

114TH CONGRESS
2D SESSION

H. R. 5106

To make college more affordable, reduce student debt, and provide greater access to higher education for all students of the United States.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Ms. DUCKWORTH (for herself, Mr. SCOTT of Virginia, Mr. HINOJOSA, and Mr. COURTNEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make college more affordable, reduce student debt, and provide greater access to higher education for all students of the United States.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the “In
5 the Red Act of 2016”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMERICA’S COLLEGE PROMISE

- Sec. 101. State and Indian tribe grants for community college.
- Sec. 102. Pathways to student success.

TITLE II—STUDENT LOAN REFINANCING

- Sec. 201. Refinancing programs.

TITLE III—FEDERAL PELL GRANT PROTECTION

- Sec. 301. Federal Pell Grant protection.
- Sec. 302. Point of order against cutting Federal Pell Grants.
- Sec. 303. Affirming that Federal Pell Grants are a foundational investment in affordable higher education.

TITLE IV—ACCOUNTABILITY

- Sec. 401. Supporting efforts to ensure that institutions of higher education are accountable for ensuring the high value of degrees and credentials.

TITLE V—OFFSETS

- Sec. 501. Amendment of 1986 Code.
- Sec. 502. Fair share tax on high-income taxpayers.
- Sec. 503. Expansion of denial of deduction for certain excessive employee remuneration.
- Sec. 504. Partnership interests transferred in connection with performance of services.
- Sec. 505. Special rules for partners providing investment management services to partnerships.
- Sec. 506. Consistent treatment of stock options by corporations.
- Sec. 507. Application of executive pay deduction limit.
- Sec. 508. Modifications to rules relating to inverted corporations.
- Sec. 509. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.
- Sec. 510. Limitation on section 199 deduction attributable to oil, natural gas, or primary products thereof.
- Sec. 511. Limitation on deduction for intangible drilling and development costs; amortization of disallowed amounts.
- Sec. 512. Limitation on percentage depletion allowance for oil and gas wells.
- Sec. 513. Limitation on deduction for tertiary injectants.
- Sec. 514. Modification of definition of major integrated oil company.
- Sec. 515. Repeal of outer Continental Shelf deep water and deep gas royalty relief.
- Sec. 516. Coordination of American Opportunity Credit and Lifetime Learning Credit with Pell Grants not used for qualified tuition and related expenses.
- Sec. 517. Expansion of Pell Grant exclusion from gross income.

1 **TITLE I—AMERICA’S COLLEGE**
2 **PROMISE**

3 **SEC. 101. STATE AND INDIAN TRIBE GRANTS FOR COMMU-**
4 **NITY COLLEGE.**

5 (a) IN GENERAL.—From amounts appropriated
6 under subsection (g)(1) for any fiscal year, the Secretary
7 shall award grants to eligible States and Indian tribes to
8 pay the Federal share of expenditures needed to carry out
9 the activities and services described in subsection (e).

10 (b) FEDERAL SHARE; NON-FEDERAL SHARE.—

11 (1) FEDERAL SHARE.—

12 (A) FORMULA.—Subject to subparagraph
13 (B), the Federal share of a grant under this
14 section shall be based on a formula, determined
15 by the Secretary, that—

16 (i) accounts for the State or Indian
17 tribe’s share of eligible students; and

18 (ii) provides, for each eligible student
19 in the State or Indian tribe, a per-student
20 amount that is—

21 (I) not less than 300 percent of
22 the per-student amount of the State
23 or Indian tribe share, determined
24 under paragraph (2), subject to sub-
25 clause (II); and

1 (II) not greater than 75 percent
2 of—

3 (aa) for the 2016–2017
4 award year, the average resident
5 community college tuition and
6 fees per student in all States for
7 the most recent year for which
8 data are available; and

9 (bb) for each subsequent
10 award year, the average resident
11 community college tuition and
12 fees per student in all States cal-
13 culated under this subclause for
14 the preceding year, increased by
15 the lesser of—

16 (AA) the percentage by
17 which the average resident
18 community college tuition
19 and fees per student in all
20 States for the most recent
21 year for which data are
22 available increased as com-
23 pared to such average for
24 the preceding year; or

25 (BB) 3 percent.

(B) EXCEPTION FOR CERTAIN INDIAN TRIBES.—In any case in which not less than 75 percent of the students at the community colleges operated or controlled by an Indian tribe are low-income students, the amount of the Federal share for such Indian tribe shall be not less than 95 percent of the total amount needed to waive tuition and fees for all eligible students enrolled in such community colleges.

(2) STATE OR TRIBAL SHARE.—

(A) FORMULA.—

(i) IN GENERAL.—The State or tribal share of a grant under this section for each fiscal year shall be the amount needed to pay 25 percent of the average community college resident tuition and fees per student in all States in the 2016–2017 award year for all eligible students in the State or Indian tribe, respectively, for such fiscal year, except as provided in clause (ii).

(ii) EXCEPTION FOR CERTAIN INDIAN TRIBES.—In a case in which not less than 5 percent of the students at the community colleges operated or controlled by an In-

1 dian tribe are low-income students, the
2 amount of such Indian tribe's tribal share
3 shall not exceed 5 percent of the total
4 amount needed to waive tuition and fees
5 for all eligible students enrolled in such
6 community colleges.

7 (B) NEED-BASED AID.—A State or Indian
8 tribe may include any need-based financial aid
9 provided through State or tribal funds to eligi-
10 ble students as part of the State or tribal share.

11 (C) NO IN-KIND CONTRIBUTIONS.—A
12 State or Indian tribe shall not include in-kind
13 contributions for purposes of the State or tribal
14 share described in subparagraph (A).

15 (c) ELIGIBILITY.—To be eligible for a grant under
16 this section, a State or Indian tribe shall agree to waive
17 community college resident tuition and fees for all eligible
18 students for each year of the grant.

19 (d) APPLICATIONS.—

20 (1) SUBMISSION.—For each fiscal year for
21 which a State or Indian tribe desires a grant under
22 this section, an application shall be submitted to the
23 Secretary at such time, in such manner, and con-
24 taining such information as the Secretary may re-
25 quire. Such application shall be submitted by—

(A) in the case of a State, the Governor, the State agency with jurisdiction over higher education, or another agency designated by the Governor to administer the program under this section; or

(B) in the case of an Indian tribe, the governing body of such tribe.

(2) CONTENTS.—Each State or Indian tribe application shall include, at a minimum—

(A) an estimate of the number of eligible students in the State or Indian tribe and the cost of waiving community college resident tuition and fees for all eligible students for each fiscal year covered by the grant, with annual increases of an amount that shall not exceed 3 percent of the prior year's average resident community college tuition and fees;

(B) an assurance that all community colleges in the State or under the jurisdiction of the Indian tribe, respectively, will waive resident tuition and fees for eligible students in programs that are—

(i) academic programs with credits that can fully transfer via articulation agreement toward a baccalaureate degree

1 or postbaccalaureate degree at any public
2 institution of higher education in the
3 State; or

4 (ii) occupational skills training pro-
5 grams that lead to a recognized postsec-
6 ondary credential that is in an in-demand
7 industry sector or occupation in the State;

8 (C) a description of the promising and evi-
9 dence-based institutional reforms and innovative
10 practices to improve student outcomes, includ-
11 ing completion or transfer rates, that have been
12 or will be adopted by the participating commu-
13 nity colleges, such as—

14 (i) providing comprehensive academic
15 and student support services, including
16 mentoring and advising, especially for
17 first-generation and minority students;

18 (ii) providing accelerated learning op-
19 portunities, such as dual or concurrent en-
20 rollment programs;

21 (iii) advancing competency-based edu-
22 cation;

23 (iv) strengthening remedial education,
24 especially for low-income students, first
25 generation students, adult students, and

1 students from other underrepresented
2 groups in postsecondary education;

3 (v) implementing course redesigns of
4 high-enrollment courses to improve student
5 outcomes and reduce cost; or

6 (vi) utilizing career pathways or de-
7 gree pathways;

8 (D) a description of how the State or In-
9 dian tribe will promote alignment between its
10 public secondary school and postsecondary edu-
11 cation systems, including between 2-year and 4-
12 year public institutions of higher education and
13 with minority-serving institutions described in
14 section 371 of the Higher Education Act of
15 1965 (20 U.S.C. 1067q), to expand awareness
16 of and access to postsecondary education, re-
17 duce the need for remediation and repeated
18 coursework, and improve student outcomes;

19 (E) a description of how the State or In-
20 dian tribe will ensure that programs leading to
21 a recognized postsecondary credential meet the
22 quality criteria established by the State under
23 section 123(a) of the Workforce Innovation and
24 Opportunity Act (29 U.S.C. 3153(a)) or other

1 quality criteria determined appropriate by the
2 State or Indian tribe;

3 (F) an assurance that all participating
4 community colleges in the State or under the
5 authority of the Indian tribe have entered into
6 program participation agreements under section
7 487 of the Higher Education Act of 1965 (20
8 U.S.C. 1094);

9 (G) an assurance that, for each year of the
10 grant, the State or Indian tribe will notify each
11 eligible student of the student's remaining eligi-
12 bility for assistance under this section; and

13 (H) a description of how the State or In-
14 dian tribe will promote the improved perform-
15 ance of public institutions of higher education
16 through funding reform, including through the
17 use of a performance-based model that allocates
18 a portion of the State or Indian tribe's public
19 higher education expenditures based on the per-
20 formance of those institutions on State-specified
21 metrics, including successful student outcomes.

22 (e) ALLOWABLE USES OF FUNDS.—

23 (1) IN GENERAL.—A State or Indian tribe shall
24 use a grant under this section only to provide funds
25 to participating community colleges to waive resident

1 tuition and fees for eligible students who are en-
2 rolled in—

3 (A) academic programs with credits that
4 can fully transfer via articulation agreement to-
5 ward a baccalaureate degree or postbaccalaure-
6 ate degree at any public institution of higher
7 education in the State; or

8 (B) occupational skills training programs
9 that lead to a recognized postsecondary creden-
10 tial that is in an in-demand industry sector or
11 occupation in the State.

12 (2) ADDITIONAL USES.—If a State or Indian
13 tribe demonstrates to the Secretary that it has grant
14 funds remaining after meeting the demand for ac-
15 tivities described in paragraph (1), the State or In-
16 dian tribe may use those funds to carry out one or
17 more of the following:

18 (A) Expanding the waiver of resident tui-
19 tion and fees at community college to students
20 who are returning students or otherwise not en-
21 rolling in postsecondary education for the first
22 time, and who meet the student eligibility re-
23 quirements of clauses (ii) through (v) of sub-
24 section (f)(4)(A).

1 (B) Expanding the scope and capacity of
2 high-quality academic and occupational skills
3 training programs at community colleges.

4 (C) Improving postsecondary education
5 readiness in the State or Indian tribe, through
6 outreach and early intervention.

7 (D) Expanding access to dual or concur-
8 rent enrollment programs.

9 (E) Improving affordability at 4-year pub-
10 lic institutions of higher education.

11 (3) USE OF FUNDS FOR ADMINISTRATIVE PUR-
12 POSES.—A State or Indian tribe that receives a
13 grant under this section may not use any funds pro-
14 vided under this section for administrative purposes
15 relating to such grant.

16 (4) MAINTENANCE OF EFFORT.—A State or In-
17 dian tribe receiving a grant under this section is en-
18 titled to receive its full allotment of funds under this
19 section for a fiscal year only if, for each year of the
20 grant, the State or Indian tribe provides financial
21 support for public higher education at a level equal
22 to or exceeding the average amount provided per
23 full-time equivalent student for public institutions of
24 higher education for the 3 consecutive preceding
25 State or Indian tribe fiscal years. In making the cal-

1 culation under this paragraph, the State or Indian
2 tribe shall exclude capital expenses and research and
3 development costs and include need-based financial
4 aid for students who attend public institutions of
5 higher education.

6 (5) ANNUAL REPORT.—A State or Indian tribe
7 receiving a grant under this section shall submit an
8 annual report to the Secretary—

9 (A) describing the uses of grant funds
10 under this section, the progress made in ful-
11 filling the requirements of the grant, and the
12 rates of graduation, transfer, and attainment of
13 a recognized postsecondary credential for the
14 students at participating community colleges;
15 and

16 (B) including any other information as the
17 Secretary may require.

18 (6) REPORTING BY SECRETARY.—The Sec-
19 retary annually shall—

20 (A) compile and analyze the information
21 described in paragraph (5); and

22 (B) prepare and submit a report to the
23 Committee on Health, Education, Labor, and
24 Pensions of the Senate and the Committee on
25 Education and the Workforce of the House of

1 Representatives containing the analysis de-
2 scribed in subparagraph (A) and an identifica-
3 tion of State and Indian tribe best practices for
4 achieving the purpose of this section.

5 (7) TECHNICAL ASSISTANCE.—The Secretary
6 shall provide technical assistance to eligible States
7 and Indian tribes concerning best practices regard-
8 ing the promising and evidence-based institutional
9 reforms and innovative practices to improve student
10 outcomes as described in subsection (d)(2)(C) and
11 shall disseminate such best practices among the
12 States and Indian tribes.

13 (8) CONTINUATION OF FUNDING.—

14 (A) IN GENERAL.—A State or Indian tribe
15 receiving a grant under this section for a fiscal
16 year may continue to receive funding under this
17 section for future fiscal years conditioned on
18 the availability of budget authority and on
19 meeting the requirements of the grant, as de-
20 termined by the Secretary.

21 (B) DISCONTINUATION.—The Secretary
22 may discontinue funding of the Federal share of
23 a grant under this section if the State or Indian
24 tribe has violated the terms of the grant or is
25 not making adequate progress in implementing

1 the reforms described in the application sub-
2 mitted under subsection (d).

3 (f) DEFINITIONS.—In this section:

4 (1) CAREER PATHWAY.—The term “career
5 pathway” has the meaning given the term in section
6 3 of the Workforce Innovation and Opportunity Act
7 (29 U.S.C. 3102).

8 (2) COMMUNITY COLLEGE.—The term “commu-
9 nity college” means a public institution of higher
10 education at which the highest degree that is pre-
11 dominantly awarded to students is an associate’s de-
12 gree, including 2-year tribally controlled colleges
13 under section 316 of the Higher Education Act of
14 1965 (20 U.S.C. 1059c) and public 2-year State in-
15 stitutions of higher education.

16 (3) DUAL OR CONCURRENT ENROLLMENT PRO-
17 GRAM.—The term “dual or concurrent enrollment
18 program” means an academic program through
19 which a secondary school student is able simulta-
20 neously to earn credit toward a secondary school di-
21 ploma and a postsecondary degree or other recog-
22 nized postsecondary credential, including an early
23 college high school program.

24 (4) ELIGIBLE STUDENT.—

1 (A) DEFINITION.—The term “eligible stu-
2 dent” means a student who—

3 (i)(I) enrolls in a community college
4 for the first time, regardless of age, after
5 the date of enactment of this Act; or

6 (II) is enrolled in a community col-
7 lege, for the first time, as of the date of
8 enactment of this Act;

9 (ii) attends the community college on
10 not less than a half-time basis;

11 (iii) is maintaining satisfactory
12 progress, as defined in section 484(c) of
13 the Higher Education Act of 1965 (20
14 U.S.C. 1091(c)), in the student’s course of
15 study;

16 (iv) qualifies for resident tuition, as
17 determined by the State or Indian tribe;
18 and

19 (v) is enrolled in an eligible program
20 described in subsection (d)(2)(B).

21 (B) SPECIAL RULE.—An otherwise eligible
22 student shall lose eligibility 3 calendar years
23 after first receiving benefits under this section.

24 (5) IN-DEMAND INDUSTRY SECTOR OR OCCUPA-
25 TION.—The term “in-demand industry sector or oc-

1 cupation” has the meaning given the term in section
2 3 of the Workforce Innovation and Opportunity Act
3 (29 U.S.C. 3102).

4 (6) INDIAN TRIBE.—The term “Indian tribe”
5 has the meaning given the term in section 102 of the
6 Federally Recognized Indian Tribe List Act of 1994
7 (25 U.S.C. 479a).

8 (7) INSTITUTION OF HIGHER EDUCATION.—The
9 term “institution of higher education” has the
10 meaning given the term in section 101 of the Higher
11 Education Act of 1965 (20 U.S.C. 1001).

12 (8) RECOGNIZED POSTSECONDARY CREDEN-
13 TIAL.—The term “recognized postsecondary creden-
14 tial” has the meaning as described in section 3 of
15 the Workforce Innovation and Opportunity Act (29
16 U.S.C. 3102).

17 (9) SECRETARY.—The term “Secretary” means
18 the Secretary of Education.

