

.....  
(Original Signature of Member)

116TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To require the Secretary of Labor to establish a program to provide grants  
for job guarantee programs.

\_\_\_\_\_  
**IN THE HOUSE OF REPRESENTATIVES**

Mrs. WATSON COLEMAN introduced the following bill; which was referred to  
the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To require the Secretary of Labor to establish a program  
to provide grants for job guarantee programs.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Workforce Promotion  
5       and Access Act” or the “WPA Act”.

6       **SEC. 2. JOB GUARANTEE GRANT PROGRAM.**

7       (a) DEFINITIONS.—In this section:

8               (1) ELIGIBLE ENTITY.—The term “eligible enti-  
9       ty” means an entity that is a political subdivision of

1 a State, Tribal entity, outlying area, or a combina-  
2 tion of contiguous political subdivisions or Tribal en-  
3 tities that—

4 (A) has an unemployment rate that is  
5 equal to the lower of 10 or 100 percent of the  
6 national unemployment rate, as determined by  
7 the Bureau of Labor Statistics (except in the  
8 case of Tribal entities which may submit their  
9 own employment data where no such Federal  
10 data is available for such entities) based on the  
11 most recent data available at the time the Sec-  
12 retary solicits applications for grants under this  
13 section; and

14 (B) submits an application in accordance  
15 with subsection (e).

16 (2) JOB GUARANTEE PROGRAM.—The term  
17 “job guarantee program” means a program that  
18 meets the requirements of subsection (c).

19 (3) RURAL AREA.—The term “rural area”  
20 means an area that is located outside of an urban  
21 area.

22 (4) TRIBAL ENTITY.—The term “Tribal entity”  
23 means an Indian tribe or tribal organization as such  
24 terms are defined in section 4 of the Indian Self-De-  
25 termination Act (25 U.S.C. 5304).

1           (5) URBAN AREA.—The term “urban area”  
2       means an urbanized area (a region of 50,000 or  
3       more residents) and an urbanized cluster (and area  
4       encompassing between 2,500 and 50,000 residents),  
5       according to the Census Bureau’s urban-rural classi-  
6       fication in the 2010 census.

7           (6) SECRETARY.—The term “Secretary” means  
8       the Secretary of Labor.

9           (7) WIOA DEFINITIONS.—The terms “adult  
10      education and literacy activities”, “career planning”,  
11      “individual with a barrier to employment”, “in-de-  
12      mand industry sector or occupation”, “local board”,  
13      “outlying area”, “recognized postsecondary creden-  
14      tial”, “State”, “State board”, “supportive services”,  
15      and “workplace learning advisor” have the meanings  
16      given such terms in section 3 of the Workforce Inno-  
17      vation and Opportunity Act (29 U.S.C. 3102).

18      (b) ESTABLISHMENT.—

19           (1) IN GENERAL.—The Secretary shall establish  
20      a program to provide competitive grants to eligible  
21      entities to establish programs to ensure that any in-  
22      dividual within the area served by the entity who ap-  
23      plies for a job through the program will be provided  
24      with employment as provided for in this section.

1           (2) TERMINATION.—Federal funding for a job  
2           guarantee program established under a grant under  
3           this section shall terminate on the earlier of—

4                   (A) the end of the 3-year period beginning  
5                   on the date of the grant; or

6                   (B) the date of any revocation of the  
7                   grantee as an eligible entity.

8           (3) GRANT RENEWAL.—An eligible entity that  
9           receives a grant under this section may reapply  
10          under this section for an additional grant after the  
11          first 3-year grant period.

12          (c) JOB GUARANTEE PROGRAMS.—A job guarantee  
13          program meets the requirements of this subsection if the  
14          jobs provided under such program—

15                   (1) are available to any individual who—

16                           (A) is 18 years of age or older; and

17                           (B) resides in the eligible entity as of the  
18                   date that the grant is awarded under this sub-  
19                   section to such eligible entity,

20          except that participants in the program may be dis-  
21          ciplined, released, or suspended from further partici-  
22          pation in jobs under the program if they are found  
23          to be negligent, or generally disruptive to the work-  
24          place involved under procedures established by the

