Subtitle F - Infrastructure Financing and Community Development

Section-by-Section

Part 1 – Infrastructure Financing

<u>Subpart A – Bond Financing</u>

Sec. 135101. Credit to issuer for certain infrastructure bonds.
Based on the successful Build America Bonds program enacted in the 2009 American Recovery and Reinvestment Act, issuers of qualified infrastructure bonds would receive a tax credit equal to an applicable percentage of the interest, providing direct financing support for infrastructure investments made by state and local governments.
The applicable percentage of the credit for interest paid with respect to qualified bonds is determined in the year the bond is issued as follows:
2022 through 2024.....35%
2025.....32%
2026.....30%
2027 and thereafter.....28%
State and local governments may claim this credit for bonds whose interest would otherwise be eligible for tax-exempt status in the Internal Revenue Code, and the entirety of whose net proceeds are used for capital expenditures or the operation and maintenance of capital expenditures.
This provision requires that 100% of the proceeds of a bond issued under this provision meet the requirements in the Davis-Bacon Act. Payments under this section are grossed up in the event of sequestration. This provision applies to qualified infrastructure bonds issued after December 31, 2021.

Sec. 135102. Advance refunding bonds.
Advance refunding refers to a state or local government holding the proceeds of a refunding issue for longer than 90 days before using such proceeds to pay off a refunded issue, allowing State and municipal governments to take advantage of lower interest rates to refinance long-term debt obligations. Prior to repeal in the 2017 Tax Cuts and Jobs Act, interest on advance refunding bonds was exempt from tax. This provision would once again allow interest on advance refunding bonds issued by state and local governments to be exempt from tax. This provision applies to advance refunding bonds issued more than 30 days after date of enactment of this Act.

Sec. 135103. Permanent modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.
As a general rule, no deductions are allowed for expenses that are allocable to tax-exempt income, including tax-exempt interest received by holders of certain municipal bonds. The same general rule applies to financial institutions to disallow a deduction for interest expense that is allocable to tax-exempt interest income. However, present law provides an exception for interest expense allocable to certain tax-exempt obligations issued by qualified small issuers, which are defined (in part) as issuers that are not reasonably expected to issue more than $10 million in tax-exempt obligations during a calendar year. This provision revises the definition of qualified small issuers by increasing the $10 million limit to $30 million (indexed annually for inflation). In addition, this provision treats qualified 501(c)(3) bonds as tax-exempt obligations for purposes of the small issuer exception, and makes permanent certain rules related to qualified financings.

Sec. 135104. Modifications to qualified small issue bonds.
This provision expands the definition of eligible manufacturing facilities eligible for financing through qualified small issue bonds to include facilities used for the creation or production of intangible property, and facilities functionally related and subordinate (or directly related and ancillary) to facilities used for the manufacturing, creation, or productions of tangible or intangible property. This provision also raises the aggregate cap for prior issues from $10 million to $30 million, indexed annually for inflation.

Sec. 135105. Expansion of certain exceptions to the private activity bond rules for first-time farmers.
This provision increases the limitation on the exemption of the use of private activity bond proceeds for first-time farmers from $450,000 to $552,500, indexed annually for inflation. The provision also repeals the separate, lower dollar limitation on the purchase of used farm equipment.

Sec. 135106. Certain water and sewage facility bonds exempt from volume cap on private activity bonds.
This provision exempts from the private activity bond volume cap exempt facility bonds for existing water and sewage facilities as of July 1, 2020.

Sec. 135107. Exempt facility bonds for zero-emission vehicle infrastructure.
This provision expands the definition of exempt facility bond eligible for tax-exempt private activity bond financing to include any bond issued if 95 percent or more of the net proceeds are to be used to provide zero-emission vehicle infrastructure. Zero-emission vehicle infrastructure is defined as any depreciable property (not including a building and its structural components) used to charge or fuel zero-emissions vehicles. Charging infrastructure that is not exclusively for governmental or commercial fleets must be made available for use by members of the general public, accepts payment by use of a credit card reader, and is capable of charging or fueling vehicles produced by more than one manufacturer.

Sec. 135108. Application of Davis-Bacon Act requirements with respect to certain exempt facility bonds.
This provision applies Davis-Bacon prevailing wage requirements to all proceeds of exempt facility bonds used for the construction, alteration, or repair of water furnishing facilities, sewage facilities, highway or surface freight transfer facilities, or zero-emissions vehicle infrastructure facilities. This provision applies to bonds issued after date of enactment.

Subpart B – Other Provisions Related to Infrastructure Financing

Sec. 135111. Credit for operations and maintenance costs of government-owned broadband.
This provision creates a 30% tax credit for State, local, and tribal governments for the operations and maintenance costs of government owned broadband systems. To be eligible for the credit the broadband service must provide a download speed of at least 25 Mbps and an upload speed of at least 3 Mbps. Expenses taken into account for purposes of this credit are capped at $400 per newly subscribed household living within a low-income community. This credit phases down to 26% in 2027, 24% in 2028, and expires at the beginning of 2029.

Part 2 – New Markets Tax Credit

Sec. 135201. Permanent extension of new markets tax credit.
This provision makes the New Markets Tax Credit program permanent. For the 2022 and 2023 allocation rounds, it provides an additional allocation amount of $2 billion (for a total of $7 billion in 2022) and $1 billion (for a total of $6 billion in 2023). It sets the allocation amounts at $5 billion for 2024 and all years thereafter. Beginning in 2024, it indexes the annual allocation amount to inflation. Finally, the provision provides AMT relief to taxpayers claiming the NMTC.

Part 3 - Rehabilitation Tax Credit

Sec. 135301. Determination of credit percentage.
This provision increases the historic rehabilitation tax credit (HTC) percentage from 20 percent to 30 percent for 2020 through 2025. The credit percentage is phased down to 26 percent in 2026, 23 percent in 2027, and returns to 20 percent in 2028 and thereafter. This provision is effective for property placed in service after March 31, 2021.

Sec. 135302. Increase in the rehabilitation credit for certain small projects.
This provision permanently increases the HTC percentage from 20 percent to 30 percent for certain smaller projects to ensure rural and non-urban areas have a better ability to take advantage of the credit. The increased small project credit would cap qualified rehabilitation expenses at $2.5 million, or approximately $750,000 in credits, with a provision ensuring there is not a cliff as between the small project credit and the HTC for all projects. The provision is at the election of the taxpayer to allow taxpayers to choose between the HTC and the small project credit. This provision is effective for tax years beginning after December 31, 2021.

Sec. 135303. Modification of definition of substantially rehabilitated.
This provision modifies the substantial rehabilitation requirement so that qualified rehabilitation expenditures must exceed the greater of (1) 50% (not 100%) of the adjusted basis of the building (and its structural components), or (2) $5,000. This provision is effective for 24-month (or 60-month) periods ending after December 31, 2021.

Sec. 135304. Elimination of rehabilitation credit basis adjustment.
This provision changes the amount of the depreciable basis adjustment from 100% to zero, eliminating the requirement that the HTC be deducted from a building's basis at the time of transfer. This change would place the HTC in line with other development credits and make it easier to use with programs like LIHTC. The provision eliminates the limitation requiring reduction of the basis of the property by the amount of the HTC. This provision is effective for property placed in service after December 31, 2022.

Sec. 135305. Modifications regarding certain tax-exempt use property.
This provision would amend the disqualified lease rules, making the HTC easier to access by non-profits and other tax-exempt entities. Leases disqualified under current law that inhibit the rehabilitation of these buildings, like those with purchase options, leases in excess of 20 years, and leases in buildings that use tax-exempt financing, would be permitted. These changes would make projects like health care centers, arts organizations, community services, workforce training providers, and others better able to use the HTC. This provision is effective for leases entered into after December 31, 2021.