19 (10) STATE.—The term “State” has the mean-
20 ing given the term in section 103 of the Higher
21 Education Act of 1965 (20 U.S.C. 1003).

22 (g) APPROPRIATIONS.—

23 (1) AUTHORIZATION AND APPROPRIATIONS.—
24 For the purpose of making grants under this sec-

tion, there are authorized to be appropriated, and
there are appropriated—

(A) \$1,365,000,000 for fiscal year 2016;

(B) \$3,020,000,000 for fiscal year 2017;

(C) \$3,854,000,000 for fiscal year 2018;

(D) \$5,395,000,000 for fiscal year 2019;

(E) \$7,061,000,000 for fiscal year 2020;

(F) \$8,085,000,000 for fiscal year 2021;

(G) \$10,182,000,000 for fiscal year 2022;

(H) \$13,019,000,000 for fiscal year 2023;

(I) \$13,583,000,000 for fiscal year 2024;

and

(J) \$14,171,000,000 for fiscal year 2025

and each succeeding fiscal year.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available to the Secretary until expended.

(3) INSUFFICIENT FUNDS.—If the amount appropriated under paragraph (1) for a fiscal year is not sufficient to award each participating State and Indian tribe a grant under this section that is equal to the minimum amount of the Federal share described in subsection (b)(1), the Secretary may ratably reduce the amount of each such grant or take

1 other actions necessary to ensure an equitable dis-
2 tribution of such amount.

3 **SEC. 102. PATHWAYS TO STUDENT SUCCESS.**

4 (a) PATHWAYS TO STUDENT SUCCESS FOR HISTORI-
5 CALLY BLACK COLLEGES AND UNIVERSITIES.—

6 (1) IN GENERAL.—From amounts appropriated
7 under subsection (d)(1) for any fiscal year, the Sec-
8 retary shall award grants to participating 4-year his-
9 torically black colleges or universities that meet the
10 requirements of paragraph (2) to—

11 (A) encourage students to enroll as first-
12 time students and successfully complete a bach-
13 elor's degree at participating institutions;

14 (B) provide incentives to community col-
15 lege students to transfer to participating insti-
16 tutions through strong transfer pathways to
17 complete a bachelor's degree program; and

18 (C) support participating institutions to
19 better serve new and existing students by en-
20 gaging in reforms and innovations designed to
21 improve completion rates and other student out-
22 comes.

23 (2) ELIGIBILITY.—To be eligible to receive a
24 grant under the program under this subsection, an

1 institution shall be a historically black college or uni-
2 versity that—

3 (A) has a student body of which not less
4 than 35 percent are low-income students;

5 (B) commits to maintaining or adopting
6 and implementing promising and evidence-based
7 institutional reforms and innovative practices to
8 improve the completion rates and other student
9 outcomes, such as—

10 (i) providing comprehensive academic
11 and student support services, including
12 mentoring and advising;

13 (ii) providing accelerated learning op-
14 portunities and degree pathways, such as
15 dual enrollment and pathways to graduate
16 and professional degree programs;

17 (iii) advancing distance and com-
18 petency-based education;

19 (iv) partnering with employers, indus-
20 try, not-for-profit associations, and other
21 groups to provide opportunities to advance
22 learning outside the classroom, including
23 work-based learning opportunities such as
24 internships or apprenticeships or programs
25 designed to improve intercultural develop-

1 ment and personal growth, such as foreign
2 exchange and study abroad programs;

3 (v) reforming remedial education, es-
4 pecially for low-income students, first gen-
5 eration college students, adult students,
6 and other underrepresented students; or

7 (vi) implementing course redesigns of
8 high-enrollment courses to improve student
9 outcomes and reduce cost;

10 (C) sets performance goals for improving
11 student outcomes for the duration of the grant;
12 and

13 (D) if receiving a grant for transfer stu-
14 dents, has articulation agreements with commu-
15 nity colleges at the national, State, or local level
16 to ensure that community college credits can
17 fully transfer to the participating institution.

18 (3) GRANT AMOUNT.—

19 (A) INITIAL AMOUNT.—For the first year
20 that an eligible institution participates in the
21 grant program under this subsection and sub-
22 ject to subparagraph (C), such eligible institu-
23 tion shall receive a grant in an amount based
24 on the product of—

1 (i) the actual cost of tuition and fees
 2 at the eligible institution in such year (re-
 3 ferred to in this subsection as the “per-stu-
 4 dent rebate”); multiplied by

5 (ii) the number of eligible students en-
 6 rolled in the eligible institution for the pre-
 7 ceding year.

8 (B) SUBSEQUENT INCREASES.—For each
 9 succeeding year after the first year of the grant
 10 program under this subsection, each partici-
 11 pating eligible institution shall receive a grant
 12 in the amount determined under subparagraph
 13 (A) for such year, except that in no case shall
 14 the amount of the per-student rebate for an eli-
 15 gible institution increase by more than 3 per-
 16 cent as compared to the amount of such rebate
 17 for the preceding year.

18 (C) LIMITATIONS.—

19 (i) MAXIMUM PER-STUDENT RE-
 20 BATE.—No eligible institution participating
 21 in the grant program under this subsection
 22 shall receive a per-student rebate amount
 23 for any year that is greater than the na-
 24 tional average of annual tuition and fees at
 25 public 4-year institutions of higher edu-

1 cation for such year, as determined by the
2 Secretary.

3 (ii) FIRST YEAR TUITION AND
4 FEES.—During the first year of participa-
5 tion in the grant program under this sub-
6 section, no eligible institution may increase
7 tuition and fees at a rate greater than any
8 annual increase at the eligible institution
9 in the previous 5 years.

10 (4) APPLICATION.—An eligible institution that
11 desires a grant under this subsection shall submit an
12 application to the Secretary at such time, in such
13 manner, and containing such information as the Sec-
14 retary may require.

15 (5) USE OF FUNDS.—Funds awarded under
16 this subsection to a participating eligible institution
17 shall be—

18 (A) applied in their entirety to student ac-
19 counts; and

20 (B) used to waive or significantly reduce
21 tuition and fees for eligible students in an
22 amount of not more than up to the annual per-
23 student rebate amount for each student, for not
24 more than the first 60 credits an eligible stu-

1 dent enrolls in the participating eligible institu-
2 tion.

3 (b) PATHWAYS TO STUDENT SUCCESS FOR HIS-
4 PANIC-SERVING INSTITUTIONS, ASIAN AMERICAN AND
5 NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITU-
6 TIONS, TRIBAL COLLEGES AND UNIVERSITIES, ALASKA
7 NATIVE-SERVING INSTITUTIONS, NATIVE HAWAIIAN-
8 SERVING INSTITUTIONS, PREDOMINANTLY BLACK INSTI-
9 TUTIONS, AND NATIVE AMERICAN-SERVING NONTRIBAL
10 INSTITUTIONS.—

11 (1) IN GENERAL.—From amounts appropriated
12 under subsection (d)(1) for any fiscal year, the Sec-
13 retary shall award grants to participating 4-year mi-
14 nority-serving institutions to—

15 (A) encourage students to enroll as first-
16 time students and successfully complete a bach-
17 elor’s degree at participating institutions;

18 (B) provide incentives to community col-
19 lege students to transfer to participating insti-
20 tutions through strong transfer pathways to
21 complete a bachelor’s degree program; and

22 (C) support participating institutions to
23 better serve new and existing students by en-
24 gaging in reforms and innovations designed to

1 improve completion rates and other student out-
2 comes.

3 (2) INSTITUTIONAL ELIGIBILITY.—To be eligi-
4 ble to participate and receive a grant under this sub-
5 section, an institution shall be a minority-serving in-
6 stitution that—

7 (A) has a student body of which not less
8 than 35 percent are low-income students;

9 (B) commits to maintaining or adopting
10 and implementing promising and evidence-based
11 institutional reforms and innovative practices to
12 improve the completion rates and other student
13 outcomes, such as—

14 (i) providing comprehensive academic
15 and student support services, including
16 mentoring and advising;

17 (ii) providing accelerated learning op-
18 portunities and degree pathways, such as
19 dual enrollment and pathways to graduate
20 and professional degree programs;

21 (iii) advancing distance and com-
22 petency-based education;

23 (iv) partnering with employers, indus-
24 try, not-for-profit associations, and other
25 groups to provide opportunities to advance

1 learning outside the classroom, including
2 work-based learning opportunities such as
3 internships or apprenticeships or programs
4 designed to improve intercultural develop-
5 ment and personal growth, such as foreign
6 exchange and study abroad programs;

7 (v) reforming remedial education, es-
8 pecially for low-income students, first gen-
9 eration college students, adult students,
10 and other underrepresented students; and

11 (vi) implementing course redesigns of
12 high-enrollment courses to improve student
13 outcomes and reduce cost;

14 (C) sets performance goals for improving
15 student outcomes for the duration of the grant;
16 and

17 (D) if receiving a grant for transfer stu-
18 dents, has articulation agreements with commu-
19 nity colleges at the national, State, or local lev-
20 els to ensure that community college credits can
21 fully transfer to the participating institution.

22 (3) GRANT AMOUNT.—

23 (A) INITIAL AMOUNT.—For the first year
24 that an eligible institution participates in the
25 grant program under this subsection and sub-

1 ject to subparagraph (C), such participating eli-
2 gible institution shall receive a grant in an
3 amount based on the product of—

4 (i) the actual cost of tuition and fees
5 at the eligible institution in such year (re-
6 ferred to in this subsection as the “per-stu-
7 dent rebate”); multiplied by

8 (ii) the number of eligible students en-
9 rolled in the eligible institution for the pre-
10 ceding year.

11 (B) SUBSEQUENT INCREASES.—For each
12 succeeding year after the first year of the grant
13 program under this subsection, each partici-
14 pating eligible institution shall receive a grant
15 in the amount determined under subparagraph
16 (A) for such year, except that in no case shall
17 the amount of the per-student rebate increase
18 by more than 3 percent as compared to the
19 amount of such rebate for the preceding year.

20 (C) LIMITATIONS.—

21 (i) MAXIMUM PER-STUDENT RE-
22 BATE.—No eligible institution participating
23 in the grant program under this subsection
24 shall receive a per-student rebate amount
25 for a grant year greater than the national

1 average of public 4-year institutional tui-
2 tion and fees, as determined by the Sec-
3 retary.

4 (ii) FIRST YEAR TUITION AND
5 FEES.—During the first year of participa-
6 tion in the grant program under this sub-
7 section, no eligible institution may increase
8 tuition and fees at a rate greater than any
9 annual increase made by the institution in
10 the previous 5 years.

11 (4) APPLICATION.—An eligible institution shall
12 submit an application to the Secretary at such time,
13 in such a manner, and containing such information
14 as determined by the Secretary.

15 (5) USE OF FUNDS.—Funds awarded under
16 this subsection to a participating eligible institution
17 shall be—

18 (A) applied in their entirety to student ac-
19 counts; and

20 (B) used to waive or significantly reduce
21 tuition and fees for eligible students in an
22 amount of not more than up to the annual per-
23 student rebate amount for each student, for not
24 more than the first 60 credits an eligible stu-

1 dent enrolls in the participating eligible institu-
2 tion.

3 (c) DEFINITIONS.—In this section:

4 (1) ELIGIBLE STUDENT.—

5 (A) DEFINITION.—The term “eligible stu-
6 dent” means a student, regardless of age,
7 who—

8 (i)(I) enrolls in a historically black
9 college or university, or minority-serving
10 institution, for the first time; or

11 (II) transfers from a community col-
12 lege into a historically black college or uni-
13 versity, or minority-serving institution, for
14 the first time;

15 (ii) attends the historically black col-
16 lege or university, or minority serving in-
17 stitution, on at least a half-time basis;

18 (iii) maintains satisfactory academic
19 progress; and

20 (iv) is a low-income student.

21 (B) SPECIAL RULES.—

22 (i) FIRST 3 YEARS.—An otherwise eli-
23 gible student shall lose eligibility 3 cal-
24 endar years after first receiving benefits
25 under this section.

1 (ii) SPECIAL RULE FOR CERTAIN STU-
2 DENTS.—Notwithstanding subparagraph
3 (A)(i), an otherwise eligible student whose
4 parent or guardian was denied a PLUS
5 loan after November 2011 and before
6 March 29, 2015, and who subsequently
7 withdrew from a historically black college
8 or university, or minority-serving institu-
9 tion, and has not yet completed a program
10 of study at such historically black college
11 or university or minority-serving institu-
12 tion, shall be eligible to participate under
13 subsection (a) or (b) in order to complete
14 such program of study, subject to all other
15 requirements of subsection (a) or (b) (as
16 the case may be).

17 (2) HISTORICALLY BLACK COLLEGE OR UNI-
18 VERSITY.—The term “historically black college or
19 university” means a part B institution described in
20 section 322(2) of the Higher Education Act of 1965
21 (20 U.S.C. 1061(2)).

22 (3) LOW-INCOME STUDENT.—The term “low-in-
23 come student” has the meaning given such term by
24 the Secretary, except that such term shall not ex-
25 clude any student eligible for a Federal Pell Grant

1 under section 401 of the Higher Education Act of
 2 1965 (20 U.S.C. 1070a).

3 (4) MINORITY-SERVING INSTITUTION.—The
 4 term “minority-serving institution” means any pub-
 5 lic or not-for-profit institution of higher education—

6 (A) described in paragraphs (2) through
 7 (7) of section 371(a) of the Higher Education
 8 Act of 1965 (20 U.S.C. 1067q(a)); and

9 (B) designated as a minority-serving insti-
 10 tution by the Secretary.

11 (d) APPROPRIATIONS.—

12 (1) AUTHORIZATION AND APPROPRIATIONS FOR
 13 HBCU AND MSI GRANTS.—For the purpose of car-
 14 rying out subsections (a) and (b), there are author-
 15 ized to be appropriated, and there are appro-
 16 priated—

17 (A) \$55,000,000 for fiscal year 2016;

18 (B) \$180,000,000 for fiscal year 2017;

19 (C) \$1,072,000,000 for fiscal year 2018;

20 (D) \$1,115,000,000 for fiscal year 2019;

21 (E) \$1,160,000,000 for fiscal year 2020;

22 (F) \$1,206,000,000 for fiscal year 2021;

23 (G) \$1,225,000,000 for fiscal year 2022;

24 (H) \$1,306,000,000 for fiscal year 2023;

1 (I) \$1,359,000,000 for fiscal year 2024;

2 and

3 (J) \$1,414,000,000 for fiscal year 2025

4 and each succeeding fiscal year.

5 (2) AVAILABILITY.—Funds appropriated under
6 paragraph (1) are to remain available to the Sec-
7 retary until expended.

8 (3) INSUFFICIENT FUNDS.—If the amount ap-
9 propriated under paragraph (1) for a fiscal year is
10 not sufficient to award, to each participating institu-
11 tion in the grant programs under subsections (a)
12 and (b), a grant under this section equal to 100 per-
13 cent of the grant amount determined under sub-
14 section (a)(3) or (b)(3) (as the case may be), the
15 Secretary may ratably reduce the amount of each
16 such grant or take other actions necessary to ensure
17 an equitable distribution of such amount.

18 **TITLE II—STUDENT LOAN** 19 **REFINANCING**

20 **SEC. 201. REFINANCING PROGRAMS.**

21 (a) PROGRAM AUTHORITY.—Section 451(a) of the
22 Higher Education Act of 1965 (20 U.S.C. 1087a(a)) is
23 amended—

24 (1) by striking “and (2)” and inserting “(2)”;

25 and

1 (2) by inserting “; and (3) to make loans under
2 section 460A and section 460B” after “section
3 459A”.

4 (b) REFINANCING PROGRAM.—Part D of title IV of
5 the Higher Education Act of 1965 (20 U.S.C. 1087a et
6 seq.) is amended by adding at the end the following:

7 **“SEC. 460A. REFINANCING FFEL AND FEDERAL DIRECT**
8 **LOANS.**

9 “(a) IN GENERAL.—Beginning not later than 180
10 days after the date of enactment of the In the Red Act
11 of 2016, the Secretary shall establish a program under
12 which the Secretary, upon the receipt of an application
13 from a qualified borrower, makes a loan under this part,
14 in accordance with the provisions of this section, in order
15 to permit the borrower to obtain the interest rate provided
16 under subsection (c).

17 “(b) REFINANCING DIRECT LOANS.—

18 “(1) FEDERAL DIRECT LOANS.—Upon applica-
19 tion of a qualified borrower, the Secretary shall
20 repay a Federal Direct Stafford Loan, a Federal Di-
21 rect Unsubsidized Stafford Loan, a Federal Direct
22 PLUS Loan, or a Federal Direct Consolidation
23 Loan of the qualified borrower, for which the first
24 disbursement was made, or the application for the
25 consolidation loan was received, before July 1, 2016,

1 with the proceeds of a refinanced Federal Direct
2 Stafford Loan, a Federal Direct Unsubsidized Staf-
3 ford Loan, a Federal Direct PLUS Loan, or a Fed-
4 eral Direct Consolidation Loan, respectively, issued
5 to the borrower in an amount equal to the sum of
6 the unpaid principal, accrued unpaid interest, and
7 late charges of the original loan.