1 Secretary that provide for an opportunity for a re-  
2 view of such determinations;

3 (2) are, with respect to individual participants,  
4 included as part of an established bargaining unit  
5 and covered by any applicable collective bargaining  
6 agreement in effect if similarly situated employees  
7 are part of such unit and represented by an exclu-  
8 sive bargaining representative;

9 (3) are available for the duration of the pro-  
10 gram;

11 (4) provide a wage of not less than the greater  
12 of—

13 (A) \$15 per hour, or the hourly wage oth-  
14 erwise required to be paid to employees in area  
15 to be served under the program, whichever is  
16 greater;

17 (B) the prevailing wage in the area in-  
18 volved for a similar job as required by chapter  
19 67 of title 41, United States Code, and other  
20 related laws; or

21 (C) the applicable wage under an applica-  
22 ble collective bargaining agreement as provided  
23 for under paragraph (2);

24 (5) provide for coverage of the worker under a  
25 health insurance program that is comparable to that

1       offered to Federal employees under the Federal Em-  
2       ployee Health Benefits Program; and

3           (6) provide at a minimum—

4               (A) family and medical leave consistent  
5       with the provisions of the Family and Medical  
6       Leave Act of 1993 and applicable State law, ex-  
7       cept that such leave shall be paid leave; and

8               (B) the Emergency Paid Sick Leave Act  
9       under division E of the Families First  
10      Coronavirus Response Act (29 U.S.C. 2601  
11      note).

12      (d) OTHER USES.—Funds may be used to provide  
13      workers in a job guarantee program with—

14           (1) supportive services, which can include trans-  
15      portation, child care, dependent care, housing, and  
16      needs-related payments, that are necessary to enable  
17      an individual to participate in activities authorized  
18      under this Act;

19           (2) access to a workplace learning advisor to  
20      support the education, skill development, job train-  
21      ing, career panning, and credentials required to  
22      progress toward career goals of such employees in  
23      order to meet employer requirements related to job  
24      openings and career advancements that support eco-  
25      nomic self-sufficiency;

1           (3) adult education and literacy activities, in-  
2           cluding those provided by public libraries;

3           (4) activities that assist justice involved individ-  
4           uals, formerly incarcerated individuals, and individ-  
5           uals with criminal records in reentering the work-  
6           force; and

7           (5) financial literacy activities including those  
8           described in section 129(b)(2)(D) of the Workforce  
9           Innovation and Opportunity Act.

10          (e) APPLICATIONS.—An eligible entity seeking a  
11          grant under this section shall submit an application to the  
12          Secretary at such time, in such manner, and containing  
13          such information as the Secretary may require. Such ap-  
14          plication shall include—

15               (1) a description of the geographic area and  
16               population that the entity intends to serve under the  
17               job guarantee program established under the grant,  
18               including the area unemployment rate, underemploy-  
19               ment rate, unemployment rate for individuals with  
20               disabilities, poverty rate, housing vacancy rate, crime  
21               rate, household income, home-ownership rate, labor  
22               force participation rate, and educational attainment;

23               (2) to extent practicable, a description of the  
24               jobs that will be offered under the job guarantee  
25               program, including—

1 (A) a description of supports provided to  
2 individuals with disabilities and accommoda-  
3 tions required under the Americans with Dis-  
4 abilities Act of 1990 (42 U.S.C. 12101 et seq.);  
5 and

6 (B) a description of supports and proce-  
7 dures to ensure job access and opportunities for  
8 individuals with criminal records, including in-  
9 formation on physical and programmatic acces-  
10 sibility, in accordance with section 188 of the  
11 Workforce Innovation and Opportunity Act, if  
12 applicable, and the Americans with Disabilities  
13 Act of 1990, for individuals with disabilities.

14 (3) the need in the area for jobs to be per-  
15 formed, including for jobs designated as a high-skill,  
16 high-wage or in-demand industry sector or occupa-  
17 tion by the Secretary, State board, or local board;

18 (4) a description of State, local, or philan-  
19 thropic funding, including through coordination and  
20 in-kind or non-financial support, if any, that will be  
21 provided to assist in carrying out the job guarantee  
22 program;

23 (5) an assurance that the eligible entity will es-  
24 tablish—



1 (A) a public internet website, in conjunc-  
2 tion with the Secretary, to post all available  
3 jobs under the job guarantee program; and

4 (B) a process for individuals to apply for  
5 such jobs;

6 (6) a comprehensive plan to describe how the  
7 funding under the program will leverage existing or  
8 anticipated local, State, and Federal funding.