Sec. 135306. Qualification of rehabilitation expenditures for public school buildings for rehabilitation credit.
This provision would allow public school buildings to better use the HTC by excepting public school buildings that have been used as public schools within the past five years from certain tax-exempt use rules. In particular, the "prior use" limitations related to leases by tax-exempt entities currently prevent public school beings from being rehabilitated using the HTC program. This provision is effective for property placed in service after December 31, 2021.

Part 4 – Disaster and Resiliency

Sec. 135401. Exclusion of amounts received from state-based catastrophe loss mitigation programs.
The provision excludes from gross income certain state-based grants made to homeowners that support mitigation efforts for earthquakes, fires, windstorms, and other disasters.

Sec. 135402. Repeal of temporary limitation on personal casualty losses.
This provision repeals the temporary limitation on the casualty loss deduction, enacted in the 2017 Tax Cuts and Jobs Act. This change is made retroactive to casualty losses incurred beginning in 2018. This provision directs the Secretary to issue regulations or guidance intended to provide relief to certain homeowners whose personal residences were affected by deteriorating concrete foundations caused by the presence of the mineral pyrrhotite.

Sec. 135403. Credit for qualified wildfire mitigation expenditures.
This provision creates a tax credit equal to 30% of qualified expenditures for individuals and businesses who participate in a qualified state-based wildfire resiliency program. The provision applies to expenditures paid or incurred after the date of enactment, in tax years ending after that date.

Part 5 - Housing

<u>Subpart A – Low Income Housing Tax Credit</u>

Sec. 135501. Increases in State allocations.
The provision increases the 9% housing credit and the small state minimum by 50 percent and phases in this increase over five years. In calendar years 2026 through 2028, the amounts are adjusted for inflation. The increases include the 12.5% expansion in the 9% housing credit passed in 2018. The provision is effective for calendar years after December 31, 2021.

Sec. 135502. Tax-exempt bond financing requirement.
This provision temporarily reduces the 50% requirement to 25%, to enable housing credit deals to unlock more 4% credits. The provision is effective for buildings financed by the proceeds of certain tax-exempt bonds issued in calendar years 2022, 2023, 2024, 2025, 2026, 2027, or 2028 (and not financed by previous bonds issued in tax years 2019-2021) for buildings placed in service in taxable years after December 31, 2021.

Sec. 135503. Buildings designated to serve extremely low-income households.
The provision provides a 50% basis boost for LIHTC buildings that designate at least 20% of their occupied units for extremely low-income tenants and limit rent to no more than 30% of the greater of: 30% of area median income or the federal poverty line. The provision is funded by a set-aside equal to 10% of a state's housing credit allocation (and the set-aside is in addition to this allocation). Certain buildings eligible for the 10% set-aside are also eligible to receive an enhanced low-income housing tax credit. The enhanced credit provision applies to LIHTC buildings receiving either the 9% or 4% housing credit. For purposes of the 9% credit, however, a housing credit agency may not allocate more than 15 percent of the portion of the state's housing credit ceiling amount to such buildings after the date of enactment. Furthermore, for purposes of the 4% credit, a state may not issue more than 10% of its private activity bond volume cap to such buildings. The enhanced credit terminates after December 31, 2031. The provision is effective for allocations and determinations of housing credit dollar amount after December 31, 2021.

Sec. 135504. Inclusion of rural areas as difficult development areas.
The provision gives states the ability to provide up to a 30 percent basis boost to properties in rural areas if needed for financial feasibility, by qualifying rural areas as Difficult Development Areas. Rural areas are defined as any nonmetropolitan counties or any rural areas designated in a state's qualified action plan and defined by Section 520 of the Housing Act of 1949. This would allow these developments to receive more housing credit equity than would otherwise be available to them. The provision applies to buildings placed in service after December 31, 2021.

Sec. 135505. Repeal of qualified contract option.
The provision eliminates the qualified contract exception for buildings receiving allocations after January 1, 2022. Specifically, the provision limits the use of the exception to (1) buildings that received housing credit allocations before January 1, 2022, or (2) with respect to buildings financed with tax-exempt bonds, buildings that received before January 1, 2022 a determination from the issuer of the tax-exempt bonds or the housing credit agency that the building has satisfied the QAP requirements and the financial feasibility determination. In addition, for buildings that may still make use of the qualified contract exception, the proposal modifies the specified statutory price. The price for any non-low income portion remains the fair market value. The price for the low-income portion is the fair market value, determined by the housing credit agency taking into account the rent restrictions required to continue to satisfy the minimum set aside requirements. The Secretary is directed to prescribe regulations necessary or appropriate to the determination of the specified statutory price.

Sec. 135506. Modification and clarification of rights relating to building purchase.
The provision changes the right of first refusal safe harbor into an option safe harbor. For existing agreements, the provision clarifies, for purposes of the safe harbor, that the right to acquire the building includes the right to acquire all of the partnership interests relating to the building. It also clarifies that the right to acquire the building includes the right to acquire assets held for the development, operation, or maintenance of the building. Thus, agreements which provide for the right to acquire these partnership interests or building assets do not fail to satisfy the safe harbor. For existing agreements, the provision also clarifies that the right of first refusal safe harbor may be satisfied by the grant of an option. A right of first refusal may be exercised in response to an offer by a related party; a bona fide third-party offer is not needed. A right of first refusal may be exercised without the approval of any owner of a credit project. Thus, agreements with these terms do not fail to satisfy the safe harbor. Finally, the provision amends the minimum purchase price to exclude exit taxes. Thus, agreements that do not include exit taxes as part of the minimum purchase price do not fail to satisfy the safe harbor.

Sec. 135507. Increase in credit for bond-financed projects designated by housing credit agency.
The provision modifies the rule which treats as difficult development areas for purposes of determining eligible basis, those buildings designated by housing credit agencies as requiring an increase in credit. Under the proposal, buildings so designated and financed with the proceeds of certain tax-exempt bonds are treated as difficult development areas for purposes of determining eligible basis as long as the determinations of housing credit dollar amounts are not made after December 31, 2028.

Subpart B – Neighborhood Homes Investment Act

Sec. 135511. Neighborhood homes credit.
This provision establishes a new federal tax credit to encourage the rehabilitation of deteriorated homes in distressed neighborhoods. States would receive Neighborhood Homes Investment Act (NHIA) tax credit authority and administer and allocate credits on a competitive basis. NHIA tax credits would be used to cover the gap between development costs and sales prices, up to 35 percent of eligible development costs. Rehabilitated homes must be owner-occupied for investors to receive the credits. Homeowners must be below certain income limitations, sales prices are capped, and qualifying neighborhoods must have elevated poverty rates, lower incomes, and modest home values. Special rules apply to rehabilitations that occur when homes are already owner-occupied prior to and during such rehabilitation. This provision applies to taxable years beginning after December 31, 2021.

Part 6 – Investments in Tribal Infrastructure

Sec. 135601. Treatment of Indian Tribes as States with respect to bond issuance.
This provision amends rules related to the issuance of tax-exempt debt by Indian tribal governments. There is no volume cap for governmental bonds issued by an Indian tribal government. For private activity bonds, it instructs the Secretary to establish and allocate a national bond volume cap for such governments. Indian tribal governments are defined to include governing bodies of tribes, including agencies, subdivisions, instrumentalities, and certain intertribal consortiums or other organizations that are authorized by Indian tribal governments.

Sec. 135602. New markets tax credit for Tribal Statistical Areas.
This provision creates a new, permanent, annual $175 million New Markets Tax Credit allocation for low-income communities in tribal areas and for projects that serve or employ tribe members. The new tribal allocation amount is indexed for inflation beginning in 2024.

