

***In the Senate of the United States,***

*October 1 (legislative day, September 17), 2008.*

*Resolved*, That the bill from the House of Representatives (H.R. 1424) entitled “An Act to amend section 712 of the Employee Retirement Income Security Act of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes.”, do pass with the following

**AMENDMENTS:**

Strike all after the enacting clause and insert the following:

1       ***DIVISION A—EMERGENCY***

2       ***ECONOMIC STABILIZATION***

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

4       (a) *SHORT TITLE.*—*This division may be cited as the*

5       *“Emergency Economic Stabilization Act of 2008”.*

1       **(b) TABLE OF CONTENTS.**—*The table of contents for*  
 2 *this division is as follows:*

*Sec. 1. Short title and table of contents.*

*Sec. 2. Purposes.*

*Sec. 3. Definitions.*

**TITLE I—TROUBLED ASSETS RELIEF PROGRAM**

*Sec. 101. Purchases of troubled assets.*

*Sec. 102. Insurance of troubled assets.*

*Sec. 103. Considerations.*

*Sec. 104. Financial Stability Oversight Board.*

*Sec. 105. Reports.*

*Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.*

*Sec. 107. Contracting procedures.*

*Sec. 108. Conflicts of interest.*

*Sec. 109. Foreclosure mitigation efforts.*

*Sec. 110. Assistance to homeowners.*

*Sec. 111. Executive compensation and corporate governance.*

*Sec. 112. Coordination with foreign authorities and central banks.*

*Sec. 113. Minimization of long-term costs and maximization of benefits for tax-payers.*

*Sec. 114. Market transparency.*

*Sec. 115. Graduated authorization to purchase.*

*Sec. 116. Oversight and audits.*

*Sec. 117. Study and report on margin authority.*

*Sec. 118. Funding.*

*Sec. 119. Judicial review and related matters.*

*Sec. 120. Termination of authority.*

*Sec. 121. Special Inspector General for the Troubled Asset Relief Program.*

*Sec. 122. Increase in statutory limit on the public debt.*

*Sec. 123. Credit reform.*

*Sec. 124. HOPE for Homeowners amendments.*

*Sec. 125. Congressional Oversight Panel.*

*Sec. 126. FDIC authority.*

*Sec. 127. Cooperation with the FBI.*

*Sec. 128. Acceleration of effective date.*

*Sec. 129. Disclosures on exercise of loan authority.*

*Sec. 130. Technical corrections.*

*Sec. 131. Exchange Stabilization Fund reimbursement.*

*Sec. 132. Authority to suspend mark-to-market accounting.*

*Sec. 133. Study on mark-to-market accounting.*

*Sec. 134. Recoupment.*

*Sec. 135. Preservation of authority.*

*Sec. 136. Temporary increase in deposit and share insurance coverage.*

**TITLE II—BUDGET-RELATED PROVISIONS**

*Sec. 201. Information for congressional support agencies.*

*Sec. 202. Reports by the Office of Management and Budget and the Congressional Budget Office.*

*Sec. 203. Analysis in President's Budget.*

*Sec. 204. Emergency treatment.*

## TITLE III—TAX PROVISIONS

*Sec. 301. Gain or loss from sale or exchange of certain preferred stock.*

*Sec. 302. Special rules for tax treatment of executive compensation of employers participating in the troubled assets relief program.*

*Sec. 303. Extension of exclusion of income from discharge of qualified principal residence indebtedness.*

1 **SEC. 2. PURPOSES.**

2 *The purposes of this Act are—*

3 *(1) to immediately provide authority and facili-*  
4 *ties that the Secretary of the Treasury can use to re-*  
5 *store liquidity and stability to the financial system of*  
6 *the United States; and*

7 *(2) to ensure that such authority and such facili-*  
8 *ties are used in a manner that—*

9 *(A) protects home values, college funds, re-*  
10 *tirement accounts, and life savings;*

11 *(B) preserves homeownership and promotes*  
12 *jobs and economic growth;*

13 *(C) maximizes overall returns to the tax-*  
14 *payers of the United States; and*

15 *(D) provides public accountability for the*  
16 *exercise of such authority.*

17 **SEC. 3. DEFINITIONS.**

18 *For purposes of this Act, the following definitions shall*  
19 *apply:*

20 *(1) APPROPRIATE COMMITTEES OF CONGRESS.—*

21 *The term “appropriate committees of Congress”*  
22 *means—*

1           (A) *the Committee on Banking, Housing,*  
2           *and Urban Affairs, the Committee on Finance,*  
3           *the Committee on the Budget, and the Committee*  
4           *on Appropriations of the Senate; and*

5           (B) *the Committee on Financial Services,*  
6           *the Committee on Ways and Means, the Com-*  
7           *mittee on the Budget, and the Committee on Ap-*  
8           *propriations of the House of Representatives.*

9           (2) *BOARD.—The term “Board” means the*  
10          *Board of Governors of the Federal Reserve System.*

11          (3) *CONGRESSIONAL SUPPORT AGENCIES.—The*  
12          *term “congressional support agencies” means the Con-*  
13          *gressional Budget Office and the Joint Committee on*  
14          *Taxation.*

15          (4) *CORPORATION.—The term “Corporation”*  
16          *means the Federal Deposit Insurance Corporation.*

17          (5) *FINANCIAL INSTITUTION.—The term “finan-*  
18          *cial institution” means any institution, including,*  
19          *but not limited to, any bank, savings association,*  
20          *credit union, security broker or dealer, or insurance*  
21          *company, established and regulated under the laws of*  
22          *the United States or any State, territory, or posses-*  
23          *sion of the United States, the District of Columbia,*  
24          *Commonwealth of Puerto Rico, Commonwealth of*  
25          *Northern Mariana Islands, Guam, American Samoa,*

1 *or the United States Virgin Islands, and having sig-*  
2 *nificant operations in the United States, but exclud-*  
3 *ing any central bank of, or institution owned by, a*  
4 *foreign government.*

5 (6) *FUND.*—*The term “Fund” means the Trou-*  
6 *bled Assets Insurance Financing Fund established*  
7 *under section 102.*

8 (7) *SECRETARY.*—*The term “Secretary” means*  
9 *the Secretary of the Treasury.*

10 (8) *TARP.*—*The term “TARP” means the Trou-*  
11 *bled Asset Relief Program established under section*  
12 *101.*

13 (9) *TROUBLED ASSETS.*—*The term “troubled as-*  
14 *sets” means—*

15 (A) *residential or commercial mortgages*  
16 *and any securities, obligations, or other instru-*  
17 *ments that are based on or related to such mort-*  
18 *gages, that in each case was originated or issued*  
19 *on or before March 14, 2008, the purchase of*  
20 *which the Secretary determines promotes finan-*  
21 *cial market stability; and*

22 (B) *any other financial instrument that the*  
23 *Secretary, after consultation with the Chairman*  
24 *of the Board of Governors of the Federal Reserve*  
25 *System, determines the purchase of which is nec-*

1           *essary to promote financial market stability, but*  
2           *only upon transmittal of such determination, in*  
3           *writing, to the appropriate committees of Con-*  
4           *gress.*

5           ***TITLE I—TROUBLED ASSETS***  
6           ***RELIEF PROGRAM***

7           ***SEC. 101. PURCHASES OF TROUBLED ASSETS.***

8           *(a) OFFICES; AUTHORITY.—*

9                 *(1) AUTHORITY.—The Secretary is authorized to*  
10           *establish the Troubled Asset Relief Program (or*  
11           *“TARP”) to purchase, and to make and fund com-*  
12           *mitments to purchase, troubled assets from any finan-*  
13           *cial institution, on such terms and conditions as are*  
14           *determined by the Secretary, and in accordance with*  
15           *this Act and the policies and procedures developed*  
16           *and published by the Secretary.*

17                 *(2) COMMENCEMENT OF PROGRAM.—Establish-*  
18           *ment of the policies and procedures and other similar*  
19           *administrative requirements imposed on the Secretary*  
20           *by this Act are not intended to delay the commence-*  
21           *ment of the TARP.*

22                 *(3) ESTABLISHMENT OF TREASURY OFFICE.—*

23                         *(A) IN GENERAL.—The Secretary shall im-*  
24           *plement any program under paragraph (1)*  
25           *through an Office of Financial Stability, estab-*

1            *lished for such purpose within the Office of Do-*  
2            *mestic Finance of the Department of the Treas-*  
3            *ury, which office shall be headed by an Assistant*  
4            *Secretary of the Treasury, appointed by the*  
5            *President, by and with the advice and consent of*  
6            *the Senate, except that an interim Assistant Sec-*  
7            *retary may be appointed by the Secretary.*

8            *(B) CLERICAL AMENDMENTS.—*

9            *(i) TITLE 5.—Section 5315 of title 5,*  
10           *United States Code, is amended in the item*  
11           *relating to Assistant Secretaries of the*  
12           *Treasury, by striking “(9)” and inserting*  
13           *“(10)”.*

14           *(ii) TITLE 31.—Section 301(e) of title*  
15           *31, United States Code, is amended by*  
16           *striking “9” and inserting “10”.*

17           *(b) CONSULTATION.—In exercising the authority under*  
18           *this section, the Secretary shall consult with the Board, the*  
19           *Corporation, the Comptroller of the Currency, the Director*  
20           *of the Office of Thrift Supervision, the Chairman of the Na-*  
21           *tional Credit Union Administration Board, and the Sec-*  
22           *retary of Housing and Urban Development.*

23           *(c) NECESSARY ACTIONS.—The Secretary is author-*  
24           *ized to take such actions as the Secretary deems necessary*

1 *to carry out the authorities in this Act, including, without*  
2 *limitation, the following:*

3           (1) *The Secretary shall have direct hiring au-*  
4 *thority with respect to the appointment of employees*  
5 *to administer this Act.*

6           (2) *Entering into contracts, including contracts*  
7 *for services authorized by section 3109 of title 5,*  
8 *United States Code.*

9           (3) *Designating financial institutions as finan-*  
10 *cial agents of the Federal Government, and such in-*  
11 *stitutions shall perform all such reasonable duties re-*  
12 *lated to this Act as financial agents of the Federal*  
13 *Government as may be required.*

14           (4) *In order to provide the Secretary with the*  
15 *flexibility to manage troubled assets in a manner de-*  
16 *signed to minimize cost to the taxpayers, establishing*  
17 *vehicles that are authorized, subject to supervision by*  
18 *the Secretary, to purchase, hold, and sell troubled as-*  
19 *sets and issue obligations.*

20           (5) *Issuing such regulations and other guidance*  
21 *as may be necessary or appropriate to define terms*  
22 *or carry out the authorities or purposes of this Act.*

23           (d) *PROGRAM GUIDELINES.*—*Before the earlier of the*  
24 *end of the 2-business-day period beginning on the date of*  
25 *the first purchase of troubled assets pursuant to the author-*



1 *ity under this section or the end of the 45-day period begin-*  
2 *ning on the date of enactment of this Act, the Secretary*  
3 *shall publish program guidelines, including the following:*

4           (1) *Mechanisms for purchasing troubled assets.*

5           (2) *Methods for pricing and valuing troubled as-*  
6 *sets.*

7           (3) *Procedures for selecting asset managers.*

8           (4) *Criteria for identifying troubled assets for*  
9 *purchase.*

10       (e) *PREVENTING UNJUST ENRICHMENT.—In making*  
11 *purchases under the authority of this Act, the Secretary*  
12 *shall take such steps as may be necessary to prevent unjust*  
13 *enrichment of financial institutions participating in a pro-*  
14 *gram established under this section, including by pre-*  
15 *venting the sale of a troubled asset to the Secretary at a*  
16 *higher price than what the seller paid to purchase the asset.*  
17 *This subsection does not apply to troubled assets acquired*  
18 *in a merger or acquisition, or a purchase of assets from*  
19 *a financial institution in conservatorship or receivership,*  
20 *or that has initiated bankruptcy proceedings under title 11,*  
21 *United States Code.*

22 **SEC. 102. INSURANCE OF TROUBLED ASSETS.**

23       (a) *AUTHORITY.—*

24           (1) *IN GENERAL.—If the Secretary establishes the*  
25 *program authorized under section 101, then the Sec-*

1     *retary shall establish a program to guarantee troubled*  
2     *assets originated or issued prior to March 14, 2008,*  
3     *including mortgage-backed securities.*

4             (2) *GUARANTEES.—In establishing any program*  
5     *under this subsection, the Secretary may develop*  
6     *guarantees of troubled assets and the associated pre-*  
7     *miums for such guarantees. Such guarantees and pre-*  
8     *miums may be determined by category or class of the*  
9     *troubled assets to be guaranteed.*

10            (3) *EXTENT OF GUARANTEE.—Upon request of a*  
11     *financial institution, the Secretary may guarantee*  
12     *the timely payment of principal of, and interest on,*  
13     *troubled assets in amounts not to exceed 100 percent*  
14     *of such payments. Such guarantee may be on such*  
15     *terms and conditions as are determined by the Sec-*  
16     *retary, provided that such terms and conditions are*  
17     *consistent with the purposes of this Act.*

18            (b) *REPORTS.—Not later than 90 days after the date*  
19     *of enactment of this Act, the Secretary shall report to the*  
20     *appropriate committees of Congress on the program estab-*  
21     *lished under subsection (a).*

22            (c) *PREMIUMS.—*

23            (1) *IN GENERAL.—The Secretary shall collect*  
24     *premiums from any financial institution partici-*  
25     *pating in the program established under subsection*

1     (a). *Such premiums shall be in an amount that the*  
2     *Secretary determines necessary to meet the purposes*  
3     *of this Act and to provide sufficient reserves pursuant*  
4     *to paragraph (3).*

5           (2) *AUTHORITY TO BASE PREMIUMS ON PRODUCT*  
6     *RISK.—In establishing any premium under para-*  
7     *graph (1), the Secretary may provide for variations*  
8     *in such rates according to the credit risk associated*  
9     *with the particular troubled asset that is being guar-*  
10    *anteed. The Secretary shall publish the methodology*  
11    *for setting the premium for a class of troubled assets*  
12    *together with an explanation of the appropriateness of*  
13    *the class of assets for participation in the program es-*  
14    *tablished under this section. The methodology shall*  
15    *ensure that the premium is consistent with paragraph*  
16    *(3).*

17           (3) *MINIMUM LEVEL.—The premiums referred to*  
18    *in paragraph (1) shall be set by the Secretary at a*  
19    *level necessary to create reserves sufficient to meet an-*  
20    *ticipated claims, based on an actuarial analysis, and*  
21    *to ensure that taxpayers are fully protected.*

22           (4) *ADJUSTMENT TO PURCHASE AUTHORITY.—*  
23    *The purchase authority limit in section 115 shall be*  
24    *reduced by an amount equal to the difference between*  
25    *the total of the outstanding guaranteed obligations*

1       *and the balance in the Troubled Assets Insurance Fi-*  
2       *nancing Fund.*

3       (d) *TROUBLED ASSETS INSURANCE FINANCING*  
4       *FUND.—*

5               (1) *DEPOSITS.—The Secretary shall deposit fees*  
6       *collected under this section into the Fund established*  
7       *under paragraph (2).*

8               (2) *ESTABLISHMENT.—There is established a*  
9       *Troubled Assets Insurance Financing Fund that shall*  
10       *consist of the amounts collected pursuant to para-*  
11       *graph (1), and any balance in such fund shall be in-*  
12       *vested by the Secretary in United States Treasury se-*  
13       *curities, or kept in cash on hand or on deposit, as*  
14       *necessary.*

15              (3) *PAYMENTS FROM FUND.—The Secretary shall*  
16       *make payments from amounts deposited in the Fund*  
17       *to fulfill obligations of the guarantees provided to fi-*  
18       *nancial institutions under subsection (a).*

19       **SEC. 103. CONSIDERATIONS.**

20       *In exercising the authorities granted in this Act, the*  
21       *Secretary shall take into consideration—*

22              (1) *protecting the interests of taxpayers by maxi-*  
23       *mizing overall returns and minimizing the impact on*  
24       *the national debt;*

1           (2) *providing stability and preventing disruption*  
2           *to financial markets in order to limit the impact*  
3           *on the economy and protect American jobs, savings,*  
4           *and retirement security;*

5           (3) *the need to help families keep their homes*  
6           *and to stabilize communities;*

7           (4) *in determining whether to engage in a direct*  
8           *purchase from an individual financial institution, the*  
9           *long-term viability of the financial institution in de-*  
10          *termining whether the purchase represents the most*  
11          *efficient use of funds under this Act;*

12          (5) *ensuring that all financial institutions are*  
13          *eligible to participate in the program, without dis-*  
14          *crimination based on size, geography, form of organi-*  
15          *zation, or the size, type, and number of assets eligible*  
16          *for purchase under this Act;*

17          (6) *providing financial assistance to financial*  
18          *institutions, including those serving low- and mod-*  
19          *erate-income populations and other underserved com-*  
20          *munities, and that have assets less than*  
21          *\$1,000,000,000, that were well or adequately capital-*  
22          *ized as of June 30, 2008, and that as a result of the*  
23          *devaluation of the preferred government-sponsored en-*  
24          *terprises stock will drop one or more capital levels, in*

1 *a manner sufficient to restore the financial institu-*  
2 *tions to at least an adequately capitalized level;*

3 *(7) the need to ensure stability for United States*  
4 *public instrumentalities, such as counties and cities,*  
5 *that may have suffered significant increased costs or*  
6 *losses in the current market turmoil;*

7 *(8) protecting the retirement security of Ameri-*  
8 *cans by purchasing troubled assets held by or on be-*  
9 *half of an eligible retirement plan described in clause*  
10 *(iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the*  
11 *Internal Revenue Code of 1986, except that such au-*  
12 *thority shall not extend to any compensation arrange-*  
13 *ments subject to section 409A of such Code; and*

14 *(9) the utility of purchasing other real estate*  
15 *owned and instruments backed by mortgages on mul-*  
16 *tifamily properties.*

17 **SEC. 104. FINANCIAL STABILITY OVERSIGHT BOARD.**

18 *(a) ESTABLISHMENT.—There is established the Finan-*  
19 *cial Stability Oversight Board, which shall be responsible*  
20 *for—*

21 *(1) reviewing the exercise of authority under a*  
22 *program developed in accordance with this Act, in-*  
23 *cluding—*

24 *(A) policies implemented by the Secretary*  
25 *and the Office of Financial Stability created*

1           *under sections 101 and 102, including the ap-*  
2           *pointment of financial agents, the designation of*  
3           *asset classes to be purchased, and plans for the*  
4           *structure of vehicles used to purchase troubled as-*  
5           *sets; and*

6                     *(B) the effect of such actions in assisting*  
7           *American families in preserving home owner-*  
8           *ship, stabilizing financial markets, and pro-*  
9           *tecting taxpayers;*

10           *(2) making recommendations, as appropriate, to*  
11           *the Secretary regarding use of the authority under*  
12           *this Act; and*

13                     *(3) reporting any suspected fraud, misrepresen-*  
14           *tation, or malfeasance to the Special Inspector Gen-*  
15           *eral for the Troubled Assets Relief Program or the At-*  
16           *torney General of the United States, consistent with*  
17           *section 535(b) of title 28, United States Code.*

18           *(b) MEMBERSHIP.—The Financial Stability Oversight*  
19           *Board shall be comprised of—*

20                     *(1) the Chairman of the Board of Governors of*  
21           *the Federal Reserve System;*

22                     *(2) the Secretary;*

23                     *(3) the Director of the Federal Housing Finance*  
24           *Agency;*

1           (4) *the Chairman of the Securities Exchange*  
2           *Commission; and*

3           (5) *the Secretary of Housing and Urban Devel-*  
4           *opment.*

5           (c) *CHAIRPERSON.*—*The chairperson of the Financial*  
6           *Stability Oversight Board shall be elected by the members*  
7           *of the Board from among the members other than the Sec-*  
8           *retary.*

9           (d) *MEETINGS.*—*The Financial Stability Oversight*  
10          *Board shall meet 2 weeks after the first exercise of the pur-*  
11          *chase authority of the Secretary under this Act, and month-*  
12          *ly thereafter.*

13          (e) *ADDITIONAL AUTHORITIES.*—*In addition to the re-*  
14          *sponsibilities described in subsection (a), the Financial Sta-*  
15          *bility Oversight Board shall have the authority to ensure*  
16          *that the policies implemented by the Secretary are—*

17                 (1) *in accordance with the purposes of this Act;*

18                 (2) *in the economic interests of the United*  
19                 *States; and*

20                 (3) *consistent with protecting taxpayers, in ac-*  
21                 *cordance with section 113(a).*

22          (f) *CREDIT REVIEW COMMITTEE.*—*The Financial Sta-*  
23          *bility Oversight Board may appoint a credit review com-*  
24          *mittee for the purpose of evaluating the exercise of the pur-*  
25          *chase authority provided under this Act and the assets ac-*



1 *quired through the exercise of such authority, as the Finan-*  
2 *cial Stability Oversight Board determines appropriate.*

3 (g) *REPORTS.*—*The Financial Stability Oversight*  
4 *Board shall report to the appropriate committees of Con-*  
5 *gress and the Congressional Oversight Panel established*  
6 *under section 125, not less frequently than quarterly, on*  
7 *the matters described under subsection (a)(1).*

8 (h) *TERMINATION.*—*The Financial Stability Oversight*  
9 *Board, and its authority under this section, shall terminate*  
10 *on the expiration of the 15-day period beginning upon the*  
11 *later of—*

12 (1) *the date that the last troubled asset acquired*  
13 *by the Secretary under section 101 has been sold or*  
14 *transferred out of the ownership or control of the Fed-*  
15 *eral Government; or*

16 (2) *the date of expiration of the last insurance*  
17 *contract issued under section 102.*

18 **SEC. 105. REPORTS.**

19 (a) *IN GENERAL.*—*Before the expiration of the 60-day*  
20 *period beginning on the date of the first exercise of the au-*  
21 *thority granted in section 101(a), or of the first exercise*  
22 *of the authority granted in section 102, whichever occurs*  
23 *first, and every 30-day period thereafter, the Secretary shall*  
24 *report to the appropriate committees of Congress, with re-*  
25 *spect to each such period—*

1           (1) *an overview of actions taken by the Sec-*  
2 *retary, including the considerations required by sec-*  
3 *tion 103 and the efforts under section 109;*

4           (2) *the actual obligation and expenditure of the*  
5 *funds provided for administrative expenses by section*  
6 *118 during such period and the expected expenditure*  
7 *of such funds in the subsequent period; and*

8           (3) *a detailed financial statement with respect to*  
9 *the exercise of authority under this Act, including—*

10                   (A) *all agreements made or renewed;*

11                   (B) *all insurance contracts entered into*  
12 *pursuant to section 102;*

13                   (C) *all transactions occurring during such*  
14 *period, including the types of parties involved;*

15                   (D) *the nature of the assets purchased;*

16                   (E) *all projected costs and liabilities;*

17                   (F) *operating expenses, including com-*  
18 *penetration for financial agents;*

19                   (G) *the valuation or pricing method used*  
20 *for each transaction; and*

21                   (H) *a description of the vehicles established*  
22 *to exercise such authority.*

23 (b) *TRANCHE REPORTS TO CONGRESS.—*

24           (1) *REPORTS.—The Secretary shall provide to*  
25 *the appropriate committees of Congress, at the times*

1 *specified in paragraph (2), a written report, includ-*  
2 *ing—*

3 *(A) a description of all of the transactions*  
4 *made during the reporting period;*

5 *(B) a description of the pricing mechanism*  
6 *for the transactions;*

7 *(C) a justification of the price paid for and*  
8 *other financial terms associated with the trans-*  
9 *actions;*

10 *(D) a description of the impact of the exer-*  
11 *cise of such authority on the financial system,*  
12 *supported, to the extent possible, by specific data;*

13 *(E) a description of challenges that remain*  
14 *in the financial system, including any bench-*  
15 *marks yet to be achieved; and*

16 *(F) an estimate of additional actions under*  
17 *the authority provided under this Act that may*  
18 *be necessary to address such challenges.*

19 *(2) TIMING.—The report required by this sub-*  
20 *section shall be submitted not later than 7 days after*  
21 *the date on which commitments to purchase troubled*  
22 *assets under the authorities provided in this Act first*  
23 *reach an aggregate of \$50,000,000,000 and not later*  
24 *than 7 days after each \$50,000,000,000 interval of*  
25 *such commitments is reached thereafter.*

1       (c) *REGULATORY MODERNIZATION REPORT.*—*The Sec-*  
2 *retary shall review the current state of the financial markets*  
3 *and the regulatory system and submit a written report to*  
4 *the appropriate committees of Congress not later than April*  
5 *30, 2009, analyzing the current state of the regulatory sys-*  
6 *tem and its effectiveness at overseeing the participants in*  
7 *the financial markets, including the over-the-counter swaps*  
8 *market and government-sponsored enterprises, and pro-*  
9 *viding recommendations for improvement, including—*

10           (1) *recommendations regarding—*

11                   (A) *whether any participants in the finan-*  
12 *cial markets that are currently outside the regu-*  
13 *latory system should become subject to the regu-*  
14 *latory system; and*

15                   (B) *enhancement of the clearing and settle-*  
16 *ment of over-the-counter swaps; and*

17           (2) *the rationale underlying such recommenda-*  
18 *tions.*

19       (d) *SHARING OF INFORMATION.*—*Any report required*  
20 *under this section shall also be submitted to the Congres-*  
21 *sional Oversight Panel established under section 125.*

22       (e) *SUNSET.*—*The reporting requirements under this*  
23 *section shall terminate on the later of—*

24           (1) *the date that the last troubled asset acquired*  
25 *by the Secretary under section 101 has been sold or*

1       *transferred out of the ownership or control of the Fed-*  
2       *eral Government; or*

3               (2) *the date of expiration of the last insurance*  
4       *contract issued under section 102.*

5       **SEC. 106. RIGHTS; MANAGEMENT; SALE OF TROUBLED AS-**  
6               **SETS; REVENUES AND SALE PROCEEDS.**

7       (a) *EXERCISE OF RIGHTS.*—*The Secretary may, at*  
8       *any time, exercise any rights received in connection with*  
9       *troubled assets purchased under this Act.*

10       (b) *MANAGEMENT OF TROUBLED ASSETS.*—*The Sec-*  
11       *retary shall have authority to manage troubled assets pur-*  
12       *chased under this Act, including revenues and portfolio*  
13       *risks therefrom.*

14       (c) *SALE OF TROUBLED ASSETS.*—*The Secretary may,*  
15       *at any time, upon terms and conditions and at a price de-*  
16       *termined by the Secretary, sell, or enter into securities*  
17       *loans, repurchase transactions, or other financial trans-*  
18       *actions in regard to, any troubled asset purchased under*  
19       *this Act.*

20       (d) *TRANSFER TO TREASURY.*—*Revenues of, and pro-*  
21       *ceeds from the sale of troubled assets purchased under this*  
22       *Act, or from the sale, exercise, or surrender of warrants or*  
23       *senior debt instruments acquired under section 113 shall*  
24       *be paid into the general fund of the Treasury for reduction*  
25       *of the public debt.*

1       (e) *APPLICATION OF SUNSET TO TROUBLED AS-*  
2 *SETS.—The authority of the Secretary to hold any troubled*  
3 *asset purchased under this Act before the termination date*  
4 *in section 120, or to purchase or fund the purchase of a*  
5 *troubled asset under a commitment entered into before the*  
6 *termination date in section 120, is not subject to the provi-*  
7 *sions of section 120.*

8 **SEC. 107. CONTRACTING PROCEDURES.**

9       (a) *STREAMLINED PROCESS.—For purposes of this*  
10 *Act, the Secretary may waive specific provisions of the Fed-*  
11 *eral Acquisition Regulation upon a determination that ur-*  
12 *gent and compelling circumstances make compliance with*  
13 *such provisions contrary to the public interest. Any such*  
14 *determination, and the justification for such determination,*  
15 *shall be submitted to the Committees on Oversight and Gov-*  
16 *ernment Reform and Financial Services of the House of*  
17 *Representatives and the Committees on Homeland Security*  
18 *and Governmental Affairs and Banking, Housing, and*  
19 *Urban Affairs of the Senate within 7 days.*

20       (b) *ADDITIONAL CONTRACTING REQUIREMENTS.—In*  
21 *any solicitation or contract where the Secretary has, pursu-*  
22 *ant to subsection (a), waived any provision of the Federal*  
23 *Acquisition Regulation pertaining to minority contracting,*  
24 *the Secretary shall develop and implement standards and*  
25 *procedures to ensure, to the maximum extent practicable,*

1 *the inclusion and utilization of minorities (as such term*  
2 *is defined in section 1204(c) of the Financial Institutions*  
3 *Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C.*  
4 *1811 note)) and women, and minority- and women-owned*  
5 *businesses (as such terms are defined in section 21A(r)(4)*  
6 *of the Federal Home Loan Bank Act (12 U.S.C.*  
7 *1441a(r)(4)), in that solicitation or contract, including con-*  
8 *tracts to asset managers, servicers, property managers, and*  
9 *other service providers or expert consultants.*

10 (c) *ELIGIBILITY OF FDIC.*—*Notwithstanding sub-*  
11 *sections (a) and (b), the Corporation—*

12 (1) *shall be eligible for, and shall be considered*  
13 *in, the selection of asset managers for residential*  
14 *mortgage loans and residential mortgage-backed secu-*  
15 *rities; and*

16 (2) *shall be reimbursed by the Secretary for any*  
17 *services provided.*

18 **SEC. 108. CONFLICTS OF INTEREST.**

19 (a) *STANDARDS REQUIRED.*—*The Secretary shall issue*  
20 *regulations or guidelines necessary to address and manage*  
21 *or to prohibit conflicts of interest that may arise in connec-*  
22 *tion with the administration and execution of the authori-*  
23 *ties provided under this Act, including—*

24 (1) *conflicts arising in the selection or hiring of*  
25 *contractors or advisors, including asset managers;*

1           (2) *the purchase of troubled assets;*  
2           (3) *the management of the troubled assets held;*  
3           (4) *post-employment restrictions on employees;*  
4       *and*  
5           (5) *any other potential conflict of interest, as the*  
6       *Secretary deems necessary or appropriate in the pub-*  
7       *lic interest.*

8       (b) *TIMING.*—*Regulations or guidelines required by*  
9       *this section shall be issued as soon as practicable after the*  
10       *date of enactment of this Act.*

11       **SEC. 109. FORECLOSURE MITIGATION EFFORTS.**

12       (a) *RESIDENTIAL MORTGAGE LOAN SERVICING*  
13       *STANDARDS.*—*To the extent that the Secretary acquires*  
14       *mortgages, mortgage backed securities, and other assets se-*  
15       *cured by residential real estate, including multifamily*  
16       *housing, the Secretary shall implement a plan that seeks*  
17       *to maximize assistance for homeowners and use the author-*  
18       *ity of the Secretary to encourage the servicers of the under-*  
19       *lying mortgages, considering net present value to the tax-*  
20       *payer, to take advantage of the HOPE for Homeowners*  
21       *Program under section 257 of the National Housing Act*  
22       *or other available programs to minimize foreclosures. In ad-*  
23       *dition, the Secretary may use loan guarantees and credit*  
24       *enhancements to facilitate loan modifications to prevent*  
25       *avoidable foreclosures.*



1       **(b) COORDINATION.**—*The Secretary shall coordinate*  
2 *with the Corporation, the Board (with respect to any mort-*  
3 *gage or mortgage-backed securities or pool of securities held,*  
4 *owned, or controlled by or on behalf of a Federal reserve*  
5 *bank, as provided in section 110(a)(1)(C)), the Federal*  
6 *Housing Finance Agency, the Secretary of Housing and*  
7 *Urban Development, and other Federal Government entities*  
8 *that hold troubled assets to attempt to identify opportuni-*  
9 *ties for the acquisition of classes of troubled assets that will*  
10 *improve the ability of the Secretary to improve the loan*  
11 *modification and restructuring process and, where permis-*  
12 *sible, to permit bona fide tenants who are current on their*  
13 *rent to remain in their homes under the terms of the lease.*  
14 *In the case of a mortgage on a residential rental property,*  
15 *the plan required under this section shall include protecting*  
16 *Federal, State, and local rental subsidies and protections,*  
17 *and ensuring any modification takes into account the need*  
18 *for operating funds to maintain decent and safe conditions*  
19 *at the property.*

20       **(c) CONSENT TO REASONABLE LOAN MODIFICATION**  
21 **REQUESTS.**—*Upon any request arising under existing in-*  
22 *vestment contracts, the Secretary shall consent, where ap-*  
23 *propriate, and considering net present value to the tax-*  
24 *payer, to reasonable requests for loss mitigation measures,*  
25 *including term extensions, rate reductions, principal write*

1 *downs, increases in the proportion of loans within a trust*  
2 *or other structure allowed to be modified, or removal of*  
3 *other limitation on modifications.*

4 **SEC. 110. ASSISTANCE TO HOMEOWNERS.**

5 (a) *DEFINITIONS.—As used in this section—*

6 (1) *the term “Federal property manager”*  
7 *means—*

8 (A) *the Federal Housing Finance Agency,*  
9 *in its capacity as conservator of the Federal Na-*  
10 *tional Mortgage Association and the Federal*  
11 *Home Loan Mortgage Corporation;*

12 (B) *the Corporation, with respect to resi-*  
13 *dential mortgage loans and mortgage-backed se-*  
14 *curities held by any bridge depository institution*  
15 *pursuant to section 11(n) of the Federal Deposit*  
16 *Insurance Act; and*

17 (C) *the Board, with respect to any mortgage*  
18 *or mortgage-backed securities or pool of securities*  
19 *held, owned, or controlled by or on behalf of a*  
20 *Federal reserve bank, other than mortgages or se-*  
21 *curities held, owned, or controlled in connection*  
22 *with open market operations under section 14 of*  
23 *the Federal Reserve Act (12 U.S.C. 353), or as*  
24 *collateral for an advance or discount that is not*  
25 *in default;*

1           (2) *the term “consumer” has the same meaning*  
2 *as in section 103 of the Truth in Lending Act (15*  
3 *U.S.C. 1602);*

4           (3) *the term “insured depository institution” has*  
5 *the same meaning as in section 3 of the Federal De-*  
6 *posit Insurance Act (12 U.S.C. 1813); and*

7           (4) *the term “servicer” has the same meaning as*  
8 *in section 6(i)(2) of the Real Estate Settlement Proce-*  
9 *dures Act of 1974 (12 U.S.C. 2605(i)(2)).*

10       (b) *HOMEOWNER ASSISTANCE BY AGENCIES.—*

11           (1) *IN GENERAL.—To the extent that the Federal*  
12 *property manager holds, owns, or controls mortgages,*  
13 *mortgage backed securities, and other assets secured*  
14 *by residential real estate, including multifamily hous-*  
15 *ing, the Federal property manager shall implement a*  
16 *plan that seeks to maximize assistance for home-*  
17 *owners and use its authority to encourage the*  
18 *servicers of the underlying mortgages, and considering*  
19 *net present value to the taxpayer, to take advantage*  
20 *of the HOPE for Homeowners Program under section*  
21 *257 of the National Housing Act or other available*  
22 *programs to minimize foreclosures.*

23           (2) *MODIFICATIONS.—In the case of a residential*  
24 *mortgage loan, modifications made under paragraph*  
25 *(1) may include—*

- 1           (A) *reduction in interest rates;*  
2           (B) *reduction of loan principal; and*  
3           (C) *other similar modifications.*

4           (3) *TENANT PROTECTIONS.—In the case of mort-*  
5 *gages on residential rental properties, modifications*  
6 *made under paragraph (1) shall ensure—*

7           (A) *the continuation of any existing Fed-*  
8 *eral, State, and local rental subsidies and protec-*  
9 *tions; and*

10          (B) *that modifications take into account the*  
11 *need for operating funds to maintain decent and*  
12 *safe conditions at the property.*

13          (4) *TIMING.—Each Federal property manager*  
14 *shall develop and begin implementation of the plan*  
15 *required by this subsection not later than 60 days*  
16 *after the date of enactment of this Act.*

17          (5) *REPORTS TO CONGRESS.—Each Federal*  
18 *property manager shall, 60 days after the date of en-*  
19 *actment of this Act and every 30 days thereafter, re-*  
20 *port to Congress specific information on the number*  
21 *and types of loan modifications made and the number*  
22 *of actual foreclosures occurring during the reporting*  
23 *period in accordance with this section.*

24          (6) *CONSULTATION.—In developing the plan re-*  
25 *quired by this subsection, the Federal property man-*



1       **(b) DIRECT PURCHASES.**—

2               **(1) IN GENERAL.**—Where the Secretary deter-  
3       mines that the purposes of this Act are best met  
4       through direct purchases of troubled assets from an  
5       individual financial institution where no bidding  
6       process or market prices are available, and the Sec-  
7       retary receives a meaningful equity or debt position  
8       in the financial institution as a result of the trans-  
9       action, the Secretary shall require that the financial  
10      institution meet appropriate standards for executive  
11      compensation and corporate governance. The stand-  
12      ards required under this subsection shall be effective  
13      for the duration of the period that the Secretary holds  
14      an equity or debt position in the financial institu-  
15      tion.

16              **(2) CRITERIA.**—The standards required under  
17      this subsection shall include—

18                      **(A)** limits on compensation that exclude in-  
19                      centives for senior executive officers of a finan-  
20                      cial institution to take unnecessary and excessive  
21                      risks that threaten the value of the financial in-  
22                      stitution during the period that the Secretary  
23                      holds an equity or debt position in the financial  
24                      institution;

1           (B) a provision for the recovery by the fi-  
2           nancial institution of any bonus or incentive  
3           compensation paid to a senior executive officer  
4           based on statements of earnings, gains, or other  
5           criteria that are later proven to be materially in-  
6           accurate; and

7           (C) a prohibition on the financial institu-  
8           tion making any golden parachute payment to  
9           its senior executive officer during the period that  
10          the Secretary holds an equity or debt position in  
11          the financial institution.

12          (3) *DEFINITION.*—For purposes of this section,  
13          the term “senior executive officer” means an indi-  
14          vidual who is one of the top 5 highly paid executives  
15          of a public company, whose compensation is required  
16          to be disclosed pursuant to the Securities Exchange  
17          Act of 1934, and any regulations issued thereunder,  
18          and non-public company counterparts.