9 (7) an assurance that necessary administrative  
10 data systems and information technology infrastruc-  
11 ture are available, or will be available, to provide for  
12 full participation in the evaluation under subsection  
13 (k);

14 (8) a description of how the eligible entity will  
15 comply with the requirements described in sub-  
16 section (c)(6);

17 (9) an assurance that the entity will enter into  
18 an allocation agreement with the Secretary under  
19 subsection (j)(2)(A); and

20 (10) an assurance that energy and infrastruc-  
21 ture jobs provided under the program will not exac-  
22 erbate the impacts of climate change.

23 (f) SELECTION.—In awarding such grant under this  
24 section, the Secretary shall consider diversity in geo-

1 graphic location, urban-rural composition, and political en-  
2 tity, including the representation of Tribal entities.

3 (g) AMOUNT OF GRANT.—

4 (1) ESTABLISHMENT OF FUND.—There is es-  
5 tablished in the Treasury of the United States a sep-  
6 arate account to be known as the “Job Guarantee  
7 Program Trust Fund” (referred to in this section as  
8 the “Fund”).

9 (2) TRANSFERS TO FUND.—There is hereby ap-  
10 propriated to the Fund amounts equivalent to—

11 (A) taxes received in the Treasury under  
12 subchapter C of chapter 36 of the Internal Rev-  
13 enue Code of 1986; and

14 (B) interest earned on investment of  
15 amounts in the Fund under rules similar to the  
16 rules of section 9602(b) of such Code.

17 (3) USE OF AMOUNTS.—The Secretary shall use  
18 amounts in the Fund to make payments to grantees  
19 under grants under this section in accordance with  
20 paragraph (4).

21 (4) PAYMENTS.—

22 (A) IN GENERAL.—The Secretary shall de-  
23 termine the annual amount of a grant under  
24 this section based on a formula to be developed  
25 by the Secretary.

1 (B) PAYMENTS.—The Secretary shall  
2 make payments to grantees under this section  
3 in a manner determined appropriate by the Sec-  
4 retary. The Secretary shall not make subse-  
5 quent payments to a grantee after the initial  
6 payment until the grantee certifies to the Sec-  
7 retary that the grantee has expended, trans-  
8 ferred, or obligated not less than 80 percent of  
9 the most recent payment made under this sub-  
10 section.

11 (h) LIMITATIONS.—An eligible entity may not use  
12 amounts received under a grant under this section to—

13 (1) employ individuals who will replace, or lead  
14 to the displacement of, existing employees, positions,  
15 or individuals who would otherwise perform similar  
16 employment, or disrupt existing contracts and collec-  
17 tive bargaining agreements, as defined in section  
18 181(b) of the Workforce Innovation and Opportunity  
19 Act (Public Law 113–128);

20 (2) perform functions otherwise prohibited by  
21 Federal, State, or local laws; and

22 (3) carry out other prohibited activities, as de-  
23 termined by the Secretary.

24 (i) FEDERAL PROVISION OF JOBS IN PROGRAM  
25 SITES.—

1           (1) GUIDANCE.—Not later than 30 days after  
2           the date on which the Secretary awards the first  
3           grant under this section, the Secretary shall—

4                   (A) provide guidance to the heads of ap-  
5                   propriate Federal agencies to notify such agen-  
6                   cies of job guarantee programs established  
7                   under the grants awarded under this section;

8                   (B) request that such agencies notify the  
9                   Secretary, within 30 days of the date on which  
10                  the guidance is received under paragraph (1),  
11                  of the number and types of jobs that each such  
12                  agency would make available through each of  
13                  the programs; and

14                  (C) ensure that each such agency makes  
15                  best efforts to provide jobs through the pro-  
16                  grams established under such grants.

