country exception is not available to the extent that the payments reduce the subpart F income of the payor. A second exception (the "high-tax exception") is available for any item of income received by a CFC if the taxpayer establishes that the income was subject to an effective foreign income tax rate greater than 90 percent of the maximum U.S. corporate income tax rate in effect at the time the income was earned (*e.g.*, for income earned by a CFC in tax year 2021, more than 90 percent of 21 percent, or 18.9 percent).[730] A third exception excludes from foreign personal holding company income dividends, interest, rents, and royalties received or accrued by one CFC from a related CFC to the extent attributable or properly allocable to income of the payor that is not subpart F income.[731]

There is also an exclusion from subpart F income for certain income of a CFC that is derived in the active conduct of a banking or financing business ("active financing income").[732] With respect to income derived in the active conduct of a banking, financing, or similar business, a CFC is required to be predominantly engaged in such business and to conduct substantial activity with respect to such business, and other requirements must be met.

For a securities dealer, foreign personal holding company income excludes any interest or dividend (or certain equivalent amounts) from any transaction entered into in the ordinary course of the dealer's trade or business as a dealer in securities within the meaning of section 475.[733]

Exclusion of Previously Taxed Earnings and Profits

A U.S. shareholder may exclude from its income actual distributions of earnings and profits from a CFC that were previously included in income by the U.S. shareholder under subpart F.[734] Any income inclusion resulting from an investment in U.S. property also may be excluded when such earnings and profits are ultimately distributed.[735]

Basis Adjustments

A U.S. shareholder of a CFC generally increases the basis in its CFC stock by the amount of subpart F income inclusions and generally reduces the basis in its CFC stock by the

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[729] Sec. 954(c)(3).

[730] Sec. 954(b)(4). This exception applies to an item of income that would otherwise be included in foreign base company income or insurance income within the meaning of sections 954(a) and 953, respectively.

[731] Sec. 954(c)(6). CFC look-through applies to taxable years of foreign corporations beginning before January 1, 2026, and to taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.

[732] Sec. 954(h).

[733] Sec. 954(c)(2)(C).

[734] Sec. 959(a)(1).

[735] Secs. 959(a)(2) and 956.

amount of any distributions that are excluded from its income as previously taxed earnings and profits.[736]

Explanation of Provision

Pursuant to the provision, foreign base company sales income and foreign base company services income would be limited to situations in which the related person is a related U.S. person that is a taxable unit (within the meaning of section 904(e)) which is a tax resident of the United States.[737] As a result, arrangements that would otherwise give rise to foreign base company sales or services income, but for the fact that such arrangements do not involve a related U.S. person, are outside the scope of such rules and, instead, subject to section 951A.

In addition, the provision provides that the rules in section 961(c) apply in determining the basis of stock and certain property and the recognition of gain for all purposes of the Code. The provision further provides that gain may be recognized by reason of section 961(b) and (c) upon a distribution of previously taxed earnings and profits by a lower-tier CFC to an upper-tier CFC in situations in which the amount of the distribution exceeds the upper-tier CFC's basis in the stock of the lower-tier CFC.

Several other amendments are included that are integral to the prospective application of the provision. One amendment allocates section 951(a) items to a U.S. shareholder to the extent such U.S. shareholder received a distribution of current earnings and profits that: (1) would give rise to a deduction under section 245A(a), or (2) in the case of a dividend paid directly or indirectly to a CFC with respect to stock owned by the shareholder within the meaning of section 958(a)(2) (*i.e.*, stock owned through foreign entities), would not result in subpart F income to the CFC by reason of section 954(b)(4), (c)(3), or (c)(6). Consistent with current law, the provision allocates the remaining section 951(a) items to U.S. shareholders in proportion to their ownership on the last day, in the foreign corporation's taxable year, on which the foreign corporation is a CFC. Related amendments are made to section 951A(e)(1) and (2) and to section 953(c)(5)(A). In addition, an amendment clarifies that foreign tax credits taken by reason of withholding tax imposed on a distribution of previously taxed earnings and profits do not result in an additional section 78 gross-up.

Effective Date

The provision generally applies to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

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[736] Sec. 961.

[737] The provision grants authority to the Secretary to issue regulations or other guidance as may be necessary or appropriate to carry out the purposes of the provision, including such regulations or other guidance providing for the proper application of the provision in situation in which the relevant arrangement (including a single transaction or series of transactions) involves a related U.S. person (or a U.S. taxable unit of a related U.S. person).

The other amendments made with respect to the pro rata share rules apply to distributions made after December 31, 2017, and the amendment made with respect to the section 78 gross-up apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

D. Inbound International Provisions

1. Modifications to base erosion and anti-abuse tax (sec. 138131 of the bill and Code section 59A)

Present Law

The base erosion and anti-abuse tax (the "BEAT") is an additional tax imposed on certain multinational corporations with respect to payments to foreign affiliates.[738]

The BEAT applies only to corporate taxpayers with average gross receipts in excess of $500 million and is determined, in part, by the extent to which a taxpayer has made payments to foreign related parties.[739] The BEAT generally does not apply to taxpayers for which reductions to taxable income ("base erosion tax benefits") arising from payments to foreign related parties ("base erosion payments") are less than three percent of total deductions (*i.e.*, a "base erosion percentage" of less than three percent).

For a taxpayer subject to the BEAT (an "applicable taxpayer"), the additional tax (the "base erosion minimum tax amount" or "BEAT liability") for the year generally equals the excess, if any, of 10 percent of its modified taxable income over an amount equal to its regular tax liability reduced (but not below zero) by the sum of a certain tax credits.[740]

Base Erosion Payments and Base Erosion Benefits

A base erosion tax benefit generally reflects the reduction in taxable income arising from the associated base erosion payment.

A base erosion payment generally is any amount paid or accrued by a taxpayer to a foreign person that is a related party of the taxpayer and with respect to which a deduction is allowable.[741] A base erosion payment includes any amount paid or accrued by the taxpayer to a foreign related party in connection with the acquisition by the taxpayer from the related party of property of a character subject to the allowance for depreciation (or amortization in lieu of depreciation).[742]

Base erosion payments generally do not include any amount that constitutes a reduction in gross receipts, including payments for cost of goods sold. Certain other payments are

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[738] Sec. 59A.

[739] For this purpose, a related party is, with respect to the taxpayer, any 25-percent owner of the taxpayer; any person who is related (within the meaning of sections 267(b) or 707(b)(1)) to the taxpayer or any 25-percent owner of the taxpayer; and any other person who is related (within the meaning of section 482) to the taxpayer. Sec. 59A(g). The 25-percent ownership threshold is determined by vote or value.

[740] Sec. 59A(b).

[741] Sec. 59A(d)(1).

[742] Sec. 59A(d)(2).

excluded from the definition of base erosion payment, including certain payments for services[743] and qualified derivative payments.[744] A payment for a service by a U.S. corporation to a foreign related party is a base erosion payment, except to the extent that the services in question included a markup component. In final regulations, the Secretary provided that a portion of costs meeting the standards for use of the "services cost method"[745] may not be treated as base erosion payments. Instead, only the portion of the outbound payment in excess of actual costs incurred by the recipient of the payment, i.e., the markup component of the price charged, is a base erosion payment.[746]

The BEAT treats as a base erosion payment any reinsurance premium payment paid by a U.S. life insurance company or by a U.S. property and casualty insurance company to a related foreign reinsurer (*e.g.*, a U.S. insurer pays a reinsurance premium to a related foreign reinsurer to cover risk of storm damage in the United States).[747] It also may apply to payment by a U.S. reinsurer to a related foreign insurer on the occurrence of a covered event (*e.g.*, if reinsurance recoverable is paid for earthquake damage in a foreign country). However, the BEAT provides no rule of exclusion for receipt by the U.S. insurer of reinsurance recovered (*e.g.*, the related foreign reinsurer pays the U.S. insurer when a claim is made for storm damage in the United States), nor is there a rule of exclusion applicable to the reinsurance premium paid by a foreign insurer to a related U.S. reinsurer (*e.g.*, to cover earthquake risk in a foreign country).

Taxpayers are permitted to waive deductions and thus avoid "base erosion tax benefits" of such deduction to reduce exposure to the BEAT. The Secretary adopted a rule permitting taxpayers to waive the right to deductions for payments otherwise within the scope of base erosion payments.[748] The waiver authority extended to insurance-related payments that were reductions from gross premiums and other consideration.

Calculation of BEAT Liability

BEAT liability generally equals the excess, if any, of 10 percent of the taxpayer's modified taxable income over the amount of regular tax liability[749] reduced (but not below zero) by the sum of certain tax credits. The amount of regular tax liability is reduced (and the base erosion minimum tax amount increased) by all income tax credits except for the research

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[743] Sec. 59A(d)(5).

[744] Sec. 59A(h).

[745] Treas. Reg. sec. 1.482-9.

[746] Treas. Reg. sec. 1.59A-3(b)(3)(i).

[747] Secs. 59A(d)(3), 803(a)(1)(B) and 832(b)(4)(A).

[748] Treas. Reg. sec. 1.59A-3(c)(6).

[749] As defined in section 26(b).

credit[750] and a certain portion of applicable section 38 credits.[751] Modified taxable income is the taxpayer's regular taxable income increased by any base erosion tax benefit with respect to any base erosion payment and an adjustment for the taxpayer's NOL deduction, if any.[752]

Special Rules for Taxable Years Beginning after December 31, 2025

For taxable years beginning after December 31, 2025, the 10-percent rate on modified taxable income is increased to 12.5 percent and regular tax liability is reduced (and the base erosion minimum tax amount is therefore increased) by the sum of all the taxpayer's income tax credits for the taxable year.[753]

Special Rules for Banks and Securities Dealers

An applicable taxpayer that is a member of an affiliated group that includes a bank (as defined in section 581) or securities dealer registered under section 15(a) of the Securities Exchange Act of 1934 is subject to a tax rate on its modified taxable income that is one-percentage point higher than the generally applicable tax rate.[754] In addition, for purposes of determining whether they are subject to the BEAT, banks and securities dealers are subject to a base erosion percentage threshold of two percent (rather than three percent).[755]

Explanation of Provision

The provision changes the scope for determining which companies are applicable taxpayers. In taxable years beginning after December 31, 2023, applicable taxpayers are no longer limited to those with a three-percent base erosion percentage or higher. As a result, all corporations (other than a regulated investment company, a real estate investment trust, or an S corporation) that meet the gross receipts threshold are applicable taxpayers and potentially subject to the BEAT.

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[750] Sec. 41(a).

[751] Sec. 59A(b)(4). Applicable section 38 credits are credits allowed under section 38 for the taxable year that are properly allocable to the low-income housing credit (section 42(a)), the renewable energy production credit (section 45(a)), and the energy investment credit (section 48). In general, no more than 80 percent of the amount of applicable section 38 credits for a taxable year can be used to reduce an applicable taxpayer's base erosion minimum tax liability and in no case can applicable section 38 credits reduce the taxpayer's base erosion minimum tax liability by more than 80 percent. Sec. 59A(b)(1)(B)(i)(II).

[752] An applicable taxpayer's modified taxable income is its taxable income for the taxable year increased by (1) any base erosion tax benefit with respect to any base erosion payment and (2) the base erosion percentage of any NOL deduction allowed under section 172 for such taxable year. Sec. 59A(c)(1).

[753] Sec. 59A(b)(2).

[754] Sec. 59A(b)(3).

[755] Sec. 59A(e)(1)(C).

In addition, the applicable calculations required under the BEAT to target base-eroding activity and undertaxed payments, including modified taxable income, base erosion benefits and payments, as well as the rates of the BEAT tax are changed as described below.

Base Erosion Tax Benefits and Base Erosion Payments

Modified taxable income adds certain indirect costs regarding inventory to the category of base erosion payments and the treatment of net operating losses in the determination of base erosion benefits[756]. In addition, the provision expands and clarifies the exceptions from base erosion payments.

Indirect Costs of Goods Sold and Base Erosion Payments

Amounts paid or incurred by the taxpayer to a related foreign party are base erosion payments to the extent that they constitute indirect costs that are required to be included in inventory costs by reason of section 263A. In addition, costs incurred in acquiring property that is inventory in the hands of the taxpayer are treated as base erosion payments to the extent such costs exceed the sum of the direct costs of the property in the hands of the foreign related party and the indirect costs (as described in section 263A(a)(2)(B)) of such foreign related party that are demonstrated to have been paid or incurred by such foreign related party to an unrelated U.S. person. Transactions between two foreign entities related to the taxpayer are subject to similar rules regarding characterization of the payment as an indirect cost within the scope of base erosion payments, unless they were paid or incurred (directly or indirectly) to an unrelated U.S. person.

In lieu of including the indirect costs of a related foreign party in its computation of base erosion payments, a taxpayer may elect to treat 20 percent of the amount paid or incurred to such related foreign party for the acquisition of inventory as indirect costs that are not base erosion payments[757]. The items or classes of inventory eligible for such election, as well as the time and manner for making such election are to be determined by the Secretary.

Net Operating Losses in Computing Modified Taxable Income

For taxable years beginning after 2021, the net operating loss for which a deduction is permitted under section 172 is taken into account in determining modified taxable income, but is determined without regard to any deduction which is a base erosion tax benefit. Such determination is made for each taxable year. Appropriate adjustments are made to take into account the percentage limitations applicable to corporations under section 172, as well as the rules therein regarding certain contributions and capital gains property.

Rules similar to the tax benefit and coordination rules applicable to the alternative minimum tax computations under section 59(g) and (h) are to be used in determining modified

[756] A technical correction may be necessary to the definition of modified taxable income

[757] A technical correction may be necessary to reflect intent.

taxable income, including those arising from net operating losses or base erosion tax benefits arising from the new category of base erosion payments and related basis adjustments.

Consolidation and Expansion of Exceptions from Base Erosion Payments

Payments that are subject to Federal income tax by either the payor or the payee are outside the scope of base erosion payments, without regard to whether the income related to such payments was eligible for a reduced rate of tax. Thus, outbound payments to a related party that are included in the computation of Subpart F or GILTI (without regard to the section 250 deduction), subject to withholding tax, or taxable as effectively connected income to the recipient are not base erosion payments. With respect to payments to partnerships and payments subject to withholding tax, whether a payment is subject to Federal income tax is determined using principles similar those in former section 163(j)(5).

In addition, payments that are subject to a sufficient level of foreign income tax are not within the scope of base erosion payments. Payments are subject to sufficient foreign tax if they are subject to an effective tax rate at least equal to the applicable percentage for a taxpayer tax in that taxable year. For this purpose, the effective tax rate is computed in the same manner as under the provisions of section 904 and may be based on applicable financial statements. The Secretary is authorized to prescribe rules to prevent tax avoidance, including criteria for recharacterizing a transaction or series of transactions among related parties.

Calculation of BEAT liability

The provision strikes the provision that required adding credits back to the regular tax liability before determining the BEAT.

The BEAT liability, computed using the applicable percentage, now equals the excess of BEMTA over regular tax liability. The applicable percentage is 10 percent for taxable years beginning after December 31, 2021, and ending before January 1, 2024, increasing to 12.5 percent for taxable years beginning after December 31, 2023, and ending before January 1, 2026. For taxable years beginning after December 31, 2025, the applicable percentage is 15 percent.

The general business credit may be applied to offset BEAT liability that exceeds regular tax liability.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

Other Business Tax Provisions

2. Credit for clinical testing of orphan drugs limited to first use or indication (sec. 138141 of the bill and sec. 45C(b)(2) of the Code)

Present Law

The Code provides a 25-percent business tax credit for qualified clinical testing expenses incurred in testing of certain drugs for rare diseases or conditions, generally referred to as "orphan drugs." Qualified clinical testing expenses are costs paid or incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (the "FDA") but before the drug has been approved for sale by the FDA.[758] A rare disease or condition is defined as one that (1) affects fewer than 200,000 persons in the United States, or (2) affects more than 200,000 persons, but for which there is no reasonable expectation that businesses could recoup the costs of developing a drug for such disease or condition from sales in the United States of the drug.[759]

Amounts included in computing the credit are excluded from the computation of the research credit.[760]

No deduction is allowed for the portion of otherwise allowable qualified clinical testing expenses equal to the amount of the orphan drug credit allowed for the taxable year.[761]

Explanation of Provision

The provision requires that human clinical testing may be taken into account for purposes of the credit only to the extent that such testing is related to the first use or indication with respect to which a drug for a rare disease or condition is designated under section 526 of the Federal Food, Drug, and Cosmetic Act. Further, the provision requires that such testing must occur (1) before the first date on which an application (with respect to any use or indication with respect to any disease or condition) with respect to a drug is approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, or (2) if a drug is a biological product, before the first date on which a license (with respect to any use or indication with respect to any disease or condition) for such drug is issued under section 351(a) of the Public Health Service Act.

Effective Date

The provision applies to taxable years beginning after December 31, 2021.

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[758] Sec. 45C(b).

[759] Sec. 45C(d)(1).

[760] Sec. 45C(c).

[761] Sec. 280C(b).

3. Modifications to treatment of certain losses (sec. 138142 of the bill and sec. 165 of the Code)

Present Law

Section 165(a) and worthlessness

Deductions may be allowed for any loss sustained during the taxable year and not compensated for by insurance or otherwise.[762] For such loss to be allowed as a deduction, the loss must be "evidenced by closed and completed transactions, fixed by identifiable events, and . . . actually sustained during the taxable year."[763] The amount of the deduction is determined by reference to the adjusted tax basis of the property used for "determining the loss from the sale or other disposition of property."[764]

Among the events giving rise to such a loss deduction is worthlessness.[765] The test for worthlessness, which is a facts and circumstances analysis,[766] is two-pronged. A taxpayer must demonstrate (1) the asset in question is objectively valueless ("objective worthlessness") and (2) a subjective determination of worthlessness ("subjective worthlessness").[767]

To show objective worthlessness, the taxpayer must make a reasonable showing that the asset was "in fact valueless at the time selected by the taxpayer."[768] A mere diminution in the asset's value is insufficient to establish worthlessness.[769] Taxpayers normally demonstrate objective worthlessness by showing an "identifiable event."[770]

To satisfy the subjective prong of the test, the taxpayer must reasonably believe that the asset lacks any future value[771] and the taxpayer's actions should reflect the taxpayer's

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[762] Sec. 165(a).

[763] Treas. Reg. §1.165-1(b).

[764] Sec. 165(b). Furthermore, for individuals, section 165 deductions are limited to (1) losses incurred in a trade or business, (2) losses incurred in a transaction entered into for profit and (3) except in certain circumstances, losses arising from fire, storm, shipwreck or other casualty, or from theft. Sec.165(c).

[765] See, *e.g.*, Rev. Rul. 2004-58, 2004-24 I.R.B. 1043 (discussing the requirements for a "deduction for worthlessness under §165[a]").

[766] See, *e.g.*, *Boehm v. Comm'r*, 326 U.S. 287 (1945).

[767] *Morton v. Comm'r*, 38 B.T.A. 1270, 1278-79 (1938).

[768] *Echols v. Comm'r*, 935 F.2d 703, 708 (5th Cir. 1991), *rehearing denied*, 950 F.2d 209 (5th Cir. 1991).

[769] *Kraft, Inc. v. U.S.*, 30 Fed. Cl. 739, 785-86 (1994); *Proesel v. Comm'r*, 77 T.C. 992, 1006 (1981).

[770] *Morton v. Comm'r*, 38 B.T.A. 1270 (1938) (nonacq.), *aff'd*, 112 F.2d 320 (7th Cir. 1940).

[771] *Lawson v. Comm'r*, 42 B.T.A. 1103, 1108 (1940).

subjective determination.[772] The judicial standard requires a taxpayer neither to be an "incorrigible optimist"[773] nor a "stygian pessimist."[774]

Worthless Partnership Interests

Courts have held that a partner may claim a loss with respect to the worthlessness of a partnership interest under section 165(a).[775] Case law and service guidance indicates whether such loss is generally ordinary or capital depends on whether the loss is deemed to result from the sale or exchange of a capital asset.[776] Specifically, the character generally depends on whether the partner claiming such loss has any share of partnership liabilities immediately before the worthlessness claim. This is because a shift in liabilities (in connection with a worthlessness claim or otherwise) causes a deemed distribution under the partnership tax rules[777] and a distribution (deemed or otherwise) is treated as a sale or exchange under the partnership tax rules.[778] Thus, generally, a partner will take an ordinary loss upon the worthlessness of its partnership interest if the partner claiming worthlessness has no share of any partnership liability immediately prior to the claim and a partner will take a capital loss upon the worthlessness of its partnership interest if the partner has a share of any partnership liability immediately prior to the claim.

Worthless Securities

Present law provides special rules for worthless securities. If a security that is a capital asset becomes worthless during the taxable year, the resulting loss is treated as a loss from the sale or exchange of such capital asset on the last day of the taxable year. For this purpose, securities are defined as (1) a share of stock in a corporation; (2) a right to subscribe for, or to receive, a share of stock in a corporation; or (3) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

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[772] See *e.g., Echols v. Comm'r*, 935 F.2d 703, 707-708 (5th Cir. 1991), *rehearing denied*, 950 F.2d 209 (5th Cir. 1991).

[773] *United States v. S.S. White Dental Manufacturing Co.*, 274 U.S. 398, 403 (1927).

[774] *Ruppert v. U.S.*, 22 F. Supp. 428, 431 (Ct. Cl. 1938), *cert. denied*, 305 U.S. 630 (1938) (worthlessness claim for a bad debt).

[775] See *Echols v. Comm'r*, 935 F.2d 703 (5th Cir. 1991), *rehearing denied*, 950 F.2d 209 (5th Cir. 1991); *Zeeman v. U.S.*, 75 F. Supp. 235 (S.D.N.Y. 1967), *aff'd in part, rev'd in part*, 395 F.2d 861 (2d Cir. 1968); *In Re. Kreidle*, 91-2 U.S.T.C. ¶50,371 (Bankr. D. Col. 1991), *aff'd*, 143 B.R. 941 (D.C. Col. 1992); *Tejon Ranch v. Comm'r*, 49 T.C.M. (CCH) 1357 (1985). See also Rev. Rul. 93-80, 1993-2 C.B. 235.

[776] *La Rue v. Comm'r*, 90 T.C. 465 (1988); Rev. Rul. 93-80, 1993-2 C.B. 235. Section 751's hot assets rules may apply in the case of capital loss.

[777] Sec. 752(b).

[778] Sec. 761(e).

A security is not considered worthless if there is a reasonable hope and expectation of future value. Taxpayers must demonstrate the existence of an identifiable event that clearly indicates the "destruction of both the potential and liquidating values of the stock."[779]

Corporate Liquidations

In general, the sale of a corporation's assets does not generate a tax at the shareholder level. However, if the selling corporation distributes the sale proceeds in a complete liquidation (other than a complete liquidation of a subsidiary into a parent company to which section 332 applies), each of the corporation's shareholders recognizes gain or loss equal to the difference between the value of the liquidating distributions and the basis of the stock. The loss is generally capital gain or loss if the asset is a capital asset in the hands of the taxpayer[780]. The gain or loss generally is recognized at the time that the liquidation proceeds are received.

Explanation of Provision

The provision provides that if any partnership interest becomes worthless during the taxable year, the loss resulting therefrom is considered as a loss from the sale or exchange of a capital asset and such loss is recognized to the transferor partner at the time of the identifiable event establishing worthlessness. Thus, the character of the loss is generally capital, subject to the rules of section 751(relating to unrealized receivables and inventory items). Furthermore, the presence or absence of partnership liabilities is not determinative.

The provision accelerates the timing of the loss resulting from a worthless security. Such loss is treated as a loss from the sale or exchange at the time of the identifiable event establishing worthlessness. The provision expands the rules relating to worthless securities (sec. 165(g)) to certain securities issued by partnerships. It expands the definition of security to include a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a partnership, with interest coupons or in registered form.

The provision also provides a deferral of losses in the case of a complete liquidation to which section 331 applies when the two corporations are members of the same controlled group.[781] No loss may be recognized by the distributee corporation (with respect to the stock or securities of the distributing corporation received in the liquidation) until the distributee corporation disposes of substantially all of the properties received in the liquidation to a party that is not related to the distributee corporation.[782]

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[779] See *Austin Co. v. Commissioner, 71 T.C. 955*

[780] A special statutory rule provides ordinary treatment when a security held by a parent corporation in a controlled subsidy becomes worthless. Sec 165(g)(3). In general, a liquidation may be treated as an event establishing worthlessness.

[781] As defined in sec. 267(f).

[782] Related is defined to mean two corporations which are members of the same controlled group (as defined in sec. 267(f)) or controlled partnerships within the meaning of sec. 707(b)(1).

The Secretary is instructed to issue any regulations or other guidance that may be necessary or appropriate, including regulations or other guidance to carry out the purposes of the provision and to apply the principles of the provision to liquidating corporation stock or securities owned by a corporation indirectly through one or more partnerships.

Effective Date

The part of the provision concerning loss deductions applies to taxable years beginning after December 31, 2021. The part of the provision concerning losses on liquidations applies to liquidations on or after the date of enactment.

4. Adjusted basis limitation for divisive reorganization (sec. 138143 of the bill and new sec. 361(d) of the Code)

Present Law

In a divisive reorganization under sections 368(a)(1)(D) and 355, a distributing corporation generally (1) transfers property to a section 368(c) controlled corporation in exchange for stock (and also in some cases for (i) money and other property of the controlled corporation and (ii) securities or other debt obligations of which the controlled corporation is the obligor) and (2) distributes the controlled stock to its shareholders (as well as cash or securities, if applicable).

There are three economically similar methods through which a distributing corporation can extract value from the controlled corporation in a divisive reorganization. First, the distributing corporation can reduce its liabilities by causing the subsidiary to assume them under section 357. Second, the distributing corporation can transfer money and other property received from the controlled corporation to the distributing corporation's creditors to satisfy its debt obligations, subject to section 361(b). Third, the distributing corporation can exchange the controlled corporation's debt securities for debt held by the distributing corporation's creditors.

The distributing corporation must recognize gain to the extent that the amount of the liability assumption, and money and other property transferred to the distributing corporation's creditors, exceeds the aggregate adjusted basis of the assets that the distributing corporation transfers to the controlled corporation in the divisive reorganization. However, the amount of the controlled corporation's debt securities that the distributing corporation may transfer to its creditors to reduce its debt without gain recognition is not limited under section 361.

Explanation of Provision

The provision amends section 361 to provide that a distributing corporation recognizes gain in a divisive reorganization under sections 368(a)(1)(D) and 355 to the extent that the amount of the controlled corporation's debt securities received by the distributing corporation and transferred to its creditors in connection with the divisive reorganization exceeds the aggregate adjusted basis of the assets transferred by the distributing corporation to the controlled corporation, as reduced by the amount of (i) the total amount of the liabilities of the distributing corporation assumed by the controlled corporation (within the meaning of section

357(c)), and (ii) the total amount of money and the fair market value of other property received by the distributing corporation from the controlled corporation.

Effective Date

The provision applies to reorganizations occurring on or after the date of enactment.

5. Rents from prison facilities not treated as qualified income for purposes of REIT income tests (sec. 138144 of the bill and sec. 856 of the Code)

Present Law

A real estate investment trust ("REIT") is an entity that otherwise would be taxed as a domestic corporation but elects to be taxed under a special REIT tax regime pursuant to which the REIT receives a deduction for dividends paid and for that reason generally is not subject to corporate tax on income distributed to its shareholders. To qualify as a REIT, an entity must meet several requirements. At least 90 percent of REIT income (other than net capital gain) must be distributed annually;[783] the REIT must derive most of its income from passive, generally real estate-related, investments; and REIT assets must be primarily real estate-related. In addition, a REIT must have transferable interests and at least 100 shareholders, and no more than 50 percent of the REIT interests may be owned by five or fewer individual shareholders (as determined using specified attribution rules). Other requirements also apply.[784]

A REIT is restricted to earning certain types of generally passive income. Among other requirements, at least 75 percent of the gross income of a REIT in each taxable year must consist of real estate-related income. Such income includes: rents from real property; gain from the sale or other disposition of real property (including interests in real property) that is not stock in trade of the taxpayer, inventory, or other property held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business; interest on mortgages secured by real property or interests in real property; and certain income from foreclosure property (the "75-percent income test").[785] Qualifying rents from real property include rents from interests in real property and charges for services customarily furnished or rendered in connection with the rental of real property,[786] but do not include impermissible tenant service income.[787]

Explanation of Provision

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[783] Even if a REIT meets the 90-percent income distribution requirement for REIT qualification, more stringent distribution requirements must be met in order to avoid an excise tax under section 4981.

[784] Secs. 856 and 857.

[785] Secs. 856(c)(3) and 1221(a)(1). Income from sales that are not prohibited transactions solely by virtue of section 857(b)(6) also is qualified REIT income.

[786] Sec. 856(d)(1)(A) and (B).

[787] Sec. 856(d)(2)(C).

The provision provides that qualifying rents from real property do not include any amount received or accrued, directly or indirectly, with respect to any real or personal property which is primarily used in connection with any correctional, detention, or penal facility.

Effective Date

The provision applies to taxable years beginning after December 31, 2021.

6. Modifications to exemption for portfolio interest (sec. 138145 of the bill and sec. 871(h)(3)(B) of the Code)

Present Law

Nonresident aliens and foreign corporations generally are subject to U.S. tax on only their U.S.-source income. There are two broad types of U.S.-source income of foreign taxpayers: (1) income that is "fixed or determinable annual or periodical gains, profits, and income" ("FDAP income") and (2) income that is "effectively connected with the conduct of a trade or business within the United States" ("ECI"). FDAP income, although nominally subject to a statutory 30-percent gross-basis tax withheld at its source, in many cases is subject to a reduced rate of, or entirely exempt from, U.S. tax under the Code or a bilateral income tax treaty.

FDAP income received by foreign persons from U.S. sources is subject to a 30-percent gross-basis tax (*i.e.*, a tax on gross income without reduction for related expenses), which is collected by withholding at the source of the payment. FDAP income includes interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments.[788] The items enumerated in defining FDAP income are illustrative, and the words "annual or periodical" are "merely generally descriptive" of the payments within the purview of the statute.[789] The categories of income subject to the 30-percent tax and the categories for which withholding is required generally are coextensive.[790]

Although FDAP income includes U.S.-source portfolio interest, such interest is exempt from the 30-percent gross-basis tax.[791] Portfolio interest is any interest (including original issue discount) that is paid on an obligation that is in registered form and for which the beneficial owner has provided to the U.S. withholding agent a statement certifying that the beneficial owner is not a U.S. person.[792] Portfolio interest, however, does not include interest received by a 10-percent shareholder.[793]

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[788] Secs. 871(a) and 881. FDAP income that is ECI is taxed as ECI.

[789] *Commissioner v. Wodehouse*, 337 U.S. 369, 393 (1949).

[790] See secs. 1441 and 1442.

[791] Sec. 871(h)(1).

[792] Sec. 871(h)(2).

[793] Sec. 871(h)(3)(A).

For this purpose, a 10-percent shareholder is, in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or, in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.[794]

Explanation of Provision

The provision provides that, in the case of an obligation issued by a corporation, a 10-percent shareholder is (1) any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote and (2) any person who owns more than 10 percent of the total value of the stock of such corporation.

Effective Date

The provision applies to obligations issued after the date of enactment.

7. Certain partnership interest derivatives (sec. 138146 of the bill and new sec. 871(m)(8) of the Code)

Present Law

In general, income arising from notional principal contracts are sourced based on the residence of the recipient of the payment.[795] However, if the notional principal contract income arises from a U.S. trade or business, the income is treated as "effectively connected" with the conduct of a U.S. trade or business, which is taxable at rates generally applicable to U.S. taxpayers.[796] The determination as to whether notional principal contract income arises from a U.S. trade or business depends on the facts and circumstances, including an analysis of whether the income, gain, or loss is derived from assets used in, or held for use in, the conduct of the trade or business in the United States (the "asset-use test") and whether the activities of the trade or business conducted in the United States were a material factor in the realization of the income, gain, or loss (the "business-activities test").[797]

In general, if the interests in a partnership are traded on an established securities market or readily tradable on a secondary market (or the substantial equivalent thereof), then the

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[794] Sec. 871(h)(3)(B).

[795] Treas. Reg. sec. 1.863-7(b)(1).

[796] Treas. Reg. sec. 1.863-7(b)(3).

[797] Treas. Reg. sec. 1.864-4(c).

partnership is treated as a corporation.[798] However, partnerships with certain passive income are excepted from the rule.[799]

In the case of notional principal contracts whose payments are calculated by reference to the income or gain of a publicly traded partnership that is not engaged in a U.S. trade or business, the general rule described above applies and the source of the payments is based on the residence of the recipient.

Explanation of Provision

The provision treats sale-repurchase transactions with respect to publicly traded partnerships and notional principal contract income calculated by reference to the U.S. source income or gain of all publicly traded partnerships, including those that are not engaged in a U.S. trade or business, as "dividend equivalent amounts." t. The provision generally excludes amounts determined by reference to income or gain exempt from income tax or that would be treated as from sources outside the United States if paid to a nonresident alien individual[800]. As a result of this provision, these amounts are U.S.-source payments subject to 30-percent U.S. withholding tax (which may be reduced by tax treaty). The Secretary may expand the application of the provision to other partnerships by regulation and may exclude contracts or transactions that the Secretary determines do not have the potential for tax avoidance. To determine the portion of the notional principal contract income that is attributable to the income or gain of a publicly traded partnership that is subject to the new sourcing rule, the publicly traded partnerships themselves must provide relevant information in notices to the relevant withholding agents under regulations to be provided by the Secretary.

The provision also provides that a dividend equivalent amount under section 871(m) is treated as a dividend paid by a domestic corporation.

Effective Date

The provision applies to payments made after the date that is 180 days after enactment.

8. Adjustments to earnings and profits of controlled foreign corporations (sec. 138147 of the bill; sec. 952(c)(3) and new sec. 312(n)(9) of the Code)

Present Law

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[798] Sec. 7704(a).

[799] Sec. 7704(b) and (c).

[800] A technical correction may be necessary to reflect this intent

In general, a U.S. shareholder of a controlled foreign corporation (a "CFC")[801] must include currently its *pro rata* share of the CFC's subpart F income (generally passive income and certain other related-party income that is readily movable from one jurisdiction to another).[802] For any taxable year, however, a CFC's subpart F income generally is limited to the CFC's earning and profits ("E&P") for the taxable year.[803]

For that purpose, the E&P of a CFC is determined without regard to three rules in section 312(n): LIFO ("last-in, first-out") inventory adjustments, installment sales, and the completed contract method of accounting.[804] For other purposes, however, the E&P of a CFC is determined with regard to those three rules.

In an installment sale, the purchase price is paid over time.[805] In general, under the installment method of accounting, income is included following the payments of the purchase price (*i.e.*, over time).[806] Under the rule in section 312(n), however, E&P is computed as if the corporation did not use the installment method.[807] In other words, in the case of an installment sale of a domestic corporation, E&P increases to reflect all gain otherwise deferred for income tax purposes.

In the case of an installment sale of a CFC, for purposes of determining subpart F inclusions, the E&P of the CFC is lower than E&P would otherwise be, because the rule in section 312(n) is disregarded.[808] For other purposes, however, the E&P of the CFC reflects all gain otherwise deferred for income tax purposes. Thus, in the case of an installment sale of a CFC, E&P for purposes of subpart F inclusions is lower than E&P for purposes of paying dividends (which may be eligible for the deduction under section 245A).

Explanation of Provision

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[801] A CFC generally is defined as any foreign corporation in which U.S. persons own (directly, indirectly, or constructively) more than 50 percent of the corporation's stock (measured by vote or value), taking into account only "U.S. shareholders," that is, U.S. persons that own at least 10 percent of the stock (measured by vote or value). Secs. 951(b), 957, and 958.

[802] Subpart F comprises sections 951 through 965.

[803] Sec. 952(c)(1)(A).

[804] Sec. 952(c)(3) referring to the rules in sec. 312(n)(4)-(6).

[805] Sec. 453(b)(1) (defining an installment sale as a disposition of property where at least one payment is to be received after the close of the taxable year in which the disposition occurs).

[806] Sec. 453(c) (defining the installment method as a method of accounting under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price).

[807] Sec. 312(n)(5).

[808] Sec. 952(c)(3).

The provision makes the special rule for E&P of a CFC for purposes of determining subpart F inclusion the general rule for E&P of a CFC. In other words, the provision provides that for all purposes the E&P of a CFC is determined without regard to paragraphs (4) (LIFO), (5) (installment sales), and (6) (completed contract method of accounting) of section 312(n). Thus, in the case of an installment sale, the E&P of a CFC is lower for all purposes than E&P would otherwise be; in other words, under the provision, E&P of a CFC generally follows the income tax treatment.

Effective Date

The provision applies to taxable years of foreign corporations beginning after December 31, 2021, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

9. Certain dividends from controlled foreign corporations to United States shareholders treated as extraordinary dividends (sec. 138148 of the bill and new sec. 1059(g) of the Code)

Present Law

If any corporation receives any extraordinary dividend with respect to any share of stock and the corporation has not held such stock for more than two years before the dividend announcement date, then (1) the corporation's basis in the stock is reduced (but not below zero) by the nontaxed portion of such dividends and (2) if the nontaxed portion of the dividends exceeds such basis, the excess is treated as gain from the sale or exchange of the stock for the taxable year in which the extraordinary dividend is received.[809]

In general, an extraordinary dividend is any dividend the amount of which equals or exceeds a given percentage of the taxpayer's adjusted basis in the relevant stock. The percentage for preferred stock is five percent and ten percent for any other stock.[810]

In general, the nontaxed portion of a dividend is the amount of the dividend reduced by a deduction allowable with respect to the dividend under section 243, 245, or 245A.[811]

Explanation of Provision

The provision provides that any disqualified CFC dividend received from a controlled foreign corporation ("CFC") by any taxpayer which is a U.S. shareholder[812] of such foreign

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[809] Sec. 1059(a).

[810] Sec. 1059(c)(1).

[811] Sec. 1059(b).

[812] As defined in sec. 951(b).

corporation shall be treated as an extraordinary dividend to which section 1059(a) applies without regard to the period the taxpayer held the stock of such foreign corporation.

For purposes of the provision, disqualified CFC dividend means any dividend paid by a CFC to a taxpayer that is a U.S. shareholder of such foreign corporation that is attributable to earnings and profits which were earned, or gain with respect to property which accrued, during a period (i) such foreign corporation was not a CFC or (ii) such stock was not owned by a U.S. shareholder.

Finally, the provision directs the Secretary to prescribe rules coordinating the application of section 1059 with other provisions of the Code, including section 1248.

Effective Date

The provision applies to distributions made after the date of enactment.

10. Modification of rules for partnership interests held in connection with performance of services (sec. 138149 of the bill and sec. 1061 of the Code)

Present Law

Section 1061 provides for a three-year holding period in the case of certain net long-term capital gain with respect to any applicable partnership interest (known as a carried interest) held by the taxpayer.[813] In general, if the three-year holding period requirement is not satisfied, section 1061 treats gain subject to the provision as short-term capital gain (taxed at ordinary rates). This rule applies notwithstanding the rules of section 83 relating to property transferred in connection with the performance of services or any election in effect under section 83(b) to include amounts in gross income in the year of transfer.

Gain subject to the provision to which the three-year holding period requirement applies means gain from, and loss from, the sale or exchange of a capital asset held for more than one year, to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.[814]

An applicable partnership interest is generally any interest in a partnership that, directly or indirectly, is transferred to (or held by) the taxpayer in connection with performance of services in any applicable trade or business. The services may be performed by the taxpayer or by any other related person or persons in any applicable trade or business. An applicable partnership interest does not include a capital interest in a partnership giving the taxpayer a right to share in partnership capital commensurate with the amount of capital contributed (as of the time the partnership interest was received), or commensurate with the value of the partnership interest that is taxed under section 83 upon the receipt or vesting of the partnership interest.

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[813] Section 1061 is effective for taxable years beginning after December 31, 2017.

[814] Sec. 1061(a)(2), referring to secs. 1222(3) and (4).

An applicable trade or business means any activity (regardless of whether the activity is conducted in one or more entities) that consists in whole or in part of the following: (1) raising or returning capital, and either (2) investing in (or disposing of) specified assets (or identifying specified assets for investing or disposition), or (3) developing specified assets. Specified assets mean securities (generally as defined under rules for mark-to-market accounting for securities dealers), commodities (as defined under rules for mark-to-market accounting for commodities dealers), real estate held for rental or investment, cash or cash equivalents, options or derivative contracts with respect to such securities, commodities, real estate, cash or cash equivalents, as well as an interest in a partnership to the extent of the partnership's proportionate interest in the foregoing. Reporting requirements and regulatory authority are provided under the provision.[815]

Explanation of Provision

Under the provision, if one or more applicable partnership interests are held by a taxpayer at any time during a taxable year, the taxpayer's net applicable partnership gain for the taxable year is treated as short-term capital gain. Net applicable partnership gain means net long-term capital gain[816] determined by only taking into account the taxpayer's gains and losses with respect to applicable partnership interests, and any other amounts includable in gross income with respect to an applicable partnership interest that are treated as capital gain or are subject to tax at the rate applicable to capital gain. The provision thus expands the types of gain that are treated as short-term capital gain under section 1061.

Net applicable partnership gain generally does not include amounts realized after a five-year holding period, with certain exceptions. The holding period is three years for any taxpayer (other than a trust or estate) with adjusted gross income ("AGI") as determined under the provision of less than $400,000 for the taxable year.[817] The holding period is three years for any income with respect to any applicable partnership interest that is attributable to a real property trade or business.[818]

The provision adds rules for measuring the five-year or three-year holding period, including for tiered entities. The holding period is measured from the latest of specified dates. The dates are (i) the date on which the taxpayer acquired substantially all of the applicable partnership interest with respect to which the amount is realized, (ii) the date on which the partnership in which such applicable partnership interest is held acquired substantially all of the assets held by such partnership, and (iii) if the partnership in which the taxpayer holds an

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[815] The Department of Treasury and IRS have issued final regulations regarding the application of, and reporting for, section 1061. See T.D. 9945, 86 Fed. Reg. 5480, January 19, 2021.

[816] Net long-term capital gain is described in section 1222(7).

[817] AGI as determined under the provision is AGI determined without regard to sections 911, 931, or 933. These sections provide certain income exclusions for U.S. citizens or residents living abroad and exclusions for certain income from sources within certain possessions and within Puerto Rico.

[818] For this purpose, a real property trade or business is defined as in section 469(c)(7)(C) as any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

applicable partnership interest owns, directly or indirectly, interests in one or more other partnerships, the dates determined by applying rules similar to the foregoing in the case of each such other partnership. The Treasury Secretary is directed to provide guidance in determining the amount of gain that is treated as short-term capital gain under these rules, as well as guidance as to any necessary and appropriate reporting to enable administration and carry out the purposes of the provision.

The provision provides that the present-law rule with respect to certain services that are not taken into account in determining whether an interest is an applicable partnership interest applies to services with respect to a trade or business that is not an applicable trade or business.

The provision modifies the definition of a specified asset, providing that a partnership interest is itself treated as a specified asset (except as otherwise provided by the Secretary) if the partnership has a direct or indirect interest in an asset that is a specified asset (that is, securities, commodities, real estate held for rental or investment, cash or cash equivalents, and options or derivative contracts with respect to any of the foregoing). Regulatory guidance may, for example, define a de minimis direct or indirect interest of a partnership in an asset that is not taken into account for this purpose.

The provision gives regulatory authority to provide that statutory exclusions from the definition of an applicable partnership interest do not apply, for example, when the application of an exception would not carry out the purposes of section 1061. The provision also clarifies that the exception for ownership by a corporation of an interest that would otherwise be an applicable partnership interest applies only to C corporations.

The provision modifies the rule relating to transfers of applicable partnership interests to provide that transfer of an applicable partnership interest requires recognition of gain notwithstanding any other Federal income tax rules.

The provision requires the issuance of Treasury guidance to prevent the avoidance of the purposes of the provision through the distribution of property by a partnership or through a carry waiver (*e.g.*, the waiver of gain subject to this provision in return for a future allocation of income, gain, or property). The guidance also must apply the rules of section 1061 in the case of financial instruments, contracts, or interests in entities other than partnerships to the extent necessary or appropriate to carry out the purposes of the provision.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

0. Limitation on certain special rules for section 1202 gains (sec. 138150 of the bill and sec. 1202 of the Code)

Present Law

Exclusion of Gain on Sale of Small Business Stock

In General

A taxpayer other than a corporation may exclude 50 percent of the gain from the sale of qualified small business stock acquired at original issue and held for at least five years.[819] The amount of gain eligible for the exclusion by an individual with respect to the stock of any corporation is the greater of (1) ten times the taxpayer's basis in the stock, or (2) $10 million (reduced by the amount of eligible gain excluded by the taxpayer in prior years).[820] To qualify as a small business, before and immediately after the issuance, the aggregate gross assets (*i.e.*, cash plus aggregate adjusted basis of other property) held by the corporation may not exceed $50 million.[821] The corporation also must meet certain active trade or business requirements. Only C corporation stock may qualify as qualified small business stock.[822]

The portion of the gain includible in taxable income is taxed at a maximum rate of 28 percent under the regular tax rates applicable to the net capital gain of individuals.[823] Seven percent of the excluded gain is an alternative minimum tax preference.[824]

Special Rules for Certain Stock Acquired after February 17, 2009

For qualified small business stock acquired after February 17, 2009, and before September 28, 2010, the percent of gain which may be excluded is increased to 75 percent ("75-percent exclusion rule").[825]

For qualified small business stock acquired after September 27, 2010, the percent of gain which may be excluded is increased to 100 percent and the minimum tax preference does not apply ("100-percent exclusion rule").[826]

Rollover of Gain from Sale of Small Business Stock

An individual may elect to roll over tax-free any gain realized on the sale of qualified small business stock held more than six months to the extent of the taxpayer's cost of purchasing other qualified small business stock within 60 days of the sale.[827]

Explanation of Provision

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[819] Sec. 1202(a)(1) and (2).

[820] Sec. 1202(b)(1).

[821] Sec. 1202(d)(1)(A) and (B).

[822] Sec. 1202(c)(1).

[823] Sec. 1(h)(4), (7).

[824] Sec. 57(a)(7).

[825] Sec. 1202(a)(3).

[826] Sec. 1202(a)(4).

[827] Sec. 1045(a).

The provision limits the application of the 75-percent exclusion and 100-percent exclusion rules to taxpayers with adjusted gross income ("AGI") of less than $400,000. The provision also provides that the 75-percent exclusion and 100-percent exclusion rules do not apply to trusts and estates. Consequently, for qualified small business stock acquired any time after February 17, 2009, taxpayers with AGI equal to or greater than $400,000, as well as all trusts and estates, may only exclude 50 percent of the gain for income tax purposes from the sale of qualified small business stock.

For purposes of the provision, AGI is determined without regard to sections 911 (foreign earned income exclusion), 931 (exclusion of income for a bona fide resident of American Samoa), and 933 (exclusion for a bona fide resident of Puerto Rico).

AGI is also determined without regard to the exclusion of gain from the sale of qualified small business stock. Thus, the full amount of such gain is included in AGI for purposes of determining the applicable exclusion.

Effective Date

In general, the provision applies to sales or exchanges of stock on or after September 13, 2021. However, the provision does not apply to any sale or exchange of stock executed pursuant to a written binding contract which was in effect on September 12, 2021, and which is not later materially modified.

1. Rules relating to common control (sec. 138152 of the bill and sec. 52 of the Code)

Present Law

Aggregation rules are applied under the tax law to treat multiple taxpayers as a single taxpayer for purposes of particular tax rules. The section 52 aggregation rules generally treat groups of corporations and other entities under common control as a single employer.[828] Corporate entities making up the same controlled group of corporations are treated as a single employer.[829] A separate rule in section 52 aggregates organizations under common control.[830] Thus, partnerships (and other non-corporate entities such as sole proprietorships) may be aggregated under section 52(b).

Under the aggregation rules of section 52(b), all employees of trades or business (whether or not incorporated) that are under common control are treated as employed by a single

[828] The aggregation rules of section 52 (originally designed to assist taxpayers in computing the work opportunity tax credit) are applied by many other Code provisions. Such other Code provisions are themselves cross-referenced, broadening the reach of section 52's aggregation rules. For example, section 163(j)(3)'s small business exception references section 448 and thus requires the application of the aggregation rules of section 52 to determine whether a taxpayer is subject to section 163(j)'s business interest expense limitation.

[829] Sec. 52(a). A controlled group is defined by reference to section 1563(a).

[830] Section 52(b).

employer.[831] The regulations generally apply a vote or value ownership test whereby a parent-subsidiary group, a brother-sister group or a combined group may be treated as a single taxpayer. In broad terms, a parent-subsidiary group requires the organizations to be linked through 50-percent-or-greater direct ownership interests. A brother-sister group generally only exists in the case of closely held entities, and a combined group requires both a parent-subsidiary group and a brother-sister group.

Aggregation under section 52 applies to taxpayers conducting a trade or business.

Explanation of Provision

The provision provides that a trade or business for purposes of section 52(b) includes any activity treated as trade or business under section 469(c)(5) (activity involving research or experimentation) or section 469(c)(6) (including certain investment activity). Thus, for example, if a partnership engages in activity that gives rise to a section 212 deduction, such partnership may be aggregated under section 52(b).

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

2. Wash sales and constructive sales (secs. 138151 and 138153 of the bill and secs. 1091 and 1259 of the Code)

Present Law

Wash Sales

In general, a loss claimed by a taxpayer with respect to any sale or other disposition of shares of stock or securities is not allowed if, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities.[832] In other words, a loss claimed with respect to a wash sale is not allowed.

The basis of the stock or securities acquired (or the contract or option entered into) that resulted in denial of the loss from the sale or other disposition of substantially identical stock or securities is the basis of the stock or securities so sold or disposed of.[833] In other words, the loss is deferred. The basis is increased or decreased by the difference, if any, between the price

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[831] An entity generally must include the gross receipts of another entity in which it has a controlling interest (generally, a more-than-50-percent interest). Sec. 52; Treas. Reg. sec. 1.52-1.

[832] Sec. 1091(a). For this purpose, stock or securities generally includes contracts or options to acquire or sell stock or securities.

[833] Sec. 1091(d).

at which the stock or securities were acquired and the price at which the substantially identical stock or securities were sold or otherwise disposed of.

Constructive Sales

In general, in the case of a constructive sale of an appreciated financial position, a taxpayer must recognize gain as if the position were sold, assigned, or otherwise terminated at its fair market value on the date of the constructive sale.[834]

In general, an appreciated financial position is any position with respect to any stock, debt instrument, or partnership interest if there would be gain were such position sold, assigned, or otherwise terminated at its fair market value.[835]

A taxpayer is treated as having made a constructive sale of an appreciated financial position if the taxpayer (or a related person) (A) enters into a short sale of the same or substantially identical property, (B) enters into an offsetting notional principal contract with respect to the same or substantially identical property, (C) enters into a futures or forward contract to deliver the same or substantially identical property, (D) in the case of an appreciated financial position that is a short sale or a contract described in (B) or (C) with respect to any property, acquires the same or substantially identical property, or (E) to the extent prescribed by the Secretary in regulations, enters into one or more other transactions (or acquires one or more positions) that have substantially the same effect as a transaction described in any of the preceding sentence.

Explanation of Provision

Wash Sales

The provision modifies the wash sale rules to apply to a loss claimed with respect to any sale or other disposition of a specified asset. Other specified assets include (1) any security described in subparagraph (A), (B), (C), (D), or (E) of section 475(c)(2), (2) any foreign currency, (3) any commodity described in subparagraph (A), (B), or (C) of section 475(e)(2), (4) any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary. Except as provided in regulations, specified assets include contracts or options to acquire or sell any specified assets. The provision also provides a business needs and hedging exception for foreign currencies and commodities.

The provision expands application of the wash sale rules to acquisition of substantially identical specified assets by the taxpayer or a related party. In the case of any

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[834] Sec. 1259(a)(1). Any gain or loss realized after the constructive sale with respect to the position is adjusted to reflect any gain taken into account as a result of the constructive sale. In addition, the holding period of the position is determined as if the position were originally acquired on the date of the constructive sale. Sec. 1259(a)(2).

[835] Sec. 1259(b)(1). A position is an interest, including a futures or forward contract, short sale, or option. Sec. 1259(b)(3).

acquisition of substantially identical specified assets by a related party (other than the taxpayer's spouse), the basis of the substantially identical specified assets is not adjusted to include the disallowed loss. If the substantially identical specified assets are acquired by the taxpayer (or the taxpayer's spouse), the basis of the acquired specified assets is increased by the amount of the disallowed loss.

Constructive Sales

The provision adds digital asset (as defined above) to the definition of appreciated financial position. Thus, a constructive sale of a digital asset is subject to the general rule for constructive sales, such that a taxpayer must recognize gain as if the position with respect to the digital asset were sold, assigned, or otherwise terminated at its fair market value on the date of the constructive sale.

Effective Date

The provision concerning wash sales applies to sales and other dispositions after December 31, 2021. The provision concerning constructive sales applies to contracts entered into and constructive sales executed after the date of enactment

PART II — TAX INCREASES FOR HIGH-INCOME INDIVIDUALS

1. Increase in top marginal individual income tax rate (sec. 138201 of the bill and sec. 1 of the Code)

Present Law

In General

To determine regular tax liability, individual, estate, and trust taxpayers generally must apply the tax rate schedules (or the tax tables) to their regular taxable income. The rate schedules are broken into several ranges of income, known as income brackets, and the marginal tax rate increases as a taxpayer's income bracket increases.

Tax Rate Schedules

Separate rate schedules apply based on an individual's filing status. Public Law 115-97 (the "2017 Tax Act") changed the prior-law rate schedules for taxable years beginning after December 31, 2017, and beginning before January 1, 2026. For 2022, the regular individual, estate, and trust income tax rate schedules are projected to be as follows:

Table 1.–Projected Federal Individual, Estate, and Trust Income Tax Rates for 2022[1]

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $10,250	10% of the taxable income
Over $10,250 but not over $41,675	$1,025 plus 12% of the excess over $10,250
Over $41,675 but not over $88,850	$4,796 plus 22% of the excess over $41,675
Over $88,850 but not over $169,600	$15,174.50 plus 24% of the excess over $88,850
Over $169,600 but not over $215,375	$34,554.50 plus 32% of the excess over $169,600
Over $215,375 but not over $538,475	$49,202.50 plus 35% of the excess over $215,375
Over $538,475	$162,287.50 plus 37% of the excess over $538,475

If taxable income is:	Then income tax equals:
Heads of Households	
Not over $14,600	10% of the taxable income
Over $14,600 but not over $55,750	$1,460 plus 12% of the excess over $14,600
Over $55,750 but not over $88,850	$6,398 plus 22% of the excess over $55,750
Over $88,850 but not over $169,600	$13,680 plus 24% of the excess over $88,850
Over $169,600 but not over $215,350	$33,060 plus 32% of the excess over $169,600
Over $215,350 but not over $538,450	$47,700 plus 35% of the excess over $215,350
Over $538,450	$160,785 plus 37% of the excess over $538,450
Married Individuals Filing Joint Returns and Surviving Spouses	
Not over $20,500	10% of the taxable income
Over $20,500 but not over $83,350	$2,050 plus 12% of the excess over $20,500
Over $83,350 but not over $177,700	$9,592 plus 22% of the excess over $83,350
Over $177,700 but not over $339,200	$30,349 plus 24% of the excess over $177,700
Over $339,200 but not over $430,750	$69,109 plus 32% of the excess over $339,200
Over $430,750 but not over $646,150	$98,405 plus 35% of the excess over $430,750
Over $646,150	$173,795 plus 37% of the excess over $646,150
Married Individuals Filing Separate Returns	
Not over $10,250	10% of the taxable income
Over $10,250 but not over $41,675	$1,025 plus 12% of the excess over $10,250
Over $41,675 but not over $88,850	$4,796 plus 22% of the excess over $41,675
Over $88,850 but not over $169,600	$15,174.50 plus 24% of the excess over $88,850
Over $169,600 but not over $215,375	$34,554.50 plus 32% of the excess over $169,600
Over $215,375 but not over $323,075	$49,202.50 plus 35% of the excess over $215,375
Over $323,075	$86,897.50 plus 37% of the excess over $323,075
Estates and Trusts	
Not over $2,700	10% of the taxable income
Over $2,700 but not over $9,850	$270 plus 24% of the excess over $2,700
Over $9,850 but not over $13,450	$1,986 plus 35% of the excess over $9,850
Over $13,450	$3,246 plus 37% of the excess over $13,450

[1] Joint Committee staff calculations.

For 2026, after the expiration of changes made by the 2017 Tax Act, the regular individual, estate, and trust income tax rate schedules are projected to be as follows:

Table 2.–Projected Federal Individual, Estate, and Trust Income Tax Rates for 2026[1]

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $11,200	10% of the taxable income
Over $11,200 but not over $45,450	$1,120 plus 15% of the excess over $11,200
Over $45,450 but not over $110,100	$6,257.50 plus 25% of the excess over $45,450
Over $110,100 but not over $229,600	$22,420 plus 28% of the excess over $110,100
Over $229,600 but not over $499,200	$55,880 plus 33% of the excess over $229,600
Over $499,200 but not over $501,250	$144,848 plus 35% of the excess over $499,200
Over $501,250	$145,565.50 plus 39.6% of the excess over $501,250
Heads of Households	
Not over $16,000	10% of the taxable income
Over $16,000 but not over $60,900	$1,600 plus 15% of the excess over $16,000
Over $60,900 but not over $157,200	$8,335 plus 25% of the excess over $60,900
Over $157,200 but not over $254,600	$32,410 plus 28% of the excess over $157,200
Over $254,600 but not over $499,200	$59,682 plus 33% of the excess over $254,600
Over $499,200 but not over $532,600	$140,400 plus 35% of the excess over $499,200
Over $532,600	$152,090 plus 39.6% of the excess over $532,600
Married Individuals Filing Joint Returns and Surviving Spouses	
Not over $22,400	10% of the taxable income
Over $22,400 but not over $90,900	$2,240 plus 15% of the excess over $22,400
Over $90,900 but not over $183,450	$12,515 plus 25% of the excess over $90,900
Over $183,450 but not over $279,550	$35,652.50 plus 28% of the excess over $183,450
Over $279,550 but not over $499,200	$62,560.50 plus 33% of the excess over $279,550
Over $499,200 but not over $563,900	$135,045 plus 35% of the excess over $499,200
Over $563,900	$157,690 plus 39.6% of the excess over $563,900

If taxable income is:	Then income tax equals:
Married Individuals Filing Separate Returns	
Not over $11,200	10% of the taxable income
Over $11,200 but not over $45,450	$1,120 plus 15% of the excess over $11,200
Over $45,450 but not over $91,725	$6,257.50 plus 25% of the excess over $45,450
Over $91,725 but not over $139,775	$17,826.25 plus 28% of the excess over $91,725
Over $139,775 but not over $249,600	$31,280.25 plus 33% of the excess over $139,775
Over $249,600 but not over $281,950	$67,522.50 plus 35% of the excess over $249,600
Over $281,950	$78,845 plus 39.6% of the excess over $281,950
Estates and Trusts	
Not over $3,050	15% of the taxable income
Over $3,050 but not over $7,200	$457.50 plus 25% of the excess over $3,050
Over $7,200 but not over $10,950	$1,495 plus 28% of the excess over $7,200
Over $10,950 but not over $14,950	$2,545 plus 33.0% of the excess over $10,950
Over $14,950	$3,865 plus 39.6% of the excess over $14,950

[1] Joint Committee staff calculations.

Explanation of Provision

The provision increases the top individual, estate, and trust income tax rate of 37 percent to 39.6 percent and reduces the dollar amounts at which the 39.6-percent bracket begins. For 2022, the provision modifies the start of the 39.6 percent bracket to be $400,000 for singles, $425,000 for heads of households, $450,000 for married individuals filing jointly and surviving spouses, and $225,000 for married individuals filing separately. These amounts are adjusted for inflation starting in 2023. Under the provision, for 2022, the regular individual income tax rate schedules are projected to be as follows (changes from present law are in bold):

Table 3.–Federal Individual, Estate, and Trust Income Tax Rates for 2022 Under the Provision[1]

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $10,250	10% of the taxable income
Over $10,250 but not over $41,675	$1,025 plus 12% of the excess over $10,250
Over $41,675 but not over $88,850	$4,796 plus 22% of the excess over $41,675
Over $88,850 but not over $169,600	$15,174.50 plus 24% of the excess over $88,850

If taxable income is:	Then income tax equals:
Over $169,600 but not over $215,375	$34,554.50 plus 32% of the excess over $169,600
Over $215,375 but not over **$400,000**	$49,202.50 plus 35% of the excess over $215,375
Over **$400,000**	**$113,821.25** plus **39.6%** of the excess over **$400,000**
Heads of Households	
Not over $14,600	10% of the taxable income
Over $14,600 but not over $55,750	$1,460 plus 12% of the excess over $14,600
Over $55,750 but not over $88,850	$6,398 plus 22% of the excess over $55,750
Over $88,850 but not over $169,600	$13,680 plus 24% of the excess over $88,850
Over $169,600 but not over $215,350	$33,060 plus 32% of the excess over $169,600
Over $215,350 but not over **$425,000**	$47,700 plus 35% of the excess over $215,350
Over **$425,000**	**$121,077.50** plus **39.6%** of the excess over **$425,000**
Married Individuals Filing Joint Returns and Surviving Spouses	
Not over $20,500	10% of the taxable income
Over $20,500 but not over $83,350	$2,050 plus 12% of the excess over $20,500
Over $83,350 but not over $177,700	$9,592 plus 22% of the excess over $83,350
Over $177,700 but not over $339,200	$30,349 plus 24% of the excess over $177,700
Over $339,200 but not over $430,750	$69,109 plus 32% of the excess over $339,200
Over $430,750 but not over **$450,000**	$98,405 plus 35% of the excess over $430,750
Over **$450,000**	**$105,142.50** plus **39.6%** of the excess over **$450,000**
Married Individuals Filing Separate Returns	
Not over $10,250	10% of the taxable income
Over $10,250 but not over $41,675	$1,025 plus 12% of the excess over $10,250
Over $41,675 but not over $88,850	$4,796 plus 22% of the excess over $41,675
Over $88,850 but not over $169,600	$15,174.50 plus 24% of the excess over $88,850
Over $169,600 but not over $215,375	$34,554.50 plus 32% of the excess over $169,600
Over $215,375 but not over **$225,000**	$49,202.50 plus 35% of the excess over $215,375
Over **$225,000**	**$52,571.25** plus **39.6%** of the excess over **$225,000**

If taxable income is:	Then income tax equals:
Estates and Trusts	
Not over $2,700	10% of the taxable income
Over $2,700 but not over $9,850	$270 plus 24% of the excess over $2,700
Over $9,850 but not over $13,450	$1,986 plus 35% of the excess over $9,850
Over $13,450	$3,246 plus **39.6%** of the excess over $13,450

[1] Joint Committee staff calculations.

The provision's change to lower the start of the brackets for the top marginal rate also applies to taxable years beginning after December 31, 2025. As a result, the 35-percent bracket is eliminated for taxable years beginning after December 31, 2025.[836] Under the provision, for 2026, the regular individual income tax rate schedules are projected to be as follows (changes from present law are in bold):

Table 4.–Federal Individual, Estate, and Trust Income Tax Rates for 2026 Under the Provision[1]

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $11,200	10% of the taxable income
Over $11,200 but not over $45,450	$1,120 plus 15% of the excess over $11,200
Over $45,450 but not over $110,100	$6,257.50 plus 25% of the excess over $45,450
Over $110,100 but not over $229,600	$22,420 plus 28% of the excess over $110,100
Over $229,600 but not over **$437,700**	$55,880 plus 33% of the excess over $229,600
Over **$437,700**	**$124,553** plus **39.6%** of the excess over **$437,700**
Heads of Households	
Not over $16,000	10% of the taxable income
Over $16,000 but not over $60,900	$1,600 plus 15% of the excess over $16,000
Over $60,900 but not over $157,200	$8,335 plus 25% of the excess over $60,900
Over $157,200 but not over $254,600	$32,410 plus 28% of the excess over $157,200
Over $254,600 but not over **$465,100**	$59,682 plus 33% of the excess over $254,600
Over **$465,100**	**$129,147** plus **39.6%** of the excess over **$465,100**

[836] Other rates and brackets revert to levels from prior law in effect before enactment of the 2017 Tax Act (adjusted appropriately for inflation) for taxable years beginning after December 31, 2025.