19          (c) *AUCTION PURCHASES.*—Where the Secretary deter-  
20          mines that the purposes of this Act are best met through  
21          auction purchases of troubled assets, and only where such  
22          purchases per financial institution in the aggregate exceed  
23          \$300,000,000 (including direct purchases), the Secretary  
24          shall prohibit, for such financial institution, any new em-  
25          ployment contract with a senior executive officer that pro-

1 *vides a golden parachute in the event of an involuntary*  
2 *termination, bankruptcy filing, insolvency, or receivership.*  
3 *The Secretary shall issue guidance to carry out this para-*  
4 *graph not later than 2 months after the date of enactment*  
5 *of this Act, and such guidance shall be effective upon*  
6 *issuance.*

7 (d) *SUNSET.—The provisions of subsection (c) shall*  
8 *apply only to arrangements entered into during the period*  
9 *during which the authorities under section 101(a) are in*  
10 *effect, as determined under section 120.*

11 **SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES**  
12 **AND CENTRAL BANKS.**

13 *The Secretary shall coordinate, as appropriate, with*  
14 *foreign financial authorities and central banks to work to-*  
15 *ward the establishment of similar programs by such au-*  
16 *thorities and central banks. To the extent that such foreign*  
17 *financial authorities or banks hold troubled assets as a re-*  
18 *sult of extending financing to financial institutions that*  
19 *have failed or defaulted on such financing, such troubled*  
20 *assets qualify for purchase under section 101.*

21 **SEC. 113. MINIMIZATION OF LONG-TERM COSTS AND MAXI-**  
22 **MIZATION OF BENEFITS FOR TAXPAYERS.**

23 (a) *LONG-TERM COSTS AND BENEFITS.—*

24 (1) *MINIMIZING NEGATIVE IMPACT.—The Sec-*  
25 *retary shall use the authority under this Act in a*



1 *manner that will minimize any potential long-term*  
2 *negative impact on the taxpayer, taking into account*  
3 *the direct outlays, potential long-term returns on as-*  
4 *sets purchased, and the overall economic benefits of*  
5 *the program, including economic benefits due to im-*  
6 *provements in economic activity and the availability*  
7 *of credit, the impact on the savings and pensions of*  
8 *individuals, and reductions in losses to the Federal*  
9 *Government.*

10 (2) *AUTHORITY.*—*In carrying out paragraph*  
11 *(1), the Secretary shall—*

12 (A) *hold the assets to maturity or for resale*  
13 *for and until such time as the Secretary deter-*  
14 *mines that the market is optimal for selling such*  
15 *assets, in order to maximize the value for tax-*  
16 *payers; and*

17 (B) *sell such assets at a price that the Sec-*  
18 *retary determines, based on available financial*  
19 *analysis, will maximize return on investment for*  
20 *the Federal Government.*

21 (3) *PRIVATE SECTOR PARTICIPATION.*—*The Sec-*  
22 *retary shall encourage the private sector to partici-*  
23 *pate in purchases of troubled assets, and to invest in*  
24 *financial institutions, consistent with the provisions*  
25 *of this section.*

1       **(b) USE OF MARKET MECHANISMS.**—*In making pur-*  
2 *chases under this Act, the Secretary shall—*

3           (1) *make such purchases at the lowest price that*  
4 *the Secretary determines to be consistent with the*  
5 *purposes of this Act; and*

6           (2) *maximize the efficiency of the use of taxpayer*  
7 *resources by using market mechanisms, including*  
8 *auctions or reverse auctions, where appropriate.*

9       **(c) DIRECT PURCHASES.**—*If the Secretary determines*  
10 *that use of a market mechanism under subsection (b) is not*  
11 *feasible or appropriate, and the purposes of the Act are best*  
12 *met through direct purchases from an individual financial*  
13 *institution, the Secretary shall pursue additional measures*  
14 *to ensure that prices paid for assets are reasonable and re-*  
15 *flect the underlying value of the asset.*

16       **(d) CONDITIONS ON PURCHASE AUTHORITY FOR WAR-**  
17 **RANTS AND DEBT INSTRUMENTS.**—

18           (1) **IN GENERAL.**—*The Secretary may not pur-*  
19 *chase, or make any commitment to purchase, any*  
20 *troubled asset under the authority of this Act, unless*  
21 *the Secretary receives from the financial institution*  
22 *from which such assets are to be purchased—*

23           (A) *in the case of a financial institution,*  
24 *the securities of which are traded on a national*  
25 *securities exchange, a warrant giving the right to*

1           *the Secretary to receive nonvoting common stock*  
2           *or preferred stock in such financial institution,*  
3           *or voting stock with respect to which, the Sec-*  
4           *retary agrees not to exercise voting power, as the*  
5           *Secretary determines appropriate; or*

6           *(B) in the case of any financial institution*  
7           *other than one described in subparagraph (A), a*  
8           *warrant for common or preferred stock, or a sen-*  
9           *ior debt instrument from such financial institu-*  
10           *tion, as described in paragraph (2)(C).*

11           (2) *TERMS AND CONDITIONS.*—*The terms and*  
12           *conditions of any warrant or senior debt instrument*  
13           *required under paragraph (1) shall meet the following*  
14           *requirements:*

15           (A) *PURPOSES.*—*Such terms and conditions*  
16           *shall, at a minimum, be designed—*

17                   (i) *to provide for reasonable participa-*  
18                   *tion by the Secretary, for the benefit of tax-*  
19                   *payers, in equity appreciation in the case of*  
20                   *a warrant or other equity security, or a*  
21                   *reasonable interest rate premium, in the*  
22                   *case of a debt instrument; and*

23                   (ii) *to provide additional protection*  
24                   *for the taxpayer against losses from sale of*

1           *assets by the Secretary under this Act and*  
2           *the administrative expenses of the TARP.*

3           *(B) AUTHORITY TO SELL, EXERCISE, OR*  
4           *SURRENDER.—The Secretary may sell, exercise,*  
5           *or surrender a warrant or any senior debt in-*  
6           *strument received under this subsection, based on*  
7           *the conditions established under subparagraph*  
8           *(A).*

9           *(C) CONVERSION.—The warrant shall pro-*  
10          *vide that if, after the warrant is received by the*  
11          *Secretary under this subsection, the financial in-*  
12          *stitution that issued the warrant is no longer*  
13          *listed or traded on a national securities exchange*  
14          *or securities association, as described in para-*  
15          *graph (1)(A), such warrants shall convert to sen-*  
16          *ior debt, or contain appropriate protections for*  
17          *the Secretary to ensure that the Treasury is ap-*  
18          *propriately compensated for the value of the war-*  
19          *rant, in an amount determined by the Secretary.*

20          *(D) PROTECTIONS.—Any warrant rep-*  
21          *resenting securities to be received by the Sec-*  
22          *retary under this subsection shall contain anti-*  
23          *dilution provisions of the type employed in cap-*  
24          *ital market transactions, as determined by the*  
25          *Secretary. Such provisions shall protect the value*

1           *of the securities from market transactions such*  
2           *as stock splits, stock distributions, dividends,*  
3           *and other distributions, mergers, and other forms*  
4           *of reorganization or recapitalization.*

5           (E) *EXERCISE PRICE.*—*The exercise price*  
6           *for any warrant issued pursuant to this sub-*  
7           *section shall be set by the Secretary, in the inter-*  
8           *est of the taxpayers.*

9           (F) *SUFFICIENCY.*—*The financial institu-*  
10          *tion shall guarantee to the Secretary that it has*  
11          *authorized shares of nonvoting stock available to*  
12          *fulfill its obligations under this subsection.*  
13          *Should the financial institution not have suffi-*  
14          *cient authorized shares, including preferred*  
15          *shares that may carry dividend rights equal to*  
16          *a multiple number of common shares, the Sec-*  
17          *retary may, to the extent necessary, accept a sen-*  
18          *ior debt note in an amount, and on such terms*  
19          *as will compensate the Secretary with equivalent*  
20          *value, in the event that a sufficient shareholder*  
21          *vote to authorize the necessary additional shares*  
22          *cannot be obtained.*

23          (3) *EXCEPTIONS.*—

24               (A) *DE MINIMIS.*—*The Secretary shall es-*  
25               *tablish de minimis exceptions to the require-*

1            *ments of this subsection, based on the size of the*  
2            *cumulative transactions of troubled assets pur-*  
3            *chased from any one financial institution for the*  
4            *duration of the program, at not more than*  
5            *\$100,000,000.*

6            (B) *OTHER EXCEPTIONS.—The Secretary*  
7            *shall establish an exception to the requirements*  
8            *of this subsection and appropriate alternative re-*  
9            *quirements for any participating financial insti-*  
10           *tution that is legally prohibited from issuing se-*  
11           *curities and debt instruments, so as not to allow*  
12           *circumvention of the requirements of this section.*

13 **SEC. 114. MARKET TRANSPARENCY.**

14           (a) *PRICING.—To facilitate market transparency, the*  
15           *Secretary shall make available to the public, in electronic*  
16           *form, a description, amounts, and pricing of assets acquired*  
17           *under this Act, within 2 business days of purchase, trade,*  
18           *or other disposition.*

19           (b) *DISCLOSURE.—For each type of financial institu-*  
20           *tions that sells troubled assets to the Secretary under this*  
21           *Act, the Secretary shall determine whether the public disclo-*  
22           *sure required for such financial institutions with respect*  
23           *to off-balance sheet transactions, derivatives instruments,*  
24           *contingent liabilities, and similar sources of potential expo-*  
25           *sure is adequate to provide to the public sufficient informa-*

1 *tion as to the true financial position of the institutions.*  
2 *If such disclosure is not adequate for that purpose, the Sec-*  
3 *retary shall make recommendations for additional disclo-*  
4 *sure requirements to the relevant regulators.*

5 **SEC. 115. GRADUATED AUTHORIZATION TO PURCHASE.**

6 *(a) AUTHORITY.—The authority of the Secretary to*  
7 *purchase troubled assets under this Act shall be limited as*  
8 *follows:*

9 *(1) Effective upon the date of enactment of this*  
10 *Act, such authority shall be limited to*  
11 *\$250,000,000,000 outstanding at any one time.*

12 *(2) If at any time, the President submits to the*  
13 *Congress a written certification that the Secretary*  
14 *needs to exercise the authority under this paragraph,*  
15 *effective upon such submission, such authority shall*  
16 *be limited to \$350,000,000,000 outstanding at any*  
17 *one time.*

18 *(3) If, at any time after the certification in*  
19 *paragraph (2) has been made, the President transmits*  
20 *to the Congress a written report detailing the plan of*  
21 *the Secretary to exercise the authority under this*  
22 *paragraph, unless there is enacted, within 15 cal-*  
23 *endar days of such transmission, a joint resolution*  
24 *described in subsection (c), effective upon the expira-*  
25 *tion of such 15-day period, such authority shall be*

1        *limited to \$700,000,000,000 outstanding at any one*  
2        *time.*

3        *(b) AGGREGATION OF PURCHASE PRICES.—The*  
4        *amount of troubled assets purchased by the Secretary out-*  
5        *standing at any one time shall be determined for purposes*  
6        *of the dollar amount limitations under subsection (a) by*  
7        *aggregating the purchase prices of all troubled assets held.*

8        *(c) JOINT RESOLUTION OF DISAPPROVAL.—*

9            *(1) IN GENERAL.—Notwithstanding any other*  
10        *provision of this section, the Secretary may not exer-*  
11        *cise any authority to make purchases under this Act*  
12        *with regard to any amount in excess of*  
13        *\$350,000,000,000 previously obligated, as described in*  
14        *this section if, within 15 calendar days after the date*  
15        *on which Congress receives a report of the plan of the*  
16        *Secretary described in subsection (a)(3), there is en-*  
17        *acted into law a joint resolution disapproving the*  
18        *plan of the Secretary with respect to such additional*  
19        *amount.*

20            *(2) CONTENTS OF JOINT RESOLUTION.—For the*  
21        *purpose of this section, the term “joint resolution”*  
22        *means only a joint resolution—*

23            *(A) that is introduced not later than 3 cal-*  
24        *endar days after the date on which the report of*



1           *the plan of the Secretary referred to in subsection*  
2           *(a)(3) is received by Congress;*

3                   *(B) which does not have a preamble;*

4                   *(C) the title of which is as follows: “Joint*  
5           *resolution relating to the disapproval of obliga-*  
6           *tions under the Emergency Economic Stabiliza-*  
7           *tion Act of 2008”; and*

8                   *(D) the matter after the resolving clause of*  
9           *which is as follows: “That Congress disapproves*  
10          *the obligation of any amount exceeding the*  
11          *amounts obligated as described in paragraphs*  
12          *(1) and (2) of section 115(a) of the Emergency*  
13          *Economic Stabilization Act of 2008.”.*

14          *(d) FAST TRACK CONSIDERATION IN HOUSE OF REP-*  
15          *RESENTATIVES.—*

16                   *(1) RECONVENING.—Upon receipt of a report*  
17          *under subsection (a)(3), the Speaker, if the House*  
18          *would otherwise be adjourned, shall notify the Mem-*  
19          *bers of the House that, pursuant to this section, the*  
20          *House shall convene not later than the second cal-*  
21          *endar day after receipt of such report;*

22                   *(2) REPORTING AND DISCHARGE.—Any com-*  
23          *mittee of the House of Representatives to which a*  
24          *joint resolution is referred shall report it to the House*  
25          *not later than 5 calendar days after the date of re-*

1 *ceipt of the report described in subsection (a)(3). If a*  
2 *committee fails to report the joint resolution within*  
3 *that period, the committee shall be discharged from*  
4 *further consideration of the joint resolution and the*  
5 *joint resolution shall be referred to the appropriate*  
6 *calendar.*

7 (3) *PROCEEDING TO CONSIDERATION.*—*After*  
8 *each committee authorized to consider a joint resolu-*  
9 *tion reports it to the House or has been discharged*  
10 *from its consideration, it shall be in order, not later*  
11 *than the sixth day after Congress receives the report*  
12 *described in subsection (a)(3), to move to proceed to*  
13 *consider the joint resolution in the House. All points*  
14 *of order against the motion are waived. Such a mo-*  
15 *tion shall not be in order after the House has disposed*  
16 *of a motion to proceed on the joint resolution. The*  
17 *previous question shall be considered as ordered on*  
18 *the motion to its adoption without intervening mo-*  
19 *tion. The motion shall not be debatable. A motion to*  
20 *reconsider the vote by which the motion is disposed of*  
21 *shall not be in order.*

22 (4) *CONSIDERATION.*—*The joint resolution shall*  
23 *be considered as read. All points of order against the*  
24 *joint resolution and against its consideration are*  
25 *waived. The previous question shall be considered as*

1 *ordered on the joint resolution to its passage without*  
2 *intervening motion except two hours of debate equally*  
3 *divided and controlled by the proponent and an oppo-*  
4 *nent. A motion to reconsider the vote on passage of*  
5 *the joint resolution shall not be in order.*

6 *(e) FAST TRACK CONSIDERATION IN SENATE.—*

7 *(1) RECONVENING.—Upon receipt of a report*  
8 *under subsection (a)(3), if the Senate has adjourned*  
9 *or recessed for more than 2 days, the majority leader*  
10 *of the Senate, after consultation with the minority*  
11 *leader of the Senate, shall notify the Members of the*  
12 *Senate that, pursuant to this section, the Senate shall*  
13 *convene not later than the second calendar day after*  
14 *receipt of such message.*

15 *(2) PLACEMENT ON CALENDAR.—Upon introduc-*  
16 *tion in the Senate, the joint resolution shall be placed*  
17 *immediately on the calendar.*

18 *(3) FLOOR CONSIDERATION.—*

19 *(A) IN GENERAL.—Notwithstanding Rule*  
20 *XXII of the Standing Rules of the Senate, it is*  
21 *in order at any time during the period begin-*  
22 *ning on the 4th day after the date on which Con-*  
23 *gress receives a report of the plan of the Sec-*  
24 *retary described in subsection (a)(3) and ending*  
25 *on the 6th day after the date on which Congress*

1 receives a report of the plan of the Secretary de-  
2 scribed in subsection (a)(3) (even though a pre-  
3 vious motion to the same effect has been dis-  
4 agreed to) to move to proceed to the consider-  
5 ation of the joint resolution, and all points of  
6 order against the joint resolution (and against  
7 consideration of the joint resolution) are waived.  
8 The motion to proceed is not debatable. The mo-  
9 tion is not subject to a motion to postpone. A  
10 motion to reconsider the vote by which the mo-  
11 tion is agreed to or disagreed to shall not be in  
12 order. If a motion to proceed to the consideration  
13 of the resolution is agreed to, the joint resolution  
14 shall remain the unfinished business until dis-  
15 posed of.

16 (B) *DEBATE.*—Debate on the joint resolu-  
17 tion, and on all debatable motions and appeals  
18 in connection therewith, shall be limited to not  
19 more than 10 hours, which shall be divided  
20 equally between the majority and minority lead-  
21 ers or their designees. A motion further to limit  
22 debate is in order and not debatable. An amend-  
23 ment to, or a motion to postpone, or a motion  
24 to proceed to the consideration of other business,

1           *or a motion to recommit the joint resolution is*  
2           *not in order.*

3           (C) *VOTE ON PASSAGE.—The vote on pas-*  
4           *sage shall occur immediately following the con-*  
5           *clusion of the debate on a joint resolution, and*  
6           *a single quorum call at the conclusion of the de-*  
7           *bate if requested in accordance with the rules of*  
8           *the Senate.*

9           (D) *RULINGS OF THE CHAIR ON PROCE-*  
10          *DURE.—Appeals from the decisions of the Chair*  
11          *relating to the application of the rules of the*  
12          *Senate, as the case may be, to the procedure re-*  
13          *lating to a joint resolution shall be decided with-*  
14          *out debate.*

15          (f) *RULES RELATING TO SENATE AND HOUSE OF REP-*  
16          *RESENTATIVES.—*

17           (1) *COORDINATION WITH ACTION BY OTHER*  
18          *HOUSE.—If, before the passage by one House of a*  
19          *joint resolution of that House, that House receives*  
20          *from the other House a joint resolution, then the fol-*  
21          *lowing procedures shall apply:*

22           (A) *The joint resolution of the other House*  
23          *shall not be referred to a committee.*

24           (B) *With respect to a joint resolution of the*  
25          *House receiving the resolution—*

1                   (i) *the procedure in that House shall be*  
2                   *the same as if no joint resolution had been*  
3                   *received from the other House; but*

4                   (ii) *the vote on passage shall be on the*  
5                   *joint resolution of the other House.*

6                   (2) *TREATMENT OF JOINT RESOLUTION OF*  
7                   *OTHER HOUSE.—If one House fails to introduce or*  
8                   *consider a joint resolution under this section, the joint*  
9                   *resolution of the other House shall be entitled to expe-*  
10                   *ditated floor procedures under this section.*

11                   (3) *TREATMENT OF COMPANION MEASURES.—If,*  
12                   *following passage of the joint resolution in the Senate,*  
13                   *the Senate then receives the companion measure from*  
14                   *the House of Representatives, the companion measure*  
15                   *shall not be debatable.*

16                   (4) *CONSIDERATION AFTER PASSAGE.—*

17                   (A) *IN GENERAL.—If Congress passes a*  
18                   *joint resolution, the period beginning on the date*  
19                   *the President is presented with the joint resolu-*  
20                   *tion and ending on the date the President takes*  
21                   *action with respect to the joint resolution shall*  
22                   *be disregarded in computing the 15-calendar day*  
23                   *period described in subsection (a)(3).*

24                   (B) *VETOES.—If the President vetoes the*  
25                   *joint resolution—*

1           (i) the period beginning on the date the  
2           President vetoes the joint resolution and  
3           ending on the date the Congress receives the  
4           veto message with respect to the joint resolu-  
5           tion shall be disregarded in computing the  
6           15-calendar day period described in sub-  
7           section (a)(3), and

8           (ii) debate on a veto message in the  
9           Senate under this section shall be 1 hour  
10          equally divided between the majority and  
11          minority leaders or their designees.

12          (5) *RULES OF HOUSE OF REPRESENTATIVES AND*  
13          *SENATE.*—*This subsection and subsections (c), (d),*  
14          *and (e) are enacted by Congress—*

15                (A) *as an exercise of the rulemaking power*  
16                *of the Senate and House of Representatives, re-*  
17                *spectively, and as such it is deemed a part of the*  
18                *rules of each House, respectively, but applicable*  
19                *only with respect to the procedure to be followed*  
20                *in that House in the case of a joint resolution,*  
21                *and it supersedes other rules only to the extent*  
22                *that it is inconsistent with such rules; and*

23                (B) *with full recognition of the constitu-*  
24                *tional right of either House to change the rules*  
25                *(so far as relating to the procedure of that*

1           *House) at any time, in the same manner, and*  
2           *to the same extent as in the case of any other*  
3           *rule of that House.*

4 **SEC. 116. OVERSIGHT AND AUDITS.**

5           *(a) COMPTROLLER GENERAL OVERSIGHT.—*

6           *(1) SCOPE OF OVERSIGHT.—The Comptroller*  
7           *General of the United States shall, upon establishment*  
8           *of the troubled assets relief program under this Act*  
9           *(in this section referred to as the “TARP”), commence*  
10           *ongoing oversight of the activities and performance of*  
11           *the TARP and of any agents and representatives of*  
12           *the TARP (as related to the agent or representative’s*  
13           *activities on behalf of or under the authority of the*  
14           *TARP), including vehicles established by the Sec-*  
15           *retary under this Act. The subjects of such oversight*  
16           *shall include the following:*

17                   *(A) The performance of the TARP in meet-*  
18                   *ing the purposes of this Act, particularly those*  
19                   *involving—*

20                           *(i) foreclosure mitigation;*

21                           *(ii) cost reduction;*

22                           *(iii) whether it has provided stability*  
23                   *or prevented disruption to the financial*  
24                   *markets or the banking system; and*

25                           *(iv) whether it has protected taxpayers.*



1           (B) *The financial condition and internal*  
2           *controls of the TARP, its representatives and*  
3           *agents.*

4           (C) *Characteristics of transactions and com-*  
5           *mitments entered into, including transaction*  
6           *type, frequency, size, prices paid, and all other*  
7           *relevant terms and conditions, and the timing,*  
8           *duration and terms of any future commitments*  
9           *to purchase assets.*

10          (D) *Characteristics and disposition of ac-*  
11          *quired assets, including type, acquisition price,*  
12          *current market value, sale prices and terms, and*  
13          *use of proceeds from sales.*

14          (E) *Efficiency of the operations of the*  
15          *TARP in the use of appropriated funds.*

16          (F) *Compliance with all applicable laws*  
17          *and regulations by the TARP, its agents and*  
18          *representatives.*

19          (G) *The efforts of the TARP to prevent,*  
20          *identify, and minimize conflicts of interest in-*  
21          *volving any agent or representative performing*  
22          *activities on behalf of or under the authority of*  
23          *the TARP.*

24          (H) *The efficacy of contracting procedures*  
25          *pursuant to section 107(b), including, as appli-*

1            *cable, the efforts of the TARP in evaluating pro-*  
2            *posals for inclusion and contracting to the max-*  
3            *imum extent possible of minorities (as such term*  
4            *is defined in 1204(c) of the Financial Institu-*  
5            *tions Reform, Recovery, and Enhancement Act of*  
6            *1989 (12 U.S.C. 1811 note), women, and*  
7            *minority- and women-owned businesses, includ-*  
8            *ing ascertaining and reporting the total amount*  
9            *of fees paid and other value delivered by the*  
10           *TARP to all of its agents and representatives,*  
11           *and such amounts paid or delivered to such*  
12           *firms that are minority- and women-owned busi-*  
13           *nesses (as such terms are defined in section 21A*  
14           *of the Federal Home Loan Bank Act (12 U.S.C.*  
15           *1441a)).*

16            (2) *CONDUCT AND ADMINISTRATION OF OVER-*  
17            *SIGHT.—*

18            (A) *GAO PRESENCE.—The Secretary shall*  
19            *provide the Comptroller General with appro-*  
20            *priate space and facilities in the Department of*  
21            *the Treasury as necessary to facilitate oversight*  
22            *of the TARP until the termination date estab-*  
23            *lished in section 120.*

24            (B) *ACCESS TO RECORDS.—To the extent*  
25            *otherwise consistent with law, the Comptroller*

1           *General shall have access, upon request, to any*  
2           *information, data, schedules, books, accounts, fi-*  
3           *nancial records, reports, files, electronic commu-*  
4           *nications, or other papers, things, or property*  
5           *belonging to or in use by the TARP, or any vehi-*  
6           *cles established by the Secretary under this Act,*  
7           *and to the officers, directors, employees, inde-*  
8           *pendent public accountants, financial advisors,*  
9           *and other agents and representatives of the*  
10          *TARP (as related to the agent or representative's*  
11          *activities on behalf of or under the authority of*  
12          *the TARP) or any such vehicle at such reason-*  
13          *able time as the Comptroller General may re-*  
14          *quest. The Comptroller General shall be afforded*  
15          *full facilities for verifying transactions with the*  
16          *balances or securities held by depositaries, fiscal*  
17          *agents, and custodians. The Comptroller General*  
18          *may make and retain copies of such books, ac-*  
19          *counts, and other records as the Comptroller*  
20          *General deems appropriate.*

21                 (C) *REIMBURSEMENT OF COSTS.—The*  
22                 *Treasury shall reimburse the Government Ac-*  
23                 *countability Office for the full cost of any such*  
24                 *oversight activities as billed therefor by the*  
25                 *Comptroller General of the United States. Such*

1            *reimbursements shall be credited to the appro-*  
2            *priation account “Salaries and Expenses, Gov-*  
3            *ernment Accountability Office” current when the*  
4            *payment is received and remain available until*  
5            *expended.*

6            (3) *REPORTING.—The Comptroller General shall*  
7            *submit reports of findings under this section, regu-*  
8            *larly and no less frequently than once every 60 days,*  
9            *to the appropriate committees of Congress, and the*  
10           *Special Inspector General for the Troubled Asset Re-*  
11           *lief Program established under this Act on the activi-*  
12           *ties and performance of the TARP. The Comptroller*  
13           *may also submit special reports under this subsection*  
14           *as warranted by the findings of its oversight activi-*  
15           *ties.*

16           (b) *COMPTROLLER GENERAL AUDITS.—*

17           (1) *ANNUAL AUDIT.—The TARP shall annually*  
18           *prepare and issue to the appropriate committees of*  
19           *Congress and the public audited financial statements*  
20           *prepared in accordance with generally accepted ac-*  
21           *counting principles, and the Comptroller General*  
22           *shall annually audit such statements in accordance*  
23           *with generally accepted auditing standards. The*  
24           *Treasury shall reimburse the Government Account-*  
25           *ability Office for the full cost of any such audit as*

1 *billed therefor by the Comptroller General. Such reim-*  
2 *bursments shall be credited to the appropriation ac-*  
3 *count “Salaries and Expenses, Government Account-*  
4 *ability Office” current when the payment is received*  
5 *and remain available until expended. The financial*  
6 *statements prepared under this paragraph shall be on*  
7 *the fiscal year basis prescribed under section 1102 of*  
8 *title 31, United States Code.*

9 (2) *AUTHORITY.—The Comptroller General may*  
10 *audit the programs, activities, receipts, expenditures,*  
11 *and financial transactions of the TARP and any*  
12 *agents and representatives of the TARP (as related to*  
13 *the agent or representative’s activities on behalf of or*  
14 *under the authority of the TARP), including vehicles*  
15 *established by the Secretary under this Act.*

16 (3) *CORRECTIVE RESPONSES TO AUDIT PROB-*  
17 *LEMS.—The TARP shall—*

18 (A) *take action to address deficiencies iden-*  
19 *tified by the Comptroller General or other audi-*  
20 *tor engaged by the TARP; or*

21 (B) *certify to appropriate committees of*  
22 *Congress that no action is necessary or appro-*  
23 *priate.*

24 (c) *INTERNAL CONTROL.—*

1           (1) *ESTABLISHMENT.*—*The TARP shall establish*  
2           *and maintain an effective system of internal control,*  
3           *consistent with the standards prescribed under section*  
4           *3512(c) of title 31, United States Code, that provides*  
5           *reasonable assurance of—*

6                   (A) *the effectiveness and efficiency of oper-*  
7                   *ations, including the use of the resources of the*  
8                   *TARP;*

9                   (B) *the reliability of financial reporting,*  
10                  *including financial statements and other reports*  
11                  *for internal and external use; and*

12                  (C) *compliance with applicable laws and*  
13                  *regulations.*

14           (2) *REPORTING.*—*In conjunction with each an-*  
15           *nuual financial statement issued under this section, the*  
16           *TARP shall—*

17                   (A) *state the responsibility of management*  
18                   *for establishing and maintaining adequate inter-*  
19                   *nal control over financial reporting; and*

20                   (B) *state its assessment, as of the end of the*  
21                   *most recent year covered by such financial state-*  
22                   *ment of the TARP, of the effectiveness of the in-*  
23                   *ternal control over financial reporting.*

24           (d) *SHARING OF INFORMATION.*—*Any report or audit*  
25           *required under this section shall also be submitted to the*

1 *Congressional Oversight Panel established under section*  
2 *125.*

3 (e) *TERMINATION.*—*Any oversight, reporting, or audit*  
4 *requirement under this section shall terminate on the later*  
5 *of—*

6 (1) *the date that the last troubled asset acquired*  
7 *by the Secretary under section 101 has been sold or*  
8 *transferred out of the ownership or control of the Fed-*  
9 *eral Government; or*

10 (2) *the date of expiration of the last insurance*  
11 *contract issued under section 102.*

12 **SEC. 117. STUDY AND REPORT ON MARGIN AUTHORITY.**

13 (a) *STUDY.*—*The Comptroller General shall undertake*  
14 *a study to determine the extent to which leverage and sud-*  
15 *den deleveraging of financial institutions was a factor be-*  
16 *hind the current financial crisis.*

17 (b) *CONTENT.*—*The study required by this section*  
18 *shall include—*

19 (1) *an analysis of the roles and responsibilities*  
20 *of the Board, the Securities and Exchange Commis-*  
21 *sion, the Secretary, and other Federal banking agen-*  
22 *cies with respect to monitoring leverage and acting to*  
23 *curtail excessive leveraging;*

24 (2) *an analysis of the authority of the Board to*  
25 *regulate leverage, including by setting margin re-*

1        *quirements, and what process the Board used to de-*  
2        *cide whether or not to use its authority;*

3            *(3) an analysis of any usage of the margin au-*  
4        *thority by the Board; and*

5            *(4) recommendations for the Board and appro-*  
6        *priate committees of Congress with respect to the ex-*  
7        *isting authority of the Board.*

8        *(c) REPORT.—Not later than June 1, 2009, the Comp-*  
9        *troller General shall complete and submit a report on the*  
10       *study required by this section to the Committee on Banking,*  
11       *Housing, and Urban Affairs of the Senate and the Com-*  
12       *mittee on Financial Services of the House of Representa-*  
13       *tives.*

14       *(d) SHARING OF INFORMATION.—Any reports required*  
15       *under this section shall also be submitted to the Congres-*  
16       *sional Oversight Panel established under section 125.*

17       **SEC. 118. FUNDING.**

18       *For the purpose of the authorities granted in this Act,*  
19       *and for the costs of administering those authorities, the Sec-*  
20       *retary may use the proceeds of the sale of any securities*  
21       *issued under chapter 31 of title 31, United States Code, and*  
22       *the purposes for which securities may be issued under chap-*  
23       *ter 31 of title 31, United States Code, are extended to in-*  
24       *clude actions authorized by this Act, including the payment*  
25       *of administrative expenses. Any funds expended or obligated*



1 *by the Secretary for actions authorized by this Act, includ-*  
2 *ing the payment of administrative expenses, shall be deemed*  
3 *appropriated at the time of such expenditure or obligation.*

4 **SEC. 119. JUDICIAL REVIEW AND RELATED MATTERS.**

5 *(a) JUDICIAL REVIEW.—*

6 *(1) STANDARD.—Actions by the Secretary pursu-*  
7 *ant to the authority of this Act shall be subject to*  
8 *chapter 7 of title 5, United States Code, including*  
9 *that such final actions shall be held unlawful and set*  
10 *aside if found to be arbitrary, capricious, an abuse of*  
11 *discretion, or not in accordance with law.*

12 *(2) LIMITATIONS ON EQUITABLE RELIEF.—*

13 *(A) INJUNCTION.—No injunction or other*  
14 *form of equitable relief shall be issued against the*  
15 *Secretary for actions pursuant to section 101,*  
16 *102, 106, and 109, other than to remedy a viola-*  
17 *tion of the Constitution.*

18 *(B) TEMPORARY RESTRAINING ORDER.—*

19 *Any request for a temporary restraining order*  
20 *against the Secretary for actions pursuant to*  
21 *this Act shall be considered and granted or de-*  
22 *denied by the court within 3 days of the date of*  
23 *the request.*

24 *(C) PRELIMINARY INJUNCTION.—Any re-*

25 *quest for a preliminary injunction against the*

1            *Secretary for actions pursuant to this Act shall*  
2            *be considered and granted or denied by the court*  
3            *on an expedited basis consistent with the provi-*  
4            *sions of rule 65(b)(3) of the Federal Rules of*  
5            *Civil Procedure, or any successor thereto.*

6            *(D) PERMANENT INJUNCTION.—Any request*  
7            *for a permanent injunction against the Secretary*  
8            *for actions pursuant to this Act shall be consid-*  
9            *ered and granted or denied by the court on an*  
10           *expedited basis. Whenever possible, the court*  
11           *shall consolidate trial on the merits with any*  
12           *hearing on a request for a preliminary injunc-*  
13           *tion, consistent with the provisions of rule*  
14           *65(a)(2) of the Federal Rules of Civil Procedure,*  
15           *or any successor thereto.*

16           *(3) LIMITATION ON ACTIONS BY PARTICIPATING*  
17           *COMPANIES.—No action or claims may be brought*  
18           *against the Secretary by any person that divests its*  
19           *assets with respect to its participation in a program*  
20           *under this Act, except as provided in paragraph (1),*  
21           *other than as expressly provided in a written contract*  
22           *with the Secretary.*

23           *(4) STAYS.—Any injunction or other form of eq-*  
24           *uitable relief issued against the Secretary for actions*  
25           *pursuant to section 101, 102, 106, and 109, shall be*

1 *automatically stayed. The stay shall be lifted unless*  
2 *the Secretary seeks a stay from a higher court within*  
3 *3 calendar days after the date on which the relief is*  
4 *issued.*

5 *(b) RELATED MATTERS.—*

6 *(1) TREATMENT OF HOMEOWNERS' RIGHTS.—*

7 *The terms of any residential mortgage loan that is*  
8 *part of any purchase by the Secretary under this Act*  
9 *shall remain subject to all claims and defenses that*  
10 *would otherwise apply, notwithstanding the exercise*  
11 *of authority by the Secretary under this Act.*

12 *(2) SAVINGS CLAUSE.—Any exercise of the au-*  
13 *thority of the Secretary pursuant to this Act shall not*  
14 *impair the claims or defenses that would otherwise*  
15 *apply with respect to persons other than the Sec-*  
16 *retary. Except as established in any contract, a*  
17 *servicer of pooled residential mortgages owes any duty*  
18 *to determine whether the net present value of the pay-*  
19 *ments on the loan, as modified, is likely to be greater*  
20 *than the anticipated net recovery that would result*  
21 *from foreclosure to all investors and holders of bene-*  
22 *ficial interests in such investment, but not to any in-*  
23 *dividual or groups of investors or beneficial interest*  
24 *holders, and shall be deemed to act in the best inter-*  
25 *ests of all such investors or holders of beneficial inter-*

1        *ests if the servicer agrees to or implements a modi-*  
2        *fication or workout plan when the servicer takes rea-*  
3        *sonable loss mitigation actions, including partial*  
4        *payments.*

5        **SEC. 120. TERMINATION OF AUTHORITY.**

6        (a) *TERMINATION.*—*The authorities provided under*  
7        *sections 101(a), excluding section 101(a)(3), and 102 shall*  
8        *terminate on December 31, 2009.*

9        (b) *EXTENSION UPON CERTIFICATION.*—*The Sec-*  
10        *retary, upon submission of a written certification to Con-*  
11        *gress, may extend the authority provided under this Act to*  
12        *expire not later than 2 years from the date of enactment*  
13        *of this Act. Such certification shall include a justification*  
14        *of why the extension is necessary to assist American fami-*  
15        *lies and stabilize financial markets, as well as the expected*  
16        *cost to the taxpayers for such an extension.*

17        **SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROU-**  
18        **BLED ASSET RELIEF PROGRAM.**

19        (a) *OFFICE OF INSPECTOR GENERAL.*—*There is hereby*  
20        *established the Office of the Special Inspector General for*  
21        *the Troubled Asset Relief Program.*

22        (b) *APPOINTMENT OF INSPECTOR GENERAL; RE-*  
23        *MOVAL.*—(1) *The head of the Office of the Special Inspector*  
24        *General for the Troubled Asset Relief Program is the Spe-*  
25        *cial Inspector General for the Troubled Asset Relief Pro-*

1 gram (in this section referred to as the “Special Inspector  
2 General”), who shall be appointed by the President, by and  
3 with the advice and consent of the Senate.

4 (2) The appointment of the Special Inspector General  
5 shall be made on the basis of integrity and demonstrated  
6 ability in accounting, auditing, financial analysis, law,  
7 management analysis, public administration, or investiga-  
8 tions.

9 (3) The nomination of an individual as Special In-  
10 spector General shall be made as soon as practicable after  
11 the establishment of any program under sections 101 and  
12 102.

13 (4) The Special Inspector General shall be removable  
14 from office in accordance with the provisions of section 3(b)  
15 of the Inspector General Act of 1978 (5 U.S.C. App.).

16 (5) For purposes of section 7324 of title 5, United  
17 States Code, the Special Inspector General shall not be con-  
18 sidered an employee who determines policies to be pursued  
19 by the United States in the nationwide administration of  
20 Federal law.

21 (6) The annual rate of basic pay of the Special Inspec-  
22 tor General shall be the annual rate of basic pay for an  
23 Inspector General under section 3(e) of the Inspector Gen-  
24 eral Act of 1978 (5 U.S.C. App.).

