

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6365
OFFERED BY MR. VAN HOLLEN OF MARYLAND**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Balanced Approach
3 to Deficit Reduction”.

4 SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—BUDGET PROCESS AMENDMENTS TO REPLACE FISCAL
YEAR 2013 SEQUESTRATION**

Sec. 101. Repeal and replace the 2013 sequester.

Sec. 102. Protecting veterans programs from sequester.

TITLE II—AGRICULTURAL SAVINGS

Sec. 201. One-year extension of agricultural commodity programs, except direct payment programs.

TITLE III—OIL AND GAS SUBSIDIES

Sec. 301. Limitation on section 199 deduction attributable to oil, natural gas, or primary products thereof.

Sec. 302. Prohibition on using last-in, first-out accounting for major integrated oil companies.

Sec. 303. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.

TITLE IV—THE BUFFETT RULE

Sec. 401. Fair share tax on high-income taxpayers.

TITLE V—SENSE OF THE HOUSE

Sec. 501. Sense of the House on the need for a fair, balanced and bipartisan approach to long-term deficit reduction.

1 **TITLE I—BUDGET PROCESS**
2 **AMENDMENTS TO REPLACE**
3 **FISCAL YEAR 2013 SEQUES-**
4 **TRATION**

5 **SEC. 101. REPEAL AND REPLACE THE 2013 SEQUESTER.**

6 (a) **ELIMINATION OF THE FISCAL YEAR 2013 SE-**
7 **QUESTRATION FOR DISCRETIONARY SPENDING.**—Section
8 251A(7)(A) of the Balanced Budget and Emergency Def-
9 icit Control Act of 1985 is repealed.

10 (b) **ELIMINATION OF THE FISCAL YEAR 2013 SE-**
11 **QUESTRATION FOR DIRECT SPENDING.**—Any sequestra-
12 tion order issued by the President under the Balanced
13 Budget and Emergency Deficit Control Act of 1985 to
14 carry out reductions to direct spending for fiscal year
15 2013 pursuant to section 251A of such Act shall have no
16 force or effect.

17 (c) **SAVINGS.**—The savings set forth by the enact-
18 ment of title II shall achieve the savings that would other-
19 wise have occurred as a result of the sequestration under
20 section 251A of the Balanced Budget and Emergency Def-
21 icit Control Act of 1985.

22 **SEC. 102. PROTECTING VETERANS PROGRAMS FROM SE-**
23 **QUESTER.**

24 Section 256(e)(2)(E) of the Balanced Budget and
25 Emergency Deficit Control Act of 1985 is repealed.

1 **TITLE II—AGRICULTURAL**
2 **SAVINGS**

3 **SEC. 201. ONE-YEAR EXTENSION OF AGRICULTURAL COM-**
4 **MODITY PROGRAMS, EXCEPT DIRECT PAY-**
5 **MENT PROGRAMS.**

6 (a) **EXTENSION.**—Except as provided in subsection
7 (b) and notwithstanding any other provision of law, the
8 authorities provided by each provision of title I of the
9 Food, Conservation, and Energy Act of 2008 (Public Law
10 110–246; 122 Stat. 1651) and each amendment made by
11 that title (and for mandatory programs at such funding
12 levels), as in effect on September 30, 2012, shall continue,
13 and the Secretary of Agriculture shall carry out the au-
14 thorities, until September 30, 2013.

15 (b) **TERMINATION OF DIRECT PAYMENT PRO-**
16 **GRAMS.**—

17 (1) **COVERED COMMODITIES.**—The extension
18 provided by subsection (a) shall not apply with re-
19 spect to the direct payment program under section
20 1103 of the Food, Conservation, and Energy Act of
21 2008 (7 U.S.C. 8713).

22 (2) **PEANUTS.**—The extension provided by sub-
23 section (a) shall not apply with respect to the direct
24 payment program under section 1303 of the Food,

1 Conservation, and Energy Act of 2008 (7 U.S.C.
2 7953).

3 (c) EFFECTIVE DATE.—This section shall take effect
4 on the earlier of—

5 (1) the date of the enactment of this Act; and

6 (2) September 30, 2012.

7 **TITLE III—OIL AND GAS**
8 **SUBSIDIES**

9 **SEC. 301. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**
10 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**
11 **PRODUCTS THEREOF.**

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

16 “(E) SPECIAL RULE FOR CERTAIN OIL
17 AND GAS INCOME.—In the case of any taxpayer
18 who is a major integrated oil company (as de-
19 fined in section 167(h)(5)(B)) for the taxable
20 year, the term ‘domestic production gross re-
21 ceipts’ shall not include gross receipts from the
22 production, transportation, or distribution of
23 oil, natural gas, or any primary product (within
24 the meaning of subsection (d)(9)) thereof.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 2012.