If taxable income is:	Then income tax equals:
Married Individuals Filing Joint Returns and Surviving Spouses	
Not over $22,400	10% of the taxable income
Over $22,400 but not over $90,900	$2,240 plus 15% of the excess over $22,400
Over $90,900 but not over $183,450	$12,515 plus 25% of the excess over $90,900
Over $183,450 but not over $279,550	$35,652.50 plus 28% of the excess over $183,450
Over $279,550 but not over **$492,450**	$62,560.50 plus 33% of the excess over $279,550
Over **$492,450**	**$132,817.50** plus **39.6%** of the excess over **$492,450**
Married Individuals Filing Separate Returns	
Not over $11,200	10% of the taxable income
Over $11,200 but not over $45,450	$1,120 plus 15% of the excess over $11,200
Over $45,450 but not over $91,725	$6,257.50 plus 25% of the excess over $45,450
Over $91,725 but not over $139,775	$17,826.25 plus 28% of the excess over $91,725
Over $139,775 but not over **$246,225**	$31,280.25 plus 33% of the excess over $139,775
Over **$246,225**	**$66,408.75** plus **39.6%** of the excess over **$246,225**
Estates and Trusts	
Not over $3,050	15% of the taxable income
Over $3,050 but not over $7,200	$457.50 plus 25% of the excess over $3,050
Over $7,200 but not over $14,950	$1,495 plus 28% of the excess over $7,200
Over $10,950 but not over $14,950	$2,545 plus 33% of the excess over $10,950
Over $14,950	$3,865 plus 39.6% of the excess over $14,950

[1] Joint Committee staff calculations.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

2. Increase in capital gains rate for certain high-income individuals (sec. 138202 of the bill and sec. 1(h) of the Code)

Present Law

Preferential Rates on Capital Gain and Qualified Dividends

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of a capital asset, any gain generally is included in income.[837]

For individuals, estates, and trusts, any net capital gain is taxed at maximum rates lower than the rates applicable to ordinary income. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year.[838] Gain or loss is treated as long-term if the asset is held for more than one year.[839] Qualified dividend income generally is taxed at the same rate as net capital gain.[840]

Capital losses generally are deductible in full against capital gains.[841] In addition, individual, trust, and estate taxpayers may deduct capital losses against up to $3,000 of ordinary income in each year.[842] Any remaining unused capital losses may be carried forward indefinitely to another taxable year.[843]

The maximum rate of tax on the adjusted net capital gain depends on the taxpayer's taxable income and filing status. These maximum rates apply for purposes of both the regular tax and the alternative minimum tax. For 2021, the adjusted net capital gain rate schedules are as follows:

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[837] Gain from the sale of a taxpayer's principal residence may be excluded up to certain limits if certain conditions are met. See sec. 121.

[838] See sec. 1222.

[839] *Ibid.*

[840] Sec. 1(h).

[841] Sec. 1211(b).

[842] *Ibid.*

[843] Sec. 1212(b).

Table 5.–Adjusted Net Capital Gain Maximum Rates for 2021

Filing Status and Rate Start Amount (Taxable Income)					Rate
Single Individuals	Heads of Households	Married Individuals Filing Joint Returns and Surviving Spouses	Married Individuals Filing Separate Returns	Estates and Trust	
$0	$0	$0	$0	$0	0%
$40,400	$54,100	$80,800	$40,400	$2,700	15%
$445,850	$473,750	$501,600	$250,800	$13,250	20%

The breakpoints between the zero- and 15-percent rates (the "15-percent breakpoints") and the 15- and 20-percent rates (the "top capital-gain breakpoints") do not correspond to the ordinary income breakpoints.[844]

Additionally, in certain cases, there are additional higher capital gains rate brackets. A maximum 25 percent rate applies to unrecaptured section 1250 gain. Unrecaptured section 1250 gain arises upon the sale of depreciable real property, gain from which may be treated as long-term gain under section 1231 (for property used in a trade or business). Upon the sale of such property, a portion of the gain attributable to depreciation recapture is treated as capital gain but taxed at a higher rate.[845] A maximum 28 percent rate applies to gain from the sale of collectibles.[846]

The preferential capital gains rates apply for both the regular income tax as well as the alternative minimum tax ("AMT").

Conforming Provisions

Certain provisions in the Internal Revenue Code and in the U.S Code operate with a rate equal to the highest marginal regular capital gains rate: (1) the accumulated earnings tax,[847]

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[844] Sec. 1(j)(5) For taxable years beginning before January 1, 2018, the start of the 15-percent breakpoints corresponded to the breakpoints that began the then-in-effective 25 percent ordinary rate, while the start of the top capital-gain breakpoints corresponded to the breakpoints that began the then-in-effective 39.6 percent ordinary rate. See sec. 1(h)(1).

[845] Sec. 1(h)(1)(E) and (6).

[846] The term collectible is defined in section 408(m). In addition, certain gain from the sale of qualified small business stock is subject to a maximum 28 percent rate.

[847] Sec. 531.

(2) the personal holding company tax,[848] (3) the FIRPTA withholding rules for certain distributions relating to dispositions of real property interests,[849] and (4) 46 U.S.C. sec. 53511(f)(2).

Section 15

If tax rates change during a taxable year, section 15 provides rules for apportioning taxable income for the year between the portion of the year ending with the day before the effective date of the change and the portion beginning with the effective date.[850]

Explanation of Provision

The provision aligns the top capital-gain breakpoints with the breakpoints that begin the top ordinary rate.[851] The 15-percent breakpoints are not changed.

The provision increases the top regular capital gains rate for individuals, estates, and trusts from 20 percent to 25 percent. The rates for unrecaptured section 1250 gain and collectible gain remain the same. The rate increase applies for purposes of both the regular tax and the AMT.

Conforming changes are made to the accumulated earnings tax, (2) the personal holding company tax, (3) the FIRPTA withholding rules for certain distributions relating to dispositions of real property interests, and (4) 46 U.S.C. sec. 53511(f)(2).

The provision provides that section 15 does not apply to the rate increase.

Effective Date

The provision to align the top capital-gain breakpoints with the breakpoints that begin the top ordinary rate is effective for taxable years beginning after December 31, 2021.

The provision to increase the top regular capital gains rate is effective for taxable years ending after the date of introduction (September 13, 2021).

The conforming change to the FIRPTA withholding rules applies to dispositions made after the effective date of the provision.

The provision has a transition rule for the taxable year including the date of introduction. Under this rule, gains and losses for the portion of the taxable year on or before the

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[848] Sec. 541.

[849] Sec. 1445(e)(1) and (6).

[850] Sec. 15.

[851] The preceding provision of the bill lowers the top ordinary income breakpoints and raises the top ordinary income rate to 39.6 percent. This provision aligns the top capital-gain breakpoints with those breakpoints.

date of introduction are separately taken into account, and net capital gain with respect to such gain and losses is subject to a top marginal regular capital gains rate of 20 percent. Gains and losses for the portion of the taxable year after the date of introduction are also separately taken into account, and net capital with respect to such gain and losses is subject to a top marginal regular capital gains rate of 25 percent. A similar transition rule applies for purposes of the AMT. If the taxpayer has gains or losses allocated from a passthrough entity, the determination of when the gain or loss is taken into account is made at the entity level.

For purposes of the transition rule, capital gain recognized in the portion of the taxable year after the date of introduction shall be treated as recognized in the portion of the taxable year on or before the date of introduction if the gain arises from a transaction that occurs pursuant to a written binding contract entered into on or before the date of introduction. This safe harbor shall not apply if the written binding contract is modified in any material respect after the date of introduction.

3. Application of net investment income tax to trade or business income of certain high-income individuals (sec. 138203 of the bill and sec. 1411 of the Code)

Present Law

In General

As part of the financing for Social Security and Medicare benefits, a tax is imposed on the wages of an individual received with respect to his or her employment under the Federal Insurance Contributions Act ("FICA").[852] A similar tax is imposed on the self-employment income of an individual under the Self-Employment Contributions Act ("SECA").[853]

FICA

The FICA tax has two components. Under the old-age, survivors, and disability insurance component ("OASDI"), the rate of tax is 12.4 percent, half of which is imposed on the employer, and the other half of which is imposed on the employee.[854] The amount of wages subject to this component is capped at $142,800 for 2021. Under the hospital insurance ("HI") component, the rate is 2.9 percent, also split equally between the employer and the employee. The amount of wages subject to the HI component of the tax is not capped.

The employee portion of the HI tax under FICA (not the employer portion) is increased by an additional tax of 0.9 percent on wages received in excess of a threshold amount. The threshold amount for the additional 0.9 percent is $250,000 in the case of a joint return, $125,000 in the case of a married individual filing a separate return, and $200,000 in any other

[852] See Chapter 21 of the Code.

[853] Sec. 1401.

[854] Secs. 3101 and 3111.

case. The threshold amount is not indexed for inflation.[855] The wages of individuals employed by a business in any form (for example, a C corporation) generally are subject to the FICA tax. The employee portion of the FICA tax is collected through withholding from wages.[856]

SECA

The SECA tax rate is the combined employer and employee rate for FICA taxes. Under the OASDI component, the rate of tax is 12.4 percent and the amount of earnings subject to this component is capped at $142,800 for 2021. Under the HI component, the rate is 2.9 percent, and the amount of self-employment income subject to the HI component is not capped. An additional 0.9 percent HI tax applies to self-employment income in excess of the same threshold amount that is applicable under FICA (reduced by FICA wages).[857]

For SECA tax purposes, self-employment income generally means net earnings from self-employment subject to a de minimis floor, but, for the OASDI component, self-employment income is limited to the annual cap less wages paid to the individual during the taxable year. Net earnings from self-employment generally includes the gross income derived by an individual from any trade or business carried on by the individual, less the deductions attributable to the trade or business that are allowed under the self-employment tax rules.[858] Net earnings from self-employment generally includes the distributive share of income or loss from any trade or business of a partnership in which the individual is a partner, subject to certain exceptions.

Specified types of income or loss are excluded, such as rentals from real estate in certain circumstances, dividends and interest, and gain or loss from the sale or exchange of a capital asset or from timber, certain minerals, or other property that is neither inventory nor held primarily for sale to customers.

Trust Funds

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[855] Sec. 3101(b)(2).

[856] Sec. 3102.

[857] Sec. 1401(b)(2).

[858] For purposes of determining net earnings from self-employment, taxpayers are permitted a deduction from net earnings from self-employment equal to the product of the taxpayer's net earnings (determined without regard to this deduction) and one-half of the sum of the rates for OASDI (12.4 percent) and HI (2.9 percent), *i.e.*, 7.65 percent of net earnings. This deduction reflects the fact that the FICA rates apply to an employee's wages, which do not include FICA taxes paid by the employer, whereas a self-employed individual's net earnings are economically the equivalent of an employee's wages plus the employer share of FICA taxes. The deduction is intended to provide parity between FICA and SECA taxes. However, for a discussion of why the present law deduction does not provide exact parity with FICA taxes and a provision to modify the deduction, see Joint Committee on Taxation, *Options to Improve Tax Compliance and Reform Tax Expenditures*, JCS-02-05 (Jan. 27, 2005), at pp. 74-79. In addition, self-employed individuals may deduct one-half of self-employment taxes for income tax purposes under section 164(f).

Under the Social Security Act, OASDI taxes are directed to Treasury trust funds that provide Social Security benefits, and HI taxes are directed to the Federal Hospital Insurance Trust Fund.

S corporation Shareholders

An S corporation is treated as a passthrough entity for Federal income tax purposes. Each shareholder takes into account and is subject to Federal income tax on the shareholder's pro rata share of the S corporation's income.[859]

A shareholder of an S corporation who performs services as an employee of the S corporation is subject to FICA tax on his or her wages from the S corporation. A shareholder of an S corporation generally is not subject to FICA tax on amounts that are not wages, such as the shareholder's share of the S corporation's income.

An S corporation shareholder's pro rata share of S corporation income is not subject to SECA tax.[860] Nevertheless, courts have held that an S corporation shareholder is subject to FICA tax on the amount of his or her reasonable compensation, even though the amount may have been characterized by the taxpayer as other than wages. The case law has addressed the issue of whether amounts paid to shareholders of S corporations constitute reasonable compensation and therefore are wages subject to the FICA tax, or rather, are properly characterized as another type of income that is not subject to FICA tax.[861]

Partners

In General

A partnership is treated as a passthrough entity for Federal income tax purposes. Each partner includes in income its distributive share of partnership items of income, deduction, gain and loss.[862]

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[859] Sec. 1366.

[860] See Rev. Rul. 59-221, 1959-1 C.B. 225, and Rev. Rul. 74-44, 1974-1 C.B. 287. This treatment differs from a partner's distributive share of income or loss from the partnership's trade or business, which is generally subject to SECA tax, as described below. Sec. 1402(a).

[861] See the discussion of case law in, *e.g.*, Thomas L. Dickens and Judson R. Jahn, "Reasonable Compensation For S Corporation Shareholder-Employees," 94 *Practical Tax Strategies* 159, April 2015 (also listing websites with ranges of reasonable compensation for various sectors); Richard Winchester, "The Gap in the Employment Tax Gap," 20 *Stanford Law and Policy Review* 127, 2009; James Parker and Claire Y. Nash, "Anticipate Close Inspection of Closely Held Company Pay Practices - Part I," 80 *Practical Tax Strategies* 215, April 2008; "Renewed Focus on S Corp. Officer Compensation," AICPA Tax Division's S Corporation Taxation Technical Resource Panel, *Tax Advisor*, May 2004, at 280. See also Treasury Inspector General for Tax Administration, Department of the Treasury, *Efforts to Address the Compliance Risk of Underreporting of S Corporation Officers' Compensation Are Increasing, but More Action Can be Taken*, (TIGTA 2021-30-042), August 11, 2021.

[862] Secs. 701 and 702.

A partner's distributive share of partnership items is not treated as wages for FICA tax purposes. Rather, a partner who is an individual is subject to the SECA tax on his or her distributive share of trade or business income of the partnership. The net earnings from self-employment generally include the partner's distributive share (whether or not distributed) of income or loss from any trade or business carried on by the partnership (excluding specified types of income, such as rent, dividends, interest, and capital gains and losses, as described above[863]).

Limited Partners

An exclusion from SECA applies in certain circumstances for limited partners of a partnership.[864] Under this rule, in determining a limited partner's net earnings from self-employment, an exclusion is generally provided for his or her distributive share of partnership income or loss. The exclusion does not apply with respect to guaranteed payments to the limited partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.[865]

The owners of a limited liability company that is classified as a partnership for Federal tax purposes are treated as partners for tax purposes. However, under State law, limited liability company owners are not defined as either general partners or limited partners.

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[863] Sec. 1402(a).

[864] Sec. 1402(a)(13).

[865] In *Renkemeyer, Campbell, & Weaver, LLP v. Commissioner*, the Tax Court held that distributive shares of limited partners in a law firm that was an LLP (limited liability partnership under applicable State law) of partnership income "arising from the legal services they performed in their capacity as partners in the law firm are subject to self-employment tax" in the years at issue. 136 T. C. 137, 150 (2011); see also Amy S. Elliott, "Tax Court Decision Could Reignite Debate Over Partnerships and Employment Taxes," *Tax Notes Today*, March 11, 2011. The Tax Court has continued to apply a functional test in evaluating whether a taxpayer's interest in a partnership is sufficiently analogous to a limited partner interest for income attributable to the interest to be covered by the section 1402(a)(13) exclusion. See, *e.g.*, *Joseph v. Commissioner*, T.C.M. 2020-65, 20-21 (2020) ("[W]e concluded in *Renkemeyer* that an interest other than a limited partner interest could be treated as such for purposes of that section only if the holder is merely a passive investor in the entity who does not actively participate in the entity's business operations.")

In *Howell v. Commissioner*, the Tax Court concluded that a member of a limited liability company (treated as a partnership for tax purposes) who received guaranteed payments had performed services for the partnership and therefore was required to include the payments in net earnings from self-employment. T.C. Memo. 2012-303, Nov. 1, 2012. Similarly in *Riether v. U.S.*, the court held that the two members of a diagnostic imaging LLC should have treated all their income from the LLC as self-employment income because they participated in the partnership business. 919 F.Supp.2d 1140 (D.N.M. 2012).

In 1997, the Treasury Department issued proposed regulations defining a limited partner for purposes of the self-employment tax rules. Prop. Treas. Reg. sec. 1.1402(a)-2 (January 13, 1997). These regulations provided, among other things, that an individual is not a limited partner if the individual participates in the partnership business for more than 500 hours during the taxable year. However, in the Taxpayer Relief Act of 1997, the Congress imposed a moratorium on regulations regarding employment taxes of limited partners. The moratorium provided that any regulations relating to the definition of a limited partner for self-employment tax purposes could not be issued or effective before July 1, 1998. No regulations have been issued to date.

Net Investment Income ("NII") Tax

Rate and Application of the Tax

An additional tax is imposed on net investment income in the case of an individual, estate, or trust. In the case of an individual, the tax is 3.8 percent of the lesser of net investment income or the excess of modified adjusted gross income ("AGI") over the threshold amount.[866]

The threshold amount is $250,000 in the case of a joint return or surviving spouse, $125,000 in the case of a married individual filing a separate return, and $200,000 in any other case.[867] The threshold amount is not indexed for inflation. Modified AGI is AGI increased by the amount excluded from income as foreign earned income under section 911(a)(1) (net of the deductions and exclusions disallowed with respect to the foreign earned income).[868]

The tax is subject to the individual estimated tax provisions.[869] The tax is not deductible for income tax purposes.

Net investment income definition

Net investment income is investment income reduced by the deductions properly allocable to such income.[870]

Investment income is the sum of (i) gross income from interest, dividends, annuities, royalties, and rents (other than such income derived in the ordinary course of any trade or business to which the tax does not apply), (ii) other gross income derived from any trade or business to which the tax applies, and (iii) net gain (to the extent taken into account in computing taxable income) attributable to the disposition of property other than property held in a trade or business to which the tax does not apply.[871]

Deductions properly allocable to net investment income may include net operating loss deductions allowed under section 172.[872] Treasury regulations provide rules for calculating section 1411 net operating loss amounts of a net operating loss deduction for a taxable year.

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[866] Sec. 1411(a)(1).

[867] Sec. 1411(b).

[868] Sec. 1411(d).

[869] Sec. 6654(a).

[870] Sec. 1411(c).

[871] Gross income does not include items, such as interest on tax-exempt bonds, veterans' benefits, and excluded gain from the sale of a principal residence, which are excluded from gross income under the income tax. See Treas. Reg. sec. 1.1411-1(d)(4).

[872] Treas. Reg. sec. 1.1411-4(f)(2)(iv) and (h).

The NII tax applies if a trade or business is a passive activity with respect to the taxpayer, or if the trade or business consists of trading financial instruments or commodities (as defined in section 475(e)(2)). In general, for a trade or business to be a passive activity (within the meaning of section 469) with respect to a taxpayer, the taxpayer does not materially participate in the trade or business (with certain exceptions).

Consequently, the NII tax generally does not apply to income or gain from a trade or business conducted as a sole proprietor, partnership, or S corporation, if the individual taxpayer materially participates in the trade or business activity. The NII tax does not apply to wages of an employee.

In the case of the disposition of a partnership interest or stock in an S corporation, gain or loss is taken into account only to the extent gain or loss would be taken into account by the partner or shareholder if the entity had sold all its properties for fair market value immediately before the disposition. Thus, only net gain or loss attributable to property held by the entity which is not property attributable to an active trade or business is taken into account.[873]

Income, gain, or loss on working capital is not treated as derived from a trade or business. Investment income does not include distributions from a qualified retirement plan. Nor does net investment income include amounts subject to SECA tax; thus, in effect, the application of SECA tax is determined before NII is determined.

Application of NII Tax to Trusts and Estates

In the case of an estate or trust, the NII tax is 3.8 percent of the lesser of (1) undistributed net investment income, or (2) the excess of adjusted gross income over the dollar amount at which the highest income tax bracket applicable to an estate or trust begins[874] ($13,050 for taxable years beginning in 2021).[875] Adjusted gross income is determined as provided in section 67(e), which provides that trusts and estates may deduct certain administrative expenses,[876] the applicable personal exemption,[877] and distributions made to beneficiaries[878] as part of the calculation of adjusted gross income.[879]

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[873] For this purpose, a business of trading financial instruments or commodities is not treated as an active trade or business.

[874] Sec. 1411(a)(2).

[875] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016.

[876] The trust or estate may deduct costs which are paid or incurred in connection with the administration of the trust or estate and which would not have been incurred if the property were not held in such trust or estate.

[877] See sec. 642(b) (providing the personal exemption amounts for trusts and estates).

[878] Secs. 651, 661.

[879] Adjusted gross income is otherwise calculated in the same manner as it is for individuals. Sec. 67(e); see also sec. 62.

The tax does not apply to a trust all the unexpired interests in which are devoted to charitable purposes.[880] It also does not apply to (1) a trust that is exempt from tax under section 501, (2) a charitable remainder trust exempt from tax under section 664, (3) a trust, fund, or account exempt from tax under subtitle A, (4) a grantor trust, (5) Electing Alaska Native Settlement Trusts subject to taxation under section 646; (6) Cemetery Perpetual Care Funds to which section 642(i) applies; or (7) foreign trusts or estates.[881]

A trust or estate may materially participate in a trade or business, making the trade or business a non-passive trade or business the income from which is not subject to the NII tax. The Internal Revenue Service has taken the position that material participation is determined by whether the fiduciary of the trust or estate is involved in the operations of the activities of the trade or business on a regular, continuous, and substantial basis.[882]

Application of NII Tax to CFCs and PFICs

Special rules apply to taxpayers who own certain foreign corporations. First, U.S. shareholders of controlled foreign corporations ("CFCs") must include currently under sections 951 and 951A certain income earned by the CFC (referred to as "subpart F income" and "global intangible low-taxed income" ("GILTI"), respectively).[883] Second, special rules apply with respect to U.S. persons that are shareholders (regardless of their percentage ownership) in any foreign corporation that is not a CFC but is a passive foreign investment company ("PFIC").[884] In certain cases, taxpayers that own stock in a PFIC may elect (under a "qualified electing fund" or "QEF" election) to include currently under section 1293 their pro rata share of the PFIC's ordinary income and long-term capital gain.[885] For taxpayers that own marketable stock in a PFIC, another option is to elect to mark to market their PFIC stock under section 1296.

Absent an election of current NII taxation under the regulations,[886] subpart F and GILTI inclusions in respect of stock of a CFC and QEF inclusions in respect of stock of a PFIC

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[880] Sec. 1411(e).

[881] Treas. Reg. 1.11411-3(b)(1).

[882] See Technical Advice Memorandum 201317010 (Jan. 18, 2013), Private Letter Ruling 201029014 (July 23, 2010), Technical Advice Memorandum (Aug. 17, 2007); see also *Frank Aragona Trust*, 142 T.C. No. 9 (2014) (holding that the activities of the trustees constituted material participation); *Mattie K. Carter Trust*, 256 F. Supp. 2d 536 (N.D. Tex. 2003) (holding that in determining material participation for a trust, the activities of its employees and agents should be included with the activities of its trustee).

[883] A CFC generally is defined as any foreign corporation in which U.S. persons own (directly, indirectly, or constructively) more than 50 percent of the corporation's stock (measured by vote or value), taking into account only "U.S. shareholders," that is, U.S. persons that own at least 10 percent of the stock (measured by vote or value). Secs. 951(b), 957, and 958.

[884] See secs. 1291 through 1298. The PFIC rules generally seek to prevent the deferral of passive income through the use of foreign corporations.

[885] Such a PFIC is referred to as a qualified electing fund ("QEF"). See secs. 1293 and 1295.

[886] Treas. Reg. secs. 1.951A-5(b)(1), 1.1411-10(g).

are not net investment income even though those inclusions may be comparable to other items of income that are net investment income. Under the regulations' default rules, only distributions of earnings that have been previously taxed under subpart F, GILTI, or the QEF rules are net investment income. By contrast, mark-to-market inclusions in respect of PFIC stock generally are net investment income even though the inclusions do not result from an actual sale of PFIC stock.[887]

Application of Employment Taxes and the NII Tax to Individuals

As described above, the FICA HI tax, the SECA HI tax, and the NII tax each apply up to a 3.8 percent tax rate,[888] but they apply to different categories of taxpayers and to different tax bases. The differences in the application of these taxes mean that some income, including income derived from passthrough businesses, is not subject to a 3.8-percent tax rate under any of the three regimes. Table 6 summarizes the application of each regime for different categories of taxpayers:

Table 6.–Application of FICA, SECA, and NII Tax Regimes Under Present Law

Type of Taxpayer	FICA	SECA	NII tax	No 3.8% tax
Employees	Wages			
S corporation shareholders - active	Reasonable compensation			Distributive share in excess of reasonable compensation; net gain from sale of business property
General partners		Self-employment income		
LP, LLP, and LLC limited partners or members - active		Guaranteed payments		Distributive share of partners claiming limited partner exception from SECA and material participation exception from NII tax; net gain

[887] Treas. Reg. sec. 1.1411-10.

[888] For FICA and SECA, the HI tax rate is 2.9 percent, plus an additional 0.9 percent rate on wages and self-employment income above the threshold amounts ($250,000 in the case of a joint return, $125,000 in the case of a married individual filing a separate return, and $200,000 in any other case).

Type of Taxpayer	FICA	SECA	NII tax	No 3.8% tax
				from sale of business property
S corporation shareholders; LP, LLP, and LLC limited partners or members - passive			Distributive share; net gain from sale of business property	
Sole proprietors		Self-employment income		
Investors			Investment income and net gain from passive activities or trading businesses	Investment income and net gain from active interests

Explanation of Provision

In general, the provision provides that a high-income individual (determined based on specified, filing-status-based amounts described below) is subject to NII tax on net income or net gain regardless of whether the taxpayer materially participates in a trade or business that generated the net income or net gain, where such net income or net gain is not otherwise subject to FICA or SECA tax in the hands of the taxpayer. A principal effect of the provision is that those S corporation shareholders, limited partners, and LLC members who currently are not liable for FICA or SECA tax, respectively, on their pro rata shares, distributive shares, and partnership income and gain become subject to NII tax on this income and gain above certain income thresholds.

For taxpayers subject to the provision, the provision expands the definition of net investment income subject to the NII tax. Under the provision, in the case of any individual whose modified AGI exceeds the high income threshold amount, the NII tax of 3.8 percent applies to the greater of specified net income or net investment income (as defined under present law).

Under the provision, in the case of an estate or trust, the NII tax is 3.8 percent of the lesser of (1) the greater of undistributed specified net income or undistributed net investment income, or (2) the excess of adjusted gross income over the dollar amount at which the highest income tax bracket applicable to an estate or trust begins.

Specified Net Income

Specified net income under the provision includes, among other items described below, income derived in the ordinary course of a trade or business without regard to the present law limitation that the trade or business is a passive activity with respect to the taxpayer or consists of trading financial instruments or commodities. Specified net income is specified income reduced by the deductions properly allocable to such income. Specified income is the sum of (i) gross income from interest, dividends, annuities, royalties, and rents, (ii) other gross income derived from a trade or business, and (iii) net gain (to the extent taken into account in computing taxable income) attributable to the disposition of property.

Specified net income is determined without regard to the special rules for determining net investment income for income on investment of working capital and for dispositions of a partnership interest or stock in an S corporation.

In determining specified net income, a trade or business includes any activity involving research or experimentation (within the meaning of section 174) and any activity in connection with a trade or business or with respect to which expenses are allowable as a deduction under section 212 (to the extent provided in regulations pursuant to section 469(c)(6)).

Specified net income does not include distributions from a qualified retirement plan. Specified net income does not include amounts subject to SECA tax or wages subject to FICA tax.

Income Thresholds and Phase-In of Increase

The high-income threshold amount is $500,000 in the case of a joint return or surviving spouse, $250,000 in the case of a married individual filing a separate return, and $400,000 in any other case.

The increase in tax under the provision is phased in based on a ratio of (i) the excess of the taxpayer's modified AGI over the applicable high income threshold amount to (ii) $100,000 (one-half of such amount in the case of a married taxpayer filing separately). Under this phase-in, if a married individual who files a joint return has modified adjusted gross income of, for example, $540,000, the increase in tax under the provision is limited to 40 percent ($540,000 - $500,000 / $100,000) of the increase that would be determined in the absence of the phase-in limitation.

The provision retains the unindexed threshold amounts above which the NII tax applies, specifically, $250,000 in the case of a joint return or surviving spouse, $125,000 in the case of a married individual filing a separate return, and $200,000 in any other case.

Clarifications Regarding Net Investment Income

The provision provides several clarifications regarding the determination of net investment income, which also apply to determinations of specified net income under the provision. First, the provision clarifies that net investment income does not include wages subject to FICA tax.

Second, the provision clarifies that deductions properly allocable to investment income in determining net investment income do not include net operating loss deductions under section 172.

Finally, the provision provides that net investment income includes subpart F and GILTI inclusions in respect of stock of a CFC and QEF inclusions in respect of stock of a PFIC. It codifies the existing regulatory treatment of mark-to-market inclusions in respect of PFIC stock as net investment income. The provision provides that the Secretary shall issue regulations or other guidance providing for the treatment of distributions of amounts previously included in gross income for purposes of chapter 1 but not previously subject to NII tax. The regulations or other guidance shall include transition rules for proper coordination and application of existing inclusion rules with the inclusion rules under the provision for subpart F and GILTI inclusions in respect of stock of a CFC and inclusions in respect of stock of a PFIC.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

4. Limitation on deduction of qualified business income for certain high-income individuals (sec. 138204 of the bill and sec. 199A of the Code)

Present Law[889]

For taxable years beginning after December 31, 2017, and before January 1, 2026, a taxpayer other than a corporation (that is, individuals as well as trusts and estates) generally may deduct 20 percent of qualified business income from a partnership, S corporation, or sole proprietorship, as well as 20 percent of aggregate qualified real estate investment trust ("REIT") dividends and qualified publicly traded partnership income of the taxpayer for the taxable year.[890]

The amount deductible may not exceed 20 percent of the taxpayer's taxable income for the taxable year (reduced by net capital gain).[891]

Limitations based on W-2 wages and capital investment phase in above a threshold amount of taxable income.[892] A disallowance of the deduction of income of specified service

[889] The provision, section 199A, as originally enacted in 2017, is described in more detail in Joint Committee on Taxation, *General Explanation of Public Law 115-97*, JCS-1-18, December 2018, pages 11-38. For a description of changes to section 199A in 2018 (as still in effect), see Joint Committee on Taxation, *General Explanation of Certain Tax Legislation Enacted in the 115th Congress*, JCS-2-19, October 2019, pages 120-139.

[890] Sec. 199A.

[891] Sec. 199A(a). For this purpose, taxable income is computed without regard to the deduction allowable under the provision. Sec. 199A(e)(1).

[892] For a taxpayer with taxable income above the threshold, the taxpayer is allowed a deductible amount for each qualified trade or business equal to the lesser of (1) 20 percent of the qualified business income with respect to such trade or business, or (2) the greater of (a) 50 percent of the W-2 wages paid with respect to the qualified

trades or businesses[893] also phases in above the threshold amount of taxable income. The threshold amount is indexed for inflation for taxable years beginning after 2018. For 2021, the threshold amount is $329,800 for married filing joint returns, $164,925 for married filing separate returns, and $164,900 for all other returns.[894]

For any taxable year, qualified business income means the net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business of the taxpayer.[895] The determination of qualified items of income, gain, deduction, and loss takes into account such items only to the extent included or allowed in the determination of taxable income for the year.[896] Items are treated as qualified items of income, gain, deduction, and loss only to the extent they are effectively connected with the conduct of a trade or business within the United States.[897]

A specified agricultural or horticulture cooperative generally may deduct nine percent of the lesser of the cooperative's qualified production activities income or taxable income (determined without regard to the cooperative's section 199A deduction and reduced by certain payments or allocations to patrons) for the taxable year.[898]

Explanation of Provision

The provision adds a dollar limitation on the deduction for qualified business income under section 199A(a) for a taxable year. In the case of a taxpayer other than a corporation, the amount of the deduction for any taxable year may not exceed $500,000 for a joint return or

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trade or business, or (b) the sum of 25 percent of the W-2 wages paid with respect to the qualified trade or business plus 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property of the qualified trade or business. Sec. 199A(b)(2).

[893] A specified service trade or business means any trade or business involving the performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners, or which involves the performance of services that consist of investing and investment management, trading, or dealing in securities, partnership interests, or commodities. Sec. 199A(d)(2).

[894] Sec. 3.27 of Rev. Proc. 2020-45, 2020-46 I.R.B. 1016.

[895] Qualified business income does not include any qualified REIT dividends or qualified publicly traded partnership income. Sec. 199A(c)(1).

[896] Certain items are not qualified items of income, gain, deduction, or loss. Sec. 199A(c)(3)(B).

[897] For this purpose, section 864(c) is applied by substituting "qualified trade or business (within the meaning of section 199A)" for "nonresident alien individual or a foreign corporation" or for "a foreign corporation," each place they appear. Sec. 199A(c)(3)(A).

[898] Sec. 199A(g). The deduction is limited to 50 percent of W-2 wages that are paid by the cooperative during the calendar year that ends in such taxable year and are properly allocable to domestic production gross receipts. The deduction may instead be allocated to and deducted by the cooperative's patrons, limited to each patron's taxable income for the taxable year (determined without regard to such deduction but after taking into account the patron's other deductions under section 199A(a)). See sec. 199A(g).

surviving spouse, $250,000 for a married individual filing a separate return, $10,000 for an estate or trust, or $400,000 for any other taxpayer. The present-law phaseouts of the deduction above the threshold amount continue to apply, subject to this additional limitation.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

5. Limitations on excess business losses of noncorporate taxpayers (sec. 138205 of the bill and sec. 461(l) of the Code)

Present Law

For taxable years beginning after December 31, 2020, and before January 1, 2027, an excess business loss of a taxpayer other than a corporation is not allowed for the taxable year.[899] The disallowed excess business loss is treated as a net operating loss ("NOL") for the taxable year for purposes of determining any NOL carryover for subsequent taxable years.[900]

An excess business loss for the taxable year is the excess (if any) of the aggregate deductions of the taxpayer which are attributable to trades or businesses of such taxpayer, over the sum of the aggregate gross income or gain of such taxpayer attributable to such trades or businesses plus a threshold amount.[901] The threshold amount is indexed for inflation for taxable years beginning after 2018.[902] For 2021, the threshold amount is $262,000 ($524,000 for joint returns).[903]

The aggregate deductions taken into account to determine the excess business loss of the taxpayer for the taxable year that are attributable to trades or businesses of the taxpayer are determined without regard to the limitation of the provision, and without regard to any deduction under section 172 (relating to NOLs) or 199A (relating to the deduction for qualified business income). For example, assume that a taxpayer has an NOL carryover from a prior taxable year to the current taxable year. Such NOL carryover is not part of the taxpayer's aggregate deductions attributable to the trade or business for the current taxable year under section 461(l).

An excess business loss (the deduction for which is limited by section 461(l)) does not take into account gross income or gains or deductions attributable to the trade or business of

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[899] Sec. 461(l).

[900] See sec. 172.

[901] Sec. 461(l)(3)(A).

[902] Sec. 461(l)(3)(C).

[903] See sec. 3.32 of Rev. Proc. 2020-45, 2020-46 I.R.B. 1016.

performance of services as an employee.[904] For example, assume married taxpayers filing jointly for the taxable year have a loss from a trade or business conducted by one spouse as a sole proprietorship as well as wage income of the other spouse from employment. The wage income is not taken into account in determining the amount of the deduction limited under section 461(l).

Capital loss deductions are not taken into account in computing the section 461(l) limitation.[905] The amount of capital gain taken into account in calculating the section 461(l) limitation cannot exceed the lesser of capital gain net income from a trade or business or capital gain net income.

In the case of a partnership or S corporation, the provision applies at the partner or shareholder level.[906] Each partner's distributive share and each S corporation shareholder's pro rata share of items of income, gain, deduction, or loss of a partnership or S corporation are taken into account in applying the limitation under the provision for the taxable year of the partner or S corporation shareholder. Regulatory authority is provided to require any additional reporting as the Secretary determines is appropriate to carry out the purposes of the provision.[907]

Section 461(l) applies after the application of certain other limitations on losses, namely, the passive activity loss limitation,[908] the at-risk limitation,[909] and in the case of a taxpayer who is a partner or S corporation shareholder, the rules limiting the taxpayer's distributive or pro rata share of loss for the taxable year to the taxpayer's adjusted basis in the partnership interest or in the S corporation stock and debt.[910]

For taxable years beginning after December 31, 2017, and before January 1, 2027, the limitation relating to excess farm losses under section 461(j) does not apply.

Explanation of Provision

The provision makes permanent the limitation on any excess business loss of a taxpayer other than a corporation.

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[904] For this purpose, the trade or business of performance of services by the taxpayer as an employee has the same meaning as it does under section 62(a)(1).

[905] Sec. 461(l)(3)(B).

[906] Sec. 461(l)(4).

[907] Sec. 461(l)(5).

[908] Sec. 469.

[909] Sec. 465.

[910] Sec. 704(d) (for partners) and sec. 1366(d) (for S corporation shareholders). See sec. 461(l)(6) (applying section 461(l) after section 469), and Treas. Reg. sec. 1.469-2T(d)(6) (applying section 469 after sections 704(d), 1366(d), and 465). Note that other rules could potentially limit a taxpayer's loss (*e.g.*, section 267). A discussion of all potential loss limitation rules is beyond the scope of the description of this provision.

The provision also repeals the limitation on excess farm losses under section 461(j).

The provision modifies the treatment of an excess business loss disallowed for a taxable year. Any such loss that is disallowed for a particular year is carried forward to the next taxable year and treated as a deduction attributable to trades or businesses of the taxpayer in that year. Thus, in lieu of being carried forward as an NOL carryover, such loss is taken into account as part of the aggregate deductions under section 461(l) for the next taxable year (and therefore may be subject to the excess business loss limitation in that year).

Effective Date

The provision is effective for taxable years beginning after December 31, 2020.

6. Surcharge on high income individuals, estates, and trusts (sec. 138206 of the bill and new sec. 1A of the Code)

Present Law

To determine regular income tax liability, an individual, estate, or trust applies a tax rate schedule to the individual's, estate's, or trust's taxable income. There are different tax rate schedules for estates and trusts, single individuals, heads of households, married individuals filing joint returns and surviving spouses, and married individuals filing separate returns. Each tax rate schedule is divided into ranges of income referred to as income brackets, and marginal income tax rates increase with increasing income brackets.

The highest marginal income tax rate applicable to individuals, estates, and trusts is 37 percent. For taxable years beginning after December 31, 2021, the bill increases the highest rate to 39.6 percent and decreases the taxable income thresholds at which the highest rate applies. For example, under present law in 2022 for married individuals filing a joint return, the 37 percent rate is projected to apply to taxable income in excess of $646,150.[911] In 2022 for married individuals filing a joint return, the bill's 39.6 percent rate applies to taxable income in excess of $450,000.

There is no separate income tax surcharge applicable to taxpayers with income above certain levels.

Explanation of Provision

The provision imposes (in addition to any other tax imposed by Subtitle A of the Code) a three-percent tax on the modified adjusted gross income of an individual, estate, or trust that exceeds a prescribed amount.

For single individuals, heads of households, married individuals filing joint returns and surviving spouses, the three-percent tax applies to modified adjusted gross income in excess of $5 million. For married individuals filing separate returns, the three-percent tax applies to

[911] Joint Committee staff calculation.

modified adjusted gross income in excess of $2.5 million. For estates or trusts, the three-percent tax applies to modified adjusted gross income that exceeds $100,000.

For purposes of the three-percent tax, modified adjusted gross income is adjusted gross income reduced by any deduction (not taken into account in determining adjusted gross income) allowed for investment interest (as defined in section 163(d)). For this purpose, adjusted gross income of an estate or a trust is determined under the rules of section 67(e).

The amount of the three-percent tax imposed on a nonresident alien individual is determined by taking into account only amounts that are taken into account in determining the individual's section 1 net income tax liability under section 871(b) (that is, only income that is effectively connected with the conduct of a U.S. trade or business, and the deductions allocable to that income).

The $5 million and $2.5 million modified adjusted gross income thresholds at which the three-percent tax applies are reduced by any amounts excluded from a taxpayer's gross income under the foreign earned income and housing cost amount rules of section 911, less any deductions or exclusions properly allocable to amounts excluded under section 911.

The three-percent tax does not apply to a trust if all the unexpired interests in the trust are devoted to one or more purposes described in section 170(c)(2)(B) (among other things, religious, charitable, scientific, literary, or educational purposes).

The three-percent tax is not treated as tax imposed by Subtitle A (Income Taxes), Chapter 1 (Normal taxes and Surtaxes) of the Code for purposes of determining the amount of any Chapter 1 credit or for purposes of the alternative minimum tax.

Effective Date

The provision applies to taxable years beginning after December 31, 2021.

7. Termination of temporary increase in unified credit (sec. 138207 of the bill and sec. 2010 of the Code)

Present Law

In General

A gift tax is imposed on certain lifetime transfers, and an estate tax is imposed on certain transfers at death. A generation-skipping transfer tax generally is imposed on transfers, either directly or in trust or similar arrangement, to a "skip person" (*i.e.*, a beneficiary in a generation more than one generation younger than that of the transferor). Transfers subject to the generation-skipping transfer tax include direct skips, taxable terminations, and taxable distributions.

Income tax rules determine the recipient's tax basis in property acquired from a decedent or by gift. Gifts and bequests generally are excluded from the recipient's gross income.[912]

Unified Credit (Exemption) and Tax Rates

Unified Credit

A unified credit is available with respect to taxable transfers by gift and at death.[913] The unified credit offsets tax, computed using the applicable estate and gift tax rates, on a specified amount of transfers, referred to as the applicable exclusion amount, or exemption amount. Exemption used during life to offset taxable gifts reduces the amount of exemption that remains at death to offset the value of a decedent's estate. An election is available under which exemption that is not used by a decedent may be used by the decedent's surviving spouse (exemption portability).

For decedents dying and gifts made before January 1, 2018, the basic exclusion amount that is used to determine the unified credit is $5 million, indexed for inflation for decedents dying and gifts made after 2011. The basic exclusion amount temporarily increases for estates of decedents dying and gifts made after December 31, 2017, and before January 1, 2026. This is accomplished by doubling the basic exclusion amount provided in section 2010(c)(3) of the Code from $5 million to $10 million. The $10 million amount is indexed for inflation occurring after 2011. For 2021, the basic exclusion amount is $11,700,000.[914]

The temporary increase in the basic exclusion amount expires for decedents dying and gifts made after December 31, 2025. At that time, the basic exclusion amount returns to $5 million, indexed for inflation occurring after 2011.

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[912] Sec. 102.

[913] Sec. 2010.

[914] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016, p. 1024 (November 9, 2020). As a conforming amendment to the increase in the basic exclusion amount, Public Law 115-97 also amends section 2001(g) (regarding computation of estate tax). This conforming amendment, which was enacted as a permanent provision, provides that the Secretary shall prescribe regulations as may be necessary or appropriate to carry out the purposes of section 2001 with respect to differences between the basic exclusion amount in effect at the time of the decedent's death and at the time of any gifts made by the decedent. The purpose of the regulatory authority is to address the computation of the estate tax where (1) a decedent dies in a year in which the basic exclusion amount is lower than the basic exclusion amount that was in effect when the decedent made taxable gifts during his or her life, and (2) such taxable gifts exceeded the basic exclusion amount in effect at the time of the decedent's death. Because the temporary increase in the basic exclusion amount under Public Law 115-97 does not apply for estates of decedents dying after December 31, 2025, it was expected that such guidance would prevent the estate tax computation under section 2001(g) from recapturing, or "clawing back," all or a portion of the benefit of the increased basic exclusion amount used to offset gift tax for certain decedents who make large taxable gifts between January 1, 2018, and December 31, 2025, and die after December 31, 2025. In November 2019, the IRS published final regulations pursuant to this regulatory authority. See Treasury Decision 9884 (November 26, 2019).

Common Tax Rate Table

A common tax-rate table with a top marginal tax rate of 40 percent is used to compute gift tax and estate tax. The 40-percent rate applies to taxable transfers in excess of $1 million. Because the 2021 exemption amount ($11.7 million) is greater than this $1 million threshold at which the highest marginal tax rate applies, transfers in excess of the exemption amount generally are subject to tax at the 40 percent rate.

Generation-Skipping Transfer Tax Exemption and Rate

The generation-skipping transfer tax is a separate tax that can apply in addition to either the gift tax or the estate tax. The tax rate and exemption amount for generation-skipping transfer tax purposes, however, are set by reference to the estate tax rules. Generation-skipping transfer tax is imposed at a flat rate equal to the highest estate tax rate (40 percent) in effect at the time of the transfer. Tax is imposed on cumulative generation-skipping transfers in excess of the generation-skipping transfer tax exemption amount in effect for the year of the transfer. The generation-skipping transfer tax exemption for a given year is equal to the estate tax exemption amount in effect for that year ($11.7 million for 2021).

Explanation of Provision

The provision accelerates the expiration of the temporary increase in the estate and gift tax exemption amount. As a result, for decedents dying and gifts made after December 31, 2021, the basic exclusion amount is determined by increasing $5 million for inflation occurring after 2011). The staff of the Joint Committee on Taxation currently estimates that the basic exclusion amount under the provision would be $6,020,000 for 2022.

Effective Date

The provision is effective for estates of decedents dying and gifts made after December 31, 2021.

8. Increase in limitation on estate tax valuation reduction for certain real property used in farming or other trades of businesses (sec. 138208 of the bill and sec. 2032A of the Code)

Present Law

An executor may elect to value for estate tax purposes certain "qualified real property" used in farming or another qualifying trade or business at its current-use value rather than its fair market value.[915] The inflation-adjusted maximum reduction in value for such real property is $1,190,000 for 2021.[916] In general, real property qualifies for special-use valuation only if (1) at least 50 percent of the adjusted value of the decedent's gross estate (including both

[915] Sec. 2032A.

[916] Rev. Proc. 2020-45, I.R.B. 2020-46, p. 1024. Section 2032A(a) provides for a maximum reduction in value of $750,000, with this amount being adjusted for inflation for years after 1997.

real and personal property) consists of a farm or closely-held business property and (2) at least 25 percent of the adjusted value of the gross estate consists of farm or closely-held business real property. In addition, the property must be used in a qualified use (for example, farming) by the decedent or a member of the decedent's family for periods aggregating five years or more of during the eight-year period ending on the date of the decedent's death.

If, within 10 years after the decedent's death and before the death of the qualified heir, the heir disposes of an interest in the property or ceases to use the property in its qualified use, an additional estate tax is imposed to recapture the benefit of the special-use valuation.[917]

Explanation of Provision

The provision increases the maximum reduction in value for qualified real property under section 2032A to $11,700,000, indexed for inflation for years after 2021.

Effective Date

The provision is effective for estates of decedents dying after December 31, 2021.

9. Certain tax rules applicable to grantor trusts (sec. 138209 of the bill and new secs. 1062 and 2091 of the Code)

Present Law

Grantor Trusts, in General

A trust is a grantor trust if the grantor or another individual is treated as the owner of all or a portion of the trust for Federal income tax purposes. An individual who is treated as the owner of all or a portion of a grantor trust must include in computing his or her taxable income and credits those items of income, deductions, and credits against tax of the trust that are attributable to the portion of the trust deemed owned by such individual.[918]

In general, a trust with respect to which a grantor has retained a right or benefit described in sections 673 through 679 is treated as a grantor trust. A grantor generally is treated as the owner of a trust for Federal income tax purposes if, for example: she has a reversionary interest in the income or corpus of the trust; she or a non-adverse party has the power to revoke the trust; or she (without the approval or consent of an adverse party) has the power to distribute trust income to herself or to her spouse.[919] As another example, if a U.S. person transfers property to a foreign trust that has a U.S. beneficiary, the grantor trust rules generally treat the transferor as the owner of a portion of the trust for Federal income tax purposes.[920] A grantor's

[917] Sec. 2032A(c).

[918] Sec. 671.

[919] Secs. 673(a), 676(a), and 677(a)(1).

[920] Sec. 679.

retention of certain administrative powers also may cause a trust to be treated as a grantor trust.[921] For example, a grantor's power to borrow from the corpus or income of the trust without adequate interest or security, or a grantor's power to reacquire the trust corpus and substitute property of equivalent value, may cause the trust to be treated as a grantor trust.[922] In some cases, a person other than the grantor may be treated as deemed owner.[923]

Because a grantor trust and its grantor are treated as one taxpayer for Federal income tax purposes, the IRS has taken the position that transactions between the grantor and the trust generally are disregarded for Federal income tax purposes.[924] In Revenue Ruling 85-13,[925] for example, the IRS concludes that a grantor's acquisition of the corpus of a grantor trust (shares of stock) in exchange for a promissory note is not a sale for Federal income tax purposes, because the grantor is treated as the owner of the shares both before and after the sale. As a result, a grantor's acquisition of assets from a grantor trust generally does not result in recognition of gain or loss, and the payment of interest by the trust to the grantor generally does not result in income to the grantor. Similarly, a grantor generally does not realize or recognize gain or loss for Federal income tax purposes on the transfer of appreciated or depreciated assets to the trust.

The IRS also takes the position that the grantor's payment of the income taxes of a grantor trust is not treated as an additional gift to the trust beneficiaries for Federal gift tax purposes, because the grantor is obligated to pay the income tax of the trust.[926]

Federal Estate and Gift Tax Treatment of Certain Transfers in Trust

In general, a gift tax is imposed on certain lifetime transfers and an estate tax is imposed on certain transfers at death. For Federal gift tax purposes, a transfer to a trust generally is treated as a gift to the beneficiaries of the trust.[927]

In certain cases, lifetime transfers that are treated as completed transfers for gift tax purposes and thus are subject to gift tax in the year of the transfer nevertheless are included in the transferor's gross estate for Federal estate tax purposes at the time of his or her death.[928] These transfers generally include transfers for less than adequate and full consideration if: (1)

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[921] Sec. 675.

[922] Secs. 675(2) & (4)(C).

[923] Sec. 678.

[924] *Cf. Rothstein v. United States*, 735 F.2d 704 (2d Cir. 1984).

[925] 1985-1 C.B. 184, 1985.

[926] Rev. Rul. 2004-64, 2004-2 C.B. 7, 2004.

[927] *Helvering v. Hutchings*, 312 U.S. 393, 396-397 (1941).

[928] See secs. 2035-2038.

the decedent retained the beneficial enjoyment of the property during his or her life;[929] (2) the decedent retained the power to alter, amend, revoke, or terminate a previous lifetime transfer;[930] (3) the decedent held an interest in such property within three years of death;[931] or (4) the transfer takes effect at the death of the decedent.[932]

Intentionally Defective Grantor Trusts ("IDGTs")

As an estate planning technique, taxpayers sometimes structure trusts that are treated as separate from the grantor for Federal transfer tax purposes, but as owned by the grantor for Federal income tax purposes. Such trusts sometimes are referred to as intentionally defective grantor trusts ("IDGTs"), because the taxpayer intentionally includes in the trust agreement a right or power that causes the trust to be treated as a grantor trust under sections 671 through 679.

Certain rights or powers that result in grantor trust status, however, may not cause the assets of the trust to be included in the grantor's estate for Federal estate tax purposes. In other words, a transfer may, under certain circumstances, be treated as a completed transfer for Federal gift tax purposes, but not for income tax purposes. For example, in certain circumstances a grantor might retain an administrative power that causes the trust to be treated as a grantor trust, such as the power to reacquire the corpus of a trust and to substitute assets of equivalent value under section 675(4)(C), without causing the assets of the trust to be included in the grantor's gross estate under sections 2036 through 2038.

An example of transfer tax planning using IDGTs is an estate "freeze" transaction. In a simple estate freeze transaction, a grantor might transfer assets to such an IDGT by way of a taxable gift during his or her lifetime. The gift tax value is measured ("frozen") at the time of the transfer, and any subsequent appreciation accrues to the trust (and ultimately the trust beneficiaries) without further gift or estate tax consequences, provided the trust is structured to avoid inclusion in the grantor's gross estate. Furthermore, as the deemed owner of the trust assets for income tax purposes, the grantor may satisfy the income tax liability of the trust out of the grantor's separate assets, thereby preserving trust assets for the beneficiaries, without being treated as having made additional taxable gifts to the trust beneficiaries by reason of the tax payments. Finally, any transactions between the grantor and the trust (such as the grantor's reacquisition of the trust corpus) are disregarded for Federal income tax purposes. Because grantors in these estate "freeze" structures often have annuity interests in trust assets, the trusts in these structures are commonly referred to as grantor retained annuity trusts.

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[929] Sec. 2036.

[930] Sec. 2038.

[931] Sec. 2035.

[932] Sec. 2037.

Explanation of Provision

Application of Transfer Taxes to Certain Grantor Trusts

The provision generally is intended to more closely align the income tax and transfer tax (Federal estate and gift tax) rules for grantor trusts by imposing transfer tax consequences on certain assets held in or distributed from a grantor trust. For any portion of a trust with respect to which the grantor is the deemed owner: (1) the gross estate of a deceased deemed owner of such portion includes all assets attributable to that portion at the time of the deemed owner's death; (2) any distribution (other than to a deemed owner or the deemed owner's spouse) from such portion to one or more beneficiaries during the life of the deemed owner of such portion, other than in discharge of an obligation of the deemed owner, is treated as a transfer by gift for gift tax purposes; and (3) if during life the deemed owner ceases to be treated as the deemed owner of such portion, all assets attributable to such portion are treated as having been transferred by gift for gift tax purposes at such time. Proper adjustment must be made for any amounts included in the gross estate or treated as transferred by gift under (1), (2), or (3) to account for amounts treated previously as taxable gifts at the time the deemed owner transferred assets to the trust.

For purposes of the provision, a "deemed owner" is any person who is treated as owner of a portion of a trust under the grantor trust rules (sections 671 through 679 of the Code). The provision does not apply to any trust that is includible in the gross estate of the deemed owner (without regard to the provision).

Certain Sales to Grantor Trusts

In the case of any transfer of property between a trust and a person (whether or not the grantor) who is a deemed owner[933] of the trust (or portion thereof), the provision provides that the person's treatment as the owner of the trust is disregarded in determining whether there is a sale or exchange for income tax purposes. As a result, such a transfer might result in the realization and recognition of gain.[934] This rule does not apply to any trust that is fully revocable by the deemed owner.

The provision amends section 267, which disallows certain losses on sales and exchanges between persons with a relationship described in subsection 267(b), to add as one such relationship a grantor trust and the person treated as the owner of the trust (or portion thereof) under the grantor trust rules.

Effective Date

The provision is generally effective for (1) trusts created on or after the date of enactment and (2) any portion of a trust established before the date of enactment that is attributable to a contribution made on or after such date. The portion of the provision relating to

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[933] For purposes of this rule, the term "deemed owner" has the meaning described above.

[934] The provision thus changes the nonrecognition rule stated in Rev. Rul. 85-13, 1985 C.B. 184, described above.

sales and exchanges between a deemed owner and a grantor trust is intended to be effective for sales and other dispositions after the date of enactment.[935]

10. Valuation rules for certain transfers of nonbusiness assets (sec. 138210 of the bill and sec. 2031 of the Code)

Present Law

In General

The value of property subject to transfer taxes is the fair market value of the property being transferred on the date of transfer.[936] The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.[937]

If actual sales prices and bona fide bid and ask prices are lacking, the fair market value of stock in a closely held business is determined by looking to various factors including: the company's net worth; its prospective earning power and dividend-paying capacity; the goodwill of the business; the economic outlook overall and in the particular industry; the company's position in the industry and its management; the degree of control of the business represented by the block of stock to be valued; and the values of securities of corporations engaged in the same or similar lines of businesses.[938]

Discounts

In General

Courts and the IRS have recognized that for various reasons interests in an entity (shares in a corporation or interests in a partnership, for instance) may be worth less than the owner's proportionate share of the value of the entity's assets. For example, the value of stock held by a 50-percent shareholder might differ from the value of 50 percent of the assets owned by the corporation in which the stock is held. Some (but not all) of the valuation discounts claimed under present law are described below.[939] In many cases courts apply more than one

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[935] A technical correction may be necessary to reflect this intent.

[936] Secs. 2031 (estate tax), 2512 (gift tax), and 2624 (generation-skipping transfer tax). Fair market value is determined on the date of the gift in the case of the gift tax or on the date of the decedent's death (or on the alternate valuation date if the executor so elects) in the case of the estate tax.

[937] Treas. Reg. secs. 20.2031-1(b) and 25.2512-1.

[938] Treas. Reg. secs. 20.2031-2(f)(2) and 25.2512-2(f)(2); Rev. Rul. 59-60, 1959-1 C.B. 237, 1959.

[939] Other valuation discounts that courts have recognized include a blockage discount (if the sale of a block of assets, such as 80 percent of the stock of a public company, would depress the market for that asset); a key man (thin management) discount (if the value of a business declines due to the loss of a key manager); and a capital gain (or *General Utilities)* discount (to reflect the tax on gain from the eventual sale of assets acquired by gift or held by a corporation).

discount. The theories for some discounts overlap, and court decisions sometimes blur the distinctions between those discounts.

Minority (or Lack of Control) Discount

Numerous courts and the IRS have recognized that shares of stock or other ownership interests in a closely-held business entity that represent a minority interest are usually worth less than a proportionate share of the value of the assets of the entity.[940] Minority discounts arise from a division of control because the holder of a minority interest cannot control the ongoing direction of the business entity, the timing and amount of income distributed by the entity to its owners, or the liquidation of its assets. Minority discounts often result in reductions in the value of transferred property from 15 percent to 40 percent.[941]

Marketability (or Illiquidity) Discount

Recognizing that closely held stock and partnership interests may be less attractive to investors and may have fewer potential purchasers than publicly traded stock, courts and the IRS grant discounts to reflect the illiquidity of such interests. Courts sometimes combine marketability and minority discounts into a single discount,[942] but the discounts reflect different concerns. Whereas the minority discount compensates for lack of control over an interest, the marketability discount compensates for the limitations upon free exit inherent in interests for which no public market exists. The marketability discount may be appropriate whether valuing a controlling or a minority ownership interest.[943] Generally, the size of the marketability discount is reduced as the donor's or decedent's control of the corporation or partnership increases. However, the discount has been applied to a 100-percent ownership interest in a closely-held

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[940] See Rev. Rul. 93-12, 1993-2 C.B. 202, 1993; *Propstra v. United States*, 680 F.2d 1248 (9th Cir. 1982); *Ward v. Commissioner*, 87 T.C. 78 (1986); *Estate of Leyman v. Commissioner*, 40 T.C. 100 (1963).

In *Pierre v. Commissioner*, 133 T.C. 2 (2009), the Tax Court allowed minority and marketability discounts in valuing transfers of interests in a single member LLC to trusts established for the transferor's children. The taxpayer had funded the LLC with cash and marketable securities 12 days before she transferred the LLC interests to the trusts. Although the LLC was treated as a disregarded entity for Federal tax purposes under the "check-the-box" regulations, the court rejected the Service's argument that the taxpayer should be treated as having transferred for Federal gift tax purposes a proportionate share of the underlying assets of the LLC and thus should not be entitled to claim valuation discounts. The court reasoned that State law controlled the determination of what property interests were transferred for Federal transfer tax purposes; under State law, the LLC was a separate legal entity, and the taxpayer did not have a property interest in the underlying assets of the LLC. In its opinion, the court noted that "Congress has not acted to eliminate entity-related discounts in the case of LLCs or other entities generally or in the case of a single-member LLC specifically."

[941] See David T. Lewis and Andrea Chomakos, *The Family Limited Partnership Deskbook: Forming and Funding FLPs and Other Closely Held Business Entities*, ABA Publishing, 2004, p. 11.

[942] *E.g.*, *Central Trust Co. v. United States*, 305 F.2d 393 (Ct. Cl. 1962); *Estate of Titus v. Commissioner*, T.C. Memo 1989-466.

[943] Controlling shares in a nonpublic corporation, which do not qualify for a minority discount, may nonetheless receive a marketability discount because there is no ready private placement market and because transaction costs would be incurred if the corporation were to publicly offer its stock.

corporation.[944] Marketability discounts often result in reductions in the value of transferred property of 20 to 30 percent[945] in addition to any applicable minority discount.[946] Marketability discounts often are created by placing assets in a limited partnership. Marketability discounts claimed through the use of a limited partnership permit the donee or legatee to recreate value by liquidating the partnership or having a partner's interest redeemed by the partnership.

Fragmentation (or Fractional Interest) Discount

Fragmentation discounts are similar to minority discounts. This discount arises from the lack of control inherent in joint ownership of an asset (*e.g.*, a gift of an undivided fractional interest in real estate).[947] Fragmentation discounts often result in reductions in the value of transferred property of 15 to 60 percent.[948]

Investment Company Discount

The investment company discount arises because the market values of closed-end mutual funds and investment companies often are less than the net asset values of those funds and companies. These discounts may overlap with the marketability discount.[949]

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[944] See, *e.g.*, *Estate of Bennett v. Commissioner*, T.C. Memo 1993-34, in which the Tax Court concluded that in determining the discount, the corporate form could not be ignored. ("Here, we have a real estate management company whose assets are varied and nonliquid. We think that the corporate form is a quite important consideration here: there is definitely a difference in owning the assets and liabilities of Fairlawn directly and in owning the stock of Fairlawn, albeit 100 percent of the stock. We think some discounting is necessary to find a buyer willing to buy Fairlawn's package of desirable and less desirable properties.").

[945] There is no established formula to compute the size of a discount. One measure of the size of a discount, applicable when valuing a controlling interest, is the total cost of registering securities with the Securities and Exchange Commission, *i.e.*, converting nonliquid securities into liquid ones. Other factors considered are the size of any costs and the amounts realizable on a private placement or secondary offering, the opportunity cost of losing access to the invested funds, and the discounts applied in comparable transactions involving sales of comparable closely held businesses.

[946] The Tax Court has noted that the application of a minority discount and a marketability discount is multiplicative rather than additive. According to the Court, the minority discount should be applied first and then the marketability discount should be applied to that figure. For example, a 20-percent minority discount and a 40-percent marketability discount should result in a 52-percent discount (20 percent + (40 percent x 80 percent)), not a 60-percent discount. See *Estate of Bailey v. Commissioner*, T.C. Memo 2002-152.

[947] Because the holder of a fractional interest in real property has the power to compel partition (a remedy not available to minority holders of other interests), the discount should reflect the cost of partition and the value of the interest secured thereby. See Boris I. Bittker & Lawrence Lokken, *Federal Income Taxation of Estates, Gifts, and Trusts*, 2d ed., 1993, para. 135.3.4. Courts, however, often apply a minority discount instead. See, *e.g.*, *LeFrak v. Commissioner*, T.C. Memo 1993-526.

[948] See, *e.g.*, *Estate of Van Loben Sels v. Commissioner*, T.C. Memo 1986-501.

[949] For example, the Tax Court in *Estate of Folks v. Commissioner*, T.C. Memo 1982-43, granted the taxpayer a 50-percent investment company discount and then applied to the resulting value a 50-percent marketability discount, resulting in a total discount of 75 percent.

Explanation of Provision

For transfer tax purposes,[950] the provision disallows the use of valuation discounts in valuing certain transfers of nonbusiness assets. In the case of the transfer of any interest in an entity other than an interest which is actively traded,[951] the value of any nonbusiness assets held by the entity with respect to such interest are determined as if the transferor had transferred such assets directly to the transferee, and no valuation discount is allowed with respect to such nonbusiness assets. The value of such nonbusiness assets is disregarded when determining the value of the interest in the entity.

The term "nonbusiness asset" means any passive asset held for the production or collection of income that is not used in the active conduct of a trade or business. For this purpose, a passive asset is not treated as used in the active conduct of a trade or business unless the asset is: (a) generally, inventory property or accounts or notes receivable,[952] or a hedge with respect to such property; or (b) real property used in the active conduct of one or more real property trades or businesses[953] in which the transferor materially participates and with respect to which the transferor meets an hours-based requirement.[954] Material participation is determined under the rules of section 469(h),[955] which generally require that the taxpayer be involved in the operations of the activity on a basis that is regular, continuous, and substantial. Notwithstanding the general rule stated above, a passive asset that is held as part of the reasonably required working capital needs of a trade or business is treated as used in the active conduct of a trade or business. In general, the provision is not intended to treat real property that is used directly in the active conduct of a trade or business, such as a farming trade or business, as a nonbusiness asset.