1       (c) *DUTIES.*—(1) *It shall be the duty of the Special*  
2 *Inspector General to conduct, supervise, and coordinate au-*  
3 *dits and investigations of the purchase, management, and*  
4 *sale of assets by the Secretary of the Treasury under any*  
5 *program established by the Secretary under section 101,*  
6 *and the management by the Secretary of any program es-*  
7 *tablished under section 102, including by collecting and*  
8 *summarizing the following information:*

9           (A) *A description of the categories of troubled as-*  
10 *sets purchased or otherwise procured by the Secretary.*

11           (B) *A listing of the troubled assets purchased in*  
12 *each such category described under subparagraph (A).*

13           (C) *An explanation of the reasons the Secretary*  
14 *deemed it necessary to purchase each such troubled*  
15 *asset.*

16           (D) *A listing of each financial institution that*  
17 *such troubled assets were purchased from.*

18           (E) *A listing of and detailed biographical infor-*  
19 *mation on each person or entity hired to manage such*  
20 *troubled assets.*

21           (F) *A current estimate of the total amount of*  
22 *troubled assets purchased pursuant to any program*  
23 *established under section 101, the amount of troubled*  
24 *assets on the books of the Treasury, the amount of*

1        *troubled assets sold, and the profit and loss incurred*  
2        *on each sale or disposition of each such troubled asset.*

3            *(G) A listing of the insurance contracts issued*  
4        *under section 102.*

5        *(2) The Special Inspector General shall establish,*  
6        *maintain, and oversee such systems, procedures, and con-*  
7        *trols as the Special Inspector General considers appropriate*  
8        *to discharge the duty under paragraph (1).*

9        *(3) In addition to the duties specified in paragraphs*  
10       *(1) and (2), the Inspector General shall also have the duties*  
11       *and responsibilities of inspectors general under the Inspec-*  
12       *tor General Act of 1978.*

13        *(d) POWERS AND AUTHORITIES.—(1) In carrying out*  
14        *the duties specified in subsection (c), the Special Inspector*  
15        *General shall have the authorities provided in section 6 of*  
16        *the Inspector General Act of 1978.*

17        *(2) The Special Inspector General shall carry out the*  
18        *duties specified in subsection (c)(1) in accordance with sec-*  
19        *tion 4(b)(1) of the Inspector General Act of 1978.*

20        *(e) PERSONNEL, FACILITIES, AND OTHER RE-*  
21        *SOURCES.—(1) The Special Inspector General may select,*  
22        *appoint, and employ such officers and employees as may*  
23        *be necessary for carrying out the duties of the Special In-*  
24        *pector General, subject to the provisions of title 5, United*  
25        *States Code, governing appointments in the competitive*

1 *service, and the provisions of chapter 51 and subchapter*  
2 *III of chapter 53 of such title, relating to classification and*  
3 *General Schedule pay rates.*

4       (2) *The Special Inspector General may obtain services*  
5 *as authorized by section 3109 of title 5, United States Code,*  
6 *at daily rates not to exceed the equivalent rate prescribed*  
7 *for grade GS-15 of the General Schedule by section 5332*  
8 *of such title.*

9       (3) *The Special Inspector General may enter into con-*  
10 *tracts and other arrangements for audits, studies, analyses,*  
11 *and other services with public agencies and with private*  
12 *persons, and make such payments as may be necessary to*  
13 *carry out the duties of the Inspector General.*

14       (4)(A) *Upon request of the Special Inspector General*  
15 *for information or assistance from any department, agency,*  
16 *or other entity of the Federal Government, the head of such*  
17 *entity shall, insofar as is practicable and not in contraven-*  
18 *tion of any existing law, furnish such information or assist-*  
19 *ance to the Special Inspector General, or an authorized des-*  
20 *ignee.*

21       (B) *Whenever information or assistance requested by*  
22 *the Special Inspector General is, in the judgment of the Spe-*  
23 *cial Inspector General, unreasonably refused or not pro-*  
24 *vided, the Special Inspector General shall report the cir-*



1 *cumstances to the appropriate committees of Congress with-*  
2 *out delay.*

3       (f) *REPORTS.—(1) Not later than 60 days after the*  
4 *confirmation of the Special Inspector General, and every*  
5 *calendar quarter thereafter, the Special Inspector General*  
6 *shall submit to the appropriate committees of Congress a*  
7 *report summarizing the activities of the Special Inspector*  
8 *General during the 120-day period ending on the date of*  
9 *such report. Each report shall include, for the period cov-*  
10 *ered by such report, a detailed statement of all purchases,*  
11 *obligations, expenditures, and revenues associated with any*  
12 *program established by the Secretary of the Treasury under*  
13 *sections 101 and 102, as well as the information collected*  
14 *under subsection (c)(1).*

15       (2) *Nothing in this subsection shall be construed to au-*  
16 *thorize the public disclosure of information that is—*

17           (A) *specifically prohibited from disclosure by*  
18 *any other provision of law;*

19           (B) *specifically required by Executive order to be*  
20 *protected from disclosure in the interest of national*  
21 *defense or national security or in the conduct of for-*  
22 *foreign affairs; or*

23           (C) *a part of an ongoing criminal investigation.*

1       (3) *Any reports required under this section shall also*  
2 *be submitted to the Congressional Oversight Panel estab-*  
3 *lished under section 125.*

4       (g) *FUNDING.—(1) Of the amounts made available to*  
5 *the Secretary of the Treasury under section 118,*  
6 *\$50,000,000 shall be available to the Special Inspector Gen-*  
7 *eral to carry out this section.*

8       (2) *The amount available under paragraph (1) shall*  
9 *remain available until expended.*

10       (h) *TERMINATION.—The Office of the Special Inspector*  
11 *General shall terminate on the later of—*

12               (1) *the date that the last troubled asset acquired*  
13 *by the Secretary under section 101 has been sold or*  
14 *transferred out of the ownership or control of the Fed-*  
15 *eral Government; or*

16               (2) *the date of expiration of the last insurance*  
17 *contract issued under section 102.*

18 **SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**  
19 **DEBT.**

20       *Subsection (b) of section 3101 of title 31, United States*  
21 *Code, is amended by striking out the dollar limitation con-*  
22 *tained in such subsection and inserting*  
23 *“\$11,315,000,000,000”.*

1 **SEC. 123. CREDIT REFORM.**

2 (a) *IN GENERAL.*—Subject to subsection (b), the costs  
3 of purchases of troubled assets made under section 101(a)  
4 and guarantees of troubled assets under section 102, and  
5 any cash flows associated with the activities authorized in  
6 section 102 and subsections (a), (b), and (c) of section 106  
7 shall be determined as provided under the Federal Credit  
8 Reform Act of 1990 (2 U.S.C. 661 et. seq.).

9 (b) *COSTS.*—For the purposes of section 502(5) of the  
10 Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))—

11 (1) the cost of troubled assets and guarantees of  
12 troubled assets shall be calculated by adjusting the  
13 discount rate in section 502(5)(E) (2 U.S.C.  
14 661a(5)(E)) for market risks; and

15 (2) the cost of a modification of a troubled asset  
16 or guarantee of a troubled asset shall be the difference  
17 between the current estimate consistent with para-  
18 graph (1) under the terms of the troubled asset or  
19 guarantee of the troubled asset and the current esti-  
20 mate consistent with paragraph (1) under the terms  
21 of the troubled asset or guarantee of the troubled asset,  
22 as modified.

23 **SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.**

24 Section 257 of the National Housing Act (12 U.S.C.  
25 1715z-23) is amended—

26 (1) in subsection (e)—

1           (A) in paragraph (1)(B), by inserting before  
2           “a ratio” the following: “, or thereafter is likely  
3           to have, due to the terms of the mortgage being  
4           reset,”;

5           (B) in paragraph (2)(B), by inserting be-  
6           fore the period at the end “(or such higher per-  
7           centage as the Board determines, in the discre-  
8           tion of the Board)”;

9           (C) in paragraph (4)(A)—

10           (i) in the first sentence, by inserting  
11           after “insured loan” the following: “and  
12           any payments made under this para-  
13           graph,”; and

14           (ii) by adding at the end the following:  
15           “Such actions may include making pay-  
16           ments, which shall be accepted as payment  
17           in full of all indebtedness under the eligible  
18           mortgage, to any holder of an existing sub-  
19           ordinate mortgage, in lieu of any future ap-  
20           preciation payments authorized under sub-  
21           paragraph (B).”; and

22           (2) in subsection (w), by inserting after “admin-  
23           istrative costs” the following: “and payments pursu-  
24           ant to subsection (e)(4)(A)”.

1 **SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.**

2 (a) *ESTABLISHMENT.*—*There is hereby established the*  
3 *Congressional Oversight Panel (hereafter in this section re-*  
4 *ferred to as the “Oversight Panel”) as an establishment in*  
5 *the legislative branch.*

6 (b) *DUTIES.*—*The Oversight Panel shall review the*  
7 *current state of the financial markets and the regulatory*  
8 *system and submit the following reports to Congress:*

9 (1) *REGULAR REPORTS.*—

10 (A) *IN GENERAL.*—*Regular reports of the*  
11 *Oversight Panel shall include the following:*

12 (i) *The use by the Secretary of author-*  
13 *ity under this Act, including with respect to*  
14 *the use of contracting authority and admin-*  
15 *istration of the program.*

16 (ii) *The impact of purchases made*  
17 *under the Act on the financial markets and*  
18 *financial institutions.*

19 (iii) *The extent to which the informa-*  
20 *tion made available on transactions under*  
21 *the program has contributed to market*  
22 *transparency.*

23 (iv) *The effectiveness of foreclosure*  
24 *mitigation efforts, and the effectiveness of*  
25 *the program from the standpoint of mini-*

1            *mizing long-term costs to the taxpayers and*  
2            *maximizing the benefits for taxpayers.*

3            (B) *TIMING.*—*The reports required under*  
4            *this paragraph shall be submitted not later than*  
5            *30 days after the first exercise by the Secretary*  
6            *of the authority under section 101(a) or 102, and*  
7            *every 30 days thereafter.*

8            (2) *SPECIAL REPORT ON REGULATORY RE-*  
9            *FORM.*—*The Oversight Panel shall submit a special*  
10           *report on regulatory reform not later than January*  
11           *20, 2009, analyzing the current state of the regulatory*  
12           *system and its effectiveness at overseeing the partici-*  
13           *pants in the financial system and protecting con-*  
14           *sumers, and providing recommendations for improve-*  
15           *ment, including recommendations regarding whether*  
16           *any participants in the financial markets that are*  
17           *currently outside the regulatory system should become*  
18           *subject to the regulatory system, the rationale under-*  
19           *lying such recommendation, and whether there are*  
20           *any gaps in existing consumer protections.*

21           (c) *MEMBERSHIP.*—

22           (1) *IN GENERAL.*—*The Oversight Panel shall*  
23           *consist of 5 members, as follows:*

24           (A) *1 member appointed by the Speaker of*  
25           *the House of Representatives.*

1           (B) 1 member appointed by the minority  
2           leader of the House of Representatives.

3           (C) 1 member appointed by the majority  
4           leader of the Senate.

5           (D) 1 member appointed by the minority  
6           leader of the Senate.

7           (E) 1 member appointed by the Speaker of  
8           the House of Representatives and the majority  
9           leader of the Senate, after consultation with the  
10          minority leader of the Senate and the minority  
11          leader of the House of Representatives.

12          (2) *PAY.*—Each member of the Oversight Panel  
13          shall each be paid at a rate equal to the daily equiva-  
14          lent of the annual rate of basic pay for level I of the  
15          Executive Schedule for each day (including travel  
16          time) during which such member is engaged in the  
17          actual performance of duties vested in the Commis-  
18          sion.

19          (3) *PROHIBITION OF COMPENSATION OF FED-*  
20          *ERAL EMPLOYEES.*—Members of the Oversight Panel  
21          who are full-time officers or employees of the United  
22          States or Members of Congress may not receive addi-  
23          tional pay, allowances, or benefits by reason of their  
24          service on the Oversight Panel.

1           (4) *TRAVEL EXPENSES.*—*Each member shall re-*  
2 *ceive travel expenses, including per diem in lieu of*  
3 *subsistence, in accordance with applicable provisions*  
4 *under subchapter I of chapter 57 of title 5, United*  
5 *States Code.*

6           (5) *QUORUM.*—*Four members of the Oversight*  
7 *Panel shall constitute a quorum but a lesser number*  
8 *may hold hearings.*

9           (6) *VACANCIES.*—*A vacancy on the Oversight*  
10 *Panel shall be filled in the manner in which the origi-*  
11 *nal appointment was made.*

12           (7) *MEETINGS.*—*The Oversight Panel shall meet*  
13 *at the call of the Chairperson or a majority of its*  
14 *members.*

15           (d) *STAFF.*—

16           (1) *IN GENERAL.*—*The Oversight Panel may ap-*  
17 *point and fix the pay of any personnel as the Com-*  
18 *mission considers appropriate.*

19           (2) *EXPERTS AND CONSULTANTS.*—*The Oversight*  
20 *Panel may procure temporary and intermittent serv-*  
21 *ices under section 3109(b) of title 5, United States*  
22 *Code.*

23           (3) *STAFF OF AGENCIES.*—*Upon request of the*  
24 *Oversight Panel, the head of any Federal department*  
25 *or agency may detail, on a reimbursable basis, any*



1     *of the personnel of that department or agency to the*  
2     *Oversight Panel to assist it in carrying out its duties*  
3     *under this Act.*

4     *(e) POWERS.—*

5             *(1) HEARINGS AND SESSIONS.—The Oversight*  
6     *Panel may, for the purpose of carrying out this sec-*  
7     *tion, hold hearings, sit and act at times and places,*  
8     *take testimony, and receive evidence as the Panel con-*  
9     *siders appropriate and may administer oaths or af-*  
10    *firmations to witnesses appearing before it.*

11            *(2) POWERS OF MEMBERS AND AGENTS.—Any*  
12    *member or agent of the Oversight Panel may, if au-*  
13    *thorized by the Oversight Panel, take any action*  
14    *which the Oversight Panel is authorized to take by*  
15    *this section.*

16            *(3) OBTAINING OFFICIAL DATA.—The Oversight*  
17    *Panel may secure directly from any department or*  
18    *agency of the United States information necessary to*  
19    *enable it to carry out this section. Upon request of the*  
20    *Chairperson of the Oversight Panel, the head of that*  
21    *department or agency shall furnish that information*  
22    *to the Oversight Panel.*

23            *(4) REPORTS.—The Oversight Panel shall receive*  
24    *and consider all reports required to be submitted to*  
25    *the Oversight Panel under this Act.*

1       (f) *TERMINATION.*—*The Oversight Panel shall termi-*  
2 *nate 6 months after the termination date specified in sec-*  
3 *tion 120.*

4       (g) *FUNDING FOR EXPENSES.*—

5           (1) *AUTHORIZATION OF APPROPRIATIONS.*—  
6       *There is authorized to be appropriated to the Over-*  
7 *sight Panel such sums as may be necessary for any*  
8 *fiscal year, half of which shall be derived from the ap-*  
9 *plicable account of the House of Representatives, and*  
10 *half of which shall be derived from the contingent*  
11 *fund of the Senate.*

12           (2) *REIMBURSEMENT OF AMOUNTS.*—*An amount*  
13 *equal to the expenses of the Oversight Panel shall be*  
14 *promptly transferred by the Secretary, from time to*  
15 *time upon the presentment of a statement of such ex-*  
16 *penses by the Chairperson of the Oversight Panel,*  
17 *from funds made available to the Secretary under this*  
18 *Act to the applicable fund of the House of Representa-*  
19 *tives and the contingent fund of the Senate, as appro-*  
20 *priate, as reimbursement for amounts expended from*  
21 *such account and fund under paragraph (1).*

22 **SEC. 126. FDIC AUTHORITY.**

23       (a) *IN GENERAL.*—*Section 18(a) of the Federal De-*  
24 *posit Insurance Act (12 U.S.C. 1828(a)) is amended by*  
25 *adding at the end the following new paragraph:*

1           “(4) *FALSE ADVERTISING, MISUSE OF FDIC*  
2 *NAMES, AND MISREPRESENTATION TO INDICATE IN-*  
3 *SURED STATUS.—*

4           “(A) *PROHIBITION ON FALSE ADVERTISING*  
5 *AND MISUSE OF FDIC NAMES.—No person may*  
6 *represent or imply that any deposit liability, ob-*  
7 *ligation, certificate, or share is insured or guar-*  
8 *anteed by the Corporation, if such deposit liabil-*  
9 *ity, obligation, certificate, or share is not insured*  
10 *or guaranteed by the Corporation—*

11           “(i) *by using the terms ‘Federal De-*  
12 *posit’, ‘Federal Deposit Insurance’, ‘Federal*  
13 *Deposit Insurance Corporation’, any com-*  
14 *bination of such terms, or the abbreviation*  
15 *‘FDIC’ as part of the business name or firm*  
16 *name of any person, including any corpora-*  
17 *tion, partnership, business trust, associa-*  
18 *tion, or other business entity; or*

19           “(ii) *by using such terms or any other*  
20 *terms, sign, or symbol as part of an adver-*  
21 *tisement, solicitation, or other document.*

22           “(B) *PROHIBITION ON MISREPRESENTA-*  
23 *TIONS OF INSURED STATUS.—No person may*  
24 *knowingly misrepresent—*

1           “(i) that any deposit liability, obliga-  
2           tion, certificate, or share is insured, under  
3           this Act, if such deposit liability, obligation,  
4           certificate, or share is not so insured; or

5           “(ii) the extent to which or the manner  
6           in which any deposit liability, obligation,  
7           certificate, or share is insured under this  
8           Act, if such deposit liability, obligation, cer-  
9           tificate, or share is not so insured, to the ex-  
10          tent or in the manner represented.

11          “(C) *AUTHORITY OF THE APPROPRIATE*  
12          *FEDERAL BANKING AGENCY.*—The appropriate  
13          Federal banking agency shall have enforcement  
14          authority in the case of a violation of this para-  
15          graph by any person for which the agency is the  
16          appropriate Federal banking agency, or any in-  
17          stitution-affiliated party thereof.

18          “(D) *CORPORATION AUTHORITY IF THE AP-*  
19          *PROPRIATE FEDERAL BANKING AGENCY FAILS TO*  
20          *FOLLOW RECOMMENDATION.*—

21                 “(i) *RECOMMENDATION.*—The Cor-  
22                 poration may recommend in writing to the  
23                 appropriate Federal banking agency that  
24                 the agency take any enforcement action au-  
25                 thorized under section 8 for purposes of en-

1           *enforcement of this paragraph with respect to*  
2           *any person for which the agency is the ap-*  
3           *propriate Federal banking agency or any*  
4           *institution-affiliated party thereof.*

5           “(ii) *AGENCY RESPONSE.—If the ap-*  
6           *propriate Federal banking agency does not,*  
7           *within 30 days of the date of receipt of a*  
8           *recommendation under clause (i), take the*  
9           *enforcement action with respect to this*  
10          *paragraph recommended by the Corporation*  
11          *or provide a plan acceptable to the Corpora-*  
12          *tion for responding to the situation pre-*  
13          *sented, the Corporation may take the rec-*  
14          *ommended enforcement action against such*  
15          *person or institution-affiliated party.*

16          “(E) *ADDITIONAL AUTHORITY.—In addition*  
17          *to its authority under subparagraphs (C) and*  
18          *(D), for purposes of this paragraph, the Corpora-*  
19          *tion shall have, in the same manner and to the*  
20          *same extent as with respect to a State non-*  
21          *member insured bank—*

22                 “(i) *jurisdiction over—*

23                         “(I) *any person other than a per-*  
24                         *son for which another agency is the ap-*  
25                         *propriate Federal banking agency or*

1                   *any institution-affiliated party thereof;*

2                   *and*

3                   “*(II) any person that aids or*

4                   *abets a violation of this paragraph by*

5                   *a person described in subclause (I);*

6                   *and*

7                   “*(ii) for purposes of enforcing the re-*

8                   *quirements of this paragraph, the authority*

9                   *of the Corporation under—*

10                   “*(I) section 10(c) to conduct in-*

11                   *vestigations; and*

12                   “*(II) subsections (b), (c), (d) and*

13                   *(i) of section 8 to conduct enforcement*

14                   *actions.*

15                   “*(F) OTHER ACTIONS PRESERVED.—No*

16                   *provision of this paragraph shall be construed as*

17                   *barring any action otherwise available, under*

18                   *the laws of the United States or any State, to*

19                   *any Federal or State agency or individual.”.*

20                   “*(b) ENFORCEMENT ORDERS.—Section 8(c) of the Fed-*

21                   *eral Deposit Insurance Act (12 U.S.C. 1818(c)) is amended*

22                   *by adding at the end the following new paragraph:*

23                   “*(4) FALSE ADVERTISING OR MISUSE OF NAMES*

24                   *TO INDICATE INSURED STATUS.—*

25                   “*(A) TEMPORARY ORDER.—*

1           “(i) *IN GENERAL.*—If a notice of  
2           charges served under subsection (b)(1) speci-  
3           fies on the basis of particular facts that any  
4           person engaged or is engaging in conduct  
5           described in section 18(a)(4), the Corpora-  
6           tion or other appropriate Federal banking  
7           agency may issue a temporary order requir-  
8           ing—

9                   “(I) *the immediate cessation of*  
10                  *any activity or practice described,*  
11                  *which gave rise to the notice of charges;*  
12                  *and*

13                   “(II) *affirmative action to prevent*  
14                  *any further, or to remedy any existing,*  
15                  *violation.*

16           “(ii) *EFFECT OF ORDER.*—Any tem-  
17           porary order issued under this subpara-  
18           graph shall take effect upon service.

19           “(B) *EFFECTIVE PERIOD OF TEMPORARY*  
20           *ORDER.*—A temporary order issued under sub-  
21           paragraph (A) shall remain effective and en-  
22           forceable, pending the completion of an adminis-  
23           trative proceeding pursuant to subsection (b)(1)  
24           in connection with the notice of charges—

1                   “(i) until such time as the Corporation  
2                   or other appropriate Federal banking agen-  
3                   cy dismisses the charges specified in such  
4                   notice; or

5                   “(ii) if a cease-and-desist order is  
6                   issued against such person, until the effec-  
7                   tive date of such order.

8                   “(C) CIVIL MONEY PENALTIES.—Any viola-  
9                   tion of section 18(a)(4) shall be subject to civil  
10                  money penalties, as set forth in subsection (i),  
11                  except that for any person other than an insured  
12                  depository institution or an institution-affiliated  
13                  party that is found to have violated this para-  
14                  graph, the Corporation or other appropriate Fed-  
15                  eral banking agency shall not be required to  
16                  demonstrate any loss to an insured depository  
17                  institution.”.

18                  (c) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—  
19                  Section 13(c) of the Federal Deposit Insurance Act (12  
20                  U.S.C. 1823(c)) is amended by adding at the end the fol-  
21                  lowing new paragraph:

22                         “(11) UNENFORCEABILITY OF CERTAIN AGREE-  
23                         MENTS.—No provision contained in any existing or  
24                         future standstill, confidentiality, or other agreement  
25                         that, directly or indirectly—



1           “(A) affects, restricts, or limits the ability of  
2           any person to offer to acquire or acquire,

3           “(B) prohibits any person from offering to  
4           acquire or acquiring, or

5           “(C) prohibits any person from using any  
6           previously disclosed information in connection  
7           with any such offer to acquire or acquisition of,  
8           all or part of any insured depository institution, in-  
9           cluding any liabilities, assets, or interest therein, in  
10          connection with any transaction in which the Cor-  
11          poration exercises its authority under section 11 or  
12          13, shall be enforceable against or impose any liabil-  
13          ity on such person, as such enforcement or liability  
14          shall be contrary to public policy.”.

15          (d) *TECHNICAL AND CONFORMING AMENDMENTS.*—  
16          Section 18 of the Federal Deposit Insurance Act (12 U.S.C.  
17          1828) is amended—

18                 (1) in subsection (a)(3)—

19                         (A) by striking “this subsection” the first  
20                         place that term appears and inserting “para-  
21                         graph (1)”; and

22                         (B) by striking “this subsection” the second  
23                         place that term appears and inserting “para-  
24                         graph (2)”; and

1           (2) *in the heading for subsection (a), by striking*  
2           *“INSURANCE LOGO.—” and inserting “REPRESENTA-*  
3           *TIONS OF DEPOSIT INSURANCE.—”.*

4   **SEC. 127. COOPERATION WITH THE FBI.**

5           *Any Federal financial regulatory agency shall cooper-*  
6           *ate with the Federal Bureau of Investigation and other law*  
7           *enforcement agencies investigating fraud, misrepresenta-*  
8           *tion, and malfeasance with respect to development, adver-*  
9           *tising, and sale of financial products.*

10   **SEC. 128. ACCELERATION OF EFFECTIVE DATE.**

11           *Section 203 of the Financial Services Regulatory Re-*  
12           *lief Act of 2006 (12 U.S.C. 461 note) is amended by striking*  
13           *“October 1, 2011” and inserting “October 1, 2008”.*

14   **SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHOR-**  
15           **ITY.**

16           *(a) IN GENERAL.—Not later than 7 days after the date*  
17           *on which the Board exercises its authority under the third*  
18           *paragraph of section 13 of the Federal Reserve Act (12*  
19           *U.S.C. 343; relating to discounts for individuals, partner-*  
20           *ships, and corporations) the Board shall provide to the*  
21           *Committee on Banking, Housing, and Urban Affairs of the*  
22           *Senate and the Committee on Financial Services of the*  
23           *House of Representatives a report which includes—*

24           (1) *the justification for exercising the authority;*  
25           *and*

1           (2) *the specific terms of the actions of the Board,*  
2           *including the size and duration of the lending, avail-*  
3           *able information concerning the value of any collat-*  
4           *eral held with respect to such a loan, the recipient of*  
5           *warrants or any other potential equity in exchange*  
6           *for the loan, and any expected cost to the taxpayers*  
7           *for such exercise.*

8           (b) *PERIODIC UPDATES.*—*The Board shall provide up-*  
9           *dates to the Committees specified in subsection (a) not less*  
10          *frequently than once every 60 days while the subject loan*  
11          *is outstanding, including—*

12                 (1) *the status of the loan;*

13                 (2) *the value of the collateral held by the Federal*  
14                 *reserve bank which initiated the loan; and*

15                 (3) *the projected cost to the taxpayers of the loan.*

16           (c) *CONFIDENTIALITY.*—*The information submitted to*  
17          *the Congress under this section shall be kept confidential,*  
18          *upon the written request of the Chairman of the Board, in*  
19          *which case it shall be made available only to the Chair-*  
20          *persons and Ranking Members of the Committees described*  
21          *in subsection (a).*

22           (d) *APPLICABILITY.*—*The provisions of this section*  
23          *shall be in force for all uses of the authority provided under*  
24          *section 13 of the Federal Reserve Act occurring during the*  
25          *period beginning on March 1, 2008 and ending on the after*

1 *the date of enactment of this Act, and reports described in*  
2 *subsection (a) shall be required beginning not later than*  
3 *30 days after that date of enactment, with respect to any*  
4 *such exercise of authority.*

5 *(e) SHARING OF INFORMATION.—Any reports required*  
6 *under this section shall also be submitted to the Congres-*  
7 *sional Oversight Panel established under section 125.*

8 **SEC. 130. TECHNICAL CORRECTIONS.**

9 *(a) IN GENERAL.—Section 128(b)(2) of the Truth in*  
10 *Lending Act (15 U.S.C. 1638(b)(2)), as amended by section*  
11 *2502 of the Mortgage Disclosure Improvement Act of 2008*  
12 *(Public Law 110–289), is amended—*

13 *(1) in subparagraph (A), by striking “In the*  
14 *case” and inserting “Except as provided in subpara-*  
15 *graph (G), in the case”; and*

16 *(2) by amending subparagraph (G) to read as*  
17 *follows:*

18 *“(G)(i) In the case of an extension of credit*  
19 *relating to a plan described in section 101(53D)*  
20 *of title 11, United States Code—*

21 *“(I) the requirements of subparagraphs*  
22 *(A) through (E) shall not apply; and*

23 *“(II) a good faith estimate of the dis-*  
24 *closures required under subsection (a) shall*  
25 *be made in accordance with regulations of*

1           *the Board under section 121(c) before such*  
2           *credit is extended, or shall be delivered or*  
3           *placed in the mail not later than 3 business*  
4           *days after the date on which the creditor re-*  
5           *ceives the written application of the con-*  
6           *sumer for such credit, whichever is earlier.*

7           “(i) *If a disclosure statement furnished*  
8           *within 3 business days of the written application*  
9           *(as provided under clause (i)(II)) contains an*  
10           *annual percentage rate which is subsequently*  
11           *rendered inaccurate, within the meaning of sec-*  
12           *tion 107(c), the creditor shall furnish another*  
13           *disclosure statement at the time of settlement or*  
14           *consummation of the transaction.”.*

15           ***(b) EFFECTIVE DATE.***—*The amendments made by sub-*  
16           *section (a) shall take effect as if included in the amendments*  
17           *made by section 2502 of the Mortgage Disclosure Improve-*  
18           *ment Act of 2008 (Public Law 110–289).*

19           **SEC. 131. EXCHANGE STABILIZATION FUND REIMBURSE-**  
20           **MENT.**

21           ***(a) REIMBURSEMENT.***—*The Secretary shall reimburse*  
22           *the Exchange Stabilization Fund established under section*  
23           *5302 of title 31, United States Code, for any funds that*  
24           *are used for the Treasury Money Market Funds Guaranty*

1 *Program for the United States money market mutual fund*  
2 *industry, from funds under this Act.*

3 (b) *LIMITS ON USE OF EXCHANGE STABILIZATION*  
4 *FUND.—The Secretary is prohibited from using the Ex-*  
5 *change Stabilization Fund for the establishment of any fu-*  
6 *ture guaranty programs for the United States money mar-*  
7 *ket mutual fund industry.*

8 **SEC. 132. AUTHORITY TO SUSPEND MARK-TO-MARKET AC-**  
9 **COUNTING.**

10 (a) *AUTHORITY.—The Securities and Exchange Com-*  
11 *mission shall have the authority under the securities laws*  
12 *(as such term is defined in section 3(a)(47) of the Securities*  
13 *Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to suspend,*  
14 *by rule, regulation, or order, the application of Statement*  
15 *Number 157 of the Financial Accounting Standards Board*  
16 *for any issuer (as such term is defined in section 3(a)(8)*  
17 *of such Act) or with respect to any class or category of*  
18 *transaction if the Commission determines that is necessary*  
19 *or appropriate in the public interest and is consistent with*  
20 *the protection of investors.*

21 (b) *SAVINGS PROVISION.—Nothing in subsection (a)*  
22 *shall be construed to restrict or limit any authority of the*  
23 *Securities and Exchange Commission under securities laws*  
24 *as in effect on the date of enactment of this Act.*

1 **SEC. 133. STUDY ON MARK-TO-MARKET ACCOUNTING.**

2 (a) *STUDY.*—*The Securities and Exchange Commis-*  
3 *sion, in consultation with the Board and the Secretary,*  
4 *shall conduct a study on mark-to-market accounting stand-*  
5 *ards as provided in Statement Number 157 of the Financial*  
6 *Accounting Standards Board, as such standards are appli-*  
7 *cable to financial institutions, including depository institu-*  
8 *tions. Such a study shall consider at a minimum—*

9 (1) *the effects of such accounting standards on a*  
10 *financial institution’s balance sheet;*

11 (2) *the impacts of such accounting on bank fail-*  
12 *ures in 2008;*

13 (3) *the impact of such standards on the quality*  
14 *of financial information available to investors;*

15 (4) *the process used by the Financial Accounting*  
16 *Standards Board in developing accounting standards;*

17 (5) *the advisability and feasibility of modifica-*  
18 *tions to such standards; and*

19 (6) *alternative accounting standards to those*  
20 *provided in such Statement Number 157.*

21 (b) *REPORT.*—*The Securities and Exchange Commis-*  
22 *sion shall submit to Congress a report of such study before*  
23 *the end of the 90-day period beginning on the date of the*  
24 *enactment of this Act containing the findings and deter-*  
25 *minations of the Commission, including such administra-*

1 *tive and legislative recommendations as the Commission de-*  
2 *termines appropriate.*

3 **SEC. 134. RECOUPMENT.**

4 *Upon the expiration of the 5-year period beginning*  
5 *upon the date of the enactment of this Act, the Director of*  
6 *the Office of Management and Budget, in consultation with*  
7 *the Director of the Congressional Budget Office, shall sub-*  
8 *mit a report to the Congress on the net amount within the*  
9 *Troubled Asset Relief Program under this Act. In any case*  
10 *where there is a shortfall, the President shall submit a legis-*  
11 *lative proposal that recoups from the financial industry an*  
12 *amount equal to the shortfall in order to ensure that the*  
13 *Troubled Asset Relief Program does not add to the deficit*  
14 *or national debt.*

15 **SEC. 135. PRESERVATION OF AUTHORITY.**

16 *With the exception of section 131, nothing in this Act*  
17 *may be construed to limit the authority of the Secretary*  
18 *or the Board under any other provision of law.*

19 **SEC. 136. TEMPORARY INCREASE IN DEPOSIT AND SHARE**  
20 **INSURANCE COVERAGE.**

21 *(a) FEDERAL DEPOSIT INSURANCE ACT; TEMPORARY*  
22 *INCREASE IN DEPOSIT INSURANCE.—*

23 *(1) INCREASED AMOUNT.—Effective only during*  
24 *the period beginning on the date of enactment of this*  
25 *Act and ending on December 31, 2009, section*



1     11(a)(1)(E) of the Federal Deposit Insurance Act (12  
2     U.S.C. 1821(a)(1)(E)) shall apply with “\$250,000”  
3     substituted for “\$100,000”.

4             (2) TEMPORARY INCREASE NOT TO BE CONSID-  
5     ERED FOR SETTING ASSESSMENTS.—The temporary  
6     increase in the standard maximum deposit insurance  
7     amount made under paragraph (1) shall not be taken  
8     into account by the Board of Directors of the Cor-  
9     poration for purposes of setting assessments under  
10    section 7(b)(2) of the Federal Deposit Insurance Act  
11    (12 U.S.C. 1817(b)(2)).

12            (3) BORROWING LIMITS TEMPORARILY LIFTED.—  
13    During the period beginning on the date of enactment  
14    of this Act and ending on December 31, 2009, the  
15    Board of Directors of the Corporation may request  
16    from the Secretary, and the Secretary shall approve,  
17    a loan or loans in an amount or amounts necessary  
18    to carry out this subsection, without regard to the  
19    limitations on such borrowing under section 14(a)  
20    and 15(c) of the Federal Deposit Insurance Act (12  
21    U.S.C. 1824(a), 1825(c)).