Sec. 135603. Inclusion of Indian areas as difficult development areas for purposes of certain buildings.

The provision modifies the definition of a Difficult Development Area (DDA) to automatically include projects located in an Indian area, making these projects eligible for the 30 percent basis boost. (The DDA inclusion is limited to buildings that were assisted or financed under the Native American Housing Assistance and Self Determination Act of 1996, or, the project sponsor is a qualifying Indian tribe.) This provision would allow these projects to receive more housing credit equity than would otherwise be available to them. The provision applies to buildings placed in service after December 31, 2021.

Part 7. Investments in Territories

Sec. 135701.

Possessions economic activity credit.

This provision creates a new economic activity credit related to active businesses conducted in U.S. territories or possessions. The new credit is a general business credit equal to 20 percent of the sum of the qualified possession wages and allocable employee fringe benefit expenses paid or incurred by a qualified domestic corporation for the taxable year up to $50,000 with respect to each full-time employee. For purposes of the credit, "possessions" include the five fiscally autonomous territories of American Samoa, Guam, Commonwealth of Northern Marianas, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Sec. 135702.

Additional new markets tax credit allocations for the territories.

This provision creates a new, permanent, annual $100 million New Markets Tax Credit allocation for low-income communities in U.S. territories. Eighty percent of the new allocation is directed towards projects in Puerto Rico, and twenty percent is directed towards projects in the other territories. The new territory allocation amount is indexed for inflation beginning in 2024.

SUBTITLE G – GREEN ENERGY
Section-by-Section

Overview.
This subtitle structures various new and existing renewable energy and energy efficiency incentives within the tax code as two-tiered incentives with a "base rate" and a "bonus rate." The base rate is equal to 20% of the "bonus rate" and the "bonus rate" is an increased rate for projects which meet certain prevailing wage and apprenticeship requirements. For incentives that phase down in 2032 and 2033, the phasedown rate applies proportionally to the base credit rate and the bonus credit rate.

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

In the event the taxpayer fails to satisfy these requirements, the taxpayer may cure the discrepancy by compensating each worker the difference between wages paid and the prevailing wage, plus interest, in addition to paying a $5,000 penalty to the Treasury for each worker paid below the prevailing wage during the taxable year.

Apprenticeship requirements referred to throughout this subtitle require that, in order to claim the "bonus rate" with respect to a project, the taxpayer must ensure that no fewer than the applicable percentage of total labor hours are performed by qualified apprentices. The applicable percentage for purposes of this requirement is 5% for projects for which construction begins in 2022. This rate is increased to 10% in 2023, and 15% thereafter.

This provision requires that each contractor and subcontractor who employs 4 or more individuals to perform construction on an applicable project shall employ at least one qualified apprentice to perform such work.
In the event a taxpayer fails to satisfy these requirements, the taxpayer may cure the discrepancy by paying a penalty to the Treasury equal to $500 multiplied by the total labor hours for which the requirement is not satisfied.
In the event of a lack of available qualified apprentices necessary to satisfy this requirement with respect to construction of a project, this provision provides for an exemption process by which taxpayers may be deemed as having made a good faith effort to hire qualified apprentices with respect to construction of such project.

Domestic content requirements referred to throughout this subtitle require that, with respect to the facility for which a tax credit is claimed, the taxpayer must ensure that such facility is composed of steel, iron, or products manufactured in the United States. For purposes of these requirements, a manufactured product shall be deemed to have been manufactured in the United States if not less than 55% of the total cost of the components of such product is attributable to components which are mined, produced, or manufactured in the United States. Such rules shall be applied in a manner consistent with the United States' obligations under international rules.

Part 1 – Renewable Electricity and Reducing Carbon Emissions

Sec. 136101. Extension of credit for electricity produced from certain renewable resources.

The provision extends the production tax credit (PTC), which allows energy producers to claim a credit based on electricity produced from renewable energy resources. The provision provides a base credit rate of 0.5 cents/kilowatt hour, and the bonus credit rate of 2.5 cents/kilowatt hour. In order to claim the credit at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for each year during the ten year credit period and 2.) apprenticeship requirements during the construction of the project. Projects which commence construction before date of enactment or have a maximum net output of less than one megawatt shall be treated as eligible for the bonus rate.

The base and bonus credit rates phase down to 80% of their indexed value for facilities which commence construction in 2032, followed by 60% for facilities which commence construction in 2033. No credit is allowed for facilities which commence construction in 2034 and thereafter.

Most facilities: The PTC for the following facilities is extended through the end of 2031, phasing down to 80% of the applicable rate in 2032, and 60% of the applicable rate in 2033:

- landfill gas (municipal solid waste),
- trash (municipal solid waste),
- qualified hydropower,
- marine and hydrokinetic renewable energy facilities, and
- Geothermal.

Wind: The PTC for wind energy is increased to the full appliable credit rate through the end of 2031, phasing down to 80% in 2032, and 60% in 2033.

Solar: The PTC for solar energy is revived and extended through 2031, phasing down to 80% of the applicable credit rate in 2032, and 60% of the applicable credit rate in 2033. Taxpayers may continue to claim the applicable credit value of the Section 48 ITC in lieu of the PTC with respect to such property.

Taxpayers may claim an increased credit for facilities placed into service after December 31, 2021 if such facilities meet domestic requirements described in this subtitle. This provision provides a base credit increase of 2% of the amount otherwise allowable with respect to such facility, or a bonus credit increase of 10% of the amount otherwise allowable with respect to such facility. These values are not subject to phasedown in 2032 and 2033.

These amendments made by this provision shall apply to facilities placed into service after date of enactment.

Sec. 136102. Extension and modification of energy credit.
The provision extends the investment tax credit (ITC), which allows taxpayers to claim a tax credit for the cost of qualified energy property. In most cases, the provision extends the credit for property for which construction begins by the end of 2032, and then phases down the credit value over two years.

The provision provides a base credit rate of 6% of the basis of qualified energy property or a bonus credit rate of 30% of the basis of qualified energy property. These credit rates apply with respect to facilities placed into service after December 31, 2021. The base credit rate phases down to 5.2% for facilities that commence construction in 2032 and 4.4% for facilities that commence construction in 2033. The bonus credit rate phases down to 26% in 2032 and 22% in 2033.

In order to claim the ITC at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for five years after the project is placed into service, and 2.) apprenticeship requirements during the construction of the project. Projects which commence construction before date of enactment or have a maximum net output of less than one megawatt shall be treated as eligible for the bonus rate (i.e. exempt from prevailing wage and apprenticeship requirements)

Solar: In addition to allowing taxpayers to elect to claim the PTC for solar energy facilities, the ITC for solar energy property is extended, providing a base credit rate of 6% and a bonus credit rate of 30% through the end of 2031. The ITC for solar energy property then phases down in 2032 and 2033, and provides a base rate of 2% or a bonus rate of 10% thereafter.

Geothermal: The ITC for geothermal energy property is modified to match the credit timeline for solar energy property. Therefore, the ITC for geothermal energy property is extended, providing a base credit rate of 6% or a bonus credit 30% through the end of 2031. The ITC for geothermal energy property then phases down in 2032 and 2033, providing a base credit rate of 2% or a bonus credit rate of 10% thereafter.

Other currently eligible property: The ITC for fiber-optic solar equipment, fuel cell property, microturbine property, combined heat and power property, small wind energy property, biogas property, waste energy recovery property, and offshore wind property is extended, providing a base credit rate of 6% or a bonus credit rate of 30% through the end of 2031, phasing down in 2032 and 2033. No credit is allowed with respect to such energy property which commences construction after 2033 or not placed in service before 2036.