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[950] As drafted, the provision applies to chapters 11 and 12 of the Code, which relate to estate tax and gift tax. The provision is intended to apply to all of subtitle B, which also includes chapters 13 (relating to tax on generation-skipping transfers), 14 (relating to special valuation rules), and 15 (relating to gifts and bequests from expatriates). A technical correction may be necessary to reflect this intent.

[951] The term "actively traded" is defined by reference to section 1092. The regulations under section 1092 generally define the term to mean property for which there is an established financial market. See Treas. Reg. sec. 1.1092(d)-1(a).

[952] More specifically, the provision references property described in section 1221(a)(1) ("stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business") and 1221(a)(4) ("accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in paragraph (1)").

[953] The term "real property trade or business" has the meaning given the term under section 469(c)(7)(C) ("any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business").

[954] See sec. 469(c)(7)(B)(ii) (requiring that the taxpayer perform more than 750 hours of services during the taxable year in real property trades or businesses in which the taxpayer materially participates).

[955] For this purpose, the material participation standards of section 469(h) area apply without regard to the limitation to farming activity in section 469(h)(3).

The term "passive asset" means any:

- Cash or cash equivalents;
- Except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in a partnership;
- Evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative;
- Foreign currency;[956] interest in a real estate investment trust, common trust fund, regulated investment company, or publicly traded partnership;[957] or interest in a precious metal;[958]
- Annuity;
- Real property;
- Asset (other than a patent, trademark, or copyright) which produces royalty income;
- Commodity;
- Collectible;[959]
- Personal property[960] or position in personal property;[961] or
- Other asset specified in regulations prescribed by the Secretary.

The provision includes a look-through rule that applies if a passive asset of an entity consists of a 10-percent interest in another entity. In such cases, the valuation rules of the provision are applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This rule is applied successively to any 10-percent interest of such other entity in any other entity. The term "10-percent interest" means: (a) ownership of at least 10 percent (by vote or value) of the stock of a corporation; (b) ownership of at least 10 percent of the capital or profits interest in a partnership; and (c)

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[956] Sec. 351(e)(1)(B)(iii).

[957] As described in section 351(e)(1)(B)(iv), including any other equity interest (other than in a corporation) which pursuant to its terms or any other arrangement is readily convertible into, or exchangeable for, any asset described in this clause (*i.e.*, an interest in a real estate investment trust, common trust fund, regulated investment company, or publicly traded partnership), an interest in a precious metal, or any other asset prescribed by the Secretary in regulations.

[958] As described in section 351(e)(1)(B)(v).

[959] Within the meaning of section 408(m) (*i.e.*, any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or other tangible personal property specified in regulations).

[960] As defined in section 1092(d)(1) ("property of a type which is actively traded").

[961] Within the meaning of section 1092(d)(2) ("an interest (including a futures or forward contract or option) in personal property").

ownership of at least 10 percent of the beneficial interests in any other entity. For purposes of the definition of a 10-percent interest, the ownership attribution rules of section 318 apply.[962] Thus, for example, if a transferor is transferring an interest in Entity 1, which has an 8 percent interest in Entity 2, and transferor separately has a direct 5 percent interest in Entity 2, the look-through rule applies.

The provision directs the Secretary to issue such regulations or other guidance as is necessary or appropriate to carry out the provision, including regulations or other guidance to: (1) determine whether a passive asset is used in the active conduct of a trade or business; and (2) determine whether a passive asset is held as part of the reasonably required working capital needs of a trade or business.[963]

Effective Date

The provision is effective for transfers after the date of enactment.

[962] Section 318 includes rules for constructive ownership of stock that generally apply for determining whether a redemption of stock is treated as a sale or exchange. These rules, in some cases, treat the shareholder as owning stock that is in fact owned by another person, such as a family member or an entity or trust. For example, an individual generally is treated as owning stock owned directly or indirectly by his or her spouse, children, grandchildren, or parents. Sec. 318(a)(1). Certain stock owned directly or indirectly by a partnership, estate, trust, or corporation is treated as owned by the partners, beneficiaries (or a deemed owner in the case of a grantor trust), or shareholders. Sec. 318(a)(2). A partnership, estate, trust, or corporation is treated as owning certain stock owned directly or indirectly by partners, beneficiaries (or a deemed owner in the case of a grantor trust), or shareholders. Sec. 318(a)(3). A person who has an option to acquire stock is treated as owning the stock. Sec. 318(a)(4).

[963] Subsection 2031(b) (relating to the valuation of unlisted stock and securities for purposes of determining the value of a decedent's gross estate) is to be applied after the valuation rules of the provision.

PART III — MODIFICATIONS OF RULES RELATED TO RETIREMENT PLANS

Limitations on High-Income Taxpayers with Large Retirement Account Balances

1. Contribution limit for individual retirement plans of high-income taxpayers with large account balances and increase in minimum required distributions for high-income taxpayers with large retirement account balances (secs. 138301 and 138302 of the bill and new sec. 409B and secs. 72, 401, 403(b), 457, 3405, 4973, 4974 and 6057 of the Code)

Present Law

In General

An individual retirement arrangement ("IRA") is a tax-favored savings arrangement under which retirement savings are held in a tax-exempt trust or custodial account (or annuity contract) until distributed. There are two basic types of IRAs under present law: traditional IRAs,[964] to which both deductible and nondeductible contributions may be made,[965] and Roth IRAs, to which only nondeductible contributions may be made.[966] The principal difference between these two types of IRAs is the timing of income tax inclusion. For a traditional IRA, an eligible contributor may deduct the contributions made for the year, and distributions are includible in gross income to the extent attributable to earnings on the account and the deductible contributions. For a Roth IRA, all contributions are after-tax (that is, no deduction is allowed) and, if certain requirements are satisfied, distributions are not includible in gross income.

Tax-favored treatment applies also to certain employer-sponsored retirement plans, including qualified retirement plans and annuities,[967] tax-deferred annuities,[968] governmental eligible deferred compensation plans,[969] SIMPLE (savings incentive match plan for employees) individual retirement arrangements ("IRAs"),[970] and simplified employee pensions ("SEPs").[971] A qualified defined contribution plan may include a qualified cash-or-deferred arrangement ("section 401(k) plan"), under which a participant may make pretax elective deferrals.

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[964] Sec. 408. IRAs include individual retirement accounts under section 408(a) and individual retirement annuities under section 408(b).

[965] Sec. 219.

[966] Sec. 408A.

[967] Secs. 401(a) and 403(a).

[968] Sec. 403(b).

[969] Sec. 457(b). Section 401(k) provides rules for a cash-or-deferred arrangement.

[970] Sec. 408(p).

[971] Sec. 408(k).

Section 403(b) plans and governmental section 457(b) plans also generally provide for pretax elective deferrals. These plans may also provide for pretax employer contributions that are not elective deferrals. The distinction between traditional accounts (or also called pretax accounts) and Roth accounts also exists for amounts held in individual accounts under these tax-favored- employer-sponsored retirement plans with a qualified Roth contribution program.[972]

Accumulations or aggregate account balances in IRAs (both traditional and Roth IRAs) include both regular IRA contributions and rollover contributions from tax-favored employer-sponsored retirement plans and other IRAs. As discussed in more detail below, the amount (and attributable earnings) held in Roth IRAs may consist of not only amounts originally contributed to Roth accounts (Roth IRAs or designated Roth accounts under employer-sponsored plans) as Roth contributions, but also amounts originally contributed to traditional or pretax accounts and then subsequently converted to Roth accounts.

An individual may receive an interest in a traditional or Roth IRA as a result of a transfer from a spouse or former spouse under a divorce or separation instrument.[973] Such a transfer is not taxable for the transferring spouse, and the resulting IRA is considered to be the IRA of the recipient spouse maintained for his or her benefit. An individual may also become the beneficiary of a traditional or Roth IRA after the death of the original IRA owner.[974] In some respects, an IRA inherited by a beneficiary other than the IRA's surviving spouse are subject to more restrictive rules than other IRAs. If the spouse of the original IRA owner inherits the IRA, the spouse may treat the IRA as his or her own IRA, rather than as an inherited IRA.

Limits on Regular Annual IRA Contributions

Annual Contribution Limit

An annual limit applies to contributions to IRAs. The contribution limit is coordinated so that the aggregate maximum amount that can be contributed to all of an individual's IRAs (both traditional and Roth) for a taxable year is the lesser of (1) a certain dollar amount ($6,000 for 2021) plus $1,000 for an individual who has attained age 50 before the end of the taxable year or (2) the individual's compensation. In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses is at least equal to the contributed amount. In addition, deductible contributions to traditional IRAs and after-tax contributions to Roth IRAs generally are subject to adjusted gross income ("AGI") limits. IRA contributions generally must be made in cash.

Traditional IRAs

An individual may make deductible contributions to a traditional IRA up to the IRA contribution limit if neither the individual nor the individual's spouse is an active participant in

[972] Section 402A describes a qualified Roth contribution program.

[973] Sec. 408(d)(6).

[974] Sec. 408(d)(3)(C).

an employer-sponsored retirement plan. If an individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan, the deduction is phased out for taxpayers with AGI for the taxable year over certain indexed levels. In the case of an individual who is an active participant in an employer-sponsored plan, the AGI phase-out ranges for 2021 are: (1) for single taxpayers, $66,000 to $76,000; (2) for married taxpayers filing joint returns, $105,000 to $125,000; and (3) for married taxpayers filing separate returns, $0 to $10,000. If an individual is not an active participant in an employer-sponsored retirement plan, but the individual's spouse is, the deduction is phased out for taxpayers with AGI for 2021 between $198,000 and $208,000.

To the extent an individual cannot or does not make deductible contributions to a traditional IRA or contributions to a Roth IRA for the taxable year, the individual may make nondeductible contributions to a traditional IRA (that is, no AGI limits apply), subject to the same contribution limits as the limits on deductible contributions, including catch-up contributions.

Roth IRAs

Individuals with AGI below certain levels may make nondeductible contributions to a Roth IRA. The maximum annual contribution that can be made to a Roth IRA is phased out for taxpayers with AGI for the taxable year over certain indexed levels. The AGI phase-out ranges for 2021 are: (1) for single taxpayers, $125,000 to $140,000; (2) for married taxpayers filing joint returns, $198,000 to $208,000; and (3) for married taxpayers filing separate returns, $0 to $10,000.

Excise Tax on Excess Contributions

To the extent that contributions to an IRA exceed the contribution limits, the individual is subject to an excise tax equal to six percent of the excess amount.[975] This excise tax generally applies each year until the excess amount is distributed. Any amount contributed for a taxable year that is distributed with allocable income by the due date for the taxpayer's return for the year will be treated as though not contributed for the year.[976]

Taxation of Distributions from Traditional IRAs

Amounts held in a traditional IRA are includible in income when withdrawn, except to the extent that the withdrawal is a return of the individual's basis.[977] All traditional IRAs of an individual are treated as a single contract for purposes of recovering basis in the IRAs. The portion of the individual's basis that is recovered with any distribution is the ratio of the amount

[975] Sec. 4973(a), (b) and (f).

[976] Sec. 408(d)(4). To receive this treatment for a contribution to a traditional IRA, the taxpayer must not have claimed a deduction for the amount of the distributed contribution.

[977] Basis results from after-tax contributions to the IRA or a rollover to the IRA of after-tax amounts from another eligible retirement plan.

of the aggregate basis in all the individual's traditional IRAs to the amount of the aggregate account balances in all of the individual's traditional IRAs.

Taxation of Roth IRA Distributions

Amounts held in a Roth IRA that are withdrawn as a qualified distribution are not includible in income. A qualified distribution is a distribution that (1) is made after the five-taxable-year period beginning with the first taxable year for which the individual first made a contribution to a Roth IRA, and (2) is made after attainment of age 59½, on account of death or disability, or is made for first-time homebuyer expenses of up to $10,000.

Distributions from a Roth IRA that are not qualified distributions are includible in income to the extent attributable to earnings; amounts that are attributable to a return of contributions to the Roth IRA are not includible in income. All Roth IRAs are aggregated for purposes of determining the amount that is a return of contributions. To determine the amount includible in income, a distribution that is not a qualified distribution is treated as made in the following order: (1) regular Roth IRA contributions (including contributions rolled over from other Roth IRAs); (2) conversion contributions (on a first in, first out basis); and (3) earnings. To the extent a distribution is treated as made from a conversion contribution, it is treated as made first from the portion, if any, of the conversion contribution that was required to be included in income as a result of the conversion. Thus, nonqualified distributions from all Roth IRAs are excludable from gross income until all amounts attributable to contributions have been distributed.

The Code imposes an early distribution tax on distributions made from Roth IRAs before the earlier of when the Roth IRA owner attains age 59½, becomes disabled, or dies unless an exception applies.[978] The tax is equal to 10 percent of the amount of the distribution that is includible in gross income. The 10-percent tax is in addition to the taxes that would otherwise be due on distribution.

Distributions from Roth IRAs are permitted to be rolled over tax-free to another Roth IRA. The rollover generally can be achieved by direct rollover (direct payment from the distributing plan to the recipient plan) or by contributing the distribution to the eligible retirement plan within 60 days of receiving the distribution ("60-day rollover").[979] Distributions from an inherited IRA (except in the case of an IRA acquired by the surviving spouse by reason

[978] Sec. 72(t). The tax also applies to early distributions made from qualified retirement plans, section 403(b) plans and traditional IRAs. The early distribution tax does not apply to distributions from governmental section 457(b) plans.

[979] Distributions from other IRAs will generally be included in income and taxed as ordinary income and may also be subject to the 10% early distribution tax (unless rolled over within 60 days), depending on the age of the individual taking the IRA distribution and the purpose for which they will be using the distribution.

of the IRA owner's death) and required minimum distributions are not permitted to be rolled over.[980]

Separation of Traditional and Roth IRA Accounts and Roth Conversions

Contributions to traditional IRAs and to Roth IRAs must be segregated into separate IRAs, meaning arrangements with separate trusts, accounts, or contracts, and separate IRA documents.

Taxpayers generally may convert any amount in a traditional IRA into an amount in a Roth IRA through a distribution from the traditional IRA and rollover to a Roth IRA (either a direct payment or a 60-day rollover).[981] The amount converted is includible in the taxpayer's income as if a withdrawal had been made, except that the 10-percent early distribution tax does not apply. However, the early distribution tax is imposed if the taxpayer withdraws the amount within five years of the conversion.

Rollovers from Employer-Sponsored Plans to Roth IRAs

A distribution from a qualified retirement plan, section 403(b) plan, or a governmental section 457(b) plan that is an eligible rollover distribution may be rolled over to another such plan or an IRA (including to a Roth IRA).[982] The rollover generally can be achieved by direct rollover or 60-day rollover. Amounts that are rolled over are usually not included in gross income.

Distributions from designated Roth accounts may be rolled over tax-free to a Roth IRA. Other distributions from qualified retirement plans, section 403(b) plans, and governmental section 457(b) plans also may be rolled into a Roth IRA. However, under the Roth IRA conversion rules, distributions from these plans that are rolled over into a Roth IRA and that are not distributions from a designated Roth account must be included in gross income to the extent required if not rolled over.[983]

Required Minimum Distributions

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[980] A trustee to trustee transfer between IRAs is not treated as a distribution and rollover. Thus, nonspouse beneficiaries of IRAs can move funds to another inherited IRA established as a beneficiary of the decedent IRA owner. In contrast, a surviving spouse is permitted to roll over a distribution to his or her own IRA.

[981] Sec. 408A(d)(3). A conversion can also be achieved by simply redesignating the traditional IRA as a Roth IRA if the entire balance in the account is converted.

[982] Under section 402(c)(4), any distribution of all or any portion of the balance to the credit of a participant is an eligible rollover distribution with exceptions, for example, certain periodic payments, required minimum distributions, and hardship distributions. Treas. Reg. sec. 1.402(c)-1 identifies certain other payments that are not eligible for rollover, including, for example, certain corrective distributions, loans that are treated as deemed distributions under section 72(p), and dividends on employer securities as described in section 404(k).

[983] Sec. 408A(d)(3).

Distributions from traditional IRAs and employer-sponsored- retirement plans are generally required to begin at attainment of age 72 and to be made in certain minimum amounts ("required minimum distributions").[984] Under present law, the requirement to begin distributions at attainment of age 72 does not apply to Roth IRAs.[985]

The Code imposes an excise tax on an individual if the amount distributed to an individual during a taxable year is less than the required minimum distribution under the plan for that year.[986] The excise tax is equal to 50 percent of the shortfall (that is, 50 percent of the amount by which the required minimum distribution exceeds the actual distribution). However, the Secretary may waive the tax if the individual establishes that the shortfall was due to reasonable error and reasonable steps are taken to remedy the error.

Explanation of Provision

Dollar and income limit for IRAs of high-income taxpayers

Under the provision, a $10,000,000 limit ("applicable dollar amount") is provided with respect to aggregate accumulations in applicable retirement accounts of certain high-income taxpayers ("applicable taxpayers").[987] An applicable taxpayer is a taxpayer whose adjusted taxable income for a taxable year[988] exceeds: (1) $450,000 in the case of a taxpayer who is a married individual filing a joint return or a surviving spouse;[989] (2) $425,000 in the case of a taxpayer who is a head of household;[990] and (3) $400,000 for a taxpayer not described in (1) or (2). An applicable retirement plan includes a qualified defined contribution plan or annuity,[991] a tax-deferred annuity,[992] a governmental eligible deferred compensation plan,[993] or an IRA.[994] The $10,000,000 applicable dollar amount as well as the adjusted taxable income amounts are

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[984] Secs. 401(a)(9) and 408(a)(6) and (b)(3).

[985] Sec. 408A(c)(4).

[986] Sec. 4974.

[987] The provision is added to new section 409B.

[988] Adjusted taxable income means taxable income determined without regard to (1) any deduction for annual additions to individual retirement plans to which section 409B(a) applies, and (2) any increase in minimum required distributions by reason of section 4974(e) (as added by this provision).

[989] As defined in section 2(a).

[990] As defined in section 2(b).

[991] As defined in section 401(a) or 403(a).

[992] As defined in section 403(b).

[993] As defined in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A).

[994] As defined in sections 408 and 408A.

increased for cost-of-living adjustments for taxable years beginning in 2023 or later, with adjustments for the accumulation limit being rounded to the next lowest multiple of $250,000 and adjustments for the adjusted taxable income being rounded to the next lowest multiple of $1,000.

In applying the applicable dollar limit for a taxable year, an individual's aggregate vested account balances in all applicable retirement plans maintained on behalf of the individual (whether as a participant, owner, or beneficiary), determined as of the close of the calendar year preceding the calendar year in which the taxable year begins ("prior year aggregate applicable retirement plan balances"), are compared to the individual's applicable dollar amount.

Contribution limit on individual retirement plans of high-income taxpayers with large account balances

The provision provides that in the case of an individual who is an applicable taxpayer for a taxable year, no annual additions[995] which are allocable to a taxable year may be made, by or on behalf of such individual, to any IRA to the extent such annual additions exceed the excess (if any) of the applicable dollar limit over the prior year aggregate applicable retirement plan balances. If any such annual additions are made to an IRA, an excise tax applies (see below).

For purposes of making that determination, the acquisition of an IRA (or the transfer to or contribution of amounts to an IRA) (1) by reason of the death of another individual, (2) on account of divorce or separation,[996] or (3) by a rollover contribution[997] is not treated as an annual addition. In addition, any employer or employee contributions by, or on behalf of, an individual to a SEP or a SIMPLE are not treated as annual additions for purposes of applying the limitation, but the excess (of the applicable dollar amount over the prior year aggregate applicable retirement plan balances) is reduced by the amount of such contributions in applying the limitation to other annual additions with respect to the individual.

Excise Tax (Special Rules for IRAs with Excess Annual Additions

The provision imposes an excise tax on excess contributions, which for purposes of the provision means, with respect to any taxable year, the sum of (A) the excess of the annual additions[998] to such IRAs over the limitation[999] for such taxable year, reduced by the amount of any other types of excess contributions,[1000] and (B) the lesser of (1) the excess contributions

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[995] An annual addition is defined as any contribution to an individual retirement plan.

[996] Pursuant to section 408(d)(6).

[997] Under sections 402(c), 402A(c)(3)(A), 403(a)(4), 403(b)(8), 408(d)(3)(A), 408A(e)(1), or 457(e)(16).

[998] Within the meaning of section 409B(b)(1), as added by this provision.

[999] Determined under section 409B(a), that is, the excess (if any) of the applicable dollar limit over the prior year aggregate applicable retirement plan balances.

[1000] Determined under section 4973(b) and (f), relating to contributions that exceed the general contribution limits that apply to traditional and Roth IRAs.

determined under this provision for the previous taxable year, with respect to such IRAs, reduced by the aggregate distributions from such plans for the taxable year[1001] or (2) the amount (if any) by which the prior year aggregate applicable retirement plan balances exceed the applicable dollar amount for the taxable year.

Regulations

The Secretary is to prescribe such regulations and guidance as are necessary or appropriate to carry out the purposes of this provision, including regulations or guidance that provide for the application of this provision and the application of the proposed rules relating to increased minimum required distributions (described below)[1002] in the case of a plans with a valuation date other than the last day of a calendar year.

Reporting Requirements

The provision requires certain additional reporting related to IRAs with high account balances. If, as of the close of any plan year, one or more participants in an applicable retirement plan have a vested account balance of at least $2,500,000[1003] for that plan year, the plan administrator must file a statement with the Secretary which includes: (1) the name and identifying number of each such participant (without regard to whether such participant has separated from employment) and (2) the amount to which each such participant is entitled. If a plan that is subject to this reporting requirement must file a Form 8955-SSA,[1004] then the plan administrator must include the required information on the IRS Form 8955-SSA for that plan year rather than file a separate statement with the Secretary.

Increase in Minimum Required Distributions for High-Income Taxpayers with Large Retirement Account Balances

Increased minimum required distributions are required to be made for a taxable year by applicable taxpayers[1005] whose retirement account balances exceed the applicable dollar amount ($10,000,000, adjusted for inflation). For purposes of this provision, all qualified retirement plans and eligible deferred compensation plans of the taxpayer which are treated as applicable retirement plans are taken into account in computing the excess that is subject to

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[1001] Including increased minimum distributions required under section 4974(e) to the extent not contributed in a rollover contribution to another eligible retirement plan in accordance with section 402(c), 402A(c)(3)(A), 403(a)(4), 403(b)(8), 408(d)(3), 408A(d)(3), or 457(e)(16).

[1002] Section 4974(e), as added by this provision.

[1003] The $2,500,000 vested account balance used to determine this reporting requirement is increased for cost-of-living adjustments for taxable years beginning in 2023 or later, with adjustments for the accumulation limit being rounded to the next lowest multiple of $250,000.

[1004] IRS Form 8955-SSA is filed by plan administrators of plans subject to the vesting standards of section 203 of ERISA and is used to satisfy the reporting requirements of section 6057(a).

[1005] Defined above.

increased minimum required distributions during a taxable year, and solely for that purpose, such plans are treated as one plan.

The increase in the minimum required distributions for a taxable year is equal to the excess (if any) of (a) the sum of (1) 100 percent of the "applicable Roth excess amount" plus (2) 50 percent of the "excess aggregate vested retirement plan balance" reduced by the applicable Roth excess amount ***over*** (b) the sum of the minimum required distributions (determined without regard to this provision) for all such plans.

The excess aggregate vested retirement plan balance for a taxable year is equal to the amount by which the aggregate vested balances to the credit of the taxpayer (whether as a participant, owner, or beneficiary) in all applicable retirement plans (determined as of the close of the calendar year preceding the calendar year in which the taxable year begins) exceed the applicable dollar amount for the calendar year in which the taxable year begins and applies to a taxpayer without regard to whether amounts are otherwise required to be distributed as minimum required distributions.[1006]

The applicable Roth excess amount applies to a taxpayer for a taxable year if the aggregate vested balances to the credit of the taxpayer (whether as a participant, owner or beneficiary) in all applicable retirement plans (determined as of the close of the calendar year preceding the calendar year to which the taxable year begins) exceeds 200 percent of the applicable dollar amount for the calendar year in which the taxable year begins (or $20,000,000, adjusted for inflation). The applicable Roth excess amount for any taxable year to which this provision applies is an amount equal to the lesser of (1) the excess as determined in the prior sentence, or (2) the aggregate balances to the credit of the taxpayer (whether as a participant, owner or beneficiary) in all Roth IRAs and Roth designated accounts.[1007]

Coordination and Application of the Rule

If this increase in minimum required distributions applies to a taxpayer for any taxable year, the general excise tax that applies to minimum required distributions that are not timely distributed is first applied to minimum required distributions determined without regard to this provision (and nothing in this provision is to be construed to affect the amount of any such minimum required distributions) and then to any increase in minimum required distributions required by this provision.

With respect to any increased minimum required distributions, the portion of any increase in minimum required distributions equal to the applicable Roth excess amount is allocated first to Roth IRAs and then to designated Roth accounts.[1008] Once that allocation is complete, the taxpayer may, in such form and manner as the Secretary may prescribe, allocate any increase in minimum required distributions to applicable retirement plans, treated as one

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[1006] Under sections 401(a)(9), 403(b)(10), 408((a)(6), 408(b)(3), or 457(d)(2).

[1007] Within the meaning of section 402A.

[1008] Within the meaning of section 402A.

plan for purposes of this provision, in such manner as the taxpayer chooses subject to certain requirements. If the taxpayer has account balances in one or more employee stock ownership plans ("ESOPs"),[1009] any portion of which is invested in employer securities which are not readily tradable on an established securities market, the increase in minimum required distributions shall be allocated: (1) first, to all account balances of the taxpayer in all applicable retirement plans (other than such portions that are invested in employer securities which are not readily tradable on an established securities market) in the manner described above, and then to such portions in such manner as the taxpayer chooses. The Secretary must prescribe regulations under which a taxpayer may elect for the first taxable year of the taxpayer beginning in 2022, in which any such increase is allocated to any such portion of an account balance in an ESOP, to have such portion distributed over a period of years not greater than the period specified by the Secretary in such regulations (and any distributions made in accordance with such election will be treated for purposes of this section as made in the first taxable year).

A defined contribution plan will not constitute a qualified plan unless it provides that an employee, who certifies to the plan that he or she is a taxpayer subject to increased minimum required distributions,[1010] may elect to receive a distribution from an employee's defined contribution plan account[1011] in such amount as the employee may elect, including any amounts attributable to a qualified cash or deferred arrangement.[1012] Any distribution from an applicable retirement plan which is attributable to any increase in minimum required distributions by reason of this provision is, similar to other minimum required distributions, not treated as an eligible rollover distribution.

Ten Percent Early Distribution Tax

Such distributions to satisfy the requirements of this provision are excepted from the ten percent[1013] tax on early distributions from qualified retirement plans to the extent such distributions for the taxable year do not exceed the amount required to be distributed from such plan.

[1009] As defined in sec. 4975(e)(7).

[1010] Under section 4974(c).

[1011] Including from a custodial account under section 403(b)(7)(A), contributions made pursuant to a salary reduction agreement (within the meaning of section 402(g)(3)) from an annuity contract pursuant to section 403(b)(11), or from a governmental eligible deferred compensation plan under section 457.

[1012] The provision also amends section 401(a) by adding a new section 401(a)(39) providing for such a distribution. Similar rules are also added for section 403(b) arrangements and governmental eligible deferred compensation plans. Secs. 403(b)(7)(A) and 457(d)(1). However, this rule does not apply to an ESOP to the extent provided under regulations prescribed by the Secretary pursuant to section 4974(e)(4)(B)(iii).

[1013] Sec. 72(t).

Withholding

A distribution from a qualified retirement plan, a section 403(b) arrangement, or from a governmental eligible deferred compensation plan to satisfy the requirements of this provision[1014] is treated as a nonperiodic distribution to which 35 percent withholding is required.[1015] An individual may not elect to not have withholding apply to such distributions.[1016] Withholding does not apply to a qualified distribution from a designated Roth account.[1017]

Plan Amendments

With respect to any plan or contract amendments required by this provision to increase minimum required distributions or pursuant to any regulations issued by the Secretary, such plan or contract will be treated as being operated in accordance with the terms of the plan during the period beginning on the date the legislative or regulatory amendment takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified in such amendment), and ending on or before the last day of the first plan year beginning after December 31, 2022, or such later date as the Secretary may prescribe, if the plan or contract is operated as if such plan or contract amendment were in effect, and such plan or contract amendment applies retroactively for such period.

With respect to governmental plans or collectively bargained plan to which this provision applies, the end date for the period specified will be December 31, 2024 rather than December 31, 2022.

Effective Date

With respect to the provision related to limiting contributions to certain IRAs of high-income taxpayers and the excise tax on excess annual additions, the provision is applicable to taxable years beginning after December 31, 2021.

With respect to the reporting requirements, the provision is applicable to plan years beginning after December 31, 2021.

With respect to the increased minimum required distributions, the provision is generally applicable to taxable years beginning after December 31, 2021.

With respect to the special rules for plans related to the increased minimum required distributions, the provision is applicable to plan years beginning after December 31, 2021.

[1014] Pursuant to section 401(a)(39), the last sentence of section 403(b)(7)(A), the last sentence of section 403(b)(11), and the last sentence of section 457(d)(1).

[1015] Sec. 3405(b).

[1016] Sec. 3405(b)(2).

[1017] Within the meaning of section 402A.

With respect to plan amendments, the provision is generally effective as of the date of enactment.

Other Provisions Relating to Individual Retirement Plans

2. Tax treatment of rollovers to Roth IRAs and accounts (sec. 138311 of the bill and secs. 402A and 408A of the Code)

Present Law

In General

Background on IRAs may be found above in the discussion of sections 138301 and 138302 of the bill.

Roth IRA Conversions

There are two basic types of IRAs under present law: traditional IRAs and Roth IRAs. For a traditional IRA, an eligible contributor may deduct the contributions made for the year, and distributions are includible in gross income to the extent attributable to earnings on the account and the deductible contributions. For a Roth IRA, all contributions are after-tax (that is, no deduction is allowed) and, if certain requirements are satisfied, distributions are not includible in gross income. The contribution limit is coordinated so that the aggregate maximum amount that can be contributed to all of an individual's IRAs (both traditional and Roth) for a taxable year is the lesser of (1) a certain dollar amount ($6,000 for 2021) plus $1,000 for an individual who has attained age 50 or (2) the individual's compensation.

Taxpayers generally may convert any amount in a traditional IRA into an amount in a Roth IRA through a distribution from the traditional IRA and rollover to a Roth IRA (either a direct payment or a 60-day rollover).[1018] The amount converted is includible in the taxpayer's income as if a withdrawal had been made, except that the 10 percent early distribution tax[1019] does not apply. Distributions from employer-sponsored retirement plans that are not from designated Roth accounts (described below) may also be contributed to a Roth IRA as a rollover and thereby converted to a Roth IRA amount. The amount rolled over must be included in gross income to the extent required if not rolled over. However, for both types of conversions, the early distribution tax is imposed if the taxpayer withdraws the amount within five years of the conversion.

In-Plan Roth Conversions

Section 401(k) Plans, Section 403(b) Plans, and Governmental Section 457(b) Plans

A qualified defined contribution plan may allow an employee to make elective deferrals (that is, contributions made pursuant to an election between cash and an employer

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[1018] A conversion can also be achieved by simply redesignating the traditional IRA as a Roth IRA if the entire balance in the account is converted.

[1019] Section 72(t).

contribution to the plan pursuant to a qualified cash or deferred arrangement).[1020] A plan with this feature is generally referred to as a section 401(k) plan. A section 403(b) plan may also allow an employee to make elective deferrals. The elective deferrals generally are excludable from gross income (pretax elective deferrals) and only taxed along with attributable earnings upon distribution from the plan. Alternatively, the plan may include a qualified Roth contribution program under which eligible employees are offered a choice of either making pretax elective deferrals or making elective deferrals that are not excluded from income and are designated as Roth contributions.[1021] If certain requirements are satisfied, distributions of designated Roth contributions and attributable earnings are excluded from gross income. The employer may also make nonelective and matching contributions for employees under a section 401(k) or 403(b) plan. These are not permitted to be designated as Roth contributions and generally are pretax contributions. A plan may also allow participants to make elective after-tax- contributions that are not elective deferrals and are not treated as designated Roth contributions.

A limit applies to the aggregate amount of elective deferrals (both pretax elective deferrals and designated Roth contributions) that an employee is permitted to contribute to section 401(k) and section 403(b) plans for a taxable year. The limit is $19,500 for 2021, plus an additional catch-up amount of $6,500 for 2021 if the employee is age 50 or older (or the employee's compensation if less than this sum). Total contributions, including pretax employer nonelective and matching contributions, elective deferrals (but not including catch-up contributions), and after-tax contributions, to a section 401(k) plan or 403(b) plan for a plan year for an employee generally cannot exceed $58,000 for 2021 (or the employee's compensation, if less).[1022]

A governmental section 457(b) plan may also provide for elective deferrals. Contributions to a governmental section 457(b) plan are subject to a limit of $19,500 for 2021 plus an additional $6,500 catch-up contribution amount for 2021 for employees at least age 50 (or the employee's compensation, if less).[1023] This limit is separate from the limit on elective deferrals to section 401(k) and section 403(b) plans.[1024] As in the case of a section 401(k) plan or a section 403(b) plan, the plan may include a qualified Roth contribution program under

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[1020] Sec. 401(k).

[1021] Sec. 402A. Under Treas. Reg. secs. 1.401(k)-1(f) and 1.403(b)-3(c), a plan is not permitted to only allow employees to make designated Roth contributions; pretax elective deferrals must also be permitted.

[1022] Secs. 415(c) and 403(b)(1).

[1023] Under a special rule, additional catch-up contributions may be made by a participant to a governmental section 457(b) for the last three years before attainment of normal retirement age.

[1024] For example, if an employee participates in both a section 403(b) plan and a governmental section 457(b) plan of the same employer, the employee may contribute up to $19,500 (plus $6,500 catch-up contributions if at least age 50) to the section 403(b) plan and up to $19,500 (plus $6,500 catch-up contributions if at least age 50) to the section 457(b) plan.

which employees are given the choice between making pretax elective deferrals and designated Roth contributions.

Designated Roth Accounts

All designated Roth contributions made under a qualified Roth contribution program must be maintained in a separate account (a designated Roth account) under the plan. A qualified distribution from a designated Roth account is excludable from gross income. A qualified distribution is a distribution that is made after (1) an employee's completion of a specified five-year period and (2) the employee's attainment of age 59½, death, or disability.

A distribution from a designated Roth account (other than a qualified distribution) is included in the distributee's gross income to the extent allocable to pretax earnings on the account and excluded from gross income to the extent allocable to the after-tax designated Roth contributions (commonly referred to as "basis" in the account).

Roth Conversions

A section 401(k) plan, section 403(b) plan, or governmental section 457(b) plan that maintains a qualified Roth contribution program may allow amounts held in accounts that are not designated Roth accounts ("non-Roth accounts") to be transferred ("converted"). The transfer is allowed whether or not the amount is otherwise distributable. However, the converted amount must be included in gross income as though distributed, as in the case of Roth IRA conversions, and the early distribution tax is imposed if the taxpayer withdraws the amount within five years of the conversion.

Explanation of Provision

Under the provision, in the case of an applicable taxpayer, amounts held in traditional IRAs may not be converted to amounts held in Roth IRAs. Further, amounts held in non-Roth accounts in section 401(k) plans, section 403(b) plans, and governmental section 457(b) plans by an applicable taxpayer may not be converted into either amounts held in a designated Roth account or a Roth IRA. Amounts distributed from a Roth IRA or from a designated Roth account may be rolled over to a Roth IRA.

An applicable taxpayer is a taxpayer whose adjusted taxable income for a taxable year[1025] exceeds (1) $450,000 in the case of a taxpayer who is a married individual filing a joint

[1025] Adjusted taxable income is defined in section 409(B)(b)(4)(C) (which section is added to the Code by section 138301 of this Subtitle I) and means taxable income determined without regard to (a) any deduction for annual additions to individual retirement plans to which section 409B(a) applies and (b) any increase in minimum required distributions by reason of section 4974(e) (which section is added to the Code by section 138302 of this Subtitle I).

return or a surviving spouse;[1026] (2) $425,000 in the case of a taxpayer who is a head of household;[1027] and (3) $400,000 for a taxpayer not described in (1) or (2).

In addition, for all taxpayers (regardless of income level), the provision prohibits amounts held in non-Roth accounts in an employer-sponsored retirement plan[1028] or in a traditional IRA from being converted to a Roth IRA or a designated Roth account if any portion of the distribution that is being converted consists of after-tax contributions.

Effective Date

With respect to the provision prohibiting certain conversions to Roth IRAs or Roth designated accounts by applicable taxpayers, the provision applies to distributions, transfers, and contributions made in taxable years beginning after December 31, 2031.

With respect to the provision prohibiting conversions of employee after-tax contributions- in qualified retirement plans and IRAs to Roth IRAs or Roth designated accounts by all taxpayers, the provision is effective for distributions, transfers, and contributions made after December 31, 2021.

3. Prohibition of IRA investments conditioned on account holder's status (sec. 138312 of the bill and sec. 408 of the Code)

Present Law

In General

Background on IRAs may be found above in the discussion of sections 138301 and 138302 of the bill.

Prohibited Transactions

ERISA and the Code prohibit certain transactions ("prohibited transactions") between an employer-sponsored retirement plan and a disqualified person (referred to as a "party in interest" under ERISA).[1029] Under ERISA, the prohibited transaction rules apply to employer-sponsored retirement plans and welfare benefit plans. Under the Code, the prohibited transaction rules apply to qualified retirement plans and qualified retirement annuities,[1030] as well as

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[1026] As defined in section 2(a).

[1027] As defined in section 2(b).

[1028] A section 401(k) plan, section 403(b) plan, or a governmental section 457(b) plan.

[1029] ERISA sec. 406; Code sec. 4975.

[1030] Sections 401(a) and 403(a) provide the requirements for qualified retirement plans. The prohibited transaction rules under ERISA and the Code generally do not apply to governmental plans or church plans. However, under section 503, the trust holding assets of a governmental or church plan may lose its tax exempt status in the case of a prohibited transaction listed in section 503(b).

individual retirement accounts and annuities,[1031] health savings accounts ("HSAs"),[1032] Archer MSAs,[1033] and Coverdell education savings accounts.[1034]

Disqualified persons include: (1) a fiduciary of the plan; (2) a person providing services to the plan; (3) an employer with employees covered by the plan; (4) an employee organization any of whose members are covered by the plan; (5) a direct or indirect owner of an interest of 50 percent or more in the employer or employee organization; or (6) a corporation, partnership, or trust or estate of which (or in which) an interest of 50 percent or more is held directly or indirectly by a person described in (1), (2), (3), (4) or (5). For this purpose, a fiduciary includes any person who (1) exercises any authority or control respecting management or disposition of the plan's assets, (2) renders investment advice for a fee or other compensation with respect to any plan moneys or property, or has the authority or responsibility to do so, or (3) has any discretionary authority or responsibility in the administration of the plan.

Prohibited transactions include the following transactions, whether direct or indirect, between a plan and a disqualified person: (1) the sale, exchange or leasing of property; (2) the lending of money or other extension of credit; (3) the furnishing of goods, services or facilities; (4) the transfer to, or use by or for the benefit of, a disqualified person, the income or assets of the plan; (5) in the case of a fiduciary, any act that deals with the plan's income or assets for the fiduciary's own interest or account; and (6) the receipt by a fiduciary of any consideration for the fiduciary's own personal account from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.[1035] However, certain transactions are exempt from prohibited transaction treatment, for example, certain loans to plan participants.

Loss of Exemption of IRA

An individual retirement account ("IRA") is exempt from taxation unless such account has ceased to be an IRA by reason of engaging in certain prohibited transactions.[1036]

[1031] These are included in the definition of "plan" under section 4975(e)(1).

[1032] Sec. 223.

[1033] Sec. 220.

[1034] Sec. 530.

[1035] Sec. 4975(c)(1). Under section 4975(d), certain transactions are statutorily exempt from prohibited transaction treatment. In addition, under section 4975(c)(2), an administrative exemption may be granted, on either an individual or class basis, subject to a finding that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan.

[1036] Sec. 408(e)(1). Section 408(e)(1) and this provision apply to individual retirement accounts as defined in section 408(a), not to individual retirement annuities under section 408(b). Similarly, under section 408(m), an individual retirement account, or an individually-directed account under a section 401(a) qualified plan, is prohibited from being invested in collectibles. A collectible generally means a work of art, a rug or antique, a metal or gem, a stamp or coin, an alcoholic beverage, or certain other tangible personal property. The acquisition of a collectible by an IRA is also treated as a distribution from the IRA in an amount equal to the cost of the collectible.

If during any taxable year of the individual for whose benefit any IRA is established, that individual or beneficiary of such individual engages in any prohibited transaction with respect to that IRA, the IRA will cease to be an IRA as of the first day of such taxable year.[1037] In that case, the IRA is treated as having distributed an amount equal to the fair market value of all the assets in the account, as of the first day of the taxable year in which the prohibited transaction occurs.

If the fair market value of the IRA assets exceeds the basis in the account, the individual has taxable gain that is includible in gross income. If the individual is under age 59½, the individual may also be subject to the 10-percent tax on early distributions.[1038] The individual and the individual's beneficiaries are exempt, however, from the excise tax that otherwise applies to prohibited transactions.[1039]

Explanation of Provision

The provision provides that no part of the trust funds of an IRA may be invested in any security if the issuer of that security (or any other person specified by the Secretary) requires the individual on whose behalf the trust is maintained to make a representation to the issuer, or such other person, that such individual: (1) has a specified minimum amount of income or assets; (2) has completed a specified minimum level of education, or (3) holds a specific license or credential.

If, during any taxable year of the individual for whose benefit any IRA is maintained, the investment of any part of the funds of such IRA does not comply with such restriction, the IRA ceases to be an IRA as of the first day of that taxable year. Thus, as in the case of an IRA owner who engages in a prohibited transaction, the IRA is treated as having distributed an amount equal to the fair market value of all the assets in the account as of the first day of the taxable year.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021. However, in the case of any such investment held in the individual's IRA as of the date of enactment of this provision, the provision is effective, with respect to such assets, for taxable years beginning after December 31, 2023.

[1037] Sec. 408(e)(2) and 4975(c)(3). This treatment also applies to an interest in a trust created as an individual retirement account under section 408(c).

[1038] Sec. 72(t).

[1039] Sec. 4975(c)(3).

3. Statute of limitations with respect to IRA noncompliance (sec. 138313 of the bill and sec. 6501 of the Code)

Present Law

In General

Background on IRAs may be found above in the discussion of sections 138301 and 138302 of the bill.

Excise Taxes

ERISA and the Code prohibit certain transactions ("prohibited transactions") between an employer-sponsored retirement plan and a disqualified person (referred to as a "party in interest" under ERISA).[1040] Under ERISA, the prohibited transaction rules apply to employer-sponsored retirement plans and welfare benefit plans. Under the Code, the prohibited transaction rules apply to qualified retirement plans and qualified retirement annuities,[1041] as well as individual retirement accounts and annuities ("IRAs"),[1042] health savings accounts ("HSAs"),[1043] Archer MSAs,[1044] and Coverdell education savings accounts.[1045]

Disqualified persons include: (1) a fiduciary of the plan; (2) a person providing services to the plan; (3) an employer with employees covered by the plan; (4) an employee organization any of whose members are covered by the plan; (5) a direct or indirect owner of an interest of 50 percent or more in the employer or employee organization; or (6) a corporation, partnership, or trust or estate of which (or in which) an interest of 50 percent or more is held directly or indirectly by a person described in (1), (2), (3), (4) or (5). For this purpose, a fiduciary includes any person who (1) exercises any authority or control respecting management or disposition of the plan's assets, (2) renders investment advice for a fee or other compensation with respect to any plan moneys or property, or has the authority or responsibility to do so, or (3) has any discretionary authority or responsibility in the administration of the plan.

Prohibited transactions include the following transactions, whether direct or indirect, between a plan and a disqualified person: (1) the sale, exchange or leasing of property; (2) the lending of money or other extension of credit; (3) the furnishing of goods, services or facilities;

[1040] ERISA sec. 406; Code sec. 4975.

[1041] Sections 401(a) and 403(a) provide the requirements for qualified retirement plans. The prohibited transaction rules under ERISA and the Code generally do not apply to governmental plans or church plans. However, under section 503, the trust holding assets of a governmental or church plan may lose its tax exempt status in the case of a prohibited transaction listed in section 503(b).

[1042] These are included in the definition of "plan" under section 4975(e)(1).

[1043] Sec. 223.

[1044] Sec. 220.

[1045] Sec. 530.

(4) the transfer to, or use by or for the benefit of, a disqualified person of the income or assets of the plan; (5) in the case of a fiduciary, any act that deals with the plan's income or assets for the fiduciary's own interest or account; and (6) the receipt by a fiduciary of any consideration for the fiduciary's own personal account from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.[1046] However, certain transactions are exempt from prohibited transaction treatment, for example, certain loans to plan participants.

Under the Code, if a prohibited transaction occurs, the disqualified person who participates in the transaction is subject to a two-tier excise tax. The first level tax is 15 percent of the amount involved in the transaction. The second level tax is imposed if the prohibited transaction is not corrected within a certain period and is 100 percent of the amount involved.[1047] Under ERISA, the Secretary of Labor may assess a civil penalty against a person who engages in a prohibited transaction, other than a transaction with a plan covered by the prohibited transaction rules of the Code (*i.e.*, involving a qualified retirement plan or annuity). The penalty may not exceed five percent of the amount involved in the transaction. If the prohibited transaction is not corrected within 90 days after notice from the Secretary of Labor, the penalty may be up to 100 percent of the amount involved in the transaction.[1048] For purposes of these rules, the "amount involved" generally means the greater of (1) the amount of money and the fair market value of the other property given, or (2) the amount of money and the fair market value of other property received by the plan.[1049]

Loss of Exemption of IRA

An IRA is exempt from taxation unless such account has ceased to be an IRA by reason of engaging in certain prohibited transactions.[1050]

If during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or beneficiary of such individual engages in any prohibited transaction with respect to that IRA, the IRA will cease to be an individual retirement

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[1046] Sec. 4975(c)(1). Under section 4975(d), certain transactions are statutorily exempt from prohibited transaction treatment. In addition, under section 4975(c)(2), an administrative exemption may be granted, on either an individual or class basis, subject to a finding that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan.

[1047] The terms "correction" and "correct" mean, with respect to a prohibited transaction, undoing the transaction to the extent possible, but in any case, placing the plan in a financial position not worse than the position in which it would be if the disqualified person were acting under the highest fiduciary standards.

[1048] A prohibited transaction violates the fiduciary responsibility provisions of ERISA. Under section 502(l) of ERISA, in the case of a violation of fiduciary responsibility, a civil penalty is generally imposed of 20 percent of the amount recovered from a person with respect to the violation in a settlement agreement with the Department of Labor or a judicial proceeding, but the penalty is reduced by the amount of any excise tax or other civil penalty with respect to a prohibited transaction.

[1049] Amount involved is defined in Code section 4975(f)(4), which is cross-referenced in ERISA section 502(i).

[1050] Sec. 408(e)(1).

account as of the first day of such taxable year.[1051] In that case, the individual retirement account is treated as having distributed an amount equal to the fair market value of all the assets in the account, as of the first day of the taxable year in which the prohibited transaction occurs.

If the fair market value of the IRA assets exceeds the basis in the account, the individual has taxable gain that is includible in gross income. If the individual is under age 59½, the individual may also be subject to the 10-percent tax on early distributions.[1052] The individual and the individual's beneficiaries are exempt, however, from the excise tax that otherwise applies to prohibited transactions.[1053]

Statute of Limitations

In general, in order for the IRS to assess a tax, the tax must be assessed within three years after the return to which the tax relates was filed (referred to as the "statute of limitations on assessment"), regardless of whether the return is filed by the due date for the return.[1054] For this purpose, a return filed before the due date for the return is treated as filed on the due date.[1055]

In some cases, a longer statute of limitation applies. For example, the statute of limitations is six years after an income tax return is filed if the taxpayer omits an amount of includible income exceeding 25 percent of the income shown on the return.[1056] If certain information required to be included with a return is not so included, the statute of limitations may be determined by reference to the date when the information is provided to the IRS, rather than when the return was filed.[1057] In addition, in some cases in which a tax results from a particular transaction, the statute of limitations may be determined by reference to the date when the IRS is notified of the transaction, rather than when the return was filed.[1058]

Explanation of Provision

The provision extends the statute of limitations in certain cases relating to IRAs and prohibited transactions. In the case of any substantial error (willful or otherwise) in the reporting on a return of any information relating to the valuation of investment assets of an IRA, the time

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[1051] Sec. 408(e)(2) and 4975(c)(3). This treatment also applies to an interest in a trust created as an individual retirement account under section 408(c).

[1052] Sec. 72(t).

[1053] Sec. 4975(c)(3).

[1054] Sec. 6501(a). Under section 6501(c)(3), in the case of a failure to file a return, tax may be assessed at any time.

[1055] Sec. 6501(b)(1).

[1056] Sec. 6501(e)(1).

[1057] See, for example, sec. 6501(c)(10), relating to listed transactions.

[1058] See, for example, 4979(e)(2)(D), relating to certain prohibited allocations of employer securities under an employee stock ownership plan.

for assessment of any tax, or increase in tax, imposed with respect to such an IRA will not expire before the date that is six years after the return containing such error is filed (whether or not such return was filed on or after the date prescribed).

With respect to a prohibited transaction, whether or not it involves an IRA, the time for assessment of any tax[1059] will not expire before the date which is six years after the return was filed (whether or not such return was filed on or after the date prescribed.

Effective Date

The provision applies to taxes with respect to which the three-year statute of limitations period ends (without regard to the amendment made by this provision) after December 31, 2021.

4. Prohibition of investment of IRA assets in entities in which the owner has a substantial interest (sec. 138314 of the bill and sec. 408 of the Code)

Present Law

Background on IRAs may be found in the discussion of sections 138301 and 138302 of the bill and background on prohibited transactions may be found in the discussion of section 138312 of the bill.

Explanation of Provision

The provision prohibits any individual retirement account ("IRA")[1060] funds from being invested in a non-publicly traded entity if the IRA owner has an interest of 10 percent or more. Specifically, no IRA funds may be invested in a corporation, partnership or other unincorporated enterprise, or trust or estate, the interests of which are not readily tradable on an established market, if 10 percent or more of the entity is owned (directly or indirectly) or held by the IRA owner. For this purpose, an interest is measured by reference to (1) in the case of a corporation, the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of the corporation, (2) in the case of a partnership or other enterprise, the capital interest or profits interest in the partnership or enterprise, and (3) in the case of a trust or estate, the beneficial interest in the trust or estate.

In determining ownership for purposes of the provision, constructive ownership rules apply.[1061] For example, an individual is treated as owning interests held by certain family members, defined for this purpose as the individual's spouse, ancestors, lineal descendants, and spouses of lineal descendants. In addition, any interest held by the IRA is treated as held by the

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[1059] Imposed by section 4975.

[1060] Sec. 408(a). This provision does not apply to individual retirement annuities, described in section 408(b).

[1061] The provision incorporates the constructive ownership rules under section 4975(e)(4) and (5), which refer to the rules of section 267(c), but using the definition of family members under section 4975(e)(6).

IRA owner. Thus, an interest held by the IRA and an interest held by the IRA owner, as well as any constructively owned interest, are combined for purposes of the provision.

The provision also prohibits an IRA from investing in a corporation, partnership, or other unincorporated enterprise if the IRA owner is an officer or director (or individual having powers or responsibilities similar to officers or directors) of such entity.

If, during any taxable year of an IRA owner, the assets of the IRA are invested in a non-publicly-traded entity in which the IRA owner has an interest of 10 percent or more, or in which the IRS owner is an officer or director, the IRA ceases to be an IRA as of the first day of the taxable year. In that case, an amount is included in income, determined as if there were a distribution on the first day of the taxable year in an amount equal to the fair market value (as of that day) of all the assets in the account as of that day.

Effective Date

The provision applies to investments made in taxable years beginning after December 31, 2021. However, a special rule applies in the case of existing investments. If an IRA holds an investment prohibited under this provision on the date of enactment of the provision, the provision applies to such investment for taxable years beginning after December 31, 2023.

5. IRA owners treated as disqualified persons for purposes of prohibited transactions rules (sec. 138315 of the bill and sec. 4975 of the Code)

Present Law

Background on IRAs may be found in the discussion of sections 138301 and 138302 of the bill and background on prohibited transactions may be found in the discussion of section 138312 of the bill.

Explanation of Provision

The provision modifies the statutory definition of disqualified person for purposes of the prohibited transaction rules to specifically provide that an IRA owner is a disqualified person with respect to the IRA (regardless of whether the IRA owner would be a disqualified person on another basis). In addition, the following are treated as disqualified persons: (1) a family member of the IRA owner; (2) a corporation, partnership, or trust or estate in which an interest of 50 percent or more is held directly or indirectly by the IRA owner; and (3) a 10-percent or more (in capital or profits) partner or joint venturer of the IRA owner. The constructive ownership rules applicable under present law apply for purposes of the provision. Moreover, for purposes of (2) and (3) above, any interest held by the IRA is treated as held by the IRA owner. Thus, an interest held by the IRA and an interest held by the IRA owner, as well as any constructively owned interest, are combined for those purposes.[1062]

[1062] The provision also revises section 408(e)(2) to clarify that it applies to the individual for whose benefit an IRA is maintained, that is, the IRA owner as used herein.

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Effective Date

The provision applies to transactions occurring after December 31, 2021.

PART IV — FUNDING THE INTERNAL REVENUE SERVICE AND IMPROVING TAXPAYER COMPLIANCE

1. Funding of the Internal Revenue Service (sec. 138401 of the bill)

Present Law

Almost all the IRS operating costs are funded by congressional appropriations.[1063] For fiscal year 2021, the IRS received appropriations of $11.919 billion distributed among four accounts: $2.556 billion for taxpayer services, $5.213 billion for enforcement, $3.928 billion for operations support, and $223 million for business systems modernization.[1064]

Explanation of Provision

The provision provides for the following appropriation amounts for fiscal year 2022 (in addition to amounts otherwise available) through September 30, 2031: (i) $78.935 billion for strengthening tax enforcement and increasing voluntary compliance, expanding audits and other enforcement activities, and modernizing information technology to support enforcement; (ii) $410 million for the Treasury Inspector General for Tax Administration to provide oversight of the IRS, including ensuring taxpayer privacy and that no undue burden is imposed on small businesses from IRS enforcement; and (iii) $157 million for the United States Tax Court for adjudicating tax disputes.

The provision specifies that the use of the additional resources for tax enforcement is not intended to increase taxes on any taxpayer with taxable income below $400,000.

Effective Date

The provision is effective as of the date of enactment.

2. Application of backup withholding with respect to third party network transactions (sec. 138402 of the bill and sec. 3406 of the Code)

Present law requires persons to file an information return concerning certain transactions with other persons.[1065] The person filing an information return generally is also

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[1063] Information is available at https://www.irs.gov/pub/irs-pdf/p4450.pdf (last visited September 13, 2021).

[1064] Consolidated Appropriations Act, Pub. L. No. 116-260, Div. E, Title I, December 27, 2020. The IRS also received appropriations to carry out rebates and address COVID-related tax administration issues of $178 million for taxpayer services, $273 million for operations support, and $57 million for enforcement. Pub. L. No. 116-260, Div. N, Title II, Subtitle B, sec. 272 (the "COVID-related Tax Relief Act of 2020"), December 27, 2020. In addition, the IRS received $1.465 billion for the administration of the advance payments, the provision of taxpayer assistance, and the furtherance of integrated, modernized, and secure IRS systems, and $397 million to carry out advance payments of the child tax credit. American Rescue Plan Act of 2021, Pub. L. No. 117-2, Title IX, Subtitle G, secs. 9601 and 9611, March 11, 2021.

[1065] Secs. 6041 through 6050Y.

required to provide the other party in the transaction with a written statement showing certain information and the contact information for the filer.[1066] These returns are intended to assist taxpayers in preparing their income tax returns and to help the IRS determine whether such income tax returns are correct and complete.

Returns Relating to Payments Made in Settlement of Payment Card and Third Party Network Transactions

Starting in 2012 (for payments received in 2011), payment settlement entities are required to report the gross amount of payments made in settlement of payment card transactions and third party network transactions to the IRS and to businesses that receive these payments.[1067]

Payment settlement entities are required to report the following on Form 1099-K: (1) all payments made in settlement of payment card transactions, such as credit cards and (2) payments in settlement of third party network transactions if the *de minimis* exception, described below, does not apply. Specifically, any payment settlement entity making a payment to a participating payee in settlement of reportable payment transactions must report annually to the IRS and to the participating payee the gross amount of such reportable payment transactions, as well as the name, address, and TIN of the participating payees. A "reportable payment transaction" means any payment card transaction and any third party network transaction.

A "payment settlement entity" means, in the case of a payment card transaction, a merchant acquiring entity and, in the case of a third party network transaction, a third party settlement organization.[1068] A "participating payee" means, in the case of a payment card transaction, any person who accepts a payment card as payment and, in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.[1069] A "person" includes a governmental unit, although, generally, not someone with a foreign address.

Returns relating to payments made in settlement of payment card transactions

For purposes of the reporting requirement, the term "merchant acquiring entity" means a bank or other organization with the contractual obligation to make payment to participating payees in settlement of payment card transactions.[1070] A "payment card transaction" means any transaction in which a payment card is accepted as payment.[1071] A

[1066] See, *e.g.*, sec. 6041(d).

[1067] Sec. 6050W; Pub. L. No. 110-289 (2008), sec. 3091(a) added sec. 6050W, effective generally for returns for calendar years beginning after December 31, 2010.

[1068] Sec. 6050W(b).

[1069] Sec. 6050W(d)(1).

[1070] Sec. 6050W(b)(2).

[1071] For this purpose, the acceptance as payment of any account number or other indicia associated with a payment card also qualifies a payment card transaction.

"payment card" is defined as any card (*e.g.*, a credit card or debit card) which is issued pursuant to an agreement or arrangement which provides for: (1) one or more issuers of such cards; (2) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment; and (3) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment.[1072] Thus, under the provision, a bank that enrolls a business to accept credit cards and contracts with the business to make payment on credit card transactions is required to report to the IRS the business's gross credit card transactions for each calendar year on a Form 1099-K, *Payment Card and Third Party Network Transactions*. The bank also is required to provide a copy of the information return to the business.

Returns Relating to Payments Made in Settlement of Third Party Network Transactions

The statute also requires reporting on a third party network transaction. The term "third party network transaction" means any transaction which is settled through a third party payment network.[1073] A "third party payment network" is defined as any agreement or arrangement: (1) that involves the establishment of accounts with a central organization by a substantial number of persons (*e.g.*, more than 50) who are unrelated to such organization, provide goods or services, and have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement; (2) that provides for standards and mechanisms for settling such transactions; and (3) that guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.[1074]

In the case of a third party network transaction, the payment settlement entity is the third party settlement organization, which is defined as the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.[1075] Thus, an organization generally is required to report if it provides a network enabling buyers to transfer funds to sellers who have established accounts with the organization and have a contractual obligation to accept payment through the network. However, an organization operating a network which merely processes electronic payments (such as wire transfers, electronic checks, and direct deposit payments) between buyers and sellers, but does not have contractual agreements with sellers to use such network, is not required to report. Similarly, an agreement to transfer funds between two demand deposit accounts will not, by itself, constitute a third party network transaction.

A third party payment network does not include any agreement or arrangement that provides for the issuance of payment cards as defined by the provision. In addition, there is an exception for *de minimis* payments that applies to payments made by third party settlement

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[1072] Sec. 6050W(d)(2).

[1073] Sec. 6050W(c)(3).

[1074] Sec. 6050W(d)(3).

[1075] Sec. 6050W(b)(3).

organizations but not to payments made by merchant acquiring entities. For calendar years beginning prior to January 1, 2022, a third party settlement organization is not required to report unless the aggregate value of third party network transactions with respect to a participating payee for the year exceeds $20,000 and the aggregate number of such transactions with respect to a participating payee exceeds 200.[1076] If a payment of funds is made to a third party settlement organization by means of a payment card (*i.e.*, as part of a payment card transaction), the $20,000 and 200 transaction *de minimis* rule continues to apply to any reporting obligation with respect to payment of such funds to a participating payee by the third party settlement organization made as part of a third party network transaction.

For example, in calendar year 2021, if a business that provides a web-based rental platform for short-term travelers is considered a third party settlement organization, it does not have to provide a Form 1099-K to property owners participating on its web-based platform who have received payments of $20,000 or less. On the other hand, if that company is considered a merchant acquiring entity, it would have to issue a Form 1099-K to all payees participating on its platform who have received payments of any amount starting with the first dollar.

For calendar years beginning after December 31, 2021, the threshold below which a third party settlement organization is not required to report payments to participants in its network was recently lowered and modified. Beginning in such calendar years, a third party settlement organization is required to report third party network transactions with any participating payee that exceed a minimum threshold of $600 in aggregate payments.[1077] There is no longer a threshold requirement for the number of transactions. In addition, effective on the date of enactment, Congress clarified that third party network transactions only include transactions for the provision of goods or services. Reporting is not required for other transactions, including personal gifts, charitable contributions, and reimbursements.

Rules Regarding Reporting Requirements

There are also reporting requirements on intermediaries who receive payments from a payment settlement entity and distribute such payments to one or more participating payees.[1078] Such intermediaries are treated as participating payees with respect to the payment settlement entity and as payment settlement entities with respect to the participating payees to whom the intermediary distributes payments. Thus, for example, in the case of a corporation that receives payment from a bank for credit card sales effectuated at the corporation's independently-owned franchise stores, the bank is required to report the gross amount of reportable payment transactions settled through the corporation (notwithstanding the fact that the corporation does not accept payment cards and would not otherwise be treated as a participating payee). In turn, the corporation, as an intermediary, would be required to report the gross amount of reportable

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[1076] Sec. 6050W(e).

[1077] Sec. 6050W(e); Pub. L. No. 117-2, Title IX, sec. 9674, March 11, 2021, amending sec. 6050W(e), effective generally for returns for calendar years beginning after December 31, 2021.

[1078] Sec. 6050W(b)(4).

payment transactions allocable to each franchise store. The bank would have no reporting obligation with respect to payments made by the corporation to its franchise stores.

If a payment settlement entity contracts with a third-party facilitator to settle reportable payment transactions on behalf of the payment settlement entity, the third party facilitator is required to file the annual information return in lieu of the payment settlement entity.[1079]

Under the statute, returns shall be made at such time and in such form and manner as the Secretary may require by regulations.[1080] Pursuant to regulations, the reporting is annual, and, in the information return for each calendar year, payment settlement entities must provide the aggregate reportable payment transactions for the calendar year and the aggregate reportable payment transactions for each month of the calendar year.[1081] The payment settlement entity is required to file the information return with the IRS on or before February 28th (March 31st if filing electronically) of the year following the calendar year for which the return must be filed.[1082] Statements are required to be furnished to the participating payees on or before January 31st of the year following the calendar year for which the return was required to be made.[1083]

The Secretary has exercised authority under these rules to issue guidance to implement the reporting requirement, including rules to prevent the reporting of the same transaction more than once.[1084] The reportable payment transactions subject to information reporting generally are subject to backup withholding requirements.

Backup Withholding

Under section 3406, a payor is required to deduct and withhold income tax on certain "reportable payments" at a rate equal to 24 percent[1085] if: (1) the payee fails to furnish his or her taxpayer identification number (TIN) to the payor; (2) the IRS notifies the payor that the payee's TIN is incorrect; (3) a notified payee underreporting of reportable payments has occurred; or (4) a payee certification failure with respect to reportable payments has occurred.[1086] The

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[1079] Sec. 6050W(b)(4)(B); Treas. Reg. sec. 1.6050W-1(d)(2)

[1080] Sec. 6050W(a).

[1081] Treas. Reg. sec. 6050W-1(a).