17           (2) APPLICATION OF PROVISIONS.—The re-  
18           quirements of subsection (c) relating to wages and  
19           benefits provided to participants in jobs provided  
20           under job guarantee programs, and the limitations  
21           in subsection (h), shall apply to Federal agencies  
22           and jobs provided under this subsection, except that  
23           a Federal agency shall employ each individual under  
24           this subsection for up to 3-years.

1           (3) LISTING OF JOBS ON WEBSITE.—The Sec-  
2       retary shall establish procedures to ensure that jobs  
3       identified under paragraph (1)(B) are listed on the  
4       appropriate public internet website as provided for  
5       under subsection (e)(5)(A).

6           (4) REIMBURSEMENT.—At the end of each fis-  
7       cal year, the Secretary shall transfer from the Fund  
8       to each Federal agency that employs individuals  
9       under a job guarantee program under this section,  
10      an amount necessary to reimburse such agency for  
11      the full cost of employing each such individual dur-  
12      ing such fiscal year.

13      (j) TRAINING.—

14           (1) IN GENERAL.—The Secretary shall develop  
15      procedures to support up to 8 weeks of paid training  
16      (through privately or publicly funded training pro-  
17      grams, such as those provided by the public work-  
18      force system) to participants in order to perform du-  
19      ties required by job guarantee programs under this  
20      section, including a new period of training, not to  
21      exceed 8 weeks, prior to commencing any new job  
22      under the program.

23           (2) SPECIFIC POPULATIONS.—With respect to  
24      certain populations with barriers to employment (as  
25      defined in section 3(24) of the Workforce Innovation

1 and Opportunity Act (Public Law 113–128)), the 8-  
2 week training period may include specific job-related  
3 training and counseling and other general skills  
4 training to prepare such individuals to reenter the  
5 workforce.

6 (k) PRIORITIES AND AUDITS.—

7 (1) PRIORITIES.—Prior to awarding the initial  
8 grants under this section, the Secretary shall issue  
9 a list of national job priorities relating to jobs that  
10 may be carried out under job guarantee programs,  
11 that shall include child care, care for seniors and in-  
12 dividuals with disabilities, clean energy jobs, commu-  
13 nity investment projects, and sustainable infrastruc-  
14 ture activities. The Secretary shall take State board  
15 and local board suggestions into consideration when  
16 issuing such list.

17 (2) AUDITS.—

18 (A) IN GENERAL.—The Secretary, acting  
19 through the Inspector General of the Depart-  
20 ment of Labor, shall carry out annual audits of  
21 the use of grant funds provided to eligible enti-  
22 ties under this section.

23 (B) ALLOCATION AGREEMENTS AND MIS-  
24 USE OF FUNDS.—

1 (i) ALLOCATION AGREEMENTS.—An  
2 eligible entity shall enter into an allocation  
3 agreement with the Secretary that shall  
4 provide that the Secretary shall recoup any  
5 amounts paid to the entity under a grant  
6 under this section if the results of an audit  
7 under subparagraph (A) include a finding  
8 that there was an intentional or reckless  
9 misuse of such funds by such entity.

10 (ii) LOSS OF ELIGIBILITY.—An eligi-  
11 ble entity that is determined to have fal-  
12 sified or otherwise misstated data in any  
13 report submitted to the Secretary with the  
14 intent to deceive or mislead the Secretary  
15 shall be ineligible to receive additional  
16 funds under this section.

17 (l) REPORTS.—Not later than 90 days after the end  
18 of each calendar year for which an eligible entity obligates  
19 or expends any amounts made available under a grant  
20 under this section, the eligible entity shall submit to the  
21 Secretary a report that—

22 (1) specifies the amount of grant funds obli-  
23 gated or expended for the preceding fiscal year;

24 (2) specifies any purposes for which the funds  
25 were obligated or expended; and

1           (3) includes any other information that the Sec-  
2       retary may require to more effectively administer the  
3       grant program under this section, including the indi-  
4       cators of performance under section 116(b)(2)(A)(i)  
5       of the Workforce Innovation and Opportunity Act  
6       (29 U.S.C. 3141(b)(2)(A)(i)), with the performance  
7       data disaggregated by race, ethnicity, sex, age, and  
8       membership in a population specified in section  
9       3(24) of such Act (29 U.S.C. 3102(24)).