8 “(2) REFINANCING FFEL PROGRAM LOANS AS
9 REFINANCED FEDERAL DIRECT LOANS.—Upon ap-
10 plication of a qualified borrower for any loan that
11 was made, insured, or guaranteed under part B and
12 for which the first disbursement was made, or the
13 application for the consolidation loan was received,
14 before July 1, 2010, the Secretary shall make a loan
15 under this part, in an amount equal to the sum of
16 the unpaid principal, accrued unpaid interest, and
17 late charges of the original loan to the borrower in
18 accordance with the following:

19 “(A) The Secretary shall pay the proceeds
20 of such loan to the eligible lender of the loan
21 made, insured, or guaranteed under part B, in
22 order to discharge the borrower from any re-
23 maining obligation to the lender with respect to
24 the original loan.

1 “(B) A loan made under this section that
2 was originally—

3 “(i) a loan originally made, insured,
4 or guaranteed under section 428 shall be a
5 Federal Direct Stafford Loan;

6 “(ii) a loan originally made, insured,
7 or guaranteed under section 428B shall be
8 a Federal Direct PLUS Loan;

9 “(iii) a loan originally made, insured,
10 or guaranteed under section 428H shall be
11 a Federal Direct Unsubsidized Stafford
12 Loan; and

13 “(iv) a loan originally made, insured,
14 or guaranteed under section 428C shall be
15 a Federal Direct Consolidation Loan.

16 “(C) The interest rate for each loan made
17 by the Secretary under this paragraph shall be
18 the rate provided under subsection (c).

19 “(c) INTEREST RATES.—

20 “(1) IN GENERAL.—The interest rate for the
21 refinanced Federal Direct Stafford Loans, Federal
22 Direct Unsubsidized Stafford Loans, Federal Direct
23 PLUS Loans, and Federal Direct Consolidation
24 Loans, shall be a rate equal to—

1 “(A) in any case where the original loan
2 was a loan under section 428 or 428H, a Fed-
3 eral Direct Stafford loan, or a Federal Direct
4 Unsubsidized Stafford Loan, that was issued to
5 an undergraduate student, a rate equal to the
6 rate for Federal Direct Stafford Loans and
7 Federal Direct Unsubsidized Stafford Loans
8 issued to undergraduate students for the 12-
9 month period beginning on July 1, 2013, and
10 ending on June 30, 2014;

11 “(B) in any case where the original loan
12 was a loan under section 428 or 428H, a Fed-
13 eral Direct Stafford Loan, or a Federal Direct
14 Unsubsidized Stafford Loan, that was issued to
15 a graduate or professional student, a rate equal
16 to the rate for Federal Direct Unsubsidized
17 Stafford Loans issued to graduate or profes-
18 sional students for the 12-month period begin-
19 ning on July 1, 2013, and ending on June 30,
20 2014;

21 “(C) in any case where the original loan
22 was a loan under section 428B or a Federal Di-
23 rect PLUS Loan, a rate equal to the rate for
24 Federal Direct PLUS Loans for the 12-month

1 period beginning on July 1, 2013, and ending
2 on June 30, 2014; and

3 “(D) in any case where the original loan
4 was a loan under section 428C or a Federal Di-
5 rect Consolidation Loan, a rate calculated in ac-
6 cordance with paragraph (2).

7 “(2) INTEREST RATES FOR CONSOLIDATION
8 LOANS.—

9 “(A) METHOD OF CALCULATION.—In
10 order to determine the interest rate for any re-
11 financed Federal Direct Consolidation Loan
12 under paragraph (1)(D), the Secretary shall—

13 “(i) determine each of the component
14 loans that were originally consolidated in
15 the loan under section 428C or the Federal
16 Direct Consolidation Loan, and calculate
17 the proportion of the unpaid principal bal-
18 ance of the loan under section 428C or the
19 Federal Direct Consolidation Loan that
20 each component loan represents;

21 “(ii) use the proportions determined
22 in accordance with clause (i) and the inter-
23 est rate applicable for each component
24 loan, as determined under subparagraph
25 (B), to calculate the weighted average of

1 the interest rates on the loans consolidated
2 into the loan under section 428C or the
3 Federal Direct Consolidation Loan; and

4 “(iii) apply the weighted average cal-
5 culated under clause (ii) as the interest
6 rate for the refinanced Federal Direct Con-
7 solidation Loan.

8 “(B) INTEREST RATES FOR COMPONENT
9 LOANS.—The interest rates for the component
10 loans of a loan made under section 428C or a
11 Federal Direct Consolidation Loan shall be the
12 following:

13 “(i) The interest rate for any loan
14 under section 428 or 428H, Federal Direct
15 Stafford Loan, or Federal Direct Unsub-
16 sidized Stafford Loan issued to an under-
17 graduate student shall be a rate equal to
18 the lesser of—

19 “(I) the rate for Federal Direct
20 Stafford Loans and Federal Direct
21 Unsubsidized Stafford Loans issued
22 to undergraduate students for the 12-
23 month period beginning on July 1,
24 2013, and ending on June 30, 2014;
25 or

1 “(II) the original interest rate of
2 the component loan.

3 “(ii) The interest rate for any loan
4 under section 428 or 428H, Federal Direct
5 Stafford Loan, or Federal Direct Unsub-
6 sidized Stafford Loan issued to a graduate
7 or professional student shall be a rate
8 equal to the lesser of—

9 “(I) the rate for Federal Direct
10 Unsubsidized Stafford Loans issued
11 to graduate or professional students
12 for the 12-month period beginning on
13 July 1, 2013, and ending on June 30,
14 2014; or

15 “(II) the original interest rate of
16 the component loan.

17 “(iii) The interest rate for any loan
18 under section 428B or Federal Direct
19 PLUS Loan shall be a rate equal to the
20 lesser of—

21 “(I) the rate for Federal Direct
22 PLUS Loans for the 12-month period
23 beginning on July 1, 2013, and end-
24 ing on June 30, 2014; or

1 “(II) the original interest rate of
2 the component loan.

3 “(iv) The interest rate for any compo-
4 nent loan that is a loan under section
5 428C or a Federal Direct Consolidation
6 Loan shall be the weighted average of the
7 interest rates that would apply under this
8 subparagraph for each loan comprising the
9 component consolidation loan.

10 “(v) The interest rate for any eligible
11 loan that is a component of a loan made
12 under section 428C or a Federal Direct
13 Consolidation Loan and is not described in
14 clauses (i) through (iv) shall be the inter-
15 est rate on the original component loan.

16 “(3) FIXED RATE.—The applicable rate of in-
17 terest determined under paragraph (1) for a refi-
18 nanced loan under this section shall be fixed for the
19 period of the loan.

20 “(d) TERMS AND CONDITIONS OF LOANS.—

21 “(1) IN GENERAL.—A loan that is refinanced
22 under this section shall have the same terms and
23 conditions as the original loan, except as otherwise
24 provided in this section.

1 “(2) NO AUTOMATIC EXTENSION OF REPAY-
2 MENT PERIOD.—Refinancing a loan under this sec-
3 tion shall not result in the extension of the duration
4 of the repayment period of the loan, and the bor-
5 rower shall retain the same repayment term that
6 was in effect on the original loan. Nothing in this
7 paragraph shall be construed to prevent a borrower
8 from electing a different repayment plan at any time
9 in accordance with section 455(d)(3).

10 “(e) DEFINITION OF QUALIFIED BORROWER.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘qualified borrower’ means a bor-
13 rower—

14 “(A) of a loan under this part or part B
15 for which the first disbursement was made, or
16 the application for a consolidation loan was re-
17 ceived, before July 1, 2016; and

18 “(B) who meets the eligibility requirements
19 based on income or debt-to-income ratio estab-
20 lished by the Secretary.

21 “(2) INCOME REQUIREMENTS.—Not later than
22 180 days after the date of enactment of the In the
23 Red Act of 2016, the Secretary shall establish eligi-
24 bility requirements based on income or debt-to-in-
25 come ratio that take into consideration providing ac-

1 cess to refinancing under this section for borrowers
2 with the greatest financial need.

3 “(f) NOTIFICATION TO BORROWERS.—The Secretary,
4 in coordination with the Director of the Bureau of Con-
5 sumer Financial Protection, shall undertake a campaign
6 to alert borrowers of loans that are eligible for refinancing
7 under this section that the borrowers are eligible to apply
8 for such refinancing. The campaign shall include the fol-
9 lowing activities:

10 “(1) Developing consumer information mate-
11 rials about the availability of Federal student loan
12 refinancing.

13 “(2) Requiring servicers of loans under this
14 part or part B to provide such consumer information
15 to borrowers in a manner determined appropriate by
16 the Secretary, in consultation with the Director of
17 the Bureau of Consumer Financial Protection.

18 **“SEC. 460B. FEDERAL DIRECT REFINANCED PRIVATE LOAN**
19 **PROGRAM.**

20 “(a) DEFINITIONS.—In this section:

21 “(1) ELIGIBLE PRIVATE EDUCATION LOAN.—
22 The term ‘eligible private education loan’ means a
23 private education loan, as defined in section 140(a)
24 of the Truth in Lending Act (15 U.S.C. 1650(a)),
25 that—

1 “(A) was disbursed to the borrower before
2 July 1, 2016; and

3 “(B) was for the borrower’s own postsec-
4 ondary educational expenses for an eligible pro-
5 gram at an institution of higher education par-
6 ticipating in the loan program under this part,
7 as of the date that the loan was disbursed.

8 “(2) FEDERAL DIRECT REFINANCED PRIVATE
9 LOAN.—The term ‘Federal Direct Refinanced Pri-
10 vate Loan’ means a loan issued under subsection
11 (b)(1).

12 “(3) PRIVATE EDUCATIONAL LENDER.—The
13 term ‘private educational lender’ has the meaning
14 given the term in section 140(a) of the Truth in
15 Lending Act (15 U.S.C. 1650(a)).

16 “(4) QUALIFIED BORROWER.—The term ‘quali-
17 fied borrower’ means an individual who—

18 “(A) has an eligible private education loan;

19 “(B) has been current on payments on the
20 eligible private education loan for the 6 months
21 prior to the date of the qualified borrower’s ap-
22 plication for refinancing under this section, and
23 is in good standing on the loan at the time of
24 such application;

1 “(C) is not in default on the eligible pri-
2 vate education loan or on any loan made, in-
3 sured, or guaranteed under this part or part B
4 or E; and

5 “(D) meets the eligibility requirements de-
6 scribed in subsection (b)(2).

7 “(b) PROGRAM AUTHORIZED.—

8 “(1) IN GENERAL.—The Secretary, in consulta-
9 tion with the Secretary of the Treasury, shall carry
10 out a program under which the Secretary, upon ap-
11 plication by a qualified borrower who has an eligible
12 private education loan, shall issue such borrower a
13 loan under this part in accordance with the fol-
14 lowing:

15 “(A) The loan issued under this program
16 shall be in an amount equal to the sum of the
17 unpaid principal, accrued unpaid interest, and
18 late charges of the private education loan.

19 “(B) The Secretary shall pay the proceeds
20 of the loan issued under this program to the
21 private educational lender of the private edu-
22 cation loan, in order to discharge the qualified
23 borrower from any remaining obligation to the
24 lender with respect to the original loan.

1 “(C) The Secretary shall require that the
2 qualified borrower undergo loan counseling that
3 provides all of the information and counseling
4 required under clauses (i) through (viii) of sec-
5 tion 485(b)(1)(A) before the loan is refinanced
6 in accordance with this section, and before the
7 proceeds of such loan are paid to the private
8 educational lender.

9 “(D) The Secretary shall issue the loan as
10 a Federal Direct Refinanced Private Loan,
11 which shall have the same terms, conditions,
12 and benefits as a Federal Direct Unsubsidized
13 Stafford Loan, except as otherwise provided in
14 this section.

15 “(2) BORROWER ELIGIBILITY.—Not later than
16 180 days after the date of enactment of the In the
17 Red Act of 2016, the Secretary, in consultation with
18 the Secretary of the Treasury and the Director of
19 the Bureau of Consumer Financial Protection, shall
20 establish eligibility requirements—

21 “(A) based on income or debt-to-income
22 ratio that take into consideration providing ac-
23 cess to refinancing under this section for bor-
24 rowers with the greatest financial need;

1 “(B) to ensure eligibility only for bor-
2 rowers in good standing;

3 “(C) to minimize inequities between Fed-
4 eral Direct Refinanced Private Loans and other
5 Federal student loans;

6 “(D) to preclude windfall profits for pri-
7 vate educational lenders; and

8 “(E) to ensure full access to the program
9 authorized in this subsection for borrowers with
10 private loans who otherwise meet the criteria
11 established in accordance with subparagraphs
12 (A) and (B).

13 “(c) INTEREST RATE.—

14 “(1) IN GENERAL.—The interest rate for a
15 Federal Direct Refinanced Private Loan is—

16 “(A) in the case of a Federal Direct Refi-
17 nanced Private Loan for a private education
18 loan originally issued for undergraduate post-
19 secondary educational expenses, a rate equal to
20 the rate for Federal Direct Stafford Loans and
21 Federal Direct Unsubsidized Stafford Loans
22 issued to undergraduate students for the 12-
23 month period beginning on July 1, 2013, and
24 ending on June 30, 2014; and

1 “(B) in the case of a Federal Direct Refi-
2 nanced Private Loan for a private education
3 loan originally issued for graduate or profes-
4 sional degree postsecondary educational ex-
5 penses, a rate equal to the rate for Federal Di-
6 rect Unsubsidized Stafford Loans issued to
7 graduate or professional students for the 12-
8 month period beginning on July 1, 2013, and
9 ending on June 30, 2014.

10 “(2) COMBINED UNDERGRADUATE AND GRAD-
11 UATE STUDY LOANS.—If a Federal Direct Refi-
12 nanced Private Loan is for a private education loan
13 originally issued for both undergraduate and grad-
14 uate or professional postsecondary educational ex-
15 penses, the interest rate shall be a rate equal to the
16 rate for Federal Direct PLUS Loans for the 12-
17 month period beginning on July 1, 2013, and ending
18 on June 30, 2014.

19 “(3) FIXED RATE.—The applicable rate of in-
20 terest determined under this subsection for a Fed-
21 eral Direct Refinanced Private Loan shall be fixed
22 for the period of the loan.

23 “(d) NO INCLUSION IN AGGREGATE LIMITS.—The
24 amount of a Federal Direct Refinanced Private Loan, or
25 a Federal Direct Consolidated Loan to the extent such

1 loan was used to repay a Federal Direct Refinanced Pri-
 2 vate Loan, shall not be included in calculating a bor-
 3 rower's annual or aggregate loan limits under section 428
 4 or 428H.

5 “(e) NO ELIGIBILITY FOR SERVICE-RELATED RE-
 6 PAYMENT.—Notwithstanding sections 428K(a)(2)(A),
 7 428L(b)(2), 455(m)(3)(A), and 460(b), a Federal Direct
 8 Refinanced Private Loan, or any Federal Direct Consoli-
 9 dation Loan to the extent such loan was used to repay
 10 a Federal Direct Refinanced Private Loan, shall not be
 11 eligible for any loan repayment or loan forgiveness pro-
 12 gram under section 428K, 428L, or 460 or for the repay-
 13 ment plan for public service employees under section
 14 455(m).

15 “(f) PRIVATE EDUCATIONAL LENDER REPORTING
 16 REQUIREMENT.—

17 “(1) REPORTING REQUIRED.—Not later than
 18 180 days after the date of enactment of the In the
 19 Red Act of 2016, the Secretary, in consultation with
 20 the Secretary of the Treasury and the Director of
 21 the Bureau of Consumer Financial Protection, shall
 22 establish a requirement that private educational
 23 lenders report the data described in paragraph (2)
 24 to the Secretary, to Congress, to the Secretary of
 25 the Treasury, and to the Director of the Bureau of

1 Consumer Financial Protection, in order to allow for
2 an assessment of the private education loan market.

3 “(2) CONTENTS OF REPORTING.—The data
4 that private educational lenders shall report in ac-
5 cordance with paragraph (1) shall include each of
6 the following about private education loans (as de-
7 fined in section 140(a) of the Truth in Lending Act
8 (15 U.S.C. 1650(a))):

9 “(A) The total amount of private education
10 loan debt the lender holds.