[1082] Treas. Reg. sec. 1.6050W-1(g). Taxpayers that file these information returns that report reportable payment transactions are entitled to a 30-day automatic extension of time to file. Treas. Reg. sec. 1.6081-8(a) (effective for requests for extension of time to file certain information returns due after December 31, 2016).

[1083] Sec. 6050W(f); Treas. Reg. sec. 1.6050W-1(h).

[1084] Treas. Reg. sec. 1.6050W-1(a)(4)(ii).

[1085] The backup withholding rate is the fourth lowest rate of tax applicable under section 1(c). In 2021, this rate is 24 percent.

[1086] Sec. 3406(a)(1).

requirement to deduct and withhold in the case of a notified payee underreporting or a payee certification failure apply solely to reportable interest or dividend payments. The deducting and withholding requirements under section 3406 are referred to as backup withholding.

Reportable payments are defined as any reportable interest or dividend payment and any other reportable payment.[1087] A reportable interest or dividend payment means any payment of a kind, and to a payee, required to be shown on an information return required under section (i) 6049(a), relating to payments of interest, (ii) 6042(a), relating to payments of dividends, or (iii) 6044, relating to payments of patronage dividends, but only to the extent such payment is in money and only if 50 percent or more of such payment is in money. Any other reportable payment means any payment of a kind, and to a payee, required to be shown on a return required under section (i) 6041, relating to certain information at source, (ii) 6041A(a), relating to payments of remuneration for services, (iii) 6045, relating to returns of brokers, (ii) 6050A, relating to reporting requirements of certain fishing boat operators, but only to the extent such payment is in money and represents a share of the proceeds of the catch, (v) 6050N, relating to payments of royalties, or (vi) 6050W, relating to payments made in settlement of payment card and third party settlement transactions. Examples of payments that may be subject to backup withholding include interest, dividends, rents, royalties, commissions, non-employee compensation, broker payments, and other payments.

In general, a payment is a determined to be a reportable payment, and therefore subject to backup withholding, without regard to any minimum amount which must be paid before an information return is required under the applicable information reporting statute.[1088] Therefore, payments made in settlement of payment card and third party settlement transactions required to be reported under section 6050W are subject to backup withholding without regard to the minimum dollar threshold applicable for the information reporting obligation of third party settlement organizations ($20,000 prior to 2022, $600 thereafter).[1089]

In 2011, the Treasury Department and IRS determined that for third party settlement organizations the transactional threshold (200 transactions) for determining information reporting obligations under section 6050W should be met before a backup withholding obligation under section 3406 arises.[1090] Following the amendments to the *de minimis* threshold for third party settlement organizations for calendar years beginning after December 31, 2021, there is no longer a transactional threshold for determining information reporting obligations under 6050W.

For payments required to be shown on a return under sections 6041(a) or 6041A(a), relating to certain information at the source and payments of remuneration for services, a minimum amount generally must be paid before the payment is subject to backup

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[1087] Sec. 3406(b).

[1088] Sec. 3406(b)(4).

[1089] See Treas. Reg. sec. 31.3406(b)(3)-5(b).

[1090] Notice 2011-42, 2011-23 I.R.B. 866.

withholding.[1091] Such payments shall be treated as reportable payments, and therefore subject to backup withholding, only if (i) the aggregate amount of such payment and all previous payments described in sections 6041(a) or 6041A(a) by the payor to the payee during such calendar year equals or exceeds $600, (ii) the payor was required under sections 6041(a) or 6041A(a) to file an information return for the preceding calendar year with respect to payments to the payee, or (iii) during the preceding calendar year, the payor made reportable payments to the payee with respect to which amounts were required to be deducted and withheld under the backup withholding requirements.

Backup withholding generally applies only to payments made to U.S. persons who have failed to provide the payor with a valid IRS Form W-9, "Request for Taxpayer Identification Number and Certification;" however, it may also apply to certain payments made to persons in the absence of valid documentation of foreign status. Backup withholding does not apply to payments made to exempt recipients, including tax-exempt organizations, government entities, and certain other entities.[1092] Thus, a payor of reportable payments generally must request that a U.S. payee (other than certain exempt recipients) furnish a Form W-9 providing that person's name and taxpayer identification number.[1093]

Explanation of Provision

Under the provision, a third party settlement organization generally shall not be subject to backup withholding on the first dollar of payments made in settlement of third party network transactions. Such transactions shall be treated as reportable payments, and therefore subject to backup withholding during any calendar year, only if (i) the aggregate amount of such payment and all previous payments made by the third party settlement organization to the participating payee during the calendar year equals or exceeds $600, or (ii) the third party settlement organization was required under section 6050W to file an information return for the preceding calendar year with respect to payments to the participating payee.

For payments made during calendar year 2022, the provision provides that a third party network transaction required to be shown on a return required under section 6050W shall be treated as a reportable payment only if the aggregate number of transactions between a third party settlement organization and participating payee exceeds 200 within a calendar year. This one-year transition rule provides that a payment may be subject to backup withholding only if the transactional threshold is met, consistent with Notice 2011-42.

In addition, the provision aligns the $600 dollar threshold for information reporting under section 6050W with the $600 dollar threshold for backup withholding under section 3406. Under the provision, both thresholds are for transactions that equal or exceed $600.

[1091] Sec. 3406(b)(6).

[1092] Sec. 3406(g); Treas. Reg. sec. 31.3406(g)-1.

[1093] Treas. Reg. sec. 31.3406(h)-3.

Effective Date

The provision is effective for calendar years beginning after December 31, 2021.

3. Limitation on deduction for qualified conservation contributions made by pass-through entities, etc. (sec. 138403 of the bill and secs. 170(h), 6662, and 6664 of the Code)

Present Law

Charitable Contributions Generally

In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. The amount of deduction generally equals the fair market value of the contributed property on the date of the contribution. Charitable deductions are provided for income, estate, and gift tax purposes.[1094]

Qualified Conservation Contributions

Except where allowed by the Code, a taxpayer may not take a charitable deduction for a contribution of a partial interest in property (the "partial interest rule"). A qualified conservation contribution is one type of partial interest contribution for which a charitable deduction is allowed.[1095]

A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes.[1096] A qualified real property interest is defined as: (1) the entire interest of the donor other than a qualified mineral interest; (2) a remainder interest; or (3) a restriction (granted in perpetuity) on the use that may be made of the real property.[1097] Qualified organizations include certain governmental units, public charities that meet certain public support tests, and certain supporting organizations.[1098] Conservation purposes include: (1) the preservation of land areas for outdoor recreation by, or for the education of, the general public; (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; (3) the preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or

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[1094] Secs. 170, 2055, and 2522, respectively.

[1095] Sec. 170(f)(3)(B)(iii) and 170(h).

[1096] Sec. 170(h)(1).

[1097] Sec. 170(h)(2).

[1098] See sec. 170(h)(3).

local governmental conservation policy; and (4) the preservation of an historically important land area or a certified historic structure.[1099]

Preferential rules apply in determining the amount of a taxpayer's deduction for a qualified conservation contribution. These rules generally allow an individual taxpayer making a qualified conservation contribution to offset a higher percentage of her contribution base,[1100] and a corporate taxpayer making such a contribution to offset a higher percentage of its taxable income, than taxpayers making charitable contributions of other types of property.[1101]

IRS Notice 2017-10

On December 23, 2016, the IRS issued Notice 2017-10, which designates certain conservation easement transactions as listed transactions that are subject to certain disclosure and list maintenance requirements.[1102] According to the Notice, "[t]he Department of the Treasury . . . and the Internal Revenue Service . . . are aware that some promoters are syndicating conservation easement transactions that purport to give investors the opportunity to obtain charitable contribution deductions in amounts that significantly exceed the amount invested." The Notice generally provides that a transaction is a listed transaction under the Notice if an investor receives promotional materials that offer prospective investors in a pass-through entity the possibility of a charitable contribution deduction that equals or exceeds an amount that is two and one-half times the amount of the investor's investment. The investor purchases an interest in the pass-through entity that holds real property. The entity then contributes a conservation easement encumbering the property to a tax-exempt organization and allocates a charitable contribution deduction to the investor.

Accuracy-Related Penalty (sec. 6662)

An accuracy-related penalty under section 6662 applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, (5) any substantial estate or gift tax valuation understatement, (6) any disallowance of claimed tax benefits by reason of a transaction lacking economic substance, (7) any undisclosed foreign financial asset understatement, (8) any inconsistent estate basis, or (9) any overstatement of the deduction provided in section 170(p). If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 (or, in the case of corporations, by the lesser of (a) 10 percent of the correct tax (or $10,000 if greater) or (b) $10 million), then a substantial understatement exists and a penalty may be imposed equal to 20

[1099] Sec. 170(h)(4).

[1100] An individual taxpayer's contribution base is her adjusted gross income computed without regard to any net operating loss carrybacks to the taxable year under section 162. Secs. 170(b)(1)(H).

[1101] Sec. 170(b)(1)(E), (b)(2)(B), and (b)(2)(C).

[1102] Treas. Reg. secs. 1.6011-4 and 301.6111-3. See also sec. 6501(c)(10) (special limitations period for assessment of tax related to a listed transaction that was not properly disclosed).

percent of the underpayment of tax attributable to the understatement.[1103] The section 6662 penalty generally is abated (even with respect to tax shelters[1104]) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith and adequate disclosure is made.[1105] The relevant regulations provide that reasonable cause exists where the taxpayer "reasonably relies in good faith on [a professional] tax advisor's analysis of the pertinent facts and authorities [that] . . . unambiguously states that the tax advisor concludes that there is a greater than 50-percent likelihood that the tax treatment of the item will be upheld if challenged" by the IRS.[1106] However, if the underpayment is attributable to a reportable transaction, the standard for reasonable cause is more stringent,[1107] and applies only if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment. The Secretary may prescribe a list of positions that the Secretary believes do not meet the requirements for substantial authority under this provision.

With certain exceptions, section 6662 does not apply to any portion of an underpayment that is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.[1108]

The 20-percent penalty is increased to 40 percent when there is a gross valuation misstatement involving a substantial valuation overstatement, a substantial overstatement of pension liabilities, a substantial estate or gift tax valuation understatement, or when a transaction lacking economic substance or a foreign financial asset is not properly disclosed.[1109] In the case of an overstatement of qualified charitable contributions, the 20-percent penalty is increased to 50 percent.[1110]

Mandatory Supervisory Approval to Assert Penalty

Assessment of an addition to tax or penalty under the Code is barred in the absence of prior supervisory approval. Such approval requires that the initial determination of the penalty or addition to tax be approved in writing by the immediate supervisor of the person asserting the penalty. The Code authorizes the Secretary to designate a higher-level official to provide the

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[1103] Sec. 6662(d).

[1104] A tax shelter is defined for this purpose as a partnership or other entity, an investment plan or arrangement, or any other plan or arrangement if a significant purpose of such partnership, other entity, plan, or arrangement is the avoidance or evasion of Federal income tax. Sec. 6662(d)(2)(C).

[1105] Secs. 6662(d)(2)(B) and 6664(c).

[1106] Treas. Reg. sec. 1.6662-4(g)(4)(i)(B). See also Treas. Reg. sec. 1.6664-4(c).

[1107] Secs. 6664(d).

[1108] Sec. 6662(b) (flush language).

[1109] Secs. 6662(h), (i), and (j).

[1110] Sec. 6662(l).

supervisory approval. Certain penalties are exempt from the requirement for supervisory approval, including those penalties "automatically calculated through electronic means."[1111] Because the IRS bears the burden of producing evidence to support assessment of a penalty in any court proceeding, the Commissioner must produce evidence of compliance with the supervisory approval requirement, even if the IRS does not bear the burden of proof.[1112]

Explanation of Provision

Certain Contributions Not Treated as Qualified Conservation Contributions

The provision provides that certain charitable contributions made by a partnership in a conservation easement transaction will not be treated as qualified conservation contributions. The contribution will not be so treated if the amount of the contribution exceeds two and one-half times the sum of each partner's relevant basis in such partnership (the "disallowance rule"). A partner's relevant basis is the portion of the partner's modified basis in the partnership[1113] that is allocable[1114] to the portion of the real property interest with respect to which the qualified conservation contribution is made.

The disallowance rule does not apply to contributions made after a three-year holding period. The holding period is satisfied if such contribution is made at least three years after the latest of: (1) the last date on which the partnership that made the contribution acquired any portion of the real property with respect to which the contribution was made; (2) the last date on which any partner in the partnership that made the contribution acquired any interest in the partnership; and (3) if the interest in the partnership making the contribution is held through one or more partnerships, the last date on which any such partnership acquired any interest in any other such partnership and the last date on which any partner in any such partnership acquired any interest in such partnership. The provision also includes an exception for certain family partnerships.

Except as provided by the Secretary, rules similar to the rules in the provision relating to qualified conservation contributions of partnerships apply to S corporations and other pass-through entities. The Secretary is directed to issue such regulations or other guidance as may be

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[1111] Sec. 6751(b), generally. Other penalties exempt from the pre-approval requirement are penalties under sections 6651 (failure to file or pay taxes), 6654 (failure to pay estimated individual taxes), 6655 (failure to pay estimated corporate taxes), and section 6662(b)(9) (overstatement of the charitable deduction for nonitemizers provided in section 170(p)).

[1112] *Graev v. Commissioner*, 149 T.C. 485 (2017). Cf. *Chai v. Commissioner*, 851 F.3d 190 (2d Cir. 2017) (held that the Commissioner bears both the burden of production and burden of proof with respect to the penalty).

[1113] For this purpose, the partner's modified basis in the partnership means the partner's adjusted basis in the partnership as determined: (1) immediately before the contribution, (2) without regard to section 752 (relating to the treatment of certain liabilities), and (3) by the partnership after taking into acount the adjustments described in (1) and (2) and such other adjustments as the Secretary may provide.

[1114] The allocable portion is determined under rules similar to the rules of section 755 (rules for allocation of basis).

necessary or appropriate to carry out or prevent avoidance of the purposes of the provision, including reporting related to tiered partnerships and modified basis of partners.

The provision makes several changes to the application of section 6662 accuracy related penalties in conservation easement cases. First, the provision provides that the section 6662 accuracy-related penalty applies to any underpayment of tax attributable to the disallowance of a deduction by reason of the new limitation on qualified conservation contributions in this provision. In addition, any such disallowance is treated as a gross valuation misstatement, which increases the amount of the accuracy-related penalty to from 20 percent to 40 percent of the underpayment of tax. No defense based on reasonable cause otherwise available to an accuracy-related penalty under section 6664(c) is available for any such underpayment. Finally, the requirement for supervisory approval of the penalty assessment under section 6751(b) does not apply.

The provision also addresses the applicable statute of limitations for assessment of tax or penalties related to syndicated conservation easement transactions. First, for returns filed for partnership taxable years beginning before January 1, 2018, the assessment of tax is subject to the rules of former section 6229, under which the period in which the tax must be assessed against the partners does not expire before one year following the date on which a final partnership administrative adjustment may no longer be petitioned to the U.S. Tax Court or, if a petition was filed, the date on which a decision of the court with respect to such petition becomes final. The provision extends this one-year period to two years. Second, in the case of any disallowance of a deduction by reason of the provision, the transaction shall be treated as having been identified by the Secretary on December 23, 2016, as a tax avoidance transaction within the meaning of section 6011 for purposes of the statute of limitations rule described in sections 6501(c)(10) and 6235(c)(6). Finally, in the case of any disallowance of a deduction under section 170 for a transaction described in IRS Notice 2017-10, the disallowance will be treated as having been made by reason of the provision for purposes of the penalty and statute of limitations provisions described above.

Notice of Certain Failures

The provision allows certain taxpayers an opportunity to correct certain defects in a deed that grants an easement. If a donor is found by the Secretary to have failed to meet the requirement that a qualified conservation easement be granted and protected in perpetuity by reason of defective language in the deed relating to property line adjustments or extinguishment clauses, the donor has 90 days from the written notice by the Secretary to correct the failure, unless the Secretary can demonstrate that the donor's failure was intentional. This rule does not apply to any transaction that is a reportable transaction or any other contribution that is not treated as a qualified conservation contribution by reason of the disallowance rule described above.

Effective Date

Except as provided below, the provision is effective for contributions made after December 23, 2016 (the date of IRS Notice 2017-10), in taxable years ending after such date. For contributions of easements with a purpose of preserving a certified historic structure (as

defined in section 170(h)(4)(C)), the provision is effective for contributions made in taxable years beginning after December 31, 2018. No inference is intended as to the appropriate treatment of contributions made in taxable years ending on or before the applicable date specified above as to any activity not described in the relevant portion of the provision.

The portion of the provision that allows certain taxpayers to correct defects in a deed granting an easement is effective for (1) returns filed after the date of enactment and (2) returns filed on or before such date if the period of limitations specified in section 6501 for assessment of taxes with respect to which the return relates has not expired as of such date.

4. Modification of procedural requirements relating to assessment of penalties (sec. 138404 of the bill and sec. 6751 of the Code)

Present Law

The Code includes multiple provisions governing the proper application of penalties and additions to tax. Under those provisions there are rules regarding the details required to be included in such notices, as well as limitations periods applicable to assertion of such additions to tax and penalties. The IRS also publishes guidance for the public and its employees on the administration of penalties in support of encouraging voluntary compliance, by requiring that penalties be administered in compliance with its general policy statement regarding the need for penalties to be based on merits and fairness to the taxpayer.[1115]

Under the Code, assessment of a penalty is generally barred in the absence of supervisory approval before "initial determination of such assessment."[1116] Such approval is required to be in writing and signed by the immediate supervisor of the person asserting the penalty. The Code authorizes the Secretary to designate a higher-level official to provide the supervisory approval. Certain penalties are exempt from the requirement for supervisory approval, including those penalties "automatically calculated through electronic means."[1117] Other penalties exempt from the pre-approval requirement are penalties under sections 6651 (failure to file or pay taxes), 6654 (failure to pay estimated individual taxes) and 6655 (failure to pay estimated corporate taxes).

Assessment of tax generally refers to the formal recording of a tax liability for a specific taxable period of a specific taxpayer, and time and manner of assessment is generally prescribed by regulations to the extent not specified in statute.[1118] In proceedings to determine

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[1115] Sec. 6751, generally, and Policy Statement 20-1, outlining the obligations of managers and employees in evaluating assertion of penalties, noting, "This means that penalties are not a "bargaining point" in resolving the taxpayer's other tax adjustments. Rather, the imposition of penalties in appropriate cases serves as an incentive for taxpayers to avoid careless or overly aggressive tax reporting positions."

[1116] Sec. 6751(b)(1). The "initial determination of assessment" is not defined.

[1117] Sec. 6751(b), generally.

[1118] Secs. 6201-6207.

deficiencies, further restrictions on assessment apply.[1119] Because the IRS bears the burden of producing evidence to support assessment of a penalty in any court proceeding, the Commissioner must produce evidence of compliance with the supervisory approval requirement, even if the IRS does not bear the burden of proof.[1120] In resulting litigation, the U.S. Tax Court has established varying benchmarks or "consequential moments" as the point at which an "initial determination" was made to assess a penalty, without regard to efforts made to comply with standards as they existed at the time of the examination of years before the Court.[1121]

Explanation of Provision

This provision repeals the requirements for prior supervisory approval of penalties before assessment by the IRS. In its place, the provision mandates that appropriate IRS supervisors certify quarterly to the Commissioner that they are in compliance with the statutory requirements of section 6751(a) and related policies of the IRS.

Effective Date

The repeal of the requirement for prior supervisory approval of assertion of penalties is effective as if included in section 3306 of the Internal Revenue Service Restructuring and Reform Act of 1998.[1122]

The provision requiring quarterly certification is effective for all notices of penalties issued after date of enactment.

[1119] See secs. 6211-6216.

[1120] *Chai v. Commissioner*, 851 F.3d 190 at 220-221 (2d Cir. 2017) (held that the Commissioner bears both the burden of production and burden of proof with respect to the penalty). Cf. *Graev v. Commissioner*, 149 T.C. 485 (2017).

[1121] See, Chief Counsel Notice 2018-006, published June 6, 2018, discussing various scenarios in which the provisions of subsection 6751(b) could be at issue. See *Chai v. Commissioner*, 851 F.3d at 220-221(referring to the task of determining whether a specific scenario is a "consequential moment" in forming IRS position on asserting a penalty). See also *Beland v. Commissioner*, 156 T.C. No.5 (March 1, 2021) (granting taxpayer's motion for partial summary judgment that a fraud penalty was not timely where the supervisory approval was signed August 21, 2015, after a revenue agent report was provided to the taxpayer during a summons administration conference convened on August 19, 2015, citing the standards first articulated in *Chai* and *Graev, infra*, in 2017).

[1122] Pub. L. No. 105-206, Title III.

PART V — OTHER PROVISIONS

1. Modifications to limitation on deduction of excessive employee remuneration (sec. 138501 of the bill and sec. 162(m) of the Code)

Present Law

An employer generally may deduct reasonable compensation for personal services as an ordinary and necessary business expense.[1123] However, under section 162(m)(1),[1124] in the case of a publicly held corporation, a deduction limit of $1 million generally applies to compensation of the principal executive officer or the three most highly compensated officers for the taxable year other than the principal executive officer. A corporation is treated as publicly held if it has a class of common equity securities that is requires to be registered under section 12 of the Securities Exchange Act of 1934.

Prior to the American Rescue Plan Act of 2021 ("ARPA"),[1125] a "covered employee" was an employee who was (1) the principal executive officer, (2) principal financial officer, or (3) among the three most highly compensated officers for the taxable year (other than the principal executive officer or financial officer), defined in reference to the Exchange Act.[1126] A covered employee also includes any individual who had met the criteria to be a covered employee since January 1, 2014. Thus, an individual remains a covered employee with respect to compensation otherwise deductible for subsequent years, including for years during which the individual is no longer employed by the corporation and years after the individual has died. Under Treasury regulations, the requirement that the individual meet the criteria as of the last day of the taxable year applies to the principal executive officer, principal financial officer, and the three highest compensated officers.[1127]

Unless specifically excluded, the deduction limitation applies to applicable employee renumeration,[1128] which includes all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash. If an individual is a covered employee for a taxable year, the deduction limitation applies to all compensation not explicitly excluded from the deduction limitation, regardless of whether the compensation is for services as a covered employee and regardless of when the compensation was earned. The $1 million cap is reduced by excess parachute payments (as defined in section 280G) that are not deductible by the corporation. Compensation does not fail to be compensation with respect to a

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[1123] Sec. 162.

[1124] Added to the Code by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, and amended by the Tax Cuts and Jobs Act, Pub. L. No. 115-97.

[1125] Pub. L. No. 117-2, March 11, 2021.

[1126] Notice 2007-49, 2007-25 I.R.B. 1429.

[1127] Treas. Reg. sec. 1.162-27(c)(2).

[1128] Sec. 162(m)(4).

covered employee and thus subject to the deduction limit for a taxpayer year merely because the compensation is includible in the income of, or paid to, another individual, such as compensation paid to a beneficiary after the employee's death, or to a former spouse pursuant to a domestic relations order.

Prior to Public Law 115-97, certain types of compensation were excepted from the limit, including remuneration payable on a commission basis ("commission compensation") and, if certain outside director and shareholder approval requirements were met, remuneration payable solely on account of the attainment of one or more performance goals ("performance-based compensation"). The statute expanded the definition of compensation subject to the limit to include commission compensation and performance-based compensation in addition to other types of payments.

Section 162(m) was expanded by the ARPA to include five additional individuals as covered employees. This expansion was to take effect in taxable years beginning after December 31, 2026. Accordingly, up to ten individuals, including the principal executive officer, principal financial officer, and the next eight highest paid employees may be covered employees for purposes of section 162(m) after December 31, 2026.

Explanation of Provision

The provision accelerates the treatment of the five additional individuals as covered employees to December 31, 2021. Accordingly, up to ten individuals, including the principal executive officer, principal financial officer, and the next eight highest paid employees, may be covered employees for purposes of section 162(m) after December 31, 2021.

The provision also modifies the definition of applicable employee remuneration[1129] to be, except as otherwise provided, the aggregate amount allowable as a deduction for such taxable year for remuneration for services by the covered employee, including performance-based compensation, commissions, post-termination compensation, and beneficiary payments, whether or not such remuneration is paid directly by the publicly held corporation.

The provision adds an aggregation rule requiring two or more persons who are treated as a single employer under section 414[1130] to be treated as a single employer. For purposes of this determination, the brother-sister-controlled group[1131] and combined group[1132] rules under section 1563(a) shall be disregarded.

The Secretary will prescribe regulations or other guidance as may be necessary to carry out the purposes of paragraph (1), including regulations or other guidance to prevent the

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[1129] Sec. 162(m)(4)(A).

[1130] Subsections (b), (c), (m), or (o) of Sec. 414.

[1131] Sec. 1563(a)(2).

[1132] Sec. 1563(a)(3).

avoidance of the provision, including through the performance of services other than as an employee or by providing compensation through a passthrough or other entity.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

2. Extension of tax to fund the Black Lung Disability Trust Fund (sec. 138502 of the bill and sec. 4121 of the Code)

Present Law

Coal extracted from mines is taxed at either $1.10 per ton if from an underground mine or $0.55 per ton if from a surface mine.[1133] The total amount of tax is not to exceed 4.4 percent of the price at which such ton of coal was sold by the producer.

After December 31, 2021, the "temporary increase termination date," the tax rates decline to rates of $0.50 for underground mines and $0.25 for surface mines. After the temporary increase termination date, the total amount of tax is not to exceed two percent of the price at which such ton of coal is sold by the producer.

Explanation of Provision

The provision extends the coal excise tax through December 31, 2025.

Effective Date

The provision is effective for sales after December 31, 2021.

3. Prohibited transactions relating to holding DISC or FSC in individual retirement account (sec. 138503 of the bill; secs. 992 and 4975 and former sec. 922 of the Code)

Present Law

Individual Retirement Arrangements

An individual retirement arrangement ("IRA") is a tax-favored savings arrangement under which retirement savings are held in a tax-exempt trust, custodial account, or annuity contract until distributed. The term includes both individual retirement accounts[1134] and individual retirement annuities.[1135] In addition, IRAs fall into two categories based on the timing of income inclusion: traditional IRAs,[1136] to which both deductible and nondeductible

[1133] Sec. 4121.

[1134] Sec. 408(a).

[1135] Sec. 408(b).

[1136] Sec. 408.

contributions may be made,[1137] and Roth IRAs, to which only nondeductible contributions may be made.[1138] For a traditional IRA, an eligible contributor may deduct the contributions made for the year, but distributions are includible in gross income to the extent attributable to earnings on the account and the deductible contributions. For a Roth IRA, all contributions are after-tax (that is, no deduction is allowed) but, if certain requirements are satisfied, distributions are not includible in gross income.

The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount ($6,000 for 2021); and (2) the amount of the individual's compensation that is includible in gross income for the year.[1139] In the case of an individual who has attained age 50 by the end of the year, the dollar amount is increased by $1,000. In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses that is includible in gross income is at least equal to the contributed amount.

An individual may make contributions to a traditional IRA (up to the contribution limit) without regard to his or her adjusted gross income. An individual may deduct his or her contributions to a traditional IRA if neither the individual nor the individual's spouse is an active participant in an employer-sponsored retirement plan. If an individual or the individual's spouse is an active participant in an employer-sponsored retirement plan, the deduction is phased out for taxpayers with adjusted gross income over certain levels.[1140] In order to be eligible to make contributions to a Roth IRA, an individual's adjusted gross income must be below certain levels.[1141]

Prohibited Transactions

The Code prohibits certain transactions ("prohibited transactions") between a plan, including an IRA, and a disqualified person.[1142] Disqualified persons include a fiduciary of the plan; a person providing services to the plan; an employer with employees covered by the plan; an employee organization any of whose members are covered by the plan; certain owners,

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[1137] Sec. 219.

[1138] Sec. 408A.

[1139] Sec. 219(b)(2) and (5), as referenced in secs. 408(a)(1) and (b)(2)(B) and 408A(c)(2). Under section 4973, IRA contributions in excess of the applicable limit are generally subject to an excise tax of six percent per year until withdrawn.

[1140] Sec. 219(g).

[1141] Sec. 408A(c)(3).

[1142] Sec. 4975. In addition to IRAs, these rules apply to qualified retirement plans, Archer MSAs, HSAs, and Coverdell ESAs. Sec. 4975(e)(1). Similar rules apply to certain plans under the Employee Retirement Income Security Act of 1974.

officers, directors, highly compensated employees,[1143] family members, and related entities.[1144] A fiduciary includes any person who (1) exercises any discretionary authority or discretionary control respecting management of the plan or exercises any authority or control respecting management or disposition of the plan's assets, (2) renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the plan, or has any authority or responsibility to do so, or (3) has any discretionary authority or discretionary responsibility in the administration of the plan.[1145]

Prohibited transactions include the following transactions, whether direct or indirect, between a plan and a disqualified person: (1) the sale or exchange or leasing of property; (2) the lending of money or other extension of credit; (3) the furnishing of goods, services, or facilities; (4) the transfer to, or use by or for the benefit of, the income or assets of the plan; (5) in the case of a fiduciary, an act dealing with the plan's income or assets in the fiduciary's own interest or for the fiduciary's own account; and (6) the receipt by a fiduciary of any consideration for the fiduciary's own personal account from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.[1146]

Sanctions for Violations

Under the Code, if a prohibited transaction occurs, the disqualified person who participated in the transaction is generally subject to a two-tiered excise tax. The first tier tax is 15 percent of the amount involved in the transaction. The second tier tax, imposed if the prohibited transaction is not corrected within a certain period, is 100 percent of the amount involved.

A special rule applies in the case of certain prohibited transactions involving IRAs. If an individual for whose benefit an IRA is established (or such individual's beneficiary) engages in a prohibited transaction with respect to the IRA, the IRA loses its tax-favored status and ceases to be an IRA as of the first day of the taxable year in which the prohibited transaction occurs.[1147] As a result, the IRA is treated as distributing to the individual on the first day of that taxable year the fair market value of all of the assets in the account. If the fair market value of the IRA assets exceeds the basis in the account, the individual has taxable gain that is includible in gross income. If the individual is under age 59½, the individual may also be subject to the 10-

[1143] Within the meaning of section 414(q).

[1144] Sec. 4975(e)(2).

[1145] Sec. 4975(d)(3).

[1146] Sec. 4975(c)(1)(A)-(F).

[1147] Sec. 408(e)(2). Similar rules apply in the case of certain prohibited transactions involving an HSA, Archer MSA, or Coverdell ESA.

percent tax on early distributions.[1148] The individual and the individual's beneficiaries are exempt, however, from the excise tax that otherwise applies to prohibited transactions.[1149]

IRS Guidance on Abusive Roth IRA Transactions

In 2004, the IRS released guidance describing certain Roth IRA transactions that the agency identifies as tax avoidance transactions that must be reported to the IRS as listed transactions.[1150] The notice describes the transactions as generally involving (1) a taxpayer who owns a pre-existing business such as a corporation or sole proprietorship (the "Business"), (2) a Roth IRA maintained for the taxpayer, and (3) a corporation substantially all the shares of which are owned or acquired by the Roth IRA ("Roth IRA Corporation"). The Roth IRA Corporation and the Business or the taxpayer[1151] enter into a transaction or arrangement that has the effect of transferring value to the Roth IRA Corporation comparable to a contribution to the Roth IRA. Examples of such transactions under the notice include transactions in which the Roth IRA Corporation acquires property, such as accounts receivable, from the Business for less than fair market value, or contributions of property, including intangible property, by a person other than the Roth IRA, without a commensurate receipt of stock ownership.

The notice provides that such transactions are designed to avoid the statutory limits on contributions to a Roth IRA, and states further that because the taxpayer in these arrangements controls the Business and is the beneficial owner of substantially all of the Roth IRA Corporation, the taxpayer is in a position to shift value from the Business to the Roth IRA Corporation. The notice provides that the Secretary will challenge the tax benefits resulting from these transactions.

Interest Charge Domestic International Sales Corporations ("IC-DISC")[1152]

The U.S. tax system has had various provisions intended to ameliorate disadvantages that U.S. multinational enterprises may face in competing with entities based in jurisdictions that based their tax regimes on territorial principles to a greater extent than the United States did prior to 2018. By exempting foreign-source income to varying degrees, the tax systems of other countries arguably provide a competitive advantage for their exports (as well as other foreign-related business activities of their residents). The DISC and FSC regimes were designed to address that disparity. The FSC regime was later repealed and replaced by the extraterritorial income systems ("ETI") in 2000, with transition rules that allowed continued existence of

[1148] Sec. 72(t).

[1149] Sec. 4975(c)(3).

[1150] Notice 2004-8, 2004-4 I.R.B. 333, January 26, 2004. A listed transaction is a transaction that is the same or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction. Treas. Reg. sec. 1.6011-4(b)(2). Every taxpayer that has participated in such a transaction and who is required to file a tax return must file a disclosure statement disclosing such transaction.

[1151] Including related parties described in section 267(b) or 707(b).

[1152] Secs. 991 through 997.

certain FSCs.[1153] Only a modified version of the DISC regime remains in effect, as described below.

Under the IC-DISC regime, certain domestic corporations are exempt from Federal corporate income tax on their export income, with partial deferral of tax for its shareholders. In general, the IC-DISC is not subject to corporate-level Federal income tax.[1154] To qualify as an IC-DISC, a domestic corporation must have a valid election (to which all shareholders consent) to be taxed as a IC-DISC[1155] and satisfy the following conditions: 95 percent of its gross receipts must be qualified export receipts; 95 percent of the sum of the adjusted bases of all its assets must be attributable to the sum of the adjusted bases of qualified export assets; the corporation must have no more than one class of stock; and the par or stated value of the outstanding stock must be at least $2,500 on each day of the taxable year.[1156]

The U.S. tax system has had a series of special tax regimes intended to provide incentives for foreign trade, including the DISC regime and foreign sales corporations ("FSC"). Benefits of the DISC regime were curtailed when the FSC regime was enacted in 1984. The FSC regime was repealed and replaced by the extraterritorial income systems ("ETI") in 2000, with transition rules that allowed continued existence of certain FSCs.[1157] These regimes were

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[1153] Former secs. 921 through 927 (FSC); former secs. 941-943. See section 2, *The FSC Repeal and Extraterritorial Income Exclusion Act of 2000*, Pub. L. No. 106-519, which provided that no new FSCs could be created, terminated inactive FSCs, but allowed an election to be treated as a domestic corporation under former section 943. With the repeal of the ETI provisions in 2004, further transition rules were provided for transactions in taxable years 2005 and 2006. Sec. 101(b)(2), *American Jobs Creation Act of 2004*, Pub. L. No. 108-357. Earlier efforts included the special rules and benefits for China Trade Corporations and Western Hemisphere Corporations under the Code of 1939, in addition to the partial deferral for DISCS under the Internal Revenue Code of 1954. Prior to being supplanted by FSCs, DISCs were eligible for more generous tax benefits. See Joint Committee on Taxation, *General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984*, at 1066.

For an overview of the history of various special regimes and the trade disputes they engendered, see Joseph Isenbergh, Vol. 3 *U.S. Taxation of Foreign Persons and Foreign Income*, Para. 81. (Fourth Ed. 2016). See also, *Joint Committee on Taxation, The U.S. International Tax Rules: Background, Data, and Selected Issues Relating to the Competitiveness of U.S.-Based Business Operations* (JCX-67-03), July 3, 2003.

[1154] Sec. 991.

[1155] See Form 4876-A, *Election to be Treated as an Interest-Charge DISC.*

[1156] Secs. 992(a) and (b). If a corporation fails to satisfy either or both 95-percent tests, it may be deemed to satisfy such tests if it makes a pro rata distribution of its gross receipts which are not qualified export receipts and the fair market value of its assets which are not qualified export assets. Sec. 992(c).

[1157] Former secs. 921 through 927 (FSC); former secs. 941-943. See section 2, *The FSC Repeal and Extraterritorial Income Exclusion Act of 2000*, Pub. L. No. 106-519, which provided that no new FSCs could be created, terminated inactive FSCs, but allowed an election to be treated as a domestic corporation under former section 943. With the repeal of the ETI provisions in 2004, further transition rules were provided for transactions in taxable years 2005 and 2006. Sec. 101(b)(2), *American Jobs Creation Act of 2004*, Pub. L. No. 108-357. Earlier efforts included the special rules and benefits for China Trade Corporations and Western Hemisphere Corporations under the Code of 1939, in addition to the partial deferral for DISCS under the Internal Revenue Code of 1954.

intended to ameliorate disadvantages that U.S. multinational enterprises may face in competing with entities based in jurisdictions that based their tax regimes on territorial principles to a greater extent than the United States did prior to 2018. By exempting foreign-source income to varying degrees, the tax systems of other countries arguably provide a competitive advantage for their exports (as well as other foreign-related business activities of their residents). Only a modified version of the DISC regime remains in effect, as described below.

Under the IC-DISC regime, certain domestic corporations are exempt from Federal corporate income tax on their export income, with partial deferral of tax for its shareholders. In general, the IC-DISC is not subject to corporate-level Federal income tax.[1158] To qualify as an IC-DISC, a domestic corporation must have a valid election (to which all shareholders consent) to be taxed as a IC-DISC[1159] and satisfy the following conditions: 95 percent of its gross receipts must be qualified export receipts; 95 percent of the sum of the adjusted bases of all its assets must be attributable to the sum of the adjusted bases of qualified export assets; the corporation must have no more than one class of stock; and the par or stated value of the outstanding stock must be at least $2,500 on each day of the taxable year.[1160]

While an election is in effect, it applies to each shareholder who owns stock in the corporation. Personal holding companies, corporations exempt from tax under section 501, regulated investment companies, insurance companies, and S corporations are ineligible to be treated as IC-DISCs.[1161] An IC-DISC is not required to have its own employees, offices or equipment. It need only have a bank account and be maintained as a separate accounting entity.[1162]

Shareholders are generally not required to pay tax on undistributed taxable income of the IC-DISC to the extent that the taxable income is attributable to no more than $10 million qualified export receipts annually. Instead, shareholders must pay an interest charge to account for the benefit of deferring the tax liability on undistributed IC-DISC income. The shareholders of a corporation that is not currently an IC-DISC but was in a previous taxable year and has

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Prior to being supplanted by FSCs, DISCs were eligible for more generous tax benefits. See Joint Committee on Taxation, *General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984*, at 1066.

For an overview of the history of various special regimes and the trade disputes they engendered, see Joseph Isenbergh, Vol. 3 *U.S. Taxation of Foreign Persons and Foreign Income*, Para. 81. (Fourth Ed. 2016). See also, *Joint Committee on Taxation, The U.S. International Tax Rules: Background, Data, and Selected Issues Relating to the Competitiveness of U.S.-Based Business Operations* (JCX-67-03), July 3, 2003.

[1158] Sec. 991.

[1159] See Form 4876-A, *Election to be Treated as an Interest-Charge DISC.*

[1160] Secs. 992(a) and (b). If a corporation fails to satisfy either or both 95-percent tests, it may be deemed to satisfy such tests if it makes a pro rata distribution of its gross receipts which are not qualified export receipts and the fair market value of its assets which are not qualified export assets. Sec. 992(c).

[1161] Sec. 992(d).

[1162] Treas. Reg. sec. 1.992-1(a)(7).

previously-taxed income or accumulated IC-DISC income, are also required to pay interest on the deferral benefit. Gain on the sale or exchange of stock in such corporation is treated as a dividend.[1163]

The deferral benefit is the excess of the amount of tax for which the shareholder would be liable if deferred DISC income were included as ordinary income over the actual tax liability of such shareholder. The rate is the average of one-year constant maturity Treasury yields.[1164]

Shareholders of an IC-DISC are subject to tax on actual distributions as well as certain items of DISC income that are treated as deemed distributions for the taxable year. Distributions treated as dividends are qualified dividends eligible for the rate applicable to net capital gains.[1165] Corporations are not eligible for a dividends-received deduction on any distributions received by an IC-DISC.[1166] All such gains and distributions are treated

Most IC-DISC deemed distributions[1167] are comprised of interest on producer's loans (defined in section 993(d)); gains on the sale or exchange of property (other than qualified export property) previously acquired by the IC-DISC in a tax-free transaction; 50 percent of the taxable income of the IC-DISC attributable to military property; taxable income attributable to qualified export receipts that exceed $10,000,000;[1168] and, if the shareholder is a C corporation, 1/17th of the taxable income during the year (after accounting for the items above, but before accounting for any actual distributions made).

The amount of deemed distributions cannot exceed the IC-DISC's earnings and profits for any given year, even if the IC-DISC has accumulated earnings and profits.[1169] Since a shareholder does not actually receive a constructive dividend, the shareholder's basis in the IC-DISC is increased by the amount of the dividend.[1170] When that portion of the IC-DISC's previously taxed income is actually distributed to the shareholder, this income is not taxed to the shareholder, and reduces the shareholder's basis in the IC-DISC. To the extent such a

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[1163] Sec. 995(c)(1)(B).

[1164] Sec. 995(f).

[1165] Secs. 995(a) and (b); sec. 1(h)(11) provides a tax rate of 15 percent for individuals.

[1166] Sec. 246(d).

[1167] The full list can be found in section 995(b)(1).

[1168] Sec. 995(b)(4). The amount of the deemed distribution is the sum of several items, including qualified export receipts in excess of $10 million. For purposes of this calculation, multiple IC-DISCs that are part of the same controlled group are treated as one corporation (which has the effect of aggregating their receipts).

[1169] Treas. Reg. sec. 1.995-2(b).

[1170] Sec. 996(e).

distribution exceeds the shareholder's basis, it is treated as gain on the sale or exchange of property.[1171]

Any actual distribution is considered to be distributed first out of previously taxed income, then from accumulated tax deferred income, and then from all other earnings and profits.[1172] Gain on the sale of IC-DISC stock is treated as a dividend to the extent of accumulated IC-DISC income.[1173]

Explanation of Provision

The provision amends the definition of prohibited transaction to include an individual retirement account that holds an interest in a DISC[1174] or FSC[1175] that receives any commission or other payment from an entity any stock or interest in which is owned by the individual for whose benefit the individual retirement account is maintained. For this purpose, if an individual retirement account holds an interest in an entity that owns, directly or indirectly, an interest in a DISC or FSC, the account is treated as holding an interest in such DISC or FSC.

Constructive ownership rules under the Code apply in determining ownership of stock or interest in the entity making commissions or payments to the DISC or FSC, as well as in determining ownership of a DISC or FSC by an entity in which the individual retirement account holds an interest.[1176] However, for purposes of the provision, the constructive ownership rules relating to attribution of ownership to corporations apply based on 10 percent, rather than 50 percent, ownership in such corporation.[1177]

The provision also provides that the exception from the excise tax that applies to prohibited transactions involving an IRA that loses its tax-favored status does not apply in the case of the prohibited transaction added by the provision. Thus, if the owner of an individual retirement account engages in a prohibited transaction involving a DISC or FSC, as described in the provision, the individual retirement account will lose its tax-favored status (and be treated as distributing its assets as of the first day of the taxable year), and excise taxes will also apply.

[1171] Sec. 996(e).

[1172] Sec. 996(a).

[1173] Sec. 995(c).

[1174] Sec. 992(a)(1).

[1175] Sec. 922(a), as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. All references to FSC include electing "small FSC" entities under section 922(b).

[1176] Sec. 318.

[1177] Sec. 318(a)(2)(C) and (3)(C).

Effective Date

The provision applies to stock and other interests acquired or held on or after December 31, 2021.

4. Increase in tax on certain tobacco products, imposition of tax on nicotine, and clarification of rules regarding tobacco drawback (secs. 138504 and 138505 of the bill and secs. 5701 and 5706 of the Code)

Present Law

Federal excise taxes are imposed upon various types of tobacco products and cigarette papers and tubes.[1178] "Tobacco products" are cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.[1179]

A "cigar" is any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, other than any roll of tobacco which is a cigarette.[1180]

A "cigarette" is (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.[1181]

"Smokeless tobacco" is any snuff or chewing tobacco.[1182] "Snuff" is finely cut, ground or powdered tobacco that is not intended to be smoked.[1183] "Chewing tobacco" is any leaf tobacco that is not intended to be smoked.[1184]

"Pipe tobacco" is any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.[1185]

[1178] Sec. 5701.

[1179] Sec. 5702(c).

[1180] Sec. 5702(a).

[1181] Sec. 5702(b).

[1182] Sec. 5702(m)(1).

[1183] Sec. 5702(m)(2).

[1184] Sec. 5702(m)(3).

[1185] Sec. 5702(n).

"Roll-your-own tobacco" is any tobacco, which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.[1186]

"Cigarette paper" is paper, or any other material except tobacco, prepared for use as a cigarette wrapper. A "cigarette tube" is cigarette paper made into a hollow cylinder for use in making cigarettes.[1187]

The following table lists the tax rates on tobacco products and cigarette papers and tubes.

Tobacco Product	Present Law Tax Rates
"Small cigars" (weighing three pounds or less per thousand)[1]	$50.33 per thousand
"Large cigars" (weighing more than three pounds per thousand)[2]	52.75 percent of manufacturer's sale price, but not more than 40.26 cents per cigar
"Small cigarettes" (weighing three pounds or less per thousand)[3]	$50.33 per thousand
"Large cigarettes" (weighing more than three pounds per thousand)[4]	$105.69 per thousand
Snuff[5]	$1.51 per pound[6]
Chewing tobacco[7]	50.33 cents per pound
Pipe tobacco[8]	$2.8311 per pound
Roll-your-own tobacco[9]	$24.78 per pound

[1186] Sec. 5702(o).

[1187] Sec. 5702(f).

Tobacco Product	Present Law Tax Rates
Cigarette papers[10]	3.15 cents for each 50 papers (or fractional part thereof)
Cigarette tubes[11]	6.30 cents for each 50 tubes (or fractional part thereof)

[1] Sec. 5701(a)(1).

[2] Sec. 5701(a)(2).

[3] Sec. 5701(b)(1).

[4] Large cigarettes more than 6.5 inches in length are taxed as small cigarettes, counting each 2.75 inches (or fraction thereof) of the length of each as one cigarette. Sec. 5701(b)(2).

[5] Sec. 5701(e)(1).

[6] Each of the tax rates on snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco is applied proportionately to fractional parts of a pound.

[7] Sec. 5701(e)(2).

[8] Sec. 5701(f).

[9] Sec. 5701(g).

[10] Cigarette papers measuring more than 6.5 inches in length are taxed at the rate prescribed, counting each 2.75 inches (or fraction thereof) of the length of each as one cigarette paper. Sec. 5701(c).

[11] Cigarette tubes measuring more than 6.5 inches in length are taxed at the rate prescribed, counting each 2.75 inches (or fraction thereof) of the length of each as one cigarette tube. Sec. 5701(d).

The excise tax liability arises when the tobacco products or cigarette papers and tubes are manufactured or imported, but the requirement to pay the tax is not triggered until the product is removed from the taxpayer's premises or, in the case of an imported product, from customs custody or bond.[1188] The tax is determined and paid at the time of removal unless the taxpayer has a deferral bond in place, in which case the taxes are paid on the basis of semi-monthly return periods.[1189] Any taxpayer who is liable for a gross amount of taxes equal to or exceeding $5,000,000 during a calendar year must make deposits of tax for the following year by electronic funds transfer.[1190]

Transfer Rules and Removals without Tax

Tobacco products and cigarette papers and tubes may be transferred between bonded premises of manufacturers of tobacco products and export warehouse proprietors without payment of the tax; the transferee is liable for the tax on the transferred tobacco products and papers and tubes.[1191] Tobacco products and cigarette papers and tubes may also be removed without payment of tax for exportation; the exporter is relieved from the tax once proof of

[1188] Sec. 5703.

[1189] Sec. 5703(b).

[1190] Sec. 5703(b)(3).

[1191] Sec. 5703(a) and 5704.

exportation is obtained.[1192] Tax-paid product exported from the United States is eligible for drawback of the tax under certain conditions.[1193] Imported tobacco products may be released from customs custody in bulk for transfer to the bonded premises of a manufacturer or export warehouse proprietor without payment of the tax; the transferee is then responsible for the taxes.[1194] Generally, previously exported domestic tobacco products may be relanded[1195] in the United States only if they are transferred to the original manufacturer or to an export warehouse proprietor authorized by the original manufacturer.[1196] To prevent the diversion of tobacco products destined for export without payment of tax, however, packages bearing export marks are not allowed in the domestic marketplace.[1197] The tax is refunded or credited (without interest) for products withdrawn from the market and returned to bonded premises.[1198] Tax-paid products that are lost by casualty or certain disasters are eligible for tax refunds or credits.[1199]

Permits and Bonds

Manufacturers and importers of tobacco products, processed tobacco, and proprietors of export warehouses must obtain permits to engage in such businesses.[1200] A permit is obtained by application to the Secretary. The Secretary may deny the application if (1) the business premises are inadequate to protect the revenue; (2) the activity to be carried out at the business premises does not meet such minimum capacity or activity requirements as prescribed by the Secretary; (3) the applicant is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with the applicable provisions of the Code; (4) the applicant has been convicted of a felony violation of Federal or state criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes; or (5) the applicant has failed to disclose any material information required or made any material false statement in the application. In the case of a corporation, an applicant includes any officer, director, or principal stockholder and, in the case of a partnership, a partner.[1201]

[1192] Sec. 5704(b).

[1193] Sec. 5706.

[1194] Sec. 5704(c).

[1195] A good is relanded if it is marked for export, but is returned to the United States without payment of duty. See 18 U.S.C. sec. 544.

[1196] Secs. 5754 and 5761(c).

[1197] Secs. 5754(a) and 5761(c).

[1198] Sec. 5705.

[1199] Secs. 5705 and 5708.

[1200] Sec. 5713(a).

[1201] Sec. 5712.

A permit is conditioned upon compliance with relevant provisions of the Code and related regulations pertaining to tobacco products and cigarette papers and tubes. The Secretary may suspend or revoke a permit after a notice and hearing if the holder (1) has not in good faith complied with those rules or has violated any other provision of the Code involving intent to defraud; (2) has violated the conditions of the permit; (3) has failed to disclose any material information required or made any material false statement in the permit application; (4) has failed to maintain the business premises in such a manner as to protect the revenue; (5) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with the applicable provisions of the Code; or (6) has been convicted of a felony violation of Federal or state criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes.[1202]

A surety bond is required to be furnished by manufacturers of tobacco products or cigarette papers and tubes and export warehouse proprietors before they commence business.[1203] Importers are not required to post a surety bond because the requirement to pay the tax is triggered at the time the tobacco products or cigarette papers or tubes are released from customs custody. Prior to that time, the customs bond is applicable.

Occupational Tax

An occupational tax of $1,000 per year is imposed on manufacturers of tobacco products, cigarette papers and tubes, and export warehouse proprietors.[1204] A reduced rate of $500 per year applies to taxpayers with excise tax liability in the prior year of less than $500,000.[1205] Controlled groups are treated as a single person. Any person engaged in business subject to the occupational tax who willfully fails to pay the tax imposed is subject to a fine of not more than $5,000 or imprisonment of not more than two years, or both, for each such offense.[1206]

Miscellaneous Rules, including Operational, Reporting, and Recordkeeping Requirements

Before removal, tobacco products, processed tobacco, and cigarette papers and tubes must be in packages and bear such marks, labels, and notices as required by the regulations.[1207]

[1202] Sec. 5713.

[1203] Sec. 5711.

[1204] Sec. 5731(a).

[1205] Sec. 5731(b).

[1206] Sec. 5731(c).

[1207] Secs. 5723(a) and (b).

The Code prohibits lottery features and indecent or immoral material from being contained in or attached to a package of tobacco products or cigarette papers or tubes.[1208]

Manufacturers, importers, and export warehouse proprietors are required to keep records, file operating reports, and make accurate inventories as required by regulations.[1209] Tobacco products may be furnished by a manufacturer to its employees or put to experimental use without payment of tax under conditions set forth in regulations.[1210]

Fines and Penalties

The Code contains provisions relating to the purchase, receipt, possession, sale, or disposal of certain tobacco products and cigarette papers and tubes.[1211] It also imposes restrictions on importation of previously exported tobacco products.[1212] Civil and criminal penalties and forfeiture provisions apply for failure to comply with the tobacco provisions.[1213] The criminal and forfeiture provisions of subtitle F of the Code that apply to taxes in general also apply to tobacco taxes.

Civil penalties apply to certain actions including the willful failure to comply with the duties imposed (such as recordkeeping and labeling), failure to pay tax, and for the illegal sale of tobacco products.[1214] Criminal penalties apply to certain actions including engaging in business unlawfully, failing to furnish certain information or furnishing false or fraudulent information, tax evasion, unlawful removal of tobacco products or cigarette papers or tubes, and for purchasing, receiving, possessing, or selling tobacco products or cigarette papers or tubes unlawfully.[1215] Tobacco products and cigarette papers and tubes are subject to forfeiture if they are possessed with the intent to defraud the United States, or are not in packaging as required under the law.[1216] Additional property may also be subject to forfeiture if it is used to engage in the manufacturing business unlawfully, or if the proprietor makes false or fraudulent records or reports with the intent to defraud the United States. Certain forfeited, condemned, or abandoned

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[1208] Secs. 5723(c) and (d).

[1209] Secs. 5721, 5722 and 5741.

[1210] Sec. 5704(a).

[1211] Sec. 5751.

[1212] Sec. 5754.

[1213] Secs. 5751-52 and 5761-63.

[1214] Sec. 5761.

[1215] Sec. 5762.

[1216] Sec. 5763.

tobacco products or cigarette papers and tubes may be disposed of in accordance with regulations.[1217]

Explanation of Provision

The provision increases the Federal excise taxes on tobacco products. The tax rates for cigarette papers and tubes are unchanged.

The provision changes the form of the tax on large cigars from a tax on percentage of sales price to a tax per pound,[1218] with a minimum tax per cigar. The provision delegates to the Secretary or the Secretary's delegate the authority to determine the appropriate method for determining the weight of large cigars for purposes of the tax. The proposed tax rate for large cigars is $49.56 per pound with a min. tax of 10.06 cents per cigar.

The provision also adds discrete single-use units to the definition of smokeless tobacco. A "discrete single use unit" is any product containing tobacco that (1) is not intended to be smoked, and (2) is in the form of a lozenge, tablet, pill, pouch, dissolvable strip, or other discrete single-use or single-dose unit. The proposed tax rate for discrete single-use units is $100 per thousand.[1219]

The provision modifies the definition of "roll your own tobacco" to include processed tobacco that is removed for delivery or delivered to a person other than a person with a permit.[1220]

The provision also imposes a new excise tax on taxable nicotine. The amount of tax is the dollar amount specified for small cigarettes per 1,810 milligrams of nicotine (and a proportionate tax on any fractional part thereof).

The provision defines taxable nicotine as any nicotine which has been extracted, concentrated, or synthesized. However, the definition excludes any nicotine if the manufacturer or importer demonstrates to the satisfaction of the Secretary of Health and Human Services that such nicotine will be used in a drug which has been approved by the Food and Drug Administration for sale as a nicotine replacement therapy. Additionally, other tobacco products that are currently subject to tax will not be treated as containing taxable nicotine solely because of any concentration of nicotine naturally occurring in such products or any addition of nicotine to such products during the manufacturing process.

[1217] Sec. 5753.

[1218] Under the provision, the tax rate for large cigars is applied proportionately to fractional parts of a pound.

[1219] The definitions of snuff and chewing tobacco are amended to exclude discrete single-use units.

[1220] The definition excludes removals of processed tobacco for exportation as well as removals for delivery to permitted persons engaged in businesses as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor.

Under the provision, taxable nicotine is treated as a tobacco product. General provisions that apply to tobacco products, such as (i) packaging requirements, (ii) provisions relating to purchase, receipt, possession, or sale, and (iii) provisions relating to civil and criminal penalties, apply to taxable nicotine.

Additionally, the provision provides that references in the Code to a manufacturer of tobacco products or to manufacturing tobacco products include references to a manufacturer of taxable nicotine or to manufacturing taxable nicotine, respectively. Therefore, a manufacturer of taxable nicotine is subject to the occupational tax and other requirements that apply to manufacturers of tobacco products. Under the provision, a manufacturer of taxable nicotine includes any person who extracts, concentrates, or synthesizes nicotine.

The provision requires the Secretary to prescribe regulations or other guidance as necessary or appropriate, including regulations or other guidance for coordinating the taxation of tobacco products and taxable nicotine to protect revenue and prevent double taxation.

Under the provision, the Federal excise taxes on tobacco products (including taxable nicotine) and cigarette papers and tubes are:

Tobacco Product	**Current Tax**	**Proposed Tax**
"Small cigars"	$50.33 per thousand	$100.66 per thousand
"Large cigars"	52.75 percent of manufacturer's sale price, but not more than 40.26 cents per cigar	$49.56 per pound, with a min. tax of 10.06 cents per cigar
"Small cigarettes"	$50.33 per thousand	$100.66 per thousand
"Large cigarettes"	$105.69 per thousand	$211.39 per thousand
Snuff	$1.51 per pound	$26.84 per pound
Chewing tobacco	50.33 cents per pound	$10.70 per pound
Discrete single-use unit	*Not applicable*	$100 per thousand
Pipe tobacco	$2.8311 per pound	$49.56 per pound
Roll-your-own tobacco	$24.78 per pound	$49.56 per pound
Cigarette papers	3.15 cents for each 50 papers (or fractional part thereof)	*Unchanged*
Cigarette tubes	6.30 cents for each 50 tubes (or fractional part thereof)	*Unchanged*
Taxable nicotine	*Not applicable*	$100.66 per 1,810 milligrams of nicotine

Under the provision, the Federal excise tax dollar amounts are adjusted for inflation for calendar years beginning after 2022.

The provision imposes a floor stock tax on covered tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before the effective date and held for sale on such date by any person. The amount of the tax is (1) the tax that would be imposed under section 5701 if the article had been removed on the effective date less (2) any prior tax imposed under section 5701. Covered tobacco products are tobacco products other than large cigars, discrete single-use units, and taxable nicotine. Covered tobacco products and cigarette papers and tubes which are located in a foreign trade zone on the effective date are subject to the floor stock tax if (1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such articles before the effective date, pursuant to a request under the Foreign Trade Zone Act,[1221] or (2) such articles are held on the effective date under the supervision of a customs officer.

The provision provides a transition rule for permit and bond requirements. A person who is lawfully engaged in business as a manufacturer or importer of taxable nicotine, first becomes subject to such requirements by reason of the amendments under the provision, and submits an application to engage in such business not later than 90 days after the date of the enactment, will not be denied the right to carry on such business by reason of such requirements before final action on such application.

Finally, the provision amends the drawback rules for tobacco products, cigarette papers and tubes to provide that an exemption from tax under section 5704 is a drawback, and no further drawback will be allowed based on merchandise that has not been subject to tax.[1222]

Effective Date

The provision generally applies to articles removed in calendar quarters beginning after the date of enactment.

The provisions to modify the tax treatment of large cigars, impose a tax on discrete single-use units, and impose a tax on taxable nicotine apply to articles removed in calendar quarters beginning 180 days after the date of enactment.

The provision with respect to drawbacks applies to drawback claims made on or after December 18, 2018.

[1221] 19 U.S.C. 81a *et seq.*

[1222] The provision provides that this change will not be construed to create any inference with respect to any drawback claim made before December 18, 2018.

5. Termination of employer credit for paid family and medical leave (sec. 138506 of the bill and sec. 45S of the Code)

Present Law

In general

The Family and Medical Leave Act of 1993, as amended (the "FMLA"), generally requires employers to provide employees with up to 26 weeks of leave under certain circumstances.[1223] In general, FMLA does not require that the employer continue to pay employees during such leave, although employers may choose to pay for all or a portion of such leave. State and local governments may provide, or State and local laws may require employers to provide, employees with up to a certain amount of paid leave for types of leave that may or may not fall under the FMLA.

Employer Credit for Paid Family and Medical Leave

Eligible employers can claim a general business credit equal to 12.5 percent of the amount of eligible wages (based on the normal hourly wage rate) paid to "qualifying employees" during any period in which such employees are on "family and medical leave" if the rate of payment under the program is 50 percent of the wages normally paid to an employee for actual services performed for the employer.[1224] The credit is increased by 0.25 percentage points (but not above 25 percent) for each percentage point by which the rate of payment exceeds 50 percent. The maximum amount of family and medical leave that may be taken into account with respect to any qualifying employee for any taxable year is 12 weeks.

An "eligible employer" is one which has in place a written policy that allows all qualifying full-time employees not less than two weeks of annual paid family and medical leave, and which allows all less-than-full-time qualifying employees a commensurate amount of leave (on a *pro rata* basis) compared to the leave provided to full-time employees. The policy must also provide that the rate of payment under the program is not less than 50 percent of the wages normally paid to any such employee for services performed for the employer.

In addition, in order to be an eligible employer, the employer is prohibited from certain practices or acts which are also prohibited under the FMLA, regardless of whether the employer is subject to the FMLA. Specifically, the employer must provide paid family and medical leave in compliance with a written policy that ensures that the employer will not interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under the policy and will not discharge or in any other manner discriminate against any individual for opposing any practice prohibited by the policy.

[1223] Pub. L. No. 103-3, Feb. 5, 1993.

[1224] Wages for this purpose are Federal Unemployment Tax Act wages defined in section 3306(b), without regard to the dollar limitation, but do not include amounts taken into account for purposes of determining any other credit under subpart D of the Code.

A "qualifying employee" means any individual who is an employee under tax rules and principles and is defined in section 3(e) of the Fair Labor Standards Act of 1938,[1225] as amended, who has been employed by the employer for one year or more, and who for the preceding year, had compensation not in excess of 60 percent of the compensation threshold in such year for highly compensated employees.[1226] For 2021, this 60 percent amount is $78,000.

"Family and medical leave" for purposes of new section 45S is generally defined as leave described under sections 102(a)(1)(A)-(E) or 102(a)(3) of the FMLA.[1227] If an employer provides paid leave as vacation leave, personal leave, or other medical or sick leave[1228] (unless the medical or sick leave is specifically for one or more of the "family and medical leave" purposes defined above), such paid leave would not be considered to be family and medical leave. In addition, leave paid for by a State or local government or required by State or local law (including such leave required to be paid by the employer) is not taken into account in determining the amount of paid family and medical leave provided by the employer that is eligible for the credit. Any wages for paid sick or expanded family and medical leave taken into account for the payroll tax credit on such wages are not taken into account for purposes of determining the employer credit for certain paid family and medical leave under section 45S.[1229]

The Secretary will make determinations as to whether an employer or an employee satisfies the applicable requirements for an eligible employer or qualifying employee, based on information provided by the employer that the Secretary determines to be necessary or appropriate.

The Taxpayer Certainty and Disaster Tax Relief Act of 2020[1230] extended the employer credit for paid family and medical leave so that it would expire on December 31, 2025.

[1225] Pub. L. No. 75-718.

[1226] Sec. 414(q)(1)(B) ($130,000 for 2021).

[1227] FMLA section 102(a)(1) provides leave for FMLA purposes due to (A) the birth of a son or daughter of the employee and in order to care for such son or daughter; (B) the placement of a son or daughter with the employee for adoption or foster care; (C) caring for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition; (D) a serious health condition that makes the employee unable to perform the functions of the employee's position; (E) any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. In addition, FMLA section 102(a)(3) provides leave for FMLA purposes due to the need of an employee who is a spouse, son, daughter, parent, or next-of-kin of an eligible service member to care for such service member.

[1228] These terms mean these types of leave within the meaning of FMLA section 102(d)(2).

[1229] Pub. L. No. 116-127; Secs. 3131, 3132. The employer may not claim a credit under section 45S with respect to the qualified sick leave or family leave wages paid but may be able to take a credit under section 45S with respect to any additional wages paid, provided the requirements of section 45S are met with respect to the additional wages.

[1230] Pub. L. No. 116-260, December 27, 2020.

Explanation of Provision

The provision amends the expiration date of the credit for paid family and medical leave from December 31, 2025[1231] to December 31, 2023.

Effective Date

The provision is effective upon date of enactment.

6. Clarification of treatment of DISC gains and distributions of certain foreign shareholders (sec. 138507 of the bill and sec. 996(g) and former sec. 926 of the Code)

Present Law

The U.S. tax system has had various provisions intended to ameliorate disadvantages that U.S. multinational enterprises may face in competing with entities based in jurisdictions that based their tax regimes on territorial principles to a greater extent than the United States did prior to 2018. By exempting foreign-source income to varying degrees, the tax systems of other countries arguably provide a competitive advantage for their exports (as well as other foreign-related business activities of their residents). The DISC and FSC regimes were designed to address that disparity. The FSC regime was later repealed and replaced by the extraterritorial income systems ("ETI") in 2000, with transition rules that allowed continued existence of certain FSCs.[1232] Only a modified version of the DISC regime remains in effect, as described below.