10       (m) EVALUATION.—The Chief Evaluation Officer at  
11   the Department of Labor shall provide for the conduct of  
12   an evaluation of the program, using a rigorous design and  
13   evaluation methods to assess the implementation of the  
14   programs and their impact on—

15           (1) overall employment, public-sector employ-  
16       ment, and private-sector employment;

17           (2) private sector employment, wages, and ben-  
18       efits;

19           (3) poverty rate;

20           (4) public assistance spending and other Fed-  
21       eral spending in the area served by the program;

22           (5) child health and educational outcomes;

23           (6) health and well-being of those with mental,  
24       emotional, and behavioral health needs;

25           (7) incarceration rates;



1 (8) the environment, including air quality and  
2 water quality;

3 (9) the indicators of performance as described  
4 in subsection (l)(3); and

5 (10) other economic development and individual  
6 outcome indicators, as determined by the Secretary.

7 (n) EXPANSION OF WORK OPPORTUNITY CREDIT TO  
8 INCLUDE PARTICIPANTS IN JOB GUARANTEE PRO-  
9 GRAMS.—

10 (1) IN GENERAL.—Subsection (d) of section 51  
11 of the Internal Revenue Code of 1986 is amended—

12 (A) in paragraph (1)—

13 (i) in subparagraph (I), by striking  
14 “or” at the end,

15 (ii) in subparagraph (J), by striking  
16 the period at the end and inserting “, or”,  
17 and

18 (iii) by adding at the end the fol-  
19 lowing new subparagraph:

20 “(K) a qualified participant in a job guar-  
21 antee program.”, and

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

24 “(16) QUALIFIED PARTICIPANT IN A JOB GUAR-  
25 ANTEE PROGRAM.—The term ‘qualified participant

1 in a job guarantee program’ means any individual  
2 who is certified by the designated local agency as  
3 having participated in a job guarantee program  
4 under section 2 of the Federal Jobs Guarantee Pro-  
5 gram Act of 2020 for not less than 3 months during  
6 the 6-month period ending on the hiring date.”.

7 (2) EFFECTIVE DATE.—The amendments made  
8 by this subsection shall apply to individuals who  
9 begin work for the employer after December 31,  
10 2020.

11 (o) APPROPRIATIONS.—From funds in the Treasury  
12 not otherwise appropriated, there are appropriated to the  
13 Secretary such sums as may be necessary to carry out this  
14 section.

15 **SEC. 3. TRANSACTION TAX.**

16 (a) IN GENERAL.—Chapter 36 of the Internal Rev-  
17 enue Code of 1986 is amended by inserting after sub-  
18 chapter B the following new subchapter:

19 **“Subchapter C—Tax on Trading Transactions**

“Sec. 4475. Tax on trading transactions.

“Sec. 4476. Derivative defined.

20 **“SEC. 4475. TAX ON TRADING TRANSACTIONS.**

21 “(a) IMPOSITION OF TAX.—There is hereby imposed  
22 a tax on each covered transaction with respect to any secu-  
23 rity.

1       “(b) RATE OF TAX.—The tax imposed under sub-  
2 section (a) with respect to any covered transaction shall  
3 be 0.1 percent of the specified base amount with respect  
4 to such covered transaction.

5       “(c) SPECIFIED BASE AMOUNT.—For purposes of  
6 this section, the term ‘specified base amount’ means—

7               “(1) except as provided in paragraph (2), the  
8 fair market value of a security (determined as of the  
9 time of the covered transaction), and

10              “(2) in the case of any payment with respect to  
11 a derivative, the amount of such payment.

12       “(d) COVERED TRANSACTION.—For purposes of this  
13 section—

14              “(1) IN GENERAL.—The term ‘covered trans-  
15 action’ means—

16                      “(A) except as provided in subparagraph  
17 (B), any purchase if—

18                              “(i) such purchase occurs on, or is  
19 subject to the rules of, a qualified board or  
20 exchange located in the United States, or

21                              “(ii) the purchaser or seller is a  
22 United States person, and

23                      “(B) any transaction with respect to a de-  
24 rivative if—

1                   “(i) such derivative is traded on, or is  
2                   subject to the rules of, a qualified board or  
3                   exchange located in the United States, or  
4                   “(ii) any party with rights under such  
5                   derivative is a United States person.