4 **SEC. 302. PROHIBITION ON USING LAST-IN, FIRST-OUT AC-**
5 **COUNTING FOR MAJOR INTEGRATED OIL**
6 **COMPANIES.**

7 (a) IN GENERAL.—Section 472 of the Internal Rev-
8 enue Code of 1986 is amended by adding at the end the
9 following new subsection:

10 “(h) MAJOR INTEGRATED OIL COMPANIES.—Not-
11 withstanding any other provision of this section, a major
12 integrated oil company (as defined in section
13 167(h)(5)(B)) may not use the method provided in sub-
14 section (b) in inventorying of any goods.”.

15 (b) EFFECTIVE DATE AND SPECIAL RULE.—

16 (1) IN GENERAL.—The amendment made by
17 subsection (a) shall apply to taxable years ending
18 after December 31, 2012.

19 (2) CHANGE IN METHOD OF ACCOUNTING.—In
20 the case of any taxpayer required by the amendment
21 made by this section to change its method of ac-
22 counting for its first taxable year ending after De-
23 cember 31, 2012—

24 (A) such change shall be treated as initi-
25 ated by the taxpayer,

1 (B) such change shall be treated as made
2 with the consent of the Secretary of the Treas-
3 ury, and

4 (C) the net amount of the adjustments re-
5 quired to be taken into account by the taxpayer
6 under section 481 of the Internal Revenue Code
7 of 1986 shall be taken into account ratably over
8 a period (not greater than 8 taxable years) be-
9 ginning with such first taxable year.

10 **SEC. 303. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

11 **APPLICABLE TO MAJOR INTEGRATED OIL**
12 **COMPANIES WHICH ARE DUAL CAPACITY**
13 **TAXPAYERS.**

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

18 “(n) SPECIAL RULES RELATING TO MAJOR INTE-
19 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
20 TAXPAYERS.—

21 “(1) GENERAL RULE.—Notwithstanding any
22 other provision of this chapter, any amount paid or
23 accrued by a dual capacity taxpayer which is a
24 major integrated oil company (as defined in section
25 167(h)(5)(B)) to a foreign country or possession of

1 the United States for any period shall not be consid-
2 ered a tax—

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

6 “(B) to the extent such amount exceeds
7 the amount (determined in accordance with reg-
8 ulations) which—

9 “(i) is paid by such dual capacity tax-
10 payer pursuant to the generally applicable
11 income tax imposed by the country or pos-
12 session, or

13 “(ii) would be paid if the generally ap-
14 plicable income tax imposed by the country
15 or possession were applicable to such dual
16 capacity taxpayer.

17 Nothing in this paragraph shall be construed to
18 imply the proper treatment of any such amount
19 not in excess of the amount determined under
20 subparagraph (B).

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

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

3 “(B) receives (or will receive) directly or
4 indirectly a specific economic benefit (as deter-
5 mined in accordance with regulations) from
6 such country or possession.

7 “(3) GENERALLY APPLICABLE INCOME TAX.—
8 For purposes of this subsection—

9 “(A) IN GENERAL.—The term ‘generally
10 applicable income tax’ means an income tax (or
11 a series of income taxes) which is generally im-
12 posed under the laws of a foreign country or
13 possession on income derived from the conduct
14 of a trade or business within such country or
15 possession.

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

19 “(i) persons who are not dual capacity
20 taxpayers, and

21 “(ii) persons who are citizens or resi-
22 dents of the foreign country or posses-
23 sion.”.

24 (b) EFFECTIVE DATE.—

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

5 (2) CONTRARY TREATY OBLIGATIONS
6 UPHELD.—The amendments made by this section
7 shall not apply to the extent contrary to any treaty
8 obligation of the United States.

9 **TITLE IV—THE BUFFETT RULE**

10 **SEC. 401. FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS.**

11 (a) IN GENERAL.—Subchapter A of chapter 1 of the
12 Internal Revenue Code of 1986 is amended by adding at
13 the end the following new part:

14 **“PART VII—FAIR SHARE TAX ON HIGH-INCOME** 15 **TAXPAYERS**

16 **“SEC. 59B. FAIR SHARE TAX.**

17 “(a) GENERAL RULE.—

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

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

24 “(B) a fraction (not to exceed 1)—

1 “(i) the numerator of which is the ex-
2 cess of—

3 “(I) the taxpayer’s adjusted
4 gross income, over

5 “(II) the dollar amount in effect
6 under subsection (c)(1), and

7 “(ii) the denominator of which is the
8 dollar amount in effect under subsection
9 (c)(1).