22            (b) FEDERAL CREDIT UNION ACT; TEMPORARY IN-  
23    CREASE IN SHARE INSURANCE.—

24            (1) INCREASED AMOUNT.—Effective only during  
25    the period beginning on the date of enactment of this

1 *Act and ending on December 31, 2009, section*  
2 *207(k)(5) of the Federal Credit Union Act (12 U.S.C.*  
3 *1787(k)(5)) shall apply with “\$250,000” substituted*  
4 *for “\$100,000”.*

5 (2) *TEMPORARY INCREASE NOT TO BE CONSID-*  
6 *ERED FOR SETTING INSURANCE PREMIUM CHARGES*  
7 *AND INSURANCE DEPOSIT ADJUSTMENTS.—The tem-*  
8 *porary increase in the standard maximum share in-*  
9 *surance amount made under paragraph (1) shall not*  
10 *be taken into account by the National Credit Union*  
11 *Administration Board for purposes of setting insur-*  
12 *ance premium charges and share insurance deposit*  
13 *adjustments under section 202(c)(2) of the Federal*  
14 *Credit Union Act (12 U.S.C. 1782(c)(2)).*

15 (3) *BORROWING LIMITS TEMPORARILY LIFTED.—*  
16 *During the period beginning on the date of enactment*  
17 *of this Act and ending on December 31, 2009, the Na-*  
18 *tional Credit Union Administration Board may re-*  
19 *quest from the Secretary, and the Secretary shall ap-*  
20 *prove, a loan or loans in an amount or amounts nec-*  
21 *essary to carry out this subsection, without regard to*  
22 *the limitations on such borrowing under section*  
23 *203(d)(1) of the Federal Credit Union Act (12 U.S.C.*  
24 *1783(d)(1)).*

1       (c) *NOT FOR USE IN INFLATION ADJUSTMENTS.*—*The*  
2 *temporary increase in the standard maximum deposit in-*  
3 *surance amount made under this section shall not be used*  
4 *to make any inflation adjustment under section 11(a)(1)(F)*  
5 *of the Federal Deposit Insurance Act (12 U.S.C.*  
6 *1821(a)(1)(F)) for purposes of that Act or the Federal Cred-*  
7 *it Union Act.*

8           **TITLE II—BUDGET-RELATED**  
9                           **PROVISIONS**

10 **SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT**  
11                           **AGENCIES.**

12       *Upon request, and to the extent otherwise consistent*  
13 *with law, all information used by the Secretary in connec-*  
14 *tion with activities authorized under this Act (including*  
15 *the records to which the Comptroller General is entitled*  
16 *under this Act) shall be made available to congressional*  
17 *support agencies (in accordance with their obligations to*  
18 *support the Congress as set out in their authorizing stat-*  
19 *utes) for the purposes of assisting the committees of Con-*  
20 *gress with conducting oversight, monitoring, and analysis*  
21 *of the activities authorized under this Act.*

1 **SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND**  
2 **BUDGET AND THE CONGRESSIONAL BUDGET**  
3 **OFFICE.**

4 *(a) REPORTS BY THE OFFICE OF MANAGEMENT AND*  
5 *BUDGET.—Within 60 days of the first exercise of the au-*  
6 *thority granted in section 101(a), but in no case later than*  
7 *December 31, 2008, and semiannually thereafter, the Office*  
8 *of Management and Budget shall report to the President*  
9 *and the Congress—*

10 *(1) the estimate, notwithstanding section*  
11 *502(5)(F) of the Federal Credit Reform Act of 1990*  
12 *(2 U.S.C. 661a(5)(F)), as of the first business day*  
13 *that is at least 30 days prior to the issuance of the*  
14 *report, of the cost of the troubled assets, and guaran-*  
15 *tees of the troubled assets, determined in accordance*  
16 *with section 123;*

17 *(2) the information used to derive the estimate,*  
18 *including assets purchased or guaranteed, prices paid,*  
19 *revenues received, the impact on the deficit and debt,*  
20 *and a description of any outstanding commitments to*  
21 *purchase troubled assets; and*

22 *(3) a detailed analysis of how the estimate has*  
23 *changed from the previous report.*

24 *Beginning with the second report under subsection (a), the*  
25 *Office of Management and Budget shall explain the dif-*  
26 *ferences between the Congressional Budget Office estimates*

1 *delivered in accordance with subsection (b) and prior Office*  
2 *of Management and Budget estimates.*

3       **(b) REPORTS BY THE CONGRESSIONAL BUDGET OF-**  
4 *FICE.—Within 45 days of receipt by the Congress of each*  
5 *report from the Office of Management and Budget under*  
6 *subsection (a), the Congressional Budget Office shall report*  
7 *to the Congress the Congressional Budget Office’s assessment*  
8 *of the report submitted by the Office of Management and*  
9 *Budget, including—*

10           *(1) the cost of the troubled assets and guarantees*  
11           *of the troubled assets,*

12           *(2) the information and valuation methods used*  
13           *to calculate such cost, and*

14           *(3) the impact on the deficit and the debt.*

15       **(c) FINANCIAL EXPERTISE.—***In carrying out the du-*  
16 *ties in this subsection or performing analyses of activities*  
17 *under this Act, the Director of the Congressional Budget*  
18 *Office may employ personnel and procure the services of*  
19 *experts and consultants.*

20       **(d) AUTHORIZATION OF APPROPRIATIONS.—***There are*  
21 *authorized to be appropriated such sums as may be nec-*  
22 *essary to produce reports required by this section.*

1 **SEC. 203. ANALYSIS IN PRESIDENT’S BUDGET.**

2 (a) *IN GENERAL.*—Section 1105(a) of title 31, United  
3 States Code, is amended by adding at the end the following  
4 new paragraph:

5 “(35) as supplementary materials, a separate  
6 analysis of the budgetary effects for all prior fiscal  
7 years, the current fiscal year, the fiscal year for which  
8 the budget is submitted, and ensuing fiscal years of  
9 the actions the Secretary of the Treasury has taken or  
10 plans to take using any authority provided in the  
11 Emergency Economic Stabilization Act of 2008, in-  
12 cluding—

13 “(A) an estimate of the current value of all  
14 assets purchased, sold, and guaranteed under the  
15 authority provided in the Emergency Economic  
16 Stabilization Act of 2008 using methodology re-  
17 quired by the Federal Credit Reform Act of 1990  
18 (2 U.S.C. 661 et seq.) and section 123 of the  
19 Emergency Economic Stabilization Act of 2008;

20 “(B) an estimate of the deficit, the debt held  
21 by the public, and the gross Federal debt using  
22 methodology required by the Federal Credit Re-  
23 form Act of 1990 and section 123 of the Emer-  
24 gency Economic Stabilization Act of 2008;

25 “(C) an estimate of the current value of all  
26 assets purchased, sold, and guaranteed under the

1           *authority provided in the Emergency Economic*  
2           *Stabilization Act of 2008 calculated on a cash*  
3           *basis;*

4           “(D) *a revised estimate of the deficit, the*  
5           *debt held by the public, and the gross Federal*  
6           *debt, substituting the cash-based estimates in*  
7           *subparagraph (C) for the estimates calculated*  
8           *under subparagraph (A) pursuant to the Federal*  
9           *Credit Reform Act of 1990 and section 123 of the*  
10           *Emergency Economic Stabilization Act of 2008;*  
11           *and*

12           “(E) *the portion of the deficit which can be*  
13           *attributed to any action taken by the Secretary*  
14           *using authority provided by the Emergency Eco-*  
15           *nomics Stabilization Act of 2008 and the extent*  
16           *to which the change in the deficit since the most*  
17           *recent estimate is due to a reestimate using the*  
18           *methodology required by the Federal Credit Re-*  
19           *form Act of 1990 and section 123 of the Emer-*  
20           *gency Economic Stabilization Act of 2008.”*

21           **(b) CONSULTATION.**—*In implementing this section, the*  
22           *Director of Office of Management and Budget shall consult*  
23           *periodically, but at least annually, with the Committee on*  
24           *the Budget of the House of Representatives, the Committee*

1 *on the Budget of the Senate, and the Director of the Con-*  
 2 *gressional Budget Office.*

3       (c) *EFFECTIVE DATE.*—*This section and the amend-*  
 4 *ment made by this section shall apply beginning with re-*  
 5 *spect to the fiscal year 2010 budget submission of the Presi-*  
 6 *dent.*

7 **SEC. 204. EMERGENCY TREATMENT.**

8       *All provisions of this Act are designated as an emer-*  
 9 *gency requirement and necessary to meet emergency needs*  
 10 *pursuant to section 204(a) of S. Con. Res 21 (110th Con-*  
 11 *gress), the concurrent resolution on the budget for fiscal year*  
 12 *2008 and rescissions of any amounts provided in this Act*  
 13 *shall not be counted for purposes of budget enforcement.*

14       **TITLE III—TAX PROVISIONS**

15 **SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF CER-**  
 16 **TAIN PREFERRED STOCK.**

17       (a) *IN GENERAL.*—*For purposes of the Internal Rev-*  
 18 *enue Code of 1986, gain or loss from the sale or exchange*  
 19 *of any applicable preferred stock by any applicable finan-*  
 20 *cial institution shall be treated as ordinary income or loss.*

21       (b) *APPLICABLE PREFERRED STOCK.*—*For purposes of*  
 22 *this section, the term “applicable preferred stock” means*  
 23 *any stock—*

24               (1) *which is preferred stock in—*



1           (A) *the Federal National Mortgage Association,*  
2           *established pursuant to the Federal Na-*  
3           *tional Mortgage Association Charter Act (12*  
4           *U.S.C. 1716 et seq.), or*

5           (B) *the Federal Home Loan Mortgage Cor-*  
6           *poration, established pursuant to the Federal*  
7           *Home Loan Mortgage Corporation Act (12*  
8           *U.S.C. 1451 et seq.), and*

9           (2) *which—*

10           (A) *was held by the applicable financial in-*  
11           *stitution on September 6, 2008, or*

12           (B) *was sold or exchanged by the applicable*  
13           *financial institution on or after January 1,*  
14           *2008, and before September 7, 2008.*

15           (c) *APPLICABLE FINANCIAL INSTITUTION.—For pur-*  
16           *poses of this section:*

17           (1) *IN GENERAL.—Except as provided in para-*  
18           *graph (2), the term “applicable financial institution”*  
19           *means—*

20           (A) *a financial institution referred to in*  
21           *section 582(c)(2) of the Internal Revenue Code of*  
22           *1986, or*

23           (B) *a depository institution holding com-*  
24           *pany (as defined in section 3(w)(1) of the Fed-*

1            *eral Deposit Insurance Act (12 U.S.C.*  
2            *1813(w)(1))*.

3            *(2) SPECIAL RULES FOR CERTAIN SALES.—In*  
4            *the case of—*

5                    *(A) a sale or exchange described in sub-*  
6                    *section (b)(2)(B), an entity shall be treated as an*  
7                    *applicable financial institution only if it was an*  
8                    *entity described in subparagraph (A) or (B) of*  
9                    *paragraph (1) at the time of the sale or ex-*  
10                   *change, and*

11                   *(B) a sale or exchange after September 6,*  
12                   *2008, of preferred stock described in subsection*  
13                   *(b)(2)(A), an entity shall be treated as an appli-*  
14                   *cable financial institution only if it was an enti-*  
15                   *ty described in subparagraph (A) or (B) of para-*  
16                   *graph (1) at all times during the period begin-*  
17                   *ning on September 6, 2008, and ending on the*  
18                   *date of the sale or exchange of the preferred stock.*

19            *(d) SPECIAL RULE FOR CERTAIN PROPERTY NOT*  
20            *HELD ON SEPTEMBER 6, 2008.—The Secretary of the*  
21            *Treasury or the Secretary's delegate may extend the appli-*  
22            *cation of this section to all or a portion of the gain or loss*  
23            *from a sale or exchange in any case where—*

24                   *(1) an applicable financial institution sells or*  
25                   *exchanges applicable preferred stock after September*

1       6, 2008, which the applicable financial institution  
2       did not hold on such date, but the basis of which in  
3       the hands of the applicable financial institution at  
4       the time of the sale or exchange is the same as the  
5       basis in the hands of the person which held such stock  
6       on such date, or

7               (2) the applicable financial institution is a part-  
8       ner in a partnership which—

9                       (A) held such stock on September 6, 2008,  
10                      and later sold or exchanged such stock, or

11                     (B) sold or exchanged such stock during the  
12                     period described in subsection (b)(2)(B).

13       (e) *REGULATORY AUTHORITY.*—The Secretary of the  
14       Treasury or the Secretary’s delegate may prescribe such  
15       guidance, rules, or regulations as are necessary to carry out  
16       the purposes of this section.

17       (f) *EFFECTIVE DATE.*—This section shall apply to  
18       sales or exchanges occurring after December 31, 2007, in  
19       taxable years ending after such date.

1 **SEC. 302. SPECIAL RULES FOR TAX TREATMENT OF EXECU-**  
2 **TIVE COMPENSATION OF EMPLOYERS PAR-**  
3 **TICIPATING IN THE TROUBLED ASSETS RE-**  
4 **LIEF PROGRAM.**

5 (a) *DENIAL OF DEDUCTION.*—*Subsection (m) of sec-*  
6 *tion 162 of the Internal Revenue Code of 1986 is amended*  
7 *by adding at the end the following new paragraph:*

8 “(5) *SPECIAL RULE FOR APPLICATION TO EM-*  
9 *PLOYERS PARTICIPATING IN THE TROUBLED ASSETS*  
10 *RELIEF PROGRAM.*—

11 “(A) *IN GENERAL.*—*In the case of an appli-*  
12 *cable employer, no deduction shall be allowed*  
13 *under this chapter—*

14 “(i) *in the case of executive remunera-*  
15 *tion for any applicable taxable year which*  
16 *is attributable to services performed by a*  
17 *covered executive during such applicable*  
18 *taxable year, to the extent that the amount*  
19 *of such remuneration exceeds \$500,000, or*

20 “(ii) *in the case of deferred deduction*  
21 *executive remuneration for any taxable year*  
22 *for services performed during any applica-*  
23 *ble taxable year by a covered executive, to*  
24 *the extent that the amount of such remu-*  
25 *neration exceeds \$500,000 reduced (but not*  
26 *below zero) by the sum of—*

1           “(I) *the executive remuneration*  
2           *for such applicable taxable year, plus*

3           “(II) *the portion of the deferred*  
4           *deduction executive remuneration for*  
5           *such services which was taken into ac-*  
6           *count under this clause in a preceding*  
7           *taxable year.*

8           “(B) *APPLICABLE EMPLOYER.—For pur-*  
9           *poses of this paragraph—*

10           “(i) *IN GENERAL.—Except as provided*  
11           *in clause (ii), the term ‘applicable em-*  
12           *ployer’ means any employer from whom 1*  
13           *or more troubled assets are acquired under*  
14           *a program established by the Secretary*  
15           *under section 101(a) of the Emergency Eco-*  
16           *nomics Stabilization Act of 2008 if the ag-*  
17           *gregate amount of the assets so acquired for*  
18           *all taxable years exceeds \$300,000,000.*

19           “(ii) *DISREGARD OF CERTAIN ASSETS*  
20           *SOLD THROUGH DIRECT PURCHASE.—If the*  
21           *only sales of troubled assets by an employer*  
22           *under the program described in clause (i)*  
23           *are through 1 or more direct purchases*  
24           *(within the meaning of section 113(c) of the*  
25           *Emergency Economic Stabilization Act of*

1           2008), *such assets shall not be taken into*  
2           *account under clause (i) in determining*  
3           *whether the employer is an applicable em-*  
4           *ployer for purposes of this paragraph.*

5           “(iii) *AGGREGATION RULES.—Two or*  
6           *more persons who are treated as a single*  
7           *employer under subsection (b) or (c) of sec-*  
8           *tion 414 shall be treated as a single em-*  
9           *ployer, except that in applying section*  
10          *1563(a) for purposes of either such sub-*  
11          *section, paragraphs (2) and (3) thereof shall*  
12          *be disregarded.*

13          “(C) *APPLICABLE TAXABLE YEAR.—For*  
14          *purposes of this paragraph, the term ‘applicable*  
15          *taxable year’ means, with respect to any em-*  
16          *ployer—*

17                 “(i) *the first taxable year of the em-*  
18                 *ployer—*

19                         “(I) *which includes any portion of*  
20                         *the period during which the authorities*  
21                         *under section 101(a) of the Emergency*  
22                         *Economic Stabilization Act of 2008*  
23                         *are in effect (determined under section*  
24                         *120 thereof), and*

1           “(II) in which the aggregate  
2           amount of troubled assets acquired  
3           from the employer during the taxable  
4           year pursuant to such authorities  
5           (other than assets to which subpara-  
6           graph (B)(ii) applies), when added to  
7           the aggregate amount so acquired for  
8           all preceding taxable years, exceeds  
9           \$300,000,000, and

10           “(ii) any subsequent taxable year  
11           which includes any portion of such period.

12           “(D) COVERED EXECUTIVE.—For purposes  
13           of this paragraph—

14           “(i) IN GENERAL.—The term ‘covered  
15           executive’ means, with respect to any appli-  
16           cable taxable year, any employee—

17           “(I) who, at any time during the  
18           portion of the taxable year during  
19           which the authorities under section  
20           101(a) of the Emergency Economic  
21           Stabilization Act of 2008 are in effect  
22           (determined under section 120 thereof),  
23           is the chief executive officer of the ap-  
24           plicable employer or the chief financial  
25           officer of the applicable employer, or

1           *an individual acting in either such ca-*  
2           *capacity, or*

3                     *“(II) who is described in clause*  
4                     *(ii).*

5                     *“(ii) HIGHEST COMPENSATED EMPLOY-*  
6                     *EES.—An employee is described in this*  
7                     *clause if the employee is 1 of the 3 highest*  
8                     *compensated officers of the applicable em-*  
9                     *ployer for the taxable year (other than an*  
10                    *individual described in clause (i)(I)), deter-*  
11                    *mined—*

12                    *“(I) on the basis of the share-*  
13                    *holder disclosure rules for compensa-*  
14                    *tion under the Securities Exchange Act*  
15                    *of 1934 (without regard to whether*  
16                    *those rules apply to the employer), and*

17                    *“(II) by only taking into account*  
18                    *employees employed during the portion*  
19                    *of the taxable year described in clause*  
20                    *(i)(I).*

21                    *“(iii) EMPLOYEE REMAINS COVERED*  
22                    *EXECUTIVE.—If an employee is a covered*  
23                    *executive with respect to an applicable em-*  
24                    *ployer for any applicable taxable year, such*  
25                    *employee shall be treated as a covered execu-*



1            *tive with respect to such employer for all*  
2            *subsequent applicable taxable years and for*  
3            *all subsequent taxable years in which de-*  
4            *ferred deduction executive remuneration*  
5            *with respect to services performed in all*  
6            *such applicable taxable years would (but for*  
7            *this paragraph) be deductible.*

8            “(E) *EXECUTIVE REMUNERATION.*—*For*  
9            *purposes of this paragraph, the term ‘executive*  
10           *remuneration’ means the applicable employee re-*  
11           *muneration of the covered executive, as deter-*  
12           *mined under paragraph (4) without regard to*  
13           *subparagraphs (B), (C), and (D) thereof. Such*  
14           *term shall not include any deferred deduction ex-*  
15           *ecutive remuneration with respect to services per-*  
16           *formed in a prior applicable taxable year.*

17           “(F) *DEFERRED DEDUCTION EXECUTIVE*  
18           *REMUNERATION.*—*For purposes of this para-*  
19           *graph, the term ‘deferred deduction executive re-*  
20           *muneration’ means remuneration which would*  
21           *be executive remuneration for services performed*  
22           *in an applicable taxable year but for the fact*  
23           *that the deduction under this chapter (deter-*  
24           *mined without regard to this paragraph) for*

1           *such remuneration is allowable in a subsequent*  
2           *taxable year.*

3           “(G) *COORDINATION.*—*Rules similar to the*  
4           *rules of subparagraphs (F) and (G) of paragraph*  
5           *(4) shall apply for purposes of this paragraph.*

6           “(H) *REGULATORY AUTHORITY.*—*The Sec-*  
7           *retary may prescribe such guidance, rules, or*  
8           *regulations as are necessary to carry out the*  
9           *purposes of this paragraph and the Emergency*  
10           *Economic Stabilization Act of 2008, including*  
11           *the extent to which this paragraph applies in the*  
12           *case of any acquisition, merger, or reorganiza-*  
13           *tion of an applicable employer.”.*

14           (b) *GOLDEN PARACHUTE RULE.*—*Section 280G of the*  
15           *Internal Revenue Code of 1986 is amended—*

16           (1) *by redesignating subsection (e) as subsection*  
17           *(f), and*

18           (2) *by inserting after subsection (d) the following*  
19           *new subsection:*

20           “(e) *SPECIAL RULE FOR APPLICATION TO EMPLOYERS*  
21           *PARTICIPATING IN THE TROUBLED ASSETS RELIEF PRO-*  
22           *GRAM.*—

23           “(1) *IN GENERAL.*—*In the case of the severance*  
24           *from employment of a covered executive of an appli-*  
25           *cable employer during the period during which the*

1 *authorities under section 101(a) of the Emergency*  
2 *Economic Stabilization Act of 2008 are in effect (de-*  
3 *termined under section 120 of such Act), this section*  
4 *shall be applied to payments to such executive with*  
5 *the following modifications:*

6 “(A) Any reference to a disqualified indi-  
7 vidual (other than in subsection (c)) shall be  
8 treated as a reference to a covered executive.

9 “(B) Any reference to a change described in  
10 subsection (b)(2)(A)(i) shall be treated as a ref-  
11 erence to an applicable severance from employ-  
12 ment of a covered executive, and any reference to  
13 a payment contingent on such a change shall be  
14 treated as a reference to any payment made dur-  
15 ing an applicable taxable year of the employer  
16 on account of such applicable severance from em-  
17 ployment.

18 “(C) Any reference to a corporation shall be  
19 treated as a reference to an applicable employer.

20 “(D) The provisions of subsections  
21 (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not  
22 apply.

23 “(2) *DEFINITIONS AND SPECIAL RULES.—For*  
24 *purposes of this subsection:*

1           “(A) *DEFINITIONS.*—Any term used in this  
2           subsection which is also used in section  
3           162(m)(5) shall have the meaning given such  
4           term by such section.

5           “(B) *APPLICABLE SEVERANCE FROM EM-*  
6           *PLOYMENT.*—The term ‘applicable severance from  
7           employment’ means any severance from employ-  
8           ment of a covered executive—

9                   “(i) by reason of an involuntary termi-  
10                  nation of the executive by the employer, or

11                  “(ii) in connection with any bank-  
12                  ruptcy, liquidation, or receivership of the  
13                  employer.

14           “(C) *COORDINATION AND OTHER RULES.*—

15                   “(i) *IN GENERAL.*—If a payment  
16                  which is treated as a parachute payment by  
17                  reason of this subsection is also a parachute  
18                  payment determined without regard to this  
19                  subsection, this subsection shall not apply to  
20                  such payment.

21                   “(ii) *REGULATORY AUTHORITY.*—The  
22                  Secretary may prescribe such guidance,  
23                  rules, or regulations as are necessary—

24                           “(I) to carry out the purposes of  
25                           this subsection and the Emergency

1           *Economic Stabilization Act of 2008,*  
2           *including the extent to which this sub-*  
3           *section applies in the case of any ac-*  
4           *quisition, merger, or reorganization of*  
5           *an applicable employer,*

6                   “(II) to apply this section and  
7           section 4999 in cases where one or  
8           more payments with respect to any in-  
9           dividual are treated as parachute pay-  
10          ments by reason of this subsection, and  
11          other payments with respect to such in-  
12          dividual are treated as parachute pay-  
13          ments under this section without re-  
14          gard to this subsection, and

15                   “(III) to prevent the avoidance of  
16          the application of this section through  
17          the mischaracterization of a severance  
18          from employment as other than an ap-  
19          plicable severance from employment.”.

20          (c) *EFFECTIVE DATES.*—

21                   (1) *IN GENERAL.*—The amendment made by sub-  
22          section (a) shall apply to taxable years ending on or  
23          after the date of the enactment of this Act.

24                   (2) *GOLDEN PARACHUTE RULE.*—The amend-  
25          ments made by subsection (b) shall apply to payments

1       *with respect to severances occurring during the period*  
2       *during which the authorities under section 101(a) of*  
3       *this Act are in effect (determined under section 120*  
4       *of this Act).*

5   **SEC. 303. EXTENSION OF EXCLUSION OF INCOME FROM DIS-**  
6                   **CHARGE OF QUALIFIED PRINCIPAL RESI-**  
7                   **DENCE INDEBTEDNESS.**

8       (a) *EXTENSION.*—Subparagraph (E) of section  
9   108(a)(1) of the Internal Revenue Code of 1986 is amended  
10   by striking “January 1, 2010” and inserting “January 1,  
11   2013”.

12       (b) *EFFECTIVE DATE.*—The amendment made by this  
13   section shall apply to discharges of indebtedness occurring  
14   on or after January 1, 2010.

15   **DIVISION B—ENERGY IMPROVE-**  
16                   **MENT AND EXTENSION ACT**  
17                   **OF 2008**

18   **SECTION 1. SHORT TITLE, ETC.**

19       (a) *SHORT TITLE.*—This division may be cited as the  
20   “Energy Improvement and Extension Act of 2008”.

21       (b) *REFERENCE.*—Except as otherwise expressly pro-  
22   vided, whenever in this division an amendment or repeal  
23   is expressed in terms of an amendment to, or repeal of, a  
24   section or other provision, the reference shall be considered

1 *to be made to a section or other provision of the Internal*  
 2 *Revenue Code of 1986.*

3 (c) *TABLE OF CONTENTS.—The table of contents for*  
 4 *this division is as follows:*

*Sec. 1. Short title, etc.*

*TITLE I—ENERGY PRODUCTION INCENTIVES*

*Subtitle A—Renewable Energy Incentives*

- Sec. 101. Renewable energy credit.*
- Sec. 102. Production credit for electricity produced from marine renewables.*
- Sec. 103. Energy credit.*
- Sec. 104. Energy credit for small wind property.*
- Sec. 105. Energy credit for geothermal heat pump systems.*
- Sec. 106. Credit for residential energy efficient property.*
- Sec. 107. New clean renewable energy bonds.*
- Sec. 108. Credit for steel industry fuel.*
- Sec. 109. Special rule to implement FERC and State electric restructuring policy.*

*Subtitle B—Carbon Mitigation and Coal Provisions*

- Sec. 111. Expansion and modification of advanced coal project investment credit.*
- Sec. 112. Expansion and modification of coal gasification investment credit.*
- Sec. 113. Temporary increase in coal excise tax; funding of Black Lung Disability Trust Fund.*
- Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.*
- Sec. 115. Tax credit for carbon dioxide sequestration.*
- Sec. 116. Certain income and gains relating to industrial source carbon dioxide treated as qualifying income for publicly traded partnerships.*
- Sec. 117. Carbon audit of the tax code.*

*TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS*

- Sec. 201. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.*
- Sec. 202. Credits for biodiesel and renewable diesel.*
- Sec. 203. Clarification that credits for fuel are designed to provide an incentive for United States production.*
- Sec. 204. Extension and modification of alternative fuel credit.*
- Sec. 205. Credit for new qualified plug-in electric drive motor vehicles.*
- Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.*
- Sec. 207. Alternative fuel vehicle refueling property credit.*
- Sec. 208. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.*
- Sec. 209. Extension and modification of election to expense certain refineries.*

*Sec. 210. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.*

*Sec. 211. Transportation fringe benefit to bicycle commuters.*

**TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS**

*Sec. 301. Qualified energy conservation bonds.*

*Sec. 302. Credit for nonbusiness energy property.*

*Sec. 303. Energy efficient commercial buildings deduction.*

*Sec. 304. New energy efficient home credit.*

*Sec. 305. Modifications of energy efficient appliance credit for appliances produced after 2007.*

*Sec. 306. Accelerated recovery period for depreciation of smart meters and smart grid systems.*

*Sec. 307. Qualified green building and sustainable design projects.*

*Sec. 308. Special depreciation allowance for certain reuse and recycling property.*

**TITLE IV—REVENUE PROVISIONS**

*Sec. 401. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.*

*Sec. 402. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.*

*Sec. 403. Broker reporting of customer's basis in securities transactions.*

*Sec. 404. 0.2 percent FUTA surtax.*

*Sec. 405. Increase and extension of Oil Spill Liability Trust Fund tax.*

1    **TITLE I—ENERGY PRODUCTION**  
 2                    **INCENTIVES**  
 3                    **Subtitle A—Renewable Energy**  
 4                    **Incentives**

5    **SEC. 101. RENEWABLE ENERGY CREDIT.**

6            (a) *EXTENSION OF CREDIT.*—

7                    (1) *1-YEAR EXTENSION FOR WIND AND REFINED*  
 8                    *COAL FACILITIES.*—*Paragraphs (1) and (8) of section*  
 9                    *45(d) are each amended by striking “January 1,*  
 10                    *2009” and inserting “January 1, 2010”.*

11                   (2) *2-YEAR EXTENSION FOR CERTAIN OTHER FA-*  
 12                    *CILITIES.*—*Each of the following provisions of section*



1       45(d) is amended by striking “January 1, 2009” and  
2       inserting “January 1, 2011”:

3               (A) Clauses (i) and (ii) of paragraph  
4       (2)(A).

5               (B) Clauses (i)(I) and (ii) of paragraph  
6       (3)(A).

7               (C) Paragraph (4).

8               (D) Paragraph (5).

9               (E) Paragraph (6).

10              (F) Paragraph (7).

11              (G) Subparagraphs (A) and (B) of para-  
12       graph (9).

13       (b) *MODIFICATION OF REFINED COAL AS A QUALIFIED*  
14 *ENERGY RESOURCE.—*

15              (1) *ELIMINATION OF INCREASED MARKET VALUE*  
16 *TEST.—Section 45(c)(7)(A)(i) (defining refined coal),*  
17 *as amended by section 108, is amended—*

18                   (A) *by striking subclause (IV),*

19                   (B) *by adding “and” at the end of subclause*  
20 *(II), and*

21                   (C) *by striking “, and” at the end of sub-*  
22 *clause (III) and inserting a period.*

23              (2) *INCREASE IN REQUIRED EMISSION REDUC-*  
24 *TION.—Section 45(c)(7)(B) (defining qualified emis-*  
25 *sion reduction) is amended by inserting “at least 40*

1     *percent of the emissions of” after “nitrogen oxide*  
2     *and”.*

3     *(c) TRASH FACILITY CLARIFICATION.—Paragraph (7)*  
4     *of section 45(d) is amended—*

5             *(1) by striking “facility which burns” and in-*  
6             *serting “facility (other than a facility described in*  
7             *paragraph (6)) which uses”, and*

8             *(2) by striking “COMBUSTION”.*

9     *(d) EXPANSION OF BIOMASS FACILITIES.—*

10            *(1) OPEN-LOOP BIOMASS FACILITIES.—Para-*  
11            *graph (3) of section 45(d) is amended by redesign-*  
12            *ating subparagraph (B) as subparagraph (C) and*  
13            *by inserting after subparagraph (A) the following new*  
14            *subparagraph:*

15                    *“(B) EXPANSION OF FACILITY.—Such term*  
16                    *shall include a new unit placed in service after*  
17                    *the date of the enactment of this subparagraph*  
18                    *in connection with a facility described in sub-*  
19                    *paragraph (A), but only to the extent of the in-*  
20                    *creased amount of electricity produced at the fa-*  
21                    *ility by reason of such new unit.”.*

22            *(2) CLOSED-LOOP BIOMASS FACILITIES.—Para-*  
23            *graph (2) of section 45(d) is amended by redesign-*  
24            *ating subparagraph (B) as subparagraph (C) and*

1     *inserting after subparagraph (A) the following new*  
2     *subparagraph:*

3             “(B) *EXPANSION OF FACILITY.*—*Such term*  
4             *shall include a new unit placed in service after*  
5             *the date of the enactment of this subparagraph*  
6             *in connection with a facility described in sub-*  
7             *paragraph (A)(i), but only to the extent of the*  
8             *increased amount of electricity produced at the*  
9             *facility by reason of such new unit.”.*

10     (i) *MODIFICATION OF RULES FOR HYDROPOWER PRO-*  
11     *DUCTION.*—*Subparagraph (C) of section 45(c)(8) is amend-*  
12     *ed to read as follows:*

13             “(C) *NONHYDROELECTRIC DAM.*—*For pur-*  
14             *poses of subparagraph (A), a facility is described*  
15             *in this subparagraph if—*

16                 “(i) *the hydroelectric project installed*  
17                 *on the nonhydroelectric dam is licensed by*  
18                 *the Federal Energy Regulatory Commission*  
19                 *and meets all other applicable environ-*  
20                 *mental, licensing, and regulatory require-*  
21                 *ments,*

22                 “(ii) *the nonhydroelectric dam was*  
23                 *placed in service before the date of the en-*  
24                 *actment of this paragraph and operated for*  
25                 *flood control, navigation, or water supply*

1           *purposes and did not produce hydroelectric*  
2           *power on the date of the enactment of this*  
3           *paragraph, and*

4           “(iii) *the hydroelectric project is oper-*  
5           *ated so that the water surface elevation at*  
6           *any given location and time that would*  
7           *have occurred in the absence of the hydro-*  
8           *electric project is maintained, subject to any*  
9           *license requirements imposed under applica-*  
10           *ble law that change the water surface ele-*  
11           *vation for the purpose of improving envi-*  
12           *ronmental quality of the affected waterway.*

13           *The Secretary, in consultation with the Federal*  
14           *Energy Regulatory Commission, shall certify if a*  
15           *hydroelectric project licensed at a nonhydro-*  
16           *electric dam meets the criteria in clause (iii).*  
17           *Nothing in this section shall affect the standards*  
18           *under which the Federal Energy Regulatory*  
19           *Commission issues licenses for and regulates hy-*  
20           *dropower projects under part I of the Federal*  
21           *Power Act.”.*

22           (f) *EFFECTIVE DATE.*—

23           (1) *IN GENERAL.*—*Except as otherwise provided*  
24           *in this subsection, the amendments made by this sec-*



1       **(b) MARINE RENEWABLES.**—*Subsection (c) of section*  
2 *45 is amended by adding at the end the following new para-*  
3 *graph:*

4               **“(10) MARINE AND HYDROKINETIC RENEWABLE**  
5 **ENERGY.**—

6               **“(A) IN GENERAL.**—*The term ‘marine and*  
7 *hydrokinetic renewable energy’ means energy de-*  
8 *rived from—*

9                       **“(i) waves, tides, and currents in**  
10 **oceans, estuaries, and tidal areas,**

11                       **“(ii) free flowing water in rivers, lakes,**  
12 **and streams,**

13                       **“(iii) free flowing water in an irriga-**  
14 **tion system, canal, or other man-made**  
15 **channel, including projects that utilize non-**  
16 **mechanical structures to accelerate the flow**  
17 **of water for electric power production pur-**  
18 **poses, or**

19                       **“(iv) differentials in ocean temperature**  
20 **(ocean thermal energy conversion).**

21               **“(B) EXCEPTIONS.**—*Such term shall not in-*  
22 *clude any energy which is derived from any*  
23 *source which utilizes a dam, diversionary struc-*  
24 *ture (except as provided in subparagraph*

1           (A)(iii)), or impoundment for electric power pro-  
2           duction purposes.”.

3           (c) *DEFINITION OF FACILITY.*—Subsection (d) of sec-  
4           tion 45 is amended by adding at the end the following new  
5           paragraph:

6                   “(11) *MARINE AND HYDROKINETIC RENEWABLE*  
7           *ENERGY FACILITIES.*—In the case of a facility pro-  
8           ducing electricity from marine and hydrokinetic re-  
9           newable energy, the term ‘qualified facility’ means  
10          any facility owned by the taxpayer—

11                   “(A) which has a nameplate capacity rat-  
12           ing of at least 150 kilowatts, and

13                   “(B) which is originally placed in service  
14           on or after the date of the enactment of this  
15           paragraph and before January 1, 2012.”.

16          (d) *CREDIT RATE.*—Subparagraph (A) of section  
17          45(b)(4) is amended by striking “or (9)” and inserting “(9),  
18          or (11)”.

19          (e) *COORDINATION WITH SMALL IRRIGATION*  
20          *POWER.*—Paragraph (5) of section 45(d), as amended by  
21          section 101, is amended by striking “January 1, 2012” and  
22          inserting “the date of the enactment of paragraph (11)”.

23          (f) *EFFECTIVE DATE.*—The amendments made by this  
24          section shall apply to electricity produced and sold after

1 *the date of the enactment of this Act, in taxable years end-*  
2 *ing after such date.*

3 **SEC. 103. ENERGY CREDIT.**

4 (a) *EXTENSION OF CREDIT.*—

5 (1) *SOLAR ENERGY PROPERTY.*—*Paragraphs*  
6 *(2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each*  
7 *amended by striking “January 1, 2009” and insert-*  
8 *ing “January 1, 2017”.*

9 (2) *FUEL CELL PROPERTY.*—*Subparagraph (E)*  
10 *of section 48(c)(1) is amended by striking “December*  
11 *31, 2008” and inserting “December 31, 2016”.*

12 (3) *MICROTURBINE PROPERTY.*—*Subparagraph*  
13 *(E) of section 48(c)(2) is amended by striking “De-*  
14 *cember 31, 2008” and inserting “December 31, 2016”.*

15 (b) *ALLOWANCE OF ENERGY CREDIT AGAINST ALTER-*  
16 *NATIVE MINIMUM TAX.*—

17 (1) *IN GENERAL.*—*Subparagraph (B) of section*  
18 *38(c)(4), as amended by the Housing Assistance Tax*  
19 *Act of 2008, is amended by redesignating clause (vi)*  
20 *as clause (vi) and (vii), respectively, and by inserting*  
21 *after clause (iv) the following new clause:*

22 “(v) *the credit determined under sec-*  
23 *tion 46 to the extent that such credit is at-*  
24 *tributable to the energy credit determined*  
25 *under section 48,”.*



1           (2) *TECHNICAL AMENDMENT.*—*Clause (vi) of section*  
 2           *38(c)(4)(B), as redesignated by paragraph (1), is*  
 3           *amended by striking “section 47 to the extent attrib-*  
 4           *utable to” and inserting “section 46 to the extent that*  
 5           *such credit is attributable to the rehabilitation credit*  
 6           *under section 47, but only with respect to”.*

7           (c) *ENERGY CREDIT FOR COMBINED HEAT AND*  
 8           *POWER SYSTEM PROPERTY.*—

9           (1) *IN GENERAL.*—*Section 48(a)(3)(A) is amend-*  
 10          *ed by striking “or” at the end of clause (iii), by in-*  
 11          *serting “or” at the end of clause (iv), and by adding*  
 12          *at the end the following new clause:*

13                           *“(v) combined heat and power system*  
 14                           *property,”.*

15          (2) *COMBINED HEAT AND POWER SYSTEM PROP-*  
 16          *ERTY.*—*Subsection (c) of section 48 is amended—*

17                           (A) *by striking “QUALIFIED FUEL CELL*  
 18                           *PROPERTY; QUALIFIED MICROTURBINE PROP-*  
 19                           *ERTY” in the heading and inserting “DEFINI-*  
 20                           *TIONS”, and*

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

23                           “(3) *COMBINED HEAT AND POWER SYSTEM PROP-*  
 24                           *ERTY.*—

1           “(A) *COMBINED HEAT AND POWER SYSTEM*  
2           *PROPERTY.*—*The term ‘combined heat and power*  
3           *system property’ means property comprising a*  
4           *system—*

5                   “(i) *which uses the same energy source*  
6                   *for the simultaneous or sequential genera-*  
7                   *tion of electrical power, mechanical shaft*  
8                   *power, or both, in combination with the*  
9                   *generation of steam or other forms of useful*  
10                   *thermal energy (including heating and cool-*  
11                   *ing applications),*

12                   “(ii) *which produces—*

13                           “(I) *at least 20 percent of its total*  
14                           *useful energy in the form of thermal*  
15                           *energy which is not used to produce*  
16                           *electrical or mechanical power (or com-*  
17                           *bination thereof), and*

18                           “(II) *at least 20 percent of its*  
19                           *total useful energy in the form of elec-*  
20                           *trical or mechanical power (or com-*  
21                           *bination thereof),*

22                           “(iii) *the energy efficiency percentage*  
23                           *of which exceeds 60 percent, and*

24                           “(iv) *which is placed in service before*  
25                           *January 1, 2017.*

1           “(B) *LIMITATION.*—

2                   “(i) *IN GENERAL.*—*In the case of com-*  
3 *combined heat and power system property with*  
4 *an electrical capacity in excess of the appli-*  
5 *cable capacity placed in service during the*  
6 *taxable year, the credit under subsection*  
7 *(a)(1) (determined without regard to this*  
8 *paragraph) for such year shall be equal to*  
9 *the amount which bears the same ratio to*  
10 *such credit as the applicable capacity bears*  
11 *to the capacity of such property.*

12                   “(ii) *APPLICABLE CAPACITY.*—*For*  
13 *purposes of clause (i), the term ‘applicable*  
14 *capacity’ means 15 megawatts or a me-*  
15 *chanical energy capacity of more than*  
16 *20,000 horsepower or an equivalent com-*  
17 *bination of electrical and mechanical energy*  
18 *capacities.*

19                   “(iii) *MAXIMUM CAPACITY.*—*The term*  
20 *‘combined heat and power system property’*  
21 *shall not include any property comprising a*  
22 *system if such system has a capacity in ex-*  
23 *cess of 50 megawatts or a mechanical en-*  
24 *ergy capacity in excess of 67,000 horsepower*

1           *or an equivalent combination of electrical*  
2           *and mechanical energy capacities.*

3           “(C) *SPECIAL RULES.*—

4                 “(i) *ENERGY EFFICIENCY PERCENT-*  
5                 *AGE.*—*For purposes of this paragraph, the*  
6                 *energy efficiency percentage of a system is*  
7                 *the fraction—*

8                         “(I) *the numerator of which is the*  
9                         *total useful electrical, thermal, and me-*  
10                         *chanical power produced by the system*  
11                         *at normal operating rates, and ex-*  
12                         *pected to be consumed in its normal*  
13                         *application, and*

14                         “(II) *the denominator of which is*  
15                         *the lower heating value of the fuel*  
16                         *sources for the system.*

17                 “(ii) *DETERMINATIONS MADE ON BTU*  
18                 *BASIS.*—*The energy efficiency percentage*  
19                 *and the percentages under subparagraph*  
20                 *(A)(ii) shall be determined on a Btu basis.*

21                 “(iii) *INPUT AND OUTPUT PROPERTY*  
22                 *NOT INCLUDED.*—*The term ‘combined heat*  
23                 *and power system property’ does not in-*  
24                 *clude property used to transport the energy*

1                   source to the facility or to distribute energy  
2                   produced by the facility.