11 “(B) The total number of private edu-
12 cation loan borrowers the lender serves.

13 “(C) The average interest rate on the out-
14 standing private education loan debt held by the
15 lender.

16 “(D) The proportion of private education
17 loan borrowers who are in default on a loan
18 held by the lender.

19 “(E) The proportion of the outstanding
20 private education loan volume held by the lend-
21 er that is in default.

22 “(F) The proportions of outstanding pri-
23 vate education loan borrowers who are 30, 60,
24 and 90 days delinquent.

1 “(G) The proportions of outstanding pri-
 2 vate education loan volume that is 30, 60, and
 3 90 days delinquent.

4 “(g) NOTIFICATION TO BORROWERS.—The Sec-
 5 retary, in coordination with the Secretary of the Treasury
 6 and the Director of the Bureau of Consumer Financial
 7 Protection, shall undertake a campaign to alert borrowers
 8 about the availability of private student loan refinancing
 9 under this section.”.

10 (c) AMENDMENTS TO PUBLIC SERVICE REPAYMENT
 11 PLAN PROVISIONS.—Section 455(m) of the Higher Edu-
 12 cation Act of 1965 (20 U.S.C. 1087e(m)) is amended—

13 (1) by redesignating paragraphs (3) and (4) as
 14 paragraphs (4) and (5), respectively;

15 (2) by inserting after paragraph (2) the fol-
 16 lowing:

17 “(3) SPECIAL RULES FOR SECTION 460A
 18 LOANS.—

19 “(A) REFINANCED FEDERAL DIRECT
 20 LOANS.—Notwithstanding paragraph (1), in de-
 21 termining the number of monthly payments
 22 that meet the requirements of such paragraph
 23 for an eligible Federal Direct Loan refinanced
 24 under section 460A that was originally a loan
 25 under this part, the Secretary shall include all

1 monthly payments made on the original loan
2 that meet the requirements of such paragraph.

3 “(B) REFINANCED FFEL LOANS.—In the
4 case of an eligible Federal Direct Loan refi-
5 nanced under section 460A that was originally
6 a loan under part B, only monthly payments
7 made after the date on which the loan was refi-
8 nanced may be included for purposes of para-
9 graph (1).”; and

10 (3) in paragraph (4)(A) (as redesignated by
11 paragraph (1)), by inserting “(including any Federal
12 Direct Stafford Loan, Federal Direct PLUS Loan,
13 Federal Direct Unsubsidized Stafford Loan, or Fed-
14 eral Direct Consolidation Loan refinanced under sec-
15 tion 460A)” before the period at the end.

16 (d) INCOME-BASED REPAYMENT.—Section 493C of
17 the Higher Education Act of 1965 (20 U.S.C. 1098e) is
18 amended by adding at the end the following:

19 “(f) SPECIAL RULE FOR REFINANCED LOANS.—

20 “(1) REFINANCED FEDERAL DIRECT AND FFEL
21 LOANS.—In calculating the period of time during
22 which a borrower of a loan that is refinanced under
23 section 460A has made monthly payments for pur-
24 poses of subsection (b)(7), the Secretary shall deem
25 the period to include all monthly payments made for

the original loan, and all monthly payments made for the refinanced loan, that otherwise meet the requirements of this section.

“(2) FEDERAL DIRECT REFINANCED PRIVATE LOANS.—In calculating the period of time during which a borrower of a Federal Direct Refinanced Private Loan under section 460B has made monthly payments for purposes of subsection (b)(7), the Secretary shall include only payments—

“(A) that are made after the date of the issuance of the Federal Direct Refinanced Private Loan; and

“(B) that otherwise meet the requirements of this section.”.

TITLE III—FEDERAL PELL GRANT PROTECTION

SEC. 301. FEDERAL PELL GRANT PROTECTION.

Section 401(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(7)) is amended—

(1) in subparagraph (A)(iii), by striking “clauses (ii) and (iii) of subparagraph (B)” and inserting “subparagraph (B)(ii)”; and

(2) in subparagraph (C)—

(A) in clause (ii)—

- 1 (i) in the clause heading, by striking
 2 “AWARD YEARS 2014–2015 THROUGH 2017–
 3 2018” and inserting “AWARD YEAR 2014–
 4 2015 AND SUBSEQUENT AWARD YEARS”;
- 5 (ii) in the matter preceding subclause
 6 (I), by striking “each of the award years
 7 2014–2015 through 2017–2018” and in-
 8 serting “award year 2014–2015 and each
 9 subsequent award year”; and
- 10 (iii) in subclause (I), by striking
 11 “clause (iv)(II)” and inserting “clause
 12 (iii)(II)”;
- 13 (B) by striking clause (iii); and
- 14 (C) by redesignating clause (iv) as clause
 15 (iii).

16 **SEC. 302. POINT OF ORDER AGAINST CUTTING FEDERAL**
 17 **PELL GRANTS.**

18 (a) POINT OF ORDER.—It shall not be in order in
 19 the Senate to consider any bill, joint resolution, motion,
 20 amendment, amendment between the Houses, or con-
 21 ference report that would decrease the appropriations pro-
 22 vided for Federal Pell Grants under section 401(b)(7) of
 23 the Higher Education Act of 1965 (20 U.S.C.
 24 1070a(b)(7)) or restrict eligibility for Federal Pell Grants.

1 (b) WAIVER AND APPEAL.—Subsection (a) may be
2 waived or suspended in the Senate only by an affirmative
3 vote of three-fifths of the Members, duly chosen and
4 sworn. An affirmative vote of three-fifths of the Members
5 of the Senate, duly chosen and sworn, shall be required
6 to sustain an appeal of the ruling of the Chair on a point
7 of order raised under subsection (a).

8 **SEC. 303. AFFIRMING THAT FEDERAL PELL GRANTS ARE A**
9 **FOUNDATIONAL INVESTMENT IN AFFORD-**
10 **ABLE HIGHER EDUCATION.**

11 (a) FINDINGS.—Congress finds the following:

12 (1) Research shows that with higher edu-
13 cational attainment, individuals are more likely to be
14 employed, earn higher wages, secure health and re-
15 tirement benefits, make healthier life choices, and be
16 more engaged citizens of their communities.

17 (2) Higher education, whether at a 2- or 4-year
18 institution, can help people of the United States
19 from lower income backgrounds climb into the mid-
20 dle class.

21 (3) In 2015, more than 20,000,000 students
22 enrolled in colleges and universities in the United
23 States—an increase of 4,900,000 since 2000.

24 (4) Despite the benefits of further education be-
25 yond high school, many students from low-income

1 backgrounds do not attend college. According to the
2 United States Census Bureau, approximately 80
3 percent of high school graduates from the wealthiest
4 families pursue higher education, while only a little
5 more than half from the lowest income quartile at-
6 tend college.

7 (5) Federal Pell Grants provide need-based aid
8 to students who want to further their education and
9 are the single largest source of grant aid for helping
10 students afford college.

11 (6) In award year 2013–2014, an estimated 73
12 percent of all Pell Grant recipients had a total fam-
13 ily income equal to or less than \$30,000.

14 (7) In 2015, more than 8,200,000 students, or
15 approximately 41 percent of all undergraduates,
16 used Federal Pell Grants to finance their education.

17 (b) SENSE OF THE SENATE.—It is the sense of the
18 Senate that Congress should—

19 (1) affirm that Federal Pell Grants are a
20 foundational investment in affordable higher edu-
21 cation for students and families; and

22 (2) commit to ensuring that Federal Pell
23 Grants remain a stable source of financial support
24 for students and families.

1 **TITLE IV—ACCOUNTABILITY**

2 **SEC. 401. SUPPORTING EFFORTS TO ENSURE THAT INSTI-**
3 **TUTIONS OF HIGHER EDUCATION ARE AC-**
4 **COUNTABLE FOR ENSURING THE HIGH**
5 **VALUE OF DEGREES AND CREDENTIALS.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) The employment rate for people of the
8 United States between the ages of 21 to 25 has de-
9 clined by 12 percent from 2000 through 2012.

10 (2) The cost of attending a 4-year public insti-
11 tution of higher education has increased by 32 per-
12 cent from 2002 through 2012.

13 (3) More than 1 in 4 student loan borrowers
14 are now in default or delinquent on a student loan.

15 (4) There are limited means through which to
16 ensure that institutions of higher education are held
17 accountable for the value of the degrees and creden-
18 tials obtained by students, or the outcomes of those
19 students.

20 (5) Student borrowers who obtain a high-value
21 degree or credential are much more likely to be able
22 to find a good paying job and repay their student
23 loan debt.

24 (b) SENSE OF THE SENATE.—It is the sense of the
25 Senate that Congress should support efforts to ensure that

1 institutions of higher education have strong incentives to
2 ensure that students graduate with degrees and creden-
3 tials that have a high value, and that will enable graduates
4 to secure good-paying employment in their field of study
5 and enjoy long-term success, by—

6 (1) enhancing accountability for institutions of
7 higher education for the quality and cost of degree
8 programs, including student debt burden;

9 (2) holding institutions of higher education and
10 their leaders financially accountable when the insti-
11 tutions or leaders engage in fraud or misconduct
12 that violates Federal and State laws;

13 (3) creating incentives and tools that will allow
14 State governments and institutions of higher edu-
15 cation to curb tuition inflation and maintain invest-
16 ment in higher education;

17 (4) creating incentives for institutions of higher
18 education to direct more resources to their academic
19 programs and to provide pathways to ensure that all
20 students can complete their degrees and credentials
21 in a timely manner; and

22 (5) guaranteeing that the servicing of student
23 loans made, insured, or guaranteed under part B or
24 D of title IV of the Higher Education Act of 1965
25 (20 U.S.C. 1071 et seq., 1087a et seq.) provided

1 through these institutions of higher education will
 2 meet the highest standards of quality, customer
 3 service, and compliance with the law to promote bor-
 4 rower success and minimize defaults.

5 **TITLE V—OFFSETS**

6 **SEC. 501. AMENDMENT OF 1986 CODE.**

7 Except as otherwise expressly provided, whenever in
 8 this title an amendment or repeal is expressed in terms
 9 of an amendment to, or repeal of, a section or other provi-
 10 sion, the reference shall be considered to be made to a
 11 section or other provision of the Internal Revenue Code
 12 of 1986.

13 **SEC. 502. FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS.**

14 (a) IN GENERAL.—Subchapter A of chapter 1 is
 15 amended by adding at the end the following new part:

16 **“PART VII—FAIR SHARE TAX ON HIGH-INCOME** 17 **TAXPAYERS**

“Sec. 59A. Fair share tax.

18 **“SEC. 59A. FAIR SHARE TAX.**

19 “(a) GENERAL RULE.—

20 “(1) PHASE-IN OF TAX.—In the case of any
 21 high-income taxpayer, there is hereby imposed for a
 22 taxable year (in addition to any other tax imposed
 23 by this subtitle) a tax equal to the product of—

1 “(A) the amount determined under para-
2 graph (2), and

3 “(B) a fraction (not to exceed 1)—

4 “(i) the numerator of which is the ex-
5 cess of—

6 “(I) the taxpayer’s adjusted
7 gross income, over

8 “(II) the dollar amount in effect
9 under subsection (c)(1), and

10 “(ii) the denominator of which is the
11 dollar amount in effect under subsection
12 (c)(1).

13 “(2) AMOUNT OF TAX.—The amount of tax de-
14 termined under this paragraph is an amount equal
15 to the excess (if any) of—

16 “(A) the tentative fair share tax for the
17 taxable year, over

18 “(B) the excess of—

19 “(i) the sum of—

20 “(I) the regular tax liability (as
21 defined in section 26(b)) for the tax-
22 able year, determined without regard
23 to any tax liability determined under
24 this section,

1 “(II) the tax imposed by section
2 55 for the taxable year, plus

3 “(III) the payroll tax for the tax-
4 able year, over

5 “(ii) the credits allowable under part
6 IV of subchapter A (other than sections
7 27(a), 31, and 34).

8 “(b) TENTATIVE FAIR SHARE TAX.—For purposes
9 of this section—

10 “(1) IN GENERAL.—The tentative fair share tax
11 for the taxable year is 30 percent of the excess of—

12 “(A) the adjusted gross income of the tax-
13 payer, over

14 “(B) the modified charitable contribution
15 deduction for the taxable year.

16 “(2) MODIFIED CHARITABLE CONTRIBUTION
17 DEDUCTION.—For purposes of paragraph (1)—

18 “(A) IN GENERAL.—The modified chari-
19 table contribution deduction for any taxable
20 year is an amount equal to the amount which
21 bears the same ratio to the deduction allowable
22 under section 170 (section 642(c) in the case of
23 a trust or estate) for such taxable year as—

24 “(i) the amount of itemized deduc-
25 tions allowable under the regular tax (as

1 defined in section 55) for such taxable
2 year, determined after the application of
3 section 68, bears to

4 “(ii) such amount, determined before
5 the application of section 68.

6 “(B) TAXPAYER MUST ITEMIZE.—In the
7 case of any individual who does not elect to
8 itemize deductions for the taxable year, the
9 modified charitable contribution deduction shall
10 be zero.

11 “(c) HIGH-INCOME TAXPAYER.—For purposes of this
12 section—

13 “(1) IN GENERAL.—The term ‘high-income tax-
14 payer’ means, with respect to any taxable year, any
15 taxpayer (other than a corporation) with an adjusted
16 gross income for such taxable year in excess of
17 \$1,000,000 (50 percent of such amount in the case
18 of a married individual who files a separate return).

19 “(2) INFLATION ADJUSTMENT.—

20 “(A) IN GENERAL.—In the case of a tax-
21 able year beginning after 2016, the \$1,000,000
22 amount under paragraph (1) shall be increased
23 by an amount equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year in which the taxable year be-
4 gins, determined by substituting ‘calendar
5 year 2015’ for ‘calendar year 1992’ in sub-
6 paragraph (B) thereof.

7 “(B) ROUNDING.—If any amount as ad-
8 justed under subparagraph (A) is not a multiple
9 of \$10,000, such amount shall be rounded to
10 the next lowest multiple of \$10,000.

11 “(d) PAYROLL TAX.—For purposes of this section,
12 the payroll tax for any taxable year is an amount equal
13 to the excess of—

14 “(1) the taxes imposed on the taxpayer under
15 sections 1401, 1411, 3101, 3201, and 3211(a) (to
16 the extent such tax is attributable to the rate of tax
17 in effect under section 3101) with respect to such
18 taxable year or wages or compensation received dur-
19 ing such taxable year, over

20 “(2) the deduction allowable under section
21 164(f) for such taxable year.

22 “(e) SPECIAL RULE FOR ESTATES AND TRUSTS.—
23 For purposes of this section, in the case of an estate or
24 trust, adjusted gross income shall be computed in the
25 manner described in section 67(e).

1 “(f) NOT TREATED AS TAX IMPOSED BY THIS CHAP-
 2 TER FOR CERTAIN PURPOSES.—The tax imposed under
 3 this section shall not be treated as tax imposed by this
 4 chapter for purposes of determining the amount of any
 5 credit under this chapter (other than the credit allowed
 6 under section 27(a)) or for purposes of section 55.”.

7 (b) CLERICAL AMENDMENT.—The table of parts for
 8 subchapter A of chapter 1 is amended by adding at the
 9 end the following new item:

 “PART VII. FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 2015.

13 **SEC. 503. EXPANSION OF DENIAL OF DEDUCTION FOR CER-**
 14 **TAIN EXCESSIVE EMPLOYEE REMUNERA-**
 15 **TION.**

16 (a) APPLICATION TO ALL CURRENT AND FORMER
 17 EMPLOYEES.—

18 (1) IN GENERAL.—Section 162(m) is amend-
 19 ed—

20 (A) by striking “covered employee” each
 21 place it appears in paragraphs (1) and (4) and
 22 inserting “covered individual”, and

23 (B) by striking “such employee” each
 24 place it appears in subparagraphs (A) and (G)

1 of paragraph (4) and inserting “such indi-
2 vidual”.

3 (2) COVERED INDIVIDUAL.—Paragraph (3) of
4 section 162(m) is amended to read as follows:

5 “(3) COVERED INDIVIDUAL.—For purposes of
6 this subsection, the term ‘covered individual’ means
7 any individual who is an officer, director, or em-
8 ployee of the taxpayer or a former officer, director,
9 or employee of the taxpayer.”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) Section 48D(b)(3)(A) is amended by
12 inserting “(as in effect for taxable years begin-
13 ning before January 1, 2016)” after “section
14 162(m)(3)”.

15 (B) Section 409A(b)(3)(D)(ii) is amended
16 by inserting “(as in effect for taxable years be-
17 ginning before January 1, 2016)” after “section
18 162(m)(3)”.