Newly eligible property: The ITC is expanded to include energy storage technology and linear generators. These technologies are eligible for a 6% base credit rate or a 30% bonus credit rate through the end of 2031, phasing down in 2032 and 2033. No credit is allowed with respect to such energy property which commences construction after 2033 or not placed in service before 2036.

These technologies are briefly described as follows:

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

Taxpayers may claim an increased credit with respect to energy property placed into service after December 31, 2021 if such property meets the domestic requirements described in this subtitle. This provision provides an increase in the base credit rate of 2% or an increase in the bonus credit rate of 10% with respect to the credit percentage allowable for such facility. These amounts are not subject phasedown in 2032 and 2033.

These amendments made by this provision shall apply to facilities placed into service after December 31, 2021. The amendments pertaining to newly eligible property apply to periods after December 31, 2021 under rules similar to section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

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

This provision provides for an enhanced incentive for solar facilities qualifying for the section 48 ITC with respect to which the Secretary makes an allocation of environmental justice solar capacity limitation. Property eligible for the credit including energy storage technology and interconnection property related to such solar property.

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

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

The annual capacity limitation is 1.8 gigawatts for each calendar year 2022 through 2031 and zero for calendar years thereafter. The annual capacity limitation shall be increased by the amount of any unused allocations from the preceding calendar year, but not beyond 2033. Such projects receiving an allocation of environmental justice solar capacity limitation receive an additional 10% credit if located in a low-income community (as defined within the New Markets Tax Credit program under section 45D) or an additional 20% credit if such project is a qualifying low-income residential building project or a low-income economic benefit project.

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

A solar facility may qualify as part of a low-income economic benefit project if at least 50 of the financial benefits of the electricity produced by such facility are provided to households with income of less than 200% of the poverty line or at or below 80% of area median income. This section applies to periods after December 31, 2021 under rules similar to section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

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

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

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

Rather than opting to carry forward credits to years when their credits can offset their tax liability, taxpayers can request a refund for the deemed payment of tax upon completion of construction.

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

In the case of a facility placed into service after date of enactment for which a credit is allowed under the section 48 ITC, section 45 PTC, or section 48D, the amount of payment allowed under this provision shall be equal to the amount of credit the taxpayer would otherwise be eligible for with respect to such facility multiplied by the applicable percentage. The applicable percentage for facilities which satisfy domestic content requirements and facilities with a maximum net output of less than 1 megawatt shall be 100%. In the case any other facility, the applicable percentage shall be 100% for facilities which commence construction before 2024, 90% for facilities which commence construction in 2024, 85% for facilities which commence construction in 2025, and 0% for facilities which commence construction in 2026 and thereafter.

If the Secretary, in consultation with the Secretary of Commerce, determines that such materials and products are not produced in the United States in sufficient quantity and quality or inclusion of domestic material will increase the cost of such facility by more than 25%, the applicable percentage with respect to such facility shall be 100%.

This provision does not apply to mirror-code jurisdictions.

This provision applies to projects placed into service after December 31, 2021. Projects can make elections under this section starting 180 days after date of enactment.

Sec. 136105. Investment credit for electric transmission property.
This provision provides for a tax credit for the basis of qualifying electric transmission property placed in service by the taxpayer.

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

Qualifying electric transmission property is defined as tangible, depreciable property which is:

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

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

Upgrades of an existing electric transmission line are treated as a replacement line. In the case of a qualifying electric transmission line which replaces an existing line, the 500 megawatt capacity requirement shall be increased by the transmission capacity of such existing electric transmission line, and the basis attributable to such existing transmission line is not eligible for the credit.
No credit shall be allowed with respect to property of which construction began before January 1, 2022, or property approved for cost recovery by FERC or any relevant rate-making body before January 1, 2022.

This credit is effective for property placed into service after December 31, 2021, and before January 1, 2032.

Sec. 136106. Zero emissions facility credit.
This provision provides for a 30% credit, to be allocated by the Secretary, for qualified investment with respect to any zero emissions facility of the taxpayer.

Qualified investment is defined as the basis of eligible property placed in service by the taxpayer which is part of a zero emissions facility.

In order for a project to be eligible for the zero emissions facility credit, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for five years after the project is placed into service, and 2.) apprenticeship requirements during the construction of the project.

A zero emissions facility means any facility which generates electricity, does not generate greenhouse gases, and utilizes a technology or process which is not in widespread use for commercial generation of electricity. For purposes of this credit, no portion of a zero emissions facility may be a qualified facility for purposes of the Section 45 PTC or Section 45Q, an advanced nuclear power facility, or energy property for purposes of the Section 48 ITC.
The annual credit limitation of which the secretary may allocate is $250,000,000 for calendar years 2022 through 2031 and zero for calendar years thereafter. The annual credit limitation shall be increased by the amount of any unused allocations from the preceding calendar year, but not beyond 2031.

In determining which zero emissions facilities to allocate such credits, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall take consider which facilities:

- will result in the greatest reduction of greenhouse gas emissions,
- have the greatest potential for technological innovation and deployment, and
- will result in the greatest reduction of local environmental effects that are harmful to human health.

Such applicants shall provide written assurances to the Secretary that all laborers and mechanics employed by contractors and subcontractors shall be paid prevailing wages.
This provision shall be made effective beginning after December 31, 2021.

Sec. 136107. Extension of credit for carbon oxide sequestration.

The provision extends the credit for carbon oxide sequestration facilities that begin construction before the end of 2031.

To qualify for the credit, direct air capture facilities must capture no less than 1,000 metric tons of carbon oxide per year. Electricity generating facilities must capture no less than 18,750 metric tons of carbon oxide and 75% of total carbon emissions. Other industrial facilities must capture no less than 12,500 metric tons of carbon oxide and 50% of total carbon emissions.

The provision provides a base credit rate of $10 and a bonus credit rate of $50 per metric ton of carbon oxide captured for geological storage and a base credit rate of $7 and a bonus credit rate of $35 per metric ton of carbon oxide captured and utilized for an allowable use by the taxpayer. The provision provides an enhanced credit for direct air capture facilities at a base rate of $36 and a bonus rate of $180 per metric ton of carbon oxide captured for geological storage and base rate of $26 and a bonus rate of $130 per metric ton of carbon captured and utilized for an allowable use by the taxpayer.

In order to claim the PTC at the bonus credit rate, taxpayers must satisfy 1.) prevailing wage requirements for the duration of the construction of the project and for each year during the twelve-year credit period, or where applicable, until the credit is phased out as determined by the Secretary, and 2.) apprenticeship requirements during the construction of the project.
The amendments made by this provision shall apply for facilities placed into service after December 31, 2021.

Sec. 136108. Green energy publicly traded partnerships.

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

Sec. 136109. Zero-emission nuclear power production credit.
The provision provides a credit for the production of electricity from a qualified nuclear power facility. The provision provides a base credit rate of 0.3 cents/kilowatt hour and a bonus credit rate of 1.5 cents/kilowatt hour for electricity produced by the taxpayer and sold to an unrelated person during the taxable year. The credit is reduced as the sale price of such electricity increases. Under the credit reduction formula, the credit with respect to any qualified nuclear power facility for any taxable year is reduced (but not below zero) by 80 percent of the excess of the gross receipts (excluding certain State and local zero-emissions grants) from any electricity produced and sold by such facility over the product of 0.5 cents times the amount of electricity sold during the taxable year.

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

Qualified nuclear power facility is any nuclear facility that is owned by the taxpayer, that uses nuclear energy to produce electricity, was not previously awarded a credit allocation under section 45J, and is placed in service before date of enactment.

For purposes of this credit, a facility may only be treated as qualified if no portion of which is a qualified facility for purposes of the zero emissions facility credit.