Under the IC-DISC regime, certain domestic corporations are exempt from Federal corporate income tax on their export income, with partial deferral of tax for its shareholders. In general, the IC-DISC is not subject to corporate-level Federal income tax.[1233] To qualify as an IC-DISC, a domestic corporation must have a valid election (to which all shareholders consent)

[1231] Sec. 45S(i).

[1232] Former secs. 921 through 927 (FSC); former secs. 941-943. See section 2, *The FSC Repeal and Extraterritorial Income Exclusion Act of 2000*, Pub. L. No. 106-519, which provided that no new FSCs could be created, terminated inactive FSCs, but allowed an election to be treated as a domestic corporation under former section 943. With the repeal of the ETI provisions in 2004, further transition rules were provided for transactions in taxable years 2005 and 2006. Sec. 101(b)(2), *American Jobs Creation Act of 2004*, Pub. L. No. 108-357. Earlier efforts included the special rules and benefits for China Trade Corporations and Western Hemisphere Corporations under the Code of 1939, in addition to the partial deferral for DISCs under the Internal Revenue Code of 1954. Prior to being supplanted by FSCs, DISCs were eligible for more generous tax benefits. See Joint Committee on Taxation, *General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984*, at 1066.

For an overview of the history of various special regimes and the trade disputes they engendered, see Joseph Isenbergh, Vol. 3 *U.S. Taxation of Foreign Persons and Foreign Income*, Para. 81. (Fourth Ed. 2016). See also, *Joint Committee on Taxation, The U.S. International Tax Rules: Background, Data, and Selected Issues Relating to the Competitiveness of U.S.-Based Business Operations* (JCX-67-03), July 3, 2003.

[1233] Sec. 991.

to be taxed as a IC-DISC[1234] and satisfy the following conditions: 95 percent of its gross receipts must be qualified export receipts; 95 percent of the sum of the adjusted bases of all its assets must be attributable to the sum of the adjusted bases of qualified export assets; the corporation must have no more than one class of stock; and the par or stated value of the outstanding stock must be at least $2,500 on each day of the taxable year.[1235]

While an election is in effect, it applies to each shareholder who owns stock in the corporation. Personal holding companies, corporations exempt from tax under section 501, regulated investment companies, insurance companies, and S corporations are ineligible to be treated as IC-DISCs.[1236] An IC-DISC is not required to have its own employees, offices or equipment. It need only have a bank account and be maintained as a separate accounting entity.[1237]

Shareholders are generally not required to pay tax on undistributed taxable income of the IC-DISC to the extent that the taxable income is attributable to no more than $10 million qualified export receipts annually. Instead, shareholders must pay an interest charge to account for the benefit of deferring the tax liability on undistributed IC-DISC income. The shareholders of a corporation that is not currently an IC-DISC but was in a previous taxable year and has previously-taxed income or accumulated IC-DISC income, are also required to pay interest on the deferral benefit. Gain on the sale or exchange of stock in such corporation is treated as a dividend.[1238]

The deferral benefit is the excess of the amount of tax for which the shareholder would be liable if deferred DISC income were included as ordinary income over the actual tax liability of such shareholder. The rate is the average of one-year constant maturity Treasury yields.[1239]

Shareholders of an IC-DISC are subject to tax on actual distributions as well as certain items of DISC income that are treated as deemed distributions for the taxable year. Individual shareholders who receive distributions that are treated as dividends are entitled to the rate on qualified dividends, i.e., the rate applicable to net capital gains.[1240] Corporations are not

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[1234] See Form 4876-A, *Election to be Treated as an Interest-Charge DISC.*

[1235] Secs. 992(a) and (b). If a corporation fails to satisfy either or both 95-percent tests, it may be deemed to satisfy such tests if it makes a pro rata distribution of its gross receipts which are not qualified export receipts and the fair market value of its assets which are not qualified export assets. Sec. 992(c).

[1236] Sec. 992(d).

[1237] Treas. Reg. § 1.992-1(a)(7).

[1238] Sec. 995(c)(1)(B).

[1239] Sec. 995(f).

[1240] Secs. 995(a) and (b); sec. 1(h)(11) provides a tax rate of 15 percent for individuals.

eligible for a dividends-received deduction on any distributions received by an IC-DISC.[1241] Gains, dividends and other distributions (including deemed distributions) to foreign shareholders, whether corporate or nonresident aliens, are treated as income that is effectively connected with a U.S. trade or business conducted through a permanent establishment and therefore derived from sources in the United States.[1242]

Most IC-DISC deemed distributions[1243] are comprised of interest on producer's loans (defined in section 993(d)); gains on the sale or exchange of property (other than qualified export property) previously acquired by the IC-DISC in a tax-free transaction; 50 percent of the taxable income of the IC-DISC attributable to military property; taxable income attributable to qualified export receipts that exceed $10,000,000;[1244] and, if the shareholder is a C corporation, 1/17th of the taxable income during the year (after accounting for the items above, but before accounting for any actual distributions made).

The amount of deemed distributions cannot exceed the IC-DISC's earnings and profits for any given year, even if the IC-DISC has accumulated earnings and profits.[1245] Since a shareholder does not actually receive a constructive dividend, the shareholder's basis in the IC-DISC is increased by the amount of the dividend.[1246] When that portion of the IC-DISC's previously taxed income is actually distributed to the shareholder, this income is not taxed to the shareholder, and reduces the shareholder's basis in the IC-DISC. To the extent such a distribution exceeds the shareholder's basis, it is treated as gain on the sale or exchange of property.[1247]

Any actual distribution is considered to be distributed first out of previously taxed income, then from accumulated tax deferred income, and then from all other earnings and profits.[1248] Gain on the sale of IC-DISC stock is treated as a dividend to the extent of accumulated IC-DISC income.[1249]

[1241] Sec. 246(d).

[1242] Sec. 996(g).

[1243] The full list can be found in section 995(b)(1).

[1244] Sec. 995(b)(4). The amount of the deemed distribution is the sum of several items, including qualified export receipts in excess of $10 million. For purposes of this calculation, multiple IC-DISCs that are part of the same controlled group are treated as one corporation (which has the effect of aggregating their receipts).

[1245] Treas. Reg. § 1.995-2(b).

[1246] Sec. 996(e).

[1247] Sec. 996(e).

[1248] Sec. 996(a).

[1249] Sec. 995(c).

Explanation of Provision

Foreign shareholders of DISCs and FSCs are deemed to have a permanent establishment in the United States from which any DISC or FSC gains or distributions are derived.

Effective Date

The provision is applicable to gains and distributions after December 31, 2021.

7. Access to self-employment income information for paid leave administration (sec. 138508 of the bill and sec. 6103(l) of the Code)

Present Law

Confidentiality of Returns and Return Information

Section 6103 provides that returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to such information except as provided in the Code. There are a number of exceptions to the general rule of nondisclosure that authorize disclosure in specifically identified circumstances.

For example, the Code provides for 22 specific exceptions to allow the disclosure of returns and return information to various persons or entities for a nontax administration purpose.[1250]

Universal Paid Family and Medical Leave

Subtitle A of the provision creates a universal paid family and medical leave benefit in a new title XXII of the Social Security Act. The paid leave benefit is administered by the Secretary and provides up to 12 weeks of paid family and medical leave per year for workers to address their own serious medical issue, the serious medical issue of a family member, the birth or adoption of a child, the death of a family member (up to 3 days for a typical worker employed 5 days per week), and for circumstances arising from a loved one's military deployment or serious injury.

The amount of the benefit is determined under a progressive benefit formula, designed to replace at least two-thirds of monthly earnings for most workers and a larger share of earnings for low-income workers. The benefit applies to employees and self-employed individuals. The determination of benefit amounts is based on wage or self-employment income data from the most recent eight calendar quarters. For employees, the Secretary shall utilize wage date from the National Directory of New Hires in making benefit determinations.

[1250] Sec. 6103(l)(1) through (l)(22).

Explanation of Provision

The provision provides an exception to the general rule of confidentiality for disclosure of certain return information of self-employed individuals to carry out the paid family and medical leave benefit program. Under the provision, upon written request from the Secretary, officers and employees of the Department of the Treasury will have access to return information for a taxpayer whose self-employment income is relevant in determining eligibility for, or the correct amount of, a paid family and medical leave benefit under title XXII of the Social Security Act. Such information is limited to (i) taxpayer identity information of the taxpayer, (ii) self-employment income of the taxpayer,[1251] and (iii) the taxable year to which the self-employment income relates. The information may be used solely for the purpose of administering the paid family and medical leave benefit program.

Effective Date

The provision is effective upon date of enactment.

8. Temporary rule to allow certain S corporations to reorganize as partnerships without tax (sec. 138509 of the bill and sec. 332 of the Code)

Present Law

For Federal tax purposes, business income is taxed under rules relating to the form in which the business is conducted. The business may take the form of an entity or may be conducted as a sole proprietorship.[1252] The principal business entities for Federal income tax purposes are C corporations,[1253] partnerships, and S corporations. Partnerships and S corporations are often referred to as "passthrough entities" because their income is included in the gross income of the owners of the entities rather than in the income of the entities themselves.

Partnerships

Partnerships generally are treated for Federal income tax purposes as pass-through entities not subject to tax at the entity level.[1254] Items of income (including tax-exempt income), gain, loss, deduction, and credit of the partnership are taken into account by the partners in computing their income tax liability (based on the partnership's method of accounting and

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[1251] As defined in section 1402(b) for purposes of the taxes imposed by section 1401(b).

[1252] A sole proprietorship is generally not treated as an entity separate from its owner. More complex or specialized arrangements involving, for example, affiliated corporations, tiered entities, special purpose entities, real estate investment trusts ("REITs"), regulated investment companies (mutual funds or "RICs") or foreign entities or investments are beyond the scope of this discussion.

[1253] For a discussion of the taxation of C corporations, see Joint Committee on Taxation, *Overview of the Federal Tax System as in Effect for 2021*, (JCX-18-21), April 15, 2021, pp. 15-22, available at www.jct.gov.

[1254] Sec. 701. Note, however, that certain publicly traded partnerships are treated as corporations. See sec. 7704.

regardless of whether the income is distributed to the partners).[1255] A partner's deduction for partnership losses is limited to the partner's adjusted basis in its partnership interest.[1256] Losses not allowed as a result of that limitation generally are carried forward to the next year. A partner's adjusted basis in the partnership interest generally equals the sum of (1) the partner's capital contributions to the partnership, (2) the partner's distributive share of partnership income, and (3) the partner's share of partnership liabilities, less (1) the partner's distributive share of losses allowed as a deduction and certain nondeductible expenditures, and (2) any partnership distributions to the partner.[1257] Partners generally may receive distributions of partnership property without recognition of gain or loss, subject to some exceptions.[1258]

In contrast with a corporation and its shareholders (for which the Code prescribes rules that generally do not allow different treatment of similarly situated shareholders), partnerships may allocate items of income, gain, loss, deduction, and credit among the partners, provided the allocations meet a test for substantial economic effect or are made in accordance with the partners' interests in the partnership.[1259] In general, an allocation has substantial economic effect to the extent the partner to which the allocation is made receives the economic benefit or bears the economic burden of such allocation and the allocation substantially affects the dollar amounts to be received by the partners from the partnership independent of tax consequences.[1260]

S corporations

For Federal income tax purposes, an S corporation[1261] generally is not subject to tax at the corporate level.[1262] In computing their income tax liabilities, S corporation shareholders take into account their pro rata shares of items of income (including tax-exempt income), gain, loss, deduction, and credit of the S corporation (based on the S corporation's method of accounting and regardless of whether the income is distributed to the shareholders). A

[1255] Sec. 702(a).

[1256] Sec. 704(d). In addition, passive loss and at-risk limitations limit the extent to which certain types of income can be offset by partnership deductions (sections 469 and 465). These limitations do not apply to corporate partners (except certain closely-held corporations) and may not be important to individual partners who have partner-level passive income from other investments.

[1257] Sec. 705.

[1258] Sec. 731. Gain or loss may nevertheless be recognized, for example, on the distribution of money or marketable securities, distributions with respect to contributed property, or in the case of disproportionate distributions (which can result in ordinary income).

[1259] Sec. 704(b).

[1260] Treas. Reg. sec. 1.704-1(b)(2).

[1261] An S corporation is so named because its Federal tax treatment is governed by subchapter S of the Code.

[1262] Secs. 1363 and 1366.

shareholder's deduction for corporate losses is limited to the sum of the shareholder's adjusted basis in its S corporation stock and the indebtedness of the S corporation to such shareholder. Losses not allowed as a result of that limitation generally are carried forward to the next year. A shareholder's adjusted basis in the S corporation stock generally equals the sum of (1) the shareholder's capital contributions to the S corporation and (2) the shareholder's pro rata share of S corporation income, less (1) the shareholder's pro rata share of losses allowed as a deduction and certain nondeductible expenditures, and (2) any S corporation distributions to the shareholder.[1263]

To be eligible to elect S corporation status, a corporation may not have more than 100 shareholders and may not have more than one class of stock.[1264] Only individuals (other than nonresident aliens), certain tax-exempt organizations, and certain trusts and estates are permitted to be shareholders of an S corporation. A corporation may elect S corporation status only with the consent of all of its shareholders, and may terminate its election with the consent of shareholders holding more than 50 percent of the stock.[1265] Measured by assets or profits, for example, businesses organized as S corporations may be as large as those organized as C corporations or partnerships. Certain corporations may not elect S corporation status, including financial institutions using the reserve method of accounting for bad debts and insurance companies subject to tax under subchapter L.[1266]

In general, an S corporation shareholder is not subject to tax on corporate distributions unless the distributions exceed the shareholder's basis in the stock of the corporation.

Certain Differences Between the Tax Treatment of Partnerships and S Corporations

In the case of the death of an owner (*i.e.*, a partner or shareholder), partnerships and S corporations provide differing tax treatment. Specifically, upon the death of an individual S corporation shareholder or partner, the basis of the deceased shareholder's S corporation stock or the deceased partner's partnership interest in the hands of the heirs is its fair market value at the time of the shareholder's or partner's death (or the alternate valuation date).[1267] In the case of a partnership, but not in the case of an S corporation, the basis of the partnership's assets is equal

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[1263] Sec. 1367. If any amount that would reduce the adjusted basis of a shareholder's S corporation stock exceeds the amount that would reduce that basis to zero, the excess is applied to reduce (but not below zero) the shareholder's basis in any indebtedness of the S corporation to the shareholder. If, after a reduction in the basis of such indebtedness, there is an event that would increase the adjusted basis of the shareholder's S corporation stock, such increase is instead first applied to restore the reduction in the basis of the shareholder's indebtedness. Sec. 1367(b)(2).

[1264] Sec. 1361. For this purpose, a husband and wife and all members of a family are treated as one shareholder. Sec. 1361(c)(1).

[1265] Sec. 1362.

[1266] Sec. 1361(b)(2).

[1267] Sec. 1014.

to the fair market value of the assets at the time of the deceased partner's death (or alternate valuation date), if the partnership has an election in effect under section 754 to adjust the basis of partnership assets.

Differing rules apply to a business seeking to convert to partnership or to S corporation status. For example, a C corporation may convert to an S corporation, but not a partnership, without immediate recognition of gain at either the corporate or the shareholder level. The conversion of a C corporation to a partnership is treated as a liquidation of the C corporation, and generally requires the corporation to recognize and pay tax on the built-in gain on its assets.[1268] However, the conversion of a C corporation to an S corporation (achieved through electing S corporation status) is not treated as a liquidation of the C corporation.[1269] Thus, if a C corporation can satisfy the limits on the number and types of shareholders, the single class of stock requirement, and other requirements for S corporation status, a conversion of a C corporation to an S corporation is not taxable, and all post-conversion income and appreciation of assets in the entity are subject only to shareholder-level tax.[1270]

Similarly, the termination of a subchapter S election results in the conversion of the S corporation to a C corporation generally on a tax-free basis, whether the termination is by a shareholder revocation of the election or because the corporation no longer satisfies the definition of a small business corporation.[1271] However, the conversion of an S corporation into a partnership is generally treated as a taxable liquidation of the S corporation.[1272]

Explanation of Provision

The provision temporarily allows an eligible S corporation to elect to reorganize as a partnership without the application of the otherwise applicable Federal income tax to the S corporation or its shareholders. Specifically, the provision treats a qualified liquidation of an eligible S corporation as a complete liquidation under section 332(b), and the transferee domestic partnership as (i) if it were a corporation which is an 80-percent distributee (within the meaning of section 337(c)) and (ii) a successor corporation of the eligible S corporation for purposes of section 1362(g).

The term "eligible S corporation" generally means any corporation (including any predecessor) that was an S corporation on May 13, 1996, and at all times thereafter through the date on which the qualified liquidation is completed, and that elects the application of the

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[1268] See secs. 336-338 (providing some exceptions to this treatment).

[1269] Certain built-in gain of a C corporation that elects S corporation status remains subject to C corporation tax if recognized within five years after the conversion. See sec. 1374.

[1270] For a chart summarizing tax differences among C corporations, partnerships, S corporations, and sole proprietorships, see Joint Committee on Taxation, *Present Law and Data Related to the Taxation of Business Income* (JCX-42-17), September 15, 2017, pp. 11-16, available at www.jct.gov.

[1271] See secs. 1361 and 1362.

[1272] See secs. 331 and 336.

provision. An eligible S corporation does not, however, include an S corporation that, during the period beginning on September 13, 2021, and ending with the date the qualified liquidation is completed, holds, acquires, or transfers any asset for which the S corporation's basis is determined (in whole or part) by reference to the basis of such asset (or other property) in the hands of a C corporation.[1273] Thus, for example, if there is a merger or other transaction between a C corporation and an otherwise eligible S corporation that results in the S corporation holding carryover-basis property of the C corporation, then the S corporation is not treated as an eligible S corporation under this provision. A qualified liquidation is one or more transactions occurring within the two-year period beginning on December 31, 2021, which constitute the complete liquidation of the eligible S corporation, and the transfer of substantially all of the assets and liabilities of such S corporation to a domestic partnership.

An election must be made by the eligible S corporation in such manner as the Secretary may require and not later than the due date for filing the return of tax for the taxable year in which such liquidation is completed.

The Secretary is directed to issue regulations or other guidance as may be necessary or appropriate to carry out the provision.

Consequently, the provision allows eligible S corporations to reorganize as partnerships without tax on built-in gain on the S corporation's assets. The provision also allows S corporations that would have continued as S corporations under present law to reorganize as partnerships, thereby allowing partners who could not be S corporation shareholders under present law (such as nonresident alien or foreign individuals, certain tax-exempt organizations that are not allowed as S corporation shareholders, other partnerships or corporations, and more than one hundred partners). In addition, after reorganizing as a partnership, the former S corporation can make non-pro-rata allocations of income, gain, loss, deduction, and credits among the partners that are not permitted under the S corporation rules.

Effective Date

The provision is effective for transactions occurring on or after December 31, 2021, and before January 1, 2024.

9. Treatment of certain qualified sound recording productions (sec. 138510 of the bill and sec. 181 of the Code)

Present Law

Expensing of Certain Qualified Film, Television, and Live Theatrical Productions

Under section 181, a taxpayer may elect[1274] to deduct up to $15 million of the aggregate production costs of any qualified film, television or live theatrical production,

[1273] A technical correction may be necessary to reflect this intent.

[1274] See Treas. Reg. sec. 1.181-2 for rules on making (and revoking) an election under section 181.

commencing prior to January 1, 2026,[1275] in the year the costs are paid or incurred by the taxpayer, in lieu of capitalizing the costs and recovering them through depreciation allowances once the production is placed in service.[1276] The dollar limitation is increased to $20 million if a significant amount of the production costs are incurred in areas eligible for designation as a low-income community or eligible for designation by the Delta Regional Authority as a distressed county or isolated area of distress.[1277]

A section 181 election may only be made by an owner of the production.[1278] An owner of a production is any person that is required under section 263A to capitalize the costs of producing the production into the cost basis of the production, or that would be required to do so if section 263A applied to that person.[1279] In addition, the aggregate production costs of a qualified production that is co-produced include all production costs, regardless of funding source, in determining if the applicable dollar limit is exceeded. Thus, the term "aggregate production costs" means all production costs paid or incurred by any person, whether paid or incurred directly by an owner or indirectly on behalf of an owner.[1280] The costs of the production in excess of the applicable dollar limitation are capitalized and recovered under the taxpayer's method of accounting for the recovery of such property once placed in service (*e.g.*, under the income forecast method, or section 168(k) if eligible, as discussed below).[1281]

[1275] For purposes of determining whether a production is eligible for section 181 expensing, a qualified film or television production is treated as commencing on the first date of principal photography. The date on which a qualified live theatrical production commences is the date of the first public performance of such production for a paying audience.

[1276] Sec. 181(a)(2)(A). See Treas. Reg. sec. 1.181-1 for rules on determining eligible production costs. Eligible production costs under section 181 include participations and residuals paid or incurred. Treas. Reg. sec. 1.181-1(a)(3)(i). The special rule in section 167(g)(7) that allows taxpayers using the income forecast method of depreciation to include participations and residuals that have not met the economic performance requirements in the adjusted basis of the property for the taxable year the property is placed in service does not apply for purposes of section 181. Treas. Reg. sec. 1.181-1(a)(8). Thus, under section 181, a taxpayer may only include participations and residuals actually paid or incurred in eligible production costs. Further, production costs do not include the cost of obtaining a production after its initial release or broadcast. See Treas. Reg. sec. 1.181-1(a)(3). For this purpose, "initial release or broadcast" means the first commercial exhibition or broadcast of a production to an audience. Treas. Reg. sec. 1.181-1(a)(7). Thus, *e.g.*, a taxpayer may not expense the purchase of an existing film library under section 181. See T.D. 9551, 76 Fed. Reg. 64816, October 19, 2011.

[1277] Sec. 181(a)(2)(B).

[1278] Treas. Reg. sec. 1.181-1(a).

[1279] Treas. Reg. sec. 1.181-1(a)(2)(i).

[1280] Treas. Reg. sec. 1.181-1(a)(4). See Treas. Reg. sec. 1.181-2(c)(3) for the information required to be provided to the Internal Revenue Service when more than one person will claim deductions under section 181 for a production (to ensure that the applicable deduction limitation is not exceeded).

[1281] See Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 110th Congress* (JCS-1-09), March 2009, p. 448; and Treas. Reg. sec. 1.181-1(c)(2). A production is generally considered to be placed in service at the time of initial release, broadcast, or live staged performance (*i.e.*, at the time of the first commercial exhibition, broadcast, or live staged performance of a production to an audience). See, *e.g.*, Rev. Rul.

A qualified film, television, or live theatrical production means any production of a motion picture (whether released theatrically or directly to video cassette or any other format), television program, or live staged play if at least 75 percent of the total compensation expended on the production is for services performed in the United States by actors, directors, producers, and other relevant production personnel.[1282] Solely for purposes of this rule, the term "compensation" does not include participations and residuals (as defined in section 167(g)(7)(B)).[1283]

Each episode of a television series is treated as a separate production, and only the first 44 episodes of a particular series qualify under the provision.[1284] Qualified productions do not include sexually explicit productions as referenced by section 2257 of title 18 of the U.S. Code.[1285]

A qualified live theatrical production is defined as a live staged production of a play (with or without music) which is derived from a written book or script and is produced or presented by a commercial entity in any venue which has an audience capacity of not more than 3,000, or a series of venues the majority of which have an audience capacity of not more than 3,000.[1286] In addition, qualified live theatrical productions include any live staged production which is produced or presented by a taxable entity no more than 10 weeks annually in any venue which has an audience capacity of not more than 6,500.[1287] In general, in the case of multiple live-staged productions, each such live-staged production is treated as a separate production. Similar to the exclusion for sexually explicit productions from the definition of qualified film or television productions, qualified live theatrical productions do not include productions that include or consist of any performance of conduct described in section 2257(h)(1) of title 18 of the U.S. Code.[1288]

79-285, 1979-2 C.B. 91; and Priv. Ltr. Rul. 9010011, March 9, 1990. See also, Treas. Reg. sec. 1.181-1(a)(7). However, a production generally may not be considered to be placed in service if it is only exhibited, broadcasted or performed for a limited test audience in advance of the commercial exhibition, broadcast, or performance to general audiences. See Priv. Ltr. Rul. 9010011 and Treas. Reg. sec. 1.181-1(a)(7).

[1282] Sec. 181(d)(3)(A).

[1283] Sec. 181(d)(3)(B). Participations and residuals are defined as, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property. See also Treas. Reg. sec. 1.181-3(c).

[1284] Sec. 181(d)(2)(B).

[1285] Sec. 181(d)(2)(C).

[1286] Sec. 181(e)(2)(A).

[1287] Sec. 181(e)(2)(D).

[1288] Sec. 181(e)(2)(E).

For purposes of recapture under section 1245, any deduction allowed under section 181 is treated as if it were a deduction allowable for amortization.[1289] Thus, the deduction under section 181 may be subject to recapture as ordinary income in the taxable year in which (i) the taxpayer revokes a section 181 election, (ii) the production fails to meet the requirements of section 181, or (iii) the taxpayer sells or otherwise disposes of the production.[1290]

Depreciation of Certain Intangible Property

A taxpayer generally must capitalize the cost of property used in a trade or business or held for the production of income and recover such cost over time through annual deductions for depreciation or amortization.[1291] The period for depreciation or amortization generally begins when the asset is placed in service by the taxpayer.[1292] Tangible property generally is depreciated under the modified accelerated cost recovery system ("MACRS"), which determines depreciation for different types of property based on an assigned applicable depreciation method, recovery period, and placed in service convention.[1293]

Films, Videos, and Sound Recordings

MACRS generally does not apply to certain property, including any motion picture film, video tape, or sound recording, or to any other property if the taxpayer elects to exclude such property from MACRS and the taxpayer properly applies a unit-of-production method or other method of depreciation not expressed in a term of years.[1294] Thus, the recovery of the cost of a film, video tape, or similar property that is produced by the taxpayer or is acquired on a "stand-alone" basis by the taxpayer may not be determined under either the MACRS depreciation provisions or under the section 197 amortization provisions.[1295] The cost recovery

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[1289] Sec. 1245(a)(2)(C). For a discussion of the recapture rules applicable to depreciation and amortization deductions, see Joint Committee on Taxation, *Tax Incentives for Domestic Manufacturing* (JCX-15-21), March 12, 2021, pp. 14-17. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

[1290] See Treas. Reg. sec. 1.181-4.

[1291] See secs. 263(a) and 167. In general, only the tax owner of property (*i.e.*, the taxpayer with the benefits and burdens of ownership) is entitled to claim tax benefits such as cost recovery deductions with respect to the property. In addition, where property is not used exclusively in a taxpayer's business, the amount eligible for a deduction must be reduced by the amount related to personal use. See, *e.g.*, sec. 280A.

[1292] See Treas. Reg. secs. 1.167(a)-10(b), -3, -14, and 1.197-2(f). See also Treas. Reg. sec. 1.167(a)-11(e)(1)(i).

[1293] Sec. 168.

[1294] Sec. 168(f)(1), (3) and (4).

[1295] Under section 197, when a taxpayer acquires intangible assets held in connection with a trade or business, any value properly attributable to a "section 197 intangible" is amortizable on a straight-line basis over 15 years. No other depreciation or amortization deduction (such as bonus depreciation under section 168(k)) is allowable with respect to any section 197 intangible. Section 197 does not apply to certain intangible property, including certain property produced by the taxpayer or any interest in a film, sound recording, video tape, book or

of such property is determined under section 167, which allows a depreciation deduction for the reasonable allowance for the exhaustion, wear and tear, or obsolescence of the property if it is used in a trade or business or held for the production of income. In addition, the costs of motion picture films, video tapes, sound recordings, copyrights, books, and patents are eligible to be recovered using the income forecast method of depreciation once the property is placed in service.[1296]

Under the income forecast method, a property's depreciation deduction for a taxable year is determined by multiplying the adjusted basis of the property by a fraction, the numerator of which is the gross income generated by the property during the year, and the denominator of which is the total forecasted or estimated gross income expected to be generated prior to the close of the tenth taxable year after the year the property is placed in service. Any costs that are not recovered by the end of the tenth taxable year after the property is placed in service may be taken into account as depreciation in that year.[1297]

Additional First-Year Depreciation Deduction for Certain Productions

Under section 168(k), qualified property acquired and placed in service after September 27, 2017, and before January 1, 2023 (January 1, 2024, for longer production period property and certain aircraft), as well as specified plants planted or grafted after September 27, 2017, and before January 1, 2023, is eligible for an additional first-year depreciation deduction equal to 100 percent of the adjusted basis of the property. The 100-percent allowance is phased down by 20 percent per calendar year for qualified property acquired after September 27, 2017, and placed in service after December 31, 2022 (after December 31, 2023, for longer production period property and certain aircraft), as well as specified plants planted or grafted after December 31, 2022. This additional first-year depreciation is commonly referred to as "bonus depreciation."

Qualified property eligible for bonus depreciation under section 168(k) includes qualified film, television, and live theatrical productions placed in service after September 27, 2017, and before January 1, 2027, for which a deduction otherwise would have been allowable under section 181, without regard to the dollar limitation or termination of such section.[1298] A

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similar property not acquired in a transaction (or a series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof. See sec. 197(c)(2) and (e)(4)(A).

[1296] Sec. 167(g)(6).

[1297] Sec. 167(g)(1). In general, the adjusted basis of property that may be taken into account under the income forecast method only includes amounts that have been incurred under the economic performance requirements of section 461(h). An exception to this rule applies to participations and residuals. Specifically, solely for purposes of computing the allowable deduction for property under the income forecast method of depreciation, participations and residuals may be included in the adjusted basis of the property beginning in the year such property is placed in service (even if economic performance has not yet occurred) if such participations and residuals relate to income to be derived from the property before the close of the tenth taxable year following the year the property is placed in service. For this purpose, participations and residuals are defined as costs the amount of which, by contract, varies with the amount of income earned in connection with such property. See sec. 167(g)(7).

[1298] See sec. 168(k)(2)(A); Treas. Reg. sec. 1.168(k)(2)(b).

qualified production is considered to be placed in service, and thus eligible for bonus depreciation, at the time of initial release, broadcast, or live staged performance (*i.e.*, at the time of the first commercial exhibition, broadcast, or live staged performance of a production to an audience).[1299]

Explanation of Provision

The provision expands the special expensing rules for qualified film, television, and live theatrical productions under section 181 to include qualified sound recording production costs of up to $150,000 per taxable year. A qualified sound recording production is defined as a sound recording (as defined in section 101 of title 17 of the U.S. Code) produced and recorded in the United States.

The provision also expands the definition of qualified property eligible for bonus depreciation to include qualified sound recording productions (*i.e.*, for the production costs in excess of $150,000 once the production is placed in service). For purposes of the provision, a qualified sound recording production is considered to be placed in service at the time of initial release or broadcast.

Effective Date

The provision applies to productions commencing in taxable years ending after the date of enactment.

10. Payment to certain individuals who dye fuel (sec. 138511 of the bill and new sec. 6433 of the Code)

Present Law

In general, under section 4081, tax is imposed upon the removal of taxable fuel (including diesel fuel and kerosene) from a terminal. Taxable fuel transferred in bulk by pipeline or vessel to registered terminals is exempt from the tax imposed by section 4081. The Code provides exemptions from section 4081 taxes for diesel fuel and kerosene destined for nontaxable uses, provided that fuel is indelibly dyed in accordance with Treasury regulations.

Under section 4081(e), if tax is paid and reported to the government on more than one taxable event for a taxable fuel under section 4081, the person paying the "second tax" on such fuel may claim a refund (without interest) of that second tax if certain conditions and reporting requirements are met. As an example, if fuel is removed from a terminal, taxed, and then transported by truck to a second terminal, the tax imposed upon removal from the second terminal is the second taxable event. The person who paid the second tax may make a claim a refund under section 4081(e). However, if the fuel is dyed at removal from the second terminal, there is no second tax paid on the fuel and refund relief is not available under section 4081(e) for the dyed fuel.

[1299] See Treas. Reg. sec. 1.168(k)-2(b)(4)(iii).

Explanation of Provision

The provision creates a new refund mechanism that would allow for refunds, without interest, to a taxpayer who removes from a terminal "eligible indelibly dyed diesel fuel or kerosene" for nontaxable use, and establishes to the satisfaction of the Secretary that tax for such fuel under section 4081 has already been paid. The term "eligible indelibly dyed diesel fuel or kerosene" means diesel fuel or kerosene with respect to which a tax under section 4081 was previously paid (and not credited or refunded) and which is exempt from taxation under section 4082(a) (relating to exemptions for diesel fuel and kerosene destined for a nontaxable use).

Effective Date

The provision applies to previously taxed, eligible indelibly dyed diesel fuel or kerosene removed on or after the date that is 180 days after the date of enactment.

11. Extension of credit for portion of employer social security taxes paid with respect to employee tips to beauty service establishments (sec. 138512 of the bill and sec. 45B of the Code)

Present Law

Federal Employment Taxes

Federal employment taxes are imposed on wages paid to employees with respect to employment and include taxes imposed under the Federal Insurance Contributions Act ("FICA"), the Federal Unemployment Tax Act ("FUTA"), and Federal income tax.[1300] In addition, Tier 1 of the Railroad Retirement Tax Act ("RRTA") imposes a tax on compensation paid to railroad employees and representatives.[1301]

FICA taxes are comprised of two components: the Old-Age, Survivors, and Disability Insurance ("OASDI") and Hospital Insurance ("Medicare"). With respect to OASDI taxes, the applicable rate is 12.4 percent with half of such rate (6.2 percent) imposed on the employee and the remainder (6.2 percent) imposed on the employer.[1302] The tax is assessed on covered wages up to the OASDI wage base ($142,800 in 2021). Generally, the OASDI wage base rises based on increases in the national average wage index.[1303] With respect to Medicare

[1300] Secs. 3101, 3111, 3301, and 3401.

[1301] Sec. 3221.

[1302] Sec. 3101.

[1303] Sec. 230 of the Social Security Act (42 U.S.C. sec. 430).

taxes,[1304] the applicable rate is 2.9 percent with half of such rate (1.45 percent) imposed on the employee and the remainder (1.45 percent) imposed on the employer.[1305]

The tax is assessed on covered wages, which is defined for FICA tax purposes as all remuneration for "employment," including the cash value of all remuneration (including benefits) paid in any medium other than cash, with certain exceptions.[1306] The name given to the remuneration for employment is immaterial. FICA wages includes salaries, vacation allowances, bonuses, deferred compensation, commissions, and fringe benefits. The term "employment" is generally defined for FICA tax purposes as any service, of whatever nature, performed by an employee for the person employing him or her, with certain specific exceptions.

Employer Credit for Employee Tips

Employee tip income is treated as wages for FICA tax purposes,[1307] and tips received by an employee in the course of his or her employment are remuneration for employment and deemed to have been paid by the employer for FICA tax purposes.[1308] Employees are required to report to the employer tips received by the employee.[1309]

Employers that operate food and beverage establishments are eligible for a nonrefundable general business tax credit[1310] equal to an employer's FICA taxes paid on tips in excess of those treated as wages for purposes of meeting the minimum wage requirements of the Fair Labor Standards Act ("FLSA").[1311] The credit applies only with respect to FICA taxes paid on tips received from customers in connection with the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary. The credit is available whether or not the employee reports the tips on which the employer FICA taxes were paid. No deduction is allowed for any amount taken

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[1304] The Hospital Insurance tax includes two components: Medicare tax and Additional Medicare tax. Additional Medicare taxes are imposed on wages in excess of certain thresholds and are only imposed on the employee. Sec. 3101(b). There is no employer match for Additional Medicare tax. For purposes of this explanation, when referencing Medicare taxes, the term does not include Additional Medicare tax.

[1305] Sec. 3101(b); 3111(b).

[1306] Sec. 3121(a).

[1307] Section 3121(a)(12)(A) provides that the definition of wages does not include tips paid in any medium other than cash. Section 3121(a)(12)(B) excludes from the definition of wages cash tips received by an employee in any calendar month in the course of employment unless the amount of the cash tips is $20 or more.

[1308] Sec. 3121(q).

[1309] Sec. 6053(a).

[1310] Sec. 38.

[1311] Sec. 45B. The tip credit applies to the employer's share of both OASDI and Medicare taxes on tip income in excess of the required minimum wage, which for these purposes is $2.13 per hour. Sec. 45B(b)(1).

into account in determining the tip credit. A taxpayer may elect not to have the credit apply for a taxable year.

Explanation of Provision

The provision extends the tip credit to beauty service businesses. Under the provision, tips received from customers or clients in connection with the following services are eligible for the credit: (1) providing, delivering or servicing of food and beverages for consumption, if the tipping of employees delivering or serving food or beverages by customers is customary; and (2) providing beauty services to a customer or client if the tipping of employees providing such services is customary. Beauty service is defined as barbering and hair care, nail care, esthetics, and body and spa treatments.

The amount of the tip credit for an employer providing beauty services is the FICA taxes paid by the employer with respect to tip income deemed to have been paid by the employer to the employee in excess of the minimum wage rate applicable to such individual under section 6(a)(1) of the FLSA, determined without regard to section 3(m) of such Act.[1312]

Effective Date

The amendments made by this provision shall apply to taxable years beginning after December 31, 2021.

12. Enhancement of work opportunity credit during COVID-19 recovery period (sec. 138513 of the bill and sec. 51 of the Code)

Present Law

In General

The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of ten targeted groups. The amount of the credit available to an employer is determined by the amount of qualified wages paid by the employer. Generally, qualified wages consist of wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual begins work for the employer (two years in the case of an individual in the long-term family assistance recipient category).

Targeted groups eligible for the credit

Generally, an employer is eligible for the credit only with respect to qualified wages paid to members of a targeted group.

[1312] Secs. 45S(b)(1)(A); 3121(q). The amount of the tip credit for food and beverage establishments remains unchanged in the amount of the employer's FICA taxes on employee tip income in excess of the FLSA minimum wage of $2.13.

(1) Families Receiving TANF

An eligible recipient is an individual certified by the designated local agency (*e.g.*, a State employment security agency) as being a member of a family eligible to receive benefits under the Temporary Assistance for Needy Families Program ("TANF") for a period of at least nine months, part of which is during the 18-month period ending on the hiring date. For these purposes, members of the family are defined to include only those individuals who are taken into account for purposes of determining eligibility for the TANF.

(2) Qualified Veteran

A qualified veteran is a veteran who is certified by the designated local agency as belonging to one of five categories: (1) a member of a family eligible to receive assistance under a supplemental nutritional assistance program (for at least a three-month period during the year prior to the hiring date); (2) entitled to compensation for a service-connected disability and hired within one year of discharge; (3) entitled to compensation for a service-connected disability and unemployed for an aggregate of at least six months during the one-year period ending on the hiring date; (4) unemployed for at least four weeks but less than six months (whether or not consecutive) during the one-year period ending on the date of hiring; or (5) unemployed for at least six months (whether or not consecutive) during the one-year period ending on the date of hiring.

A veteran is an individual who has served on active duty (other than for training) in the Armed Forces for more than 180 days or who has been discharged or released from active duty in the Armed Forces for a service-connected disability. However, any individual who has served for a period of more than 90 days during which the individual was on active duty (other than for training) is not a qualified veteran if any of this active duty occurred during the 60-day period ending on the date the individual was hired by the employer. This latter rule is intended to prevent employers who hire current members of the armed services (or those departed from service within the last 60 days) from receiving the credit.

(3) Qualified Ex-Felon

A qualified ex-felon is an individual certified by the designated local agency as (1) having been convicted of a felony under any State or Federal law; and (2) having a hiring date within one year of release from prison or the date of conviction.

(4) Designated Community Resident

A designated community resident is an individual certified by the designated local agency as being at least age 18 but not yet age 40 on the hiring date and as having a principal place of abode within an empowerment zone, enterprise community, renewal community, or a rural renewal county. For these purposes, a rural renewal county is a county outside a metropolitan statistical area (as defined by the Office of Management and Budget) that had a net population loss for each of the five-year periods 1990-1994 and 1995-1999. Qualified wages do not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, renewal community or a rural renewal county.

(5) Vocational Rehabilitation Referral

A vocational rehabilitation referral is an individual who is certified by the designated local agency as an individual who has a physical or mental disability that constitutes a substantial handicap to employment and who has been referred to the employer while receiving, or after completing vocational rehabilitation services: (1) under an individualized, written plan for employment under a State plan approved under the Rehabilitation Act of 1973; (2) under a rehabilitation plan for veterans carried out under Chapter 31 of Title 38, U.S. Code; or (3) under an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act. Certification is provided by the designated local agency upon assurances from the vocational rehabilitation agency that the employee has met the above conditions.

(6) Qualified Summer Youth Employee

A qualified summer youth employee is an individual: (1) who performs services during any 90-day period between May 1 and September 15; (2) who is certified by the designated local agency as being 16 or 17 years of age on the hiring date; (3) who has not been an employee of that employer before; and (4) who is certified by the designated local agency as having a principal place of abode within an empowerment zone, enterprise community, or renewal community. As with designated community residents, no credit is available for wages paid or incurred for service performed while the individual's principal place abode is outside an empowerment zone, enterprise community, or renewal community. If, after the end of the 90-day period, the employer continues to employ a youth who was certified during the 90-day period as a member of another targeted group, the limit on qualified first-year wages takes into account wages paid to the youth while a qualified summer youth employee.

(7) Qualified Supplemental Nutrition Assistance Program Benefits Recipient

A qualified supplemental nutrition assistance program benefits recipient is an individual at least age 18 but not yet age 40 certified by the designated local agency as being a member of a family receiving assistance under a food and nutrition program under the Food and Nutrition Act of 2008 for a period of at least six months ending on the hiring date. In the case of a family that ceases to be eligible for food and nutrition assistance under section 6(o) of the Food and Nutrition Act of 2008, the six-month requirement is replaced with a requirement that the family has been receiving food and nutrition assistance for at least three of the five months ending on the date of hire. For these purposes, members of the family are defined to include only those individuals taken into account for purposes of determining eligibility for a food and nutrition assistance program under the Food and Nutrition Act of 2008.

(8) Qualified SSI Recipient

A qualified SSI recipient is an individual designated by the designated local agency as receiving supplemental security income ("SSI") benefits under Title XVI of the Social Security Act for any month ending within the 60-day period ending on the hiring date.

(9) Long-Term Family Assistance Recipient

A qualified long-term family assistance recipient is an individual certified by the designated local agency as being: (1) a member of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) a member of a family that has received such family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of the welfare-to-work tax credit) if the individual is hired within two years after the date that the 18-month total is reached; or (3) a member of a family who is no longer eligible for family assistance because of either Federal or State time limits, if the individual is hired within two years after the Federal or State time limits made the family ineligible for family assistance.

(10) Long-Term Unemployment Recipient

A qualified long-term unemployment recipient is an individual certified by the designated local agency as being in a period of unemployment which: (1) is 27 consecutive weeks or more; and (2) includes a period in which the individual was receiving unemployment compensation under State or Federal law.

Qualified Wages

Generally, qualified wages are defined as cash wages paid by the employer to a member of a targeted group. The employer's deduction for wages is reduced by the amount of the credit.[1313]

For purposes of the credit, generally, wages are defined by reference to the FUTA definition of wages contained in sec. 3306(b) (without regard to the dollar limitation therein contained). Special rules apply in the case of certain agricultural labor and certain railroad labor.

Calculation of the Credit

The credit available to an employer for qualified wages paid to members of all targeted groups except for long-term family assistance recipients equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum per-employee credit is $2,400 (40 percent of the first $6,000 of qualified first-year wages).

The general $6,000 limitation on qualified first-year wages is different for certain targeted groups: (1) qualified summer youth employees; (2) qualified veterans who are entitled to compensation for a service-connected disability, and who are hired within one year of discharge; (3) qualified veterans who are entitled to compensation for a service-connected disability, and who have been unemployed for an aggregate of at least six months during the one-year period ending on the hiring date; (4) qualified veterans unemployed for at least six months

[1313] Sec. 280C(a).

(whether or not consecutive) during the one-year period ending on the date of hiring; and (5) long-term family assistance recipients. The maximum per-employee credit (and limitation on qualified wages) for a member of each of the first four of these groups is, respectively: (1) $1,200 (40 percent of the first $3,000 of qualified first-year wages); (2) $4,800 (40 percent of the first $12,000 of qualified first-year wages); (3) $9,600 (40 percent of the first $24,000 of qualified first-year wages); and (4) $5,600 (40 percent of the first $14,000 of qualified first-year wages).

In the case of long-term family assistance recipients, the credit equals 40 percent (25 percent for employment of 400 hours or less) of $10,000 for qualified first-year wages and 50 percent of the first $10,000 of qualified second-year wages. Generally, qualified second-year wages are qualified wages (not in excess of $10,000) attributable to service rendered by a member of the long-term family assistance category during the one-year period beginning on the day after the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $9,000 (40 percent of the first $10,000 of qualified first-year wages plus 50 percent of the first $10,000 of qualified second-year wages). Except for long-term family assistance recipients, no credit is allowed for second-year wages.

Certification Rules

Generally, an individual is not treated as a member of a targeted group unless: (1) on or before the day on which an individual begins work for an employer, the employer has received a certification from a designated local agency that the individual is a member of a targeted group; or (2) on or before the day an individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to that individual, and not later than the 28th day after the individual begins work for the employer, the employer submits the notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for certification. For these purposes, a pre-screening notice is a document (in such form as the Secretary may prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

An otherwise qualified unemployed veteran is treated as certified by the designated local agency as having aggregate periods of unemployment (whichever is applicable under the qualified veterans rules described above) if the veteran is certified by the agency as being in receipt of unemployment compensation under a State or Federal law for such applicable periods. The Secretary of the Treasury is authorized to provide alternative methods of certification for unemployed veterans.

Minimum Employment Period

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

Qualified Tax-Exempt Organizations Employing Qualified Veterans

The credit is not available to qualified tax-exempt organizations other than those employing qualified veterans. If a qualified tax-exempt organization employs a qualified veteran

(as described above) a tax credit against the FICA taxes of the organization is allowed for the wages of the qualified veteran which are paid for the veteran's services in furtherance of the activities related to the function or purpose constituting the basis of the organization's exemption under section 501.[1314]

The credit available to a tax-exempt employer for qualified wages paid to a qualified veteran equals 26 percent (16.25 percent for employment of 400 hours or less) of qualified first-year wages. The amount of qualified first-year wages eligible for the credit is the same as those for non-tax-exempt employers (*i.e.*, $6,000, $12,000, $14,000 or $24,000, depending on the category of qualified veteran).

A qualified tax-exempt organization means an employer that is described in section 501(c) and exempt from tax under section 501(a).

The Social Security Trust Funds are held harmless from the effects of this provision by a transfer from the Treasury General Fund.

Treatment of Possessions

The "VOW to Hire Heroes Act of 2011" (the "VOW Act")[1315] provides a reimbursement mechanism for the U.S. possessions (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands). The Secretary pays to each mirror Code possession (Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands) an amount equal to the loss to that possession as a result of the VOW Act changes to the qualified veterans rules.[1316] Similarly, the Secretary pays to each non-mirror Code possession (American Samoa and the Commonwealth of Puerto Rico) the amount that the Secretary estimates as being equal to the loss to that possession that would have occurred as a result of the VOW Act changes if a mirror Code tax system had been in effect in that possession. The Secretary makes this payment to a non-mirror Code possession only if that possession establishes to the satisfaction of the Secretary that the possession has implemented (or, at the discretion of the Secretary, will implement) an income tax benefit that is substantially equivalent to the qualified veterans credit allowed under the VOW Act modifications.

An employer that is allowed a credit against U.S. tax under the VOW Act with respect to a qualified veteran must reduce the amount of the credit claimed by the amount of any credit (or,

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[1314] Sec. 3111(e).

[1315] Pub. L. No. 112-56.

[1316] Prior to enactment of the VOW Act, there were two categories of qualified veterans to whom wages paid by an employer were eligible for the credit. Employers that hired veterans who were eligible to receive assistance under a supplemental nutritional assistance program were entitled to a maximum credit of 40 percent of $6,000 of qualified first-year wages paid to such individual. Employers that hired veterans who were entitled to compensation for a service-connected disability were entitled to a maximum wage credit of 40 percent of $12,000 of qualified first-year wages paid to such individual. The VOW Act expanded the work opportunity tax credit with respect to qualified veterans resulting in the present-law treatment of qualified veterans described above.

in the case of a non-mirror Code possession, another tax benefit) that the employer claims against its possession income tax.

Other Significant Rules

The work opportunity tax credit generally is not allowed for wages paid to individuals who were previously employed by the employer (the "rehire prohibition"). The credit is not allowed for wages paid to a relative or dependent of the taxpayer. No credit is allowed for wages paid to an individual who is a more than 50-percent owner of the entity. Similarly, wages paid to replacement workers during a strike or lockout are not eligible for the work opportunity tax credit. Wages paid to any employee during any period for which the employer received on-the-job training program payments with respect to that employee are not eligible for the work opportunity tax credit.

Expiration

The work opportunity tax credit is not available for individuals who begin work for an employer after December 31, 2025.

Explanation of Provision

Generally, the provision temporarily increases the credit amount to 50 percent of qualified first-year wages (up to a maximum of $10,000 of qualified first-year wages) and 50 percent of qualified second-year wages (up to a maximum of $10,000 of qualified second-year wages) for individuals who (1) are not qualified summer youth employees and (2) are hired after the date of enactment and before January 1, 2023 ("qualified hires"). Therefore, the maximum credit per employee is generally $10,000 (50 percent of the first $10,000 of qualified first-year wages plus 50 percent of the first $10,000 of qualified second-year wages). Qualified second-year wages are qualified wages which are attributable to service during the one-year period beginning on the day after the last day of the first one-year period.

For long-term family assistance recipients, the maximum per-employee credit (and limitation on qualified first-year wages) temporarily increases to $5,000 for the first year of employment (50 percent of the first $10,000 of qualified first-year wages) and remains at $5,000 for the second year of employment (50 percent of the first $10,000 of qualified second-year wages).

The $10,000 annual limitation on qualified first-year wages and qualified second-year wages does not apply to certain targeted groups: (1) qualified veterans who are entitled to compensation for a service-connected disability, and who are hired within one year of discharge; (2) qualified veterans who are entitled to compensation for a service-connected disability, and who have been unemployed for an aggregate of at least six months during the one-year period ending on the hiring date; (3) qualified veterans unemployed for at least six months (whether or not consecutive) during the one-year period ending on the date of hiring; and (4) qualified summer youth employees. The maximum per-employee credit (and limitation on qualified wages) for a member of one of the first three groups is, respectively: (1) $12,000 (50 percent of the first $12,000 of qualified first-year wages plus 50 percent of the first $12,000 of second-year wages); (2) $24,000 (50 percent of the first $24,000 of qualified first-year wages plus 50 percent

of the first $24,000 of qualified second-year wages; and (3) $14,000 (50 percent of the first $14,000 of qualified first-year wages plus 50 percent of the first $14,000 of qualified second-year wages).

The provision does not apply to qualified summer youth employees. Therefore, the maximum per-employee credit (and limitation on qualified first-year wages) for such individuals remains at $1,200 (40 percent of the first $3,000 of qualified first-year wages).

The provision temporarily waives the rehire prohibition for qualified hires. The provision also requires the Secretary to issue such regulations as appropriate to ensure a reasonable application of the waiver, including prohibiting attempts to claim the benefit through the termination and rehiring of an employee.

Effective Date

The provision applies to taxable years ending after the date of enactment.

13. Allowance of deduction for certain expenses of the trade or business of being an employee (sec. 138514 of the bill and secs. 62(a)(2) and 162 of the Code)

Present Law

Under the Code, gross income means "income from whatever source derived" except for certain items specifically exempt or excluded by statute.[1317] An individual's AGI is determined by subtracting certain "above-the-line" deductions from gross income, including trade or business expenses, losses from the sale or exchange of property, contributions to a qualified retirement plan by a self-employed individual, contributions to certain IRAs, certain moving expenses for members of the Armed Forces, and certain education-related expenses.[1318]

To determine taxable income, an individual reduces adjusted gross income ("AGI") by either the applicable standard deduction or applicable itemized deductions,[1319] and by the deduction for qualified business income.[1320] The amounts of the standard deductions are indexed annually for inflation. The deductions that may be itemized in lieu of claiming the standard deduction include personal State and local income, property, and sales taxes (up to $10,000 annually ($5,000 for married taxpayers filing separately)), home mortgage interest (on mortgages up to certain specified dollar amounts), charitable contributions, certain investment interest,

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[1317] Sec. 61.

[1318] Sec. 62. In addition, alimony payments are generally deductible by the payor spouse for divorce and separation instruments executed before January 1, 2019.

[1319] Sec. 63(a) and (b). The basic standard deduction varies depending on a taxpayer's filing status. For 2020, the amount of the standard deduction is $12,400 for a single individual and for a married individual filing separately, $18,650 for a head of household, and $24,800 for married taxpayers filing jointly and for a surviving spouse. An additional standard deduction is allowed with respect to any individual who is elderly (*i.e.*, above age 64) and/or blind.

[1320] Secs. 63(b)(3), (d)(3), and 199A.

medical expenses (in excess of 7.5 percent of AGI), and casualty and theft losses attributable to Federally declared disasters (in excess of 10 percent of AGI and in excess of $100 per loss). However, unreimbursed employee business expenses, such as dues for membership in work-related organizations or labor unions, are miscellaneous itemized deductions. Such deductions are currently suspended until taxable years beginning after December 31, 2025, and deductible only to the extent that miscellaneous itemized deductions in aggregate exceed two percent of AGI.[1321]

Explanation of Provision

In determining adjusted gross income, a taxpayer whose trade or business is the performance of services as an employee may deduct up to $250 paid as membership dues to a labor organization within the meaning of section 501(c)(5), provided that the employee remained a member of the organization through the end of the year.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

14. Cover over of certain distilled spirits taxes (sec. 138515 of the bill and sec. 7652 of the Code)

Present Law

Generally, distilled spirits are taxed at a rate of $13.50 per proof gallon.[1322] Liability for the excise tax on distilled spirits arises when the distilled spirits are produced or imported but is not determined and payable until bottled distilled spirits are removed from the bonded premises of the distilled spirits plant where they are produced, or customs custody. Generally, bulk distilled spirits may be transferred in bond between bonded premises; however, tax liability follows these products. Imported bulk distilled spirits may be released from customs custody without payment of tax and transferred in bond to a distillery. Distilled spirits be exported without payment of tax and may be withdrawn from a distillery without payment of tax or free of tax for certain authorized uses, including industrial uses and non-beverage uses.

There is a reduced tax rate schedule for distilled spirits based on the annual quantity (1) distilled or processed and removed for consumption or sale, or (2) imported into the United States. The rate of tax is lowered to $2.70 per proof gallon on the first 100,000 proof gallons of distilled spirits produced, $13.34 on the next 22,130,000 proof gallons, and $13.50 for amounts thereafter.

[1321] Secs. 67(a) and (g).

[1322] Secs. 5001, 5006, 5043, and 5054.

For purposes of the excise tax on distilled spirits, the territories of Puerto Rico and the U.S. Virgin Islands are not considered part of the United States.[1323] Additionally, distilled spirits brought into the United States from these territories are not considered imports for purposes of the excise tax.[1324] Thus, distilled spirits produced in these territories, whether or not brought into the United States, are not subject to tax under section 5001. However, section 7652(a) imposes an equalization tax equal to the tax imposed in the United States upon like articles of merchandise of domestic manufacture, including distilled spirits, produced in Puerto Rico and brought into the United States, and section 7652(b) imposes an equalization tax equal to the tax imposed in the United States upon like articles of merchandise of domestic manufacture, including distilled spirits, produced in the U.S. Virgin Islands and brought into the United States.

The revenue from the equalization tax on rum produced in Puerto Rico and brought into the United States is transferred ("covered over") to the Treasury of Puerto Rico.[1325] The revenue from the equalization tax on rum produced in the U.S. Virgin Islands and brought into the United States is covered over to the Treasury of the U.S. Virgin Islands.[1326] In addition, the revenues from the excise tax imposed on rum imported into the United States (less certain administrative costs) are covered over to the Treasury of Puerto Rico and the Treasury of the U.S. Virgin Islands.[1327] The revenues are apportioned between the two treasuries according to a formula determined by the Secretary.[1328]

For purposes of both the cover over of the equalization tax on rum and the cover over of the tax imposed on rum imported into the United States, the amount covered over is limited to the lesser of the tax imposed or $10.50 per proof gallon. The $10.50 per proof gallon limitation is increased to $13.25 per proof gallon during the period from July 1, 1999, through December 31, 2021.[1329]

With respect to both the cover over of the equalization tax on rum and the cover over of the tax imposed on rum imported into the United States, amounts covered over to Puerto Rico and the Virgin Islands are determined without regard to reduced rates or refunds in lieu of

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[1323] Sec. 7701(a)(9).

[1324] See 19 C.F.R. sec. 7.2 and 19 C.F.R. sec. 101.1.

[1325] Sec. 7652(a)(3). For purposes of this provision, only distilled spirits for which at least 92 percent of the alcohol content is attributable to rum are eligible for cover over of equalization taxes. See sec. 7652(c).

[1326] Sec. 7652(b)(3). For purposes of this provision, only distilled spirits for which at least 92 percent of the alcohol content is attributable to rum are eligible for cover over of equalization taxes. See sec. 7652(c).

[1327] Sec. 7652(e)(1). For purposes of this provision the term "rum" means any article classified under subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). Sec. 7652(e)(4).

[1328] Sec. 7652(e)(2).

[1329] Sec. 7652(f)(1).

reduced rates. Refunds in lieu of reduced rates are not treated as refunds for purposes of determining the amounts of cover over.

Explanation of Provision

The provision repeals the limitation on cover over of taxes on rum to Puerto Rico and the Virgin Islands.

With respect to taxes collected on rum transported to the United States that are covered into the Treasury of Puerto Rico at a rate equal to or greater than $10.50 per proof gallon, the provision requires Puerto Rico to transfer to the Puerto Rico Conservation Trust Fund[1330] an amount per proof gallon of at least one-sixth of the difference between $10.50 and the rate (not to exceed $13.25) at which such taxes are covered into the Treasury of Puerto Rico. This requirement does not modify or impair payment priorities established under Puerto Rico law in effect on May 21, 2021.

Effective Date

The provision generally applies to distilled spirits brought into the United States after December 31, 2021.

15. Research and experimental expenditures (sec. 138516 of the bill and sec. 174 of the Code)

Present Law

Public Law 115-97[1331] modified section 174 for amounts paid or incurred in taxable years beginning after December 31, 2021 (with conforming changes made to sections 41 and 280C). Section 174 as applicable to amounts paid or incurred in taxable years beginning before January 1, 2022, is described first below, followed by a description of section 174 as applicable to amounts paid or incurred in taxable years beginning after December 31, 2021.

Amounts Paid or Incurred in Taxable Years Beginning before January 1, 2022

Business expenses associated with the development or creation of an asset having a useful life extending beyond the current year generally must be capitalized and depreciated over such useful life.[1332] However, with respect to taxable years beginning before January 1, 2022, taxpayers may elect to deduct currently the amount of certain reasonable research or

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[1330] The Puerto Rico Conservation Trust Fund is the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

[1331] December 22, 2017.

[1332] Secs. 167 and 263(a).

experimental expenditures paid or incurred in connection with a trade or business.[1333] Taxpayers may elect to forgo a current deduction, capitalize their research or experimental expenditures, and recover them ratably over the useful life of the research, but in no case over a period of less than 60 months.[1334] Taxpayers, alternatively, may elect to amortize their research or experimental expenditures over a period of 10 years.[1335] Research and experimental expenditures deductible under section 174 are not subject to capitalization under either section 263(a)[1336] or section 263A.[1337] In addition, section 174 deductions are generally reduced by the amount of the taxpayer's research credit under section 41.[1338]

Amounts defined as research or experimental expenditures under section 174 generally include all costs incurred in the experimental or laboratory sense related to the development or improvement of a product.[1339] In particular, qualifying costs are those incurred for activities intended to discover information that would eliminate uncertainty concerning the development or improvement of a product.[1340] Uncertainty exists when information available to the taxpayer is not sufficient to ascertain the capability or method for developing, improving, and/or appropriately designing the product.[1341] The determination of whether expenditures qualify as deductible research expenses depends on the nature of the activity to which the costs

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[1333] Secs. 174(a) and (e).

[1334] Sec. 174(b). Taxpayers generating significant short-term losses often choose to defer the deduction for their research and experimental expenditures under this section. Additionally, section 174 amounts are excluded from the definition of "start-up expenditures" under section 195 (section 195 generally provides that start-up expenditures in excess of $5,000 either are not deductible or are amortizable over a period of not less than 180 months once an active trade or business begins). So as not to generate significant losses before beginning its trade or business, a taxpayer may choose to defer the deduction and amortize its section 174 costs beginning with the month in which the taxpayer first realizes benefits from the expenditures (*i.e.*, the month in which its active trade or business begins).

[1335] Secs. 174(f)(2) and 59(e). This special 10-year election is available to mitigate the effect of the AMT adjustment for research expenditures set forth in section 56(b)(2). Note that the corporate AMT was repealed for taxable years beginning after December 31, 2017. See Pub. L. No. 115-97, sec. 2001, December 22, 2017. Taxpayers with significant losses also may elect to amortize their otherwise deductible research and experimental expenditures.

[1336] Sec. 263(a)(1)(B).

[1337] Sec. 263A(c)(2).

[1338] Sec. 280C(c). Taxpayers may alternatively elect to claim a reduced research credit amount under section 41 in lieu of reducing deductions otherwise allowed. Sec. 280C(c)(3), as effective for amounts paid or incurred in taxable years beginning before January 1, 2022.

[1339] Treas. Reg. sec. 1.174-2(a)(1) and (2). Product is defined to include any pilot model, process, formula, invention, technique, patent, or similar property, and includes products to be used by the taxpayer in its trade or business as well as products to be held for sale, lease, or license. Treas. Reg. sec. 1.174-2(a)(11), Example 10, provides an example of new process development costs eligible for section 174 treatment.

[1340] Treas. Reg. sec. 1.174-2(a)(1).

[1341] *Ibid.*

relate, not the nature of the product or improvement being developed or the level of technological advancement the product or improvement represents. Examples of qualifying costs include salaries for those engaged in research or experimentation efforts, amounts incurred to operate and maintain research facilities (*e.g.*, utilities, depreciation, rent, *etc.*), and expenditures for materials and supplies used and consumed in the course of research or experimentation (including amounts incurred in conducting trials).[1342] In addition, under administrative guidance, the costs of developing computer software have been accorded treatment similar to research and experimental expenditures.[1343]

Research or experimental expenditures under section 174 do not include expenditures for quality control testing; efficiency surveys; management studies; consumer surveys; advertising or promotions; the acquisition of another's patent, model, production or process; or research in connection with literary, historical, or similar projects.[1344] For purposes of section 174, quality control testing means testing to determine whether particular units of materials or products conform to specified parameters, but does not include testing to determine if the design of the product is appropriate.[1345]

Generally, no current deduction under section 174 is allowable for expenditures for the acquisition or improvement of land or of depreciable or depletable property used in connection with any research or experimentation.[1346] In addition, no current deduction is allowed for any expenditure incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, including oil and gas.[1347]

Amounts Paid or Incurred in Taxable Years Beginning after December 31, 2021

With respect to taxable years beginning after December 31, 2021, amounts defined as specified research or experimental expenditures are required to be capitalized and amortized ratably over a five-year period, beginning with the midpoint of the taxable year in which the specified research or experimental expenditures were paid or incurred. Specified research or experimental expenditures that are attributable to research that is conducted outside of the United

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[1342] See Treas. Reg. sec. 1.174-4(c). The definition of research and experimental expenditures also includes the costs of obtaining a patent, such as attorneys' fees incurred in making and perfecting a patent application. Treas. Reg. sec. 1.174-2(a)(1).

[1343] Rev. Proc. 2000-50, 2000-2 C.B. 601.

[1344] Treas. Reg. sec. 1.174-2(a)(6).