19 (b) EXPANSION OF APPLICABLE EMPLOYEE REMU-
20 NERATION.—

21 (1) ELIMINATION OF EXCEPTION FOR COMMIS-
22 SION-BASED PAY.—

23 (A) IN GENERAL.—Paragraph (4) of sec-
24 tion 162(m), as amended by subsection (a), is
25 amended by striking subparagraph (B) and by

redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(B) CONFORMING AMENDMENTS.—

(i) Section 162(m)(5) is amended—

(I) by striking “subparagraphs (B), (C), and (D) thereof” in subparagraph (E) and inserting “subparagraphs (B) and (C) thereof”, and

(II) by striking “subparagraphs (F) and (G)” in subparagraph (G) and inserting “subparagraphs (E) and (F)”.

(ii) Section 162(m)(6) is amended—

(I) by striking “subparagraphs (B), (C), and (D) thereof” in subparagraph (D) and inserting “subparagraphs (B) and (C) thereof”, and

(II) by striking “subparagraphs (F) and (G)” in subparagraph (G) and inserting “subparagraphs (E) and (F)”.

(2) INCLUSION OF PERFORMANCE-BASED COMPENSATION.—

(A) IN GENERAL.—Paragraph (4) of section 162(m), as amended by subsection (a) and

1 paragraph (1) of this subsection, is amended by
2 striking subparagraph (B) and redesignating
3 subparagraphs (C) through (F) as subpara-
4 graphs (B) through (E), respectively.

5 (B) CONFORMING AMENDMENTS.—

6 (i) Section 162(m)(5), as amended by
7 paragraph (1), is amended—

8 (I) by striking “subparagraphs
9 (B) and (C) thereof” in subparagraph
10 (E) and inserting “subparagraph (B)
11 thereof”, and

12 (II) by striking “subparagraphs
13 (E) and (F)” in subparagraph (G)
14 and inserting “subparagraphs (D) and
15 (E)”.

16 (ii) Section 162(m)(6), as amended by
17 paragraph (1), is amended—

18 (I) by striking “subparagraphs
19 (B) and (C) thereof” in subparagraph
20 (D) and inserting “subparagraph (B)
21 thereof”, and

22 (II) by striking “subparagraphs
23 (E) and (F)” in subparagraph (G)
24 and inserting “subparagraphs (D) and
25 (E)”.

1 (c) EXPANSION OF APPLICABLE EMPLOYER.—Para-
 2 graph (2) of section 162(m) is amended to read as follows:

3 “(2) PUBLICLY HELD CORPORATION.—For pur-
 4 poses of this subsection, the term ‘publicly held cor-
 5 poration’ means any corporation which is an issuer
 6 (as defined in section 3 of the Securities Exchange
 7 Act of 1934 (15 U.S.C. 78c))—

8 “(A) the securities of which are registered
 9 under section 12 of such Act (15 U.S.C. 78l),
 10 or

11 “(B) that is required to file reports under
 12 section 15(d) of such Act (15 U.S.C. 780(d)).”.

13 (d) REGULATORY AUTHORITY.—

14 (1) IN GENERAL.—Section 162(m) is amended
 15 by adding at the end the following new paragraph:

16 “(7) REGULATIONS.—The Secretary may pre-
 17 scribe such guidance, rules, or regulations, including
 18 with respect to reporting, as are necessary to carry
 19 out the purposes of this subsection.”.

20 (2) CONFORMING AMENDMENT.—Paragraph (6)
 21 of section 162(m) is amended by striking subpara-
 22 graph (H).

23 (e) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 December 31, 2015.

1 **SEC. 504. PARTNERSHIP INTERESTS TRANSFERRED IN**
2 **CONNECTION WITH PERFORMANCE OF SERV-**
3 **ICES.**

4 (a) MODIFICATION TO ELECTION TO INCLUDE PART-
5 NERSHIP INTEREST IN GROSS INCOME IN YEAR OF
6 TRANSFER.—Subsection (c) of section 83 is amended by
7 redesignating paragraph (4) as paragraph (5) and by in-
8 serting after paragraph (3) the following new paragraph:

9 “(4) PARTNERSHIP INTERESTS.—Except as
10 provided by the Secretary—

11 “(A) IN GENERAL.—In the case of any
12 transfer of an interest in a partnership in con-
13 nection with the provision of services to (or for
14 the benefit of) such partnership—

15 “(i) the fair market value of such in-
16 terest shall be treated for purposes of this
17 section as being equal to the amount of the
18 distribution which the partner would re-
19 ceive if the partnership sold (at the time of
20 the transfer) all of its assets at fair market
21 value and distributed the proceeds of such
22 sale (reduced by the liabilities of the part-
23 nership) to its partners in liquidation of
24 the partnership, and

25 “(ii) the person receiving such interest
26 shall be treated as having made the elec-

1 tion under subsection (b)(1) unless such
 2 person makes an election under this para-
 3 graph to have such subsection not apply.

4 “(B) ELECTION.—The election under sub-
 5 paragraph (A)(ii) shall be made under rules
 6 similar to the rules of subsection (b)(2).”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to interests in partnerships trans-
 9 ferred after the date of the enactment of this Act.

10 **SEC. 505. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
 11 **VESTMENT MANAGEMENT SERVICES TO**
 12 **PARTNERSHIPS.**

13 (a) IN GENERAL.—Part I of subchapter K of chapter
 14 1 is amended by adding at the end the following new sec-
 15 tion:

16 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
 17 **VESTMENT MANAGEMENT SERVICES TO**
 18 **PARTNERSHIPS.**

19 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
 20 PARTNERSHIP ITEMS.—For purposes of this title, in the
 21 case of an investment services partnership interest—

22 “(1) IN GENERAL.—Notwithstanding section
 23 702(b)—

24 “(A) an amount equal to the net capital
 25 gain with respect to such interest for any part-

1 nership taxable year shall be treated as ordi-
2 nary income, and

3 “(B) subject to the limitation of paragraph
4 (2), an amount equal to the net capital loss
5 with respect to such interest for any partner-
6 ship taxable year shall be treated as an ordi-
7 nary loss.

8 “(2) RECHARACTERIZATION OF LOSSES LIM-
9 ITED TO RECHARACTERIZED GAINS.—The amount
10 treated as ordinary loss under paragraph (1)(B) for
11 any taxable year shall not exceed the excess (if any)
12 of—

13 “(A) the aggregate amount treated as ordi-
14 nary income under paragraph (1)(A) with re-
15 spect to the investment services partnership in-
16 terest for all preceding partnership taxable
17 years to which this section applies, over

18 “(B) the aggregate amount treated as or-
19 dinary loss under paragraph (1)(B) with re-
20 spect to such interest for all preceding partner-
21 ship taxable years to which this section applies.

22 “(3) ALLOCATION TO ITEMS OF GAIN AND
23 LOSS.—

24 “(A) NET CAPITAL GAIN.—The amount
25 treated as ordinary income under paragraph

1 (1)(A) shall be allocated ratably among the
2 items of long-term capital gain taken into ac-
3 count in determining such net capital gain.

4 “(B) NET CAPITAL LOSS.—The amount
5 treated as ordinary loss under paragraph (1)(B)
6 shall be allocated ratably among the items of
7 long-term capital loss and short-term capital
8 loss taken into account in determining such net
9 capital loss.

10 “(4) TERMS RELATING TO CAPITAL GAINS AND
11 LOSSES.—For purposes of this section—

12 “(A) IN GENERAL.—Net capital gain, long-
13 term capital gain, and long-term capital loss,
14 with respect to any investment services partner-
15 ship interest for any taxable year, shall be de-
16 termined under section 1222, except that such
17 section shall be applied—

18 “(i) without regard to the recharacter-
19 ization of any item as ordinary income or
20 ordinary loss under this section,

21 “(ii) by only taking into account items
22 of gain and loss taken into account by the
23 holder of such interest under section 702
24 (other than subsection (a)(9) thereof) with

1 respect to such interest for such taxable
2 year, and

3 “(iii) by treating property which is
4 taken into account in determining gains
5 and losses to which section 1231 applies as
6 capital assets held for more than 1 year.

7 “(B) NET CAPITAL LOSS.—The term ‘net
8 capital loss’ means the excess of the losses from
9 sales or exchanges of capital assets over the
10 gains from such sales or exchanges. Rules simi-
11 lar to the rules of clauses (i) through (iii) of
12 subparagraph (A) shall apply for purposes of
13 the preceding sentence.

14 “(5) SPECIAL RULE FOR DIVIDENDS.—Any div-
15 idend allocated with respect to any investment serv-
16 ices partnership interest shall not be treated as
17 qualified dividend income for purposes of section
18 1(h).

19 “(6) SPECIAL RULE FOR QUALIFIED SMALL
20 BUSINESS STOCK.—Section 1202 shall not apply to
21 any gain from the sale or exchange of qualified small
22 business stock (as defined in section 1202(c)) allo-
23 cated with respect to any investment services part-
24 nership interest.

25 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

1 “(1) GAIN.—

2 “(A) IN GENERAL.—Any gain on the dis-
3 position of an investment services partnership
4 interest shall be—

5 “(i) treated as ordinary income, and

6 “(ii) recognized notwithstanding any
7 other provision of this subtitle.

8 “(B) GIFT AND TRANSFERS AT DEATH.—

9 In the case of a disposition of an investment
10 services partnership interest by gift or by rea-
11 son of death of the taxpayer—

12 “(i) subparagraph (A) shall not apply,

13 “(ii) such interest shall be treated as
14 an investment services partnership interest
15 in the hands of the person acquiring such
16 interest, and

17 “(iii) any amount that would have
18 been treated as ordinary income under this
19 subsection had the decedent sold such in-
20 terest immediately before death shall be
21 treated as an item of income in respect of
22 a decedent under section 691.

23 “(2) LOSS.—Any loss on the disposition of an
24 investment services partnership interest shall be

1 treated as an ordinary loss to the extent of the ex-
2 cess (if any) of—

3 “(A) the aggregate amount treated as ordi-
4 nary income under subsection (a) with respect
5 to such interest for all partnership taxable
6 years to which this section applies, over

7 “(B) the aggregate amount treated as or-
8 dinary loss under subsection (a) with respect to
9 such interest for all partnership taxable years
10 to which this section applies.

11 “(3) ELECTION WITH RESPECT TO CERTAIN EX-
12 CHANGES.—Paragraph (1)(A)(ii) shall not apply to
13 the contribution of an investment services partner-
14 ship interest to a partnership in exchange for an in-
15 terest in such partnership if—

16 “(A) the taxpayer makes an irrevocable
17 election to treat the partnership interest re-
18 ceived in the exchange as an investment serv-
19 ices partnership interest, and

20 “(B) the taxpayer agrees to comply with
21 such reporting and recordkeeping requirements
22 as the Secretary may prescribe.

23 “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-
24 ERTY.—

1 “(A) IN GENERAL.—In the case of any dis-
2 tribution of property by a partnership with re-
3 spect to any investment services partnership in-
4 terest held by a partner, the partner receiving
5 such property shall recognize gain equal to the
6 excess (if any) of—

7 “(i) the fair market value of such
8 property at the time of such distribution,
9 over

10 “(ii) the adjusted basis of such prop-
11 erty in the hands of such partner (deter-
12 mined without regard to subparagraph
13 (C)).

14 “(B) TREATMENT OF GAIN AS ORDINARY
15 INCOME.—Any gain recognized by such partner
16 under subparagraph (A) shall be treated as or-
17 dinary income to the same extent and in the
18 same manner as the increase in such partner’s
19 distributive share of the taxable income of the
20 partnership would be treated under subsection
21 (a) if, immediately prior to the distribution, the
22 partnership had sold the distributed property at
23 fair market value and all of the gain from such
24 disposition were allocated to such partner. For
25 purposes of applying subsection (a)(2), any gain

1 treated as ordinary income under this subpara-
2 graph shall be treated as an amount treated as
3 ordinary income under subsection (a)(1)(A).

4 “(C) ADJUSTMENT OF BASIS.—In the case
5 of a distribution to which subparagraph (A) ap-
6 plies, the basis of the distributed property in
7 the hands of the distributee partner shall be the
8 fair market value of such property.

9 “(D) SPECIAL RULES WITH RESPECT TO
10 MERGERS, DIVISIONS, AND TECHNICAL TERMI-
11 NATIONS.—In the case of a taxpayer which sat-
12 isfies requirements similar to the requirements
13 of subparagraphs (A) and (B) of paragraph (3),
14 this paragraph and paragraph (1)(A)(ii) shall
15 not apply to the distribution of a partnership
16 interest if such distribution is in connection
17 with a contribution (or deemed contribution) of
18 any property of the partnership to which sec-
19 tion 721 applies pursuant to a transaction de-
20 scribed in paragraph (1)(B) or (2) of section
21 708(b).

22 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-
23 EST.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘investment serv-
25 ices partnership interest’ means any interest in an

1 investment partnership acquired or held by any per-
2 son in connection with the conduct of a trade or
3 business described in paragraph (2) by such person
4 (or any person related to such person). An interest
5 in an investment partnership held by any person—

6 “(A) shall not be treated as an investment
7 services partnership interest for any period be-
8 fore the first date on which it is so held in con-
9 nection with such a trade or business,

10 “(B) shall not cease to be an investment
11 services partnership interest merely because
12 such person holds such interest other than in
13 connection with such a trade or business, and

14 “(C) shall be treated as an investment
15 services partnership interest if acquired from a
16 related person in whose hands such interest was
17 an investment services partnership interest.

18 “(2) BUSINESSES TO WHICH THIS SECTION AP-
19 PLIES.—A trade or business is described in this
20 paragraph if such trade or business primarily in-
21 volves the performance of any of the following serv-
22 ices with respect to assets held (directly or indi-
23 rectly) by one or more investment partnerships re-
24 ferred to in paragraph (1):

1 “(A) Advising as to the advisability of in-
2 vesting in, purchasing, or selling any specified
3 asset.

4 “(B) Managing, acquiring, or disposing of
5 any specified asset.

6 “(C) Arranging financing with respect to
7 acquiring specified assets.

8 “(D) Any activity in support of any service
9 described in subparagraphs (A) through (C).

10 “(3) INVESTMENT PARTNERSHIP.—

11 “(A) IN GENERAL.—The term ‘investment
12 partnership’ means any partnership if, at the
13 end of any two consecutive calendar quarters
14 ending after the date of enactment of this sec-
15 tion—

16 “(i) substantially all of the assets of
17 the partnership are specified assets (deter-
18 mined without regard to any section 197
19 intangible within the meaning of section
20 197(d)), and

21 “(ii) less than 75 percent of the cap-
22 ital of the partnership is attributable to
23 qualified capital interests which constitute
24 property held in connection with a trade or
25 business of the owner of such interest.

1 “(B) LOOK-THROUGH OF CERTAIN WHOL-
2 LY OWNED ENTITIES FOR PURPOSES OF DETER-
3 MINING ASSETS OF THE PARTNERSHIP.—

4 “(i) IN GENERAL.—For purposes of
5 determining the assets of a partnership
6 under subparagraph (A)(i)—

7 “(I) any interest in a specified
8 entity shall not be treated as an asset
9 of such partnership, and

10 “(II) such partnership shall be
11 treated as holding its proportionate
12 share of each of the assets of such
13 specified entity.

14 “(ii) SPECIFIED ENTITY.—For pur-
15 poses of clause (i), the term ‘specified enti-
16 ty’ means, with respect to any partnership
17 (hereafter referred to as the upper-tier
18 partnership), any person which engages in
19 the same trade or business as the upper-
20 tier partnership and is—

21 “(I) a partnership all of the cap-
22 ital and profits interests of which are
23 held directly or indirectly by the
24 upper-tier partnership, or

1 “(II) a foreign corporation which
2 does not engage in a trade or business
3 in the United States and all of the
4 stock of which is held directly or indi-
5 rectly by the upper-tier partnership.

6 “(C) SPECIAL RULES FOR DETERMINING
7 IF PROPERTY HELD IN CONNECTION WITH
8 TRADE OR BUSINESS.—

9 “(i) IN GENERAL.—Except as other-
10 wise provided by the Secretary, solely for
11 purposes of determining whether any inter-
12 est in a partnership constitutes property
13 held in connection with a trade or business
14 under subparagraph (A)(ii)—

15 “(I) a trade or business of any
16 person closely related to the owner of
17 such interest shall be treated as a
18 trade or business of such owner,

19 “(II) such interest shall be treat-
20 ed as held by a person in connection
21 with a trade or business during any
22 taxable year if such interest was so
23 held by such person during any 3 tax-
24 able years preceding such taxable
25 year, and

1 “(III) paragraph (5)(B) shall not
2 apply.

