

114TH CONGRESS  
2D SESSION

# S. 2677

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 15, 2016

Ms. BALDWIN (for herself, Mr. BLUMENTHAL, Mr. BOOKER, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. FRANKEN, Mrs. GILLIBRAND, Ms. HIRONO, Ms. KLOBUCHAR, Mr. LEAHY, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mrs. MURRAY, Mr. PETERS, Mr. REED, Mr. REID, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. STABENOW, Mr. UDALL, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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

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(II) not greater than 75 percent  
of—

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

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

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

(BB) 3 percent.

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

10 (2) STATE OR TRIBAL SHARE.—

11 (A) FORMULA.—

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

22 (ii) EXCEPTION FOR CERTAIN INDIAN  
23 TRIBES.—In a case in which not less than  
24 5 percent of the students at the community  
25 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—

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

6 (B) in the case of an Indian tribe, the gov-  
7 erning body of such tribe.

8 (2) CONTENTS.—Each State or Indian tribe ap-  
9 plication shall include, at a minimum—

10 (A) an estimate of the number of eligible  
11 students in the State or Indian tribe and the  
12 cost of waiving community college resident tui-  
13 tion and fees for all eligible students for each  
14 fiscal year covered by the grant, with annual in-  
15 creases of an amount that shall not exceed 3  
16 percent of the prior year's average resident  
17 community college tuition and fees;

18 (B) an assurance that all community col-  
19 leges in the State or under the jurisdiction of  
20 the Indian tribe, respectively, will waive resident  
21 tuition and fees for eligible students in pro-  
22 grams that are—

23 (i) academic programs with credits  
24 that can fully transfer via articulation  
25 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-

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

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

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

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

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

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

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

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

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

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

12 and

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

14 and each succeeding fiscal year.

15 (2) AVAILABILITY.—Funds appropriated under  
16 paragraph (1) shall remain available to the Sec-  
17 retary until expended.

18 (3) INSUFFICIENT FUNDS.—If the amount ap-  
19 propriated under paragraph (1) for a fiscal year is  
20 not sufficient to award each participating State and  
21 Indian tribe a grant under this section that is equal  
22 to the minimum amount of the Federal share de-  
23 scribed in subsection (b)(1), the Secretary may rat-  
24 ably 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 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 subsidized 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

1 the original loan, and all monthly payments made  
2 for the refinanced loan, that otherwise meet the re-  
3 quirements of this section.

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

10 “(A) that are made after the date of the  
11 issuance of the Federal Direct Refinanced Pri-  
12 vate Loan; and

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

## 15 **TITLE III—FEDERAL PELL** 16 **GRANT PROTECTION**

### 17 **SEC. 301. FEDERAL PELL GRANT PROTECTION.**

18 Section 401(b)(7) of the Higher Education Act of  
19 1965 (20 U.S.C. 1070a(b)(7)) is amended—

20 (1) in subparagraph (A)(iii), by striking  
21 “clauses (ii) and (iii) of subparagraph (B)” and in-  
22 serting “subparagraph (B)(ii)”; and

23 (2) in subparagraph (C)—

24 (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.

**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.**

(a) FINDINGS.—Congress finds the following:

(1) The employment rate for people of the United States between the ages of 21 to 25 has declined by 12 percent from 2000 through 2012.

(2) The cost of attending a 4-year public institution of higher education has increased by 32 percent from 2002 through 2012.

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

(4) There are limited means through which to ensure that institutions of higher education are held accountable for the value of the degrees and credentials obtained by students, or the outcomes of those students.

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

(b) SENSE OF THE SENATE.—It is the sense of the 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



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

3 (B) CONFORMING AMENDMENTS.—

4 (i) Section 162(m)(5) is amended—

5 (I) by striking “subparagraphs  
6 (B), (C), and (D) thereof” in sub-  
7 paragraph (E) and inserting “sub-  
8 paragraphs (B) and (C) thereof”, and

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

13 (ii) Section 162(m)(6) is amended—

14 (I) by striking “subparagraphs  
15 (B), (C), and (D) thereof” in sub-  
16 paragraph (D) and inserting “sub-  
17 paragraphs (B) and (C) thereof”, and

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

22 (2) INCLUSION OF PERFORMANCE-BASED COM-  
23 PENSATION.—

24 (A) IN GENERAL.—Paragraph (4) of sec-  
25 tion 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 ordi-  
8 nary 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-

1           ices partnership interest shall not be treated as  
2           a qualified capital interest to the extent that  
3           such interest is acquired in connection with the  
4           proceeds of any loan or other advance made or  
5           guaranteed, directly or indirectly, by any other  
6           partner or the partnership (or any person re-  
7           lated to any such other partner or the partner-  
8           ship). The preceding sentence shall not apply to  
9           the extent the loan or other advance is repaid  
10          before the date of the enactment of this section  
11          unless such repayment is made with the pro-  
12          ceeds of a loan or other advance described in  
13          the preceding sentence.

14                 “(B) REDUCTION IN ALLOCATIONS TO  
15                 QUALIFIED CAPITAL INTERESTS FOR LOANS  
16                 FROM NONSERVICE-PROVIDING PARTNERS TO  
17                 THE PARTNERSHIP.—For purposes of this sub-  
18                 section, any loan or other advance to the part-  
19                 nership made or guaranteed, directly or indi-  
20                 rectly, by a partner not providing services de-  
21                 scribed in subsection (c)(2) to the partnership  
22                 (or any person related to such partner) shall be  
23                 taken into account in determining the qualified  
24                 capital interests of the partners in the partner-  
25                 ship.

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 redesi-  
10 gnating subsection (q) as subsection (r) and by in-  
11 sserting 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 sserting “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.

○