[1345] Treas. Reg. sec. 1.174-2(a)(7).

[1346] Sec. 174(c). However, depreciation and depletion allowances may be considered section 174 expenditures. *Ibid.*

[1347] Sec. 174(d). Special rules apply with respect to geological and geophysical costs (section 167(h)), qualified tertiary injectant expenses (section 193), intangible drilling costs (sections 263(c) and 291(b)), and mining exploration and development costs (sections 616 and 617).

States[1348] are required to be capitalized and amortized ratably over a period of 15 years, beginning with the midpoint of the taxable year in which such expenditures were paid or incurred. Specified research or experimental expenditures subject to capitalization include expenditures for software development.

Specified research or experimental expenditures do not include expenditures for the acquisition or improvement of land or for depreciable or depletable property used in connection with the research or experimentation, but do include the depreciation and depletion allowances of such property. Also excluded are exploration expenditures incurred for ore or other minerals (including oil and gas).

In the case of retired, abandoned, or disposed property with respect to which specified research or experimental expenditures are paid or incurred, any remaining basis may not be recovered in the year of retirement, abandonment, or disposal, but instead must continue to be amortized over the remaining amortization period.

The application of this rule is treated as a change in the taxpayer's method of accounting for purposes of section 481, initiated by the taxpayer, and made with the consent of the Secretary. This rule is applied on a cutoff basis to research or experimental expenditures paid or incurred in taxable years beginning after December 31, 2021 (hence there is no adjustment under section 481(a) for research or experimental expenditures paid or incurred in taxable years beginning before January 1, 2022).

If a taxpayer's research credit under section 41 (discussed more below) for a taxable year beginning after 2021 exceeds the amount allowed as an amortization deduction under section 174 for such taxable year, the amount chargeable to capital account under section 174 for such taxable year must be reduced by that excess amount. A taxpayer may alternatively elect to claim a reduced research credit amount under section 41 in lieu of reducing its section 174 expenditures for the taxable year. If such an election is made, the research credit is reduced by an amount equal to that credit multiplied by the highest corporate tax rate.

Explanation of Provision

The provision delays the effective date for the modifications made to section 174 by Public Law 115-97 for four taxable years, such that they will apply to amounts paid or incurred in taxable years beginning after December 31, 2025.

Effective Date

The provision is effective on the date of enactment.

[1348] For this purpose, the term "United States" includes the United States, the Commonwealth of Puerto Rico, and any possession of the United States.

16. Payroll credit for compensation of local news journalists (sec. 138517 of the bill)

Present Law

Federal Employment Taxes

Federal employment taxes are imposed on wages paid to employees with respect to employment and include taxes imposed under the Federal Insurance Contributions Act ("FICA"), the Federal Unemployment Tax Act ("FUTA"), and Federal income tax.[1349] In addition, Tier 1 of the Railroad Retirement Tax Act ("RRTA") imposes a tax on compensation paid to railroad employees and representatives.[1350]

FICA taxes are comprised of two components: the Old-Age, Survivors, and Disability Insurance ("OASDI") and Hospital Insurance ("Medicare").[1351] With respect to Medicare taxes, the applicable rate is 2.9 percent with half of such rate (1.45 percent) imposed on the employee and the remainder (1.45 percent) imposed on the employer.[1352] The tax is assessed on covered wages, which is defined for Medicare tax purposes as all remuneration for "employment," including the cash value of all remuneration (including benefits) paid in any medium other than cash, with certain exceptions.[1353] The name given to the remuneration for employment is immaterial. Medicare wages includes salaries, vacation allowances, bonuses, deferred compensation, commissions, and fringe benefits. The term "employment" is generally defined for FICA tax purposes as any service, of whatever nature, performed by an employee for the person employing him or her, with certain specific exceptions.

The employee portion of Medicare taxes must be withheld and remitted to the Federal government by the employer during the quarter, as required by the applicable deposit rules.[1354] The employer is liable for the employee portion of Medicare taxes, in addition to its own share, whether or not the employer withholds the amount from the employee's wages.[1355] OASDI and Medicare taxes are generally allocated by statute among separate trust funds: the OASDI Trust

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[1349] Secs. 3101, 3111, 3301, and 3401.

[1350] Sec. 3221.

[1351] The Hospital Insurance tax includes two components: Medicare tax and Additional Medicare tax. Additional Medicare taxes are imposed on wages in excess of certain thresholds and are only imposed on the employee. Sec. 3101(b). There is no employer match for Additional Medicare tax. For purposes of this explanation, when referencing Medicare taxes, the term does not include Additional Medicare tax.

[1352] Secs. 3101(b); 3111(b).

[1353] Sec. 3121(a).

[1354] Sec. 3102(a) and Treas. Reg. sec. 31.3121(a)-2. Sec. 6302.

[1355] Sec. 3102(b).

Funds, Medicare's Hospital Insurance Trust Fund, and Supplementary Medical Insurance Trust Fund.[1356]

Explanation of Provision

An eligible local newspaper publisher is allowed a refundable credit against the Medicare taxes imposed on the employer[1357] for each calendar quarter in an amount equal to an applicable percentage of wages paid to each local news journalist employee of such employer for such calendar quarter.[1358] The applicable percentage of wages eligible for the credit is 50 percent in the case of each of the first four calendar quarters, and 30 percent in the case of each calendar quarter thereafter. The amount of wages which may be taken into account for any calendar quarter shall not exceed $12,500. An eligible employer may also elect not to claim the credit. In addition, no credit is allowed for the United States Government or to an agency or instrumentality thereof.

An eligible local news publisher is, with respect to any calendar quarter, any employer if substantially all of the gross receipts of such employer for such calendar quarter are derived in the trade or business of publishing local newspapers. All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as one employer for purposes of this provision. This aggregation rule does not apply unless such persons are involved in the production of the same print or digital publication.

The term "local newspaper" means any print or digital publication if (1) the primary content of such publication is original content derived from primary sources and relating to news and current events, (2) such publication primarily serves the needs of a regional or local community, (3) the publisher of such publication employs at least one local news journalist who resides in such regional or local community, and (4) the publisher of such publication employs not more than 750 employees.

An eligible local news journalist is any employee of an eligible local newspaper publisher for any calendar quarter who provides at least 100 hours of services as a local news

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[1356] Secs. 201 and 1817 of the Social Security Act, Pub. L. No. 74-271 as amended (42 U.S.C. secs. 401 and 1395i). Section 201, 42 U.S.C. sec. 402. This section appropriates to the OASI and DI trust funds 100 percent "the taxes imposed . . . by chapter 21 (other than sections 3101(b) and 3111(b)[i.e., 3101(a) and 3111(a)]) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such Code)" "determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages." Accordingly, the amount appropriated is based on the tax rate in effect on wages as defined in the statute. Similarly, section 1817 of the Social Security Act, 42 U.S.C. sec. 1395i, appropriates to the HI trust fund 100 percent of "the taxes imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1986 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages."

[1357] Sec. 3111(b).

[1358] The term "wages" means wages, as defined in section 3121(a) for FICA tax purposes. Any credit allowed under this provision shall be treated as a credit of the customer of the certified professional employer organization as described in section 3511(d)(2).

journalist during such calendar quarter to such eligible local newspaper publisher, during which time such individual regularly gathers, collects, photographs, records, writes, or reports news or information that concerns local events or other matters of local public interest, for such calendar quarter.

The provision provides that the credit allowed may not exceed the Medicare tax imposed on the employer, reduced by certain payroll tax credits[1359] for that calendar quarter on the wages paid with respect to all the employer's employees. However, if for any calendar quarter the amount of the credit exceeds the Medicare taxes imposed on the employer, reduced as described in the prior sentence, such excess is treated as a refundable overpayment.[1360] The provision also includes a denial of double benefit rule.[1361] Any credit allowed under this provision shall be treated as a credit described in section 3511(d)(2) with respect to third-party payors.

The Secretary shall issue such forms, instructions, regulations, and guidance as are necessary to implement the purposes of this section, including the application of the credit to third-party payors and regulations or guidance allowing such payors to submit documentation necessary to substantiate the eligible employer status of employers that use such payors.[1362]

Effective Date

The amendments made by this provision shall apply to calendar quarters during the first five calendar years beginning after the date of enactment.

17. Treatment of financial guaranty insurance companies as qualifying insurance corporations under passive foreign investment company rules (sec. 138518 of the bill and sec. 1297(f) of the Code)

Present Law

Present law includes requirements for a corporation the income of which is not included in passive income for purposes of the passive foreign investment company ("PFIC")

[1359] Secs. 3131, 3132, 3134, and 6432.

[1360] The excess is treated as an overpayment and refunded under sections 6402(a) and 6413(b). In addition, any amount that is due to an employer is treated in the same manner as a refund due from a credit provision. 31 U.S.C. sec. 1324. Thus, amounts are appropriated to the Secretary of the Treasury for refunding such excess amounts.

[1361] Secs. 41, 45A, 45P, 45S, 51, 1396, 3131, 3132, 3134, and 6432.

[1362] Third-party payors include professional employer organizations, certified professional employer organizations, or agents under section 3504. Any forms, instructions, regulations, or other guidance described in this subsection must require the customer to be responsible for the accounting of the credit and for any liability for improperly claimed credits and require the certified professional employer organization or other third-party payor to accurately report such tax credits based on the information provided by the customer. A technical correction may be needed to reflect this intent.

rules, in the case of certain insurance companies.[1363] Passive income for purposes of the PFIC rules generally does not include income derived in the active conduct of an insurance business by a corporation (1) that would be subject to tax under subchapter L if it were a domestic corporation; and (2) the applicable insurance liabilities of which constitute more than 25 percent of its total assets as reported on the company's applicable financial statement for the last year ending with or within the taxable year.[1364]

For the purpose of the provision's exception from passive income, applicable insurance liabilities mean, with respect to any property and casualty or life insurance business (1) loss and loss adjustment expenses, (2) reserves (other than deficiency, contingency, or unearned premium reserves) for life and health insurance risks and life and health insurance claims with respect to contracts providing coverage for mortality or morbidity risks. This includes loss reserves for property and casualty, life, and health insurance contracts and annuity contracts.

Unearned premium reserves with respect to any type of risk are not treated as applicable insurance liabilities for purposes of the provision.

For purposes of the provision, the amount of any applicable insurance liability may not exceed the lesser of such amount (1) as reported to the applicable insurance regulatory body in the applicable financial statement (or, if less, the amount required by applicable law or regulation), or (2) as determined under regulations prescribed by the Secretary.

An applicable financial statement is a statement for financial reporting purposes that (1) is made on the basis of generally accepted accounting principles, (2) is made on the basis of international financial reporting standards, but only if there is no statement made on the basis of generally accepted accounting principles, or (3) except as otherwise provided by the Secretary in regulations, is the annual statement required to be filed with the applicable insurance regulatory body, but only if there is no statement made on either of the foregoing bases. Unless otherwise provided in regulations, it is intended that generally accepted accounting principles means U.S. GAAP.

The applicable insurance regulatory body means, with respect to any insurance business, the entity established by law to license, authorize, or regulate such insurance business and to which the applicable financial statement is provided. For example, in the United States, the applicable insurance regulatory body is the State insurance regulator to which the corporation provides its annual statement.

If a corporation fails to qualify solely because its applicable insurance liabilities constitute 25 percent or less of its total assets, a United States person who owns stock of the corporation may elect in such manner as the Secretary prescribes to treat the stock as stock of a qualifying insurance corporation if (1) the corporation's applicable insurance liabilities constitute at least 10 percent of its total assets, and (2) based on the applicable facts and circumstances, the corporation is predominantly engaged in an insurance business, and its failure

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[1363] Sec. 1297(b)(2)(B).

[1364] Sec. 1297(f)(1)(A) and (B).

to qualify under the 25 percent threshold is due solely to runoff-related or rating-related circumstances involving such insurance business.[1365]

Facts and circumstances that tend to show the firm may not be predominantly engaged in an insurance business include a small number of insured risks with low likelihood but large potential costs; workers focused to a greater degree on investment activities than underwriting activities; and low loss exposure. Additional relevant facts for determining whether the firm is predominantly engaged in an insurance business include: claims payment patterns for the current and prior years; the firm's loss exposure as calculated for a regulator such as the SEC or for a rating agency, or if those are not calculated, for internal pricing purposes; the percentage of gross receipts constituting premiums for the current and prior years; and the number and size of insurance contracts issued or taken on through reinsurance by the firm. The fact that a firm has been holding itself out as an insurer for a long period is not determinative either way.

Runoff-related or rating-related circumstances include, for example, the fact that the company is in runoff, that is, it is not taking on new insurance business (and consequently has little or no premium income), and is using its remaining assets to pay off claims with respect to pre-existing insurance risks on its books. Such circumstances also include, for example, the application to the company of specific requirements with respect to capital and surplus relating to insurance liabilities imposed by a rating agency as a condition of obtaining a rating necessary to write new insurance business for the current year.

Present law does not specifically state how the treatment of insurance companies under the PFIC rules applies in the case of a financial guaranty insurance company. A financial guaranty insurance company's business is generally to insure the risks related to the default of corporate and governmental bonds. Under NAIC guidelines,[1366] a financial guaranty insurer is a monoline company (*i.e.*, does not insure other types of risks). Any financial statements prepared in accordance with generally accepted accounting principles ("GAAP") of a financial guaranty insurer may not report an amount of reserves for losses and loss adjustment expenses until those items are expected to exceed unearned premium reserves with respect to the contract,[1367] a situation generally involving imminent or current default of insured bonds.

Explanation of Provision

The provision provides specific rules for financial guaranty insurance companies under the present-law PFIC rules for insurance companies.

[1365] See Treas. Reg. sec. 1.1297-4(d).

[1366] The National Association of Insurance Commissioners ("NAIC") issues model laws and model regulations that are frequently enacted (sometimes with modifications) by States for the purpose of their regulation of insurance companies in the State.

[1367] See Financial Accounting Standards Board, *FASB Statement No. 60*, interpreting *Statement of Financial Accounting Standards No. 163*, paragraphs 22-28 and B37-38, 2008.

Under the provision, applicable insurance liabilities of a financial guaranty insurance company include unearned premium reserves (notwithstanding the general rule that unearned premium reserves are not included[1368]) if the company meets requirements. The requirements are intended to limit the treatment provided under the provision to insurance companies that are actively engaged in the business of financial guaranty insurance and not in other activities such as, for example, hedge fund investing. The requirements are that (1) the company is prohibited under generally accepted accounting principles from reporting on its financial statement reserves for losses and loss adjustment expenses with respect to a financial guaranty insurance or reinsurance contract, except to the extent that those losses and loss adjustment expenses are expected to exceed the unearned premiums on the contract; (2) the applicable financial statement of the company reports financial guaranty exposure[1369] of at least 15-to-1 or State or local bond exposure[1370] of at least 9-to-1 (8-to-1 for a taxable year of the company ending on or before December 31, 2018), and (3) the company includes in its insurance liabilities only its unearned premium reserves relating to insurance written or assumed that is within the single risk limits of section D of subsection 4 of the NAIC's Financial Guaranty Insurance Guideline, as defined in the provision (modified by using total shareholders' equity as reported on the company's applicable financial statement rather than the aggregate of the surplus to policyholders and contingency reserves).

A financial guaranty insurance company is defined for purposes of the provision to mean any insurance company the sole business of which is writing or reinsuring financial guaranty insurance that is permitted.[1371] For this purpose, financial guaranty insurance means financial guaranty insurance as defined under section 1, subsection (A),[1372] of the NAIC's Financial Guaranty Insurance Guideline, which is permitted under section 4, subsection (B), of such Guideline, including single risk limits.[1373]

[1368] Sec. 1297(f)(3)(A)(ii).

[1369] For purposes of this requirement, the term financial guaranty exposure means the ratio of (1) the net debt service outstanding insured or reinsured by the company that is within the single risk limits set forth in the Financial Guaranty Insurance Guideline (as reported on the company's applicable financial statement, to (2) the company's total assets (as so reported). See below for a definition of this Guideline.

[1370] For purposes of this requirement, the term State or local bond exposure means the ratio of (1) the net unpaid principal of State or local bonds (as defined in section 103(c)(1)) insured or reinsured by the company that is within the single risk limits set forth in the Financial Guaranty Insurance Guideline (as reported on the company's applicable financial statement), to (2) the company's total assets (as so reported).

[1371] New sec. 1297(f)(3)(C)(iii).

[1372] This part of the NAIC Guideline provides, in relevant part, "'Financial guaranty insurance' means a surety bond, an insurance policy or, when issued by an insurer or any person doing an insurance business as defined in Section [insert section], an indemnity contract and any guaranty similar to the foregoing types, under which loss is payable upon proof of occurrence of financial loss to an insured claimant, obligee or indemnitee as a result of any of the following events," which include failure of an obligor to pay when due.

[1373] This part of the NAIC Guideline sets forth limitations on the activities of the company; including that the obligations insured by the company must meet a minimum percentage of investment grade obligations, that the

The provision defines the NAIC's Financial Guaranty Insurance Guideline, which means the October 2008 model regulation that was adopted by the National Association of Insurance Commissioners on December 4, 2007. The determination of whether any provision of this Guideline has been satisfied is made by the Treasury Secretary under the provision.

In addition, a financial guaranty insurance company is treated as satisfying two requirements of the 10-percent facts and circumstances test, described above in the present law section, that (1) based on the applicable facts and circumstances, the corporation is predominantly engaged in an insurance business,[1374] and (2) the corporation's failure to qualify under the 25 percent threshold[1375] is due solely to runoff-related or rating-related circumstances involving such insurance business.[1376] Treating a financial guaranty insurance company as satisfying these particular requirements of the 10-percent facts and circumstances test, however, does not treat the company as having satisfied the requirement for that test that its applicable insurance liabilities constitute at least 10 percent of its total assets.[1377]

The provision requires reporting. An amount is treated as reported on an applicable financial statement for purposes of the provision if the amount is separately reported on that statement with respect to the corporation, or the amount is separately determined for purposes of calculating an amount that is reported on that statement. In addition, regulatory authority is provided to require reporting to the IRS or the Treasury Department such information as the IRS or Treasury require, in the case of each United States person who owns an interest in a specified non-publicly traded foreign corporation. A non-publicly traded foreign corporation is defined as any foreign corporation that would be a PFIC if section 1297(b)(2)(B) did not apply, and no interest in which is traded on an established securities market.

Effective Date

The provision generally is effective as if included with the enactment of section 1297(f) and of modifications to section 1297(b)(2)(B), that is, for taxable years beginning after

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company must meet aggregate risk limits by maintaining surplus to policyholder and contingency reserves that meet specified percentages for identified types of insured obligations, and that the company must meet single risk limits (limits on exposure to losses from single risks) by conforming to specified percentages with respect to specified categories of insured obligations.

[1374] A financial guaranty insurance company, to be eligible for this treatment, separately must meet the statutory definition that relies on the criteria of the NAIC Guideline on which State insurance regulators generally rely to identify such a company. Thus, permitting this treatment in the case of a company meeting those requirements is considered unlikely to lead to avoidance of the purposes of section 1297(f). It is intended that the Treasury Secretary provide guidance consistent with preventing avoidance.

[1375] Sec. 1297(f)(1).

[1376] Sec. 1297(a)(2)(B). By treating the company as meeting these particular requirements of the 10-percent facts and circumstances test, the provision treats a financial guaranty insurance company similarly to an insurance company whose failure to qualify under the 25 percent threshold is due solely to runoff-related or rating-related circumstances involving such insurance business.

[1377] Sec. 1297(f)(2)(A).

December 31, 2017. The reporting of certain items under the provision is effective for reports made after the date of enactment of this provision.

18. Credit for qualified access technology for the blind (sec. 138519 of the bill and new sec. 36H of the Code)

Present Law

The standard deduction is the sum of the basic standard deduction and, if applicable, the additional standard deduction.[1378] The amount of the basic standard deduction varies depending upon a taxpayer's filing status. For 2021, the amount of the basic standard deduction is $12,550 for a single individual and a married individual filing a separate return, $18,800 for a head of household, and $25,100 for a joint return and a surviving spouse.[1379] An additional standard deduction is allowed to an individual who is elderly (has attained age 65 before the close of the taxable year) or blind.

For 2021, the additional amount is $1,350 for a married taxpayer (for each spouse meeting the applicable criteria in the case of a joint return) and surviving spouses. The additional amount for single individuals and heads of households is $1,700. An individual who qualifies as both blind and elderly is entitled to two additional standard deductions, for a total additional amount (for 2021) of $2,700 or $3,400, as applicable.[1380]

An individual is considered blind for purposes of the additional amount of the standard deduction only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.[1381]

Under present law, there is no credit for qualified access technology for the blind.

Explanation of Provision

The provision creates a new refundable credit for amounts paid or incurred during the taxable year by the taxpayer for qualified access technology for use by a qualified blind individual who is the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer.

The aggregate amount of the credit allowed under the provision with respect to any qualified blind individual shall not exceed $2,000 in any period that consists of three consecutive

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[1378] Sec. 63(c).

[1379] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016.

[1380] Rev. Proc. 2020-45, 2020-46 I.R.B. 1016.

[1381] Sec. 63(f)(4).

taxable years. The $2,000 amount is adjusted for inflation for taxable years beginning after 2022. Amounts eligible for the credit may not be compensated for by insurance or otherwise.

A qualified blind individual has the same meaning as an individual who is blind for purposes of the additional amount of the standard deduction for the blind.[1382] Qualified access technology means hardware, software, or other information technology the primary function of which is to convert or adapt information which is visually represented into forms or formats useable by blind individuals.

No credit is allowed under the provision for any expenses for which a deduction or credit is allowed under Chapter 1 of the Code.

The credit shall not apply to amounts paid or incurred in taxable years beginning after December 31, 2026.

Effective Date

The provision is effective for taxable years beginning after December 31, 2021.

19. Modification of REIT constructive ownership rules (sec. 138520 of the bill and sec. 856(d) of the Code)

Present Law

In General

To qualify as a REIT, an entity must meet several requirements. Among other requirements, an entity must meet the 75-percent income test and the 95-percent income test.[1383] For purposes of both income tests, qualifying rents constitute qualifying gross income.[1384]

Rents from a related party – generally otherwise qualifying rents received from corporate or noncorporate tenants in which the REIT, directly or indirectly, has an ownership interest of 10 percent or more – are generally not treated as qualifying rents.[1385] Additionally, where a REIT furnishes or renders services to a tenant, amounts received or accrued with respect to such property generally are not treated as qualifying rents unless the services are furnished through an independent contractor.[1386] In general, an independent contractor is a person who

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[1382] *Ibid.*

[1383] Secs. 856(c)(2) and 856(c)(3).

[1384] Secs. 856(c)(2)(C) and 856(c)(3)(A).

[1385] Sec. 856(d)(2)(B).

[1386] Secs. 856(d)(2)(C) and 856(d)(7).

does not own more than a 35 percent interest in the REIT and in which no more than a 35 percent interest is held by persons with a 35 percent or greater interest in the REIT.[1387]

Constructive Ownership Rules

For purposes of determining a REIT's ownership interest in a tenant and whether a contractor is independent, the constructive ownership rules of section 318(a), with certain modifications, apply.[1388]

Section 318(a) provides rules setting forth when stock is constructively owned. Stock may be attributed *from* partnerships, estates, trusts, and corporations to persons owning interests in such entities under so-called "upward" attribution rules.[1389] Stock may be attributed *to* partnerships, estates, trusts, and corporations from persons owning interest in such entities under so-called "downward" attribution rules.[1390] Stock may be considered owned in certain other cases. Section 318(a), moreover, contains operating rules.

Under section 856(d)(5), the constructive ownership rules of section 318(a) are modified in three ways. First, such rules ("modified section 318(a)") apply to determine the ownership of assets and net profits of any person (*i.e.*, interests in noncorporate entities), as well as stock.[1391]

Second, certain thresholds in the "upward" and "downward" attribution rules are modified such that attribution from and to corporations occurs in a greater number of situations. Specifically, 10 percent is substituted for 50 percent where it appears in subparagraph (C) of section 318(a)(2) and 318(a)(3).[1392] Thus, under section 318(a)(2)(C), as modified ("modified section 318(a)(2)(C)," with sections 318(a)(2)(B) and 318(a)(2)(C), the "modified upward attribution rules"), if 10 or more percent of a REIT or other corporation is owned, directly or indirectly, by or for a person, that person is treated as owning a proportionate share of any stock, assets or net profits owned, directly or indirectly, by the REIT or other corporation. Under section 318(a)(3)(C), as modified ("modified section 318(a)(3)(C)"), if 10 or more percent of a REIT or other corporation is owned, directly or indirectly, by or for a person, that REIT or other corporation is treated as owning the stock, assets, or net profits owned, directly or indirectly, by or for the person.

Third, a threshold in the downward attribution rules is modified such that attribution to partnerships occurs in a fewer number of situations. Specifically, section 318(a)(3)(A) is

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[1387] Sec. 856(d)(3).

[1388] Sec. 856(d)(5).

[1389] Sec. 318(a)(2).

[1390] Sec. 318(a)(3).

[1391] Sec. 856(d)(5) (flush language).

[1392] Sec. 856(d)(5)(A).

applied in the case of a partnership by taking into account only partners who own, directly or indirectly, 25 percent or more of the capital interest, or the profit interest, in the partnership.[1393] Thus, under section 318(a)(3)(A), as modified ("modified section 318(a)(3)(A)," with section 318(a)(3)(B) and modified section 318(a)(3)(C), the "modified downward attribution rules"), stock, assets, and net profits owned, directly or indirectly, by or for a partner are considered owned by the partnership when that partner owns, directly or indirectly, a 25 percent or greater capital interest or profits interest in the partnership.

The examples below illustrate the application of modified section 318(a) under present law.

Example 1: Assume that 25 percent of the shares in a REIT ("REIT") are owned by a person ("A") who owns a 25 percent interest in a partnership ("P1"); another person ("B") owns a 25 percent interest in P1 and a 25 percent interest in another partnership ("P2"); and a third person ("C") owns a 25 percent interest in P2 and a 25 percent interest in a partnership that is a tenant of REIT ("T"). Because of successive applications of the modified downward attribution rules, REIT is considered to own 25 percent of T, and the rents paid by T are nonqualifying rents from a related party to REIT.

Example 2: Assume a person ("A") owns 100 percent of the shares in a corporation ("Parent"); Parent owns 100 percent of the shares in a second corporation ("Sub"); and Sub owns 10 percent of the shares in a REIT ("REIT"). Further assume A owns 100 percent of the shares in a corporation that is a tenant of REIT ("T"). Because of successive applications of the modified downward attribution rules or successive applications of the modified upward attribution rules followed by a single application of the modified downward attribution rules, REIT is considered to own 10 percent of T, and the rents paid by T are nonqualifying rents from a related party to REIT.

Example 3: Assume that 40 percent of the shares in a REIT ("REIT") are owned by a person ("A") who owns a 25 percent interest in a partnership ("P1"); another person ("B") owns a 25 percent interest in P1 and a 25 percent interest in a second partnership ("P2"); a third person ("C") owns a 25 percent interest in P2 and a 25 percent interest in third partnership ("P3"); and a fourth person ("D") owns a 25 percent interest in P3 and 40 percent of the shares in a corporation that is a contractor of REIT ("Contractor"). Because of successive applications of the modified downward attribution rules, the independent contractor definition will not be met: P1, P2, and P3 will be considered to own more than 35 percent interests in both REIT and Contractor.

Example 4: Assume that 50 percent of the shares in a REIT ("REIT") are owned by a person ("A") who owns 10 percent of the shares in a corporation ("Corp"), and another person ("B") owns 10 percent of the shares in Corp and 50 percent of the interests in a partnership that is a contractor of REIT ("Contractor"). Corp will be considered to own more than 35 percent of REIT stock and more than 35 percent of Contractor interests as a result of two applications of the modified downward attribution rules. The independent contractor definition will not be met

[1393] Sec. 856(d)(5)(B).

because Corp will be considered to own more than 35 percent interests in both REIT and Contractor.

Example 5: Assume a person ("A") owns a 25 percent interest in a partnership ("P1") that owns a 10 percent interest in REIT ("REIT"). Assume that A also owns a 20 percent interest in a tenant of REIT ("T"). REIT is deemed to own the 20 percent interest in T (as a result of an application of the modified downward attribution rules). Thus, rents paid by T are not qualifying rents to REIT.

Explanation of Provision

The provision modifies the constructive ownership rules that apply for purposes of determining a REIT's ownership interest in a tenant and whether a contractor is independent by amending section 856(d)(5).

Under the provision, stock, assets, and net profits constructively owned by a partnership, estate, trust, or corporation by reason of the application of section 318(a)(3) (as modified by sections 856(d)(5)(A) and 856(d)(5)(B)) (*i.e.*, the modified downward attribution rules) are not considered as owned by such entity for purposes of again applying such section (*i.e.*, the modified downward attribution rules) in order to make another person the constructive owner of such stock, assets, or net profits. Thus, the provision prevents multiple applications of the modified downward attribution rules in certain situations. The situations are limited to scenarios where the successive application of the modified downward attribution rules would otherwise make a second person the constructive owner of stock or an interest in a noncorporate entity. Said differently, the provision only prevents the successive application of the modified downward attribution rules where (1) an application of the modified downward attribution rules makes a person the constructive owner of stock or an interest in a noncorporate entity, and (2) such person's constructive ownership is attributed to a different person by virtue of an additional application of the modified downward attribution rules. The provision does not cover scenarios where two applications of the modified downward attribution rules make the same person the constructive owner of, for example, a REIT and a contractor.[1394]

The provision does not prevent any person from being the constructive owner of stock, assets, or net profits of any person as the result of any other application of modified section 318(a) (the "other application exception"). Thus, if there exist two (or more) applications of modified section 318(a) that result in a person constructively owning stock or an interest in a noncorporate entity and one (or more) application of modified section 318(a) does not require the successive application of the modified downward attribution rules in the manner described above, that person will be treated as a constructive owner.

The Secretary is authorized to circumscribe the situations to which the provision applies. This is intended to ensure that a REIT and a tenant, as well as a REIT and a contractor,

[1394] See Example 3, below.

are treated as related in appropriate situations such that REITs retain their character as passive investment vehicles.[1395]

No inference is created by the provision with respect to the application of section 318 outside the context of the provision.

The examples below illustrate the application of modified section 318(a), as amended by the provision.[1396]

Example 1: Assume that 25 percent of the shares in a REIT ("REIT") are owned by a person ("A") who owns a 25 percent interest in a partnership ("P1"); another person ("B") owns a 25 percent interest in P1 and a 25 percent interest in another partnership ("P2"); and a third person ("C") owns a 25 percent interest in P2 and a 25 percent interest in a partnership that is a tenant of REIT ("T"). Under the provision, the REIT stock constructively owned by P1 (as a result of an application of the modified downward attribution rules) is not taken into account when again applying the modified downward attribution rules to make another person (P2 or T) a constructive owner. Likewise, interests in T constructively owned by P2 (as a result of an application of the modified downward attribution rules) are not taken into account when again applying the modified downward attribution rules to make another person (P1 or REIT) a constructive owner. Thus, REIT is not considered to own interests in T, and the rents paid by T may be qualifying rents to REIT.

Example 2: Assume that 40 percent of the shares in a REIT ("REIT") are owned by a person ("A") who owns a 25 percent interest in a partnership ("P1"); another person ("B") owns a 25 percent interest in P1 and a 25 percent interest in a second partnership ("P2"); a third person ("C") owns a 25 percent interest in P2 and a 25 percent interest in third partnership ("P3"); and a fourth person ("D") owns a 25 percent interest in P3 and 40 percent of the shares in a corporation that is a contractor of REIT ("Contractor"). Under the provision, the REIT stock constructively owned by P1 (as a result of an application of the modified downward attribution rules) is not taken into account when again applying the modified downward attribution rules to make another person (P2, P3, or Contractor) a constructive owner. Likewise, the Contractor stock constructively owned by P3 (as a result of an application of the modified downward attribution rules) is not taken into account when again applying the modified downward attribution rules to make another person (P2, P1, or REIT) a constructive owner. Thus, under the provision, no person will be considered to own more than a 35 percent interest in both REIT and Contractor, and the independent contractor definition may be met.

Example 3: Assume that 50 percent of the shares in a REIT ("REIT") are owned by a person ("A") who owns 10 percent of the shares in a corporation ("Corp"), and another person ("B") owns 10 percent of the shares in Corp and 50 percent of the interests in a partnership that is a

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[1395] Congress created REITs as passive investment vehicles. See H.R. Rep. No. 2020, 86th Cong., 2d Sess. 4 (1960) at 6 ("[O]ne of the principal purposes of your committee in imposing restrictions on types of income of a qualifying real estate investment trust is to be sure the bulk of its income is from passive income sources and not from the active conduct of a trade or business.").

[1396] The facts of these examples are the same as the facts of the examples in the present law section, above.

contractor of REIT ("Contractor"). Based on A's actual ownership of REIT and one application of the modified downward attribution rules, Corp will be considered to own more than 35 percent of REIT stock. Based on B's actual ownership of Contractor and one application of the modified downward attribution rules, Corp will be considered to own a more than 35 percent interest in Contractor. Because the second application of the modified downward attributions rules makes the same person (rather than another person) the constructive owner of REIT stock and Contractor interests, under the provision, like under present law, the independent contractor definition will not be met.

Example 4: Assume a person ("A") owns a 25 percent interest in a partnership ("P1") that owns a 10 percent interest in REIT ("REIT"). Assume that A also owns a 20 percent interest in a tenant of REIT ("T"). Under the provision, as under present law, REIT is deemed to own the 20 percent interest in T (as a result of an application of the modified downward attribution rules). Thus, rents paid by T are not qualifying rents to REIT.

Effective Date

The provision applies to taxable years ending after the date of enactment.

SUBTITLE J — DRUG PRICING

PART I — LOWERING PRICES THROUGH FAIR DRUG PRICE NEGOTIATION

SUBTITLE J – DRUG PRICING

EXPLANATION OF PROVISIONS

A. SUBTITLE J, PART 1 – LOWERING PRICES THROUGH FAIR DRUG PRICE NEGOTIATION

Present Law

Medicare Part A (Hospital Insurance, or HI) covers inpatient hospital services, skilled nursing care, hospice care, and some home health services. Part A typically pays providers for drugs as part of a predetermined per-episode payment. Hospitals can also receive add-on payments for certain new innovator drugs under Part A. Medicare Part B (Supplementary Medical Insurance, or SMI) covers physician services, outpatient services, and some home health and preventive services. Typically, providers who administer prescription drugs under Part B are paid based on a list price formula defined in statute (Average Sales Price or ASP). Beneficiaries generally pay 20 percent coinsurance under Part B, including for drugs.

The Medicare Part D outpatient prescription drug benefit provides coverage to Medicare beneficiaries who enroll in stand-alone private plans (PDP) or Medicare Part C managed care plans with a Part D component (MA-PD).

Explanation of the Provision

1. Providing for lower prices for certain high-priced single source drugs (sec. 139001 of the bill).

Present Law

The Part D noninterference provision bars the Secretary of Health and Human Services (HHS Secretary) from negotiating Part D drug prices, and from requiring a set formulary or pricing structure. Part D plan sponsors (insurers), working with pharmacy benefit managers (PBMs), negotiate prescription drug price discounts and rebates with manufacturers and dispensing pharmacies.[1397] Sponsors must offer enrollees their "negotiated price," as defined in regulations, for covered drugs. Under the HHS definition of negotiated prices, sponsors have latitude to decide whether to pass on rebates and certain other price concessions to enrollees at the pharmacy at the point of sale or reduce premiums for all plan enrollees. Point-of-sale plans are less popular that those plans that use rebates that reduce premiums for all plan enrollees. For example, in 2019 SilverScript's Medicare Part D Allure (Enhanced Alternative POS) plan set

[1397] 42 U.S.C. §1854(a)(6(B)(iii).

copays based on net prices, and as a result, had premiums of $80 per month. That same year, SilverScript also had a plan that did not base copays on net prices, SilverScript Choice (Basic) and the average premium for that plan was $31.50. There were 31,466 beneficiaries in the plan that set copays net price, whereas there were 4,441,668 in the plan that did not.

In the commercial market, which includes group health plans and health insurance offered in the group and individual markets, health plans, in conjunction with Pharmacy Benefit Managers (PBMs), negotiate discounts and rebates with manufacturers. Currently, there are no federal statutes or regulations related to the prices that health plans pay for prescription drugs.

Explanation of Provision

This provision adds a new Part E to Title XI of the Social Security Act which directs the Secretary of the Department of Health and Human Services (HHS) to establish a Fair Price Negotiation Program to reduce spending on and out-of-pocket costs for prescription drugs. The Secretary shall publish a list of selected drugs; enter into agreements with manufacturers of selected drugs; and negotiate and renegotiate maximum fair price (MFP) for each selected drug beginning in plan year 2025.

Each year, the Secretary will identify the 250 brand-name drugs that lack price competition for negotiation, and negotiate at least 25 drugs in 2025, and at least 50 drugs thereafter. A drug selected for negotiation would continue to be included in the program until competition enters the market.

Negotiation

The Secretary is required under the legislation to directly negotiate with drug manufacturers to establish a maximum fair price. The legislation also establishes an upper limit for the price reached in any negotiation as no more than 1.2 times (or 120 percent) of the volume-weighted average of the price of six countries (Australia, Canada, France, Germany, Japan, and the United Kingdom), known as the Average International Market (AIM) price.

2. Selected drug manufacturer excise tax imposed during noncompliance periods ((sec. 139002 of the bill and new sec. 4192 of the Code)

Present Law

Annual Fee on Branded Prescription Pharmaceutical Manufacturers and Importers

An annual fee is imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs for sale to any specified government program or pursuant to coverage under any such program.[1398]

The aggregate annual fee imposed on all covered entities is $2.8 billion for calendar year 2021.[1399] The aggregate fee is apportioned among the covered entities each year based on their relative market share of branded prescription drug sales taken into account during the previous calendar year.

A covered entity's annual fee equals an amount that bears the same ratio to the aggregate annual fee of $2.8 billion as the entity's branded prescription drug sales taken into account during the preceding calendar year bear to the aggregate branded prescription drug sales of all covered entities taken into account during the preceding calendar year. Sales taken into account during any calendar year with respect to a covered entity are: (1) zero percent of sales not more than $5 million; (2) 10 percent of sales over $5 million but not more than $125 million; (3) 40 percent of sales over $125 million but not more than $225 million; (4) 75 percent of sales over $225 million but not more than $400 million; and (5) 100 percent of sales over $400 million.

A covered entity is any manufacturer or importer with gross receipts from branded prescription drug sales. All persons treated as a single employer under section 52(a) or (b) or under section 414(m) or (o) are treated as a single covered entity. Thus, for example, corporations that are members of the same controlled group of corporations under section 52(a) are treated as a single covered entity. In applying the single employer rules under sections 52(a) and (b), foreign corporations are not excluded. If more than one person is liable for payment of the fee, all such persons are jointly and severally liable for payment of such fee.

Branded prescription drug sales are sales of branded prescription drugs made to any specified government program, or pursuant to coverage under any such program. The term branded prescription drugs includes any drug which is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act and for which an application was submitted under section 505(b) of such Act. Branded prescription drugs also include any biological product the license for which was submitted under section 351(a) of the Public Health Service Act ("PHSA"). Branded prescription drug sales do not include sales of any drug or biological product with respect to which an orphan drug tax credit was allowed for any taxable year under section 45C. The exclusion for orphan drug sales does not apply to any drug or biological product after such drug or biological product is approved by the Food and Drug Administration for marketing for any indication other than the rare disease or condition with respect to which the section 45C credit was allowed.

[1398] Sec. 9008 of the Patient Protection and Affordable Care Act ("PPACA"), Pub. L. No. 111-148, as amended by section 1404 of the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.; *see also* Treas. Reg. sec. 51.1 - 51.11.

[1399] The aggregate annual fee amount for each year is set by statute; for calendar year 2019 and thereafter the amount is $2.8 billion.

Specified government programs include: (1) the Medicare Part D program[1400]; (2) the Medicare Part B program[1401]; (3) the Medicaid program[1402]; (4) any program under which branded prescription drugs are procured by the Department of Veterans Affairs; (5) any program under which branded prescription drugs are procured by the Department of Defense; or (6) the TRICARE retail pharmacy program.[1403]

The fees are treated in the same manner as those excise taxes identified in subtitle F of the Code, "Procedure and Administration," for which the only avenue for judicial review is a civil action for refund. Thus, the fees may be assessed and collected using the procedures in subtitle F without regard to the restrictions on assessment in section 6213.

The fee is required to be paid no later than an annual payment date determined by the Secretary of the Treasury, but in no event later than September 30th of each calendar year.

Finally, the fee is considered to be a nondeductible tax for purposes of section 275 and therefore is not deductible against income taxes.

Manufacturers Excise Taxes

Chapter 32 of the Code imposes excise taxes on sales by manufacturers of certain articles. The use of an article subject to tax by a manufacturer, producer, or importer of such article is treated as a sale for the purpose of imposing certain excise taxes.[1404] Articles subject to the manufacturers excise tax include certain gas guzzler automobiles, tires, fuels, coal, vaccines, sporting goods, and firearms. In general, uniform rules related to imposition, payment, reporting, and claiming of credits or refunds apply to each of the excise taxes in Chapter 32.[1405]

In general, manufacturers excise taxes are imposed on the sale of the applicable taxable article by the manufacturer, producer, or importer. A manufacturer is a person who produces a taxable article from new, raw, or used material (including scrap, salvage, or junk) by processing, manipulating, or changing the form of an article, or by combining or assembling two or more articles.[1406] An importer of a taxable article is any person who brings such an article into the United States from a source outside the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States.

[1400] Part D of title XVIII of the Social Security Act.

[1401] Part B of title XVIII of the Social Security Act.

[1402] Title XIX of the Social Security Act.

[1403] 10 U.S.C. sec. 1074g.

[1404] Sec. 4218.

[1405] Secs. 4216-4227, 6416.

[1406] Treas. Reg. sec. 48.0-2(a)(4)(i).

The price for which an article is sold and on which the excise tax is imposed is determined under certain rules.[1407] These rules provide for: (1) the inclusion of containers, packaging, and certain transportation charges in the price, (2) the determination of a constructive sale price if an article is sold at retail, sold on consignment, or sold for less than the fair market price, and (3) the determination of the tax due in the case of partial payments or installment sales. The rules also provide that in determining the price of an article on which an excise tax is imposed, the amount of excise tax imposed by Chapter 32 is excluded whether or not stated as a separate charge. If the manufacturer computes the tax on a sale price that is determined without regard to the excise tax and the proper excise tax is charged as a separate item, the amount of tax so charged does not become a part of the taxable sale price, and no tax is due on the tax so charged.[1408] If the manufacturer does not state a separate charge as tax, it will be presumed that the price charged to the purchaser includes the proper excise tax, and the proper percentage of such price will be allocated to the tax.[1409]

Certain sales are exempt from the excise taxes imposed on manufacturers, including sales for use by the purchaser for further manufacture or for resale to a second purchaser for use in further manufacture, and for export or for resale to a second purchaser for export.[1410] If an article is sold free of tax for resale to a second purchaser for further manufacture or for export, the exemption will not apply unless, within the six-month period beginning on the date of sale by the manufacturer, the manufacturer receives proof that the article has been exported or resold for use in further manufacture.[1411] In general, the exemptions will not apply unless the manufacturer, the first purchaser, and the second purchaser (if any) are registered with the Secretary.[1412]

A credit or refund is generally allowed for overpayments of manufacturers excise taxes.[1413] Overpayments may occur when tax-paid articles are sold for export and for certain specified uses and resales, when there are price adjustments, and where tax paid articles are subject to further manufacture. Generally, no credit or refund of any overpayment of tax is allowed or made unless the person who paid the tax establishes one of four prerequisites: (1) the tax was not included in the price of the article or otherwise collected from the person who purchased the article; (2) the tax was repaid to the ultimate purchaser of the article; (3) for overpayments due to specified uses and resales, the tax has been repaid to the ultimate vendor or the person has obtained the written consent of such ultimate vendor; or (4) the person has filed

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[1407] Sec. 4216.

[1408] Treas. Reg. sec. 48.4216(a)-2(a)(1).

[1409] *Ibid.* *See* Treas. Reg. sec. 48.4216(a)-2(a)(2) for a formula to compute the taxable sale price.

[1410] See sec. 4221(a) for the complete list of exemptions. Some of these exemptions do not apply for purposes of certain manufacturers excise taxes.

[1411] Sec. 4221(b).

[1412] Sec. 4222.

[1413] Sec. 6416.

with the Secretary the written consent of the ultimate purchaser of the article to the allowance of the credit or making of the refund.[1414]

Taxable vaccines are among the articles currently subject to excise tax.[1415] However, prescription drugs currently are not subject to excise tax.

Explanation of Provision

The provision creates a new drug price negotiation program administered by the Secretary of Health and Human Services ("HHS"). Manufacturers, producers, and importers subject to the program who do not comply with certain requirements are subject to a new excise tax on drug sales during periods of noncompliance. The drug price negotiation program and selected drug excise tax are discussed in more detail below.

Drug Price Negotiation Program

Under the drug price negotiation program, beginning in 2023, HHS will choose selected drugs from a list of negotiation eligible drugs. HHS will publish the list by April 15 of a plan year (which for this purpose, means a plan year for self-funded plans and a policy year for insured coverage), effective with respect to an initial plan applicability year two years later.

By June 15 of the year in which a selected drug is published, manufacturers of the selected drug must enter into an agreement with HHS to negotiate a maximum fair price ("MFP") for the drug. The negotiation between HHS and the manufacturer takes place during a voluntary negotiation period beginning on the earlier of (1) the date on which HHS and the manufacturer enter into an agreement, or (2) June 15 of the year in which the selected drug is chosen. The voluntary negotiation period ends on March 31 of the following year. Upon the conclusion of the voluntary negotiation period, HHS and the manufacturer must agree to a MFP with respect to the selected drug for the initial plan applicability year. The manufacturer must charge the MFP to fair price eligible individuals and hospitals, physicians, and other providers of services and suppliers to such individuals. Fair price eligible individuals include individuals: (1) enrolled under the Medicare Part D program[1416] or a Medicare Advantage Prescription Drug plan under the Medicare Part C program[1417]; (2) enrolled under a group health plan or health insurance coverage offered in the group or individual market,[1418] if an agreement is in place with

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[1414] Sec. 6416(a).

[1415] Sec. 4131.

[1416] Part D of title XVIII of the Social Security Act.

[1417] Part C of title XVIII of the Social Security Act.

[1418] See sec. 2791 of the PHSA, 42 U.S.C. sec. 300gg-91.

respect to such plan or coverage;[1419] or (3) entitled to benefits under the Medicare Part A program[1420] or enrolled under the Medicare Part B program.[1421]

For years after the initial plan applicability year, the MFP is indexed to inflation by reference to the consumer price index. The MFP of a selected drug generally cannot exceed 120 percent of the average international market price ("AIM price"), an average price determined by reference to the price of the drug in Australia, Canada, France, Germany, Japan, and the United Kingdom for the year. For drugs without an AIM price, the MFP cannot exceed 85 percent of the average manufacturer price for the year.[1422] The manufacturer is subject to the MFP limitations with respect to a drug until the end of the last year during which the drug is a selected drug.

The provision also establishes rules for the renegotiation of MFPs, for information sharing between manufacturers and HHS, and for repayments to Treasury in a case where a selected drug for which an AIM price is not initially available becomes available in a subsequent year.

Selected Drug Excise Tax

The provision creates a new manufacturers excise tax under Chapter 32. The tax is imposed on all sales by a manufacturer, producer, or importer of a selected drug on a day during a noncompliance period. A day is during a noncompliance period if it occurs:

1. After the June 15 date on which the manufacturer must enter into negotiations with HHS if the manufacturer has not entered into negotiations by such date;

2. After the March 31 end of the voluntary negotiation period if the manufacturer has not agreed to an MFP by such date;

3. After the last date of a renegotiation period, if the HHS Secretary has specified a renegotiation period and the manufacturer has not agreed to a renegotiated MFP;

4. Beginning on the date on which HHS has certified that information required to be submitted by the manufacturer has not been submitted and is overdue; or

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[1419] Individuals enrolled in such plans or coverage are fair price eligible individuals only if an agreement is in place with respect to such plan or coverage. The provision modifies the group health plan requirements to account for this treatment. These modifications are codified at Part A of title XXVII of the PHSA, Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and subchapter B of chapter 100 of the Code.

[1420] Part A of title XVIII of the Social Security Act.

[1421] Part B of title XVIII of the Social Security Act.

[1422] See 42 U.S.C 1396-48(k)(1)(A).

5. Beginning on the date which HHS has certified that a repayment is due to Treasury, relating to a case where a drug for which an AIM price is not initially available has become available in a subsequent year, is overdue.

The amount of the tax is such that the applicable percentage is equal to the ratio of such tax divided by the sum of such tax and the price for which the selected drug is sold. Or, in other words:

$$applicable\ percentage = \frac{tax}{tax+price}$$

Thus, the base on which the tax is imposed is tax inclusive. The applicable percentage is initially 65 percent. It is increased by 10 percentage points after each 90 days in a noncompliance period. The applicable percentage is capped at 95 percent. For purposes of determining the increase in the applicable percentage, days in the noncompliance period are cumulative whether or not the days are consecutive.

The Secretary of the Treasury has authority under an anti-abuse rule to treat sales as occurring during a day in a noncompliance period if the manufacturer times such sales specifically for purposes of avoiding the excise tax. Finally, under section 275, manufacturers are prohibited from deducting the excise tax payments against their income taxes.

The following example illustrates the application of the excise tax: Manufacturer A produces drug A, which HHS selects and publishes as a selected drug on April 15 of a plan year, effective with respect to an initial plan applicability year two years later. Manufacturer A fails to enter into negotiations with HHS with respect to drug A by June 15 of the year in which the drug is chosen. Its sales on June 16 are sales during a noncompliance period, and are subject to the excise tax.

Assume that, prior to imposition of the excise tax, Manufacturer A charged $100 for drug A. If, after imposition of the excise tax, Manufacturer A charges $100 and does not separately state a tax, the price is deemed to be $35, and Manufacturer A owes $65 in tax.[1423] Alternatively, Manufacturer A could separately state a price of $100 and a tax of $186, in which case it would owe $186 in tax.[1424]

Assume Manufacturer A enters into negotiations with HHS on June 21. For purposes of determining the applicable percentage, Manufacturer A has had five days in a noncompliance period. If, on the following March 31, Manufacturer A has not agreed to an MFP, for purposes of determining the applicable percentage, April 1 would be the sixth day in a noncompliance period.

[1423] In other words, $65/($65+$35) equals 65 percent. Because Manufacturer A did not state a separate charge as tax, it is presumed that the price charged includes the excise tax. Treas. Reg. sec. 48.4216(a)-2(a)(1).

[1424] In other words, $186/($186+$100) equals 65 percent.

Effective Date

The excise tax is effective for sales after the date of enactment of the provision.

***3.* Fair Price Negotiation Implementation Fund (sec. 139003 of the bill)**

Present Law

No provision.

Explanation of Provision

This provision invests $3,000,000,000 into implementation of prescription drug negotiation.

B. SUBTITLE J, PART 2 – PRESCRIPTION DRUG INFLATION REBATES

Present Law

The Medicare program pays for certain covered outpatient drugs and biologics under Medicare Part B, which covers physician, outpatient, and some home health and preventive services, rather than under the Medicare Part D retail prescription drug benefit. Part B-covered drugs include: (1) those administered "incident to physician services" where providers purchase "separately payable" drugs and bill Medicare after administering the products to patients; and (2) those that are not separately payable, but are covered under Part B as part of a procedure or treatment, such as end-stage renal disease dialysis, certain vaccines, and new drugs included in the outpatient hospital new technology transitional pass-through payments.

Plan sponsors submit annual bids to CMS to offer Part D benefits in set regions of the country. Part D sponsors, and the pharmacy benefit managers (PBMs) they own or contract with, seek to control costs, in part, by negotiating price concessions with manufacturers. Part D manufacturer price concessions primarily take the form of rebates (price reductions after the point of sale) from a list price for a brand-name drug. Drug manufacturers are not required to participate in Part D and are not required to provide rebates. However, manufacturers that choose to participate in Part D must provide a 70 percent manufacturer discount on brand-name drugs, biologics, and biosimilars purchased by Part D enrollees in the coverage gap.

Explanation of the Provision

1. Medicare Part B Rebate by Manufacturers (sec. 139101 of the bill).

Present Law

With some exceptions, Part B payment for separately payable drugs or biologics is based on a product's average sales price (ASP) plus a 6 percent add-on payment. The ASP is a market price that excludes manufacturer price concessions, government sales, and other adjustments. Each drug's ASP is based on a manufacturer's quarterly sales of a drug to most U.S. purchasers,

divided by the total units of the drug sold to those purchasers in the quarter. To encourage the development of lower-priced biosimilar substitutes for biological products, the Part B payment rate for biosimilars is the ASP of the biosimilar plus an add-on payment equal to 6 percent of the ASP of the more expensive, reference biological. For most Part B services, Medicare beneficiaries are responsible for coinsurance of 20 percent of the cost of the item or service. For Part B drugs, the 20 percent coinsurance is based on a drug's ASP plus the 6 percent add-on payment.

The HHS Secretary sets Part B drug payments by aggregating ASP data for individual drugs into Medicare billing codes. A billing code payment amount is the volume-weighted average of the ASPs for all drugs grouped into the code. Generally, there is one drug in a billing code for biological, biosimilar and single source brand name products. In the case of multiple source drugs, brand-name and generic products can be grouped within a billing code.

Drug manufacturers are not required to pay rebates to Medicare as a condition for having their drugs covered under Part B.

Explanation of Provision

This provision establishes a mandatory rebate for drug manufacturers for certain Medicare Part B drugs with prices increasing faster than inflation beginning on July 1, 2023. Under this provision, the Secretary of HHS shall calculate a rebate amount based on the total number of units with respect to a Part B rebatable drug, including for the Medicare program and the commercial market, and determine the inflation-adjusted payment amount based on the percentage by which the price exceeded the inflation benchmark. Should a manufacturer not pay the mandated rebate, the manufacturer shall be subject to a civil monetary penalty equal to or at least 125 percent of the rebate amount for such calendar quarter.

2. Medicare part D rebate by manufacturers (sec. 139102 of the bill).

Present Law

More generally, pharmaceutical manufacturers are required to report certain price information to HHS for purposes of federal health care program administration. One such reporting requirement is data used to compile a price measure for the Medicaid program, known as the Average Manufacturer Price (AMP). The AMP, defined at Section 1927(k)(1) of the Social Security Act, is the average price a manufacturer receives in the United States for sales to wholesalers that supply retail community pharmacies and for sales directly to retail community pharmacies. The AMP does not include manufacturer rebates or discounts to PBMs and health plans, certain manufacturer prompt pay discounts, sales to other government programs, and consumer coupons. Certain other types of sales are exempt for purposes of calculating the AMP.

Explanation of Provision

This provision establishes a mandatory rebate for drug manufacturers for certain Medicare Part D drugs with prices increasing faster than inflation beginning in 2023. Under this provision, the Secretary shall calculate a rebate amount based on the total number of units with respect to a Part D rebatable drug, including for the Medicare program and the commercial market, and

determine the inflation-adjusted payment amount based on the percentage by which the price exceeded the inflation benchmark. Should a manufacturer not pay the mandated rebate, the manufacturer shall be subject to a civil monetary penalty equal to or at least 125 percent of the rebate amount for such calendar quarter.

C. SUBTITLE J, PART 3 – PART D IMPROVEMENTS AND MAXIMUM OUT-OF-POCKET CAP FOR MEDICARE BENEFICIARIES

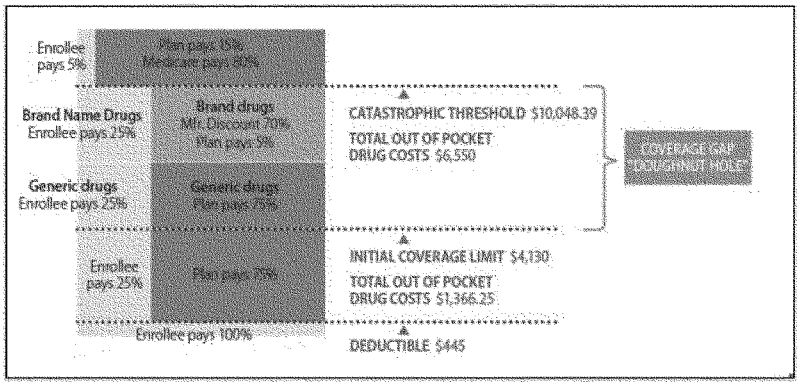
Present Law

Medicare Part D provides a voluntary, outpatient prescription drug benefit for Medicare beneficiaries and is the primary source of drug coverage for dually eligible individuals covered by both the Medicare and Medicaid programs. Part D coverage is provided by private insurers, or plan sponsors, that submit annual bids for either drug-only plans or Part C Medicare Advantage plans that include a Part D benefit. Congress designed Part D as a market-oriented program in which sponsors compete for enrollees based on plan premiums and scope of benefits, including cost-sharing requirements. Private drug plans participating in Part D bear some financial risk, although federal subsidies cover most program costs in an effort to encourage participation and keep benefits affordable. Part D plans are offered on a calendar year basis and enrollees may change plans during an annual enrollment period.

At a minimum, Part D sponsors must offer plans with "standard" benefits as defined in law. Plan sponsors may also offer alternative or enhanced coverage that is at least actuarially equivalent to a standard plan. Medicare provides subsidies to plan sponsors for each enrollee in a Part D plan that, on average, equal 74.5 percent of the value of standard coverage. Part D subsidies include direct subsidies, under which Medicare pays drug plans a risk-adjusted per enrollee payment and reinsurance under which Medicare subsidizes 80 percent of a plan's drug spending above a catastrophic threshold. Medicare covers a greater portion of costs for low-income individuals through the low-income subsidy (LIS), which varies by specified income and assets thresholds.

In 2021 under the Part D standard benefit, an enrollee first pays a deductible ($445). After the deductible has been met, the enrollee is responsible for 25 percent of the cost of prescription drugs (with the plan covering the remaining 75 percent) up to the initial coverage limit ($4,130). (See **Figure 1**.)

Figure 1. 2021 Medicare Part D Standard Benefit



Source: Figure based on data from CMS, "Announcement of Calendar Year (CY) 2021 Medicare Advantage Capitation Rates and Medicare Advantage and Part D Payment Policies and Final Call Letter," Attachments IV and V, https://www.cms.gov/files/document/2021-announcement.pdf.

Notes: Beneficiaries with out-of-pocket drug spending above the catastrophic threshold pay the greater of a $3.70 co-payment for generic drugs and a $9.20 co-payment for brand-name drugs or 5 percent cost sharing in 2021. LIS beneficiaries pay less out of pocket than other beneficiaries. For example, full-benefit dual eligibles pay no deductible, have minimal cost sharing in the coverage gap, and no cost sharing above the catastrophic threshold. Mfr. Discount means manufacturer discount.

After the initial coverage threshold has been reached, a beneficiary enters the coverage gap or "doughnut hole." Manufacturers that choose to sell their drugs through the Part D program are required to participate in the coverage gap discount program, which provides a 70 percent discount for brand-name, biologic, and biosimilar drugs purchased by non-LIS enrollees in the doughnut hole. Enrollees count the coverage gap discount as part of their own out-of-pocket spending. Enrollees exit the doughnut hole if they reach the catastrophic threshold, which is set at $6,550 in total out-of-pocket spending in 2021 (for those not receiving the LIS). Enrollees above the catastrophic threshold have a maximum 5 percent coinsurance.

The dollar level of beneficiary cost sharing for Part D drugs dispensed by network pharmacies in a standard plan is based on each Part D plan sponsor's negotiated price for a drug (for example, 25 percent coinsurance on a drug with a $100 negotiated price).[1425]

Explanation of the Bill

1. Medicare part D benefit redesign (sec. 139201 of the bill).

Present Law

There is no annual cap on Part D enrollee prescription out-of-pocket spending, with the exception of LIS beneficiaries with the lowest income and assets who have no cost-sharing once they reach the catastrophic threshold. Part D coverage parameters based on dollar amounts are

[1425] As defined at 42 C.F.R. §423.100.

generally updated each plan year based on changes in average per-capita spending for covered Part D drugs during the 12-month period ending in July of the previous year. In addition, Part D enrollees pay monthly premiums, which are based on a rate equal to 25.5 percent of the annual nationwide average of plan bids for standard benefits; however, actual premiums vary widely by the plan selected.

Explanation of Provision

This provision caps the costs for prescription drugs by setting the annual out-of-pocket limit at $2,000 beginning in 2024. The section reduces from 80 percent to 20 percent the government reinsurance in the catastrophic phase of Part D coverage, converting the current coverage gap discount program into a benefit-wide responsibility, requiring manufacturers of single source drugs to contribute to payments in both the initial (10 percent) and catastrophic phases (30 percent) of the benefit.

2. Allowing certain enrollees of prescription drug plans and MA–PD plans under Medicare program to spread out cost-sharing under certain circumstances (sec. 139202 of the bill).

Present Law

Under both current law and H.R. 3, Part D sponsors may offer the standard benefit with 25 percent cost sharing, or alterative and enhanced plans that can include tiered cost-sharing: a system in which enrollees have lower cost sharing for inexpensive generic drugs and higher cost sharing for non-preferred or more expensive drugs (such as 33 percent coinsurance for "specialty" drugs). The overall benefit under alternative and enhanced plans must be at least as generous as the standard benefit. According to the Medicare Payment Advisory Commission (MedPAC), in 2021, nearly all Part D enrollees are in plans with tiered pricing systems that set higher cost-sharing for specialty and non-preferred drugs. MedPAC data also show a growing share of non-LIS enrollees are incurring out-of-pocket costs sufficient to reach the catastrophic threshold, due mainly to rising prices. (LIS enrollees under current law and H.R. 3 have low set cost-sharing.) High-cost enrollees can face thousands of dollars in out-of-pocket spending to fill a single prescription, depending on the drug being used.

Explanation of Provision

The provision allows eligible beneficiaries who meet the out-of-pocket cap in a single prescription fill to pay for such costs in installments throughout the year, known as "smoothing."

D. SUBTITLE J, PART 4 – REPEAL OF CERTAIN PRESCRIPTION DRUG REBATE RULE

Present Law

The federal anti-kickback statute makes it a felony for a person to knowingly and willfully offer, pay, solicit, or receive anything of value (i.e., "remuneration") in return for a referral or to induce generation of business reimbursable under a federal health care program. There are certain statutory exceptions to the anti-kickback statute. In addition, the HHS Office of Inspector General (OIG) has promulgated regulations that contain several "safe harbors" to

prevent common business arrangements from being considered kickbacks, including safe harbors for arrangements that include discounts or other price concessions that meet specified criteria.

Explanation of the Bill

1. Prohibiting implementation of rule relating to eliminating the anti-kickback statute safe harbor protection for prescription drug rebates (sec. 139301 of the bill).

Present Law

In November 2020, the HHS OIG published a final rule that would, among other things, alter an anti-kickback regulatory safe harbor to restrict the use of manufacturer rebates to Part D plans. The rule would also create two new safe harbor protections, one for negotiated point-of-sale price reductions passed on at the pharmacy, and one for certain PBM fees paid by manufacturers. HHS OIG said the rule was intended, among other things, to increase price transparency. Implementation of the rule would be delayed until 2026 as part of H.R. 3684, the Infrastructure Investment and Jobs Act.

Explanation of Provision

This provision also prohibits the implementation after January 1, 2026, of the final rule entitled "Fraud and Abuse; Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Services Fees" that was published by the Office of the Inspector General of HHS on November 30, 2020.

Effective Date

Part 1 is effective for each selected drug beginning in plan year 2025; Section 139101, Part 2, is effective for certain Medicare Part B drugs with prices increasing faster than inflation beginning on July 1, 2023; and Section 139102, Part 2, is effective for certain Medicare Part D drugs with prices increasing faster than inflation beginning in 2023; Section 139201, Part 3, is effective beginning in 2024; and Part 4 is effective after January 1, 2026.

VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of Subtitles F, G, H, J, and I, on September 14 and 15, 2021.