3 “(ii) CLOSELY RELATED PERSONS.—
4 For purposes of clause (i)(I), a person
5 shall be treated as closely related to an-
6 other person if, taking into account the
7 rules of section 267(c), the relationship be-
8 tween such persons is described in—

9 “(I) paragraph (1) or (9) of sec-
10 tion 267(b), or

11 “(II) section 267(b)(4), but solely
12 in the case of a trust with respect to
13 which each current beneficiary is the
14 grantor or a person whose relationship
15 to the grantor is described in para-
16 graph (1) or (9) of section 267(b).

17 “(D) ANTI-ABUSE RULES.—The Secretary
18 may issue regulations or other guidance which
19 prevent the avoidance of the purposes of sub-
20 paragraph (A), including regulations or other
21 guidance which treat convertible and contingent
22 debt (and other debt having the attributes of
23 equity) as a capital interest in the partnership.

24 “(E) CONTROLLED GROUPS OF ENTI-
25 TIES.—

1 “(i) IN GENERAL.—In the case of a
2 controlled group of entities, if an interest
3 in the partnership received in exchange for
4 a contribution to the capital of the part-
5 nership by any member of such controlled
6 group would (in the hands of such mem-
7 ber) constitute property held in connection
8 with a trade or business, then any interest
9 in such partnership held by any member of
10 such group shall be treated for purposes of
11 subparagraph (A) as constituting (in the
12 hands of such member) property held in
13 connection with a trade or business.

14 “(ii) CONTROLLED GROUP OF ENTI-
15 TIES.—For purposes of clause (i), the term
16 ‘controlled group of entities’ means a con-
17 trolled group of corporations as defined in
18 section 1563(a)(1), applied without regard
19 to subsections (a)(4) and (b)(2) of section
20 1563. A partnership or any other entity
21 (other than a corporation) shall be treated
22 as a member of a controlled group of enti-
23 ties if such entity is controlled (within the
24 meaning of section 954(d)(3)) by members
25 of such group (including any entity treated

1 as a member of such group by reason of
2 this sentence).

3 “(F) SPECIAL RULE FOR CORPORA-
4 TIONS.—For purposes of this paragraph, in the
5 case of a corporation, the determination of
6 whether property is held in connection with a
7 trade or business shall be determined as if the
8 taxpayer were an individual.

9 “(4) SPECIFIED ASSET.—The term ‘specified
10 asset’ means securities (as defined in section
11 475(c)(2) without regard to the last sentence there-
12 of), real estate held for rental or investment, inter-
13 ests in partnerships, commodities (as defined in sec-
14 tion 475(e)(2)), cash or cash equivalents, or options
15 or derivative contracts with respect to any of the
16 foregoing.

17 “(5) RELATED PERSONS.—

18 “(A) IN GENERAL.—A person shall be
19 treated as related to another person if the rela-
20 tionship between such persons is described in
21 section 267(b) or 707(b).

22 “(B) ATTRIBUTION OF PARTNER SERV-
23 ICES.—Any service described in paragraph (2)
24 which is provided by a partner of a partnership

1 shall be treated as also provided by such part-
2 nership.

3 “(d) EXCEPTION FOR CERTAIN CAPITAL INTER-
4 ESTS.—

5 “(1) IN GENERAL.—In the case of any portion
6 of an investment services partnership interest which
7 is a qualified capital interest, all items of gain and
8 loss (and any dividends) which are allocated to such
9 qualified capital interest shall not be taken into ac-
10 count under subsection (a) if—

11 “(A) allocations of items are made by the
12 partnership to such qualified capital interest in
13 the same manner as such allocations are made
14 to other qualified capital interests held by part-
15 ners who do not provide any services described
16 in subsection (c)(2) and who are not related to
17 the partner holding the qualified capital inter-
18 est, and

19 “(B) the allocations made to such other in-
20 terests are significant compared to the alloca-
21 tions made to such qualified capital interest.

22 “(2) AUTHORITY TO PROVIDE EXCEPTIONS TO
23 ALLOCATION REQUIREMENTS.—To the extent pro-
24 vided by the Secretary in regulations or other guid-
25 ance—

1 “(A) ALLOCATIONS TO PORTION OF QUALI-
2 FIED CAPITAL INTEREST.—Paragraph (1) may
3 be applied separately with respect to a portion
4 of a qualified capital interest.

5 “(B) NO OR INSIGNIFICANT ALLOCATIONS
6 TO NONSERVICE PROVIDERS.—In any case in
7 which the requirements of paragraph (1)(B) are
8 not satisfied, items of gain and loss (and any
9 dividends) shall not be taken into account under
10 subsection (a) to the extent that such items are
11 properly allocable under such regulations or
12 other guidance to qualified capital interests.

13 “(C) ALLOCATIONS TO SERVICE PRO-
14 VIDERS’ QUALIFIED CAPITAL INTERESTS WHICH
15 ARE LESS THAN OTHER ALLOCATIONS.—Alloca-
16 tions shall not be treated as failing to meet the
17 requirement of paragraph (1)(A) merely be-
18 cause the allocations to the qualified capital in-
19 terest represent a lower return than the alloca-
20 tions made to the other qualified capital inter-
21 ests referred to in such paragraph.

22 “(3) SPECIAL RULE FOR CHANGES IN SERVICES
23 AND CAPITAL CONTRIBUTIONS.—In the case of an
24 interest in a partnership which was not an invest-
25 ment services partnership interest and which, by

1 reason of a change in the services with respect to as-
2 sets held (directly or indirectly) by the partnership
3 or by reason of a change in the capital contributions
4 to such partnership, becomes an investment services
5 partnership interest, the qualified capital interest of
6 the holder of such partnership interest immediately
7 after such change shall not, for purposes of this sub-
8 section, be less than the fair market value of such
9 interest (determined immediately before such
10 change).

11 “(4) SPECIAL RULE FOR TIERED PARTNER-
12 SHIPS.—Except as otherwise provided by the Sec-
13 retary, in the case of tiered partnerships, all items
14 which are allocated in a manner which meets the re-
15 quirements of paragraph (1) to qualified capital in-
16 terests in a lower-tier partnership shall retain such
17 character to the extent allocated on the basis of
18 qualified capital interests in any upper-tier partner-
19 ship.

20 “(5) EXCEPTION FOR NO-SELF-CHARGED
21 CARRY AND MANAGEMENT FEE PROVISIONS.—Ex-
22 cept as otherwise provided by the Secretary, an in-
23 terest shall not fail to be treated as satisfying the
24 requirement of paragraph (1)(A) merely because the
25 allocations made by the partnership to such interest

1 do not reflect the cost of services described in sub-
 2 section (c)(2) which are provided (directly or indi-
 3 rectly) to the partnership by the holder of such in-
 4 terest (or a related person).

5 “(6) SPECIAL RULE FOR DISPOSITIONS.—In the
 6 case of any investment services partnership interest
 7 any portion of which is a qualified capital interest,
 8 subsection (b) shall not apply to so much of any
 9 gain or loss as bears the same proportion to the en-
 10 tire amount of such gain or loss as—

11 “(A) the distributive share of gain or loss
 12 that would have been allocated to the qualified
 13 capital interest (consistent with the require-
 14 ments of paragraph (1)) if the partnership had
 15 sold all of its assets at fair market value imme-
 16 diately before the disposition, bears to

17 “(B) the distributive share of gain or loss
 18 that would have been so allocated to the invest-
 19 ment services partnership interest of which such
 20 qualified capital interest is a part.

21 “(7) QUALIFIED CAPITAL INTEREST.—For pur-
 22 poses of this section—

23 “(A) IN GENERAL.—The term ‘qualified
 24 capital interest’ means so much of a partner’s

1 interest in the capital of the partnership as is
2 attributable to—

3 “(i) the fair market value of any
4 money or other property contributed to the
5 partnership in exchange for such interest
6 (determined without regard to section
7 752(a)),

8 “(ii) any amounts which have been in-
9 cluded in gross income under section 83
10 with respect to the transfer of such inter-
11 est, and

12 “(iii) the excess (if any) of—

13 “(I) any items of income and
14 gain taken into account under section
15 702 with respect to such interest, over

16 “(II) any items of deduction and
17 loss so taken into account.

18 “(B) ADJUSTMENT TO QUALIFIED CAPITAL
19 INTEREST.—

20 “(i) DISTRIBUTIONS AND LOSSES.—

21 The qualified capital interest shall be re-
22 duced by distributions from the partner-
23 ship with respect to such interest and by
24 the excess (if any) of the amount described
25 in subparagraph (A)(iii)(II) over the

1 amount described in subparagraph
2 (A)(iii)(I).

3 “(ii) SPECIAL RULE FOR CONTRIBU-
4 TIONS OF PROPERTY.—In the case of any
5 contribution of property described in sub-
6 paragraph (A)(i) with respect to which the
7 fair market value of such property is not
8 equal to the adjusted basis of such prop-
9 erty immediately before such contribution,
10 proper adjustments shall be made to the
11 qualified capital interest to take into ac-
12 count such difference consistent with such
13 regulations or other guidance as the Sec-
14 retary may provide.

15 “(C) TECHNICAL TERMINATIONS, ETC.,
16 DISREGARDED.—No increase or decrease in the
17 qualified capital interest of any partner shall re-
18 sult from a termination, merger, consolidation,
19 or division described in section 708, or any
20 similar transaction.

21 “(8) TREATMENT OF CERTAIN LOANS.—

22 “(A) PROCEEDS OF PARTNERSHIP LOANS
23 NOT TREATED AS QUALIFIED CAPITAL INTER-
24 EST OF SERVICE PROVIDING PARTNERS.—For
25 purposes of this subsection, an investment serv-

ices partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership). The preceding sentence shall not apply to the extent the loan or other advance is repaid before the date of the enactment of this section unless such repayment is made with the proceeds of a loan or other advance described in the preceding sentence.

“(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE-PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this subsection, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services described in subsection (c)(2) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

1 “(9) SPECIAL RULE FOR QUALIFIED FAMILY
2 PARTNERSHIPS.—

3 “(A) IN GENERAL.—In the case of any
4 specified family partnership interest, paragraph
5 (1)(A) shall be applied without regard to the
6 phrase ‘and who are not related to the partner
7 holding the qualified capital interest’.

8 “(B) SPECIFIED FAMILY PARTNERSHIP IN-
9 TEREST.—For purposes of this paragraph, the
10 term ‘specified family partnership interest’
11 means any investment services partnership in-
12 terest if—

13 “(i) such interest is an interest in a
14 qualified family partnership,

15 “(ii) such interest is held by a natural
16 person or by a trust with respect to which
17 each beneficiary is a grantor or a person
18 whose relationship to the grantor is de-
19 scribed in section 267(b)(1), and

20 “(iii) all other interests in such quali-
21 fied family partnership with respect to
22 which significant allocations are made
23 (within the meaning of paragraph (1)(B)
24 and in comparison to the allocations made

1 to the interest described in clause (ii)) are
2 held by persons who—

3 “(I) are related to the natural
4 person or trust referred to in clause
5 (ii), or

6 “(II) provide services described
7 in subsection (c)(2).

8 “(C) QUALIFIED FAMILY PARTNERSHIP.—
9 For purposes of this paragraph, the term
10 ‘qualified family partnership’ means any part-
11 nership if—

12 “(i) all of the capital and profits in-
13 terests of such partnership are held by—

14 “(I) specified family members,

15 “(II) any person closely related
16 (within the meaning of subsection
17 (c)(3)(C)(ii)) to a specified family
18 member, or

19 “(III) any other person (not de-
20 scribed in subclause (I) or (II)) if
21 such interest is an investment services
22 partnership interest with respect to
23 such person, and

1 “(ii) such partnership does not hold
 2 itself out to the public as an investment
 3 advisor.

4 “(D) SPECIFIED FAMILY MEMBERS.—For
 5 purposes of subparagraph (C), individuals shall
 6 be treated as specified family members if such
 7 individuals would be treated as one person
 8 under the rules of section 1361(c)(1) if the ap-
 9 plicable date (within the meaning of subpara-
 10 graph (B)(iii) thereof) were the latest of—

11 “(i) the date of the establishment of
 12 the partnership,

13 “(ii) the earliest date that the com-
 14 mon ancestor holds a capital or profits in-
 15 terest in the partnership, or

16 “(iii) the date of the enactment of this
 17 section.

18 “(e) OTHER INCOME AND GAIN IN CONNECTION
 19 WITH INVESTMENT MANAGEMENT SERVICES.—

20 “(1) IN GENERAL.—If—

21 “(A) a person performs (directly or indi-
 22 rectly) investment management services for any
 23 investment entity,

1 “(B) such person holds (directly or indi-
 2 rectly) a disqualified interest with respect to
 3 such entity, and

4 “(C) the value of such interest (or pay-
 5 ments thereunder) is substantially related to
 6 the amount of income or gain (whether or not
 7 realized) from the assets with respect to which
 8 the investment management services are per-
 9 formed,

10 any income or gain with respect to such interest
 11 shall be treated as ordinary income. Rules similar to
 12 the rules of subsections (a)(5) and (d) shall apply
 13 for purposes of this subsection.

14 “(2) DEFINITIONS.—For purposes of this sub-
 15 section—

16 “(A) DISQUALIFIED INTEREST.—

17 “(i) IN GENERAL.—The term ‘dis-
 18 qualified interest’ means, with respect to
 19 any investment entity—

20 “(I) any interest in such entity
 21 other than indebtedness,

22 “(II) convertible or contingent
 23 debt of such entity,

1 “(III) any option or other right
2 to acquire property described in sub-
3 clause (I) or (II), and

4 “(IV) any derivative instrument
5 entered into (directly or indirectly)
6 with such entity or any investor in
7 such entity.

8 “(ii) EXCEPTIONS.—Such term shall
9 not include—

10 “(I) a partnership interest,

11 “(II) except as provided by the
12 Secretary, any interest in a taxable
13 corporation, and

14 “(III) except as provided by the
15 Secretary, stock in an S corporation.

16 “(B) TAXABLE CORPORATION.—The term
17 ‘taxable corporation’ means—

18 “(i) a domestic C corporation, or

19 “(ii) a foreign corporation substan-
20 tially all of the income of which is—

21 “(I) effectively connected with
22 the conduct of a trade or business in
23 the United States, or

1 “(II) subject to a comprehensive
2 foreign income tax (as defined in sec-
3 tion 457A(d)(2)).

4 “(C) INVESTMENT MANAGEMENT SERV-
5 ICES.—The term ‘investment management serv-
6 ices’ means a substantial quantity of any of the
7 services described in subsection (c)(2).

8 “(D) INVESTMENT ENTITY.—The term ‘in-
9 vestment entity’ means any entity which, if it
10 were a partnership, would be an investment
11 partnership.

12 “(f) EXCEPTION FOR DOMESTIC C CORPORATIONS.—
13 Except as otherwise provided by the Secretary, in the case
14 of a domestic C corporation—

15 “(1) subsections (a) and (b) shall not apply to
16 any item allocated to such corporation with respect
17 to any investment services partnership interest (or
18 to any gain or loss with respect to the disposition of
19 such an interest), and

20 “(2) subsection (e) shall not apply.

21 “(g) REGULATIONS.—The Secretary shall prescribe
22 such regulations or other guidance as is necessary or ap-
23 propriate to carry out the purposes of this section, includ-
24 ing regulations or other guidance to—

1 “(1) require such reporting and recordkeeping
2 by any person in such manner and at such time as
3 the Secretary may prescribe for purposes of enabling
4 the partnership to meet the requirements of section
5 6031 with respect to any item described in section
6 702(a)(9),

7 “(2) provide modifications to the application of
8 this section (including treating related persons as
9 not related to one another) to the extent such modi-
10 fication is consistent with the purposes of this sec-
11 tion,

12 “(3) prevent the avoidance of the purposes of
13 this section (including through the use of qualified
14 family partnerships), and

15 “(4) coordinate this section with the other pro-
16 visions of this title.

17 “(h) CROSS REFERENCE.—For 40-percent penalty
18 on certain underpayments due to the avoidance of this sec-
19 tion, see section 6662.”.

20 (b) APPLICATION OF SECTION 751 TO INDIRECT DIS-
21 POSITIONS OF INVESTMENT SERVICES PARTNERSHIP IN-
22 TERESTS.—

23 (1) IN GENERAL.—Subsection (a) of section
24 751 is amended by striking “or” at the end of para-
25 graph (1), by inserting “or” at the end of paragraph

1 (2), and by inserting after paragraph (2) the fol-
2 lowing new paragraph:

3 “(3) investment services partnership interests
4 held by the partnership,”.