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

13 “(A) the tentative fair share tax for the
14 taxable year, over

15 “(B) the excess of—

16 “(i) the sum of—

17 “(I) the regular tax liability (as
18 defined in section 26(b)) for the tax-
19 able year,

20 “(II) the tax imposed by section
21 55 for the taxable year, plus

22 “(III) the payroll tax for the tax-
23 able year, over

1 “(ii) the credits allowable under part
2 IV of subchapter A (other than sections
3 27(a), 31, and 34).

4 “(b) TENTATIVE FAIR SHARE TAX.—For purposes
5 of this section—

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

8 “(A) the adjusted gross income of the tax-
9 payer, over

10 “(B) the modified charitable contribution
11 deduction for the taxable year.

12 “(2) MODIFIED CHARITABLE CONTRIBUTION
13 DEDUCTION.—For purposes of paragraph (1)—

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

20 “(i) the amount of itemized deduc-
21 tions allowable under the regular tax (as
22 defined in section 55) for such taxable
23 year, determined after the application of
24 section 68, bears to

1 “(ii) such amount, determined before
2 the application of section 68.

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

8 “(c) HIGH-INCOME TAXPAYER.—For purposes of this
9 section—

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

16 “(2) INFLATION ADJUSTMENT.—

17 “(A) IN GENERAL.—In the case of a tax-
18 able year beginning after 2013, the \$1,000,000
19 amount under paragraph (1) shall be increased
20 by an amount equal to—

21 “(i) such dollar amount, multiplied by

22 “(ii) the cost-of-living adjustment de-
23 termined under section 1(f)(3) for the cal-
24 endar year in which the taxable year be-
25 gins, determined by substituting ‘calendar

1 year 2012’ for ‘calendar year 1992’ in sub-
2 paragraph (B) thereof.

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

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

10 “(1) the taxes imposed on the taxpayer under
11 sections 1401, 1411, 3101, 3201, and 3211(a) (to
12 the extent such taxes are attributable to the rate of
13 tax in effect under section 3101) with respect to
14 such taxable year or wages or compensation received
15 during the taxable year, over

16 “(2) the deduction allowable under section
17 164(f) for such taxable year.

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

22 “(f) NOT TREATED AS TAX IMPOSED BY THIS CHAP-
23 TER FOR CERTAIN PURPOSES.—The tax imposed under
24 this section shall not be treated as tax imposed by this
25 chapter for purposes of determining the amount of any

1 credit under this chapter (other than the credit allowed
2 under section 27(a)) or for purposes of section 55.”.

3 (b) CONFORMING AMENDMENT.—Section 26(b)(2) of
4 such Code is amended by redesignating subparagraphs (C)
5 through (X) as subparagraphs (D) through (Y), respec-
6 tively, and by inserting after subparagraph (B) the fol-
7 lowing new subparagraph:

8 “(C) section 59B (relating to fair share
9 tax),”.

10 (c) CLERICAL AMENDMENT.—The table of parts for
11 subchapter A of chapter 1 of such Code is amended by
12 adding at the end the following new item:

“Part VII—Fair Share Tax on High-Income Taxpayers”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2012.

16 **TITLE V—SENSE OF THE HOUSE**

17 **SEC. 501. SENSE OF THE HOUSE ON THE NEED FOR A FAIR, 18 **BALANCED AND BIPARTISAN APPROACH TO 19 **LONG-TERM DEFICIT REDUCTION.******

20 (a) The House finds that—

21 (1) every bipartisan commission has rec-
22 ommended – and the majority of Americans agree –
23 that we should take a balanced, bipartisan approach
24 to reducing the deficit that addresses both revenue
25 and spending; and

1 (2) sequestration is a meat-ax approach to def-
2 icit reduction that imposes deep and mindless cuts,
3 regardless of their impact on vital services and in-
4 vestments.

5 (b) It is the sense of the House that the Congress
6 should replace the entire 10-year sequester established by
7 the Budget Control Act of 2011 with a balanced approach
8 that would increase revenues without increasing the tax
9 burden on middle-income Americans, and decrease long-
10 term spending while maintaining the Medicare guarantee,
11 protecting Social Security and a strong social safety net,
12 and making strategic investments in education, science,
13 research, and critical infrastructure necessary to compete
14 in the global economy.