VOTES OF THE COMMITTEE

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the carveout from the college endowment anti-abuse tax was offered by Mr. Reed. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD			
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the green energy tax subsidies was offered by Mr. Estes. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD			
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would eliminate the direct pay option for green subsidies for any big business with income over $5 million was offered by Mr. Rice. The amendment was defeated by a vote of 16 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD			
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON			
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	16		

An amendment to the amendment in the nature of a substitute to the Committee Print which would reduce the maximum income threshold for EV tax credits from $800,000 to $150,000 ($75,000 for single filers) was offered by Dr. Ferguson. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD			
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would eliminate eligibility for commercial EV tax credits for any big business with income over $5 million was offered by Mr. Smith of Missouri. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD			
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would require regulations to ensure that individuals earning less than $400,000 will not be impacted by the tobacco tax under the section was offered by Dr. Ferguson. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD							
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would suspend the Superfund excise taxes when gas prices exceed $3.00 and when inflation exceeds 2.5%. was offered by Ms. Miller. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would delay the effective date of Subtitles F-J until the inflation rate has been at or below 2.5% for 12 consecutive months was offered by Ms. Hern. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would delay the effective date of Subtitle I until the U.S. unemployment rate is lower than the pre-pandemic unemployment rate (in December 2019) for six consecutive months was offered by Mr. Smucker. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike funding for the Internal Revenue Service and replace it with H.R. 5206, the Tax Gap Reform and IRS Enforcement Act, as well as authorize appropriations to fund implementation of the Taxpayer First Act was offered by Mr. Kelly. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the Superfund excise taxes was offered by Mr. Arrington. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER				MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would make permanent the SALT deduction cap for millionaires and extend the increased standard deduction under the Tax Cuts and Jobs Act was offered by Mr. Rice. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT				MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would make permanent the SALT deduction cap for millionaires and increase funding for cancer research was offered by Mr. Smith of Nebraska. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT				MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which expresses the sense of Congress that no tax provisions be added to the text after being reported out of the Committee on Ways and Means was offered by Mr. Arrington. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would limit the money spent on energy credits to individuals making less than $400,000 and corporations with less than $5 million in profits and instead provide certainty for providers and patients by codifying necessary bipartisan telehealth policies was offered by Mr. Schweikert. The amendment was defeated by a vote of 16 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER			
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	16		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the new reinsurance program created in the amendment in the nature of a substitute and instead invest this money in cures and research at the National Institutes of Health (NIH) for diabetes, minority health and health disparities, maternal mortality and postpartum care, cancer, and Alzheimer's and other neurodegenerative diseases was offered by Mr. Estes. The amendment was defeated by a vote of 16 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER			
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	16		

An amendment to the amendment in the nature of a substitute to the Committee Print which would exempt any drug used to treat or cure rare disease from price setting was offered by Mr. Hern. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would prohibit the implementation of Subtitle J until the Secretary of Health and Human Services certifies to Congress that implementation would cause no reduction in access to medications that the Secretary has determined would mitigate racial health disparities was offered by Dr. Wenstrup. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would prohibit the implementation of the drug pricing title until the Secretary of Health and Human Services certifies to Congress that none of the countries used to establish the International Market Price put a dollar value on a year of life was offered by Mr. Schweikert. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the drug pricing provisions in Subtitle J from the bill was offered by Mr. Brady. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the new universal entitlement and expansions created under the amendment in the nature of a substitute and replace them with more tailored policies to lower health care costs and improve coverage options for Americans was offered by Mr. Brady. The amendment was defeated by a vote of 17 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND				MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE			
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would require that the corporate income tax rate be no higher than 21 percent was offered by Mr. Brady. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would delay GILTI changes until China enacts a global minimum tax and would prohibit the GIL TI rate from increased to a rate than that in China was offered by Mr. Nunes. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would require that no provision of H.R. 3 shall result in a shift in investment of pharmaceutical biotechnology or drug manufacturing jobs from the U.S. to other foreign countries, including China was offered by Mr. LaHood. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the FDII changes was offered by Mr. Hern. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would repeal changes to GILTI was offered by Mr. Schweikert. The amendment was defeated by a vote of 18 yeas and 24 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE				MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		24		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would remove the 501(c)(3) status for five years for any entity found by the Secretary of the Treasury to have used Federal funds to conduct or support any gain-of-function research involving a potential pandemic pathogen by China, Russia, Iran, or North Korea was offered by Dr. Wenstrup. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would require the Secretary of the Treasury to certify that tax increases in Subtitle I will not reduce employment or investment in the United States was offered by Mr. Kelly. The amendment was defeated by a vote of 17 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN			
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	17		

An amendment to the amendment in the nature of a substitute to the Committee Print which would require the Secretary of Treasury to certify that changes to the treatment of foreign oil and gas extraction income will not reduce U.S. energy independence or increase oil and gas production in Russia, China, Venezuela, or Iran was offered by Mr. Arrington. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the Sec. 199 A limitation and add H.R. 1381, the Main Street Tax Certainty Act, to Subtitle I was offered by Mr. Smith of Missouri. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the Sec. 199A limitation, strike the NIIT expansion, and repeal the extension of the pass-through loss limitation beyond 2025 was offered by Mr. Buchanan. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike estate and gift tax provisions was offered by Mr. Smith of Nebraska. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would reinstate work requirements for the child tax credit and ensure that the child tax credit is included in means-testing for federal benefit programs was offered by Ms. Walorski. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would strike the above-the-line deduction for union dues was offered by Mr. Smucker. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would protect taxpayer dollars from waste, fraud and abuse by inserting good governance reforms to the Child Tax Credit and the Advanced Premium Tax Credit policies included in the amendment in the nature of a substitute was offered by Mr. Rice. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment to the amendment in the nature of a substitute to the Committee Print which would require the Secretary of the Treasury to certify that changes to the 199 A small business deduction will not force closure of small businesses eligible for the SBA Small Disadvantaged Business Program was offered by Dr. Ferguson. The amendment was defeated by a vote of 18 yeas and 25 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT		X		MR. BRADY	X		
MR. THOMPSON		X		MR. NUNES	X		
MR. LARSON		X		MR. BUCHANAN	X		
MR. BLUMENAUER		X		MR. SMITH (NE)	X		
MR. KIND		X		MR. REED	X		
MR. PASCRELL		X		MR. KELLY	X		
MR. DAVIS		X		MR. SMITH (MO)	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD	X		
MS. CHU		X		DR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		DR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X		MR. SMUCKER	X		
MR. EVANS		X		MR. HERN	X		
MR. SCHNEIDER		X		MS. MILLER	X		
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					
MS. PLASKETT		X					
CHAIRMAN NEAL		X					
TOTALS		25		**TOTALS**	18		

An amendment in the nature of a substitute to the Committee Print was agreed to by voice vote (with a quorum being present).

The Committee Print was ordered favorably transmitted to the House Committee on the Budget as amended by an amendment in the nature of a substitute offered by Chairman Neal by a vote of 24 yeas and 19 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
MR. DOGGETT	X			MR. BRADY		X	
MR. THOMPSON	X			MR. NUNES		X	
MR. LARSON	X			MR. BUCHANAN		X	
MR. BLUMENAUER	X			MR. SMITH (NE)		X	
MR. KIND	X			MR. REED		X	
MR. PASCRELL	X			MR. KELLY		X	
MR. DAVIS	X			MR. SMITH (MO)		X	
MS. SANCHEZ	X			MR. RICE		X	
MR. HIGGINS	X			MR. SCHWEIKERT		X	
MS. SEWELL	X			MS. WALORSKI		X	
MS. DELBENE	X			MR. LAHOOD (IL)		X	
MS. CHU	X			DR. WENSTRUP		X	
MS. MOORE	X			MR. ARRINGTON		X	
MR. KILDEE	X			DR. FERGUSON		X	
MR. BOYLE	X			MR. ESTES		X	
MR. BEYER	X			MR. SMUCKER		X	
MR. EVANS	X			MR. HERN		X	
MR. SCHNEIDER	X			MS. MILLER		X	
MR. SUOZZI	X						
MR. PANETTA	X						
MS. MURPHY		X					
MR. GOMEZ	X						
MR. HORSFORD	X						
MS. PLASKETT	X						
CHAIRMAN NEAL	X						
TOTALS	24			**TOTALS**		19	

BUDGET EFFECTS OF THE SUBTITLE

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives the Committee has requested but not received from the Director of the Congressional Budget Office a cost estimate for the Committee's provision(s).

The bill is partially estimated to increase Federal fiscal year budget receipts by $859 billion for the period 2022 through 2031.

[Insert Revenue Table]

B. NEW BUDGET AUTHORITY AND COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a statement as to whether these provisions contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of Rule XIII and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee advises that general performance goal or objective for which the committee print authorizes funding is to administer green energy incentives, the expanded child tax credit, and to provide the Internal Revenue Service with adequate funds to strengthen tax enforcement activities.

C. INFORMATION RELATING TO UNFUNDED MANDATES

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. No. 104-4), the Committee adopts as its own the federal mandates estimate

ESTIMATED BUDGETARY EFFECTS OF THE REVENUE PROVISIONS OF SUBTITLES F, G, H, I, AND J OF THE BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO INFRASTRUCTURE FINANCING AND COMMUNITY DEVELOPMENT, GREEN ENERGY, SOCIAL SAFETY NET, RESPONSIBLY FUNDING OUR PRIORITIES, AND DRUG PRICING, AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2022 - 2031

[Millions of Dollars]

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
SUBTITLE F - INFRASTRUCTURE FINANCING AND COMMUNITY DEVELOPMENT													
Part 1 - Infrastructure Financing													
A. Bond Financing													
1. Credit to issuer for certain infrastructure bonds [1]	bia 12/31/21	-196	-899	-1,799	-2,472	-2,795	-2,795	-2,736	-2,793	-2,948	-3,105	-8,161	-22,539
2. Advance refunding bonds	ar bimt 30da DOE	-267	-757	-1,140	-1,393	-1,608	-1,761	-1,878	-1,973	-2,042	-2,101	-5,164	-14,919
3. Permanent modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions	oia DOE	-18	-69	-147	-231	-321	-419	-522	-631	-745	-862	-786	-3,965
4. Modifications to qualified small issue bonds	oia DOE	-1	-2	-5	-8	-12	-16	-21	-26	-32	-38	-27	-161
5. Expansion of certain exceptions to the private activity bond rules for first-time farmers	bia DOE	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-2
6. Certain water and sewage facility bonds exempt from volume cap on private activity bonds	oia DOE	[2]	-1	-3	-5	-6	-8	-10	-13	-15	-18	-16	-79
7. Exempt facility bonds for zero-emission vehicle infrastructure	oia 12/31/21	[2]	-1	-3	-5	-7	-10	-14	-19	-25	-32	-15	-116
8. Application of Davis-Bacon Act requirements with respect to certain exempt facility bonds	bia DOE	*No Revenue Effect*											
B. Other Provisions Related to Infrastructure Financing													
1. Credit for operations and maintenance costs of government-owned broadband [1]	tyba 12/31/20	-73	-38	-35	-32	-29	-24	-20	-5	---	---	-207	-256
Total of Part 1 - Infrastructure Financing		**-555**	**-1,767**	**-3,132**	**-4,146**	**-4,778**	**-5,033**	**-5,201**	**-5,460**	**-5,807**	**-6,156**	**-14,376**	**-42,037**
Part 2 - New Markets Tax Credit Made Permanent	**[3]**	**---**	**-4**	**-19**	**-60**	**-106**	**-144**	**-212**	**-370**	**-587**	**-814**	**-189**	**-2,316**
Part 3 - Rehabilitation Tax Credit													
1. Temporary increases in credit percentage	ppisa 3/31/21	-376	-563	-858	-1,179	-1,375	-1,340	-1,146	-869	-557	-283	-4,351	-8,544
2. Increase in the rehabilitation credit for certain small projects	tyba 12/31/21	---	---	---	---	-19	-76	-167	-281	-402	-511	-19	-1,457
3. Modification of definition of substantially rehabilitated	[4]	-28	-87	-206	-400	-662	-951	-1,229	-1,472	-1,655	-1,781	-1,383	-8,470
4. Elimination of rehabilitation credit basis adjustment	ppisa 3/31/21	---	-81	-257	-458	-667	-863	-961	-959	-937	-914	-1,463	-6,097

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
5. Modifications regarding certain tax-exempt use property.....	leia 12/31/21	-14	-31	-40	-48	-53	-56	-57	-59	-60	-62	-186	-481
6. Qualification of rehabilitation expenditures for public school buildings for rehabilitation credit.....	ppisa 3/31/21	-38	-86	-110	-139	-161	-169	-174	-178	-183	-189	-535	-1,427
Total of Part 3 - Rehabilitation Tax Credit		**-456**	**-848**	**-1,471**	**-2,224**	**-2,937**	**-3,454**	**-3,734**	**-3,818**	**-3,794**	**-3,740**	**-7,937**	**-26,476**
Part 4 - Disaster and Resiliency													
1. Exclusion of amounts received from State-based catastrophe loss mitigation programs.....	tyba 12/31/20	-4	-10	-10	-11	-12	-13	-14	-15	-16	-17	-48	-122
2. Repeal of temporary limitation on personal casualty losses.....	iii tyba 12/31/17	-467	-645	-320	-318	-261	---	---	---	---	---	-2,011	-2,011
3. Credit for qualified wildfire mitigation expenditures.....	epoia DOE ityeasd	-12	-28	-31	-36	-42	-44	-46	-48	-49	-50	-149	-387
Total of Part 4 - Disaster and Resiliency		**-483**	**-683**	**-361**	**-365**	**-315**	**-57**	**-60**	**-63**	**-65**	**-67**	**-2,208**	**-2,520**
Part 5 - Housing													
A. Low-Income Housing Tax Credit													
1. Increases in State allocations.....	cyba 12/31/21	6	4	-57	-248	-593	-1,058	-1,585	-2,222	-2,577	-2,717	-889	-11,048
2. Tax-exempt bond financing requirement (sunset 12/31/28)..	bpisi tyba 12/31/21	-91	-242	-472	-719	-953	-1,176	-1,393	-1,393	-1,510	-1,549	-2,478	-9,498
3. Buildings designed to serve extremely low-income households.....	[5]	-8	-37	-92	-158	-225	-292	-358	-412	-474	-548	-519	-2,603
4. Inclusion of rural areas as difficult development areas.....	bpisa 12/31/21	-7	-37	-92	-165	-232	-300	-366	-420	-483	-554	-532	-2,654
5. Repeal of qualified contract option.....	DOE	2	8	17	28	39	49	59	73	85	105	95	466
6. Modification and clarification of rights relating to building purchase.....	[6]	2	11	27	45	63	80	96	118	139	171	147	751
7. Increase in credit for bond-financed projects designated by housing credit agency.....	[7]	-31	-98	-210	-355	-477	-591	-702	-685	-745	-766	-1,171	-4,660
B. Neighborhood Homes Investment Act													
1. Neighborhood homes credit.....	tyba 12/31/21	-200	-605	-1,422	-1,861	-2,114	-2,175	-2,239	-2,305	-2,373	-2,443	-6,202	-17,736
Total of Part 5 - Housing.....		**-326**	**-997**	**-2,300**	**-3,433**	**-4,494**	**-5,462**	**-6,488**	**-7,244**	**-7,938**	**-8,301**	**-11,549**	**-46,983**
Part 6 - Investments in Tribal Infrastructure													
1. Treatment of Indian Tribes as States with respect to bond issuance.....	bia 12/31/21	[2]	-1	-3	-4	-6	-8	-10	-12	-15	-17	-14	-77
2. New markets tax credit for Tribal Statistical Areas.....	cya 12/31/21	---	[2]	-2	-6	-13	-22	-31	-41	-51	-59	-22	-226
3. Inclusion of Indian areas as difficult development areas for purposes of certain buildings.....	bpisa 12/31/21	[2]	-2	-4	-7	-10	-13	-16	-18	-21	-24	-23	-114
Total of Part 6 - Investments in Tribal Infrastructure.....		**[2]**	**-3**	**-9**	**-17**	**-29**	**-43**	**-57**	**-71**	**-87**	**-100**	**-59**	**-417**
Part 7 - Investments in the Territories													
1. Possessions Economic Activity Credit.....	[8]	-406	-853	-938	-1,017	-1,091	-1,169	-1,229	-1,270	-1,312	-1,356	-4,305	-10,641

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
2. Additional new markets tax credit allocations for the territories	cya 12/31/21	---	[2]	-1	-4	-8	-12	-18	-24	-29	-34	-12	-129
Total of Part 7 - Investments in the Territories		**-406**	**-853**	**-939**	**-1,021**	**-1,099**	**-1,181**	**-1,247**	**-1,294**	**-1,341**	**-1,390**	**-4,317**	**-10,770**
TOTAL OF SUBTITLE F - INFRASTRUCTURE FINANCING AND COMMUNITY DEVELOPMENT		**-2,226**	**-5,154**	**-8,231**	**-11,266**	**-13,758**	**-15,375**	**-16,999**	**-18,320**	**-19,619**	**-20,567**	**-40,635**	**-131,519**
SUBTITLE G - GREEN ENERGY													
THE "GROWING RENEWABLE ENERGY AND EFFICIENCY NOW (GREEN') ACT OF 2021"													
Part 1 - Renewable Electricity and Reducing Carbon Emissions													
1. Extension and modification of credit for electricity produced from certain renewable resources (sunset 12/31/33) [1]	fpisa 12/31/21	-181	-584	-1,038	-1,717	-2,865	-4,184	-5,651	-7,269	-8,811	-10,549	-6,387	-42,851
2. Extension and modification of energy credit (sunset 12/31/33) [1]	generally ppisa 12/31/21	-1,349	-2,392	-2,686	-3,721	-6,667	-8,332	-8,851	-9,404	-9,956	-10,547	-16,816	-63,907
3. Increase in energy credit for solar facilities placed in service in connection with low-income communities (sunset 12/31/31)	pa 12/31/21	*Estimate Included in Items G.2. Above*											
4. Elective payment for energy property and electricity produced from certain renewable resources, etc.	ppisa 12/31/21	*Estimate Included in Items G.1. through G.3. Above*											
5. Investment credit for electric transmission property (sunset 12/31/31) [1]	ppisa 12/31/21	---	---	---	-683	-1,050	-1,050	-1,050	-1,733	-2,100	-2,100	-1,733	-9,765
6. Zero emissions facility credit (sunset 12/31/31)	pa 12/31/21	*Negligible Revenue Effect*											
7. Extension and modification of credit for carbon oxide sequestration (sunset 12/31/31)	generally tyba 12/31/21	-12	-23	-29	-26	-9	-38	-75	-146	-216	-331	-100	-908
8. Green energy publicly traded partnerships	tyba 12/31/21	-148	-126	-137	-144	-99	-50	-56	-64	-72	-80	-654	-975
9. Zero-emission nuclear power production credit (sunset 12/31/26) [1]	epasa 12/31/21 itybasd	-4,383	-2,909	-3,253	-3,524	-1,650	-209	---	---	---	---	-15,719	-15,929
Total of Part 1 - Renewable Electricity and Reducing Carbon Emissions		**-6,073**	**-6,034**	**-7,143**	**-9,815**	**-12,340**	**-13,863**	**-15,683**	**-18,616**	**-21,155**	**-23,607**	**-41,409**	**-134,335**
Part 2 - Renewable Fuels													
1. Extension of excise tax credits relating to alternative fuels, and extension of biodiesel and renewable diesel credit (sunset 12/31/31)	fsoua 12/31/21	-149	-2,688	-3,721	-3,802	-3,816	-3,803	-3,700	-3,708	-3,725	-3,743	-14,177	-32,858
2. Extension of second generation biofuel incentives (sunset 12/31/31)	qsgbpa 12/31/21	-10	-19	-20	-22	-24	-25	-27	-29	-30	-32	-95	-238
3. Sustainable aviation fuel credit (sunset 12/31/31)	fsoua 12/31/22	---	-6	-13	-19	-24	-31	-66	-104	-145	-210	-62	-618
4. Credit for production of clean hydrogen [1]	[9]	-60	-172	-313	-496	-707	-966	-1,271	-1,598	-1,756	-1,779	-1,748	-9,118
Total of Part 2 - Renewable Fuels		**-219**	**-2,885**	**-4,067**	**-4,339**	**-4,571**	**-4,825**	**-5,064**	**-5,439**	**-5,656**	**-5,764**	**-16,082**	**-42,832**
Part 3 - Green Energy and Efficiency Incentives for Individuals													
1. Extension, increase, and modifications of nonbusiness energy property credit (sunset 12/31/31)	generally ppisa 12/31/21 & apoia 12/31/21	-255	-1,696	-1,657	-1,628	-1,654	-1,631	-1,570	-1,599	-1,615	-1,632	-6,890	-14,938

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
2. Extension and modification of residential energy efficient property credit (sunset 12/31/33)	ema 12/31/21	-50	-387	-972	-2,562	-2,635	-2,712	-2,792	-2,872	-2,941	-3,029	-6,605	-20,951
3. Energy efficient commercial buildings deduction (sunset 12/31/31)	tyba 12/31/21 & ppisa 12/31/21 ityeasd	-18	-72	-70	-68	-67	-66	-65	-66	-67	-69	-295	-626
4. Extension, increase, and modifications of new energy efficient home credit (sunset 12/31/31)	duaa 12/31/21	-132	-233	-258	-271	-289	-307	-321	-320	-305	-289	-1,182	-2,724
5. Modifications to income exclusion for conservation subsidies	ara 12/31/18	-6	-2	-2	-3	-4	-5	-6	-6	-7	-7	-17	-48
Total of Part 3 - Green Energy and Efficiency Incentives for Individuals		**-461**	**-2,390**	**-2,959**	**-4,532**	**-4,649**	**-4,721**	**-4,754**	**-4,863**	**-4,935**	**-5,026**	**-14,989**	**-39,287**
Part 4 - Greening the Fleet and Alternative Vehicles													
1. Refundable new qualified plug-in electric drive motor vehicle credit for individuals (sunset 12/31/31) [1]	vaa 12/31/21 & tovpola 12/31/22	-195	-1,002	-1,128	-1,268	-1,451	-1,682	-1,915	-2,112	-2,320	-2,499	-5,044	-15,574
2. Credit for previously-owned qualified plug-in electric drive motor vehicles (sunset 12/31/31)	vaa 12/31/21	-27	-83	-96	-120	-132	-146	-162	-179	-197	-215	-457	-1,357
3. Qualified commercial electric vehicles (sunset 12/31/31)	vaa 12/31/21	-229	-490	-663	-831	-1,033	-1,270	-1,488	-1,675	-1,850	-2,043	-3,246	-11,572
4. Qualified fuel cell motor vehicles (sunset 12/31/31)	ppisa 12/31/21	-4	-7	-8	-9	-11	-4	---	---	---	---	-40	-44
5. Alternative fuel refueling property credit (sunset 12/31/31)	ppisa 12/31/21	-93	-404	-461	-523	-591	-666	-749	-837	-932	-1,027	-2,071	-6,283
6. Reinstatement and expansion of employer-provided fringe benefits for bicycle commuting [10]	tyba 12/31/21	-20	-21	-23	-13	-16	-16	-18	-18	-19	-19	-93	-183
7. Credit for certain new electric bicycles (sunset 12/31/31)	ppisa ityea DOE	-113	-305	-397	-517	-666	-826	-983	-1,121	-1,225	-1,277	-1,999	-7,430
Total of Part 4 - Greening the Fleet and Alternative Vehicles		**-681**	**-2,312**	**-2,776**	**-3,281**	**-3,900**	**-4,610**	**-5,315**	**-5,942**	**-6,543**	**-7,080**	**-12,950**	**-42,443**
Part 5 - Investment in the Green Workforce													
1. Extension of the advanced energy project credit [1][11]	DOE	-273	-370	-289	-233	-307	-405	-169	-29	-25	-32	-1,472	-2,133
2. Labor costs of installing mechanical insulation property (sunset 12/31/31)	apoia 12/31/21 ityeasd	-371	-745	-939	-1,099	-1,267	-966	-670	-564	-462	-343	-4,421	-7,426
Total of Part 5 - Investment in the Green Workforce		**-644**	**-1,115**	**-1,228**	**-1,332**	**-1,574**	**-1,371**	**-839**	**-593**	**-487**	**-375**	**-5,893**	**-9,559**
Part 6 - Qualified Environmental Justice Credit (sunset 12/31/31) [1][11]	**DOE**	**---**	**-400**	**-700**	**-800**	**-900**	**-1,000**	**-600**	**-300**	**-200**	**-100**	**-2,800**	**-5,000**
Part 7 - Reinstatement of Superfund	**1/1/22**	**1,560**	**2,332**	**2,446**	**2,546**	**2,642**	**2,740**	**2,843**	**2,951**	**3,063**	**3,179**	**11,527**	**26,302**
TOTAL OF SUBTITLE G - GREEN ENERGY		**-6,518**	**-12,804**	**-16,427**	**-21,553**	**-25,292**	**-27,650**	**-29,412**	**-32,802**	**-35,913**	**-38,773**	**-82,596**	**-247,154**

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
SUBTITLE H - SOCIAL SAFETY NET													
Part 1 - Child Tax Credit: Extend and modify ARP modifications to CTC, index credit amounts and initial phaseout thresholds, no child SSN requirement (sunset 12/31/22); new monthly CTC, index credit amounts and initial phaseout thresholds, no child SSN requirement, advance payments to taxpayers with presumptive eligibility, recapture only in certain circumstances (taxable years beginning after 12/31/22, and sunset 12/31/25); full refundability of CTC unindexed $1,000 amount (taxable years beginning after 12/31/25) [1]	**tyba 12/31/21**	**-106,463**	**-121,808**	**-129,345**	**-133,722**	**-46,959**	**-3,556**	**-3,510**	**-3,510**	**-3,537**	**-3,599**	**-538,297**	**-556,008**
Part 2 - Child and Dependent Care Tax Credit													
1. Certain improvements to the child and dependent care tax credit made permanent [1]	tyba 12/31/21	-2,663	-9,179	-9,413	-9,786	-10,353	-10,195	-10,453	-10,706	-11,065	-11,324	-41,392	-95,135
2. Increase in exclusion for employer-provided dependent care assistance made permanent [12]	tyba 12/31/21	-199	-270	-283	-294	-344	-362	-374	-383	-394	-400	-1,390	-3,302
Total of Part 2 - Child and Dependent Care Tax Credit		**-2,862**	**-9,449**	**-9,696**	**-10,080**	**-10,697**	**-10,557**	**-10,827**	**-11,089**	**-11,459**	**-11,724**	**-42,782**	**-98,437**
Part 3 - Supporting Caregivers													
1. Payroll tax credit for child care workers [1]	cqba 12/31/21	-334	-670	-674	-724	-749	-764	-780	-795	-811	-827	-3,152	-7,130
2. Credit for caregiver expenses (sunset 12/31/25)	tyba 12/31/21	-3,248	-6,688	-7,084	-7,504	-3,860	---	---	---	---	---	-28,384	-28,384
Total of Part 3 - Supporting Caregivers		**-3,582**	**-7,358**	**-7,758**	**-8,228**	**-4,609**	**-764**	**-780**	**-795**	**-811**	**-827**	**-31,536**	**-35,514**
Part 4 - Earned Income Tax Credit													
1. Certain improvements to the earned income tax credit made permanent [1]	tyba 12/31/21	-578	-13,296	-13,955	-14,471	-14,890	-15,116	-15,377	-15,642	-15,894	-16,107	-57,190	-135,325
2. Funds for administration of earned income tax credits in the territories [1]	tyba 12/31/21	---	-5	-5	-5	-5	-5	-5	-5	-5	-5	-19	-43
Total of Part 4 - Earned Income Tax Credit	**tyba 12/31/21**	**-578**	**-13,301**	**-13,960**	**-14,476**	**-14,895**	**-15,121**	**-15,382**	**-15,647**	**-15,899**	**-16,112**	**-57,209**	**-135,368**
Part 5 - Expanding Access to Health Coverage and Lowering Costs													
1. Improve affordability and reduce premium costs of health insurance for consumers	tyba 12/31/21	*Estimate to be Provided by the Congressional Budget Office*											
2. Modification of employer sponsored coverage affordability test in health insurance premium tax credit	tyba 12/31/21	*Estimate to be Provided by the Congressional Budget Office*											
3. Treatment of lump-sum Social Security benefits in determining household income	tyba 12/31/21	*Estimate to be Provided by the Congressional Budget Office*											
4. Temporary expansion of health insurance premium tax credits for certain low-income populations [13]	tyba 12/31/21	*Estimate to be Provided by the Congressional Budget Office*											
5. Special rule for individuals receiving unemployment compensation (sunset 12/31/25)	tyba 12/31/21	*Estimate to be Provided by the Congressional Budget Office*											

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
6. Permanent credit for health insurance costs [1]	cmba 12/31/21	-2	-11	-19	-20	-21	-22	-23	-25	-26	-28	-74	-198
Total of Part 5 - Expanding Access to Health Coverage and Lowering Costs		**-2**	**-11**	**-19**	**-20**	**-21**	**-22**	**-23**	**-25**	**-26**	**-28**	**-74**	**-198**
Part 6 - Pathway to Practice Training Programs													
1. Establishing rural and underserved pathway to practice training programs for post-baccalaureate students, medical students, and medical residents [1]	tyea DOE	---	---	-74	-165	-262	-387	-589	-844	-1,136	-1,420	-500	-4,877
Total of Part 6 - Pathway to Practice Training Programs		**---**	**---**	**-74**	**-165**	**-262**	**-387**	**-589**	**-844**	**-1,136**	**-1,420**	**-500**	**-4,877**
Part 7 - Higher Education													
1. Credit for public university research and infrastructure	qccma 12/31/21	-24	-25	-25	-26	-19	-6	---	---	---	---	-119	-125
2. Phaseout of investment income excise tax for private colleges and universities providing sufficient grants and scholarships	tyba 12/31/21	---	-244	-248	-253	-258	-257	-262	-267	-273	-278	-1,003	-2,341
3. Federal Pell Grants excluded from gross income [1]	tyba 12/31/21	-6	-229	-225	-215	-212	-221	-214	-205	-196	-188	-887	-1,911
4. Repeal of denial of American Opportunity Tax Credit on basis of felony drug conviction [1]	tyba 12/31/21	-3	-21	-21	-20	-20	-20	-20	-19	-18	-18	-85	-180
Total of Part 7- Higher Education		**-33**	**-519**	**-519**	**-514**	**-509**	**-504**	**-496**	**-491**	**-487**	**-484**	**-2,094**	**-4,557**
TOTAL OF SUBTITLE H - SOCIAL SAFETY NET		**-113,520**	**-152,446**	**-161,371**	**-167,205**	**-77,952**	**-30,911**	**-31,607**	**-32,401**	**-33,355**	**-34,194**	**-672,492**	**-834,959**
SUBTITLE I - RESPONSIBLY FUNDING OUR PRIORITIES													
Part 1 - Corporate and International Tax Reforms													
A. Increase in corporate tax rate to 26.5 percent	tyba 12/31/21	39,275	48,712	50,536	51,760	53,154	57,314	59,558	59,926	59,698	60,161	243,437	540,095
B. Limitations on deduction for interest expense	tyba 12/31/21	1,564	3,222	3,408	3,583	3,660	3,697	3,802	3,914	3,995	3,968	15,437	34,813
C. Outbound International Provisions													
1. Modifications to deduction for foreign-derived intangible income and global intangible low-taxed income	tyba 12/31/21	4,319	16,051	24,248	25,511	15,467	2,592	2,410	1,762	1,709	2,377	85,595	96,447
2. Repeal of election for 1-month deferral in determination of taxable year of specified foreign corporations	tyosfcba 11/30/21	10,906	10,906	---	---	---	---	---	---	---	---	21,811	21,811
3. Modifications of foreign tax credit rules applicable to certain taxpayers receiving specific economic benefits	tpoai tyba DOE	217	436	485	554	623	621	657	706	652	710	2,315	5,662
4. Modifications to foreign tax credit limitations	[14]	-132	2,996	8,298	9,960	9,044	8,867	7,339	5,731	5,599	5,609	30,166	63,311
5. Foreign oil and gas extraction income and foreign oil related income to include oil shale and tar sands	[15]	*Estimate Included in Item C.6. Below*											
6. Modifications to inclusion of global intangible low-taxed income	[15]	1,691	5,057	12,417	12,123	10,705	10,900	11,075	12,833	14,190	15,736	41,992	106,726
7. Modifications to determination of deemed paid credit for taxes properly attributable to tested income	[15]	-1,683	-3,692	-3,977	-4,022	-3,973	-4,097	-4,353	-4,482	-4,686	-4,809	-17,347	-39,774
8. Deduction for foreign source portion of dividends limited to controlled foreign corporations, etc	Dma DOE	21	42	44	45	46	48	49	51	52	54	198	451
9. Limitation on foreign base company sales and services income	[15]	943	2,182	2,624	2,766	2,344	1,938	1,977	1,954	1,927	1,968	10,859	20,622

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
D. Inbound International Provisions													
Modifications to base erosion and anti-abuse tax	tyba 12/31/21	473	559	887	1,647	2,396	3,180	3,593	3,839	4,019	4,270	5,962	24,863
E. Other Business Tax Provisions													
1. Credit for clinical testing of orphan drugs limited to first use or indication	tyba 12/31/21	88	186	208	234	260	286	314	346	380	418	975	2,720
2. Modifications to treatment of certain losses	lai tyba 12/31/21 & lo/a DOE	25	165	172	179	186	193	201	209	217	226	726	1,773
3. Adjusted basis limitation for divisive reorganizations	roo/a DOE	801	1,506	2,058	2,230	2,261	2,297	2,333	2,369	2,406	2,446	8,856	20,707
4. Rents from prison facilities not treated as qualified income for purposes of REIT income tests	tyba 12/31/21	8	15	16	16	14	11	12	12	13	13	69	130
5. Modifications to exemption for portfolio interest	oia DOE	576	876	405	118	25	20	16	13	10	8	2,000	2,067
6. Certain partnership interest derivatives	pmo/a 180da DOE	4	9	9	9	9	10	10	10	10	10	41	90
7. Adjustments to earnings and profits of controlled foreign corporations	[15]	150	325	375	425	475	525	575	625	675	725	1,750	4,875
8. Certain dividends from controlled foreign corporations to United States shareholders treated as extraordinary dividends	Dina DOE	*Estimate Included in Item C.4. Above*											
9. Modification of rules for partnership interests held in connection with the performance of services	tyba 12/31/21	1,079	1,594	1,511	1,430	1,389	1,379	1,389	1,413	1,445	1,487	7,003	14,116
10. Limitation on certain special rules for section 1202 gains	generally saeo/a 9/13/21	69	470	517	572	639	698	705	710	677	661	2,267	5,718
11. Constructive sales	generally csa DOE	*Estimate Included in Item E.13 Below*											
12. Rules relating to common control	tyba 12/31/21	768	1,550	1,560	1,606	1,754	1,958	2,186	2,459	2,749	3,004	7,238	19,593
13. Wash sales by related parties; wash sales of specified assets	saoda 12/31/21	3,226	4,946	2,725	1,626	1,074	804	653	587	562	559	13,597	16,762
Total of Part 1 - Corporate and International Tax Reforms		**64,388**	**98,113**	**108,526**	**112,372**	**101,552**	**93,241**	**94,501**	**94,987**	**96,299**	**99,601**	**484,947**	**963,578**
Part 2 - Tax Increases for High-Income Individuals													
1. Increase the top rate on the individual income tax to 39.6% on taxable income above $400,000/$450,000	tyba 12/31/21	32,501	22,736	36,941	39,751	15,104	4,366	4,555	4,686	4,837	5,020	147,033	170,498
2. Increase the top tax rate on long-term capital gains and qualified dividends to 25% and lower the income thresholds to which it applies	[16]	11,363	13,497	13,712	13,281	12,870	11,716	11,135	11,455	11,771	12,597	64,723	123,396
3. Application of net investment income tax to trade or business income of certain high income individuals	tyba 12/31/21	12,742	19,543	21,734	24,050	25,861	27,966	28,997	29,675	30,439	31,156	103,930	252,163
4. Limitation on deduction of qualified business income for certain high income individuals	tyba 12/31/21	10,520	18,309	19,684	20,948	8,564	---	---	---	---	---	78,025	78,025
5. Limitations on excess business losses of noncorporate taxpayers made permanent, with carryforward modification	tyba 12/31/20	3,127	2,046	2,123	2,204	2,288	22,671	32,639	31,422	33,272	34,991	11,788	166,783
6. Surcharge on high income individuals, trusts, and estates	tyba 12/31/21	24,360	-13,294	12,384	13,052	13,713	14,406	14,731	15,353	15,988	16,643	50,215	127,335
7. Termination of temporary increase in unified credit	dda & gma 12/31/21	2,676	12,188	13,073	12,694	11,710	1,490	265	95	64	9	52,341	54,265
8. Increase in limitation on estate tax valuation reduction for certain real property used in farming or other trades or businesses	dda 12/31/21	---	-22	-31	-32	-34	-38	-38	-40	-40	-42	-119	-317

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
9. Certain tax rules applicable to grantor trusts	tcoa & cmoa DOE	30	160	223	327	478	672	917	1,240	1,657	2,191	1,217	7,895
10. Valuation rules for certain transfers of nonbusiness assets	ta DOE	382	1,775	1,880	1,865	1,919	2,205	2,335	2,399	2,519	2,666	7,822	19,945
Total of Part 2 - Tax Increases for High-Income Individuals		**97,701**	**76,938**	**121,723**	**128,140**	**92,473**	**85,454**	**95,536**	**96,285**	**100,507**	**105,231**	**516,975**	**999,988**
Part 3 - Modifications of Rules Relating to Retirement Plans													
A. Limitations on High-Income Taxpayers with Large Retirement Account Balances													
1. Contribution limit for individual retirement plans of high-income taxpayers with large account balances	generally tyba 12/31/21 [17]	*Estimate Included in Item A.2. Below*											
2. Increase in minimum required distributions for high-income taxpayers with large retirement account balances	generally tyba 12/31/21 [18]	3,618	3,027	1,302	318	-343	-576	-1,051	-1,273	-1,463	-1,760	7,922	1,798
B. Other Provisions Relating to Individual Retirement Plans													
1. Tax treatment of rollovers to Roth IRAs and accounts	generally [19] dtacmi tyba 12/31/31	---	---	---	---	---	---	---	---	140	609	---	749
2. Prohibition of IRA investments conditioned on account holder's status	generally tyba 12/31/21 [20]	125	153	155	158	177	182	184	186	188	193	768	1,701
3. Statute of limitations with respect to IRA noncompliance	[21]	[22]	1	1	1	1	1	1	1	1	1	3	8
4. Prohibition of investment of IRA assets in entities in which the owner has a substantial interest	generally imi tyba 12/31/21 [23]	3	3	3	4	4	5	5	5	5	6	17	42
5. IRA owners treated as disqualified persons for purposes of prohibited transaction rules	toa 12/31/21	---	1	1	1	1	1	2	2	2	2	5	13
Total of Part 3 - Modifications of Rules Relating to Retirement Plans		**3,745**	**3,186**	**1,462**	**481**	**-159**	**-388**	**-860**	**-1,079**	**-1,127**	**-950**	**8,714**	**4,311**
Part 4 - Funding the Internal Revenue Service and Improving Taxpayer Compliance													
1. Funding of the Internal Revenue Service	---	*Estimate to be Provided by the Congressional Budget Office*											
2. Application of backup withholding and third party network transactions	tyba 12/31/21	-2	-1	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-3	-4
3. Limitation on deduction for qualified conservation contributions made by pass-through entities	[24]	4,733	4,698	699	304	313	337	344	352	359	365	10,747	12,504
4. Modification of procedural requirements relating to assessment of penalties	[25]	201	221	113	116	119	122	125	128	132	135	771	1,414
Total of Part 4 - Funding the Internal Revenue Service and Improving Taxpayer Compliance		**4,932**	**4,918**	**812**	**420**	**432**	**459**	**469**	**480**	**491**	**500**	**11,515**	**13,914**
Part 5 - Other Provisions													
1. Modifications to limitation on deduction of excessive employee remuneration	tyba 12/31/21	1,028	2,157	2,315	2,438	2,536	1,841	1,119	1,139	1,158	1,178	10,473	16,909
2. Extension of tax to fund Black Lung Disability Trust Fund [26]	sa 12/31/21	101	137	135	131	32	---	---	---	---	---	536	536
3. Prohibited transactions relating to holding DISC or FSC in individual retirement account	saoiaoho/a 12/31/21	39	95	126	157	187	217	249	277	292	301	605	1,940

Provision	Effective	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
4. Increase in tax on certain tobacco products and imposition of tax on nicotine [1]	generally effective icqba DOE	6,368	9,517	9,528	9,776	9,838	9,955	10,159	10,371	10,539	10,710	45,026	96,760
5. Clarification of rules regarding tobacco drawback	demo/a 12/18/18	*Estimate Included In Item 4. Above*											
6. Repeal employer credit for paid family and medical leave [27]	tyba 12/31/23	---	---	101	219	168	77	44	26	7	---	489	642
7. Clarification of treatment of DISC gain and distributions of certain foreign shareholders	goda 12/31/21	41	86	92	95	96	97	99	101	103	106	410	915
8. Access to self-employment income information for paid leave administration [28]	DOE	*No Revenue Effect*											
9. Temporary rule to allow certain S corporations to reorganize as partnerships without tax	too/a 12/31/21 & before 1/1/24	-417	-1,182	-897	-235	-269	-305	-339	-369	-392	-416	-3,000	-4,820
10. Treatment of certain qualified sound recording productions [29]	pci tyea DOE	-310	-59	6	43	112	86	43	21	11	12	-208	-35
11. Payment to certain individuals who dye fuel	[30]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-2	-4
12. Extension of credit for portion of employer Social Security taxes paid with respect to employee tips to beauty service establishments	tyba 12/31/21	---	-66	-69	-72	-75	-79	-82	-86	-90	-94	-282	-711
13. Enhancement of work opportunity tax credit during COVID 19 recovery period (sunset 12/31/22)	tyea DOE	-2,306	-2,183	-1,198	-395	-57	---	---	---	---	---	-6,139	-6,139
14. Allow an above-the-line deduction of up to $250 in union dues paid	tyba 12/31/21	-66	-442	-442	-443	-449	-485	-483	-486	-479	-476	-1,843	-4,252
15. Cover over of certain distilled spirit taxes [1][31]	dsbiUSa 12/31/21	-31	-204	-204	-204	-204	-204	-204	-204	-204	-204	-847	-1,867
16. Expensing of research and amortization expenditures (sunset 12/31/25)	DOE	-29,091	-39,856	-32,161	-24,133	19,284	38,009	29,958	19,853	9,269	4,851	-105,956	-4,016
17. Payroll credit for compensation of local news journalists	[32]	-146	-276	-251	-240	-238	-118	---	---	---	---	-1,151	-1,269
18. Treatment of financial guaranty insurance companies as qualifying insurance corporations under passive foreign investment company rules	tyba 12/31/17 & rma DOE	[2]	-1	-4	-4	-7	-8	-11	-13	-13	-13	-17	-74
19. Credit for qualified access technology for the blind (sunset 12/31/26)	tyba 12/31/21	-375	-799	-302	-929	-900	-203	---	---	---	---	-3,305	-3,508
20. Modification of REIT constructive ownership rules	tyea DOE	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]
Total of Part 5 - Other Provisions		**-25,165**	**-33,076**	**-23,225**	**-13,796**	**30,054**	**48,880**	**40,552**	**30,630**	**20,201**	**15,955**	**-65,211**	**91,007**
TOTAL OF SUBTITLE I - RESPONSIBLY FUNDING OUR PRIORITIES		**145,601**	**150,078**	**209,299**	**227,616**	**224,352**	**227,646**	**230,198**	**221,303**	**216,371**	**220,337**	**956,940**	**2,072,797**
SUBTITLE J - DRUG PRICING: Selected Drug Manufacturer Excise Tax Imposed During Noncompliance Periods	**sa DOE**	*No Revenue Effect*											
NET TOTAL		**23,337**	**-20,326**	**23,269**	**27,592**	**107,350**	**153,711**	**152,181**	**137,780**	**127,484**	**126,802**	**161,217**	**859,166**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be October 1, 2021.

[Legend and Footnotes for the Table are on the following pages]

Legend and Footnotes for the Table:

Legend for "Effective" column:

apoia = amounts paid or incurred after
ar = advance refunding
ara = amounts received after
bia = bonds issued after
bimt = bond issued more than
bpisa = buildings placed in service after
bpisi = buildings placed in service in
cmoa = contributions made on or after
cqba = calendar quarters beginning after
csa = constructive sales after
cya = calendar years after
da = days after
dsbiUSa = distilled spirits brought into the United States after
dcmo/a = drawback claims made on or after
dda = decedents dying after
DOE = date of enactment
Dma = distributions made after
dtacmi = distributions, transfers, and contributions made in
duaa = dwelling units acquired after
ema = expenditures made after
epasa = electricity produced and sold after
fpisa = facilities placed in service after
fsoua = fuel sold or used after
gma = gifts made after
goda = gains or distributions after
icqba = in calendar quarters beginning after
imi = investments made in
ityea = in taxable years ending after
itybasd = in taxable years beginning after such date
ityeasd = in taxable years ending after such date
lai = losses arising in
leia = leases entered into after
lii = losses incurred in
lo/a = liquidations on or after
oia = obligations issued after
pa = periods after
pci = productions commencing in
pmo/a = payments made on or after
ppisa = property placed in service after
rma = reports made after
roo/a = reorganizations occurring on or after
qccma = qualified cash contributions made after
qsgbpa = qualified second generation biofuel production after
sa = sales after
saco/a = sales and exchanges on or after
saoiaoho/a = stock and other interests acquired or held on or after
ta = transfers after
tcoa = trusts created on or after
toa = transactions occurring after
too/a = transfers occurring on or after
tovpola = transfers of vehicle purchased or leased after
tpoai = taxes paid or accrued in
tyba = taxable years beginning after
tyea = taxable years ending after
tyosfcba = taxable years of specified foreign corporations beginning after
vaa = vehicles acquired after
30da = 30 days after
180da = 180 days after

[1] Estimate contains the following outlay effects:	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
Credit to issuer for certain infrastructure bonds	256	1,255	2,830	4,525	5,999	7,048	7,844	8,599	9,398	10,208	14,866	57,961
Credit for operations and maintenance costs of government-owned broadband	73	38	35	32	29	24	20	5	---	---	207	256
Credit for electricity produced from certain renewable resources (sunset 12/31/31)	87	281	498	825	1,375	2,008	2,712	3,488	4,229	5,064	3,066	20,568
Extension and modification of energy credit (sunset 12/31/33)	358	641	724	1,267	2,874	3,748	3,999	4,270	4,534	4,815	5,866	27,232
Investment credit for electric transmission property (sunset 12/31/31)	73	38	35	32	29	24	20	5	---	---	207	256
Zero-emission nuclear power production credit (sunset 12/31/26)	2,104	1,396	1,562	1,692	792	100	---	---	---	---	7,546	7,646
Credit for production of clean hydrogen	-29	-75	-125	-189	-266	-370	-500	-640	-702	-698	-684	-3,593
Refundable new qualified plug-in electric drive motor vehicle credit for individuals (sunset 12/31/31)	65	74	83	96	114	134	149	165	180	182	434	1,243
Extension of the advanced energy project credit	131	178	139	112	147	195	81	14	12	15	707	1,024
Qualified environmental justice credit (sunset 12/31/31)	---	---	---	328	504	504	504	832	1,008	1,008	832	4,687
Child tax credit	83,132	94,593	97,189	100,654	28,205	3,556	3,510	3,510	3,537	3,599	403,773	421,484
Certain improvements to the child and dependent care tax credit made permanent	---	3,801	3,834	3,900	3,898	3,176	3,221	3,251	3,295	3,356	15,433	31,732
Payroll tax credit for child care workers	257	515	517	556	576	587	599	611	623	635	2,420	5,475
Certain improvements to the earned income tax credit made permanent	---	10,381	10,919	11,336	11,595	11,461	11,636	11,815	11,977	12,123	44,231	103,242
Funds for administration of earned income tax credits in the territories	---	5	5	5	5	5	5	5	5	5	19	43
Federal Pell Grants excluded from gross income	---	167	159	153	150	150	146	139	134	129	629	1,327

[Footnotes for the Table continue on the following pages]

Footnotes for the Table continued:

[1] Estimate contains the following outlay effects (continued):	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
Repeal of denial of American Opportunity Tax Credit on basis of felony drug conviction	---	6	6	6	6	6	6	5	5	5	23	50
Establishing rural and underserved pathway to practice training programs for post-baccalaureate students, medical students, and medical residents [33]	---	---	37	82	131	205	370	614	899	1,176	250	3,514
Permanent credit for health insurance costs	2	6	8	8	8	9	9	10	11	11	32	82
Increase in tax on certain tobacco products and imposition of tax on nicotine [34]	-21	-77	-119	-153	-195	-224	-246	-264	-254	-235	-565	-1,788
Cover over of certain distilled spirit taxes	31	204	204	204	204	204	204	204	204	204	847	1,867

[2] Loss of less than $500,000.

[3] Generally effective for calendar years after 2021. The proposal to allow the new markets tax credit be used to offset AMT liability is effective for qualified equity investments initially made after December 31, 2021.

[4] Effective for determinations with respect to 24-month periods (referred to in clause (i) of section 47(c)(1)(B) of the Internal Revenue Code of 1986) and 60-month periods (referred to in clause (ii) of such section) which end after December 31, 2021.

[5] Effective for allocations and determinations of housing credit dollar amount after December 31, 2021.

[6] The amendments made by subsections (a) and (c) shall apply to agreements entered into or amended after the date of the enactment. The amendments made by subsection (b) shall apply to agreements among the owners of the project (including partners, members, and their affiliated organizations) and persons described in section 42(i)(7)(A) of the Internal Revenue Code of 1986 entered in of the Internal Revenue Code of 1986 entered into before, on, or after the date of the enactment.

[7] Applies to buildings which receive a determination of housing credit dollar amount after the date of enactment.

[8] Generally effective taxable years beginning after the date of enactment. In the case of a qualified corporation that is a foreign corporation, to taxable years beginning after the date of enactment and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

[9] Effective for hydrogen produced after December 31, 2021, at facilities for which construction commenced on or before December 31, 2028.

[10] Estimate includes the following budget effects:	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
Total Revenue Effect	20	21	23	24	16	16	17	18	19	19	104	193
On-budget effects	12	13	14	15	9	10	10	11	11	12	63	117
Off-budget effects	8	8	9	9	6	7	7	7	8	8	40	77

[11] Annual base allocation amounts end 2031, unused amounts may be reallocated through 2036.

[12] Estimate includes the following budget effects:	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
Total Revenue Effect	-199	-270	-283	-294	-344	-362	-374	-383	-394	-400	-1,390	-3,302
On-budget effects	-114	-155	-164	-171	-219	-234	-243	-248	-255	-259	-823	-2,061
Off-budget effects	-85	-115	-119	-123	-125	-128	-131	-135	-139	-141	-567	-1,241

[13] For purposes of this subsection, the term 'termination date' means the later of January 1, 2025, or the date on which the Secretary of Health and Human Services makes a written certification to the Secretary that the Secretary of Health and Human Services has fully implemented the program described in section 1948.

[14] Generally effective for taxable years beginning after December 31, 2021, except that changes with respect to foreign tax credit carryback or carryover are effective for taxes paid or accrued in December 31, 2021, and changes related to redeterminations of foreign taxes are effective 60 days after date of enactment.

[15] Applies 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.

[16] Increase in the top rate to 25% is effective for long-term capital gain and qualified dividend income generated after the date of introduction. The change to 25% rate threshold is effective for taxable years beginning after December 31, 2021.

[17] With respect to the reporting requirements, applicable to plan years beginning after December 31, 2021.

[18] With respect to the special rules related to increased minimum required distributions, applicable to plan years beginning after December 31, 2021; with respect to plan amendments, effective on date of enactment.

[19] With respect to after-tax contributions, applicable to distributions, transfers, and contributions made after December 31, 2021.

[20] If, on the date of enactment, an individual retirement account holds an investment prohibited under section 408(a)(7) of the Internal Revenue Code of 1986 (as added by this proposal), the amendments made by this section shall be effective with respect to such investment for taxable years beginning after December 31, 2023.

[Footnotes for the Table continue on the following page]

Footnotes for the Table continued:

[21] Applicable for taxes with respect to which the 3-year period under section 6501(a) of the Internal Revenue Code of 1986 (without regard to the amendment made by this section) ends after December 31, 2021.
[22] Gain of less than $500,000.
[23] If, on the date of enactment, an individual retirement account holds an investment prohibited under section 408(a)(8) of the Internal Revenue Code of 1986 (as added by this proposal), the amendments made by this section shall apply to such investment for taxable years beginning after December 31, 2023.
[24] Generally effective for contributions made after December 23, 2016. Effective for historic structures for contributions made in taxable years beginning after December 31, 2018.
[25] Repeal of Code section 6751(b) is effective as if included in section 3306 of the Internal Revenue Service Restructuring and Reform Act of 1998. Quarterly certifications of compliance with procedural requirements apply to notices of penalty issued after date of enactment.
[26] The temporary increase in the amount of tax on coal terminates for sales after December 31, 2025.
[27] Estimate includes the following budget effects:

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-26	2022-31
Total Revenue Effect	---	---	101	219	168	77	44	26	7	---	489	642
On-budget effects	---	---	107	227	171	77	44	26	7	---	505	659
Off-budget effects	---	---	-6	-8	-2	---	---	---	---	---	-17	-17

[28] Provision is necessary for the administration of a proposed family and medical leave program. The budgetary effects of that program are estimated by the Congressional Budget Office.
[29] Sunsets 12/31/25 (section 181) and 12/31/26 (section 168(k)).
[30] Effective for eligible indelibly dyed diesel fuel or kerosene removed on or after the date which is 180 days after the date of enactment.
[31] Preliminary estimate provided by the Congressional Budget Office and subject to review.
[32] Effective for calendar quarters during the first five calendar years beginning after the date of the enactment.
[33] Outlays arising from Medicare funding of residency positions are provided by the Congressional Budget Office.
[34] Outlay effects provided by the Congressional Budget Office.

prepared by the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a federal mandates estimate for the Committee's provisions.

D. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of Pub. L. No. 105-266, the Internal Revenue Service Restructuring and Reform Act of 1998 (the "RRA"), requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, for each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided below along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are comments of the IRS and Treasury regarding each provision included in the complexity analysis.



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

September 17, 2021

Mr. Thomas A. Barthold
Chief of Staff
Joint Committee on Taxation
Washington, D.C. 20515

Dear Mr. Barthold:

I am responding to your letter dated September 15, 2021, in which you requested a complexity analysis related to the Committee Report for Budget Reconciliation Legislative Recommendations Relating to Infrastructure Financing, Green Energy, Social Safety Net, Responsibly Funding Our Priorities, and Prescription Drug Pricing.

Enclosed are the combined comments of the Internal Revenue Service (IRS) and the Department of the Treasury for inclusion in the complexity analysis in the Committee Report for Budget Reconciliation Legislative Recommendations Relating to Infrastructure Financing, Green Energy, Social Safety Net, Responsibly Funding Our Priorities, and Prescription Drug Pricing.

Our analysis covers the two provisions that you preliminarily identified in your letter: 1) Child tax credit provisions and 2) Certain improvements to the earned income tax credit made permanent. Please note that for purposes of this complexity analysis, IRS staff assumed timely enactment of this legislation. If legislation is not enacted before the end of the year, there would be complexity for IRS and for taxpayers that is not addressed in this response.

Our comments are based on the description of the provision provided in your letter. This analysis does not include the administrative cost estimates for the changes that would be required. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provisions.

I hope this information is helpful. If you have any questions, please feel free to contact me, or your staff may contact Scott Landes, Chief, Legislation and Reports Branch, Office of Legislative Affairs, at 202-317-6985.

Sincerely,

Charles P. Rettig

Enclosure

Enclosure

COMPLEXITY ANALYSIS OF BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO INFRASTRUCTURE FINANCING, GREEN ENERGY, SOCIAL SAFETY NET, RESPONSIBLY FUNDING OUR PRIORITIES, AND PRESCRIPTION DRUG PRICING

1. Child tax credit provisions

2021
Section 137101 makes several modifications to the child tax credit for tax year 2021. It provides that recapture is allowed without taking into account the safe harbor amount for a child if the Secretary determines that the child was taken into account in determining the annual advance amount due to fraud or intentional disregard of the rules and regulations by the taxpayer. In addition, the proposal clarifies that the annual advance amount used to make advance payments may be determined based on other information known to the Secretary.

2022
Section 137102 extends and modifies the child tax credit and advance payments of the credit for tax year 2022. The provision extends the expansions to the child tax credit made by ARPA, Pub. L. No. 117-2, through tax year 2022. These extensions include (i) full refundability for taxpayers who have a principal place of abode in the United States for more than one-half of the year or who are bona fide residents of Puerto Rico for the tax year, (ii) the increase in the age limit of a qualifying child for purposes of the child tax credit to include children who have not attained age 18, (iii) the increase in child tax credit amount to $3,000, and $3,600 for qualifying children who have not attained the age of 6, (iv) the application of the initial phaseout to the increased child tax credit amount at the following applicable threshold amounts: $150,000 for taxpayers filing jointly or surviving spouses, $112,500 for head of household taxpayers, and $75,000 for all other taxpayers, (v) certain rules regarding payments to the territories and payments directly to the territory residents with respect to the child tax credit, and (vi) advance periodic payments of the child tax credit under section 7527A.

The provision changes the modified AGI used for purposes of the income phaseout to be the lower modified AGI of the current tax year or the preceding tax year. The provision also changes the identification requirement of the qualifying child to be a taxpayer identification number instead of a Social Security number. The provision increases the safe harbor amount for purposes of reconciling aggregate advance payments to be the full amount of the applicable child tax credit. Finally, the provision indexes the child tax credit and other dependent credit amounts and the initial phaseout thresholds for inflation beginning in tax year 2022 and using the CPI (rather than the chained CPI).

2023
Section 137103 creates a new monthly refundable child tax credit for tax years 2023 through 2025 in lieu of the existing child tax credit in section 24. The monthly credit amount is $250 for each specified child, or $300 for each specified child who will not have attained age six as of the close of the tax year. The monthly tax credit is reduced under two separate phaseouts, similar to the child tax credit in 2021 and 2022, but the modified AGI used for purposes of the income phaseouts is the lowest modified AGI among the current tax year and the two preceding tax years. The credit amounts and initial phaseout thresholds are indexed for inflation beginning in tax year 2023 (as if annual inflation adjustments started in 2022) and using the CPI. The credit is fully refundable for taxpayers who have a principal place of abode in the United States or Puerto Rico for more than one-half of the month. Taxpayer must establish presumptive eligibility for a specified child to claim a monthly child tax credit and receive advance payments of the credit.

The provision creates a new definition of specified child. The new definition has several factors, including whether the child receives care from the taxpayer. Under the provision, the taxpayer is eligible for the full year of monthly credits during the year of birth or year of death of a child. The provision also creates tie-breaking rules in the event that a child may be a specified child with respect to more than one taxpayer in a month. The provision contains rules for disallowance in the event of prior fraudulent, reckless, or improper claims. The name and taxpayer identification number of the specified child must appear on the return to claim the credit, and the taxpayer identification number must be issued on or before the due date of the return.

The provision also provides for monthly advance child payments of the monthly child tax credit for tax years 2023 through 2025 for taxpayers who have established presumptive eligibility. The advance payment is the amount estimated by the Secretary as the monthly child tax credit amount but based on prior year tax return information, information provided through an on-line IRS portal, or through any other method of providing information as established by the Secretary. To establish presumptive eligibility for the advance payment, the taxpayer may provide information related to eligibility by the methods described above. Presumptive eligibility ends in the event of fraud or intentional disregard, notice from the Secretary regarding questions of eligibility, and failure of the taxpayer to make the required annual renewal of presumptive eligibility. The Secretary may allow for automatic presumptive eligibility for newborns and children with respect to whom a government entity has provided certain information to the Secretary.

The provision creates special rules in the event of competing claims for a monthly advance child payment of a specified child by more than one taxpayer for the same month. The Secretary shall establish procedures to expeditiously adjudicate such competing claims. The Secretary may make retroactive

payments following the adjudication to the proper taxpayer if the taxpayer did not receive payments during the adjudication. The provision also allows retroactive monthly advance payments during grace periods or in the event of hardship.

Monthly advance child payments in excess of the monthly child tax credit are subject to recapture only in certain specified circumstances. The Secretary must provide annual notice to the taxpayer of the aggregate amount of advance payments made and whether any amount is subject to recapture. The Secretary must take the receipt of advance payments into account in determining withholding rules.

Under the provision, the Secretary will cover over the costs of the child tax credit to the territories of Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa. Puerto Ricans will receive advance payments and the monthly child tax credit directly from the U.S. government.

Finally, for tax years 2023 through 2025, the provision modifies the existing credit for other dependents by creating a new credit with similar rules to the existing credit. The $500 credit amount is indexed for inflation beginning in 2023 (as if annual inflation adjustments started in 2022) using the CPI. The credit is subject to one phaseout beginning at the following applicable threshold amounts: $400,000 for taxpayers filing jointly or surviving spouses, $300,000 for head of household taxpayers, and $200,000 for all other taxpayers.

Section 137104 provides that after tax year 2025, when the operable child tax credit rules are those in section 24 but without the ARPA expansions, the child tax credit is fully refundable for taxpayers who have a principal place of abode in the United States for more than one-half of the year or who are bona fide residents of Puerto Rico for the tax year.

IRS and Treasury Comments:

- Forms would be revised, including to allow taxpayers to establish presumptive eligibility on the tax return and, for 2023 through 2025.
- Programming changes would be needed for external IRS online tools to educate and inform taxpayers about the changes and Internal tools used by IRS customer service employees will also require changes.
- Greater fallout of returns due to improper reconciliation of advance payments. This results in increased manual processing and processing times.
- Significantly increased call volumes would result in the need to add or enhance phone lines, develop or enhance chat and voice bot capabilities, and monitoring of phones and bot volumes.

  - Provide customer service support to taxpayers with questions related to eligibility for the advance payment and payments, including payment traces.
  - Provide customer service support to taxpayers with issues at filing, Math Errors, Amended Returns/Adjustments, etc.
  - Provide customer service support for taxpayer responses to new notices, letters, and general correspondence.
- Internal Revenue Manuals and employee training would be updated.
- Internal communications would be shared with all employees and external communications with the public would need updating and sharing.
- IRS would need to update webpages and other publicly available information.
- The statutory language would require the creation of an entirely new process for issuing advance payments to eligible taxpayers for tax years 2023 through 2025 based on monthly determinations of presumptive eligibility and a new portal for taxpayers to provide information about mid-year changes to eligibility and to opt out of the revised advance payment program.
- The new process would require significant staffing to adjudicate competing claims for advance payments for a specified child by more than one taxpayer based on the monthly residency of the specified child, including whether the residency of the child is permanent or temporary.
- IRS would be required to develop, update, and issue millions of additional notices.
- The statutory language with regard to the determination of the CTC allows the taxpayer to rely on a lower prior year modified adjusted gross income (AGI) but does not provide the benefit as an election. While this benefit allows a taxpayer a higher credit amount when the taxpayer's income increases in the later year, providing the benefit as an automatic rule presents a recordkeeping burden for taxpayers and, as compared to the use of an election as is done with the earned income credit and prior disaster relief provisions, will delay tax refunds for many taxpayers who fail to consider prior year AGI when claiming the CTC when their incomes have increased.
- The statutory language with regard to the determination of the CTC for 2023 through 2025 requires the development of programming to track monthly presumptive eligibility and requires allowing the CTC for a specified child under a definition that differs from the unified definition of a qualifying child for other refundable credits to be claimed on those tax returns.
- Existing regulations regarding tax return preparer due diligence at 26 C.F.R. § 1.6695-2 would need to be revised in order to give effect to the addition of the monthly CTC to the due diligence requirements in section 6695(g)(2).
- Programming changes would be required to incorporate the changes into the appropriate processing and compliance systems.