5 (2) CERTAIN DISTRIBUTIONS TREATED AS
6 SALES OR EXCHANGES.—Subparagraph (A) of sec-
7 tion 751(b)(1) is amended by striking “or” at the
8 end of clause (i), by inserting “or” at the end of
9 clause (ii), and by inserting after clause (ii) the fol-
10 lowing new clause:

11 “(iii) investment services partnership
12 interests held by the partnership,”.

13 (3) APPLICATION OF SPECIAL RULES IN THE
14 CASE OF TIERED PARTNERSHIPS.—Subsection (f) of
15 section 751 is amended—

16 (A) by striking “or” at the end of para-
17 graph (1), by inserting “or” at the end of para-
18 graph (2), and by inserting after paragraph (2)
19 the following new paragraph:

20 “(3) an investment services partnership interest
21 held by the partnership,” and

22 (B) by striking “partner.” and inserting
23 “partner (other than a partnership in which it
24 holds an investment services partnership inter-
25 est).”.

1 (4) INVESTMENT SERVICES PARTNERSHIP IN-
2 TERESTS; QUALIFIED CAPITAL INTERESTS.—Section
3 751 is amended by adding at the end the following
4 new subsection:

5 “(g) INVESTMENT SERVICES PARTNERSHIP INTER-
6 ESTS.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘investment serv-
8 ices partnership interest’ has the meaning given
9 such term by section 710(c).

10 “(2) ADJUSTMENTS FOR QUALIFIED CAPITAL
11 INTERESTS.—The amount to which subsection (a)
12 applies by reason of paragraph (3) thereof shall not
13 include so much of such amount as is attributable
14 to any portion of the investment services partnership
15 interest which is a qualified capital interest (deter-
16 mined under rules similar to the rules of section
17 710(d)).

18 “(3) EXCEPTION FOR PUBLICLY TRADED PART-
19 NERSHIPS.—Except as otherwise provided by the
20 Secretary, in the case of an exchange of an interest
21 in a publicly traded partnership (as defined in sec-
22 tion 7704) to which subsection (a) applies—

23 “(A) this section shall be applied without
24 regard to subsections (a)(3), (b)(1)(A)(iii), and
25 (f)(3), and

1 “(B) such partnership shall be treated as
2 owning its proportionate share of the property
3 of any other partnership in which it is a part-
4 ner.

5 “(4) RECOGNITION OF GAINS.—Any gain with
6 respect to which subsection (a) applies by reason of
7 paragraph (3) thereof shall be recognized notwith-
8 standing any other provision of this title.

9 “(5) COORDINATION WITH INVENTORY
10 ITEMS.—An investment services partnership interest
11 held by the partnership shall not be treated as an
12 inventory item of the partnership.

13 “(6) PREVENTION OF DOUBLE COUNTING.—
14 Under regulations or other guidance prescribed by
15 the Secretary, subsection (a)(3) shall not apply with
16 respect to any amount to which section 710 applies.

17 “(7) VALUATION METHODS.—The Secretary
18 shall prescribe regulations or other guidance which
19 provide the acceptable methods for valuing invest-
20 ment services partnership interests for purposes of
21 this section.”.

22 (c) TREATMENT FOR PURPOSES OF SECTION
23 7704.—Subsection (d) of section 7704 is amended by add-
24 ing at the end the following new paragraph:

1 “(6) INCOME FROM CERTAIN CARRIED INTER-
2 ESTS NOT QUALIFIED.—

3 “(A) IN GENERAL.—Specified carried in-
4 terest income shall not be treated as qualifying
5 income.

6 “(B) SPECIFIED CARRIED INTEREST IN-
7 COME.—For purposes of this paragraph—

8 “(i) IN GENERAL.—The term ‘speci-
9 fied carried interest income’ means—

10 “(I) any item of income or gain
11 allocated to an investment services
12 partnership interest (as defined in
13 section 710(c)) held by the partner-
14 ship,

15 “(II) any gain on the disposition
16 of an investment services partnership
17 interest (as so defined) or a partner-
18 ship interest to which (in the hands of
19 the partnership) section 751 applies,
20 and

21 “(III) any income or gain taken
22 into account by the partnership under
23 subsection (b)(4) or (e) of section
24 710.

1 “(ii) EXCEPTION FOR QUALIFIED CAP-
2 ITAL INTERESTS.—A rule similar to the
3 rule of section 710(d) shall apply for pur-
4 poses of clause (i).

5 “(C) COORDINATION WITH OTHER PROVI-
6 SIONS.—Subparagraph (A) shall not apply to
7 any item described in paragraph (1)(E) (or so
8 much of paragraph (1)(F) as relates to para-
9 graph (1)(E)).

10 “(D) SPECIAL RULES FOR CERTAIN PART-
11 NERSHIPS.—

12 “(i) CERTAIN PARTNERSHIPS OWNED
13 BY REAL ESTATE INVESTMENT TRUSTS.—
14 Subparagraph (A) shall not apply in the
15 case of a partnership which meets each of
16 the following requirements:

17 “(I) Such partnership is treated
18 as publicly traded under this section
19 solely by reason of interests in such
20 partnership being convertible into in-
21 terests in a real estate investment
22 trust which is publicly traded.

23 “(II) Fifty percent or more of
24 the capital and profits interests of
25 such partnership are owned, directly

1 or indirectly, at all times during the
2 taxable year by such real estate in-
3 vestment trust (determined with the
4 application of section 267(c)).

5 “(III) Such partnership meets
6 the requirements of paragraphs (2),
7 (3), and (4) of section 856(c).

8 “(ii) CERTAIN PARTNERSHIPS OWN-
9 ING OTHER PUBLICLY TRADED PARTNER-
10 SHIPS.—Subparagraph (A) shall not apply
11 in the case of a partnership which meets
12 each of the following requirements:

13 “(I) Substantially all of the as-
14 sets of such partnership consist of in-
15 terests in one or more publicly traded
16 partnerships (determined without re-
17 gard to subsection (b)(2)).

18 “(II) Substantially all of the in-
19 come of such partnership is ordinary
20 income or section 1231 gain (as de-
21 fined in section 1231(a)(3)).

22 “(E) TRANSITIONAL RULE.—Subpara-
23 graph (A) shall not apply to any taxable year
24 of the partnership beginning before the date

1 which is 10 years after the date of the enact-
2 ment of this paragraph.”.

3 (d) IMPOSITION OF PENALTY ON UNDERPAY-
4 MENTS.—

5 (1) IN GENERAL.—Subsection (b) of section
6 6662 is amended by inserting after paragraph (7)
7 the following new paragraph:

8 “(8) The application of section 710(e) or the
9 regulations or other guidance prescribed under sec-
10 tion 710(g) to prevent the avoidance of the purposes
11 of section 710.”.

12 (2) AMOUNT OF PENALTY.—

13 (A) IN GENERAL.—Section 6662 is amend-
14 ed by adding at the end the following new sub-
15 section:

16 “(k) INCREASE IN PENALTY IN CASE OF PROPERTY
17 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
18 ICES.—In the case of any portion of an underpayment to
19 which this section applies by reason of subsection (b)(8),
20 subsection (a) shall be applied with respect to such portion
21 by substituting ‘40 percent’ for ‘20 percent’.”.

22 (B) CONFORMING AMENDMENT.—Subpara-
23 graph (B) of section 6662A(e)(2) is amended
24 by striking “or (i)” and inserting “, (i), or (k)”.

1 (3) SPECIAL RULES FOR APPLICATION OF REA-
2 SONABLE CAUSE EXCEPTION.—Subsection (c) of sec-
3 tion 6664 is amended—

4 (A) by redesignating paragraphs (3) and
5 (4) as paragraphs (4) and (5), respectively;

6 (B) by striking “paragraph (3)” in para-
7 graph (5)(A), as so redesignated, and inserting
8 “paragraph (4)”; and

9 (C) by inserting after paragraph (2) the
10 following new paragraph:

11 “(3) SPECIAL RULE FOR UNDERPAYMENTS AT-
12 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-
13 ICES.—

14 “(A) IN GENERAL.—Paragraph (1) shall
15 not apply to any portion of an underpayment to
16 which section 6662 applies by reason of sub-
17 section (b)(8) unless—

18 “(i) the relevant facts affecting the
19 tax treatment of the item are adequately
20 disclosed,

21 “(ii) there is or was substantial au-
22 thority for such treatment, and

23 “(iii) the taxpayer reasonably believed
24 that such treatment was more likely than
25 not the proper treatment.

1 “(B) RULES RELATING TO REASONABLE
 2 BELIEF.—Rules similar to the rules of sub-
 3 section (d)(3) shall apply for purposes of sub-
 4 paragraph (A)(iii).”.

5 (e) INCOME AND LOSS FROM INVESTMENT SERVICES
 6 PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DE-
 7 TERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

8 (1) INTERNAL REVENUE CODE.—

9 (A) IN GENERAL.—Section 1402(a) is
 10 amended by striking “and” at the end of para-
 11 graph (16), by striking the period at the end of
 12 paragraph (17) and inserting “; and”, and by
 13 inserting after paragraph (17) the following
 14 new paragraph:

15 “(18) notwithstanding the preceding provisions
 16 of this subsection, in the case of any individual en-
 17 gaged in the trade or business of providing services
 18 described in section 710(c)(2) with respect to any
 19 entity, investment services partnership income or
 20 loss (as defined in subsection (m)) of such individual
 21 with respect to such entity shall be taken into ac-
 22 count in determining the net earnings from self-em-
 23 ployment of such individual.”.

1 (B) INVESTMENT SERVICES PARTNERSHIP
 2 INCOME OR LOSS.—Section 1402 is amended by
 3 adding at the end the following new subsection:

4 “(m) INVESTMENT SERVICES PARTNERSHIP INCOME
 5 OR LOSS.—For purposes of subsection (a)—

6 “(1) IN GENERAL.—The term ‘investment serv-
 7 ices partnership income or loss’ means, with respect
 8 to any investment services partnership interest (as
 9 defined in section 710(c)) or disqualified interest (as
 10 defined in section 710(e)), the net of—

11 “(A) the amounts treated as ordinary in-
 12 come or ordinary loss under subsections (b) and
 13 (e) of section 710 with respect to such interest,

14 “(B) all items of income, gain, loss, and
 15 deduction allocated to such interest, and

16 “(C) the amounts treated as realized from
 17 the sale or exchange of property other than a
 18 capital asset under section 751 with respect to
 19 such interest.

20 “(2) EXCEPTION FOR QUALIFIED CAPITAL IN-
 21 TERESTS.—A rule similar to the rule of section
 22 710(d) shall apply for purposes of applying para-
 23 graph (1)(B).”.

24 (2) SOCIAL SECURITY ACT.—Section 211(a) of
 25 the Social Security Act is amended by striking

1 “and” at the end of paragraph (15), by striking the
2 period at the end of paragraph (16) and inserting “;
3 and”, and by inserting after paragraph (16) the fol-
4 lowing new paragraph:

5 “(17) Notwithstanding the preceding provisions
6 of this subsection, in the case of any individual en-
7 gaged in the trade or business of providing services
8 described in section 710(c)(2) of the Internal Rev-
9 enue Code of 1986 with respect to any entity, invest-
10 ment services partnership income or loss (as defined
11 in section 1402(m) of such Code) shall be taken into
12 account in determining the net earnings from self-
13 employment of such individual.”.

14 (f) SEPARATE ACCOUNTING BY PARTNER.—Section
15 702(a) is amended by striking “and” at the end of para-
16 graph (7), by striking the period at the end of paragraph
17 (8) and inserting “, and”, and by inserting after para-
18 graph (8) the following:

19 “(9) any amount treated as ordinary income or
20 loss under subsection (a), (b), or (e) of section
21 710.”.

22 (g) CONFORMING AMENDMENTS.—

23 (1) Subsection (d) of section 731 is amended by
24 inserting “section 710(b)(4) (relating to distribu-

1 tions of partnership property),” after “to the extent
2 otherwise provided by”.

3 (2) Section 741 is amended by inserting “or
4 section 710 (relating to special rules for partners
5 providing investment management services to part-
6 nerships)” before the period at the end.

7 (3) The table of sections for part I of sub-
8 chapter K of chapter 1 is amended by adding at the
9 end the following new item:

“Sec. 710. Special rules for partners providing investment management services
to partnerships.”.

10 (h) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall apply to taxable years ending after
14 the date of the enactment of this Act.

15 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
16 CLUDE EFFECTIVE DATE.—In applying section
17 710(a) of the Internal Revenue Code of 1986 (as
18 added by this section) in the case of any partnership
19 taxable year which includes the date of the enact-
20 ment of this Act, the amount of the net capital gain
21 referred to in such section shall be treated as being
22 the lesser of the net capital gain for the entire part-
23 nership taxable year or the net capital gain deter-
24 mined by only taking into account items attributable

1 to the portion of the partnership taxable year which
 2 is after such date.

3 (3) DISPOSITIONS OF PARTNERSHIP INTER-
 4 ESTS.—

5 (A) IN GENERAL.—Section 710(b) of such
 6 Code (as added by this section) shall apply to
 7 dispositions and distributions after the date of
 8 the enactment of this Act.

9 (B) INDIRECT DISPOSITIONS.—The amend-
 10 ments made by subsection (b) shall apply to
 11 transactions after the date of the enactment of
 12 this Act.

13 (4) OTHER INCOME AND GAIN IN CONNECTION
 14 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
 15 tion 710(e) of such Code (as added by this section)
 16 shall take effect on the date of the enactment of this
 17 Act.

18 **SEC. 506. CONSISTENT TREATMENT OF STOCK OPTIONS BY**
 19 **CORPORATIONS.**

20 (a) CONSISTENT TREATMENT FOR WAGE DEDUC-
 21 TION.—

22 (1) IN GENERAL.—Section 83(h) is amended—

23 (A) by striking “In the case of” and in-
 24 serting:

25 “(1) IN GENERAL.—In the case of”, and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) STOCK OPTIONS.—In the case of property
4 transferred to a person in connection with a stock
5 option, any deduction related to such stock option
6 shall be allowed only under section 162(q) and para-
7 graph (1) shall not apply.”.

8 (2) TREATMENT OF COMPENSATION PAID WITH
9 STOCK OPTIONS.—Section 162 is amended by redes-
10 ignating subsection (q) as subsection (r) and by in-
11 serting after subsection (p) the following new sub-
12 section:

13 “(q) TREATMENT OF COMPENSATION PAID WITH
14 STOCK OPTIONS.—

15 “(1) IN GENERAL.—In the case of compensa-
16 tion for personal services that is paid with stock op-
17 tions, the deduction under subsection (a)(1) shall
18 not exceed the amount the taxpayer has treated as
19 compensation cost with respect to such stock options
20 for the purpose of ascertaining income, profit, or
21 loss in a report or statement to shareholders, part-
22 ners, or other proprietors (or to beneficiaries), and
23 shall be taken into account in the same period that
24 such compensation cost is recognized for such pur-
25 pose.

1 “(2) SPECIAL RULES FOR CONTROLLED
2 GROUPS.—The Secretary may prescribe rules for the
3 application of paragraph (1) in cases where the
4 stock option is granted by—

5 “(A) a parent or subsidiary corporation
6 (within the meaning of section 424) of the tax-
7 payer, or

8 “(B) another corporation.”.

9 (b) CONSISTENT TREATMENT FOR RESEARCH TAX
10 CREDIT.—Section 41(b)(2)(D) is amended by inserting at
11 the end the following new clause:

12 “(iv) SPECIAL RULE FOR STOCK OP-
13 TIONS.—The amount which may be treated
14 as wages for any taxable year in connec-
15 tion with the issuance of a stock option
16 shall not exceed the amount allowed for
17 such taxable year as a compensation de-
18 duction under section 162(q) with respect
19 to such stock option.”.

20 (c) APPLICATION OF AMENDMENTS.—The amend-
21 ments made by this section shall apply to stock options
22 exercised after the date of the enactment of this Act, ex-
23 cept that—

24 (1) such amendments shall not apply to stock
25 options that were granted before such date and that

1 vested in taxable periods beginning on or before
2 June 15, 2005,

3 (2) for stock options that were granted before
4 such date of enactment and vested during taxable
5 periods beginning after June 15, 2005, and ending
6 before such date of enactment, a deduction under
7 section 162(q) of the Internal Revenue Code of 1986
8 (as added by subsection (a)(2)) shall be allowed in
9 the first taxable period of the taxpayer that ends
10 after such date of enactment,

11 (3) for public entities reporting as small busi-
12 ness issuers and for nonpublic entities required to
13 file public reports of financial condition, paragraphs
14 (1) and (2) shall be applied by substituting “Decem-
15 ber 15, 2005” for “June 15, 2005”, and

16 (4) no deduction shall be allowed under section
17 83(h) or section 162(q) of such Code with respect to
18 any stock option the vesting date of which is
19 changed to accelerate the time at which the option
20 may be exercised in order to avoid the applicability
21 of such amendments.