This provision terminates on December 31, 2026.

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

Part 2 – Renewable Fuels

Sec. 136201. Extension of excise tax credits relating to alternative fuels.
The provision extends the income and excise tax credits for biodiesel and biodiesel mixtures at $1.00 per gallon through 2031.

The provision extends the $0.10-per-gallon small agri-biodiesel producer credit through the end of 2031.

The provision extends the $0.50 per gallon excise tax credits for alternative fuels and alternative fuel mixtures through 2031.

Sec. 136202. Extension of second generation biofuel incentives.
The provision extends the second generation biofuel income tax credit through 2031.

Sec. 136203. Sustainable aviation fuel credit.
Beginning in 2023, this provision provides a refundable blenders tax credit for each gallon of sustainable aviation fuel sold as part of a qualified fuel mixture. The value of the credit is determined on a sliding scale, equal to $1.25 plus an additional $.01 for each percentage point by which the lifecycle emissions reduction of such fuel exceeds 50%. Taxpayers may elect to claim this credit as an excise tax credit against section 4041 excise tax liability.

To claim the credit taxpayers must certify to the Secretary that such fuel reduces emissions reduction by at least 50%, determined by a methodology conforming with all the requirements of the most recent Carbon Offsetting and Reduction Scheme for International Aviation adopted by the International Civil Aviation Organization with the support of the United States. Within two years of date of enactment of this provision, the Secretary of the Treasury, in consultation with the Secretary of Energy and the EPA Administrator, shall establish procedures by which taxpayers may obtain a certification from the Secretary consistent with such requirements.
This provision terminates the $1.00 section 40A tax credit for aviation fuel produced from biodiesel beginning after December 31, 2022.

This provision shall apply for fuel sold or used after December 31, 2022. The credits allowed under this provision expire after December 31, 2031.

Sec. 136204. Clean Hydrogen.
This provision creates a new tax credit for the production of clean hydrogen produced by a taxpayer at a qualified clean hydrogen facility beginning in 2022 during the ten year period beginning on the date such facility is placed in service.

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

The applicable percentage is determined by the percentage reduction in lifecycle greenhouse gas emissions reduction as compared to hydrogen produced by steam-methane reforming.

- For hydrogen achieving a reduction in lifecycle greenhouse gas emissions of at least 40% and less than 75%, the applicable percentage is 20%.
- For hydrogen achieving a reduction in lifecycle greenhouse gas emissions of at least 75% and less than 85%, the applicable percentage is 25%.
- For hydrogen achieving a reduction in lifecycle greenhouse gas emissions of at least 85% and less than 95%, the applicable percentage is 34%.
- For hydrogen achieving a reduction in lifecycle greenhouse gas emissions of at least 95% the applicable percentage is 100%.

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

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

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

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

Part 3 – Green Energy and Energy Efficiency Incentives for Individuals

Sec. 136301. Extension, increase, and modifications of nonbusiness energy property credit.
The provision extends the nonbusiness energy property credit to property placed in service before the end of 2031. Beginning in 2022, the provision modifies and expands the credit, including by:

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

Sec 136302. Residential energy efficient property.
The provision extends the credit for the cost of qualified residential energy efficient property expenditures, including solar electric, solar water heating, fuel cell, small wind energy, and geothermal heat pumps. The provision extends the full 30% credit for eligible expenditures through the end of 2031. The credit then phases down to 26% in 2032 and 22% in 2033. The credit expires after the end of 2028. The provision also expands the definition of eligible property to include battery storage technology.

Sec. 136303. Energy efficient commercial buildings deduction.
Starting in 2022, the provision updates and expands the energy efficient commercial buildings deduction by increasing the maximum deduction, determined on a sliding scale. It also changes this maximum from a lifetime cap to a three- year cap. The provision updates the eligibility requirements so that property must reduce associated energy costs by 25% or more in comparison to a building that meets the ASHRAE standards as of three years prior to the date such building is placed into service.

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

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

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

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

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

Sec. 136304. Extension, increase, and modifications of new energy efficient home credit.
The provision extends the Section 45L new energy efficient home credit through 2031.

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

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

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

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

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

This provision provides a higher tier base credit of $1000 or a bonus credit of $5,000 for eligible multifamily unites certified as a zero energy ready under the Department of Energy Zero Energy Ready Home Program.
In order to claim the bonus credit amount with respect to a multifamily unit, taxpayers must satisfy prevailing wage requirements for the duration of the construction of such units.

Sec. 136305. Modifications to income exclusion for conservation subsidies.
The provision excludes from gross income water conservation, storm water management, and wastewater management subsidies provided by public utilities, state or local governments, or storm water management providers.

Part 4 – Greening the Fleet and Alternative Vehicles

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

This provision provides for a refundable income tax credit for new qualified plug-in electric drive motor vehicles placed into service by the taxpayer during the taxable year.

The amount of credit allowed by this provision with respect to a qualified vehicle is equal to the base amount of $4,000 plus an additional $3,500 for vehicles placed into service before January 1, 2027 with battery capacity no less than 40 kilowatt hours, and for vehicles with battery capacity of no less than 50 kilowatt hours thereafter.

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

The amount of credit allowed for a qualified vehicle is increased by $500 if the vehicle model is assembled by a manufacturer which utilizes no less than 50% domestic content in component parts of such vehicles and such vehicles are powered by battery cells which are manufactured within the United States.

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

Beginning in 2027, this credit shall only apply with respect to vehicles for which final assembly is within the United States.

For purposes of this credit, a new qualified plug in electric drive motor vehicle means a vehicle

- the original use of which commences with the taxpayer,
- is acquired for use or lease by the taxpayer and not for resale, which is made by a qualified manufacturer,
- which is treated as a motor vehicle for purposes of title II of the clean air act,
- which has a gross vehicle rating of less than 14,000 pounds,
- which is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than seven kilowatt hours and is capable of being recharged from an external source of electricity, and
- is not depreciable property.

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

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

- Sedans: $55k
- Vans : $64k
- SUVs: $69k
- Pick Up Trucks: $74k

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

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

This provision provides for a 10% credit, not to exceed $2,500, for two and three wheeled plug in electric vehicles which have a battery capacity of no less than two and a half kilowatt hours, are manufactured primarily for use on roads an highways, and are capable of achieving a speed of 45 miles per hour or greater, and otherwise meet the requirements of this section.

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

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

Sec. 136402. Credit for previously-owned qualified plug-in electric drive motor vehicles.
The provision creates a new refundable credit for the purchase of used plug-in electric cars after date of enactment through 2031. Buyers can claim a base credit of $1,250 for the purchase of qualifying used EVs, with additional incentives for battery capacity. The credit is capped at the lesser of $2,500 credit or 30% of the sale price.

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

Buyers with up to $75,000 ($150,000 for married couples filing jointly and $112,500 for head of household filers) in adjusted gross income can claim the full amount of the credit. The credit phases out by $200 for every $1,000 in AGI in excess of the limitation. Buyers must purchase the vehicle from a dealership for personal use and cannot claim the credit more than once every three years. The credit only applies to the first resale of a used EV and includes restrictions on sales between related parties.

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

Sec. 136403. Credit for qualified commercial electric vehicles.
This provision creates a new credit for qualified commercial electric vehicles placed into service by the taxpayer.

The amount of credit allowed by this provision with respect to a qualified commercial electric vehicle is equal to 30% of the cost of such vehicle. In the case of vehicles acquired by tax exempt entities, the person who sold the qualified vehicle to such entity shall be treated as the taxpayer that placed such vehicle into service.

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

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

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

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

Sec. 136404. Qualified fuel cell motor vehicles.

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

Sec. 136405. Alternative fuel refueling property credit.