3                   “(D) SYSTEMS USING BIOMASS.—If a sys-  
4                   tem is designed to use biomass (within the mean-  
5                   ing of paragraphs (2) and (3) of section 45(c)  
6                   without regard to the last sentence of paragraph  
7                   (3)(A)) for at least 90 percent of the energy  
8                   source—

9                   “(i) subparagraph (A)(iii) shall not  
10                  apply, but

11                  “(ii) the amount of credit determined  
12                  under subsection (a) with respect to such  
13                  system shall not exceed the amount which  
14                  bears the same ratio to such amount of cred-  
15                  it (determined without regard to this sub-  
16                  paragraph) as the energy efficiency percent-  
17                  age of such system bears to 60 percent.”.

18                  (3) CONFORMING AMENDMENT.—Section 48(a)(1)  
19                  is amended by striking “paragraphs (1)(B) and  
20                  (2)(B)” and inserting “paragraphs (1)(B), (2)(B),  
21                  and (3)(B)”.

22                  (d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL  
23                  PROPERTY.—Subparagraph (B) of section 48(c)(1) is  
24                  amended by striking “\$500” and inserting “\$1,500”.

1       (e) *PUBLIC UTILITY PROPERTY TAKEN INTO AC-*  
2 *COUNT.—*

3           (1) *IN GENERAL.—Paragraph (3) of section*  
4 *48(a) is amended by striking the second sentence*  
5 *thereof.*

6           (2) *CONFORMING AMENDMENTS.—*

7           (A) *Paragraph (1) of section 48(c) is*  
8 *amended by striking subparagraph (D) and re-*  
9 *designating subparagraph (E) as subparagraph*  
10 *(D).*

11           (B) *Paragraph (2) of section 48(c) is*  
12 *amended by striking subparagraph (D) and re-*  
13 *designating subparagraph (E) as subparagraph*  
14 *(D).*

15       (f) *EFFECTIVE DATE.—*

16           (1) *IN GENERAL.—Except as otherwise provided*  
17 *in this subsection, the amendments made by this sec-*  
18 *tion shall take effect on the date of the enactment of*  
19 *this Act.*

20           (2) *ALLOWANCE AGAINST ALTERNATIVE MINIMUM*  
21 *TAX.—The amendments made by subsection (b) shall*  
22 *apply to credits determined under section 46 of the*  
23 *Internal Revenue Code of 1986 in taxable years begin-*  
24 *ning after the date of the enactment of this Act and*  
25 *to carrybacks of such credits.*

1           (3) *COMBINED HEAT AND POWER AND FUEL*  
2           *CELL PROPERTY.*—*The amendments made by sub-*  
3           *sections (c) and (d) shall apply to periods after the*  
4           *date of the enactment of this Act, in taxable years*  
5           *ending after such date, under rules similar to the*  
6           *rules of section 48(m) of the Internal Revenue Code*  
7           *of 1986 (as in effect on the day before the date of the*  
8           *enactment of the Revenue Reconciliation Act of 1990).*

9           (4) *PUBLIC UTILITY PROPERTY.*—*The amend-*  
10          *ments made by subsection (e) shall apply to periods*  
11          *after February 13, 2008, in taxable years ending after*  
12          *such date, under rules similar to the rules of section*  
13          *48(m) of the Internal Revenue Code of 1986 (as in ef-*  
14          *fect on the day before the date of the enactment of the*  
15          *Revenue Reconciliation Act of 1990).*

16 **SEC. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.**

17          (a) *IN GENERAL.*—*Section 48(a)(3)(A), as amended by*  
18          *section 103, is amended by striking “or” at the end of clause*  
19          *(iv), by adding “or” at the end of clause (v), and by insert-*  
20          *ing after clause (v) the following new clause:*

21                           “(vi) *qualified small wind energy*  
22                           *property,*”.

23          (b) *30 PERCENT CREDIT.*—*Section 48(a)(2)(A)(i) is*  
24          *amended by striking “and” at the end of subclause (II) and*

1 by inserting after subclause (III) the following new sub-  
2 clause:

3                                   “(IV) qualified small wind energy  
4                                   property, and”.

5       (c) QUALIFIED SMALL WIND ENERGY PROPERTY.—  
6 Section 48(c), as amended by section 103, is amended by  
7 adding at the end the following new paragraph:

8                   “(4) QUALIFIED SMALL WIND ENERGY PROP-  
9       ERTY.—

10                   “(A) IN GENERAL.—The term ‘qualified  
11       small wind energy property’ means property  
12       which uses a qualifying small wind turbine to  
13       generate electricity.

14                   “(B) LIMITATION.—In the case of qualified  
15       small wind energy property placed in service  
16       during the taxable year, the credit otherwise de-  
17       termined under subsection (a)(1) for such year  
18       with respect to all such property of the taxpayer  
19       shall not exceed \$4,000.

20                   “(C) QUALIFYING SMALL WIND TURBINE.—  
21       The term ‘qualifying small wind turbine’ means  
22       a wind turbine which has a nameplate capacity  
23       of not more than 100 kilowatts.

24                   “(D) TERMINATION.—The term ‘qualified  
25       small wind energy property’ shall not include



1           *any property for any period after December 31,*  
2           *2016.”.*

3           *(d) CONFORMING AMENDMENT.—Section 48(a)(1), as*  
4 *amended by section 103, is amended by striking “para-*  
5 *graphs (1)(B), (2)(B), and (3)(B)” and inserting “para-*  
6 *graphs (1)(B), (2)(B), (3)(B), and (4)(B)”.*

7           *(e) EFFECTIVE DATE.—The amendments made by this*  
8 *section shall apply to periods after the date of the enactment*  
9 *of this Act, in taxable years ending after such date, under*  
10 *rules similar to the rules of section 48(m) of the Internal*  
11 *Revenue Code of 1986 (as in effect on the day before the*  
12 *date of the enactment of the Revenue Reconciliation Act of*  
13 *1990).*

14 **SEC. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP**  
15 **SYSTEMS.**

16           *(a) IN GENERAL.—Subparagraph (A) of section*  
17 *48(a)(3), as amended by this Act, is amended by striking*  
18 *“or” at the end of clause (v), by inserting “or” at the end*  
19 *of clause (vi), and by adding at the end the following new*  
20 *clause:*

21                           *“(vii) equipment which uses the*  
22                           *ground or ground water as a thermal en-*  
23                           *ergy source to heat a structure or as a ther-*  
24                           *mal energy sink to cool a structure, but*

1           *only with respect to periods ending before*  
2           *January 1, 2017,”.*

3           **(b) EFFECTIVE DATE.**—*The amendments made by this*  
4 *section shall apply to periods after the date of the enactment*  
5 *of this Act, in taxable years ending after such date, under*  
6 *rules similar to the rules of section 48(m) of the Internal*  
7 *Revenue Code of 1986 (as in effect on the day before the*  
8 *date of the enactment of the Revenue Reconciliation Act of*  
9 *1990).*

10 **SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
11 **PROPERTY.**

12           **(a) EXTENSION.**—*Section 25D(g) is amended by strik-*  
13 *ing “December 31, 2008” and inserting “December 31,*  
14 *2016”.*

15           **(b) REMOVAL OF LIMITATION FOR SOLAR ELECTRIC**  
16 **PROPERTY.**—

17                   **(1) IN GENERAL.**—*Section 25D(b)(1), as amend-*  
18 *ed by subsections (c) and (d), is amended—*

19                           **(A)** *by striking subparagraph (A), and*

20                           **(B)** *by redesignating subparagraphs (B)*  
21 *through (E) as subparagraphs (A) through and*  
22 *(D), respectively.*

23                   **(2) CONFORMING AMENDMENT.**—*Section*  
24 *25D(e)(4)(A), as amended by subsections (c) and (d),*  
25 *is amended—*

1                   (A) by striking clause (i), and  
2                   (B) by redesignating clauses (ii) through (v)  
3                   as clauses (i) and (iv), respectively.

4           (c) *CREDIT FOR RESIDENTIAL WIND PROPERTY.*—

5                   (1) *IN GENERAL.*—Section 25D(a) is amended by  
6                   striking “and” at the end of paragraph (2), by strik-  
7                   ing the period at the end of paragraph (3) and insert-  
8                   ing “, and”, and by adding at the end the following  
9                   new paragraph:

10                   “(4) 30 percent of the qualified small wind en-  
11                   ergy property expenditures made by the taxpayer  
12                   during such year.”.

13                   (2) *LIMITATION.*—Section 25D(b)(1) is amended  
14                   by striking “and” at the end of subparagraph (B), by  
15                   striking the period at the end of subparagraph (C)  
16                   and inserting “, and”, and by adding at the end the  
17                   following new subparagraph:

18                   “(D) \$500 with respect to each half kilowatt  
19                   of capacity (not to exceed \$4,000) of wind tur-  
20                   bines for which qualified small wind energy  
21                   property expenditures are made.”.

22                   (3) *QUALIFIED SMALL WIND ENERGY PROPERTY*  
23                   *EXPENDITURES.*—

1           (A) *IN GENERAL.*—Section 25D(d) is  
2           amended by adding at the end the following new  
3           paragraph:

4           “(4) *QUALIFIED SMALL WIND ENERGY PROPERTY*  
5           *EXPENDITURE.*—The term ‘qualified small wind en-  
6           ergy property expenditure’ means an expenditure for  
7           property which uses a wind turbine to generate elec-  
8           tricity for use in connection with a dwelling unit lo-  
9           cated in the United States and used as a residence by  
10          the taxpayer.”.

11          (B) *NO DOUBLE BENEFIT.*—Section  
12          45(d)(1) is amended by adding at the end the  
13          following new sentence: “Such term shall not in-  
14          clude any facility with respect to which any  
15          qualified small wind energy property expendi-  
16          ture (as defined in subsection (d)(4) of section  
17          25D) is taken into account in determining the  
18          credit under such section.”.

19          (4) *MAXIMUM EXPENDITURES IN CASE OF JOINT*  
20          *OCCUPANCY.*—Section 25D(e)(4)(A) is amended by  
21          striking “and” at the end of clause (ii), by striking  
22          the period at the end of clause (iii) and inserting “,  
23          and”, and by adding at the end the following new  
24          clause:

1                   “(iv) \$1,667 in the case of each half  
2                   kilowatt of capacity (not to exceed \$13,333)  
3                   of wind turbines for which qualified small  
4                   wind energy property expenditures are  
5                   made.”.

6           (d) *CREDIT FOR GEOTHERMAL HEAT PUMP SYS-*  
7 *TEMS.—*

8                   (1) *IN GENERAL.—*Section 25D(a), as amended  
9                   by subsection (c), is amended by striking “and” at the  
10                  end of paragraph (3), by striking the period at the  
11                  end of paragraph (4) and inserting “, and”, and by  
12                  adding at the end the following new paragraph:

13                   “(5) 30 percent of the qualified geothermal heat  
14                  pump property expenditures made by the taxpayer  
15                  during such year.”.

16                  (2) *LIMITATION.—*Section 25D(b)(1), as amend-  
17                  ed by subsection (c), is amended by striking “and” at  
18                  the end of subparagraph (C), by striking the period  
19                  at the end of subparagraph (D) and inserting “,  
20                  and”, and by adding at the end the following new  
21                  subparagraph:

22                   “(E) \$2,000 with respect to any qualified  
23                  geothermal heat pump property expenditures.”.

24                  (3) *QUALIFIED GEOTHERMAL HEAT PUMP PROP-*  
25 *ERTY EXPENDITURE.—*Section 25D(d), as amended by

1        *subsection (c), is amended by adding at the end the*  
2        *following new paragraph:*

3                “(5) *QUALIFIED GEOTHERMAL HEAT PUMP*  
4        *PROPERTY EXPENDITURE.—*

5                “(A) *IN GENERAL.—The term ‘qualified geo-*  
6        *thermal heat pump property expenditure’ means*  
7        *an expenditure for qualified geothermal heat*  
8        *pump property installed on or in connection*  
9        *with a dwelling unit located in the United States*  
10        *and used as a residence by the taxpayer.*

11               “(B) *QUALIFIED GEOTHERMAL HEAT PUMP*  
12        *PROPERTY.—The term ‘qualified geothermal heat*  
13        *pump property’ means any equipment which—*

14                “(i) *uses the ground or ground water*  
15        *as a thermal energy source to heat the*  
16        *dwelling unit referred to in subparagraph*  
17        *(A) or as a thermal energy sink to cool such*  
18        *dwelling unit, and*

19                “(ii) *meets the requirements of the En-*  
20        *ergy Star program which are in effect at*  
21        *the time that the expenditure for such*  
22        *equipment is made.”.*

23                (4) *MAXIMUM EXPENDITURES IN CASE OF JOINT*  
24        *OCCUPANCY.—Section 25D(e)(4)(A), as amended by*  
25        *subsection (c), is amended by striking “and” at the*

1 *end of clause (iii), by striking the period at the end*  
 2 *of clause (iv) and inserting “, and”, and by adding*  
 3 *at the end the following new clause:*

4 *“(v) \$6,667 in the case of any qualified*  
 5 *geothermal heat pump property expendi-*  
 6 *tures.”.*

7 *(e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-*  
 8 *IMUM TAX.—*

9 *(1) IN GENERAL.—Subsection (c) of section 25D*  
 10 *is amended to read as follows:*

11 *“(c) LIMITATION BASED ON AMOUNT OF TAX;*  
 12 *CARRYFORWARD OF UNUSED CREDIT.—*

13 *“(1) LIMITATION BASED ON AMOUNT OF TAX.—*  
 14 *In the case of a taxable year to which section 26(a)(2)*  
 15 *does not apply, the credit allowed under subsection*  
 16 *(a) for the taxable year shall not exceed the excess*  
 17 *of—*

18 *“(A) the sum of the regular tax liability (as*  
 19 *defined in section 26(b)) plus the tax imposed by*  
 20 *section 55, over*

21 *“(B) the sum of the credits allowable under*  
 22 *this subpart (other than this section) and section*  
 23 *27 for the taxable year.*

24 *“(2) CARRYFORWARD OF UNUSED CREDIT.—*

1           “(A) *RULE FOR YEARS IN WHICH ALL PER-*  
2           *SONAL CREDITS ALLOWED AGAINST REGULAR*  
3           *AND ALTERNATIVE MINIMUM TAX.—In the case of*  
4           *a taxable year to which section 26(a)(2) applies,*  
5           *if the credit allowable under subsection (a) ex-*  
6           *ceeds the limitation imposed by section 26(a)(2)*  
7           *for such taxable year reduced by the sum of the*  
8           *credits allowable under this subpart (other than*  
9           *this section), such excess shall be carried to the*  
10           *succeeding taxable year and added to the credit*  
11           *allowable under subsection (a) for such suc-*  
12           *ceeding taxable year.*

13           “(B) *RULE FOR OTHER YEARS.—In the case*  
14           *of a taxable year to which section 26(a)(2) does*  
15           *not apply, if the credit allowable under sub-*  
16           *section (a) exceeds the limitation imposed by*  
17           *paragraph (1) for such taxable year, such excess*  
18           *shall be carried to the succeeding taxable year*  
19           *and added to the credit allowable under sub-*  
20           *section (a) for such succeeding taxable year.”.*

21           (2) *CONFORMING AMENDMENTS.—*

22           (A) *Section 23(b)(4)(B) is amended by in-*  
23           *serting “and section 25D” after “this section”.*



1           (B) Section 24(b)(3)(B) is amended by  
2           striking “and 25B” and inserting “, 25B, and  
3           25D”.

4           (C) Section 25B(g)(2) is amended by strik-  
5           ing “section 23” and inserting “sections 23 and  
6           25D”.

7           (D) Section 26(a)(1) is amended by striking  
8           “and 25B” and inserting “25B, and 25D”.

9           (f) *EFFECTIVE DATE.*—

10           (1) *IN GENERAL.*—*Except as provided in para-*  
11           *graph (2), the amendments made by this section shall*  
12           *apply to taxable years beginning after December 31,*  
13           *2007.*

14           (2) *SOLAR ELECTRIC PROPERTY LIMITATION.*—  
15           *The amendments made by subsection (b) shall apply*  
16           *to taxable years beginning after December 31, 2008.*

17           (3) *APPLICATION OF EGTRRA SUNSET.*—*The*  
18           *amendments made by subparagraphs (A) and (B) of*  
19           *subsection (e)(2) shall be subject to title IX of the Eco-*  
20           *nomic Growth and Tax Relief Reconciliation Act of*  
21           *2001 in the same manner as the provisions of such*  
22           *Act to which such amendments relate.*

1 **SEC. 107. NEW CLEAN RENEWABLE ENERGY BONDS.**

2 (a) *IN GENERAL.*—Subpart I of part IV of subchapter  
3 A of chapter 1 is amended by adding at the end the fol-  
4 lowing new section:

5 **“SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.**

6 “(a) *NEW CLEAN RENEWABLE ENERGY BOND.*—For  
7 purposes of this subpart, the term ‘new clean renewable en-  
8 ergy bond’ means any bond issued as part of an issue if—

9 “(1) 100 percent of the available project proceeds  
10 of such issue are to be used for capital expenditures  
11 incurred by governmental bodies, public power pro-  
12 viders, or cooperative electric companies for one or  
13 more qualified renewable energy facilities,

14 “(2) the bond is issued by a qualified issuer, and

15 “(3) the issuer designates such bond for purposes  
16 of this section.

17 “(b) *REDUCED CREDIT AMOUNT.*—The annual credit  
18 determined under section 54A(b) with respect to any new  
19 clean renewable energy bond shall be 70 percent of the  
20 amount so determined without regard to this subsection.

21 “(c) *LIMITATION ON AMOUNT OF BONDS DES-*  
22 *IGNATED.*—

23 “(1) *IN GENERAL.*—The maximum aggregate  
24 face amount of bonds which may be designated under  
25 subsection (a) by any issuer shall not exceed the limi-

1     *tation amount allocated under this subsection to such*  
2     *issuer.*

3             “(2) *NATIONAL LIMITATION ON AMOUNT OF*  
4     *BONDS DESIGNATED.—There is a national new clean*  
5     *renewable energy bond limitation of \$800,000,000*  
6     *which shall be allocated by the Secretary as provided*  
7     *in paragraph (3), except that—*

8             “(A) *not more than 33<sup>1</sup>/<sub>3</sub> percent thereof*  
9             *may be allocated to qualified projects of public*  
10            *power providers,*

11            “(B) *not more than 33<sup>1</sup>/<sub>3</sub> percent thereof*  
12            *may be allocated to qualified projects of govern-*  
13            *mental bodies, and*

14            “(C) *not more than 33<sup>1</sup>/<sub>3</sub> percent thereof*  
15            *may be allocated to qualified projects of coopera-*  
16            *tive electric companies.*

17            “(3) *METHOD OF ALLOCATION.—*

18            “(A) *ALLOCATION AMONG PUBLIC POWER*  
19     *PROVIDERS.—After the Secretary determines the*  
20     *qualified projects of public power providers*  
21     *which are appropriate for receiving an alloca-*  
22     *tion of the national new clean renewable energy*  
23     *bond limitation, the Secretary shall, to the max-*  
24     *imum extent practicable, make allocations*  
25     *among such projects in such manner that the*

1           *amount allocated to each such project bears the*  
2           *same ratio to the cost of such project as the limi-*  
3           *tation under paragraph (2)(A) bears to the cost*  
4           *of all such projects.*

5           “(B) *ALLOCATION AMONG GOVERNMENTAL*  
6           *BODIES AND COOPERATIVE ELECTRIC COMPA-*  
7           *NIES.—The Secretary shall make allocations of*  
8           *the amount of the national new clean renewable*  
9           *energy bond limitation described in paragraphs*  
10           *(2)(B) and (2)(C) among qualified projects of*  
11           *governmental bodies and cooperative electric*  
12           *companies, respectively, in such manner as the*  
13           *Secretary determines appropriate.*

14           “(d) *DEFINITIONS.—For purposes of this section—*

15           “(1) *QUALIFIED RENEWABLE ENERGY FACIL-*  
16           *ITY.—The term ‘qualified renewable energy facility’*  
17           *means a qualified facility (as determined under sec-*  
18           *tion 45(d) without regard to paragraphs (8) and (10)*  
19           *thereof and to any placed in service date) owned by*  
20           *a public power provider, a governmental body, or a*  
21           *cooperative electric company.*

22           “(2) *PUBLIC POWER PROVIDER.—The term ‘pub-*  
23           *lic power provider’ means a State utility with a serv-*  
24           *ice obligation, as such terms are defined in section*

1     *217 of the Federal Power Act (as in effect on the date*  
2     *of the enactment of this paragraph).*

3             “(3) *GOVERNMENTAL BODY.*—*The term ‘govern-*  
4     *mental body’ means any State or Indian tribal gov-*  
5     *ernment, or any political subdivision thereof.*

6             “(4) *COOPERATIVE ELECTRIC COMPANY.*—*The*  
7     *term ‘cooperative electric company’ means a mutual*  
8     *or cooperative electric company described in section*  
9     *501(c)(12) or section 1381(a)(2)(C).*

10            “(5) *CLEAN RENEWABLE ENERGY BOND LEND-*  
11     *ER.*—*The term ‘clean renewable energy bond lender’*  
12     *means a lender which is a cooperative which is owned*  
13     *by, or has outstanding loans to, 100 or more coopera-*  
14     *tive electric companies and is in existence on Feb-*  
15     *ruary 1, 2002, and shall include any affiliated entity*  
16     *which is controlled by such lender.*

17            “(6) *QUALIFIED ISSUER.*—*The term ‘qualified*  
18     *issuer’ means a public power provider, a cooperative*  
19     *electric company, a governmental body, a clean re-*  
20     *newable energy bond lender, or a not-for-profit elec-*  
21     *tric utility which has received a loan or loan guar-*  
22     *antee under the Rural Electrification Act.”.*

23     (b) *CONFORMING AMENDMENTS.*—

24            (1) *Paragraph (1) of section 54A(d) is amended*  
25     *to read as follows:*

1           “(1) *QUALIFIED TAX CREDIT BOND.*—*The term*  
2           *‘qualified tax credit bond’ means—*

3                     “(A) *a qualified forestry conservation bond,*  
4                     *or*

5                     “(B) *a new clean renewable energy bond,*  
6           *which is part of an issue that meets requirements of*  
7           *paragraphs (2), (3), (4), (5), and (6).”.*

8           (2) *Subparagraph (C) of section 54A(d)(2) is*  
9           *amended to read as follows:*

10                   “(C) *QUALIFIED PURPOSE.*—*For purposes*  
11           *of this paragraph, the term ‘qualified purpose’*  
12           *means—*

13                   “(i) *in the case of a qualified forestry*  
14                   *conservation bond, a purpose specified in*  
15                   *section 54B(e), and*

16                   “(ii) *in the case of a new clean renew-*  
17                   *able energy bond, a purpose specified in sec-*  
18                   *tion 54C(a)(1).”.*

19           (3) *The table of sections for subpart I of part IV*  
20           *of subchapter A of chapter 1 is amended by adding*  
21           *at the end the following new item:*

          “*Sec. 54C. Qualified clean renewable energy bonds.*”.

22           (c) *EXTENSION FOR CLEAN RENEWABLE ENERGY*  
23           *BONDS.*—*Subsection (m) of section 54 is amended by strik-*  
24           *ing “December 31, 2008” and inserting “December 31,*  
25           *2009”.*

1       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to obligations issued after the date of*  
3 *the enactment of this Act.*

4 **SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.**

5       (a) *TREATMENT AS REFINED COAL.*—

6           (1) *IN GENERAL.*—*Subparagraph (A) of section*  
7 *45(c)(7) of the Internal Revenue Code of 1986 (relat-*  
8 *ing to refined coal), as amended by this Act, is*  
9 *amended to read as follows:*

10                   “(A) *IN GENERAL.*—*The term ‘refined coal’*  
11 *means a fuel—*

12                           “(i) *which—*

13                                   “(I) *is a liquid, gaseous, or solid*  
14 *fuel produced from coal (including lig-*  
15 *nite) or high carbon fly ash, including*  
16 *such fuel used as a feedstock,*

17                                   “(II) *is sold by the taxpayer with*  
18 *the reasonable expectation that it will*  
19 *be used for purpose of producing*  
20 *steam,*

21                                   “(III) *is certified by the taxpayer*  
22 *as resulting (when used in the produc-*  
23 *tion of steam) in a qualified emission*  
24 *reduction, and*

1           “(IV) is produced in such a man-  
2           ner as to result in an increase of at  
3           least 50 percent in the market value of  
4           the refined coal (excluding any in-  
5           crease caused by materials combined or  
6           added during the production process),  
7           as compared to the value of the feed-  
8           stock coal, or

9           “(ii) which is steel industry fuel.”.

10           (2) *STEEL INDUSTRY FUEL DEFINED.*—Para-  
11           graph (7) of section 45(c) of such Code is amended by  
12           adding at the end the following new subparagraph:

13           “(C) *STEEL INDUSTRY FUEL.*—

14           “(i) *IN GENERAL.*—The term ‘steel in-  
15           dustry fuel’ means a fuel which—

16           “(I) is produced through a process  
17           of liquifying coal waste sludge and dis-  
18           tributing it on coal, and

19           “(II) is used as a feedstock for the  
20           manufacture of coke.

21           “(ii) *COAL WASTE SLUDGE.*—The term  
22           ‘coal waste sludge’ means the tar decanter  
23           sludge and related byproducts of the coking  
24           process, including such materials that have  
25           been stored in ground, in tanks and in la-



1            *goons, that have been treated as hazardous*  
2            *wastes under applicable Federal environ-*  
3            *mental rules absent liquefaction and proc-*  
4            *essing with coal into a feedstock for the*  
5            *manufacture of coke.”.*

6            *(b) CREDIT AMOUNT.—*

7                    *(1) IN GENERAL.—Paragraph (8) of section 45(e)*  
8            *of the Internal Revenue Code of 1986 (relating to re-*  
9            *fined coal production facilities) is amended by adding*  
10           *at the end the following new subparagraph*

11                    *“(D) SPECIAL RULE FOR STEEL INDUSTRY*

12                    *FUEL.—*

13                    *“(i) IN GENERAL.—In the case of a*  
14            *taxpayer who produces steel industry fuel—*

15                    *“(I) this paragraph shall be ap-*  
16            *plied separately with respect to steel*  
17            *industry fuel and other refined coal,*  
18            *and*

19                    *“(II) in applying this paragraph*  
20            *to steel industry fuel, the modifications*  
21            *in clause (ii) shall apply.*

22                    *“(ii) MODIFICATIONS.—*

23                    *“(I) CREDIT AMOUNT.—Subpara-*  
24            *graph (A) shall be applied by sub-*

1                    *stituting ‘\$2 per barrel-of-oil equiva-*  
2                    *lent’ for ‘\$4.375 per ton’.*

3                    *“(II) CREDIT PERIOD.—In lieu of*  
4                    *the 10-year period referred to in*  
5                    *clauses (i) and (ii)(II) of subpara-*  
6                    *graph (A), the credit period shall be*  
7                    *the period beginning on the later of the*  
8                    *date such facility was originally placed*  
9                    *in service, the date the modifications*  
10                   *described in clause (iii) were placed in*  
11                   *service, or October 1, 2008, and ending*  
12                   *on the later of December 31, 2009, or*  
13                   *the date which is 1 year after the date*  
14                   *such facility or the modifications de-*  
15                   *scribed in clause (iii) were placed in*  
16                   *service.*

17                   *“(III) NO PHASEOUT.—Subpara-*  
18                   *graph (B) shall not apply.*

19                   *“(iii) MODIFICATIONS.—The modifica-*  
20                   *tions described in this clause are modifica-*  
21                   *tions to an existing facility which allow*  
22                   *such facility to produce steel industry fuel.*

23                   *“(iv) BARREL-OF-OIL EQUIVALENT.—*  
24                   *For purposes of this subparagraph, a bar-*  
25                   *rel-of-oil equivalent is the amount of steel*

1                    *industry fuel that has a Btu content of*  
2                    *5,800,000 Btus.”.*

3                    (2) *INFLATION ADJUSTMENT.—Paragraph (2) of*  
4                    *section 45(b) of such Code is amended by inserting*  
5                    *“the \$3 amount in subsection (e)(8)(D)(i)(I),” after*  
6                    *“subsection (e)(8)(A),”.*

7                    (c) *TERMINATION.—Paragraph (8) of section 45(d) of*  
8                    *the Internal Revenue Code of 1986 (relating to refined coal*  
9                    *production facility), as amended by this Act, is amended*  
10                   *to read as follows:*

11                   “(8) *REFINED COAL PRODUCTION FACILITY.—In*  
12                   *the case of a facility that produces refined coal, the*  
13                   *term ‘refined coal production facility’ means—*

14                                      *“(A) with respect to a facility producing*  
15                                      *steel industry fuel, any facility (or any modi-*  
16                                      *fication to a facility) which is placed in service*  
17                                      *before January 1, 2010, and*

18                                      *“(B) with respect to any other facility pro-*  
19                                      *ducing refined coal, any facility placed in serv-*  
20                                      *ice after the date of the enactment of the Amer-*  
21                                      *ican Jobs Creation Act of 2004 and before Janu-*  
22                                      *ary 1, 2010.”.*

23                    (d) *COORDINATION WITH CREDIT FOR PRODUCING*  
24                    *FUEL FROM A NONCONVENTIONAL SOURCE.—*

1           (1) *IN GENERAL.*—Subparagraph (B) of section  
2           45(e)(9) of the Internal Revenue Code of 1986 is  
3           amended—

4                   (A) by striking “The term” and inserting  
5           the following:

6                           “(i) *IN GENERAL.*—The term”, and

7                   (B) by adding at the end the following new  
8           clause:

9                           “(ii) *EXCEPTION FOR STEEL INDUSTRY*  
10           *COAL.*—In the case of a facility producing  
11           steel industry fuel, clause (i) shall not apply  
12           to so much of the refined coal produced at  
13           such facility as is steel industry fuel.”.

14           (2) *NO DOUBLE BENEFIT.*—Section 45K(g)(2) of  
15           such Code is amended by adding at the end the fol-  
16           lowing new subparagraph:

17                   “(E) *COORDINATION WITH SECTION 45.*—No  
18           credit shall be allowed with respect to any quali-  
19           fied fuel which is steel industry fuel (as defined  
20           in section 45(c)(7)) if a credit is allowed to the  
21           taxpayer for such fuel under section 45.”.

22           (e) *EFFECTIVE DATE.*—The amendments made by this  
23           section shall apply to fuel produced and sold after Sep-  
24           tember 30, 2008.

1 **SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE**  
2 **ELECTRIC RESTRUCTURING POLICY.**

3 (a) *EXTENSION FOR QUALIFIED ELECTRIC UTILI-*  
4 *TIES.—*

5 (1) *IN GENERAL.—Paragraph (3) of section*  
6 *451(i) is amended by inserting “(before January 1,*  
7 *2010, in the case of a qualified electric utility)” after*  
8 *“January 1, 2008”.*

9 (2) *QUALIFIED ELECTRIC UTILITY.—Subsection*  
10 *(i) of section 451 is amended by redesignating para-*  
11 *graphs (6) through (10) as paragraphs (7) through*  
12 *(11), respectively, and by inserting after paragraph*  
13 *(5) the following new paragraph:*

14 “(6) *QUALIFIED ELECTRIC UTILITY.—For pur-*  
15 *poses of this subsection, the term ‘qualified electric*  
16 *utility’ means a person that, as of the date of the*  
17 *qualifying electric transmission transaction, is*  
18 *vertically integrated, in that it is both—*

19 “(A) *a transmitting utility (as defined in*  
20 *section 3(23) of the Federal Power Act (16*  
21 *U.S.C. 796(23))) with respect to the transmission*  
22 *facilities to which the election under this sub-*  
23 *section applies, and*

24 “(B) *an electric utility (as defined in sec-*  
25 *tion 3(22) of the Federal Power Act (16 U.S.C.*  
26 *796(22))).”.*

1       **(b) EXTENSION OF PERIOD FOR TRANSFER OF OPER-**  
2 **ATIONAL CONTROL AUTHORIZED BY FERC.**—*Clause (ii) of*  
3 *section 451(i)(4)(B) is amended by striking “December 31,*  
4 *2007” and inserting “the date which is 4 years after the*  
5 *close of the taxable year in which the transaction occurs”.*

6       **(c) PROPERTY LOCATED OUTSIDE THE UNITED**  
7 **STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.**—  
8 *Paragraph (5) of section 451(i) is amended by adding at*  
9 *the end the following new subparagraph:*

10               **“(C) EXCEPTION FOR PROPERTY LOCATED**  
11               **OUTSIDE THE UNITED STATES.**—*The term ‘ex-*  
12               *empt utility property’ shall not include any*  
13               *property which is located outside the United*  
14               *States.”.*

15       **(d) EFFECTIVE DATES.**—

16               **(1) EXTENSION.**—*The amendments made by sub-*  
17 *section (a) shall apply to transactions after December*  
18 *31, 2007.*

19               **(2) TRANSFERS OF OPERATIONAL CONTROL.**—  
20 *The amendment made by subsection (b) shall take ef-*  
21 *fect as if included in section 909 of the American Jobs*  
22 *Creation Act of 2004.*

23               **(3) EXCEPTION FOR PROPERTY LOCATED OUT-**  
24 **SIDE THE UNITED STATES.**—*The amendment made by*

1 subsection (c) shall apply to transactions after the  
2 date of the enactment of this Act.

3 **Subtitle B—Carbon Mitigation and**  
4 **Coal Provisions**

5 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED**  
6 **COAL PROJECT INVESTMENT CREDIT.**

7 (a) *MODIFICATION OF CREDIT AMOUNT.*—Section  
8 48A(a) is amended by striking “and” at the end of para-  
9 graph (1), by striking the period at the end of paragraph  
10 (2) and inserting “, and”, and by adding at the end the  
11 following new paragraph:

12 “(3) 30 percent of the qualified investment for  
13 such taxable year in the case of projects described in  
14 clause (iii) of subsection (d)(3)(B).”.

15 (b) *EXPANSION OF AGGREGATE CREDITS.*—Section  
16 48A(d)(3)(A) is amended by striking “\$1,300,000,000” and  
17 inserting “\$2,550,000,000”.

18 (c) *AUTHORIZATION OF ADDITIONAL PROJECTS.*—

19 (1) *IN GENERAL.*—Subparagraph (B) of section  
20 48A(d)(3) is amended to read as follows:

21 “(B) *PARTICULAR PROJECTS.*—Of the dollar  
22 amount in subparagraph (A), the Secretary is  
23 authorized to certify—

24 “(i) \$800,000,000 for integrated gasifi-  
25 cation combined cycle projects the applica-

1            *tion for which is submitted during the pe-*  
2            *riod described in paragraph (2)(A)(i),*

3            *“(ii) \$500,000,000 for projects which*  
4            *use other advanced coal-based generation*  
5            *technologies the application for which is*  
6            *submitted during the period described in*  
7            *paragraph (2)(A)(i), and*

8            *“(iii) \$1,250,000,000 for advanced*  
9            *coal-based generation technology projects the*  
10           *application for which is submitted during*  
11           *the period described in paragraph*  
12           *(2)(A)(ii).”.*

13           *(2) APPLICATION PERIOD FOR ADDITIONAL*  
14           *PROJECTS.—Subparagraph (A) of section 48A(d)(2)*  
15           *is amended to read as follows:*

16           *“(A) APPLICATION PERIOD.—Each appli-*  
17           *cant for certification under this paragraph shall*  
18           *submit an application meeting the requirements*  
19           *of subparagraph (B). An applicant may only*  
20           *submit an application—*

21           *“(i) for an allocation from the dollar*  
22           *amount specified in clause (i) or (ii) of*  
23           *paragraph (3)(B) during the 3-year period*  
24           *beginning on the date the Secretary estab-*



1           lishes the program under paragraph (1),  
2           and

3                   “(ii) for an allocation from the dollar  
4           amount specified in paragraph (3)(B)(iii)  
5           during the 3-year period beginning at the  
6           earlier of the termination of the period de-  
7           scribed in clause (i) or the date prescribed  
8           by the Secretary.”.

9           (3) CAPTURE AND SEQUESTRATION OF CARBON  
10          DIOXIDE EMISSIONS REQUIREMENT.—

11                   (A) IN GENERAL.—Section 48A(e)(1) is  
12          amended by striking “and” at the end of sub-  
13          paragraph (E), by striking the period at the end  
14          of subparagraph (F) and inserting “; and”, and  
15          by adding at the end the following new subpara-  
16          graph:

17                           “(G) in the case of any project the applica-  
18          tion for which is submitted during the period de-  
19          scribed in subsection (d)(2)(A)(ii), the project in-  
20          cludes equipment which separates and sequesters  
21          at least 65 percent (70 percent in the case of an  
22          application for reallocated credits under sub-  
23          section (d)(4)) of such project’s total carbon diox-  
24          ide emissions.”.

1           (B) *HIGHEST PRIORITY FOR PROJECTS*  
2           WHICH SEQUESTER CARBON DIOXIDE EMIS-  
3           SIONS.—Section 48A(e)(3) is amended by strik-  
4           ing “and” at the end of subparagraph (A)(iii),  
5           by striking the period at the end of subpara-  
6           graph (B)(iii) and inserting “, and”, and by  
7           adding at the end the following new subpara-  
8           graph:

9           “(C) give highest priority to projects with  
10          the greatest separation and sequestration per-  
11          centage of total carbon dioxide emissions.”.

12          (C) *RECAPTURE OF CREDIT FOR FAILURE*  
13          TO SEQUESTER.—Section 48A is amended by  
14          adding at the end the following new subsection:

15          “(i) *RECAPTURE OF CREDIT FOR FAILURE TO SE-*  
16          QUESTER.—The Secretary shall provide for recapturing the  
17          benefit of any credit allowable under subsection (a) with  
18          respect to any project which fails to attain or maintain  
19          the separation and sequestration requirements of subsection  
20          (e)(1)(G).”.