- The proposed statutory changes would require taxpayers to maintain records of the advance payments received in order to properly reconcile their entitlement to CTC on their tax return and could lead to additional disputes between taxpayers and the IRS about the amount of advance payments and offsets when advance payments are not made and the additional CTC is claimed on a filed return.
- Revisions to the applicable lead sheets for Examination use would be needed for tax year 2023 through 2025.
- Plans would need to be written or revised with the Territories to distribute the monies.
- Issuing payments to bona fide residents of PR will require programming and process changes. Also, agreements of data/information sharing would need to be evaluated if one already exists OR created if none currently exists.
- Compliance challenges:
  - Section 137102 this provision eliminates the Social Security Number requirement for qualifying children, which was added by the Tax Cuts and Jobs Act (TCJA). Eliminating the SSN entirely would mean that the IRS would make many more improper payments. It would be difficult to track duplicate dependents, ineligible dependents due to age and deceased dependents.
  - Adjustments are needed to Section 6103 and other disclosure/privacy provisions in the Code to allow data sharing in the specific instance related to advance payments. This is due to the fact that the current provisions envision data sharing only of filed returns and view that taxpayer data is individualistic rather than a household. However, the advance payment program uses an anticipated/estimated return.
- Increased coordination with the software industry and preparers on changes to the law and forms.

2. Certain improvements to the earned income tax credit made permanent

Section 137401 makes permanent certain temporary changes to the EITC that currently apply only to taxable years beginning in 2021. For taxable years beginning after 2021, the provision makes certain changes to the "childless EITC" to: (1) lower the minimum age to (i) 24 for certain specified students; (ii) 18 for qualified former foster youth and qualified homeless youth; and (iii) 19 in all other cases; (2) remove the maximum age; and (3) increase (i) the credit and phaseout percentages to 15.3 percent, (ii) the earned income amount to $9,820, and (iii) the beginning of the phaseout range to $11,610. The earned income amount and beginning of the phaseout range are adjusted for inflation starting in 2022. The provision directs the Secretary to develop procedures to use information returns under section 6050S to check the status of individuals as specified students.

The provision permits a taxpayer to elect to calculate the taxpayer's EITC for taxable years beginning after 2021 using preceding year rather than current year earned income, if the taxpayer's earned income in the preceding year is less than in the current year.

IRS and Treasury Comments:

- The proposal could require the IRS to enter into multiple/numerous agreements to obtain information about former foster children and qualified homeless youth; and may require programming to accept and integrate that information into processing systems.
- The proposed statutory changes could require additional taxpayer record keeping relative to current law for former foster children, qualified homeless youth and certain students, and could lead to additional disputes between taxpayers and the IRS, especially with regard to these new categories of eligible recipients.
- Revisions to the applicable lead sheets for Examination use would be needed. Instructions and publications would need to be updated to reflect inflationary adjustments.
- Plans would need to be written or revised with the Territories to distribute the monies.

List of Provisions in the Complexity Analysis

Child tax credit provisions (secs. 137101 through 137104 of the bill)

Summary description of provision

2021

Section 137101 makes several modifications to the child tax credit for tax year 2021. It provides that recapture is allowed without taking into account the safe harbor amount for a child if the Secretary determines that the child was taken into account in determining the annual advance amount due to fraud or intentional disregard of the rules and regulations by the taxpayer. In addition, the provision clarifies that the annual advance amount used to make advance payments may be determined based on other information known to the Secretary.

2022

Section 137102 extends and modifies the child tax credit and advance payments of the credit for tax year 2022. The provision extends the expansions to the child tax credit made by ARPA, Pub. L. No. 117-2, through tax year 2022. These extensions include (i) full refundability for taxpayers who have a principal place of abode in the United States for more than one-half of the year or who are bona fide residents of Puerto Rico for the tax year, (ii) the increase in the age limit of a qualifying child for purposes of the child tax credit to include children who have not attained age 18, (iii) the increase in child tax credit amount to $3,000, and to $3,600 for qualifying children who have not attained the age of 6, (iv) the application of the initial phaseout to the increased child tax credit amount at the following applicable threshold amounts: $150,000 for taxpayers filing jointly or surviving spouses, $112,500 for head of household taxpayers, and $75,000 for all other taxpayers, (v) certain rules regarding payments to the U.S. territories and payments directly to the territory residents with respect to the child tax credit, and (vi) advance periodic payments of the child tax credit under section 7527A.

The provision changes the modified adjusted gross income ("AGI") used for purposes of the income phaseout to be the lower modified AGI of the current tax year or the preceding tax year. The provision also changes the identification requirement of the qualifying child to be a taxpayer identification number instead of a Social Security number. The provision increases the safe harbor amount for purposes of reconciling aggregate advance payments to be the full amount of the applicable child tax credit. Finally, the provision indexes the child tax credit and other dependent credit amounts and the initial phaseout thresholds for inflation beginning in tax year 2022. The inflation indexing is based on changes in the consumer price index ("CPI") rather than on so-called chained CPI.

2023

Section 137103 creates a new monthly refundable child tax credit for tax years 2023 through 2025 in lieu of the existing child tax credit. The monthly credit amount is $250 for each specified child, or $300 for each specified child who will not have attained age six as of the close of the tax year. The monthly credit is reduced under two separate phaseouts, similar to the child tax credit in 2021 and 2022, but the modified AGI used for purposes of the income phaseouts is

the lowest modified AGI among the current tax year and the two preceding tax years. The credit amounts and initial phaseout thresholds are indexed for inflation beginning in tax year 2023 (as if annual inflation adjustments started in 2022) based on changes in the CPI (rather than the chained CPI). The credit if fully refundable for taxpayers who have a principal place of abode in the United States or Puerto Rico for more than one-half of the month. Taxpayer must establish presumptive eligibility for a specified child to claim a monthly child tax credit and receive advance payments of the credit.

The provision creates a new definition of specified child. The new definition has several factors, including whether the child receives care from the taxpayer. Under the provision, the taxpayer is eligible for the full year of monthly credits during the year of birth or year of death of a child. The provision also creates tie-breaking rules that apply if a child otherwise may be a specified child with respect to more than one taxpayer in a month. The provision disallows the credit if a taxpayer made certain prior fraudulent, reckless, or improper claims. The name and taxpayer identification number of the specified child must appear on the return to claim the credit, and the taxpayer identification number must be issued on or before the due date of the return.

The provision also provides monthly advance child payments of the monthly child tax credit for tax years 2023 through 2025 for taxpayers who have established presumptive eligibility. The advance payment is the amount estimated by the Secretary as the monthly child tax credit amount but based on prior year tax return information, information provided through an on-line IRS portal, or through any other method of providing information as established by the Secretary. To establish presumptive eligibility for the advance payment, the taxpayer may provide information related to eligibility on a prior year tax return, through the on-line portal, or another method established by the Secretary. Presumptive eligibility ends in the event of fraud or intentional disregard, notice from the Secretary regarding questions of eligibility, or failure of the taxpayer to make the required annual renewal of presumptive eligibility. The Secretary may allow automatic presumptive eligibility for monthly advance payments for newborns and children with respect to whom a government entity has provided certain information to the Secretary.

The provision creates special rules in the event of competing claims for a monthly advance child payment of a specified child by more than one taxpayer for the same month. The Secretary is required to establish procedures to expeditiously adjudicate competing claims. The Secretary may make retroactive payments following the adjudication to the proper taxpayer if the taxpayer did not receive payments during the adjudication. The provision also allows retroactive monthly advance payments during grace periods or in the event of hardship.

Monthly advance child payments in excess of the monthly child tax credit are subject to recapture only in certain specified circumstances. The Secretary must provide annual notice to the taxpayer of the aggregate amount of advance payments made and whether any amount is subject to recapture. The Secretary must take the receipt of advance payments into account in determining withholding rules.

Under the provision, the Secretary will cover over the costs of the child tax credit to the territories of Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin

Islands, and American Samoa. Residents of Puerto Rico will receive advance payments and the monthly child tax credit directly from the U.S. Treasury.

Finally, for tax years 2023 through 2025, the provision modifies the existing credit for other dependents by creating a new credit with similar rules to the existing credit. The $500 credit amount is indexed for inflation beginning in 2023 (as if annual inflation adjustments started in 2022) using the CPI. The credit is subject to one phaseout beginning at the following applicable threshold amounts: $400,000 for taxpayers filing jointly or surviving spouses, $300,000 for head of household taxpayers, and $200,000 for all other taxpayers

Section 137104 provides that after tax year 2025, when the operable child tax credit rules are those in section 24 but without the ARPA expansions, the child tax credit is fully refundable for taxpayers who have a principal place of abode in the United States for more than one-half of the year or who are bona fide residents of Puerto Rico for the tax year.

Number of affected taxpayers

It is estimated that the provision will affect approximately 40 million tax returns in 2022, 50 million tax returns in 2023 through 2025, and 3 million tax returns in tax years after 2025.

Discussion

The IRS will need to modify forms, instructions, and publications to reflect each of the changes to the child tax credit, including the change in the safe harbor amount and applicable modified AGI for 2022 and establishment of a monthly child tax credit for tax years 2023 through 2025, described above. The IRS also will need to issue regulations or other guidance to clarify rules regarding eligibility for and the amount of the credit. Taxpayers newly eligible for the child tax credit may have to keep additional records. The changes may result in an increase in disputes with the IRS, especially with respect to adjudicating competing claims for presumptive eligibility for a specified child. The IRS will need to set up an adjudication system for such competing claims.

In order to continue the advance payment program established in 2021, the IRS will need to modify forms, instructions, and publications. It will need to provide for a method of annual renewal for taxpayers to establish presumptive eligibility for the credit. It will also need to maintain and modify an online portal or other specified mechanisms that allow taxpayers to elect in or out of the program, establish presumptive eligibility, and provide additional information. The IRS will need to provide processes for automatic presumptive eligibility in certain circumstances. The IRS will need to set up processes to allow grace periods and hardship payments. The IRS will also need to send an annual notice to taxpayers providing the aggregate amount of advance payments. Regulatory guidance may be necessary to provide additional rules for the advance payment program and reconciliation. This program will require significant programming and other information technology changes. Taxpayers will need to maintain records of advance payments received but will be assisted by receipt of the IRS notice. The advance payments and reconciliation may result in an increase in disputes with the IRS. The

advance payment program and reconciliation may also increase tax preparation costs for individuals.

The application of the provision to those with a principal place of abode in Puerto Rico will require the IRS to create new forms, instructions, and publications for these residents to file returns with the United States to claim the child tax credit. Regulatory guidance may be necessary to provide additional rules for these individuals. These individuals will need to keep additional records to establish eligibility for the child tax credit. There may be additional disputes between these individuals and the IRS about eligibility for the child tax credit and calculation of the child tax credit. Finally, these individuals will have increased tax preparation costs because they will have to claim the child tax credit or advance payments of the credit with the IRS.

Certain improvements to the earned income tax credit made permanent (sec. 137401 of the bill)

Summary description of provision

Section 137401 makes permanent certain temporary changes to the EITC that currently apply only to taxable years beginning in 2021. For taxable years beginning after 2021, the provision makes certain changes to the "childless EITC" to: (1) lower the minimum age to (i) 24 for certain specified students; (ii) 18 for qualified former foster youth and qualified homeless youth; and (iii) 19 in all other cases; (2) remove the maximum age; and (3) increase (i) the credit and phaseout percentages to 15.3 percent, (ii) the earned income amount to $9,820, and (iii) the beginning of the phaseout range to $11,610. The earned income amount and beginning of the phaseout range are adjusted for inflation starting in 2022. The provision directs the Secretary to develop procedures to use information returns under section 6050S to check the status of individuals as specified students

The provision permits a taxpayer to elect to calculate the taxpayer's EITC for taxable years beginning after 2021 using preceding year rather than current year earned income, if the taxpayer's earned income in the preceding year is less than in the current year.

Number of affected taxpayers

It is estimated that the provision will affect approximately 37 million tax returns.

Discussion

The IRS will need to modify forms, instructions, and publications to reflect the changes to the EITC due to the provision. It will also need to continue to use procedures for taxable year 2021 or create new procedures to determine specified student, qualified former foster youth, and qualified homeless youth status. Regulatory or other guidance may be necessary. Taxpayers newly eligible for the "childless EITC" may have to keep records, such as information about self-employment income, necessary for the determination of the EITC. It is not otherwise anticipated that taxpayers will need to keep additional records due to the provisions, or that compliance with the provision will impose new costs on taxpayers. Determination of qualified former foster youth or qualified homeless youth status

may result in an increase in disputes with the IRS. Otherwise, the provisions should not result in an increase in disputes with the IRS. In addition, the provision should not increase the tax preparation costs for most individuals.

G. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of Rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the subtitle, and states that the provisions of the committee print do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

H. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of Rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the committee print establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report to Congress pursuant to section 21 of Public Law 111139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant section 6104 of title 31, United States Code.

CHANGES IN EXISTING LAW MADE BY THE COMMITTEE PRINT, AS TRANSMITTED

With respect to clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee requested but did not receive the text of changes in existing law made by the subtitle, as reported.

DISSENTING VIEWS

RICHARD E. NEAL
MASSACHUSETTS,
CHAIRMAN

LLOYD DOGGETT, TEXAS
MIKE THOMPSON, CALIFORNIA
JOHN B. LARSON, CONNECTICUT
EARL BLUMENAUER, OREGON
RON KIND, WISCONSIN
BILL PASCRELL JR., NEW JERSEY
DANNY K. DAVIS, ILLINOIS
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BRIAN HIGGINS, NEW YORK
TERRI A. SEWELL, ALABAMA
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BRAD SCHNEIDER, ILLINOIS
TOM SUOZZI, NEW YORK
JIMMY PANETTA, CALIFORNIA
STEPHANIE MURPHY, FLORIDA
JIMMY GOMEZ, CALIFORNIA
STEVEN HORSFORD, NEVADA
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VIRGINIA

GARY ANDRES,
MINORITY STAFF DIRECTOR

September 17, 2021

DISSENTING VIEWS ON SUBTITLE F.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO INFRASTRUCTURE FINANCING

Improving America's infrastructure has always been achieved by both parties in Congress working together. It's a unifying, bipartisan issue that reflects our common belief that a growing nation deserves infrastructure that is growing with it. Unfortunately, Democrats' approach was crafted behind closed doors with no input from Republicans.

Worse, pairing infrastructure spending with crippling tax hikes sabotages America's recovery, hurts working families, and drives U.S. jobs overseas. We cannot fund infrastructure on the backs of American workers.

Our top infrastructure priority must be attracting more private funding. America lags the rest of the world in private-sector infrastructure investment. Public-private partnerships driven by private-sector dollars are much more common outside the United States.

According to a World Bank database, private investors have invested $356 billion in transportation infrastructure projects outside the U.S. since 1990. U.S. public-private partnership programs, like the $15 billion transportation private activity bonds program, pale in comparison. We should work on a bipartisan basis to expands private investment and reduce our dependence on taxpayer funding. Unfortunately, Democrat's partisan plan does the opposite.

This subtitle creates new "qualified infrastructure bonds" in the vein of Obama-era "Build America Bonds" (BABs), which offer direct-pay subsidies to government issuers of infrastructure bonds. In contrast to municipal bonds and tax-exempt private activity bonds, which offer tax-exempt treatment of interest income to the investor, direct-pay bonds provide direct funding from Treasury to the bond issuer. This means that individuals not subject to foreign tax, like billionaire foreign investors, receive the same benefits as an American investor. We should not be creating a new loophole for wealthy investors in tax haven jurisdictions.

As with BABs, qualified infrastructure bonds are granted a subsidy of up to 35 percent of the interest on the bond. A 2011 report by the Obama Treasury Department concluded that the 35 percent subsidy rate was more generous than necessary to offset the cost of taxable financing and resulted in an unexpected direct $20 billion subsidy to states. The Obama Administration even

proposed reinstating BABs at a lower subsidy rate that would be "revenue neutral." Thus, a 35 percent subsidy rate is not a responsible use of federal taxpayer dollars.

Democrats also repeal an important safeguard included in the 2017 tax reform law – preventing state and local governments from using "advance refunding" to refinance tax-exempt bonds. Prior to the 2017 tax law, state and local governments could refinance tax-exempt bonds by issuing new tax-exempt bonds far in advance of the redemption of the original bond. This allowed state and local governments to capture the benefits of lower prevailing interest rates.

By repealing this safeguard, Democrats open the door to no limit on the number of times that tax-exempt bonds can be refinanced (i.e., advance refunded). As a result, state and local governments could issue and have outstanding multiple tax-exempt bonds for the same project for extended periods of time. The federal taxpayer should not be required to subsidize the same project multiple times.

Broadband internet service is critical to advancing opportunities for all Americans, yet millions of Americans remain without access to high-speed broadband networks. Unfortunately, this legislation does not focus on areas of the country that currently lack coverage. Instead, it encourages overbuilding and allows government to unfairly compete against private companies with taxpayers left footing the bill.

Finally, this subtitle applies Davis-Bacon prevailing wage requirements to both BABs and exempt facility bonds for infrastructure projects, which will drive up costs and reduce the return on taxpayers' investment.

DISSENTING VIEWS ON SUBTITLE G.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO GREEN ENERGY

Democrats have made an unfortunate departure from smart, pro-growth tax policy that promotes innovation, investment, and jobs. Instead, they wade into command-and-control industrial policy, where favored industries win and everyone else loses.

The American entrepreneurial spirit has led to unprecedented innovation, growth, and prosperity. When Americans step onto a fair and level playing field, they can compete with anyone in the world and win. A fair tax system with a broad base and low rates provides the level playing field and promotes innovation and jobs. That was the goal and result of the 2017 tax reform law, which led to unprecedented wins for U.S. workers and record investment in research and development.

A broad-base, low-rate tax system also ensures that the tax burden on any specific business is neither too low nor too high and everyone pays their fair share. When considered with the other subtitles, this subtitle will result in fewer businesses paying effective tax rates close to the statutory rate. Although tax rates are increased, favored industries receive huge new corporate tax breaks that will allow big businesses to escape paying taxes.

By expanding generous tax subsidies for technologies that have been around for nearly three decades, the proposed legislation also discourages innovation in new technologies that would have to try to compete with heavily subsidized market-dominating technologies. Republicans believe American solutions for cleaner energy sources will come from innovation and creativity, not through market control and corporate welfare for established technologies.

Republicans are encouraged to see businesses reducing their greenhouse gas footprint and individuals making choices that stimulate the development of energy technology. The best way for the government to achieve shared environmental goals is to take the thumb off the scale, avoid market disruptions, and allow American entrepreneurs to create a cost-efficient path for consumers and government alike.

When government tries to pick winners among favored industries and losers among disfavored industries, the result will be waste and failed investment of taxpayer dollars. With lower rates and a broader tax base that excludes unnecessary taxpayer-funded subsidies, businesses will have the investment dollars and proper incentives to create a new energy future.

The new and expanded cash tax credits for luxury electric vehicles (EVs) included in this subtitle are egregious examples of cronyism and unnecessary taxpayer subsidies. The EV credit for individuals rewards the wealthy and inflates the cost of vehicle, all at the federal taxpayer's expense. There is no reason that a wealthy household earning $800,000 needs to receive up to $12,500 for each EV they purchase. Similarly, the EV tax credit for businesses will reward wealthy corporations and allow them to avoid paying their fair share.

Republicans believe that workers driving a used car and paying the gas tax should not be footing the bill for the luxury EVs of the wealthy or their wear-and-tear on the roads. A factory worker driving a pickup to work to provide for his or her family shouldn't see lower wages or higher taxes so that a top 1% household in California can get a write-off for their new Tesla.

Democrats have also rushed through this policy without a full vetting, making clear the folly of trying to implement industrial policy. Only one car currently on the market meets all of the qualifications for the full EV tax credit, and starting this week, it comes with the following warning: "In an effort to reduce potential damage to structures and nearby vehicles in the rare event of a potential fire, we recommend parking on the top floor or on an open-air deck and park 50 feet or more away from another vehicle. Additionally, we still request you do not leave your vehicle charging unattended, even if you are using a charging station in a parking deck."

In addition, the inclusion of the direct-pay option for tax credits represents a total departure from the model of a tax on income. Tax credits are intended to provide an incentive for successful firms to (1) pursue preferred activities that may be less profitable than alternatives, or (2) reduce a preferred cost that they may not have otherwise undertaken. Tax credits that prop up firms that are unsuccessful and may never become successful create a major risk wasted taxpayer dollars.

Direct pay tax credits operate as grants administered through the tax code, but without the typical government oversight, transparency, and limits of traditional grants. And the generous tax credits in this subtitle do not provide the government with an equity stake in the businesses in which they have made a de facto equity investment.

Direct pay tax credits also create backwards incentive to support higher business tax rates because the value of a tax credit increases with the tax rate it is offsetting. The Democrats' plan is to increase business taxes across-the-board, and then provide special loopholes and tax shelters to the subset of businesses that they favor.

Some sections of this subtitle provide for "bonus" tax credits contingent on the use of domestic steel, aluminum, and manufactured products or on certain domestic assembly and local content requirements. Such requirements can raise questions about consistency with U.S. obligations under certain World Trade Organization agreements, and the Majority has not provided Committee Republicans with any analysis of these considerations.

Finally, the labor requirements in the proposed legislation run counter to the purported goal of cleaner energy production. These requirements will increase the cost of green energy projects and goods, so every dollar spent goes a shorter distance. This is just another example of how the Democrat's "government knows best" approach often makes it more difficult to achieve their intended outcome.

Trying to be constructive, we offered amendments to improve this legislation. At every turn, we were rebuffed by our colleagues on the other side, who defeated our efforts on technicalities or with prearranged party-line votes.

Here are some of the common-sense amendments that were opposed by our colleagues:

- "The Green New Deal Elimination and Middle-Class Family Protection Amendment" – would strike the green energy tax subsidies and avoid hundreds of billions in offsetting tax increases that will be borne by ordinary Americans.

- "The No Corporate Welfare Amendment" – would eliminate eligibility for commercial EV tax credits for any big business with income over $5 million.

- "The No Tax Breaks for the Top 1% Amendment" – would reduce the maximum income threshold for EV tax credits from $800,000 to $150,000 ($75,000 for single filers).

- "The Corporate Welfare Elimination Amendment" – would eliminate the direct pay option for green subsidies for any big business with income over $5 million.

In Democrats' rush to spend $3.5 trillion, they included numerous loopholes and subsidies to wealthy individuals and hand-picked businesses. That's not the path to strong economic growth. A smarter tax system with a broader base and lower rates is proven to generate prosperity and opportunity for all Americans.

DISSENTING VIEWS ON SUBTITLE H.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO SOCIAL SAFETY NET

Committee Republicans oppose all parts of Subtitle H. In Subtitle H, Democrats are turning the Child Tax Credit on its head by completely de-linking the credit from earnings and work in an unprecedented attempt to start using the IRS to distribute cash welfare – at a cost of $556 billion. This is the most expensive item on the Democrat's tax hikes and spending spree wish list. These monthly payments will flow, no strings attached, regardless of whether the recipient earned any income or worked.

This policy originated in the partisan American Rescue Plan Act (ARPA) (P.L. 117-2), where Democrats increased the child tax credit by 80 percent, from $2,000 to $3,600, and made the credit fully refundable regardless of income or earnings. In addition, the bill required the IRS to advance payments on a monthly basis. These changes were set to expire at the end of 2021. Prior to ARPA, in order to receive the child tax credit, families had to report at least $2,500 in income and the credit was refundable up to $1,400. Subtitle H provides an additional year extension through 2022 and then extends the CTC to 2025 with several changes that make it more susceptible to fraud and abuse.

America's struggling families need good-paying jobs, not more emergency spending and endless government checks. Democrats are using temporary emergency COVID relief as a backdoor to create permanent new welfare-without-work programs that foster greater dependence on government and pay people more not to work. According to scholars at the American Enterprise Institute, by ending CTC work requirements, Democrats will destroy up to 451,000 jobs.[1]

With more than 10 million job openings and national worker shortage in a post-COVID economy, the country can't afford to relegate an entire generation of workers to the sidelines. A Wall Street Journal Op-Ed laid out the big picture well:

> *"Under the guise of pandemic relief, the federal government would give a nonworking single parent with two preschool-age children and one in grade school $850 a month. This would come on top of other government benefits, including $680 a month in food stamps, amounting to $18,360 in combined annual income.*
>
> *That's the equivalent, without accounting for taxes, of working 28 hours a week at $12.50 an hour. On top of that, the family would receive health insurance from Medicaid, and it may also receive housing and child-care assistance. Government benefits to nonworking households that are this generous are bound to reduce employment."*[2]

It is especially pernicious that Democrats have been champions of the policy in this subtitle – to send monthly checks to non-earner, non-working households with children – as a way to

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[1] American Enterprise Institute, "Unintended Consequences: Democrat's child tax credit will cost jobs," April 22, 2021.
[2] Wall Street Journal, "Democrats' Stealth Plan to Enact Universal Basic Income," Robert Doar and Matt Weidinger, March 2, 2021.

decrease child poverty. Democrats' version of the CTC will hold people down by keeping them reliant on government handouts. This is the opposite of how a safety net should work.

No amount of endless government checks —no matter how well-intentioned—can address the underlying challenges that could be holding a family back from success and economic independence.

Democrats big spending proposals in this bill, like the CTC, equate to turning a blind eye on America's most vulnerable families – what Arthur Brooks so artfully phrased as the "soft bigotry of low expectations." Families in poverty almost always face multiple challenges, such as a skills gap, language barriers, or lack of access to education, and/or have underlying problems that perpetuate the cycle of poverty – from domestic violence, addiction, and abuse and neglect, to unaddressed mental health problems. In Subtitle H, Democrats would create a system of automatic benefits that send poor families a check and walk away, as if the absence of money were the only obstacle families in poverty face. The human connection is pivotal.

Americans are a generous people. In fact, American taxpayers fund a social safety net of more than 80 programs to the tune of $1 trillion a year as a commitment to reducing child poverty and helping those in need. But there's one fundamental value American's have consistently held across the political spectrum. It's about personal responsibility and work in exchange for benefits. We all know that families, particularly the children in those families, do best when parents are connected to jobs and moving up the economic ladder. This subtitle goes in the opposite direction.

Instead of anchoring those in poverty to endless checks—Republicans believe we should be empowering them to seize greater opportunity and success for themselves and their children by linking them to jobs and the supportive services they need. The human connection is pivotal. Case management practices that promote work and focus on people, not programs, can help families set goals, connect them to needed services, and show them a path forward.

Committee Republicans offered an amendment to re-instate the $2,500 earnings work requirement and ensure that income from CTC counts towards eligibility for federal means-tested benefit programs. Democrats unanimously rejected this amendment to link federal benefits to the pursuit of work and the skills that lead to work.

Subtitle H, like many of the new programs in this bill, also is not well-targeted and would benefit high-earner households. Wealthy Americans earning well over $200,000 a year will receive checks whether they want them or not. In addition, the new monthly cash payment system of CTC will serve as a powerful magnet for fraudsters and identity thieves. We know that improper payments have persisted in Earned Income Tax Credit payments, rising from $15.6 billion (23.8 percent) in 2015 to $17.4 billion (25.3 percent of all payments) in 2019. A concerning pattern also exists for Additional Child Tax Credit (ACTC).

House and Senate Democrats should take a closer look at this bill. In the rush to claim ownership, Committee Democrats have created a shoddily constructed program with serious

design flaws. The subtitle makes a number of eligibility changes to CTC beginning in 2023 that raise even more concerns about the susceptibility to fraud and abuse.

First, the bill would change the definition of "qualified child" to "specified child." Broadly, the definition in the draft text is based on who the child lives with during the month and who provides care for the child during that month. This is a broader definition of a qualifying child which may allow non-relatives (i.e., kinship caregivers) and other relatives who care for the child to receive the benefit, again with no safeguards in place to prevent identity theft or assurances that the child actually lives with the person claiming the credit.

The bill would also allow for the Secretary of Treasury to provide "presumptive eligibility" to families on a monthly basis. Subtitle H outlines methods for the IRS to estimate the monthly benefit amount as well as procedures to issue the payment to the taxpayer who is deemed "presumptively eligible" for the benefit during a specified period of time. The exact details of how "presumptive eligibility" would work in practice are not entirely clear, as the language provides the Treasury Secretary with discretion in developing these processes within the bounds of the legislative text.

Committee Republicans offered a good governance amendment to address several of these weaknesses with common sense fixes. The amendment would have:

- Maintained the Social Security number requirement for the CTC;
    - U.S. Citizens, and people lawfully admitted to the U.S. on a permanent basis, including Permanent Residents, refugees, and asylees are all eligible for Social Security numbers.
    - Republican tax reform closed off a significant opportunity for fraud by requiring a social security number for each child claimed under the child tax credit. In Subtitle H Democrats seek to eliminate this requirement.
- Strike the section allowing presumptive eligibility for the CTC;
- Maintain the tax filing requirement for Obamacare's Advanced Premium Tax Credit;
    - This restores the requirement for people to file their tax returns at the end of the year. The IRS itself deems the premium tax credit program "high risk" and estimated that 27.4% of the total PTC payments in FY2019 were improper. The equivalent of $4.3 billion in a single year;
- Re-name the IRS the "Internal Revenue and Welfare Office" to reflect their new mission as a welfare agency disbursing checks and entitlement benefits to Americans.
    - Democrats want the IRS to run a new $500 billion paid family and medical leave entitlement program and expects them to turnaround applications in 15 days.
    - The IRS would also now be in charge of distributing monthly CTC welfare checks to every person with children who earn under $400,000 a year.
- Biden's Treasury Department has already rejected the idea of running a new benefit entitlement program.
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Democrats unanimously rejected this amendment to protect the CTC from fraud and abuse and add simple common sense integrity measures.

A surprise inclusion in a bill was a $2.5 billion loophole for Ivy League universities. Republican tax reform in 2017 instituted a new anti-abuse tax, to prevent Ivy League schools from funneling tens of billions of tax-free dollars into massive endowment accounts that don't help students. The Republican approach made sense: the endowment tax would apply only to large schools and only if the university had stockpiled more than $500,000 per student in its endowment. As a result, only about 30 universities are subject to the excise tax – and they are generally the wealthiest schools in the country. The top 3 endowments at the end of 2020 were Harvard ($40 billion), Yale ($31 billion), and Stanford ($28 billion).

Responsible university presidents would deploy endowment funds to expand enrollment, particularly for historically disadvantaged minority groups. Instead, Ivy League presidents appear to have worked behind the scenes to create a special tax shelter. These schools don't need a loophole, and the structure of the loophole doesn't even make sense. A school could easily avoid the anti-abuse tax without impacting its bottom line by simultaneously increasing financial aid and tuition, with the end result being the same net amount of tuition received. Instead of tax shelters for the Ivy League, we should focus our efforts on good jobs, higher wages, and greater opportunity for American workers.

Trying to be constructive, we offered amendments to improve this legislation. At every turn, we were rebuffed by our colleagues on the other side, who defeated our efforts on technicalities or with prearranged party-line votes.

Here are some of the common-sense amendments that were opposed by our colleagues:

- "The No Tax Shelters for Ivy League Elites Amendment" – would remove the carveout from the college endowment anti-abuse tax.

Additionally, the cost of health insurance is an issue that we can, and should be, tackling on a bipartisan basis.

A recent study reported that healthcare spending in the U.S. during 2019 was nearly $3.8 trillion, or $11,582 per person. By 2028, these costs are expected to climb to $6.2 trillion—roughly $18,000 per person.[3]

Average unsubsidized family premiums for the Affordable Care Act (ACA) from 2015 through 2020 rose 97% from $8,724 to $17,244.

Those costs are too high – yet they pale in comparison to the staggering costs of bribing people into buying Obamacare plans. We don't even have a public CBO score of these costs, but apparently the attitude of the majority is, "if it's broke, raise taxes and throw more money at it."

We should be working together on policies that expand transparency, choices, and affordability for patients.

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[3] Peterson Foundation. "Why Are Americans Paying More for Healthcare?" Accessed March 9, 2021.

To that end, Ways and Means Republicans offered an alternative that includes policies to:

- Allow patients of all ages to purchase affordable catastrophic plans that provide all the same benefits as the other exchange plans but don't break the bank with through-the-roof monthly premiums.

- Allow employees to receive on-site care from their employer and still receive contributions to their health savings accounts, a bipartisan priority.

- Double the contribution limit on health savings accounts, and yet another to allow patients with direct primary care arrangements to maintain eligibility for health savings accounts, another bipartisan priority.

- Codify the Trump Administration's rule to expand the flexibility of Individual Coverage Health Reimbursement Accounts (ICHRAs). This rule would add flexibility for both employers and employees, and contributions can only be used to purchase an ACA-compliant plan.

Republicans want to help Americans afford their health care. We just disagree on how you go about it. The inefficient spending in this bill, all to prop up a law that has failed to address the true cost of care in this country, is not the right approach.

We should work together to accomplish our shared goal – not use a process that allows for no bipartisanship to slap a band-aid on the problem of ballooning health care costs.

For these reasons and more, Ways and Means Republicans reject the Democrats' higher cost subsidy expansion as ordered reported by Committee Democrats.

DISSENTING VIEWS ON SUBTITLE I.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO FUNDING OUR PRIORITIES

In their rush to meet an artificial deadline for the largest partisan tax-and-spending spree in history, Committee Democrats cobbled together a set of incoherent policies that seemed to baffle some of their own Members. As the markup progressed, it was clear that some members were working from a set of carefully prepared talking points, rather than the actual text of the legislation before us. And it was hard to blame them, given the short amount of time Members were given to review an avalanche of paper, and the scope of this bill, most of which was coming before Committee as a matter of first impression.

Various provisions in this subtitle unwind important policies included in Republicans' 2017 tax reform law. We have clear evidence of the success of Republican tax reform. American workers were the big winners: incomes for black, Hispanic, and Asian Americans saw record increases; unemployment fell to all-time lows; wages grew at the strongest rate in a decade (wages grew faster for lower-income workers than for supervisors and executives); and income inequality actually decreased.

In addition, businesses made record investments in R&D to improve our status as the world's most innovative economy, and companies stopped fleeing offshore. Prior to the 2017 tax law, corporate inversions – where American companies expatriated to escape our previously uncompetitive tax system – were a signature failure of the Obama-Biden Administration. Yet there have been zero inversions since Republicans modernized the tax code.

Economists confirm that Democrats' trillions of dollars in tax increases will kill jobs, reduce wages, decrease economic growth and prosperity, and harm our economic recovery. Massive tax hikes are the last thing Americans need.

Democrats' Attack on American Families and Main Street Businesses

Dating back to his presidential campaign, President Biden has often repeated the pledge that "nobody making under 400,000 bucks would have their taxes raised, period, bingo." In this subtitle, Democrats have broken the pledge - "not a single penny" more in taxes for those who earn less than $400,000—repeatedly. Despite the rhetoric, it is clear that ordinary Americans will be forced to bear the brunt of Democrats' historic and devastating tax hikes.

This subtitle increases the top individual tax rate, nominally protecting those earning under $400,000 from a tax increase, but in fact harms some of our most vulnerable Americans. While joint filers have some protection from the tax increase, married individuals filing separate returns are subject to the higher rates at incomes as low as $200,000, half of the level of protection pledged by President Biden. Some married individuals filing tax returns separately have been victims of domestic violence who have fled a dangerous situation. For those individuals—generally women—it may not be safe to collaborate with the abusive spouse to meet annual tax filing obligations. And under the Democrats' plan, such women filing separate returns would be subject to a tax hike if they earn a penny over $200,000.

In addition, Democrats include in this subtitle a terribly regressive $97 billion tobacco tax that will be paid by the lowest-earning Americans. The Joint Committee on Taxation (JCT) estimates that 94 percent of the tobacco tax will be paid by Americans earning less than $200,000. Yet again, Democrats violate the Biden pledge by collecting new taxes from smokers and people who use vaping products, including those who have successfully quit smoking. A tax intended to thwart demand for a product often doesn't shift demand at all. Instead, an underground economy simply fills the gap in supply and prices go up. Penalizing dependency is not a viable path to discourage smoking, nor is it fair to the most financially vulnerable Americans.

Despite promises to the contrary, Democrats also target Main Street businesses with tax increases in this subtitle. The vast majority of small businesses are organized as a "pass-through," where the tax code assumes that business income is all passed through to the business owner and reported on the owner's individual tax return.

The 2017 tax reform law cut tax rates for pass-through business owners and also created the first-ever small business deduction under Section 199A. The deduction is directly related to the amount of wages the business pays; thus, a large 199A deduction is something to be celebrated, not vilified. It shows that the business is growing and likely hiring workers and increasing paychecks.

In this subtitle, Democrats impose a "small business growth tax" by setting an arbitrary limit on the Section 199A small business deduction. The change also includes a severe built-in marriage penalty, punishing the families of business owners. Democrats also increase the capital gains tax, create a new 3% surtax on income, and expand the reach of the Obamacare 3.8% net investment income tax to hit more Main Street businesses. The COVID-19 global pandemic created unprecedented challenges for businesses across the country, and Democrats' answer to them is a series of job-killing tax hikes.

Democrats' cradle-to-grave approach to policymaking also extends to taxes. In this subtitle, Democrats cut in half the death tax exemption amount, which will have devastating effects on the longevity of farms, ranches, and other family-owned businesses. Democrats' plan does not protect a family business owner who has retired and now holds a passive interest in the business. This confiscatory policy will cause a forced sale of assets or other pieces of family businesses in order to pay a bigger bill to the IRS. It shouldn't be surprising that the National Federation of Independent Business, the largest group representing America's small businesses, as well as the National Association of Manufacturers, the largest group representing U.S. manufacturers, are both sounding the alarm about this reckless plan.

Democrats' Global Tax Surrender

Prior to the 2017 tax reform law, our broken tax code forced companies and jobs overseas.

An EY study showed that from 2004 to 2016, over $510 billion in investment—the equivalent of 1,400 companies and business units—changed hands from American ownership to foreign ownership due to our uncompetitive tax system. Major U.S. companies relocated to lower-tax

foreign countries. Between 2001 and 2017, the number of U.S. headquartered companies in the Fortune Global 500 list of largest companies had fallen by nearly 30%, from 181 to 132. Countries like the United Kingdom, China, Switzerland, and the Netherlands were attracting companies and jobs with more favorable tax rules.

In the 2017 tax law, Republicans took action to stop widespread corporate inversions and job loss overseas. Congress reduced the U.S. corporate tax rate from highest in the developed world to a rate slightly above average. The 2017 tax law also reformed U.S. international tax rules by moving away from an outdated worldwide system and instituting new measures to reduce profit shifting (GILTI and BEAT) and encourage ownership of valuable intellectual property in the United States, rather than in tax havens (FDII).

This comprehensive approach to international taxation was not developed in a vacuum but was the result of open bipartisan and bicameral collaboration. For example, in 2015, the Boustany-Neal Innovation Box Discussion Draft proposed a concept that shares much in common with FDII. In the Senate, the Bipartisan Framework for International Tax Reform chaired by Sen. Rob Portman (R-OH) and Sen. Chuck Schumer (D-NY) recommended a FDII-type incentive, anti-base erosion rules in line with GILTI and BEAT, and other measures captured in the 2017 tax reform law.

Since the 2017 tax law, zero corporate inversions have been announced. Major companies that left the United States under the prior broken tax system came back. Recent analyses of tax and financial data have shown that investment and profits booked in the United States have materially increased, particularly in the technology industry. This represents major progress, as the technology industry has been attacked for seeking low-tax jurisdictions for its operations and intellectual property.

Republican tax reform also leveled the playing field by shifting toward a broad-base, low-rate system that doesn't choose winners and losers. Contrary to the false claims by some of our Democratic colleagues during the markup, the 2017 tax law was never meant to benefit any specific company or industry. It was a balanced approach, with most of the business tax reductions paid for by repealing special industry provisions and loopholes. Democrats' plan, as captured in this and other subtitles, is the exact opposite – high-rates for all businesses except for favored industries who qualify for special handouts and loopholes.

Democrats' partisan tax proposal would make it better to be a foreign company or worker than an American one. Since the 2017 tax law, 12 other developed countries have reduced their corporate taxes, because they know it is a critical component in attracting investment, jobs, and prosperity. The average combined (national and subnational) corporate tax rate among OECD countries is 23.1 percent, and the current corporate tax rate in Communist China is 25 percent. This subtitle would increase the combined U.S. (federal and state) corporate tax rate to nearly 31 percent, far higher than our major trading partners. The American workers are the biggest loser: economists project that a corporate tax rate at levels proposed in this subtitle would cost 500,000 jobs per year or more.

During the markup, the Joint Committee on Taxation (JCT) confirmed that American workers would end up bearing a significant share of any corporate tax increase. In fact, JCT recently reported that raising the corporate tax rate would result in 66.3% of the burden falling on lower- and middle-income households. This is yet another violation of President Biden's pledge that taxpayers with under $400,000 in income "will not pay one penny more." Of the 172 million taxpayers who would bear the burden of the increased corporate tax rate, 98.4% (about 169 million people) have incomes under $500,000. Even the left-leaning Tax Policy Center agrees – they find that the tax plan proposed by President Biden would raise taxes on 75% of middle-class families next year, rising to 95% of middle-class families in 2031.

For international tax changes, Democrats propose a substantial increase (to 17.4 percent) to the GILTI global minimum tax on U.S. companies. Under current law, GILTI imposes a minimum tax of at least 13.125 percent on the foreign earnings of most U.S. companies, and many U.S. manufacturing companies pay GILTI at rates even higher. Inexplicably, Democrats seek to tighten GILTI rules, despite the fact that no other country has adopted a similar tax on its own companies.

This approach makes no sense in the context of the Treasury Secretary's endorsement of the OECD framework for a 15 percent GILTI-type global minimum tax. Not only would the global minimum tax rate be higher for the United States than anywhere else in the world, but Democrats also propose other changes that would make GILTI more onerous than the plan being considered at the OECD. And most experts believe we are years away from full implementation of the OECD framework by other countries. In no event should we make GILTI changes that disadvantage Americans in the global economy, nor should we make any changes to GILTI before our trading partners have implemented a global minimum tax of their own.

Democrats also make the U.S. international tax system significantly more complicated, creating additional burden and cost on the IRS and American companies. If this subtitle is enacted, U.S. companies operating globally will have to contend with tracking each intercompany cross-border transaction and potentially assigning income and tax payments to more than 100 foreign tax credit baskets.

It is also difficult to understand Democrats' rollback of the FDII incentive for retaining valuable intellectual property in the United States, by increasing the tax rate on such property from 13.125 percent to 20.7 percent. Today, 16 OECD countries offer FDII-type incentives for intellectual property to encourage companies to locate research and development and its products domestically. This change sends a message that the United States has conceded the global race for innovation and break-through technologies. The changes to FDII will cause high-value intellectual property and high-paying innovation jobs to migrate offshore.

Together, these international tax changes will create unnecessary headwinds that will cost us jobs, investment, and growth. During the same 2001-2017 period that the US company representation in the Fortune Global 500 fell by 30 percent, the number of Chinese companies grew by almost 900 percent, from 11 to 109. That number has since increased by another two-thirds to 181. Now is not the time to punish American companies and workers with the highest

taxes in the developed world. A better approach is to ensure that our tax system will continue to fuel growth and prosperity in an increasingly competitive global economy.

Trying to be constructive, we offered amendments to improve this legislation. At every turn, we were rebuffed by our colleagues on the other side, who defeated our efforts on technicalities or with prearranged party-line votes.

Democrats' Price Increases for Working Families and Attack on American-Produced Energy

We will not protect Americans' pocketbooks and rebuild a strong economy if we raise fuel or consumer prices for families, increase our dependence on OPEC oil, or allow companies from countries with lax environmental standards control the global energy markets.

Democrats would reinstate the Superfund excise taxes that expired over 25 years ago, increasing the price of products American families purchase every day. Imposing these taxes – which increase the cost of gasoline, heating oil, utilities, appliances, and millions of consumer goods – is another violation of President Biden's pledge not to increase taxes on Americans making less than $400,000. What's more, there is nothing in this or any other subtitle that would dedicate Superfund tax revenues to any environmental purpose. Instead, these tax and price increases on ordinary Americans will be used to expand Democrats' socialist spending priorities.

This subtitle would also impose arbitrary and punitive tax penalties on U.S. resource extraction companies operating globally. By eliminating the foreign oil and gas extraction income rule for GILTI and repealing foreign tax credits for dual capacity taxpayers, Democrats are tilting the playing field in favor of foreign companies, often less-responsible operators headquartered in adversary countries.

Democrats' Punitive Retirement Rules and Retroactive Tax Increases

Continuing the tradition of bipartisan work on retirement security legislation, Democrats and Republicans on this committee unanimously approved a retirement bill in May. However, instead of working together to get that legislation enacted by year-end, Democrats have decided to reverse course and go it alone. In contrast to prior work on retirement security, where significant work over many months culminated in open consideration of legislation, the major retirement changes in this subtitle have received only a cursory review.

Democrats appear to be acting in response to cherry-picked taxpayer data illegally obtained from the IRS and strategically disclosed to generate media attention. Far from expressing concern about the implications of a politically motivated disclosure by IRS employees or contractors, Democrats are giving prominence to the breach of confidential taxpayer data. This unfortunate action guarantees that there will be future illegal disclosures and irreparably harms tax administration. Yet most concerning is the message Democrats are conveying to American savers and younger workers starting to contribute to a retirement plan: if Washington thinks your investments are too successful or your accounts grow too large, they can change the rules along the way and make you pay more. Democrats have suggested they have a goal of encouraging savings in qualified retirement plans, but this will do precisely the opposite.

The sweeping changes to retirement plans in this subtitle are not fully vetted and have the potential to harm tax administration. They also represent a missed opportunity to develop bipartisan solutions that promote retirement security for all Americans, rather than an ill-advised attempt to address a very small number of edge cases. Further, ordinary Americans will see more IRS audits and higher penalties from a provision that would increase the statute of limitations to six years for innocent mistakes that many IRA owners make. For every other issue on your tax return, including the generous new refundable tax credits that the Treasury Department says are a major component of the tax gap, the statute of limitations is 3 years. Yet for retirees, it's six years – six years of penalties and interest to compound on an innocent mistake. The inclusion of this change is particularly disappointing because it overrides a bipartisan provision included in the retirement bill approved in May.

The rushed process being pursued by Democrats has inevitably resulted in technical flaws that Republican staff has identified, and we are hopeful that Democrats will abandon this newfound practice of adopting complex retirement changes on an expedited and partisan basis.

Republicans also believe that various proposed changes to the Internal Revenue Code that are retroactive in application and potentially punitive in nature raise fundamental fairness questions for Americans who made decisions and entered into transactions based on current law. Americans should have the certainty that tax law changes will not ex post facto disrupt earlier economic choices and result in surprise tax bills from the IRS.

Trying to be constructive, we offered amendments to improve this legislation. At every turn, we were rebuffed by our colleagues on the other side, who defeated our efforts on technicalities or with prearranged party-line votes.

Here are some of the common-sense amendments that were opposed by our colleagues:

- "The Main Street Business Protection Amendment" – would eliminate the Section 199A small business deduction limitation and make the deduction permanent.
- "The American Small Business Protection Amendment" – would eliminate the Section 199A small business deduction limitation, the Obamacare surtax expansion, and the extension of the pass-through loss limitation beyond 2025.
- "The Saving America's Family Farms and Ranches Amendment" – would remove the death tax increase on farms, ranches, and other family businesses.
- "The Community Support Amendment" – would require Treasury to certify that tax increases in Subtitle I will not force closure of small businesses eligible for the SBA Small Disadvantaged Business Program.
- "The Protect Ordinary Americans from Tax Hikes Amendment" – would ensure that no Americans earning less than $400,000 will be forced to shoulder the burden of the tobacco excise tax.

- "The Gain of Function Accountability Amendment" – would curtail funds for the conduct or support of any gain-of-function research involving potential pandemic pathogen by China, Russia, Iran, or North Korea.
- "The Return to Full Employment in America Amendment" – would require Treasury to certify that tax increases in Subtitle I will not reduce employment or investment in the United States.
- "The No More Price Increases for Working Families Amendment" – would delay the effective date of Subtitles F-J until the inflation rate has been at or below 2.5% for 12 consecutive months.
- "The American Worker and Jobs Protection Amendment" – would delay the effective date of Subtitle I until the U.S. unemployment rate is lower than pre-pandemic levels (in December 2019) for six consecutive months.
- "The American Consumer Price Protection Amendment" – would suspend the Superfund excise taxes when gas prices exceed $3.00 and when inflation exceeds 2.5%.
- "The American Family Pocketbook Protection Amendment" – would strike the superfund excise taxes.
- "The No Giveaways to Polluting Countries Amendment" – would require Treasury to certify that changes to the treatment of foreign oil and gas extraction income will not reduce U.S. energy independence or increase oil and gas production in Russia, China, Venezuela or Iran.
- "The Working Families Before the Wealthy and Well-Connected Amendment" – would make permanent the SALT deduction cap for millionaires and extend the higher standard deduction for middle-class families under the Tax Cuts and Jobs Act.
- "The Cancer Cures Instead of SALT Tax Shelters for Millionaires Amendment" – would make permanent the SALT deduction cap for millionaires and increase funding for cancer research.
- An amendment expressing the sense of Congress that no tax provisions – including the SALT cap – be added to the text after being reported out of the Committee on Ways and Means.
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Democrats approved these sweeping tax increases with only partisan support and with bipartisan opposition. They have also promised that the final version of the bill will include relief from the SALT cap, which would offer tens of thousands of dollars in tax cuts to millionaires and billionaires, while middle-class families would receive, on average, just $15.

In their rush to spend $3.5 trillion and raise taxes by an unprecedented $2 trillion, Democrats have put at risk our economic security and millions of jobs. The better path is to return to our pre-pandemic economic strength – including record gains for workers – and ensure that America remains the most innovative and prosperous country in the world.

Democrat Enhancement of Enforcement Activities at the Internal Revenue Service

Committee Republicans also strongly oppose the Committee's approach to enhancing enforcement activities at the Internal Revenue Service (IRS). There are two main components to the Majority's IRS enforcement proposal. The first is to provide the agency with an additional appropriation of $80 billion dollars over 10 years. The second is to create a robust financial account reporting regime as a means of providing the IRS with additional information returns. We are opposed to both pieces.

The Committee aims to add nearly $80 billion to the IRS budget over the next ten years via a mandatory funding stream. This would nearly double the size of the IRS. Committee Republicans are concerned that such a significant funding stream will exist outside of the normal appropriations process, making it more challenging to provide congressional oversight. The bill has no reporting requirements or accountability measures to ensure this massive new stream of funds is not wasted. Instead, the text provides an absurd amount of money for an agency that has a track record for programs with huge cost over runs and delays, all in an effort to increase audits and close the tax gap without a clear plan on how to accomplish those goals.

Furthermore, we are concerned that the IRS will not be able to hire the staff it claims it needs to increase audits and grow tax collections. Congress gave the IRS funding to implement Covid-relief legislation and one of the ways the agency used that money was to fund a plan to hire 5,000 additional customer service representatives (CSRs). Despite access to funding, the IRS was only able to hire 3,800 employees. Why? According to the agency, the pandemic led to low applicant pools. This is not surprising given that five million people have left the workforce and not yet returned. If the IRS was not able to hire 5,000 people to answer phones when it had access to plenty of funding, how does the agency expect to hire 87,000 new employees?

Most importantly, we are concerned that there is nothing in the bill to ensure that the super soldier army of IRS auditors envisioned by this enormous influx of funding do not target lower- and middle-income taxpayers. In fact, that is precisely what the nonpartisan Congressional Budget Office (CBO) believes will happen. CBO estimates that audit rates will rise for all taxpayers if the IRS were to receive this new funding.

Notably, Democrats have offered wildly speculative and optimistic estimates of potential return on investment (ROI) when it comes to increased IRS enforcement funding. Some have claimed that the IRS can capture five, six, or even ten dollars in revenue for every dollar we spend on the agency's budget. This is pure fantasy. Even CBO estimates a mere two and a half to one ROI ratio for the proposed $80 billion in new funding while also admitting that there a lot of uncertainties in arriving at even that generous of an estimate.

What Committee Democrats fail to explain is that IRS enforcement efforts with the highest ROI involve middle- and lower-income individuals with simple tax returns. Audits of high-wealth individuals and large corporations are the most complex and have much lower ROIs because they are done by humans and take time, sometimes ending in litigation. The IRS also has a poor history of identifying the right people and companies to audit.

In summary, if the IRS fails to correct its audit selection problems, the $80 billion in new funding won't bring in more revenue. It will create an army of new IRS agents attempting to squeeze law-abiding, compliant taxpayers. And we need only look back to Randy Sowers, the Maryland dairy farmer who had his business bank account wrongly seized by the IRS, to understand the consequences of a misguided IRS enforcement regime.

As for the new financial account reporting regime—although it was not explicit in the text of this bill, Chairman Neal made clear during a colloquy with Rep. Beyer that Committee Democrats are continuing to work with the Administration to include it as the legislative process continues. This poorly designed reporting regime imagined by the Administration and Committee Democrats, risks sweeping up the private financial data of law abiding, ordinary Americans. The Committee inappropriately left this provision out of this bill only to reveal in the final hours of the markup its intention to include some unknown version of the provision later on in the legislative process. This approach helped the Committee avoid public debate on a proposal that is quite unpopular with the American people. Unfortunately, this is emblematic of the closed and secretive process used to put together this massive bill.

Members should know what is in the bill before they vote on it, and they should have an opportunity for open and public debate on policy proposals brought before Congress. This Congress has repeatedly failed to operate under regular order and in an open and transparent manner. This institution remains unpopular with the American people and continues to cede its authority to an ever-growing executive branch. Congress needs to reclaim its proper place in our constitutional system of government, and it will only do so through a return to regular order.

Republicans believe every American should pay the taxes they owe. But we disagree with unleashing tens of thousands of new IRS agents on families, farmers, and local businesses. Taxpayers deserve a smart and targeted solution.

For these reasons and more, Ways and Means Republicans reject the Democrats' funding legislative recommendation as ordered reported by Committee Democrats.

DISSENTING VIEWS ON SUBTITLE J.
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO PRESCRIPTION DRUGS

Our constituents deserve better than the drug price setting policies included in the majority's reconciliation submission to the budget committee. In fact, these provisions are more appropriately titled *Fewer Cures for Patients Act.*

Democrats and Republicans support lowering drug prices, cracking down on overpriced drugs, giving patients more power to choose affordable medicines, and removing the incentives in federal health programs that reward bad actors for raising prices.

In fact, at Chairman Neal's invitation, both parties of this Committee were working together toward that important goal.[4] At least until Speaker Nancy Pelosi trashed the bipartisan work and began in earnest her work to force through a secretly written, deeply controversial, divisive and highly partisan drug bill to cure political illnesses rather than actual medical ones.

At the heart of the Democrats' fewer cures agenda is a dangerous trade-off for the American people: some lower drug prices in the short-term but fewer lifesaving cures and treatments in the long term.

Supporters of the Democrats' fewer cures agenda have said they "...frankly think it's worth it."[5] Republicans know these artificial and short-term savings are not worth it – the Democrats' fewer cures agenda presents a cruel and false choice.

With the average new medicine costing $2.6 billion and 15 years to gain approval here in the U.S.[6], it's nothing short of a denial of reality to believe there will be no substantial loss of cures as a result of the Democrats' fewer cures agenda. It's truly not a question of if there will be fewer cures— even the non-partisan Congressional Budget Office concedes the point.[7]— but how many? A University of Chicago analysis found the Democrats' fewer cures agenda "would lead to a 29 to 60 percent reduction in R&D from 2021 to 2039 which translates into 167 to 342 fewer new drug approvals during that period."[8]

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[4] "Committee Leaders Announce Call for Comments on Bipartisan Medicare Part D Drug Pricing Legislation," Committee on Ways and Means, Republicans. 23 May 2019. Accessed 28 Oct 2009. https://gop-waysandmeans.house.gov/committee-leaders-announce-call-for-comments-on-bipartisan-medicare-part-d-drug-pricing-legislation/

[5] Facher, Lev, "Democrats' new logic on drug pricing: Developing slightly fewer medicines is OK if it means lower prices," *STAT News*, 28 Oct 2019, Accessed 31 Oct 2019, https://www.statnews.com/2019/10/28/democrats-new-logic-drug-prices-biomedical-innovation/

[6] DiMasi, JA, et al. Innovation in the pharmaceutical industry: new estimates of R&D costs. J Health Economics. 2016;47:20-33.

[7] Congressional Budget Office, "Effects of Drug Price Negotiation Stemming From Title 1 of H.R. 3, the Lower Drug Costs Now Act of 2019, on Spending and Revenues Related to Part D of Medicare," 11 Oct 2019, Accessed 31 Oct 2019, https://www.cbo.gov/publication/55722

[8] Philipson, Tomas J. and Troy Durie, "Issue Brief: The Evidence Base on The Impact of Price Controls on Medical Innovation," *University of Chicago*, September 2021, Accessed 16 Sept 2021, https://cpb-us-w2.wpmucdn.com/voices.uchicago.edu/dist/d/3128/files/2021/08/Issue-Brief-Price-Controls-and-Drug-Innovation-Philipson.pdf

Which drug are we going to lose?

Which treatment?

How can a President who helped launch a "Cancer Moonshot" advocate for a law that could stop a cure from getting to patients?

How can an Administration pushing for more vaccinations against the scourge of COVID-19 advocate for a law that could stop a future treatment from getting to patients?

Given the ravages of Alzheimer's, Parkinson's, cancer, diabetes, ALS, Glioblastoma, and so many other diseases for which families today are without hope, Republicans believe even one cure lost is one too many.

Those who live in foreign countries with price controls have access to fewer new drugs than those living in the United States. Innovation has also plummeted: One study found that in the 1980s, pharmaceutical R&D in the EU "exceeded U.S. R&D by about 24 percent, but by 2004, EU R&D trailed U.S. R&D by about 15 percent," resulting in fewer new drug and fewer jobs[9].

If the U.S. had adopted the price control policies used abroad, the world would not have as many treatments; longevity in the U.S. and globally would decline.[10]

That's not the American culture of hope and innovation.

Just as harmful, the Democrats' fewer cures agenda discourages researchers from being the first to market a new life-saving cure. Instead, it rewards those who delay their breakthroughs – to be second or even third to a market. That makes no sense.

Critics have long said drug companies spend too much time on these "me too drugs;" yet as part of their fewer cures agenda, Democrats are rewarding that behavior. Why lead the globe in finding a cure to ALS? Why put an end to cancer? Under the Democrats' fewer cures agenda, it's smarter for companies to develop another statin.

Congress should support policies that reward the researchers taking the biggest risks to cure the toughest diseases our families face.

Moreover, nonpartisan experts have raised concerns the Democrats' fewer cures agenda could be unconstitutional, with potential violations of the Takings Clause of the Fifth Amendment, Congress's Taxing Power, the Excessive Fines Clause of the Eighth Amendment.[11]

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[9] Joseph H. Golec, John A. Vernon. "European Pharmaceutical Price Regulation, Firm Profitability, and R&D Spending." November 2006, https://www.nber.org/papers/w12676

[10] Darius N. Lakdawalla, Dana P. Goldman, Pierre-Carl Michaud, Neeraj Sood, Robert Lempert, Ze Cong, Han de Vries, and Italo Gutierrez. U.S. Pharmaceutical Policy in A Global Marketplace. DOI 10.1377/hlthaff.28.1.w138

[11] Florko, Nicholas, "Nonpartisan congressional report suggests Pelosi's drug pricing bill could be found unconstitutional," *STAT*, 25 Oct 2019, Accessed 31 Oct 2019, https://www.statnews.com/2019/10/25/report-pelosi-drug-pricing-bill-unconstitutional/

That finding is, in part, because it's outrageous to categorize a price setting operation backed with the force of a backbreaking federal 95% excise tax on all sales of a drug if a manufacturer refuses to take a payment based on a foreign price as part of a "negotiation."

Republicans will not accept this potentially unconstitutional premise, nor the cruel Democrat "trade-off" of fewer cures.

It's not worth it to deny the hope of new medicines and cures from making their way to our loved ones. It's not worth it to tell those suffering with life-threatening illnesses they have to keep waiting because we may never find a treatment. Our scientists and creators need the time and resources to focus on what matters most: discovering new, life-saving cures. The Democrats' fewer cures agenda denies them that priority.

Does this mean that drug companies should get off scot-free in this process? Absolutely not. But the Democrats' fewer cures agenda doesn't go after bad actors, it goes instead after cures. This is dangerous.

It doesn't have to be this way. Americans can have lower drug prices *and* spur more life-saving cures.

Committee members have bipartisan policies that Democrats and Republicans have worked on together that could be signed into law *today*. We all agree that we must get the incentives right within Medicare to punish bad actors and reward lower prices. And it is possible to achieve this without jeopardizing innovation and new cures.

During the 2019 partisan markup of the Democrats' fewer cures agenda, Republicans offered 25 amendments.[12] During the 2021 partisan markup of the Democrats' fewer cures agenda, Republicans offered five amendments. All were rejected by Democrats. In 2019, one of these amendments was a full bipartisan substitute with over 40 policies to lower drug costs that could go to the President's desk today.[13] The substitute achieves the President's and Congress's shared goals of coming together to lower out-of-pocket costs for Americans without crushing innovation in a few key ways.

First, the amendment cracks down on overpriced drugs by going after bad actors and prevents anti-competitive actions from drug creators by pulling back the curtain on the drug supply chain. Additionally, the policies contained in the amendment empower patients to choose the most affordable medicines for them by getting patients more accessible and useful information about how much treatments cost.

Second, the amendment reduces the incentives in Medicare that lead to higher prices. This is

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[12] Ways and Means Republicans, "Markup of Health and Worker and Family Support Legislation", 22 Oct 2019, Accessed 31 Oct 2019, https://gop-waysandmeans.house.gov/event/markup-of-heath-and-worker-and-family-support-legislation/

[13] "Amendment to the Amendment in the Nature of a Substitute to H.R. 3 Offered by Rep. Brady of Texas," Accessed 31 Oct 2019, https://gop-waysandmeans.house.gov/wp-content/uploads/2019/10/V9-A2.-Brady-AINS-FCR-wm-ans_01_xml2.pdf

done by reforming the way Medicare pays for drugs, including smarter add-on payments and having the program pay for the *quality* or care, instead of simply writing a paycheck for the site of the service.

Third, the amendment modernizes the successful Medicare prescription drug program by lowering seniors' out-of-pocket spending in the initial benefit and capping seniors' annual drug spending.

Finally, and most importantly, the bipartisan substitute amendment preserves the hope for future cures by rejecting partisan price controls.

Unfortunately, this commonsense amendment was rejected, as Congressional Democrats continue to look for cures for political illnesses rather than real ones. The Democrats' fewer cures agenda is built on a "dictate or destroy" premise that will only halt valuable research into new life-saving medicines and give foreign countries dangerous influence over America's health care system.

The debate over fewer cures is no longer academic. In the middle of the continuing COVID-19 global pandemic— when the rapid development and distribution of multiple safe and effective vaccines and therapeutics by pharmaceutical companies has saved lives— it seems even more surreal to know Democrats are moving forward with a bill that will result in fewer cures. As has been made clear, Republicans will not accept this cruel "trade-off" of fewer cures. And we aren't the only ones.

Ten House Democrat members, including one of our own colleagues, wrote to the Speaker:

"As we have just seen with the lifesaving, record-breaking development of COVID19 vaccines and therapies, America benefits from the most innovative and capable researchers in the world, and from public-private partnership that encourages world-leading biomedical research and development."

The letter continues:

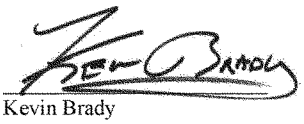
"... it is imperative that we pass legislation that can reach the President's desk to deliver on our promise of bringing down health care costs for the American people. To achieve this, we must garner bipartisan, bicameral support, with buy-in from a majority of Americans and stakeholders in the public and private sectors. If this pandemic has taught us anything, it's that we all, truly, must be in this together.

We sincerely hope that the House will join with our Senate counterparts and the Biden Administration to lead the way in crafting health care legislation that will lower costs across the board for patients, expand access to coverage and care, preserve our invaluable innovation ecosystem so that it can continue to prevent and treat disease, and assure that the act of legislating is bipartisan and meaningful."

The Democrats' fewer cures agenda is not bipartisan. It will not preserve "our invaluable

innovation ecosystem." It will result in fewer cures, delay access to new medicines, move jobs overseas, and further embolden China. It divides the Democratic caucus and cannot pass the Democrat-controlled Senate. This disarray from Democrats is welcome for it would be a grave mistake for patients if the Democrats' fewer cures agenda were to become law.

For all these reasons and more, Ways and Means Republicans reject the Democrats' fewer cures agenda as ordered reported by Committee Democrats.



Kevin Brady
Republican Leader
Committee on Ways and Means