6                   “(2) EXCEPTION FOR INITIAL ISSUES.—No tax  
7                   shall be imposed under subsection (a) on any cov-  
8                   ered transaction with respect to the initial issuance  
9                   of any security described in subparagraph (A), (B),  
10                  or (C) of subsection (e)(1).

11                  “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
12                  poses of this section—

13                  “(1) SECURITY.—For purposes of this section,  
14                  the term ‘security’ means—

15                         “(A) any share of stock in a corporation,

16                         “(B) any partnership or beneficial owner-  
17                         ship interest in a partnership or trust,

18                         “(C) except as provided in paragraph (2),  
19                         any note, bond, debenture, or other evidence of  
20                         indebtedness, and

21                         “(D) any derivative (as defined in section  
22                         4476).

23                  “(2) EXCEPTION FOR CERTAIN TRADED SHORT-  
24                  TERM INDEBTEDNESS.—A note, bond, debenture, or  
25                  other evidence of indebtedness which—

1           “(A) is traded on, or is subject to the rules  
2           of, a qualified board or exchange located in the  
3           United States, and

4           “(B) has a fixed maturity of not more  
5           than 100 days,  
6           shall not be treated as described in paragraph  
7           (1)(C).

8           “(3) QUALIFIED BOARD OR EXCHANGE.—The  
9           term ‘qualified board or exchange’ has the meaning  
10          given such term by section 1256(g)(7).

11          “(f) BY WHOM PAID.—

12          “(1) IN GENERAL.—The tax imposed by this  
13          section shall be paid by—

14               “(A) in the case of a transaction which oc-  
15               curs on, or is subject to the rules of, a qualified  
16               board or exchange located in the United States,  
17               such qualified board or exchange, and

18               “(B) in the case of a purchase not de-  
19               scribed in subparagraph (A) which is executed  
20               by a broker (as defined in section 6045(c)(1))  
21               which is a United States person, such broker.

22          “(2) SPECIAL RULES FOR DIRECT, ETC.,  
23          TRANSACTIONS.—In the case of any transaction to  
24          which paragraph (1) does not apply, the tax imposed  
25          by this section shall be paid by—

1 “(A) in the case of a transaction described  
2 in subsection (d)(1)(A)—

3 “(i) the purchaser if the purchaser is  
4 a United States person, and

5 “(ii) the seller if the purchaser is not  
6 a United States person, and

7 “(B) in the case of a transaction described  
8 in subsection (d)(1)(B)—

9 “(i) the payor if the payor is a United  
10 States person, and

11 “(ii) the payee if the payor is not a  
12 United States person.

13 “(g) TREATMENT OF EXCHANGES AND PAYMENTS  
14 WITH RESPECT TO DERIVATIVES.—For purposes of this  
15 section—

16 “(1) TREATMENT OF EXCHANGES.—

17 “(A) IN GENERAL.—An exchange shall be  
18 treated as the sale of the property transferred  
19 and a purchase of the property received by each  
20 party to the exchange.

21 “(B) CERTAIN DEEMED EXCHANGES.—In  
22 the case of a distribution treated as an ex-  
23 change for stock under section 302 or 331, the  
24 corporation making such distribution shall be

1 treated as having purchased such stock for pur-  
2 poses of this section.

3 “(2) PAYMENTS WITH RESPECT TO DERIVA-  
4 TIVES TREATED AS SEPARATE TRANSACTIONS.—Ex-  
5 cept as otherwise provided by the Secretary, any  
6 payment with respect to any derivative shall be  
7 treated as a separate transaction for purposes of  
8 this section.

9 “(h) APPLICATION TO TRANSACTIONS BY CON-  
10 TROLLED FOREIGN CORPORATIONS.—

11 “(1) IN GENERAL.—For purposes of this sec-  
12 tion, a controlled foreign corporation shall be treated  
13 as a United States person.