21          (4) *ADDITIONAL PRIORITY FOR RESEARCH PART-*  
22          *NERSHIPS.*—Section 48A(e)(3)(B), as amended by  
23          paragraph (3)(B), is amended—

24                  (A) by striking “and” at the end of clause  
25                  (ii),

1           (B) by redesignating clause (iii) as clause  
2           (iv), and

3           (C) by inserting after clause (ii) the fol-  
4           lowing new clause:

5                   “(iii) applicant participants who have  
6                   a research partnership with an eligible edu-  
7                   cational institution (as defined in section  
8                   529(e)(5)), and”.

9           (5) *CLERICAL AMENDMENT.*—Section 48A(e)(3)  
10           is amended by striking “INTEGRATED GASIFICATION  
11           COMBINED CYCLE” in the heading and inserting  
12           “CERTAIN”.

13           (d) *DISCLOSURE OF ALLOCATIONS.*—Section 48A(d) is  
14           amended by adding at the end the following new paragraph:

15                   “(5) *DISCLOSURE OF ALLOCATIONS.*—The Sec-  
16                   retary shall, upon making a certification under this  
17                   subsection or section 48B(d), publicly disclose the  
18                   identity of the applicant and the amount of the credit  
19                   certified with respect to such applicant.”.

20           (e) *EFFECTIVE DATES.*—

21                   (1) *IN GENERAL.*—Except as otherwise provided  
22                   in this subsection, the amendments made by this sec-  
23                   tion shall apply to credits the application for which  
24                   is submitted during the period described in section  
25                   48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986

1       *and which are allocated or reallocated after the date*  
 2       *of the enactment of this Act.*

3               (2) *DISCLOSURE OF ALLOCATIONS.*—*The amend-*  
 4       *ment made by subsection (d) shall apply to certifi-*  
 5       *cations made after the date of the enactment of this*  
 6       *Act.*

7               (3) *CLERICAL AMENDMENT.*—*The amendment*  
 8       *made by subsection (c)(5) shall take effect as if in-*  
 9       *cluded in the amendment made by section 1307(b) of*  
 10       *the Energy Tax Incentives Act of 2005.*

11       **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**  
 12               **CATION INVESTMENT CREDIT.**

13               (a) *MODIFICATION OF CREDIT AMOUNT.*—*Section*  
 14       *48B(a) is amended by inserting “(30 percent in the case*  
 15       *of credits allocated under subsection (d)(1)(B))” after “20*  
 16       *percent”.*

17               (b) *EXPANSION OF AGGREGATE CREDITS.*—*Section*  
 18       *48B(d)(1) is amended by striking “shall not exceed*  
 19       *\$350,000,000” and all that follows and inserting “shall not*  
 20       *exceed—*

21                       *“(A) \$350,000,000, plus*

22                       *“(B) \$250,000,000 for qualifying gasifi-*  
 23       *cation projects that include equipment which*  
 24       *separates and sequesters at least 75 percent of*  
 25       *such project’s total carbon dioxide emissions.”.*

1       (c) *RECAPTURE OF CREDIT FOR FAILURE TO SEQUES-*  
2 *TER.*—Section 48B is amended by adding at the end the  
3 *following new subsection:*

4       “(f) *RECAPTURE OF CREDIT FOR FAILURE TO SE-*  
5 *QUESTER.*—The Secretary shall provide for recapturing the  
6 *benefit of any credit allowable under subsection (a) with*  
7 *respect to any project which fails to attain or maintain*  
8 *the separation and sequestration requirements for such*  
9 *project under subsection (d)(1).”.*

10       (d) *SELECTION PRIORITIES.*—Section 48B(d) is  
11 *amended by adding at the end the following new paragraph:*

12               “(4) *SELECTION PRIORITIES.*—In determining  
13 *which qualifying gasification projects to certify under*  
14 *this section, the Secretary shall—*

15                       “(A) *give highest priority to projects with*  
16 *the greatest separation and sequestration per-*  
17 *centage of total carbon dioxide emissions, and*

18                       “(B) *give high priority to applicant par-*  
19 *ticipants who have a research partnership with*  
20 *an eligible educational institution (as defined in*  
21 *section 529(e)(5)).”.*

22       (e) *ELIGIBLE PROJECTS INCLUDE TRANSPORTATION*  
23 *GRADE LIQUID FUELS.*—Section 48B(c)(7) (*defining eligi-*  
24 *ble entity*) is amended by striking “and” at the end of sub-  
25 *paragraph (F), by striking the period at the end of subpara-*

1 graph (G) and inserting “, and”, and by adding at the end  
2 the following new subparagraph:

3 “(H) transportation grade liquid fuels.”.

4 (f) *EFFECTIVE DATE.*—The amendments made by this  
5 section shall apply to credits described in section  
6 48B(d)(1)(B) of the Internal Revenue Code of 1986 which  
7 are allocated or reallocated after the date of the enactment  
8 of this Act.

9 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX;**  
10 **FUNDING OF BLACK LUNG DISABILITY TRUST**  
11 **FUND.**

12 (a) *EXTENSION OF TEMPORARY INCREASE.*—Para-  
13 graph (2) of section 4121(e) is amended—

14 (1) by striking “January 1, 2014” in subpara-  
15 graph (A) and inserting “December 31, 2018”, and

16 (2) by striking “January 1 after 1981” in sub-  
17 paragraph (B) and inserting “December 31 after  
18 2007”.

19 (b) *RESTRUCTURING OF TRUST FUND DEBT.*—

20 (1) *DEFINITIONS.*—For purposes of this sub-  
21 section—

22 (A) *MARKET VALUE OF THE OUTSTANDING*  
23 *REPAYABLE ADVANCES, PLUS ACCRUED INTER-*  
24 *EST.*—The term “market value of the out-  
25 standing repayable advances, plus accrued inter-

1        *est*” means the present value (determined by the  
2        Secretary of the Treasury as of the refinancing  
3        date and using the Treasury rate as the discount  
4        rate) of the stream of principal and interest pay-  
5        ments derived assuming that each repayable ad-  
6        vance that is outstanding on the refinancing  
7        date is due on the 30th anniversary of the end  
8        of the fiscal year in which the advance was made  
9        to the Trust Fund, and that all such principal  
10       and interest payments are made on September  
11       30 of the applicable fiscal year.

12                (B) *REFINANCING DATE*.—The term “refi-  
13        nancing date” means the date occurring 2 days  
14        after the enactment of this Act.

15                (C) *REPAYABLE ADVANCE*.—The term “re-  
16        payable advance” means an amount that has  
17        been appropriated to the Trust Fund in order to  
18        make benefit payments and other expenditures  
19        that are authorized under section 9501 of the In-  
20        ternal Revenue Code of 1986 and are required to  
21        be repaid when the Secretary of the Treasury de-  
22        termines that monies are available in the Trust  
23        Fund for such purpose.

24                (D) *TREASURY RATE*.—The term “Treasury  
25        rate” means a rate determined by the Secretary

1           *of the Treasury, taking into consideration cur-*  
2           *rent market yields on outstanding marketable ob-*  
3           *ligations of the United States of comparable ma-*  
4           *turities.*

5           *(E) TREASURY 1-YEAR RATE.—The term*  
6           *“Treasury 1-year rate” means a rate determined*  
7           *by the Secretary of the Treasury, taking into*  
8           *consideration current market yields on out-*  
9           *standing marketable obligations of the United*  
10          *States with remaining periods to maturity of*  
11          *approximately 1 year, to have been in effect as*  
12          *of the close of business 1 business day prior to*  
13          *the date on which the Trust Fund issues obliga-*  
14          *tions to the Secretary of the Treasury under*  
15          *paragraph (2)(B).*

16          *(2) REFINANCING OF OUTSTANDING PRINCIPAL*  
17          *OF REPAYABLE ADVANCES AND UNPAID INTEREST ON*  
18          *SUCH ADVANCES.—*

19                 *(A) TRANSFER TO GENERAL FUND.—On the*  
20                 *refinancing date, the Trust Fund shall repay the*  
21                 *market value of the outstanding repayable ad-*  
22                 *vances, plus accrued interest, by transferring*  
23                 *into the general fund of the Treasury the fol-*  
24                 *lowing sums:*



1           (i) *The proceeds from obligations that*  
2           *the Trust Fund shall issue to the Secretary*  
3           *of the Treasury in such amounts as the Sec-*  
4           *retaries of Labor and the Treasury shall de-*  
5           *termine and bearing interest at the Treas-*  
6           *ury rate, and that shall be in such forms*  
7           *and denominations and be subject to such*  
8           *other terms and conditions, including matu-*  
9           *rity, as the Secretary of the Treasury shall*  
10          *prescribe.*

11          (ii) *All, or that portion, of the appro-*  
12          *priation made to the Trust Fund pursuant*  
13          *to paragraph (3) that is needed to cover the*  
14          *difference defined in that paragraph.*

15          (B) *REPAYMENT OF OBLIGATIONS.—In the*  
16          *event that the Trust Fund is unable to repay the*  
17          *obligations that it has issued to the Secretary of*  
18          *the Treasury under subparagraph (A)(i) and*  
19          *this subparagraph, or is unable to make benefit*  
20          *payments and other authorized expenditures, the*  
21          *Trust Fund shall issue obligations to the Sec-*  
22          *retary of the Treasury in such amounts as may*  
23          *be necessary to make such repayments, pay-*  
24          *ments, and expenditures, with a maturity of 1*  
25          *year, and bearing interest at the Treasury 1-year*

1           *rate. These obligations shall be in such forms and*  
2           *denominations and be subject to such other terms*  
3           *and conditions as the Secretary of the Treasury*  
4           *shall prescribe.*

5           (C) *AUTHORITY TO ISSUE OBLIGATIONS.—*

6           *The Trust Fund is authorized to issue obliga-*  
7           *tions to the Secretary of the Treasury under sub-*  
8           *paragraphs (A)(i) and (B). The Secretary of the*  
9           *Treasury is authorized to purchase such obliga-*  
10          *tions of the Trust Fund. For the purposes of*  
11          *making such purchases, the Secretary of the*  
12          *Treasury may use as a public debt transaction*  
13          *the proceeds from the sale of any securities issued*  
14          *under chapter 31 of title 31, United States Code,*  
15          *and the purposes for which securities may be*  
16          *issued under such chapter are extended to in-*  
17          *clude any purchase of such Trust Fund obliga-*  
18          *tions under this subparagraph.*

19          (3) *ONE-TIME APPROPRIATION.—There is hereby*  
20          *appropriated to the Trust Fund an amount sufficient*  
21          *to pay to the general fund of the Treasury the dif-*  
22          *ference between—*

23                 (A) *the market value of the outstanding re-*  
24                 *payable advances, plus accrued interest; and*

1           (B) the proceeds from the obligations issued  
 2           by the Trust Fund to the Secretary of the Treas-  
 3           ury under paragraph (2)(A)(i).

4           (4) *PREPAYMENT OF TRUST FUND OBLIGA-*  
 5           *TIONS.—The Trust Fund is authorized to repay any*  
 6           *obligation issued to the Secretary of the Treasury*  
 7           *under subparagraphs (A)(i) and (B) of paragraph (2)*  
 8           *prior to its maturity date by paying a prepayment*  
 9           *price that would, if the obligation being prepaid (in-*  
 10           *cluding all unpaid interest accrued thereon through*  
 11           *the date of prepayment) were purchased by a third*  
 12           *party and held to the maturity date of such obliga-*  
 13           *tion, produce a yield to the third-party purchaser for*  
 14           *the period from the date of purchase to the maturity*  
 15           *date of such obligation substantially equal to the*  
 16           *Treasury yield on outstanding marketable obligations*  
 17           *of the United States having a comparable maturity to*  
 18           *this period.*

19 **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**  
 20           ****CISE TAX TO CERTAIN COAL PRODUCERS AND****  
 21           ****EXPORTERS.****

22           (a) *REFUND.—*

23           (1) *COAL PRODUCERS.—*

24           (A) *IN GENERAL.—Notwithstanding sub-*  
 25           *sections (a)(1) and (c) of section 6416 and sec-*

1            *tion 6511 of the Internal Revenue Code of 1986,*  
2            *if—*

3                    *(i) a coal producer establishes that*  
4                    *such coal producer, or a party related to*  
5                    *such coal producer, exported coal produced*  
6                    *by such coal producer to a foreign country*  
7                    *or shipped coal produced by such coal pro-*  
8                    *ducer to a possession of the United States,*  
9                    *or caused such coal to be exported or*  
10                   *shipped, the export or shipment of which*  
11                   *was other than through an exporter who*  
12                   *meets the requirements of paragraph (2),*

13                   *(ii) such coal producer filed an excise*  
14                   *tax return on or after October 1, 1990, and*  
15                   *on or before the date of the enactment of this*  
16                   *Act, and*

17                   *(iii) such coal producer files a claim*  
18                   *for refund with the Secretary not later than*  
19                   *the close of the 30-day period beginning on*  
20                   *the date of the enactment of this Act,*

21            *then the Secretary shall pay to such coal pro-*  
22            *ducer an amount equal to the tax paid under*  
23            *section 4121 of such Code on such coal exported*  
24            *or shipped by the coal producer or a party re-*  
25            *lated to such coal producer, or caused by the coal*

1            *producer or a party related to such coal producer*  
2            *to be exported or shipped.*

3            (B) *SPECIAL RULES FOR CERTAIN TAX-*  
4            *PAYERS.—For purposes of this section—*

5            (i) *IN GENERAL.—If a coal producer or*  
6            *a party related to a coal producer has re-*  
7            *ceived a judgment described in clause (iii),*  
8            *such coal producer shall be deemed to have*  
9            *established the export of coal to a foreign*  
10           *country or shipment of coal to a possession*  
11           *of the United States under subparagraph*  
12           *(A)(i).*

13           (ii) *AMOUNT OF PAYMENT.—If a tax-*  
14           *payer described in clause (i) is entitled to*  
15           *a payment under subparagraph (A), the*  
16           *amount of such payment shall be reduced by*  
17           *any amount paid pursuant to the judgment*  
18           *described in clause (iii).*

19           (iii) *JUDGMENT DESCRIBED.—A judg-*  
20           *ment is described in this subparagraph if*  
21           *such judgment—*

22           *(I) is made by a court of com-*  
23           *petent jurisdiction within the United*  
24           *States,*

1                   (II) relates to the constitutionality  
2                   of any tax paid on exported coal under  
3                   section 4121 of the Internal Revenue  
4                   Code of 1986, and

5                   (III) is in favor of the coal pro-  
6                   ducer or the party related to the coal  
7                   producer.

8                   (2) *EXPORTERS.*—Notwithstanding subsections  
9                   (a)(1) and (c) of section 6416 and section 6511 of the  
10                  Internal Revenue Code of 1986, and a judgment de-  
11                  scribed in paragraph (1)(B)(iii) of this subsection,  
12                  if—

13                   (A) an exporter establishes that such ex-  
14                   porter exported coal to a foreign country or  
15                   shipped coal to a possession of the United States,  
16                   or caused such coal to be so exported or shipped,

17                   (B) such exporter filed a tax return on or  
18                   after October 1, 1990, and on or before the date  
19                   of the enactment of this Act, and

20                   (C) such exporter files a claim for refund  
21                   with the Secretary not later than the close of the  
22                   30-day period beginning on the date of the enact-  
23                   ment of this Act,

24                  then the Secretary shall pay to such exporter an  
25                  amount equal to \$0.825 per ton of such coal exported

1       *by the exporter or caused to be exported or shipped,*  
2       *or caused to be exported or shipped, by the exporter.*

3       **(b) LIMITATIONS.**—*Subsection (a) shall not apply with*  
4 *respect to exported coal if a settlement with the Federal*  
5 *Government has been made with and accepted by, the coal*  
6 *producer, a party related to such coal producer, or the ex-*  
7 *porter, of such coal, as of the date that the claim is filed*  
8 *under this section with respect to such exported coal. For*  
9 *purposes of this subsection, the term “settlement with the*  
10 *Federal Government” shall not include any settlement or*  
11 *stipulation entered into as of the date of the enactment of*  
12 *this Act, the terms of which contemplate a judgment con-*  
13 *cerning which any party has reserved the right to file an*  
14 *appeal, or has filed an appeal.*

15       **(c) SUBSEQUENT REFUND PROHIBITED.**—*No refund*  
16 *shall be made under this section to the extent that a credit*  
17 *or refund of such tax on such exported or shipped coal has*  
18 *been paid to any person.*

19       **(d) DEFINITIONS.**—*For purposes of this section—*

20               **(1) COAL PRODUCER.**—*The term “coal producer”*  
21 *means the person in whom is vested ownership of the*  
22 *coal immediately after the coal is severed from the*  
23 *ground, without regard to the existence of any con-*  
24 *tractual arrangement for the sale or other disposition*  
25 *of the coal or the payment of any royalties between*

1 *the producer and third parties. The term includes any*  
2 *person who extracts coal from coal waste refuse piles*  
3 *or from the silt waste product which results from the*  
4 *wet washing (or similar processing) of coal.*

5 (2) *EXPORTER.*—*The term “exporter” means a*  
6 *person, other than a coal producer, who does not have*  
7 *a contract, fee arrangement, or any other agreement*  
8 *with a producer or seller of such coal to export or*  
9 *ship such coal to a third party on behalf of the pro-*  
10 *ducer or seller of such coal and—*

11 (A) *is indicated in the shipper’s export dec-*  
12 *laration or other documentation as the exporter*  
13 *of record, or*

14 (B) *actually exported such coal to a foreign*  
15 *country or shipped such coal to a possession of*  
16 *the United States, or caused such coal to be so*  
17 *exported or shipped.*

18 (3) *RELATED PARTY.*—*The term “a party related*  
19 *to such coal producer” means a person who—*

20 (A) *is related to such coal producer through*  
21 *any degree of common management, stock owner-*  
22 *ship, or voting control,*

23 (B) *is related (within the meaning of sec-*  
24 *tion 144(a)(3) of the Internal Revenue Code of*  
25 *1986) to such coal producer, or*



1           (C) *has a contract, fee arrangement, or any*  
2           *other agreement with such coal producer to sell*  
3           *such coal to a third party on behalf of such coal*  
4           *producer.*

5           (4) *SECRETARY.*—*The term “Secretary” means*  
6           *the Secretary of Treasury or the Secretary’s designee.*

7           (e) *TIMING OF REFUND.*—*With respect to any claim*  
8           *for refund filed pursuant to this section, the Secretary shall*  
9           *determine whether the requirements of this section are met*  
10           *not later than 180 days after such claim is filed. If the Sec-*  
11           *retary determines that the requirements of this section are*  
12           *met, the claim for refund shall be paid not later than 180*  
13           *days after the Secretary makes such determination.*

14           (f) *INTEREST.*—*Any refund paid pursuant to this sec-*  
15           *tion shall be paid by the Secretary with interest from the*  
16           *date of overpayment determined by using the overpayment*  
17           *rate and method under section 6621 of the Internal Revenue*  
18           *Code of 1986.*

19           (g) *DENIAL OF DOUBLE BENEFIT.*—*The payment*  
20           *under subsection (a) with respect to any coal shall not ex-*  
21           *ceed—*

22           (1) *in the case of a payment to a coal producer,*  
23           *the amount of tax paid under section 4121 of the In-*  
24           *ternal Revenue Code of 1986 with respect to such coal*

1 *by such coal producer or a party related to such coal*  
2 *producer, and*

3 *(2) in the case of a payment to an exporter, an*  
4 *amount equal to \$0.825 per ton with respect to such*  
5 *coal exported by the exporter or caused to be exported*  
6 *by the exporter.*

7 *(h) APPLICATION OF SECTION.—This section applies*  
8 *only to claims on coal exported or shipped on or after Octo-*  
9 *ber 1, 1990, through the date of the enactment of this Act.*

10 *(i) STANDING NOT CONFERRED.—*

11 *(1) EXPORTERS.—With respect to exporters, this*  
12 *section shall not confer standing upon an exporter to*  
13 *commence, or intervene in, any judicial or adminis-*  
14 *trative proceeding concerning a claim for refund by*  
15 *a coal producer of any Federal or State tax, fee, or*  
16 *royalty paid by the coal producer.*

17 *(2) COAL PRODUCERS.—With respect to coal pro-*  
18 *ducers, this section shall not confer standing upon a*  
19 *coal producer to commence, or intervene in, any judi-*  
20 *cial or administrative proceeding concerning a claim*  
21 *for refund by an exporter of any Federal or State tax,*  
22 *fee, or royalty paid by the producer and alleged to*  
23 *have been passed on to an exporter.*

1 **SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**  
2 **TION.**

3 (a) *IN GENERAL.*—Subpart D of part IV of subchapter  
4 A of chapter 1 (relating to business credits) is amended by  
5 adding at the end the following new section:

6 **“SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

7 “(a) *GENERAL RULE.*—For purposes of section 38, the  
8 carbon dioxide sequestration credit for any taxable year is  
9 an amount equal to the sum of—

10 “(1) \$20 per metric ton of qualified carbon diox-  
11 ide which is—

12 “(A) captured by the taxpayer at a quali-  
13 fied facility, and

14 “(B) disposed of by the taxpayer in secure  
15 geological storage, and

16 “(2) \$10 per metric ton of qualified carbon diox-  
17 ide which is—

18 “(A) captured by the taxpayer at a quali-  
19 fied facility, and

20 “(B) used by the taxpayer as a tertiary  
21 injectant in a qualified enhanced oil or natural  
22 gas recovery project.

23 “(b) *QUALIFIED CARBON DIOXIDE.*—For purposes of  
24 this section—

1           “(1) *IN GENERAL.*—*The term ‘qualified carbon*  
2           *dioxide’ means carbon dioxide captured from an in-*  
3           *dustrial source which—*

4                   “(A) *would otherwise be released into the*  
5                   *atmosphere as industrial emission of greenhouse*  
6                   *gas, and*

7                   “(B) *is measured at the source of capture*  
8                   *and verified at the point of disposal or injection.*

9           “(2) *RECYCLED CARBON DIOXIDE.*—*The term*  
10           *‘qualified carbon dioxide’ includes the initial deposit*  
11           *of captured carbon dioxide used as a tertiary*  
12           *injectant. Such term does not include carbon dioxide*  
13           *that is re-captured, recycled, and re-injected as part*  
14           *of the enhanced oil and natural gas recovery process.*

15           “(c) *QUALIFIED FACILITY.*—*For purposes of this sec-*  
16           *tion, the term ‘qualified facility’ means any industrial fa-*  
17           *cility—*

18                   “(1) *which is owned by the taxpayer,*

19                   “(2) *at which carbon capture equipment is*  
20                   *placed in service, and*

21                   “(3) *which captures not less than 500,000 metric*  
22                   *tons of carbon dioxide during the taxable year.*

23           “(d) *SPECIAL RULES AND OTHER DEFINITIONS.*—*For*  
24           *purposes of this section—*

1           “(1) *ONLY CARBON DIOXIDE CAPTURED AND DIS-*  
2           *POSED OF OR USED WITHIN THE UNITED STATES*  
3           *TAKEN INTO ACCOUNT.—The credit under this section*  
4           *shall apply only with respect to qualified carbon di-*  
5           *oxide the capture and disposal or use of which is*  
6           *within—*

7                     “(A) *the United States (within the meaning*  
8                     *of section 638(1)), or*

9                     “(B) *a possession of the United States*  
10                    *(within the meaning of section 638(2)).*

11           “(2) *SECURE GEOLOGICAL STORAGE.—The Sec-*  
12           *retary, in consultation with the Administrator of the*  
13           *Environmental Protection Agency, shall establish reg-*  
14           *ulations for determining adequate security measures*  
15           *for the geological storage of carbon dioxide under sub-*  
16           *section (a)(1)(B) such that the carbon dioxide does*  
17           *not escape into the atmosphere. Such term shall in-*  
18           *clude storage at deep saline formations and*  
19           *unminable coal seams under such conditions as the*  
20           *Secretary may determine under such regulations.*

21           “(3) *TERTIARY INJECTANT.—The term ‘tertiary*  
22           *injectant’ has the same meaning as when used within*  
23           *section 193(b)(1).*

24           “(4) *QUALIFIED ENHANCED OIL OR NATURAL*  
25           *GAS RECOVERY PROJECT.—The term ‘qualified en-*

1     *hanced oil or natural gas recovery project*’ has the  
2     *meaning given the term ‘qualified enhanced oil recov-*  
3     *ery project’ by section 43(c)(2), by substituting ‘crude*  
4     *oil or natural gas’ for ‘crude oil’ in subparagraph*  
5     *(A)(i) thereof.*

6             “(5) *CREDIT ATTRIBUTABLE TO TAXPAYER.—*  
7     *Any credit under this section shall be attributable to*  
8     *the person that captures and physically or contrac-*  
9     *tually ensures the disposal of or the use as a tertiary*  
10    *injectant of the qualified carbon dioxide, except to the*  
11    *extent provided in regulations prescribed by the Sec-*  
12    *retary.*

13            “(6) *RECAPTURE.—The Secretary shall, by regu-*  
14    *lations, provide for recapturing the benefit of any*  
15    *credit allowable under subsection (a) with respect to*  
16    *any qualified carbon dioxide which ceases to be cap-*  
17    *tured, disposed of, or used as a tertiary injectant in*  
18    *a manner consistent with the requirements of this sec-*  
19    *tion.*

20            “(7) *INFLATION ADJUSTMENT.—In the case of*  
21    *any taxable year beginning in a calendar year after*  
22    *2009, there shall be substituted for each dollar amount*  
23    *contained in subsection (a) an amount equal to the*  
24    *product of—*

25            “(A) *such dollar amount, multiplied by*

1           “(B) the inflation adjustment factor for  
2           such calendar year determined under section  
3           43(b)(3)(B) for such calendar year, determined  
4           by substituting ‘2008’ for ‘1990’.

5           “(e) *APPLICATION OF SECTION.*—The credit under this  
6           section shall apply with respect to qualified carbon dioxide  
7           before the end of the calendar year in which the Secretary,  
8           in consultation with the Administrator of the Environ-  
9           mental Protection Agency, certifies that 75,000,000 metric  
10          tons of qualified carbon dioxide have been captured and dis-  
11          posed of or used as a tertiary injectant.”.

12          (b) *CONFORMING AMENDMENT.*—Section 38(b) (relat-  
13          ing to general business credit) is amended by striking  
14          “plus” at the end of paragraph (32), by striking the period  
15          at the end of paragraph (33) and inserting “, plus”, and  
16          by adding at the end of following new paragraph:

17                 “(34) the carbon dioxide sequestration credit de-  
18                 termined under section 45Q(a).”.

19          (c) *CLERICAL AMENDMENT.*—The table of sections for  
20          subpart B of part IV of subchapter A of chapter 1 (relating  
21          to other credits) is amended by adding at the end the fol-  
22          lowing new section:

                  “Sec. 45Q. Credit for carbon dioxide sequestration.”.

23          (d) *EFFECTIVE DATE.*—The amendments made by this  
24          section shall apply to carbon dioxide captured after the date  
25          of the enactment of this Act.

1 **SEC. 116. CERTAIN INCOME AND GAINS RELATING TO IN-**  
2 **DUSTRIAL SOURCE CARBON DIOXIDE TREAT-**  
3 **ED AS QUALIFYING INCOME FOR PUBLICLY**  
4 **TRADED PARTNERSHIPS.**

5 (a) *IN GENERAL.*—Subparagraph (E) of section  
6 7704(d)(1) (defining qualifying income) is amended by in-  
7 serting “or industrial source carbon dioxide” after “tim-  
8 ber)”.

9 (b) *EFFECTIVE DATE.*—The amendment made by this  
10 section shall take effect on the date of the enactment of this  
11 Act, in taxable years ending after such date.

12 **SEC. 117. CARBON AUDIT OF THE TAX CODE.**

13 (a) *STUDY.*—The Secretary of the Treasury shall enter  
14 into an agreement with the National Academy of Sciences  
15 to undertake a comprehensive review of the Internal Rev-  
16 enue Code of 1986 to identify the types of and specific tax  
17 provisions that have the largest effects on carbon and other  
18 greenhouse gas emissions and to estimate the magnitude of  
19 those effects.

20 (b) *REPORT.*—Not later than 2 years after the date  
21 of enactment of this Act, the National Academy of Sciences  
22 shall submit to Congress a report containing the results of  
23 study authorized under this section.

24 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There is  
25 authorized to be appropriated to carry out this section  
26 \$1,500,000 for the period of fiscal years 2009 and 2010.



1 **TITLE II—TRANSPORTATION**  
2 **AND DOMESTIC FUEL SECUR-**  
3 **RITY PROVISIONS**

4 **SEC. 201. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS**  
5 **DEPRECIATION FOR BIOMASS ETHANOL**  
6 **PLANT PROPERTY.**

7 (a) *IN GENERAL.*—Paragraph (3) of section 168(l) is  
8 amended to read as follows:

9 “(3) *CELLULOSIC BIOFUEL.*—The term ‘cellulosic  
10 biofuel’ means any liquid fuel which is produced from  
11 any lignocellulosic or hemicellulosic matter that is  
12 available on a renewable or recurring basis.”.

13 (b) *CONFORMING AMENDMENTS.*—Subsection (l) of sec-  
14 tion 168 is amended—

15 (1) by striking “cellulosic biomass ethanol” each  
16 place it appears and inserting “cellulosic biofuel”,

17 (2) by striking “CELLULOSIC BIOMASS ETH-  
18 ANOL” in the heading of such subsection and inserting  
19 “CELLULOSIC BIOFUEL”, and

20 (3) by striking “CELLULOSIC BIOMASS ETHANOL”  
21 in the heading of paragraph (2) thereof and inserting  
22 “CELLULOSIC BIOFUEL”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this  
24 section shall apply to property placed in service after the

1 *date of the enactment of this Act, in taxable years ending*  
2 *after such date.*

3 **SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**  
4 **SEL.**

5 (a) *IN GENERAL.*—Sections 40A(g), 6426(c)(6), and  
6 6427(e)(5)(B) are each amended by striking “December 31,  
7 2008” and inserting “December 31, 2009”.

8 (b) *INCREASE IN RATE OF CREDIT.*—

9 (1) *INCOME TAX CREDIT.*—Paragraphs (1)(A)  
10 and (2)(A) of section 40A(b) are each amended by  
11 striking “50 cents” and inserting “\$1.00”.

12 (2) *EXCISE TAX CREDIT.*—Paragraph (2) of sec-  
13 tion 6426(c) is amended to read as follows:

14 “(2) *APPLICABLE AMOUNT.*—For purposes of this  
15 subsection, the applicable amount is \$1.00.”.

16 (3) *CONFORMING AMENDMENTS.*—

17 (A) Subsection (b) of section 40A is amend-  
18 ed by striking paragraph (3) and by redesignig-  
19 nating paragraphs (4) and (5) as paragraphs  
20 (3) and (4), respectively.

21 (B) Paragraph (2) of section 40A(f) is  
22 amended to read as follows:

23 “(2) *EXCEPTION.*—Subsection (b)(4) shall not  
24 apply with respect to renewable diesel.”.

1           (C) Paragraphs (2) and (3) of section  
2           40A(e) are each amended by striking “subsection  
3           (b)(5)(C)” and inserting “subsection (b)(4)(C)”.

4           (D) Clause (ii) of section 40A(d)(3)(C) is  
5           amended by striking “subsection (b)(5)(B)” and  
6           inserting “subsection (b)(4)(B)”.

7           (c) *UNIFORM TREATMENT OF DIESEL PRODUCED*  
8 *FROM BIOMASS.*—Paragraph (3) of section 40A(f) is  
9 amended—

10           (1) by striking “diesel fuel” and inserting “liq-  
11           uid fuel”,

12           (2) by striking “using a thermal  
13           depolymerization process”, and

14           (3) by inserting “, or other equivalent standard  
15           approved by the Secretary” after “D396”.

16           (d) *COPRODUCTION OF RENEWABLE DIESEL WITH PE-*  
17 *TROLEUM FEEDSTOCK.*—

18           (1) *IN GENERAL.*—Paragraph (3) of section  
19           40A(f) is amended by adding at the end the following  
20           new sentences: “Such term does not include any fuel  
21           derived from coprocessing biomass with a feedstock  
22           which is not biomass. For purposes of this paragraph,  
23           the term ‘biomass’ has the meaning given such term  
24           by section 45K(c)(3).”.

1           (2) *CONFORMING AMENDMENT.*—Paragraph (3)  
2           of section 40A(f) is amended by striking “(as defined  
3           in section 45K(c)(3))”.

4           (e) *ELIGIBILITY OF CERTAIN AVIATION FUEL.*—Sub-  
5           section (f) of section 40A (relating to renewable diesel) is  
6           amended by adding at the end the following new paragraph:

7           “(4) *CERTAIN AVIATION FUEL.*—

8           “(A) *IN GENERAL.*—Except as provided in  
9           the last 3 sentences of paragraph (3), the term  
10           ‘renewable diesel’ shall include fuel derived from  
11           biomass which meets the requirements of a De-  
12           partment of Defense specification for military jet  
13           fuel or an American Society of Testing and Ma-  
14           terials specification for aviation turbine fuel.

15           “(B) *APPLICATION OF MIXTURE CREDITS.*—  
16           In the case of fuel which is treated as renewable  
17           diesel solely by reason of subparagraph (A), sub-  
18           section (b)(1) and section 6426(c) shall be ap-  
19           plied with respect to such fuel by treating ker-  
20           osene as though it were diesel fuel.”.

21           (f) *MODIFICATION RELATING TO DEFINITION OF AGRI-*  
22           *BIODIESEL.*—Paragraph (2) of section 40A(d) (relating to  
23           agri-biodiesel) is amended by striking “and mustard seeds”  
24           and inserting “mustard seeds, and camelina”.

25           (g) *EFFECTIVE DATE.*—

1           (1) *IN GENERAL.*—*Except as otherwise provided*  
2 *in this subsection, the amendments made by this sec-*  
3 *tion shall apply to fuel produced, and sold or used,*  
4 *after December 31, 2008.*

5           (2) *COPRODUCTION OF RENEWABLE DIESEL*  
6 *WITH PETROLEUM FEEDSTOCK.*—*The amendment*  
7 *made by subsection (d) shall apply to fuel produced,*  
8 *and sold or used, after the date of the enactment of*  
9 *this Act.*

10 **SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DE-**  
11 **SIGNED TO PROVIDE AN INCENTIVE FOR**  
12 **UNITED STATES PRODUCTION.**

13           (a) *ALCOHOL FUELS CREDIT.*—*Subsection (d) of sec-*  
14 *tion 40 is amended by adding at the end the following new*  
15 *paragraph:*

16           “(7) *LIMITATION TO ALCOHOL WITH CONNECTION*  
17 *TO THE UNITED STATES.*—*No credit shall be deter-*  
18 *mined under this section with respect to any alcohol*  
19 *which is produced outside the United States for use*  
20 *as a fuel outside the United States. For purposes of*  
21 *this paragraph, the term ‘United States’ includes any*  
22 *possession of the United States.”.*

23           (b) *BIODIESEL FUELS CREDIT.*—*Subsection (d) of sec-*  
24 *tion 40A is amended by adding at the end the following*  
25 *new paragraph:*

1           “(5) *LIMITATION TO BIODIESEL WITH CONNEC-*  
2           *TION TO THE UNITED STATES.*—No credit shall be de-  
3           *termined under this section with respect to any bio-*  
4           *diesel which is produced outside the United States for*  
5           *use as a fuel outside the United States. For purposes*  
6           *of this paragraph, the term ‘United States’ includes*  
7           *any possession of the United States.”.*

8           *(c) EXCISE TAX CREDIT.*—

9           (1) *IN GENERAL.*—Section 6426 is amended by  
10          *adding at the end the following new subsection:*

11          “(i) *LIMITATION TO FUELS WITH CONNECTION TO*  
12          *THE UNITED STATES.*—

13               “(1) *ALCOHOL.*—No credit shall be determined  
14               *under this section with respect to any alcohol which*  
15               *is produced outside the United States for use as a fuel*  
16               *outside the United States.*

17               “(2) *BIODIESEL AND ALTERNATIVE FUELS.*—No  
18               *credit shall be determined under this section with re-*  
19               *spect to any biodiesel or alternative fuel which is pro-*  
20               *duced outside the United States for use as a fuel out-*  
21               *side the United States.*

22          *For purposes of this subsection, the term ‘United States’ in-*  
23          *cludes any possession of the United States.”.*

24               (2) *CONFORMING AMENDMENT.*—Subsection (e)  
25          *of section 6427 is amended by redesignating para-*

1 *graph (5) as paragraph (6) and by inserting after*  
2 *paragraph (4) the following new paragraph:*

3 “(5) *LIMITATION TO FUELS WITH CONNECTION*  
4 *TO THE UNITED STATES.*—No amount shall be pay-  
5 *able under paragraph (1) or (2) with respect to any*  
6 *mixture or alternative fuel if credit is not allowed*  
7 *with respect to such mixture or alternative fuel by*  
8 *reason of section 6426(i).”.*

9 *(d) EFFECTIVE DATE.*—The amendments made by this  
10 *section shall apply to claims for credit or payment made*  
11 *on or after May 15, 2008.*

12 **SEC. 204. EXTENSION AND MODIFICATION OF ALTERNATIVE**  
13 **FUEL CREDIT.**

14 *(a) EXTENSION.*—

15 *(1) ALTERNATIVE FUEL CREDIT.*—Paragraph (4)  
16 *of section 6426(d) (relating to alternative fuel credit)*  
17 *is amended by striking “September 30, 2009” and in-*  
18 *serting “December 31, 2009”.*

19 *(2) ALTERNATIVE FUEL MIXTURE CREDIT.*—  
20 *Paragraph (3) of section 6426(e) (relating to alter-*  
21 *native fuel mixture credit) is amended by striking*  
22 *“September 30, 2009” and inserting “December 31,*  
23 *2009”.*

24 *(3) PAYMENTS.*—Subparagraph (C) of section  
25 *6427(e)(5) (relating to termination) is amended by*

1 *striking “September 30, 2009” and inserting “Decem-*  
2 *ber 31, 2009”.*

3 *(b) MODIFICATIONS.—*

4 *(1) ALTERNATIVE FUEL TO INCLUDE COM-*  
5 *PRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph*  
6 *(2) of section 6426(d) (relating to alternative fuel*  
7 *credit) is amended by striking “and” at the end of*  
8 *subparagraph (E), by redesignating subparagraph*  
9 *(F) as subparagraph (G), and by inserting after sub-*  
10 *paragraph (E) the following new subparagraph:*

11 *“(F) compressed or liquefied gas derived*  
12 *from biomass (as defined in section 45K(c)(3)),*  
13 *and”.*

14 *(2) CREDIT ALLOWED FOR AVIATION USE OF*  
15 *FUEL.—Paragraph (1) of section 6426(d) is amended*  
16 *by inserting “sold by the taxpayer for use as a fuel*  
17 *in aviation,” after “motorboat.”.*

18 *(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN*  
19 *FUELS.—*

20 *(1) IN GENERAL.—Subsection (d) of section*  
21 *6426, as amended by subsection (a), is amended by*  
22 *redesignating paragraph (4) as paragraph (5) and by*  
23 *inserting after paragraph (3) the following new para-*  
24 *graph:*

25 *“(4) CARBON CAPTURE REQUIREMENT.—*



1           “(A) *IN GENERAL.*—*The requirements of*  
2           *this paragraph are met if the fuel is certified,*  
3           *under such procedures as required by the Sec-*  
4           *retary, as having been derived from coal pro-*  
5           *duced at a gasification facility which separates*  
6           *and sequesters not less than the applicable per-*  
7           *centage of such facility’s total carbon dioxide*  
8           *emissions.*

9           “(B) *APPLICABLE PERCENTAGE.*—*For pur-*  
10          *poses of subparagraph (A), the applicable per-*  
11          *centage is—*

12                 “(i) *50 percent in the case of fuel pro-*  
13                 *duced after September 30, 2009, and on or*  
14                 *before December 30, 2009, and*

15                 “(ii) *75 percent in the case of fuel pro-*  
16                 *duced after December 30, 2009.”.*

17          (2) *CONFORMING AMENDMENT.*—*Subparagraph*  
18          *(E) of section 6426(d)(2) is amended by inserting*  
19          *“which meets the requirements of paragraph (4) and*  
20          *which is” after “any liquid fuel”.*

21          (d) *EFFECTIVE DATE.*—*The amendments made by this*  
22          *section shall apply to fuel sold or used after the date of the*  
23          *enactment of this Act.*

1 **SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**  
 2 **DRIVE MOTOR VEHICLES.**

3 (a) *PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CRED-*  
 4 *IT.*—Subpart B of part IV of subchapter A of chapter 1  
 5 (relating to other credits) is amended by adding at the end  
 6 the following new section:

7 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**  
 8 **MOTOR VEHICLES.**

9 “(a) *ALLOWANCE OF CREDIT.*—

10 “(1) *IN GENERAL.*—There shall be allowed as a  
 11 credit against the tax imposed by this chapter for the  
 12 taxable year an amount equal to the applicable  
 13 amount with respect to each new qualified plug-in  
 14 electric drive motor vehicle placed in service by the  
 15 taxpayer during the taxable year.