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

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

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

Sec. 135406. Reinstatement and expansion of employer provided fringe benefits for bicycle commuting.

This provision eliminates the temporary suspension of the exclusion for qualified bicycle commuting benefits and increases the maximum benefit from $20 per month to $52.50 per month.

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

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

Sec. 136407. Credit for certain new electric bicycles.
This provision provides for a 15% refundable tax credit for qualified electric bicycles placed into service before January 1, 2032.

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

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

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

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

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

Part Five – Investment in the Green Workforce

Sec. 136501. Extension of the advanced energy project credit.
The provision revives the Section 48C qualified advanced energy property credit, allowing the Secretary to allocate an additional $2.5 billion in credits for each year from 2022 through and including 2031. $400 million in credits each year is reserved for projects in automotive communities.

In order for a project to be eligible for the advanced energy project credit, taxpayers must satisfy 1.) prevailing wage requirements for the establishment, expansion, or re-equipping of a manufacturing facility and for five years after the project is placed into service, and 2.) apprenticeship requirements during the construction of the project.
Similar requirements to the original credit apply, with a few notable changes. The Secretary will determine allocations to projects each year with a requirement that property is placed in service within 4 years of the date of the allocation. Projects shall be given priority if the manufacturing is not for the assembly of parts or if they have the greatest potential for commercial deployment of new applications.

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

Sec. 136502. Labor costs of installing mechanical insulation property.

The provision provides a credit for up to 10% of the labor costs incurred by a taxpayer in installing mechanical insulation property into a mechanical system which was originally placed in service not less than 1 year before the date on which such mechanical insulation property is installed. The credit is available for costs paid starting in 2022 through the end of 2031.

Part 6 – Environmental Justice

Sec. 136601. Qualified environmental justice program credit.

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

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

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

Part 7 – Superfund

Sec. 136701. Reinstatement of Superfund.
This provision reinstates the Hazardous Substance Superfund Financing Rate on crude oil and imported petroleum products at the rate of 16.4 cents/per gallon, indexed to inflation, and reinstates the tax on sale of chemicals at twice the rates enacted in prior law. These provisions are made effective after December 31, 2021 until January 1, 2032.

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

Part 8 – Appropriations

Sec. 136801. Appropriations.
This provision appropriates $3,831,000,000 to remain available through 2031 for the IRS to carry out this subtitle.

Subtitle H - Strengthening the Social Safety Net and Supporting State and Local Governments

Section-by-Section

Part 1 – Child Tax Credit

Sec. 137101. Modifications Applicable Beginning in 2021.
Provides an exception to the safe harbor rule which provides that certain taxpayers who receive a larger advanced payment amount than they are eligible to claim are not subject to repayment.

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

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

Sec. 137102. Extension and Modification of Child Tax Credit and Advance Payment for 2022.
Provides a one-year extension of the child tax credit (CTC) and advance payment through 2022.

Increases the safe harbor amount to $3,000 ($3,600 for a child under the age of 6) for certain taxpayers in cases where repayment may be required because of excess in prior payments. For any months after the due date of taxpayer's return for 2021 taxable year, such taxpayer must make an affirmative election to receive advance payment by filing a return, submitting information through on-line portal, or in any manner provided by the Secretary. The $3,000 and $3,600 dollar amounts are indexed for inflation in this year. The provision eliminates the Social Security Number requirement for qualifying children, which was added by the Tax Cuts and Jobs Act (TCJA).

Sec. 137103. Establishment of Monthly Child Tax Credit with Advance Payment Through 2025.

Adds new section 24A and new section 7527B to establish a monthly Child Tax Credit ("CTC") fully refundable with advance payment through taxable years 2025. For this period, children age 0- 17 qualify for the credit. The amount of credit is $250 per child and $300 for a child under age 6. The monthly CTC begins to phase out for households with income above $150,000 (for joint filers), and finishes phasing out at $400,000. A "look-back rule" for the phaseout threshold allows taxpayers to use prior-year (or prior-prior year) income for purposes of determining the phaseout of the credit. This rule keeps taxpayers eligible for the credit even when their income rises above the phaseout range in a single year.

A taxpayer may only receive monthly credits for a child that meets certain requirements, the satisfaction of which makes that child a "specified child." A specified child is one that has the same principal place of abode as the taxpayer for more than half of the month, is younger than the taxpayer and will not attain the age of 18 before the end of the calendar year, and who receives care from the taxpayer. Tie-breaker rules are provided for situations where a child is a specified child for more than one taxpayer, with a preference going first to parents, and then to relatives, of the child. Pursuant to the rules described above, the TCJA requirement that Social Security Numbers are necessary for a child to receive the credit is repealed.

A taxpayer may receive the monthly CTC only during a fixed period of time, referred to as the period of presumptive eligibility, with respect to a specified child. The purpose of this period is to give both taxpayers and the IRS clarity about whether a taxpayer is eligible for advance payments. This period is established if the Secretary determines that the taxpayer has a place of abode in US or Puerto Rico, is eligible to receive monthly advance payment for the month, and that the taxpayer expects the eligibility to last for at least three months total. Taxpayers will be required to reaffirm their presumptive eligibility each year to continue receiving advance payments. In addition, the Secretary may automatically enroll a child for advance payments based on birth records or information obtained from other government programs.

The provision directs the Secretary to maintain the previously established online portal to allow taxpayers to elect to begin or cease receiving advanced payments, and to provide information regarding changes in income, marital status, and number of qualifying children for purposes of determining each taxpayer's maximum eligible credit.

Under a limited set of circumstances, recapture of payments received by the taxpayer is required. Recapture occurs if the taxpayer's eligibility for monthly CTC payments was determined on the basis of fraud or a reckless or intentional disregard of rules, or if the taxpayer understated their income or misstated their filing status on the IRS on-line portal.

Where more than one taxpayer claims a child for the same month, the provision directs the Secretary to establish a procedure under which a determination may be made as to the appropriate taxpayer to whom the advance payment should be made, any appropriate amount of retroactive payments due to the taxpayer during the determination process, and if applicable, any recapture amounts.

In case of any failure or delay in establishing a period of presumptive eligibility with respect to a child for which a taxpayer should have been eligible, the taxpayer may receive a retroactive payment covering a period of up to 3 months. A taxpayer may take advantage of such a grace period only once within any 36-month period. If the Secretary determines that such failure or delay was due to hardship, the taxpayer may receive a retroactive payment covering a period of up to 6 months.

Advance payments are generally not subject to administrative offset for past-due federal or state debts, including offset for past-due child support. Additionally, the advance payments are also exempt from bank garnishment or levy by private debt collectors.

The provision extends the fully refundable CTC to the territories. With respect to mirror code territories (I.e., the USVI, Guam, and CNMI), the Treasury Department will fully reimburse these territories the cost of the CTC for taxable years beginning after 2022 and before 2026. With respect to American Samoa, which does not have a mirror code, Treasury is instructed to make payments in an amount estimated by Treasury as being equal to the aggregate amount of benefits that would have been provided if American Samoa had a mirror code in place. Such payments, including administrative expenses, will be made for taxable years beginning after 2022 and before 2026. Puerto Rico, which does not have a mirror code, will receive the refundable credit and advance payment by having its residents file for the CTC directly with the IRS.

The provision adds new section 24B to retain the $500 nonrefundable tax credit for dependents other than child dependents, and indexes the value of this credit for inflation. The credit begins to phase out for individuals earning more than $400,000 (for joint filers). The credit terminates for taxable years beginning after 2025.

Sec. 138104. Refundable Child Tax Credit After 2025.
Reinstates the child tax credit under section 24, as amended by prior sections, as fully refundable for taxable years after 2025.