22 **SEC. 507. APPLICATION OF EXECUTIVE PAY DEDUCTION**
23 **LIMIT.**

24 (a) IN GENERAL.—Subparagraph (B) of section
25 162(m)(4), as redesignated by paragraphs (1)(A) and

1 (2)(A) of section 503(b) of this Act, is amended to read
2 as follows:

3 “(B) STOCK OPTION COMPENSATION.—The
4 term ‘applicable employee remuneration’ shall
5 include any compensation deducted under sub-
6 section (q).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to stock options exercised or grant-
9 ed after the date of the enactment of this Act.

10 **SEC. 508. MODIFICATIONS TO RULES RELATING TO IN-**
11 **VERTED CORPORATIONS.**

12 (a) IN GENERAL.—Subsection (b) of section 7874 of
13 the Internal Revenue Code of 1986 is amended to read
14 as follows:

15 “(b) INVERTED CORPORATIONS TREATED AS DO-
16 MESTIC CORPORATIONS.—

17 “(1) IN GENERAL.—Notwithstanding section
18 7701(a)(4), a foreign corporation shall be treated for
19 purposes of this title as a domestic corporation if—

20 “(A) such corporation would be a surro-
21 gate foreign corporation if subsection (a)(2)
22 were applied by substituting ‘80 percent’ for
23 ‘60 percent’, or

24 “(B) such corporation is an inverted do-
25 mestic corporation.

1 “(2) INVERTED DOMESTIC CORPORATION.—For
2 purposes of this subsection, a foreign corporation
3 shall be treated as an inverted domestic corporation
4 if, pursuant to a plan (or a series of related trans-
5 actions)—

6 “(A) the entity completes after February
7 10, 2016, the direct or indirect acquisition of—

8 “(i) substantially all of the properties
9 held directly or indirectly by a domestic
10 corporation, or

11 “(ii) substantially all of the assets of,
12 or substantially all of the properties consti-
13 tuting a trade or business of, a domestic
14 partnership, and

15 “(B) after the acquisition, more than 50
16 percent of the stock (by vote or value) of the
17 entity is held—

18 “(i) in the case of an acquisition with
19 respect to a domestic corporation, by
20 former shareholders of the domestic cor-
21 poration by reason of holding stock in the
22 domestic corporation, or

23 “(ii) in the case of an acquisition with
24 respect to a domestic partnership, by
25 former partners of the domestic partner-

1 ship by reason of holding a capital or prof-
2 its interest in the domestic partnership.

3 “(3) EXCEPTION FOR CORPORATIONS WITH
4 SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN
5 COUNTRY OF ORGANIZATION.—A foreign corporation
6 described in paragraph (2) shall not be treated as an
7 inverted domestic corporation if after the acquisition
8 the expanded affiliated group which includes the en-
9 tity has substantial business activities in the foreign
10 country in which or under the law of which the enti-
11 ty is created or organized when compared to the
12 total business activities of such expanded affiliated
13 group. For purposes of subsection (a)(2)(B)(iii) and
14 the preceding sentence, the term ‘substantial busi-
15 ness activities’ shall have the meaning given such
16 term under regulations in effect on February 10,
17 2016, except that the Secretary may issue regula-
18 tions increasing the threshold percent in any of the
19 tests under such regulations for determining if busi-
20 ness activities constitute substantial business activi-
21 ties for purposes of this paragraph.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Clause (i) of section 7874(a)(2)(B) of such
24 Code is amended by striking “after March 4, 2003,”

1 and inserting “after March 4, 2003, and before Feb-
2 ruary 11, 2016,”.

3 (2) Subsection (c) of section 7874 of such Code
4 is amended—

5 (A) in paragraph (2)—

6 (i) by striking “subsection
7 (a)(2)(B)(ii)” and inserting “subsections
8 (a)(2)(B)(ii) and (b)(2)(B)”, and

9 (ii) by inserting “or (b)(2)(A)” after
10 “(a)(2)(B)(i)” in subparagraph (B),

11 (B) in paragraph (3), by inserting “or
12 (b)(2)(B), as the case may be,” after
13 “(a)(2)(B)(ii)”,

14 (C) in paragraph (5), by striking “sub-
15 section (a)(2)(B)(ii)” and inserting “sub-
16 sections (a)(2)(B)(ii) and (b)(2)(B)”, and

17 (D) in paragraph (6), by inserting “or in-
18 verted domestic corporation, as the case may
19 be,” after “surrogate foreign corporation”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years ending after Feb-
22 ruary 10, 2016.

1 **SEC. 509. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
 2 **APPLICABLE TO MAJOR INTEGRATED OIL**
 3 **COMPANIES WHICH ARE DUAL CAPACITY**
 4 **TAXPAYERS.**

5 (a) IN GENERAL.—Section 901 of the Internal Rev-
 6 enue Code of 1986 is amended by redesignating subsection
 7 (n) as subsection (o) and by inserting after subsection (m)
 8 the following new subsection:

9 “(n) SPECIAL RULES RELATING TO MAJOR INTE-
 10 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
 11 TAXPAYERS.—

12 “(1) GENERAL RULE.—Notwithstanding any
 13 other provision of this chapter, any amount paid or
 14 accrued by a dual capacity taxpayer which is a
 15 major integrated oil company (within the meaning of
 16 section 167(h)(5)) to a foreign country or possession
 17 of the United States for any period shall not be con-
 18 sidered a tax—

19 “(A) if, for such period, the foreign coun-
 20 try or possession does not impose a generally
 21 applicable income tax, or

22 “(B) to the extent such amount exceeds
 23 the amount (determined in accordance with reg-
 24 ulations) which—

25 “(i) is paid by such dual capacity tax-
 26 payer pursuant to the generally applicable

1 income tax imposed by the country or pos-
2 session, or

3 “(ii) would be paid if the generally ap-
4 plicable income tax imposed by the country
5 or possession were applicable to such dual
6 capacity taxpayer.

7 Nothing in this paragraph shall be construed to
8 imply the proper treatment of any such amount not
9 in excess of the amount determined under subpara-
10 graph (B).

11 “(2) DUAL CAPACITY TAXPAYER.—For pur-
12 poses of this subsection, the term ‘dual capacity tax-
13 payer’ means, with respect to any foreign country or
14 possession of the United States, a person who—

15 “(A) is subject to a levy of such country or
16 possession, and

17 “(B) receives (or will receive) directly or
18 indirectly a specific economic benefit (as deter-
19 mined in accordance with regulations) from
20 such country or possession.

21 “(3) GENERALLY APPLICABLE INCOME TAX.—

22 For purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘generally
24 applicable income tax’ means an income tax (or
25 a series of income taxes) which is generally im-

1 posed under the laws of a foreign country or
2 possession on income derived from the conduct
3 of a trade or business within such country or
4 possession.

5 “(B) EXCEPTIONS.—Such term shall not
6 include a tax unless it has substantial applica-
7 tion, by its terms and in practice, to—

8 “(i) persons who are not dual capacity
9 taxpayers, and

10 “(ii) persons who are citizens or resi-
11 dents of the foreign country or posses-
12 sion.”.

13 (b) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to taxes paid or accrued in
16 taxable years beginning after the date of the enact-
17 ment of this Act.

18 (2) CONTRARY TREATY OBLIGATIONS
19 UPHELD.—The amendments made by this section
20 shall not apply to the extent contrary to any treaty
21 obligation of the United States.

1 **SEC. 510. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**
2 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**
3 **PRODUCTS THEREOF.**

4 (a) DENIAL OF DEDUCTION.—Paragraph (4) of sec-
5 tion 199(c) of the Internal Revenue Code of 1986 is
6 amended by adding at the end the following new subpara-
7 graph:

8 “(E) SPECIAL RULE FOR CERTAIN OIL
9 AND GAS INCOME.—In the case of any taxpayer
10 who is a major integrated oil company (within
11 the meaning of section 167(h)(5)) for the tax-
12 able year, the term ‘domestic production gross
13 receipts’ shall not include gross receipts from
14 the production, refining, processing, transpor-
15 tation, or distribution of oil, gas, or any pri-
16 mary product (within the meaning of subsection
17 (d)(9)) thereof.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 2015.

21 **SEC. 511. LIMITATION ON DEDUCTION FOR INTANGIBLE**
22 **DRILLING AND DEVELOPMENT COSTS; AMOR-**
23 **TIZATION OF DISALLOWED AMOUNTS.**

24 (a) IN GENERAL.—Section 263(c) of the Internal
25 Revenue Code of 1986 is amended to read as follows:

1 “(c) INTANGIBLE DRILLING AND DEVELOPMENT
2 COSTS IN THE CASE OF OIL AND GAS WELLS AND GEO-
3 THERMAL WELLS.—

4 “(1) IN GENERAL.—Notwithstanding subsection
5 (a), and except as provided in subsection (i), regula-
6 tions shall be prescribed by the Secretary under this
7 subtitle corresponding to the regulations which
8 granted the option to deduct as expenses intangible
9 drilling and development costs in the case of oil and
10 gas wells and which were recognized and approved
11 by the Congress in House Concurrent Resolution 50,
12 Seventy-ninth Congress. Such regulations shall also
13 grant the option to deduct as expenses intangible
14 drilling and development costs in the case of wells
15 drilled for any geothermal deposit (as defined in sec-
16 tion 613(e)(2)) to the same extent and in the same
17 manner as such expenses are deductible in the case
18 of oil and gas wells. This subsection shall not apply
19 with respect to any costs to which any deduction is
20 allowed under section 59(e) or 291.

21 “(2) EXCLUSION.—

22 “(A) IN GENERAL.—This subsection shall
23 not apply to amounts paid or incurred by a tax-
24 payer in any taxable year in which such tax-

1 payer is a major integrated oil company (within
2 the meaning of section 167(h)(5)).

3 “(B) AMORTIZATION OF AMOUNTS NOT AL-
4 LOWABLE AS DEDUCTIONS UNDER SUBPARA-
5 GRAPH (A).—The amount not allowable as a de-
6 duction for any taxable year by reason of sub-
7 paragraph (A) shall be allowable as a deduction
8 ratably over the 60-month period beginning
9 with the month in which the costs are paid or
10 incurred. For purposes of section 1254, any de-
11 duction under this subparagraph shall be treat-
12 ed as a deduction under this subsection.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to amounts paid or incurred in tax-
15 able years beginning after December 31, 2015.

16 **SEC. 512. LIMITATION ON PERCENTAGE DEPLETION AL-**
17 **LOWANCE FOR OIL AND GAS WELLS.**

18 (a) IN GENERAL.—Section 613A of the Internal Rev-
19 enue Code of 1986 is amended by adding at the end the
20 following new subsection:

21 “(f) APPLICATION WITH RESPECT TO MAJOR INTE-
22 GRATED OIL COMPANIES.—In the case of any taxable year
23 in which the taxpayer is a major integrated oil company
24 (within the meaning of section 167(h)(5)), the allowance
25 for percentage depletion shall be zero.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2015.

4 **SEC. 513. LIMITATION ON DEDUCTION FOR TERTIARY**
5 **INJECTANTS.**

6 (a) IN GENERAL.—Section 193 of the Internal Rev-
7 enue Code of 1986 is amended by adding at the end the
8 following new subsection:

9 “(d) APPLICATION WITH RESPECT TO MAJOR INTE-
10 GRATED OIL COMPANIES.—

11 “(1) IN GENERAL.—This section shall not apply
12 to amounts paid or incurred by a taxpayer in any
13 taxable year in which such taxpayer is a major inte-
14 grated oil company (within the meaning of section
15 167(h)(5)).

16 “(2) AMORTIZATION OF AMOUNTS NOT ALLOW-
17 ABLE AS DEDUCTIONS UNDER PARAGRAPH (1).—The
18 amount not allowable as a deduction for any taxable
19 year by reason of paragraph (1) shall be allowable
20 as a deduction ratably over the 60-month period be-
21 ginning with the month in which the costs are paid
22 or incurred.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to amounts paid or incurred in tax-
25 able years beginning after December 31, 2015.

1 **SEC. 514. MODIFICATION OF DEFINITION OF MAJOR INTE-**
2 **GRATED OIL COMPANY.**

3 (a) IN GENERAL.—Paragraph (5) of section 167(h)
4 of the Internal Revenue Code of 1986 is amended by add-
5 ing at the end the following new subparagraph:

6 “(C) CERTAIN SUCCESSORS IN INTER-
7 EST.—For purposes of this paragraph, the term
8 ‘major integrated oil company’ includes any
9 successor in interest of a company that was de-
10 scribed in subparagraph (B) in any taxable
11 year, if such successor controls more than 50
12 percent of the crude oil production or natural
13 gas production of such company.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) IN GENERAL.—Subparagraph (B) of section
16 167(h)(5) of the Internal Revenue Code of 1986 is
17 amended by inserting “except as provided in sub-
18 paragraph (C),” after “For purposes of this para-
19 graph,”.

20 (2) TAXABLE YEARS TESTED.—Clause (iii) of
21 section 167(h)(5)(B) of such Code is amended—

22 (A) by striking “does not apply by reason
23 of paragraph (4) of section 613A(d)” and in-
24 serting “did not apply by reason of paragraph
25 (4) of section 613A(d) for any taxable year
26 after 2004”, and

1 (B) by striking “does not apply” in sub-
2 clause (II) and inserting “did not apply for the
3 taxable year”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2015.

7 **SEC. 515. REPEAL OF OUTER CONTINENTAL SHELF DEEP**
8 **WATER AND DEEP GAS ROYALTY RELIEF.**

9 (a) IN GENERAL.—Sections 344 and 345 of the En-
10 ergy Policy Act of 2005 (42 U.S.C. 15904, 15905) are
11 repealed.

12 (b) ADMINISTRATION.—The Secretary of the Interior
13 shall not be required to provide for royalty relief in the
14 lease sale terms beginning with the first lease sale held
15 on or after the date of enactment of this Act for which
16 a final notice of sale has not been published.

17 **SEC. 516. COORDINATION OF AMERICAN OPPORTUNITY**
18 **CREDIT AND LIFETIME LEARNING CREDIT**
19 **WITH PELL GRANTS NOT USED FOR QUALI-**
20 **FIED TUITION AND RELATED EXPENSES.**

21 (a) IN GENERAL.—Section 25A(g)(2) of the Internal
22 Revenue Code of 1986 is amended to read as follows:

23 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
24 SHIPS, ETC.—

1 “(A) IN GENERAL.—The amount of quali-
2 fied tuition and related expenses otherwise
3 taken into account under subsection (a) with re-
4 spect to an individual for an academic period
5 shall be reduced (before the application of sub-
6 sections (b), (c), and (d)) by the sum of any
7 amounts paid for the benefit of such individual
8 which are allocable to such period as—

9 “(i) a qualified scholarship which is
10 excludable from gross income under section
11 117,

12 “(ii) an educational assistance allow-
13 ance under chapter 30, 31, 32, 34, or 35
14 of title 38, United States Code, or under
15 chapter 1606 of title 10, United States
16 Code, and

17 “(iii) a payment (other than a gift,
18 bequest, devise, or inheritance within the
19 meaning of section 102(a)) for such indi-
20 vidual’s educational expenses, or attrib-
21 utable to such individual’s enrollment at an
22 eligible educational institution, which is ex-
23 cludable from gross income under any law
24 of the United States.

1 “(B) COORDINATION WITH PELL GRANTS
2 NOT USED FOR QUALIFIED TUITION AND RE-
3 LATED EXPENSES.—For purposes of subpara-
4 graph (A), the amount of any Federal Pell
5 Grant under section 401 of the Higher Edu-
6 cation Act of 1965 (20 U.S.C. 1070a) shall be
7 reduced (but not below zero) by the amount of
8 expenses (other than qualified tuition and re-
9 lated expenses) which are taken into account in
10 determining the cost of attendance (as defined
11 in section 472 of the Higher Education Act of
12 1965, as in effect on the date of the enactment
13 of this subparagraph) of such individual at an
14 eligible educational institution for the academic
15 period for which the credit under this section is
16 being determined.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2015.

20 **SEC. 517. EXPANSION OF PELL GRANT EXCLUSION FROM**
21 **GROSS INCOME.**

22 (a) IN GENERAL.—Paragraph (1) of section 117(b)
23 of the Internal Revenue Code of 1986 is amended—

24 (1) by striking the period at the end and insert-
25 ing “, or”,

1 (2) by striking “received by an individual as a
2 scholarship” and inserting the following: “received
3 by an individual—

4 “(A) as a scholarship”, and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(B) as a Federal Pell Grant under section
8 401 of the Higher Education Act of 1965 (20
9 U.S.C. 1070a).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2015.

○