16 “(2) *APPLICABLE AMOUNT.*—For purposes of  
 17 paragraph (1), the applicable amount is sum of—

18 “(A) \$2,500, plus

19 “(B) \$417 for each kilowatt hour of traction  
 20 battery capacity in excess of 4 kilowatt hours.

21 “(b) *LIMITATIONS.*—

22 “(1) *LIMITATION BASED ON WEIGHT.*—The  
 23 amount of the credit allowed under subsection (a) by  
 24 reason of subsection (a)(2) shall not exceed—

25 “(A) \$7,500, in the case of any new quali-  
 26 fied plug-in electric drive motor vehicle with a

1           *gross vehicle weight rating of not more than*  
2           *10,000 pounds,*

3           *“(B) \$10,000, in the case of any new quali-*  
4           *fied plug-in electric drive motor vehicle with a*  
5           *gross vehicle weight rating of more than 10,000*  
6           *pounds but not more than 14,000 pounds,*

7           *“(C) \$12,500, in the case of any new quali-*  
8           *fied plug-in electric drive motor vehicle with a*  
9           *gross vehicle weight rating of more than 14,000*  
10          *pounds but not more than 26,000 pounds, and*

11          *“(D) \$15,000, in the case of any new quali-*  
12          *fied plug-in electric drive motor vehicle with a*  
13          *gross vehicle weight rating of more than 26,000*  
14          *pounds.*

15          *“(2) LIMITATION ON NUMBER OF PASSENGER VE-*  
16          *HICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—*

17           *“(A) IN GENERAL.—In the case of a new*  
18           *qualified plug-in electric drive motor vehicle sold*  
19           *during the phaseout period, only the applicable*  
20           *percentage of the credit otherwise allowable*  
21           *under subsection (a) shall be allowed.*

22           *“(B) PHASEOUT PERIOD.—For purposes of*  
23           *this subsection, the phaseout period is the period*  
24           *beginning with the second calendar quarter fol-*  
25           *lowing the calendar quarter which includes the*

1           *first date on which the total number of such new*  
2           *qualified plug-in electric drive motor vehicles*  
3           *sold for use in the United States after December*  
4           *31, 2008, is at least 250,000.*

5           “(C) *APPLICABLE PERCENTAGE.*—*For pur-*  
6           *poses of subparagraph (A), the applicable per-*  
7           *centage is—*

8                   “(i) *50 percent for the first 2 calendar*  
9                   *quarters of the phaseout period,*

10                   “(ii) *25 percent for the 3d and 4th cal-*  
11                   *endar quarters of the phaseout period, and*

12                   “(iii) *0 percent for each calendar quar-*  
13                   *ter thereafter.*

14           “(D) *CONTROLLED GROUPS.*—*Rules similar*  
15           *to the rules of section 30B(f)(4) shall apply for*  
16           *purposes of this subsection.*

17           “(c) *NEW QUALIFIED PLUG-IN ELECTRIC DRIVE*  
18           *MOTOR VEHICLE.*—*For purposes of this section, the term*  
19           *‘new qualified plug-in electric drive motor vehicle’ means*  
20           *a motor vehicle—*

21                   “(1) *which draws propulsion using a traction*  
22                   *battery with at least 4 kilowatt hours of capacity,*

23                   “(2) *which uses an offboard source of energy to*  
24                   *recharge such battery,*

1           “(3) which, in the case of a passenger vehicle or  
2           light truck which has a gross vehicle weight rating of  
3           not more than 8,500 pounds, has received a certificate  
4           of conformity under the Clean Air Act and meets or  
5           exceeds the equivalent qualifying California low emis-  
6           sion vehicle standard under section 243(e)(2) of the  
7           Clean Air Act for that make and model year, and

8                   “(A) in the case of a vehicle having a gross  
9                   vehicle weight rating of 6,000 pounds or less, the  
10                  Bin 5 Tier II emission standard established in  
11                  regulations prescribed by the Administrator of  
12                  the Environmental Protection Agency under sec-  
13                  tion 202(i) of the Clean Air Act for that make  
14                  and model year vehicle, and

15                   “(B) in the case of a vehicle having a gross  
16                   vehicle weight rating of more than 6,000 pounds  
17                   but not more than 8,500 pounds, the Bin 8 Tier  
18                   II emission standard which is so established,

19           “(4) the original use of which commences with  
20           the taxpayer,

21           “(5) which is acquired for use or lease by the  
22           taxpayer and not for resale, and

23           “(6) which is made by a manufacturer.

24           “(d) APPLICATION WITH OTHER CREDITS.—

1           “(1) *BUSINESS CREDIT TREATED AS PART OF*  
2           *GENERAL BUSINESS CREDIT.*—*So much of the credit*  
3           *which would be allowed under subsection (a) for any*  
4           *taxable year (determined without regard to this sub-*  
5           *section) that is attributable to property of a character*  
6           *subject to an allowance for depreciation shall be treat-*  
7           *ed as a credit listed in section 38(b) for such taxable*  
8           *year (and not allowed under subsection (a)).*

9           “(2) *PERSONAL CREDIT.*—

10           “(A) *IN GENERAL.*—*For purposes of this*  
11           *title, the credit allowed under subsection (a) for*  
12           *any taxable year (determined after application*  
13           *of paragraph (1)) shall be treated as a credit al-*  
14           *lowable under subpart A for such taxable year.*

15           “(B) *LIMITATION BASED ON AMOUNT OF*  
16           *TAX.*—*In the case of a taxable year to which sec-*  
17           *tion 26(a)(2) does not apply, the credit allowed*  
18           *under subsection (a) for any taxable year (deter-*  
19           *mined after application of paragraph (1)) shall*  
20           *not exceed the excess of—*

21                   “(i) *the sum of the regular tax liability*  
22                   *(as defined in section 26(b)) plus the tax*  
23                   *imposed by section 55, over*

24                   “(ii) *the sum of the credits allowable*  
25                   *under subpart A (other than this section*

1                   *and sections 23 and 25D) and section 27*  
2                   *for the taxable year.*

3           “(e) *OTHER DEFINITIONS AND SPECIAL RULES.—For*  
4 *purposes of this section—*

5                   “(1) *MOTOR VEHICLE.—The term ‘motor vehicle’*  
6 *has the meaning given such term by section 30(c)(2).*

7                   “(2) *OTHER TERMS.—The terms ‘passenger auto-*  
8 *mobile’, ‘light truck’, and ‘manufacturer’ have the*  
9 *meanings given such terms in regulations prescribed*  
10 *by the Administrator of the Environmental Protection*  
11 *Agency for purposes of the administration of title II*  
12 *of the Clean Air Act (42 U.S.C. 7521 et seq.).*

13                   “(3) *TRACTION BATTERY CAPACITY.—Traction*  
14 *battery capacity shall be measured in kilowatt hours*  
15 *from a 100 percent state of charge to a zero percent*  
16 *state of charge.*

17                   “(4) *REDUCTION IN BASIS.—For purposes of this*  
18 *subtitle, the basis of any property for which a credit*  
19 *is allowable under subsection (a) shall be reduced by*  
20 *the amount of such credit so allowed.*

21                   “(5) *NO DOUBLE BENEFIT.—The amount of any*  
22 *deduction or other credit allowable under this chapter*  
23 *for a new qualified plug-in electric drive motor vehi-*  
24 *cle shall be reduced by the amount of credit allowed*

1     *under subsection (a) for such vehicle for the taxable*  
2     *year.*

3             “(6) *PROPERTY USED BY TAX-EXEMPT ENTITY.—*  
4     *In the case of a vehicle the use of which is described*  
5     *in paragraph (3) or (4) of section 50(b) and which*  
6     *is not subject to a lease, the person who sold such ve-*  
7     *hicle to the person or entity using such vehicle shall*  
8     *be treated as the taxpayer that placed such vehicle in*  
9     *service, but only if such person clearly discloses to*  
10    *such person or entity in a document the amount of*  
11    *any credit allowable under subsection (a) with respect*  
12    *to such vehicle (determined without regard to sub-*  
13    *section (b)(2)).*

14            “(7) *PROPERTY USED OUTSIDE UNITED STATES,*  
15    *ETC., NOT QUALIFIED.—No credit shall be allowable*  
16    *under subsection (a) with respect to any property re-*  
17    *ferred to in section 50(b)(1) or with respect to the*  
18    *portion of the cost of any property taken into account*  
19    *under section 179.*

20            “(8) *RECAPTURE.—The Secretary shall, by regu-*  
21    *lations, provide for recapturing the benefit of any*  
22    *credit allowable under subsection (a) with respect to*  
23    *any property which ceases to be property eligible for*  
24    *such credit (including recapture in the case of a lease*  
25    *period of less than the economic life of a vehicle).*



1           “(9) *ELECTION TO NOT TAKE CREDIT.*—No credit  
2 shall be allowed under subsection (a) for any vehicle  
3 if the taxpayer elects not to have this section apply  
4 to such vehicle.

5           “(10) *INTERACTION WITH AIR QUALITY AND*  
6 *MOTOR VEHICLE SAFETY STANDARDS.*—Unless other-  
7 wise provided in this section, a motor vehicle shall  
8 not be considered eligible for a credit under this sec-  
9 tion unless such vehicle is in compliance with—

10           “(A) *the applicable provisions of the Clean*  
11 *Air Act for the applicable make and model year*  
12 *of the vehicle (or applicable air quality provi-*  
13 *sions of State law in the case of a State which*  
14 *has adopted such provision under a waiver*  
15 *under section 209(b) of the Clean Air Act), and*

16           “(B) *the motor vehicle safety provisions of*  
17 *sections 30101 through 30169 of title 49, United*  
18 *States Code.*

19           “(f) *REGULATIONS.*—

20           “(1) *IN GENERAL.*—Except as provided in para-  
21 graph (2), the Secretary shall promulgate such regula-  
22 tions as necessary to carry out the provisions of this  
23 section.

24           “(2) *COORDINATION IN PRESCRIPTION OF CER-*  
25 *TAIN REGULATIONS.*—The Secretary of the Treasury,

1       *in coordination with the Secretary of Transportation*  
2       *and the Administrator of the Environmental Protec-*  
3       *tion Agency, shall prescribe such regulations as nec-*  
4       *essary to determine whether a motor vehicle meets the*  
5       *requirements to be eligible for a credit under this sec-*  
6       *tion.*

7       “(g) *TERMINATION.*—*This section shall not apply to*  
8       *property purchased after December 31, 2014.*”.

9       (b) *COORDINATION WITH ALTERNATIVE MOTOR VEHI-*  
10       *CLE CREDIT.*—*Section 30B(d)(3) is amended by adding at*  
11       *the end the following new subparagraph:*

12               “(D) *EXCLUSION OF PLUG-IN VEHICLES.*—  
13               *Any vehicle with respect to which a credit is al-*  
14               *lowable under section 30D (determined without*  
15               *regard to subsection (d) thereof) shall not be*  
16               *taken into account under this section.*”.

17       (c) *CREDIT MADE PART OF GENERAL BUSINESS*  
18       *CREDIT.*—*Section 38(b), as amended by this Act, is amend-*  
19       *ed by striking “plus” at the end of paragraph (33), by strik-*  
20       *ing the period at the end of paragraph (34) and inserting*  
21       *“plus”, and by adding at the end the following new para-*  
22       *graph:*

23               “(35) *the portion of the new qualified plug-in*  
24               *electric drive motor vehicle credit to which section*  
25               *30D(d)(1) applies.*”.

1       (d) *CONFORMING AMENDMENTS.*—

2               (1)(A) *Section 24(b)(3)(B), as amended by sec-*  
3 *tion 106, is amended by striking “and 25D” and in-*  
4 *serting “25D, and 30D”.*

5               (B) *Section 25(e)(1)(C)(ii) is amended by insert-*  
6 *ing “30D,” after “25D,”.*

7               (C) *Section 25B(g)(2), as amended by section*  
8 *106, is amended by striking “and 25D” and inserting*  
9 *“, 25D, and 30D”.*

10              (D) *Section 26(a)(1), as amended by section 106,*  
11 *is amended by striking “and 25D” and inserting*  
12 *“25D, and 30D”.*

13              (E) *Section 1400C(d)(2) is amended by striking*  
14 *“and 25D” and inserting “25D, and 30D”.*

15              (2) *Section 1016(a) is amended by striking*  
16 *“and” at the end of paragraph (35), by striking the*  
17 *period at the end of paragraph (36) and inserting “,*  
18 *and”, and by adding at the end the following new*  
19 *paragraph:*

20                       *“(37) to the extent provided in section*  
21 *30D(e)(4).”.*

22              (3) *Section 6501(m) is amended by inserting*  
23 *“30D(e)(9),” after “30C(e)(5),”.*

1           (4) *The table of sections for subpart B of part IV*  
 2           *of subchapter A of chapter 1 is amended by adding*  
 3           *at the end the following new item:*

“Sec. 30D. *New qualified plug-in electric drive motor vehicles.*”.

4           (e) *EFFECTIVE DATE.*—*The amendments made by this*  
 5           *section shall apply to taxable years beginning after Decem-*  
 6           *ber 31, 2008.*

7           (f) *APPLICATION OF EGTRRA SUNSET.*—*The amend-*  
 8           *ment made by subsection (d)(1)(A) shall be subject to title*  
 9           *IX of the Economic Growth and Tax Relief Reconciliation*  
 10           *Act of 2001 in the same manner as the provision of such*  
 11           *Act to which such amendment relates.*

12   **SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**  
 13                           **REDUCTION UNITS AND ADVANCED INSULA-**  
 14                           **TION.**

15           (a) *IN GENERAL.*—*Section 4053 is amended by adding*  
 16           *at the end the following new paragraphs:*

17                   “(9) *IDLING REDUCTION DEVICE.*—*Any device or*  
 18                   *system of devices which—*

19                           “(A) *is designed to provide to a vehicle*  
 20                           *those services (such as heat, air conditioning, or*  
 21                           *electricity) that would otherwise require the oper-*  
 22                           *ation of the main drive engine while the vehicle*  
 23                           *is temporarily parked or remains stationary*  
 24                           *using one or more devices affixed to a tractor,*  
 25                           *and*



1 **SEC. 208. CERTAIN INCOME AND GAINS RELATING TO ALCO-**  
2 **HOL FUELS AND MIXTURES, BIODIESEL**  
3 **FUELS AND MIXTURES, AND ALTERNATIVE**  
4 **FUELS AND MIXTURES TREATED AS QUALI-**  
5 **FYING INCOME FOR PUBLICLY TRADED PART-**  
6 **NEERSHIPS.**

7 (a) *IN GENERAL.*—Subparagraph (E) of section  
8 7704(d)(1), as amended by this Act, is amended by striking  
9 “or industrial source carbon dioxide” and inserting “, in-  
10 dustrial source carbon dioxide, or the transportation or  
11 storage of any fuel described in subsection (b), (c), (d), or  
12 (e) of section 6426, or any alcohol fuel defined in section  
13 6426(b)(4)(A) or any biodiesel fuel as defined in section  
14 40A(d)(1)” after “timber”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this  
16 section shall take effect on the date of the enactment of this  
17 Act, in taxable years ending after such date.

18 **SEC. 209. EXTENSION AND MODIFICATION OF ELECTION TO**  
19 **EXPENSE CERTAIN REFINERIES.**

20 (a) *EXTENSION.*—Paragraph (1) of section 179C(c)  
21 (relating to qualified refinery property) is amended—

22 (1) by striking “January 1, 2012” in subpara-  
23 graph (B) and inserting “January 1, 2014”, and

24 (2) by striking “January 1, 2008” each place it  
25 appears in subparagraph (F) and inserting “January  
26 1, 2010”.

1       **(b) INCLUSION OF FUEL DERIVED FROM SHALE AND**  
 2 **TAR SANDS.—**

3           **(1) IN GENERAL.—***Subsection (d) of section 179C*  
 4 *is amended by inserting “, or directly from shale or*  
 5 *tar sands” after “(as defined in section 45K(c))”.*

6           **(2) CONFORMING AMENDMENT.—***Paragraph (2)*  
 7 *of section 179C(e) is amended by inserting “shale, tar*  
 8 *sands, or” before “qualified fuels”.*

9           **(c) EFFECTIVE DATE.—***The amendments made by this*  
 10 *section shall apply to property placed in service after the*  
 11 *date of the enactment of this Act.*

12 **SEC. 210. EXTENSION OF SUSPENSION OF TAXABLE INCOME**  
 13 **LIMIT ON PERCENTAGE DEPLETION FOR OIL**  
 14 **AND NATURAL GAS PRODUCED FROM MAR-**  
 15 **GINAL PROPERTIES.**

16       *Subparagraph (H) of section 613A(c)(6) (relating to*  
 17 *oil and gas produced from marginal properties) is amended*  
 18 *by striking “for any taxable year” and all that follows and*  
 19 *inserting “for any taxable year—*

20                   *“(i) beginning after December 31,*  
 21                   *1997, and before January 1, 2008, or*

22                   *“(ii) beginning after December 31,*  
 23                   *2008, and before January 1, 2010.”.*

1 **SEC. 211. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**  
2 **COMMUTERS.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 132(f) is  
4 amended by adding at the end the following:

5 “(D) Any qualified bicycle commuting re-  
6 imbursement.”.

7 (b) *LIMITATION ON EXCLUSION.*—Paragraph (2) of  
8 section 132(f) is amended by striking “and” at the end of  
9 subparagraph (A), by striking the period at the end of sub-  
10 paragraph (B) and inserting “, and”, and by adding at  
11 the end the following new subparagraph:

12 “(C) the applicable annual limitation in  
13 the case of any qualified bicycle commuting re-  
14 imbursement.”.

15 (c) *DEFINITIONS.*—Paragraph (5) of section 132(f) is  
16 amended by adding at the end the following:

17 “(F) *DEFINITIONS RELATED TO BICYCLE*  
18 *COMMUTING REIMBURSEMENT.*—

19 “(i) *QUALIFIED BICYCLE COMMUTING*  
20 *REIMBURSEMENT.*—The term ‘qualified bi-  
21 cycle commuting reimbursement’ means,  
22 with respect to any calendar year, any em-  
23 ployer reimbursement during the 15-month  
24 period beginning with the first day of such  
25 calendar year for reasonable expenses in-  
26 curred by the employee during such cal-



1            *endar year for the purchase of a bicycle and*  
2            *bicycle improvements, repair, and storage,*  
3            *if such bicycle is regularly used for travel*  
4            *between the employee’s residence and place*  
5            *of employment.*

6            “(ii) *APPLICABLE ANNUAL LIMITA-*  
7            *TION.—The term ‘applicable annual limita-*  
8            *tion’ means, with respect to any employee*  
9            *for any calendar year, the product of \$20*  
10           *multiplied by the number of qualified bicy-*  
11           *cle commuting months during such year.*

12           “(iii) *QUALIFIED BICYCLE COMMUTING*  
13           *MONTH.—The term ‘qualified bicycle com-*  
14           *muting month’ means, with respect to any*  
15           *employee, any month during which such*  
16           *employee—*

17           *“(I) regularly uses the bicycle for*  
18           *a substantial portion of the travel be-*  
19           *tween the employee’s residence and*  
20           *place of employment, and*

21           *“(II) does not receive any benefit*  
22           *described in subparagraph (A), (B), or*  
23           *(C) of paragraph (1).”.*

24           (d) *CONSTRUCTIVE RECEIPT OF BENEFIT.—Para-*  
25           *graph (4) of section 132(f) is amended by inserting “(other*

1 *than a qualified bicycle commuting reimbursement)” after*  
 2 *“qualified transportation fringe”.*

3 *(e) EFFECTIVE DATE.—The amendments made by this*  
 4 *section shall apply to taxable years beginning after Decem-*  
 5 *ber 31, 2008.*

6 **TITLE III—ENERGY CONSERVA-**  
 7 **TION AND EFFICIENCY PROVI-**  
 8 **SIONS**

9 **SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.**

10 *(a) IN GENERAL.—Subpart I of part IV of subchapter*  
 11 *A of chapter 1, as amended by section 107, is amended by*  
 12 *adding at the end the following new section:*

13 **“SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.**

14 *“(a) QUALIFIED ENERGY CONSERVATION BOND.—For*  
 15 *purposes of this subchapter, the term ‘qualified energy con-*  
 16 *servation bond’ means any bond issued as part of an issue*  
 17 *if—*

18 *“(1) 100 percent of the available project proceeds*  
 19 *of such issue are to be used for one or more qualified*  
 20 *conservation purposes,*

21 *“(2) the bond is issued by a State or local gov-*  
 22 *ernment, and*

23 *“(3) the issuer designates such bond for purposes*  
 24 *of this section.*

1       “(b) *REDUCED CREDIT AMOUNT.*—*The annual credit*  
2 *determined under section 54A(b) with respect to any quali-*  
3 *fied energy conservation bond shall be 70 percent of the*  
4 *amount so determined without regard to this subsection.*

5       “(c) *LIMITATION ON AMOUNT OF BONDS DES-*  
6 *IGNATED.*—*The maximum aggregate face amount of bonds*  
7 *which may be designated under subsection (a) by any issuer*  
8 *shall not exceed the limitation amount allocated to such*  
9 *issuer under subsection (e).*

10       “(d) *NATIONAL LIMITATION ON AMOUNT OF BONDS*  
11 *DESIGNATED.*—*There is a national qualified energy con-*  
12 *servaion bond limitation of \$800,000,000.*

13       “(e) *ALLOCATIONS.*—

14               “(1) *IN GENERAL.*—*The limitation applicable*  
15 *under subsection (d) shall be allocated by the Sec-*  
16 *retary among the States in proportion to the popu-*  
17 *lation of the States.*

18               “(2) *ALLOCATIONS TO LARGEST LOCAL GOVERN-*  
19 *MENTS.*—

20                       “(A) *IN GENERAL.*—*In the case of any*  
21 *State in which there is a large local government,*  
22 *each such local government shall be allocated a*  
23 *portion of such State’s allocation which bears the*  
24 *same ratio to the State’s allocation (determined*  
25 *without regard to this subparagraph) as the pop-*

1            *ulation of such large local government bears to*  
2            *the population of such State.*

3            *“(B) ALLOCATION OF UNUSED LIMITATION*  
4            *TO STATE.—The amount allocated under this*  
5            *subsection to a large local government may be re-*  
6            *allocated by such local government to the State*  
7            *in which such local government is located.*

8            *“(C) LARGE LOCAL GOVERNMENT.—For*  
9            *purposes of this section, the term ‘large local gov-*  
10           *ernment’ means any municipality or county if*  
11           *such municipality or county has a population of*  
12           *100,000 or more.*

13           *“(3) ALLOCATION TO ISSUERS; RESTRICTION ON*  
14           *PRIVATE ACTIVITY BONDS.—Any allocation under this*  
15           *subsection to a State or large local government shall*  
16           *be allocated by such State or large local government*  
17           *to issuers within the State in a manner that results*  
18           *in not less than 70 percent of the allocation to such*  
19           *State or large local government being used to des-*  
20           *ignate bonds which are not private activity bonds.*

21           *“(f) QUALIFIED CONSERVATION PURPOSE.—For pur-*  
22           *poses of this section—*

23           *“(1) IN GENERAL.—The term ‘qualified conserva-*  
24           *tion purpose’ means any of the following:*

1           “(A) *Capital expenditures incurred for pur-*  
2           *poses of—*

3                     “(i) *reducing energy consumption in*  
4                     *publicly-owned buildings by at least 20 per-*  
5                     *cent,*

6                     “(ii) *implementing green community*  
7                     *programs,*

8                     “(iii) *rural development involving the*  
9                     *production of electricity from renewable en-*  
10                    *ergy resources, or*

11                    “(iv) *any qualified facility (as deter-*  
12                    *mined under section 45(d) without regard*  
13                    *to paragraphs (8) and (10) thereof and*  
14                    *without regard to any placed in service*  
15                    *date).*

16           “(B) *Expenditures with respect to research*  
17           *facilities, and research grants, to support re-*  
18           *search in—*

19                    “(i) *development of cellulosic ethanol*  
20                    *or other nonfossil fuels,*

21                    “(ii) *technologies for the capture and*  
22                    *sequestration of carbon dioxide produced*  
23                    *through the use of fossil fuels,*

1           “(iii) increasing the efficiency of exist-  
2           ing technologies for producing nonfossil  
3           fuels,

4           “(iv) automobile battery technologies  
5           and other technologies to reduce fossil fuel  
6           consumption in transportation, or

7           “(v) technologies to reduce energy use  
8           in buildings.

9           “(C) Mass commuting facilities and related  
10          facilities that reduce the consumption of energy,  
11          including expenditures to reduce pollution from  
12          vehicles used for mass commuting.

13          “(D) Demonstration projects designed to  
14          promote the commercialization of—

15               “(i) green building technology,

16               “(ii) conversion of agricultural waste  
17               for use in the production of fuel or other-  
18               wise,

19               “(iii) advanced battery manufacturing  
20               technologies,

21               “(iv) technologies to reduce peak use of  
22               electricity, or

23               “(v) technologies for the capture and  
24               sequestration of carbon dioxide emitted from

1           *combusting fossil fuels in order to produce*  
2           *electricity.*

3           “(E) *Public education campaigns to pro-*  
4           *mote energy efficiency.*

5           “(2) *SPECIAL RULES FOR PRIVATE ACTIVITY*  
6           *BONDS.—For purposes of this section, in the case of*  
7           *any private activity bond, the term ‘qualified con-*  
8           *servation purposes’ shall not include any expenditure*  
9           *which is not a capital expenditure.*

10          “(g) *POPULATION.—*

11           “(1) *IN GENERAL.—The population of any State*  
12           *or local government shall be determined for purposes*  
13           *of this section as provided in section 146(j) for the*  
14           *calendar year which includes the date of the enact-*  
15           *ment of this section.*

16           “(2) *SPECIAL RULE FOR COUNTIES.—In deter-*  
17           *mining the population of any county for purposes of*  
18           *this section, any population of such county which is*  
19           *taken into account in determining the population of*  
20           *any municipality which is a large local government*  
21           *shall not be taken into account in determining the*  
22           *population of such county.*

23           “(h) *APPLICATION TO INDIAN TRIBAL GOVERN-*  
24           *MENTS.—An Indian tribal government shall be treated for*

1 *purposes of this section in the same manner as a large local*  
2 *government, except that—*

3           “(1) *an Indian tribal government shall be treat-*  
4 *ed for purposes of subsection (e) as located within a*  
5 *State to the extent of so much of the population of*  
6 *such government as resides within such State, and*

7           “(2) *any bond issued by an Indian tribal gov-*  
8 *ernment shall be treated as a qualified energy con-*  
9 *servation bond only if issued as part of an issue the*  
10 *available project proceeds of which are used for pur-*  
11 *poses for which such Indian tribal government could*  
12 *issue bonds to which section 103(a) applies.”.*

13 *(b) CONFORMING AMENDMENTS.—*

14           (1) *Paragraph (1) of section 54A(d), as amended*  
15 *by this Act, is amended to read as follows:*

16           “(1) *QUALIFIED TAX CREDIT BOND.—The term*  
17 *‘qualified tax credit bond’ means—*

18                   “(A) *a qualified forestry conservation bond,*

19                   “(B) *a new clean renewable energy bond, or*

20                   “(C) *a qualified energy conservation bond,*

21 *which is part of an issue that meets requirements of*  
22 *paragraphs (2), (3), (4), (5), and (6).”.*

23           (2) *Subparagraph (C) of section 54A(d)(2), as*  
24 *amended by this Act, is amended to read as follows:*



1           “(C) *QUALIFIED PURPOSE.*—*For purposes*  
2           *of this paragraph, the term ‘qualified purpose’*  
3           *means—*

4                   “(i) *in the case of a qualified forestry*  
5                   *conservation bond, a purpose specified in*  
6                   *section 54B(e),*

7                   “(ii) *in the case of a new clean renew-*  
8                   *able energy bond, a purpose specified in sec-*  
9                   *tion 54C(a)(1), and*

10                   “(iii) *in the case of a qualified energy*  
11                   *conservation bond, a purpose specified in*  
12                   *section 54D(a)(1).”.*

13           (3) *The table of sections for subpart I of part IV*  
14           *of subchapter A of chapter 1, as amended by this Act,*  
15           *is amended by adding at the end the following new*  
16           *item:*

          “*Sec. 54D. Qualified energy conservation bonds.*”.

17           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
18           *section shall apply to obligations issued after the date of*  
19           *the enactment of this Act.*

20   **SEC. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

21           (a) *EXTENSION OF CREDIT.*—*Section 25C(g) is*  
22           *amended by striking “placed in service after December 31,*  
23           *2007” and inserting “placed in service—*

24                   “(1) *after December 31, 2007, and before Janu-*  
25                   *ary 1, 2009, or*

1           “(2) after December 31, 2009.”.

2           **(b) QUALIFIED BIOMASS FUEL PROPERTY.**—

3           **(1) IN GENERAL.**—Section 25C(d)(3) is amend-  
4           ed—

5                   (A) by striking “and” at the end of sub-  
6           paragraph (D),

7                   (B) by striking the period at the end of sub-  
8           paragraph (E) and inserting “, and”, and

9                   (C) by adding at the end the following new  
10          subparagraph:

11                   “(F) a stove which uses the burning of bio-  
12          mass fuel to heat a dwelling unit located in the  
13          United States and used as a residence by the  
14          taxpayer, or to heat water for use in such a  
15          dwelling unit, and which has a thermal effi-  
16          ciency rating of at least 75 percent.”.

17           **(2) BIOMASS FUEL.**—Section 25C(d) is amended  
18          by adding at the end the following new paragraph:

19                   “(6) **BIOMASS FUEL.**—The term ‘biomass fuel’  
20          means any plant-derived fuel available on a renew-  
21          able or recurring basis, including agricultural crops  
22          and trees, wood and wood waste and residues (includ-  
23          ing wood pellets), plants (including aquatic plants),  
24          grasses, residues, and fibers.”.

1       (c) *MODIFICATION OF WATER HEATER REQUIRE-*  
2 *MENTS.*—Section 25C(d)(3)(E) is amended by inserting “or  
3 a thermal efficiency of at least 90 percent” after “0.80”.

4       (d) *COORDINATION WITH CREDIT FOR QUALIFIED*  
5 *GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.*—

6           (1) *IN GENERAL.*—Paragraph (3) of section  
7 25C(d), as amended by subsections (b) and (c), is  
8 amended by striking subparagraph (C) and by redesi-  
9 gnating subparagraphs (D), (E), and (F) as sub-  
10 paragraphs (C), (D), and (E), respectively.

11           (2) *CONFORMING AMENDMENT.*—Subparagraph  
12 (C) of section 25C(d)(2) is amended to read as fol-  
13 lows:

14                   “(C) *REQUIREMENTS AND STANDARDS FOR*  
15 *AIR CONDITIONERS AND HEAT PUMPS.*—The  
16 standards and requirements prescribed by the  
17 Secretary under subparagraph (B) with respect  
18 to the energy efficiency ratio (EER) for central  
19 air conditioners and electric heat pumps—

20                           “(i) shall require measurements to be  
21 based on published data which is tested by  
22 manufacturers at 95 degrees Fahrenheit,  
23 and

24                           “(ii) may be based on the certified  
25 data of the Air Conditioning and Refrigera-

1            *tion Institute that are prepared in partner-*  
2            *ship with the Consortium for Energy Effi-*  
3            *ciency.”.*

4            *(e) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY*  
5            *IMPROVEMENTS.—*

6            *(1) IN GENERAL.—Paragraph (1) of section*  
7            *25C(c) is amended by inserting “, or an asphalt roof*  
8            *with appropriate cooling granules,” before “which*  
9            *meet the Energy Star program requirements”.*

10           *(2) BUILDING ENVELOPE COMPONENT.—Sub-*  
11           *paragraph (D) of section 25C(e)(2) is amended—*

12           *(A) by inserting “or asphalt roof” after*  
13           *“metal roof”, and*

14           *(B) by inserting “or cooling granules” after*  
15           *“pigmented coatings”.*

16           *(f) EFFECTIVE DATES.—*

17           *(1) IN GENERAL.—Except as provided in para-*  
18           *graph (2), the amendments made this section shall*  
19           *apply to expenditures made after December 31, 2008.*

20           *(2) MODIFICATION OF QUALIFIED ENERGY EFFI-*  
21           *CIENCY IMPROVEMENTS.—The amendments made by*  
22           *subsection (e) shall apply to property placed in serv-*  
23           *ice after the date of the enactment of this Act.*

1 **SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
2 **DUCTION.**

3 *Subsection (h) of section 179D is amended by striking*  
4 *“December 31, 2008” and inserting “December 31, 2013”.*

5 **SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.**

6 *Subsection (g) of section 45L (relating to termination)*  
7 *is amended by striking “December 31, 2008” and inserting*  
8 *“December 31, 2009”.*

9 **SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
10 **ANCE CREDIT FOR APPLIANCES PRODUCED**  
11 **AFTER 2007.**

12 *(a) IN GENERAL.—Subsection (b) of section 45M is*  
13 *amended to read as follows:*

14 *“(b) APPLICABLE AMOUNT.—For purposes of sub-*  
15 *section (a)—*

16 *“(1) DISHWASHERS.—The applicable amount*  
17 *is—*

18 *“(A) \$45 in the case of a dishwasher which*  
19 *is manufactured in calendar year 2008 or 2009*  
20 *and which uses no more than 324 kilowatt hours*  
21 *per year and 5.8 gallons per cycle, and*

22 *“(B) \$75 in the case of a dishwasher which*  
23 *is manufactured in calendar year 2008, 2009, or*  
24 *2010 and which uses no more than 307 kilowatt*  
25 *hours per year and 5.0 gallons per cycle (5.5 gal-*

1            *lons per cycle for dishwashers designed for great-*  
2            *er than 12 place settings).*

3            “(2) *CLOTHES WASHERS.—The applicable*  
4            *amount is—*

5                    “(A) *\$75 in the case of a residential top-*  
6                    *loading clothes washer manufactured in calendar*  
7                    *year 2008 which meets or exceeds a 1.72 modi-*  
8                    *fied energy factor and does not exceed a 8.0*  
9                    *water consumption factor,*

10                    “(B) *\$125 in the case of a residential top-*  
11                    *loading clothes washer manufactured in calendar*  
12                    *year 2008 or 2009 which meets or exceeds a 1.8*  
13                    *modified energy factor and does not exceed a 7.5*  
14                    *water consumption factor,*

15                    “(C) *\$150 in the case of a residential or*  
16                    *commercial clothes washer manufactured in cal-*  
17                    *endar year 2008, 2009, or 2010 which meets or*  
18                    *exceeds 2.0 modified energy factor and does not*  
19                    *exceed a 6.0 water consumption factor, and*

20                    “(D) *\$250 in the case of a residential or*  
21                    *commercial clothes washer manufactured in cal-*  
22                    *endar year 2008, 2009, or 2010 which meets or*  
23                    *exceeds 2.2 modified energy factor and does not*  
24                    *exceed a 4.5 water consumption factor.*

1           “(3) *REFRIGERATORS.*—*The applicable amount*  
2           *is—*

3                   “(A) *\$50 in the case of a refrigerator which*  
4                   *is manufactured in calendar year 2008, and con-*  
5                   *sumes at least 20 percent but not more than 22.9*  
6                   *percent less kilowatt hours per year than the*  
7                   *2001 energy conservation standards,*

8                   “(B) *\$75 in the case of a refrigerator which*  
9                   *is manufactured in calendar year 2008 or 2009,*  
10                   *and consumes at least 23 percent but no more*  
11                   *than 24.9 percent less kilowatt hours per year*  
12                   *than the 2001 energy conservation standards,*

13                   “(C) *\$100 in the case of a refrigerator*  
14                   *which is manufactured in calendar year 2008,*  
15                   *2009, or 2010, and consumes at least 25 percent*  
16                   *but not more than 29.9 percent less kilowatt*  
17                   *hours per year than the 2001 energy conserva-*  
18                   *tion standards, and*

19                   “(D) *\$200 in the case of a refrigerator man-*  
20                   *ufactured in calendar year 2008, 2009, or 2010*  
21                   *and which consumes at least 30 percent less en-*  
22                   *ergy than the 2001 energy conservation stand-*  
23                   *ards.”.*

24           (b) *ELIGIBLE PRODUCTION.*—

1           (1) *SIMILAR TREATMENT FOR ALL APPLI-*  
2 *ANCES.—Subsection (c) of section 45M is amended—*

3           (A) *by striking paragraph (2),*

4           (B) *by striking “(1) IN GENERAL” and all*  
5 *that follows through “the eligible” and inserting*  
6 *“The eligible”,*

7           (C) *by moving the text of such subsection in*  
8 *line with the subsection heading, and*

9           (D) *by redesignating subparagraphs (A)*  
10 *and (B) as paragraphs (1) and (2), respectively,*  
11 *and by moving such paragraphs 2 ems to the*  
12 *left.*

13           (2) *MODIFICATION OF BASE PERIOD.—Para-*  
14 *graph (2) of section 45M(c), as amended by para-*  
15 *graph (1), is amended by striking “3-calendar year”*  
16 *and inserting “2-calendar year”.*

17           (c) *TYPES OF ENERGY EFFICIENT APPLIANCES.—Sub-*  
18 *section (d) of section 45M is amended to read as follows:*

19           “(d) *TYPES OF ENERGY EFFICIENT APPLIANCE.—For*  
20 *purposes of this section, the types of energy efficient appli-*  
21 *ances are—*

22           “(1) *dishwashers described in subsection (b)(1),*

23           “(2) *clothes washers described in subsection*  
24 *(b)(2), and*



1           “(3) refrigerators described in subsection  
2           (b)(3).”.