Sec. 137105. Appropriations.
Provides $9,000,000,000 to the Internal Revenue Service to remain available until September 30, 2026, for purposes of carrying out these provisions.

Part 2 – Child and Dependent Care Tax Credit

Sec. 137201. Certain Improvements to the Child and Dependent Care Credit Made Permanent.
Makes permanent the modifications to the child and dependent care tax credit ("CDCTC") made for 2021 in the American Rescue Plan. Those modifications make the credit fully refundable and increase the maximum credit rate to 50 percent. The phaseout threshold begins at $125,000 instead of $15,000. The amount of child and dependent care expenses that are eligible for the credit are increased to $8,000 for one qualifying individual and $16,000 for two or more qualifying individuals (such that the maximum credits are $4,000 and $8,000). At $125,000 the credit percentage begins to phase out, and plateaus at 20 percent. This 20 percent credit rate phases out for taxpayers whose AGI is in excess of $400,000, such that taxpayers with income in excess of $500,000 are not eligible for the credit. Both the maximum credit amount, and the phaseout threshold, are indexed for inflation.

Provides for a reimbursement of mirror code territories for the costs of this refundable credit. Additionally, for non-mirror code territories (Puerto Rico and American Samoa), provides a reimbursement for the aggregate value of such a credit, provided the territory develops a plan, approved by the Secretary, to distribute these amounts to its residents.

Sec. 137202. Increase in Exclusion for Employer-Provided Dependent Care Made Permanent. Makes permanent the American Rescue Plan increase in the exclusion for employer-provided dependent care assistance. Thus, the maximum exclusion is permanently increased to $10,500 ($5,250 in the case of a separate return filed by a married individual). These dollar amounts are indexed for inflation.

Part 3 – Supporting Caregivers

Sec. 137301. Payroll Tax Credit for Childcare Workers.
Provides a refundable payroll tax credit against employer-side HI tax for 50 percent of qualified child care wages paid by an employer that operates a HHS Participating Child Care Provider, as provided by the Secretary of Health and Human Services.

Qualified child care wages are wages paid above the GS-3 step 1 rate for the applicable time period and locality, paid to employees other than highly compensated employees (the threshold for which starts at $130,000 and is adjusted for cost of living). The maximum wages that can be taken into account is $2,500 per quarter per employee. Health plan expenses allocable to qualified wages are included in wages.

The credit is not allowed to the Federal government, unless the taxpayer is a tax-exempt organization under 501(c)(1). Gross income is increased by the amount of the credit. This credit cannot be taken for wages that are covered under a forgiven PPP loan or a venue or restaurant grants in the American Rescue Plan.

Sec. 137302. Credit for Caregiver Expenses
Provides a non-refundable credit, up to $4,000, equal to 50 percent of the qualified expenses paid or incurred by a qualified care recipient during the taxable year through 2025. The amount of the credit is reduced by 1 percentage point for every $2,500 by which the taxpayer's adjusted gross income exceeds $75,000.

The section defines "qualified care recipient" as a spouse or other individual (described in subparagraphs (A) through (H) of section 152(d)(2)) who has been certified by a Medicare, Medicaid, or CHIP-enrolled provider as having long-term care needs expected to last for at least 180 consecutive days, and who lives in a personal residence (not an institutional care facility). The section defines "institutional care facility," including two or more places, establishments, or institutions owned by the same legal entity, as any congregate, protected living residential arrangement that provides or coordinates personal or health care services, including assistance with the activities of daily living (ADLs) and social care, for two or more adults who are aged, infirm, or disabled.

The section defines "individuals with long-term care needs" as (1) individuals at least six years of age who are: unable to independently perform at least two ADLs (as defined in section 7702(c)(2)(B)) or at least one ADL without substantial supervision, reminding, or cuing assistance to protect them from threats to health and safety due to severe cognitive impairment, and allows the Secretary of the Department of Health and Human Services to prescribe any additional age appropriate activities under this definition; (2) individuals age two through six who require substantial assistance to eat, transfer, or be mobile; and (3) individuals under age two who require specific durable medical equipment to address their condition in the absence of their parents.

The section defines "qualified expenses" as goods, services ,and supports that assist a qualified care recipient with accomplishing ADLs and instrumental ADLs under section 1915(k)(6)(F) of the Social Security Act an are solely for the qualified care recipient. These expenses include: human assistance, supervision, cuing, and standby assistance; health maintenance tasks; respite care; assistive technologies and devices; accessibility modifications of the qualified care recipient's residence; counseling, support groups, training; an other items determined by the Secretaries of HHS and Department of Treasury. Such qualified expenses shall not be compensated for by insurance or otherwise.

Part 4 – Earned Income Tax Credit

Sec. 137401. Certain Improvements to the Earned Income Tax Credit Made Permanent.
Makes the temporary expansion the eligibility and the amount of the earned income tax credit for taxpayers with no qualifying children (the "childless EITC") enacted in the American Rescue Plan permanent. In particular, the minimum age to claim the childless EITC is reduced from 25 to 19 (except for certain full-time students) and the upper age limit for the childless EITC is eliminated. This section also increases the childless EITC amount by increasing the credit percentage and phaseout percentage from 7.65 to 15.3 percent, increasing the income at which the maximum credit amount is reached to $9,820, and increasing the income at which phaseout begins to $11,610 for non-joint filers. Under these parameters, the maximum credit amount increases from $543 to $1,502. The provision contains special rules regarding the application of the credit for former foster youth and homeless youth. As with all other parameters of the EITC, these amounts are indexed for inflation, and will be indexed beginning in 2022.

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

Sec. 137402. Funds for Administration of the Earned Income Tax Credit in the Territories.
Provides funds for the territorial revenue authorities to administer the earned income tax credit within the territories.

Part 5 – Expanding Access to Health Coverage and Lowering Costs

Sec. 137501. Improve Affordability and Reduce Premium Costs of Health Insurance for Consumers.
Makes permanent the American Rescue Plan section 9661 affordability percentages used for 36 (B) premium tax credits to increase generosity for individuals eligible for assistance with household incomes below 400 percent of the federal poverty level (FPL) and provides 36 (B) credits for taxpayers with household incomes above 400 percent of the FPL.

Sec. 137502. Modification of Employer-Sponsored Coverage Affordability Test in Health Insurance Premium Tax Credit.
Revises the threshold to determine whether a taxpayer has access to affordable insurance through an employer-sponsored plan or a qualified small employer health reimbursement arrangement to 8.5 percent of income in order to access 36 (B) premium tax credits.

Sec. 137503. Treatment of Lump-Sum Social Security Benefits in Determining Household Income. Excludes Social Security benefit lump-sum payments for Americans with disabilities, widows, new retirees, and others from calculation of household income for purposes of 36 (B) premium tax credits.

Sec. 137504. Temporary Expansion of Health Insurance Premium Tax Credits for Certain Low-Income Populations.
Modifies certain eligibility rules and requirements for 36 (B) premium tax credits through 2024 or when the HHS Secretary has certified implementation of the federal Medicaid program, expands eligibility to taxpayers with household incomes below 100 percent of the FPL, specifies that taxpayers with household incomes below 138 percent of the FPL with access to employer-sponsored coverage or a qualified small employer health reimbursement arrangement can still receive credits, reduces the recapture limitation for taxpayers with household incomes below 200 percent of the FPL, exempts certain taxpayers from having to file a return, reconcile, or repay advance payments of 36 (B) premium tax credits, and modifies when applicable large employers make an employer shared responsibility payment with respect to certain low-income taxpayers.