14 “(2) SPECIAL RULES FOR PAYMENT OF TAX ON  
15 DIRECT, ETC., TRANSACTIONS.—In the case of any  
16 transaction which is a covered transaction solely by  
17 reason of paragraph (1) and which is not described  
18 in subsection (f)(1)—

19 “(A) PAYMENT BY UNITED STATES SHARE-  
20 HOLDERS.—Any tax which would (but for this  
21 paragraph) be payable under subsection (f)(2)  
22 by the controlled foreign corporation shall, in  
23 lieu thereof, be paid by the United States  
24 shareholders of such controlled foreign corpora-  
25 tion as provided in subparagraph (B).

1                   “(B) PRO RATA SHARES.—Each such  
2                   United States shareholder shall pay the same  
3                   proportion of such tax as—

4                   “(i) the stock which such United  
5                   States shareholder owns (within the mean-  
6                   ing of section 958(a)) in such controlled  
7                   foreign corporation, bears to

8                   “(ii) the stock so owned by all United  
9                   States shareholders in such controlled for-  
10                  eign corporation.

11                  “(C) DEFINITIONS.—For purposes of this  
12                  subsection, the terms ‘United States share-  
13                  holder’ and ‘controlled foreign corporation’ have  
14                  the meanings given such terms in sections  
15                  951(b) and 957(a), respectively.

16                  “(i) ADMINISTRATION.—The Secretary shall carry  
17                  out this section in consultation with the Securities and Ex-  
18                  change Commission and the Commodity Futures Trading  
19                  Commission.

20                  “(j) GUIDANCE; REGULATIONS.—The Secretary  
21                  shall—

22                  “(1) provide guidance regarding such informa-  
23                  tion reporting concerning covered transactions as the  
24                  Secretary deems appropriate, and



1           “(2) prescribe such regulations as are necessary  
2           or appropriate to prevent avoidance of the purposes  
3           of this section, including the use of non-United  
4           States persons in such transactions.

5   **“SEC. 4476. DERIVATIVE DEFINED.**

6           “(a) IN GENERAL.—For purposes of this subchapter,  
7           except as otherwise provided in this section, the term ‘de-  
8           rivative’ means any contract (including any option, for-  
9           ward contract, futures contract, short position, swap, or  
10          similar contract) the value of which, or any payment or  
11          other transfer with respect to which, is (directly or indi-  
12          rectly) determined by reference to one or more of the fol-  
13          lowing:

14                  “(1) Any share of stock in a corporation.

15                  “(2) Any partnership or beneficial ownership  
16          interest in a partnership or trust.

17                  “(3) Any evidence of indebtedness.

18                  “(4) Except as provided in subsection (b)(1),  
19          any real property.

20                  “(5) Any commodity which is actively traded  
21          (within the meaning of section 1092(d)(1)).

22                  “(6) Any currency.

23                  “(7) Any rate, price, amount, index, formula, or  
24          algorithm.

1           “(8) Any other item as the Secretary may pre-  
2       scribe.

3   Except as provided in regulations prescribed by the Sec-  
4   retary to prevent the avoidance of the purposes of this  
5   subchapter, such term shall not include any item described  
6   in paragraphs (1) through (8).

7       “(b) EXCEPTIONS.—

8           “(1) CERTAIN REAL PROPERTY.—

9           “(A) IN GENERAL.—For purposes of this  
10       subchapter, the term ‘derivative’ shall not in-  
11       clude any contract with respect to interests in  
12       real property (as defined in section  
13       856(c)(5)(C)) if such contract requires physical  
14       delivery of such real property.

15          “(B) OPTIONS TO SETTLE IN CASH.—

16           “(i) IN GENERAL.—For purposes of  
17       subparagraph (A), a contract which pro-  
18       vides for an option of cash settlement shall  
19       not be treated as requiring physical deliv-  
20       ery of real property unless the option is—

21                   “(I) not exercisable uncondition-  
22                   ally, and

23                   “(II) exercisable only in unusual  
24                   and exceptional circumstances.

1                   “(ii) OPTION OF CASH SETTLE-  
2                   MENT.—For purposes of clause (i), a con-  
3                   tract provides an option of cash settlement  
4                   if the contract settles in (or could be set-  
5                   tled in) cash or property other than the  
6                   underlying real property.

7                   “(2) SECURITIES LENDING, SALE-REPURCHASE,  
8                   AND SIMILAR FINANCING TRANSACTIONS.—To the  
9                   extent provided by the Secretary, for purposes of  
10                  this subchapter, the term ‘derivative’ shall not in-  
11                  clude the right to the return of the same or substan-  
12                  tially identical securities transferred in a securities  
13                  lending transaction, sale-repurchase transaction, or  
14                  similar financing transaction.