Sec. 138506. Ensuring Affordability of Coverage for Certain Low-Income Populations.
Provides temporary enhanced Affordable Care Act (ACA) Marketplace cost-sharing reduction assistance to individuals with household incomes below 138% of the FPL. Consistent with current law, individuals who qualify for government sponsored insurance, such as Medicaid, would not qualify for the temporary cost-sharing assistance.

Sec. 1385076. Establishing a Health Insurance Affordability Fund.
Makes available $10 billion annually to states, providing the option for states to establish a state reinsurance program or use the funds to provide financial assistance to reduce out-of-pocket costs. Requires the Centers for Medicare and Medicaid Services (CMS) to establish and implement a temporary reinsurance program in states that are not expending amounts under the State plan for all individuals described in section 1902(a)(10)(A)(i)(VIII).

Sec. 138507. Special Rule for Individuals Receiving Unemployment Compensation.
Extends section 9663 of the American Rescue Plan through 2025, provides that a taxpayer can receive 36 (B) premium tax credits as if the taxpayer's household income was no higher than 150 percent of the FPL for individuals receiving unemployment compensation as defined in section 85(B) of the Internal Revenue Code.

Sec. 137508. Permanent Credit for Health Insurance Costs.
This section makes the health coverage tax credit permanent, removing the uncertainty of annual extensions, and increases the amount of the qualified health insurance premium covered by the credit from 72.5 percent to 80 percent.

Part 6 – Pathway to Practice Training Programs

Sec. 137601. Establishing Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate Students and Medical Students.
This section establishes Section 1899C of the Social Security Act for the Rural and Underserved Pathway to Practice Training Program for Post-Baccalaureate and Medical Students. This section incentivizes those from rural and underserved communities to become physicians and to practice in those communities through a scholarship and stipend for qualifying medical students to attend medical school or post-baccalaureate and medical school.

Students eligible for this program include first generation college or professional students; Pell Grant recipients; those who lived in a medically underserved, rural, or health professional shortage areas.

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

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

Sec. 137602. Funding for the Rural and Underserved Pathway to Practice Training Programs for Post-Baccalaureate Students and Medical Students.

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

Sec. 137603. Establishing Rural and Underserved Pathway to Practice Training Programs for Medical Residents.
This section amends Section 1886 of the Social Security Act to incentivize additional residency training by increasing physician residency training positions to certain applicable hospitals that are recognized by the Accreditation Council for Graduate Medical Education (ACGME) for committing to train physicians with additional requirements, such as increased mentorship, structural and cultural competency training, and training in the community. There are 1,000 slots per year for these residency positions, beginning on October 1, 2026.

Sec. 137604. Administrative Funding of the Rural and Undeserved Pathway to Practice Training Programs for Post-Baccalaureate Students, Medical Students, and Medical Residents.
This section invests $6 million into implementation of the Pathway to Practice program.

Part 7 – Higher Education

Sec. 137701. Public University Research Infrastructure Credit.
Provides a 40% general business credit for qualified cash contributions made by a taxpayer to a certified educational institution in connection with a qualifying research infrastructure program. Taxpayers may elect to claim this credit with respect to a qualifying cash contribution in lieu of treating such contribution as a charitable deduction.

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

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

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

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

Sec. 137702. Modification of Excise Tax on Investment Income of Private Colleges and Universities.

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

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

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

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

Sec. 137703. Treatment of Federal Pell Grants for Income Tax Purposes.

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

Sec. 137704. Repeal of Denial for American Opportunity Tax Credit on Basis of Felony Drug Conviction.

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

Subtitle J - Drug Pricing
Section-by-Section

Part 1 – Lowering Prices Through Fair Drug Price Negotiation

Sec. 139001. Providing for Lower Prices for Certain High-Priced Single Source Drugs.
This provision adds a new Part E to Title XI of the Social Security Act which directs the Secretary of the Department of Health and Human Services (HHS) to establish a Fair Price Negotiation Program to reduce spending on and out-of-pocket costs for prescription drugs. The Secretary shall publish a list of selected drugs; enter into agreements with manufacturers of selected drugs; and negotiate and renegotiate maximum fair price (MFP) for each selected drug beginning in plan year 2025.

Each year, the Secretary will identify the 250 brand-name drugs that lack price competition for negotiation, and negotiate at least 25 drugs in 2025, and at least 50 drugs thereafter. A drug selected for negotiation would continue to be included in the program until competition enters the market.

Negotiation. The Secretary is required under the legislation to directly negotiate with drug manufacturers to establish a maximum fair price. The legislation also establishes an upper limit for the price reached in any negotiation as no more than 1.2 times (or 120 percent) of the volume-weighted average of the price of six countries (Australia, Canada, France, Germany, Japan, and the United Kingdom), known as the Average International Market (AIM) price.

Sec. 139002. Selected Drug Manufacturer Excise Tax Imposed During Noncompliance Periods.
The section also establishes an excise tax that will be levied against manufacturers during periods when the manufacturer is noncompliant with the requirements of the fair price negotiation program by adding a new section 4192 to Subchapter E of Chapter 32 of the Internal Revenue Code.

Sec. 139003. Fair Price Negotiation Implementation Fund.
This provision invests $3,000,000,000 into implementation of prescription drug negotiation.

Part 2- Prescription Drug Inflation Rebates

Sec. 139101. Medicare Part B Rebate by Manufacturers.
This provision establishes a mandatory rebate for drug manufacturers for certain Medicare Part B drugs with prices increasing faster than inflation beginning on July 1, 2023. Under this provision, the Secretary of HHS shall calculate a rebate amount based on the total number of units with respect to a Part B rebatable drug, including for the Medicare program and the commercial market, and determine the inflation-adjusted payment amount based on the percentage by which the price exceeded the inflation benchmark. Should a manufacturer not pay the mandated rebate, the manufacturer shall be subject to a civil monetary penalty equal to or at least 125 percent of the rebate amount for such calendar quarter.

Sec. 139102. Medicare Part D Rebate by Manufacturers.
This provision establishes a mandatory rebate for drug manufacturers for certain Medicare Part D drugs with prices increasing faster than inflation beginning in 2023. Under this provision, the Secretary shall calculate a rebate amount based on the total number of units with respect to a Part D rebatable drug, including for the Medicare program and the commercial market, and determine the inflation-adjusted payment amount based on the percentage by which the price exceeded the inflation benchmark. Should a manufacturer not pay the mandated rebate, the manufacturer shall be subject to a civil monetary penalty equal to or at least 125 percent of the rebate amount for such calendar quarter.

Part 3 – Part D Improvements and Maximum Out-of-Pocket Cap for Medicare Beneficiaries

Sec. 139201. Part D Benefit Redesign.
This provision caps the costs for prescription drugs by setting the annual out-of-pocket limit at $2,000 beginning in 2024. The section reduces from 80 percent to 20 percent the government reinsurance in the catastrophic phase of Part D coverage, converting the current coverage gap discount program into a benefit-wide responsibility, requiring manufacturers of single source drugs to contribute to payments in both the initial (10 percent) and catastrophic phases (30 percent) of the benefit.

Sec. 139202. Allowing Certain Enrollees of Prescription Drug Plans and MA-PD Plans.
Under Medicare Program to Spread Out Cost-Sharing Under Certain Circumstances. The provision allows eligible beneficiaries who meet the out-of-pocket cap in a single prescription fill to pay for such costs in installments throughout the year, known as "smoothing."

Part 4 – Repeal of Certain Prescription Drug Rebate Rule

Sec. 139301. Prohibiting Implementation of Rule Relating to Eliminating the Anti-Kickback Statute Safe-Harbor for Prescription Drug Rebates.
This provision also prohibits the implementation after January 1, 2026, of the final rule entitled "Fraud and Abuse; Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Services Fees" that was published by the Office of the Inspector General of HHS on November 30, 2020.