15                  “(3) OPTIONS RECEIVED IN CONNECTION WITH  
16                  THE PERFORMANCE OF SERVICES.—For purposes of  
17                  this subchapter, the term ‘derivative’ shall not in-  
18                  clude any option described in section 83(e)(3) re-  
19                  ceived in connection with the performance of serv-  
20                  ices.

21                  “(4) INSURANCE CONTRACTS, ANNUITIES, AND  
22                  ENDOWMENTS.—For purposes of this subchapter,  
23                  the term ‘derivative’ shall not include any insurance,  
24                  annuity, or endowment contract issued by an insur-  
25                  ance company to which subchapter L applies (or

1 issued by any foreign corporation to which such sub-  
2 chapter would apply if such foreign corporation were  
3 a domestic corporation).

4 “(5) DERIVATIVES WITH RESPECT TO STOCK  
5 OF MEMBERS OF SAME WORLDWIDE AFFILIATED  
6 GROUP.—For purposes of this subchapter, the term  
7 ‘derivative’ shall not include any derivative (deter-  
8 mined without regard to this paragraph) with re-  
9 spect to stock issued by any member of the same  
10 worldwide affiliated group (as defined in section  
11 864(f)) in which the taxpayer is a member.

12 “(6) COMMODITIES USED IN NORMAL COURSE  
13 OF TRADE OR BUSINESS.—For purposes of this sub-  
14 chapter, the term ‘derivative’ shall not include any  
15 contract with respect to any commodity if—

16 “(A) such contract requires physical deliv-  
17 ery with the option of cash settlement only in  
18 unusual and exceptional circumstances, and

19 “(B) such commodity is used (and is used  
20 in quantities with respect to which such deriva-  
21 tive relates) in the normal course of the tax-  
22 payer’s trade or business (or, in the case of an  
23 individual, for personal consumption).

24 “(c) CONTRACTS WITH EMBEDDED DERIVATIVE  
25 COMPONENTS.—

1           “(1) IN GENERAL.—If a contract has derivative  
2           and nonderivative components, then each derivative  
3           component shall be treated as a derivative for pur-  
4           poses of this subchapter. If the derivative component  
5           cannot be separately valued, then the entire contract  
6           shall be treated as a derivative for purposes of this  
7           subchapter.

8           “(2) EXCEPTION FOR CERTAIN EMBEDDED DE-  
9           RIVATIVE COMPONENTS OF DEBT INSTRUMENTS.—A  
10          debt instrument shall not be treated as having a de-  
11          rivative component merely because—

12               “(A) such debt instrument is denominated  
13               in a nonfunctional currency (as defined in sec-  
14               tion 988(c)(1)(C)(ii)), or

15               “(B) payments with respect to such debt  
16               instrument are determined by reference to the  
17               value of a nonfunctional currency (as so de-  
18               fined).

19          “(d) TREATMENT OF AMERICAN DEPOSITORY RE-  
20          CEIPTS AND SIMILAR INSTRUMENTS.—Except as other-  
21          wise provided by the Secretary, for purposes of this sub-  
22          chapter, American depository receipts (and similar instru-  
23          ments) with respect to shares of stock in foreign corpora-  
24          tions shall be treated as shares of stock in such foreign  
25          corporations.”.

1       (b) INFORMATION REPORTING WITH RESPECT TO  
2 CONTROLLED FOREIGN CORPORATIONS.—Section  
3 6038(a)(1)(B) of such Code is amended by inserting “and  
4 transactions which are covered transactions for purposes  
5 of section 4475 by reason of the application of section  
6 4475(h)(1) to such corporation” before the semicolon at  
7 the end.

8       (c) CONFORMING AMENDMENT.—The table of sub-  
9 chapters for chapter 36 of such Code is amended by in-  
10 serting after the item relating to subchapter B the fol-  
11 lowing new item:

“SUBCHAPTER C. TAX ON TRADING TRANSACTIONS”.

12       (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to transactions after December 31,  
14 2020.