3           (d) *AGGREGATE CREDIT AMOUNT ALLOWED.*—

4           (1) *INCREASE IN LIMIT.*—Paragraph (1) of sec-  
5           tion 45M(e) is amended to read as follows:

6           “(1) *AGGREGATE CREDIT AMOUNT ALLOWED.*—  
7           The aggregate amount of credit allowed under sub-  
8           section (a) with respect to a taxpayer for any taxable  
9           year shall not exceed \$75,000,000 reduced by the  
10          amount of the credit allowed under subsection (a) to  
11          the taxpayer (or any predecessor) for all prior taxable  
12          years beginning after December 31, 2007.”.

13          (2) *EXCEPTION FOR CERTAIN REFRIGERATOR*  
14          *AND CLOTHES WASHERS.*—Paragraph (2) of section  
15          45M(e) is amended to read as follows:

16          “(2) *AMOUNT ALLOWED FOR CERTAIN REFRIG-*  
17          *ERATORS AND CLOTHES WASHERS.*—Refrigerators de-  
18          scribed in subsection (b)(3)(D) and clothes washers  
19          described in subsection (b)(2)(D) shall not be taken  
20          into account under paragraph (1).”.

21          (e) *QUALIFIED ENERGY EFFICIENT APPLIANCES.*—

22          (1) *IN GENERAL.*—Paragraph (1) of section  
23          45M(f) is amended to read as follows:

1           “(1) *QUALIFIED ENERGY EFFICIENT APPLI-*  
2 *ANCE.—The term ‘qualified energy efficient appliance’*  
3 *means—*

4           “(A) *any dishwasher described in subsection*  
5 *(b)(1),*

6           “(B) *any clothes washer described in sub-*  
7 *section (b)(2), and*

8           “(C) *any refrigerator described in sub-*  
9 *section (b)(3).”.*

10          (2) *CLOTHES WASHER.—Section 45M(f)(3) is*  
11 *amended by inserting “commercial” before “residen-*  
12 *tial” the second place it appears.*

13          (3) *TOP-LOADING CLOTHES WASHER.—Sub-*  
14 *section (f) of section 45M is amended by redesignating*  
15 *paragraphs (4), (5), (6), and (7) as paragraphs (5),*  
16 *(6), (7), and (8), respectively, and by inserting after*  
17 *paragraph (3) the following new paragraph:*

18           “(4) *TOP-LOADING CLOTHES WASHER.—The*  
19 *term ‘top-loading clothes washer’ means a clothes*  
20 *washer which has the clothes container compartment*  
21 *access located on the top of the machine and which*  
22 *operates on a vertical axis.”.*

23          (4) *REPLACEMENT OF ENERGY FACTOR.—Section*  
24 *45M(f)(6), as redesignated by paragraph (3), is*  
25 *amended to read as follows:*

1           “(6) *MODIFIED ENERGY FACTOR.*—*The term*  
2           *‘modified energy factor’ means the modified energy*  
3           *factor established by the Department of Energy for*  
4           *compliance with the Federal energy conservation*  
5           *standard.’.*”

6           (5) *GALLONS PER CYCLE; WATER CONSUMPTION*  
7           *FACTOR.*—*Section 45M(f), as amended by paragraph*  
8           *(3), is amended by adding at the end the following:*

9           “(9) *GALLONS PER CYCLE.*—*The term ‘gallons*  
10           *per cycle’ means, with respect to a dishwasher, the*  
11           *amount of water, expressed in gallons, required to*  
12           *complete a normal cycle of a dishwasher.*”

13           “(10) *WATER CONSUMPTION FACTOR.*—*The term*  
14           *‘water consumption factor’ means, with respect to a*  
15           *clothes washer, the quotient of the total weighted per-*  
16           *cycle water consumption divided by the cubic foot (or*  
17           *liter) capacity of the clothes washer.’.*”

18           (f) *EFFECTIVE DATE.*—*The amendments made by this*  
19           *section shall apply to appliances produced after December*  
20           *31, 2007.*

21           **SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPRE-**  
22           **CIATION OF SMART METERS AND SMART**  
23           **GRID SYSTEMS.**

24           (a) *IN GENERAL.*—*Section 168(e)(3)(D) is amended*  
25           *by striking “and” at the end of clause (i), by striking the*

1 *period at the end of clause (ii) and inserting a comma, and*  
2 *by inserting after clause (ii) the following new clauses:*

3                   “(iii) *any qualified smart electric*  
4                   *meter, and*

5                   “(iv) *any qualified smart electric grid*  
6                   *system.*”.

7       (b) *DEFINITIONS.*—Section 168(i) is amended by in-  
8 *serting at the end the following new paragraph:*

9                   “(18) *QUALIFIED SMART ELECTRIC METERS.*—

10                   “(A) *IN GENERAL.*—The term ‘qualified  
11 *smart electric meter*’ means any smart electric  
12 *meter which—*

13                   “(i) *is placed in service by a taxpayer*  
14                   *who is a supplier of electric energy or a*  
15                   *provider of electric energy services, and*

16                   “(ii) *does not have a class life (deter-*  
17                   *mined without regard to subsection (e)) of*  
18                   *less than 10 years.*

19                   “(B) *SMART ELECTRIC METER.*—For pur-  
20 *poses of subparagraph (A), the term ‘smart elec-*  
21 *tric meter’ means any time-based meter and re-*  
22 *lated communication equipment which is capable*  
23 *of being used by the taxpayer as part of a system*  
24 *that—*

1           “(i) measures and records electricity  
2 usage data on a time-differentiated basis in  
3 at least 24 separate time segments per day,

4           “(ii) provides for the exchange of infor-  
5 mation between supplier or provider and  
6 the customer’s electric meter in support of  
7 time-based rates or other forms of demand  
8 response,

9           “(iii) provides data to such supplier or  
10 provider so that the supplier or provider  
11 can provide energy usage information to  
12 customers electronically, and

13           “(iv) provides net metering.

14           “(19) QUALIFIED SMART ELECTRIC GRID SYS-  
15 TEMS.—

16           “(A) IN GENERAL.—The term ‘qualified  
17 smart electric grid system’ means any smart  
18 grid property which—

19           “(i) is used as part of a system for  
20 electric distribution grid communications,  
21 monitoring, and management placed in  
22 service by a taxpayer who is a supplier of  
23 electric energy or a provider of electric en-  
24 ergy services, and

1                   “(ii) does not have a class life (deter-  
2                   mined without regard to subsection (e)) of  
3                   less than 10 years.

4                   “(B) SMART GRID PROPERTY.—For the pur-  
5                   poses of subparagraph (A), the term ‘smart grid  
6                   property’ means electronics and related equip-  
7                   ment that is capable of—

8                   “(i) sensing, collecting, and monitoring  
9                   data of or from all portions of a utility’s  
10                  electric distribution grid,

11                  “(ii) providing real-time, two-way  
12                  communications to monitor or manage such  
13                  grid, and

14                  “(iii) providing real time analysis of  
15                  and event prediction based upon collected  
16                  data that can be used to improve electric  
17                  distribution system reliability, quality, and  
18                  performance.”.

19                  (c) CONTINUED APPLICATION OF 150 PERCENT DE-  
20                  CLINING BALANCE METHOD.—Paragraph (2) of section  
21                  168(b) is amended by striking “or” at the end of subpara-  
22                  graph (B), by redesignating subparagraph (C) as subpara-  
23                  graph (D), and by inserting after subparagraph (B) the fol-  
24                  lowing new subparagraph:



1           “(1) *IN GENERAL.*—*In the case of any qualified*  
2 *reuse and recycling property—*

3                   “(A) *the depreciation deduction provided by*  
4 *section 167(a) for the taxable year in which such*  
5 *property is placed in service shall include an al-*  
6 *lowance equal to 50 percent of the adjusted basis*  
7 *of the qualified reuse and recycling property,*  
8 *and*

9                   “(B) *the adjusted basis of the qualified reuse*  
10 *and recycling property shall be reduced by the*  
11 *amount of such deduction before computing the*  
12 *amount otherwise allowable as a depreciation de-*  
13 *duction under this chapter for such taxable year*  
14 *and any subsequent taxable year.*

15           “(2) *QUALIFIED REUSE AND RECYCLING PROP-*  
16 *ERTY.*—*For purposes of this subsection—*

17                   “(A) *IN GENERAL.*—*The term ‘qualified*  
18 *reuse and recycling property’ means any reuse*  
19 *and recycling property—*

20                           “(i) *to which this section applies,*

21                           “(ii) *which has a useful life of at least*  
22 *5 years,*

23                           “(iii) *the original use of which com-*  
24 *mences with the taxpayer after August 31,*  
25 *2008, and*



1           “(iv) which is—

2                   “(I) acquired by purchase (as de-  
3                   fined in section 179(d)(2)) by the tax-  
4                   payer after August 31, 2008, but only  
5                   if no written binding contract for the  
6                   acquisition was in effect before Sep-  
7                   tember 1, 2008, or

8                   “(II) acquired by the taxpayer  
9                   pursuant to a written binding contract  
10                  which was entered into after August  
11                  31, 2008.

12           “(B) EXCEPTIONS.—

13                   “(i) *BONUS DEPRECIATION PROPERTY*  
14                   *UNDER SUBSECTION (k).*—The term ‘quali-  
15                   fied reuse and recycling property’ shall not  
16                   include any property to which section  
17                   168(k) applies.

18                   “(ii) *ALTERNATIVE DEPRECIATION*  
19                   *PROPERTY.*—The term ‘qualified reuse and  
20                   recycling property’ shall not include any  
21                   property to which the alternative deprecia-  
22                   tion system under subsection (g) applies, de-  
23                   termined without regard to paragraph (7)  
24                   of subsection (g) (relating to election to have  
25                   system apply).

1           “(iii) *ELECTION OUT.*—If a taxpayer  
2           makes an election under this clause with re-  
3           spect to any class of property for any tax-  
4           able year, this subsection shall not apply to  
5           all property in such class placed in service  
6           during such taxable year.

7           “(C) *SPECIAL RULE FOR SELF-CON-*  
8           *STRUCTED PROPERTY.*—In the case of a taxpayer  
9           manufacturing, constructing, or producing prop-  
10          erty for the taxpayer’s own use, the requirements  
11          of clause (iv) of subparagraph (A) shall be treat-  
12          ed as met if the taxpayer begins manufacturing,  
13          constructing, or producing the property after Au-  
14          gust 31, 2008.

15          “(D) *DEDUCTION ALLOWED IN COMPUTING*  
16          *MINIMUM TAX.*—For purposes of determining al-  
17          ternative minimum taxable income under section  
18          55, the deduction under subsection (a) for quali-  
19          fied reuse and recycling property shall be deter-  
20          mined under this section without regard to any  
21          adjustment under section 56.

22          “(3) *DEFINITIONS.*—For purposes of this sub-  
23          section—

24          “(A) *REUSE AND RECYCLING PROPERTY.*—

1           “(i) *IN GENERAL.*—*The term ‘reuse*  
2           *and recycling property’ means any machin-*  
3           *ery and equipment (not including buildings*  
4           *or real estate), along with all appurtenances*  
5           *thereto, including software necessary to op-*  
6           *erate such equipment, which is used exclu-*  
7           *sively to collect, distribute, or recycle quali-*  
8           *fied reuse and recyclable materials.*

9           “(ii) *EXCLUSION.*—*Such term does not*  
10           *include rolling stock or other equipment*  
11           *used to transport reuse and recyclable mate-*  
12           *rials.*

13           “(B) *QUALIFIED REUSE AND RECYCLABLE*  
14           *MATERIALS.*—

15           “(i) *IN GENERAL.*—*The term ‘qualified*  
16           *reuse and recyclable materials’ means scrap*  
17           *plastic, scrap glass, scrap textiles, scrap*  
18           *rubber, scrap packaging, recovered fiber,*  
19           *scrap ferrous and nonferrous metals, or elec-*  
20           *tronic scrap generated by an individual or*  
21           *business.*

22           “(ii) *ELECTRONIC SCRAP.*—*For pur-*  
23           *poses of clause (i), the term ‘electronic*  
24           *scrap’ means—*

1           “(I) any cathode ray tube, flat  
2           panel screen, or similar video display  
3           device with a screen size greater than  
4           4 inches measured diagonally, or

5           “(II) any central processing unit.

6           “(C) *RECYCLING OR RECYCLE*.—The term  
7           ‘recycling’ or ‘recycle’ means that process (in-  
8           cluding sorting) by which worn or superfluous  
9           materials are manufactured or processed into  
10          specification grade commodities that are suitable  
11          for use as a replacement or substitute for virgin  
12          materials in manufacturing tangible consumer  
13          and commercial products, including packaging.”.

14          (b) *EFFECTIVE DATE*.—The amendment made by this  
15          section shall apply to property placed in service after Au-  
16          gust 31, 2008.

## 17                   **TITLE IV—REVENUE**

### 18                   **PROVISIONS**

19          **SEC. 401. LIMITATION OF DEDUCTION FOR INCOME ATTRIB-**  
20                   **UTABLE TO DOMESTIC PRODUCTION OF OIL,**  
21                   **GAS, OR PRIMARY PRODUCTS THEREOF.**

22          (a) *IN GENERAL*.—Section 199(d) is amended by re-  
23          designating paragraph (9) as paragraph (10) and by in-  
24          serting after paragraph (8) the following new paragraph:

1           “(9) *SPECIAL RULE FOR TAXPAYERS WITH OIL*  
2           *RELATED QUALIFIED PRODUCTION ACTIVITIES IN-*  
3           *COME.—*

4           “(A) *IN GENERAL.—If a taxpayer has oil*  
5           *related qualified production activities income for*  
6           *any taxable year beginning after 2009, the*  
7           *amount otherwise allowable as a deduction under*  
8           *subsection (a) shall be reduced by 3 percent of*  
9           *the least of—*

10           “(i) *the oil related qualified production*  
11           *activities income of the taxpayer for the*  
12           *taxable year,*

13           “(ii) *the qualified production activities*  
14           *income of the taxpayer for the taxable year,*  
15           *or*

16           “(iii) *taxable income (determined with-*  
17           *out regard to this section).*

18           “(B) *OIL RELATED QUALIFIED PRODUCTION*  
19           *ACTIVITIES INCOME.—For purposes of this para-*  
20           *graph, the term ‘oil related qualified production*  
21           *activities income’ means for any taxable year the*  
22           *qualified production activities income which is*  
23           *attributable to the production, refining, proc-*  
24           *essing, transportation, or distribution of oil, gas,*

1           or any primary product thereof during such tax-  
2           able year.

3           “(C) *PRIMARY PRODUCT*.—For purposes of  
4           this paragraph, the term ‘primary product’ has  
5           the same meaning as when used in section  
6           927(a)(2)(C), as in effect before its repeal.”.

7           (b) *CONFORMING AMENDMENT*.—Section 199(d)(2)  
8           (relating to application to individuals) is amended by  
9           striking “subsection (a)(1)(B)” and inserting “subsections  
10          (a)(1)(B) and (d)(9)(A)(iii)”.

11          (c) *EFFECTIVE DATE*.—The amendments made by this  
12          section shall apply to taxable years beginning after Decem-  
13          ber 31, 2008.

14   **SEC. 402. ELIMINATION OF THE DIFFERENT TREATMENT OF**  
15                   **FOREIGN OIL AND GAS EXTRACTION INCOME**  
16                   **AND FOREIGN OIL RELATED INCOME FOR**  
17                   **PURPOSES OF THE FOREIGN TAX CREDIT.**

18          (a) *IN GENERAL*.—Subsections (a) and (b) of section  
19          907 (relating to special rules in case of foreign oil and gas  
20          income) are amended to read as follows:

21          “(a) *REDUCTION IN AMOUNT ALLOWED AS FOREIGN*  
22          *TAX UNDER SECTION 901*.—In applying section 901, the  
23          amount of any foreign oil and gas taxes paid or accrued  
24          (or deemed to have been paid) during the taxable year  
25          which would (but for this subsection) be taken into account

1 *for purposes of section 901 shall be reduced by the amount*  
2 *(if any) by which the amount of such taxes exceeds the prod-*  
3 *uct of—*

4           “(1) *the amount of the combined foreign oil and*  
5 *gas income for the taxable year,*

6           “(2) *multiplied by—*

7                   “(A) *in the case of a corporation, the per-*  
8 *centage which is equal to the highest rate of tax*  
9 *specified under section 11(b), or*

10                   “(B) *in the case of an individual, a fraction*  
11 *the numerator of which is the tax against which*  
12 *the credit under section 901(a) is taken and the*  
13 *denominator of which is the taxpayer’s entire*  
14 *taxable income.*

15           “(b) *COMBINED FOREIGN OIL AND GAS INCOME; FOR-*  
16 *EIGN OIL AND GAS TAXES.—For purposes of this section—*

17                   “(1) *COMBINED FOREIGN OIL AND GAS IN-*  
18 *COME.—The term ‘combined foreign oil and gas in-*  
19 *come’ means, with respect to any taxable year, the*  
20 *sum of—*

21                           “(A) *foreign oil and gas extraction income,*  
22                   *and*

23                           “(B) *foreign oil related income.*

1           “(2) *FOREIGN OIL AND GAS TAXES.*—*The term*  
2           *‘foreign oil and gas taxes’ means, with respect to any*  
3           *taxable year, the sum of—*

4                     “(A) *oil and gas extraction taxes, and*

5                     “(B) *any income, war profits, and excess*  
6                     *profits taxes paid or accrued (or deemed to have*  
7                     *been paid or accrued under section 902 or 960)*  
8                     *during the taxable year with respect to foreign*  
9                     *oil related income (determined without regard to*  
10                    *subsection (c)(4)) or loss which would be taken*  
11                    *into account for purposes of section 901 without*  
12                    *regard to this section.”.*

13           (b) *RECAPTURE OF FOREIGN OIL AND GAS LOSSES.*—  
14           *Paragraph (4) of section 907(c) (relating to recapture of*  
15           *foreign oil and gas extraction losses by recharacterizing*  
16           *later extraction income) is amended to read as follows:*

17                     “(4) *RECAPTURE OF FOREIGN OIL AND GAS*  
18                     *LOSSES BY RECHARACTERIZING LATER COMBINED*  
19                     *FOREIGN OIL AND GAS INCOME.*—

20                     “(A) *IN GENERAL.*—*The combined foreign*  
21                     *oil and gas income of a taxpayer for a taxable*  
22                     *year (determined without regard to this para-*  
23                     *graph) shall be reduced—*

24                     “(i) *first by the amount determined*  
25                     *under subparagraph (B), and*



1                   “(ii) then by the amount determined  
2                   under subparagraph (C).

3                   *The aggregate amount of such reductions shall be*  
4                   *treated as income (from sources without the*  
5                   *United States) which is not combined foreign oil*  
6                   *and gas income.*

7                   “(B) REDUCTION FOR PRE-2009 FOREIGN  
8                   OIL EXTRACTION LOSSES.—*The reduction under*  
9                   *this paragraph shall be equal to the lesser of—*

10                   “(i) *the foreign oil and gas extraction*  
11                   *income of the taxpayer for the taxable year*  
12                   *(determined without regard to this para-*  
13                   *graph), or*

14                   “(ii) *the excess of—*

15                   “(I) *the aggregate amount of for-*  
16                   *foreign oil extraction losses for preceding*  
17                   *taxable years beginning after December*  
18                   *31, 1982, and before January 1, 2009,*  
19                   *over*

20                   “(II) *so much of such aggregate*  
21                   *amount as was recharacterized under*  
22                   *this paragraph (as in effect before and*  
23                   *after the date of the enactment of the*  
24                   *Energy Improvement and Extension*  
25                   *Act of 2008) for preceding taxable*

1                    *years beginning after December 31,*  
2                    *1982.*

3                    *“(C) REDUCTION FOR POST-2008 FOREIGN*  
4                    *OIL AND GAS LOSSES.—The reduction under this*  
5                    *paragraph shall be equal to the lesser of—*

6                    *“(i) the combined foreign oil and gas*  
7                    *income of the taxpayer for the taxable year*  
8                    *(determined without regard to this para-*  
9                    *graph), reduced by an amount equal to the*  
10                   *reduction under subparagraph (A) for the*  
11                   *taxable year, or*

12                   *“(ii) the excess of—*

13                   *“(I) the aggregate amount of for-*  
14                   *ign oil and gas losses for preceding*  
15                   *taxable years beginning after December*  
16                   *31, 2008, over*

17                   *“(II) so much of such aggregate*  
18                   *amount as was recharacterized under*  
19                   *this paragraph for preceding taxable*  
20                   *years beginning after December 31,*  
21                   *2008.*

22                   *“(D) FOREIGN OIL AND GAS LOSS DE-*  
23                   *FINED.—*

1           “(i) *IN GENERAL.*—For purposes of  
2 this paragraph, the term ‘foreign oil and  
3 gas loss’ means the amount by which—

4                   “(I) the gross income for the tax-  
5 able year from sources without the  
6 United States and its possessions  
7 (whether or not the taxpayer chooses  
8 the benefits of this subpart for such  
9 taxable year) taken into account in de-  
10 termining the combined foreign oil and  
11 gas income for such year, is exceeded  
12 by

13                   “(II) the sum of the deductions  
14 properly apportioned or allocated  
15 thereto.

16           “(ii) *NET OPERATING LOSS DEDUCTION*  
17 *NOT TAKEN INTO ACCOUNT.*—For purposes  
18 of clause (i), the net operating loss deduc-  
19 tion allowable for the taxable year under  
20 section 172(a) shall not be taken into ac-  
21 count.

22           “(iii) *EXPROPRIATION AND CASUALTY*  
23 *LOSSES NOT TAKEN INTO ACCOUNT.*—For  
24 purposes of clause (i), there shall not be  
25 taken into account—

1           “(I) any foreign expropriation  
2           loss (as defined in section 172(h) (as in  
3           effect on the day before the date of the  
4           enactment of the Revenue Reconcili-  
5           ation Act of 1990)) for the taxable  
6           year, or

7           “(II) any loss for the taxable year  
8           which arises from fire, storm, ship-  
9           wreck, or other casualty, or from theft,  
10          to the extent such loss is not compensated  
11          for by insurance or otherwise.

12          “(iv) FOREIGN OIL EXTRACTION  
13          LOSS.—For purposes of subparagraph  
14          (B)(ii)(I), foreign oil extraction losses shall  
15          be determined under this paragraph as in  
16          effect on the day before the date of the enact-  
17          ment of the Energy Improvement and Ex-  
18          tension Act of 2008.”.

19          (c) CARRYBACK AND CARRYOVER OF DISALLOWED  
20          CREDITS.—Section 907(f) (relating to carryback and carry-  
21          over of disallowed credits) is amended—

22                 (1) by striking “oil and gas extraction taxes”  
23                 each place it appears and inserting “foreign oil and  
24                 gas taxes”, and

1           (2) by adding at the end the following new para-  
2 graph:

3           “(4) *TRANSITION RULES FOR PRE-2009 AND 2009*  
4 *DISALLOWED CREDITS.*—

5           “(A) *PRE-2009 CREDITS.*—*In the case of any*  
6 *unused credit year beginning before January 1,*  
7 *2009, this subsection shall be applied to any un-*  
8 *used oil and gas extraction taxes carried from*  
9 *such unused credit year to a year beginning*  
10 *after December 31, 2008—*

11           “(i) by substituting ‘oil and gas extrac-  
12 tion taxes’ for ‘foreign oil and gas taxes’  
13 each place it appears in paragraphs (1),  
14 (2), and (3), and

15           “(ii) by computing, for purposes of  
16 paragraph (2)(A), the limitation under sub-  
17 paragraph (A) for the year to which such  
18 taxes are carried by substituting ‘foreign oil  
19 and gas extraction income’ for ‘foreign oil  
20 and gas income’ in subsection (a).

21           “(B) *2009 CREDITS.*—*In the case of any*  
22 *unused credit year beginning in 2009, the*  
23 *amendments made to this subsection by the En-*  
24 *ergy Improvement and Extension Act of 2008*  
25 *shall be treated as being in effect for any pre-*



1           “(A) *IN GENERAL.*—*The information re-*  
2           *quired under paragraph (1) to be shown on a re-*  
3           *turn with respect to a covered security of a cus-*  
4           *tomer shall include the customer’s adjusted basis*  
5           *in such security and whether any gain or loss*  
6           *with respect to such security is long-term or*  
7           *short-term (within the meaning of section 1222).*

8           “(B) *DETERMINATION OF ADJUSTED*  
9           *BASIS.*—*For purposes of subparagraph (A)—*

10           “(i) *IN GENERAL.*—*The customer’s ad-*  
11           *justed basis shall be determined—*

12           “(I) *in the case of any security*  
13           *(other than any stock for which an av-*  
14           *erage basis method is permissible*  
15           *under section 1012), in accordance*  
16           *with the first-in first-out method unless*  
17           *the customer notifies the broker by*  
18           *means of making an adequate identi-*  
19           *fication of the stock sold or transferred,*  
20           *and*

21           “(II) *in the case of any stock for*  
22           *which an average basis method is per-*  
23           *missible under section 1012, in accord-*  
24           *ance with the broker’s default method*  
25           *unless the customer notifies the broker*

1           *that he elects another acceptable meth-*  
2           *od under section 1012 with respect to*  
3           *the account in which such stock is held.*

4           “(i) *EXCEPTION FOR WASH SALES.—*  
5           *Except as otherwise provided by the Sec-*  
6           *retary, the customer’s adjusted basis shall be*  
7           *determined without regard to section 1091*  
8           *(relating to loss from wash sales of stock or*  
9           *securities) unless the transactions occur in*  
10           *the same account with respect to identical*  
11           *securities.*

12           “(3) *COVERED SECURITY.—For purposes of this*  
13           *subsection—*

14           “(A) *IN GENERAL.—The term ‘covered secu-*  
15           *rity’ means any specified security acquired on or*  
16           *after the applicable date if such security—*

17           “(i) *was acquired through a trans-*  
18           *action in the account in which such security*  
19           *is held, or*

20           “(ii) *was transferred to such account*  
21           *from an account in which such security was*  
22           *a covered security, but only if the broker re-*  
23           *ceived a statement under section 6045A*  
24           *with respect to the transfer.*



1           “(B) *SPECIFIED SECURITY*.—*The term*  
2           *‘specified security’ means—*

3                   “(i) *any share of stock in a corpora-*  
4                   *tion,*

5                   “(ii) *any note, bond, debenture, or*  
6                   *other evidence of indebtedness,*

7                   “(iii) *any commodity, or contract or*  
8                   *derivative with respect to such commodity,*  
9                   *if the Secretary determines that adjusted*  
10                   *basis reporting is appropriate for purposes*  
11                   *of this subsection, and*

12                   “(iv) *any other financial instrument*  
13                   *with respect to which the Secretary deter-*  
14                   *mines that adjusted basis reporting is ap-*  
15                   *propriate for purposes of this subsection.*

16           “(C) *APPLICABLE DATE*.—*The term ‘appli-*  
17           *cable date’ means—*

18                   “(i) *January 1, 2011, in the case of*  
19                   *any specified security which is stock in a*  
20                   *corporation (other than any stock described*  
21                   *in clause (ii)),*

22                   “(ii) *January 1, 2012, in the case of*  
23                   *any stock for which an average basis meth-*  
24                   *od is permissible under section 1012, and*

1                   “(iii) *January 1, 2013, or such later*  
2                   *date determined by the Secretary in the case*  
3                   *of any other specified security.*

4                   “(4) *TREATMENT OF S CORPORATIONS.—In the*  
5                   *case of the sale of a covered security acquired by an*  
6                   *S corporation (other than a financial institution)*  
7                   *after December 31, 2011, such S corporation shall be*  
8                   *treated in the same manner as a partnership for pur-*  
9                   *poses of this section.*

10                   “(5) *SPECIAL RULES FOR SHORT SALES.—In the*  
11                   *case of a short sale, reporting under this section shall*  
12                   *be made for the year in which such sale is closed.”.*

13                   “(2) *BROKER INFORMATION REQUIRED WITH RE-*  
14                   *SPECT TO OPTIONS.—Section 6045, as amended by*  
15                   *subsection (a), is amended by adding at the end the*  
16                   *following new subsection:*

17                   “(h) *APPLICATION TO OPTIONS ON SECURITIES.—*

18                   “(1) *EXERCISE OF OPTION.—For purposes of*  
19                   *this section, if a covered security is acquired or dis-*  
20                   *posed of pursuant to the exercise of an option that*  
21                   *was granted or acquired in the same account as the*  
22                   *covered security, the amount received with respect to*  
23                   *the grant or paid with respect to the acquisition of*  
24                   *such option shall be treated as an adjustment to gross*

1     *proceeds or as an adjustment to basis, as the case*  
2     *may be.*

3             “(2) *LAPSE OR CLOSING TRANSACTION.*—*In the*  
4     *case of the lapse (or closing transaction (as defined in*  
5     *section 1234(b)(2)(A))) of an option on a specified se-*  
6     *curity or the exercise of a cash-settled option on a*  
7     *specified security, reporting under subsections (a) and*  
8     *(g) with respect to such option shall be made for the*  
9     *calendar year which includes the date of such lapse,*  
10    *closing transaction, or exercise.*

11            “(3) *PROSPECTIVE APPLICATION.*—*Paragraphs*  
12    *(1) and (2) shall not apply to any option which is*  
13    *granted or acquired before January 1, 2013.*

14            “(4) *DEFINITIONS.*—*For purposes of this sub-*  
15    *section, the terms ‘covered security’ and ‘specified se-*  
16    *curity’ shall have the meanings given such terms in*  
17    *subsection (g)(3).”.*

18            (3) *EXTENSION OF PERIOD FOR STATEMENTS*  
19    *SENT TO CUSTOMERS.—*

20            (A) *IN GENERAL.*—*Subsection (b) of section*  
21    *6045 is amended by striking “January 31” and*  
22    *inserting “February 15”.*

23            (B) *STATEMENTS RELATED TO SUBSTITUTE*  
24    *PAYMENTS.*—*Subsection (d) of section 6045 is*  
25    *amended—*

1                   (i) by striking “at such time and”, and  
2                   (ii) by inserting after “other item.” the  
3 following new sentence: “The written state-  
4 ment required under the preceding sentence  
5 shall be furnished on or before February 15  
6 of the year following the calendar year in  
7 which the payment was made.”.

8                   (C) OTHER STATEMENTS.—Subsection (b)  
9 of section 6045 is amended by adding at the end  
10 the following: “In the case of a consolidated re-  
11 porting statement (as defined in regulations)  
12 with respect to any customer, any statement  
13 which would otherwise be required to be fur-  
14 nished on or before January 31 of a calendar  
15 year with respect to any item reportable to the  
16 taxpayer shall instead be required to be fur-  
17 nished on or before February 15 of such calendar  
18 year if furnished with such consolidated report-  
19 ing statement.”.

20                   (b) DETERMINATION OF BASIS OF CERTAIN SECURI-  
21 TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METH-  
22 OD.—Section 1012 is amended—

23                   (1) by striking “The basis of property” and in-  
24 serting the following:

25                   “(a) IN GENERAL.—The basis of property”,

1           (2) by striking “The cost of real property” and  
2           inserting the following:

3           “(b) *SPECIAL RULE FOR APPORTIONED REAL ESTATE*  
4 *TAXES.—The cost of real property”, and*

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

7           “(c) *DETERMINATIONS BY ACCOUNT.—*

8           “(1) *IN GENERAL.—In the case of the sale, ex-*  
9 *change, or other disposition of a specified security on*  
10 *or after the applicable date, the conventions pre-*  
11 *scribed by regulations under this section shall be ap-*  
12 *plied on an account by account basis.*

13           “(2) *APPLICATION TO CERTAIN FUNDS.—*

14           “(A) *IN GENERAL.—Except as provided in*  
15 *subparagraph (B), any stock for which an aver-*  
16 *age basis method is permissible under section*  
17 *1012 which is acquired before January 1, 2012,*  
18 *shall be treated as a separate account from any*  
19 *such stock acquired on or after such date.*

20           “(B) *ELECTION FUND FOR TREATMENT AS*  
21 *SINGLE ACCOUNT.—If a fund described in sub-*  
22 *paragraph (A) elects to have this subparagraph*  
23 *apply with respect to one or more of its stock-*  
24 *holders—*

1           “(i) subparagraph (A) shall not apply  
2           with respect to any stock in such fund held  
3           by such stockholders, and

4           “(ii) all stock in such fund which is  
5           held by such stockholders shall be treated as  
6           covered securities described in section  
7           6045(g)(3) without regard to the date of the  
8           acquisition of such stock.

9           A rule similar to the rule of the preceding sen-  
10          tence shall apply with respect to a broker holding  
11          such stock as a nominee.

12          “(3) DEFINITIONS.—For purposes of this section,  
13          the terms ‘specified security’ and ‘applicable date’  
14          shall have the meaning given such terms in section  
15          6045(g).

16          “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-  
17          ANT TO A DIVIDEND REINVESTMENT PLAN.—

18                 “(1) IN GENERAL.—In the case of any stock ac-  
19                 quired after December 31, 2010, in connection with a  
20                 dividend reinvestment plan, the basis of such stock  
21                 while held as part of such plan shall be determined  
22                 using one of the methods which may be used for deter-  
23                 mining the basis of stock in an open-end fund.

24                 “(2) TREATMENT AFTER TRANSFER.—In the case  
25                 of the transfer to another account of stock to which

1 paragraph (1) applies, such stock shall have a cost  
2 basis in such other account equal to its basis in the  
3 dividend reinvestment plan immediately before such  
4 transfer (properly adjusted for any fees or other  
5 charges taken into account in connection with such  
6 transfer).

7 “(3) SEPARATE ACCOUNTS; ELECTION FOR  
8 TREATMENT AS SINGLE ACCOUNT.—Rules similar to  
9 the rules of subsection (c)(2) shall apply for purposes  
10 of this subsection.

11 “(4) DIVIDEND REINVESTMENT PLAN.—For pur-  
12 poses of this subsection—

13 “(A) IN GENERAL.—The term ‘dividend re-  
14 investment plan’ means any arrangement under  
15 which dividends on any stock are reinvested in  
16 stock identical to the stock with respect to which  
17 the dividends are paid.

18 “(B) INITIAL STOCK ACQUISITION TREATED  
19 AS ACQUIRED IN CONNECTION WITH PLAN.—  
20 Stock shall be treated as acquired in connection  
21 with a dividend reinvestment plan if such stock  
22 is acquired pursuant to such plan or if the divi-  
23 dends paid on such stock are subject to such  
24 plan.”.

1       (c) *INFORMATION BY TRANSFERORS TO AID BRO-*  
2 *KERS.*—

3           (1) *IN GENERAL.*—*Subpart B of part III of sub-*  
4 *chapter A of chapter 61 is amended by inserting after*  
5 *section 6045 the following new section:*

6 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**  
7 **WITH TRANSFERS OF COVERED SECURITIES**  
8 **TO BROKERS.**

9       “(a) *FURNISHING OF INFORMATION.*—*Every applica-*  
10 *ble person which transfers to a broker (as defined in section*  
11 *6045(c)(1)) a security which is a covered security (as de-*  
12 *finied in section 6045(g)(3)) in the hands of such applicable*  
13 *person shall furnish to such broker a written statement in*  
14 *such manner and setting forth such information as the Sec-*  
15 *retary may by regulations prescribe for purposes of ena-*  
16 *bling such broker to meet the requirements of section*  
17 *6045(g).*

18       “(b) *APPLICABLE PERSON.*—*For purposes of sub-*  
19 *section (a), the term ‘applicable person’ means—*

20           “(1) *any broker (as defined in section*  
21 *6045(c)(1)), and*

22           “(2) *any other person as provided by the Sec-*  
23 *retary in regulations.*

24       “(c) *TIME FOR FURNISHING STATEMENT.*—*Except as*  
25 *otherwise provided by the Secretary, any statement required*



1 *by subsection (a) shall be furnished not later than 15 days*  
2 *after the date of the transfer described in such subsection.”.*

3           (2) *ASSESSABLE PENALTIES.—Paragraph (2) of*  
4 *section 6724(d), as amended by the Housing Assist-*  
5 *ance Tax Act of 2008, is amended by redesignating*  
6 *subparagraphs (I) through (DD) as subparagraphs*  
7 *(J) through (EE), respectively, and by inserting after*  
8 *subparagraph (H) the following new subparagraph:*

9                   *“(I) section 6045A (relating to information*  
10 *required in connection with transfers of covered*  
11 *securities to brokers),”.*

12           (3) *CLERICAL AMENDMENT.—The table of sec-*  
13 *tions for subpart B of part III of subchapter A of*  
14 *chapter 61 is amended by inserting after the item re-*  
15 *lating to section 6045 the following new item:*

*“Sec. 6045A. Information required in connection with transfers of covered securi-*  
*ties to brokers.”.*

16           (d) *ADDITIONAL ISSUER INFORMATION TO AID BRO-*  
17 *KERS.—*

18                   (1) *IN GENERAL.—Subpart B of part III of sub-*  
19 *chapter A of chapter 61, as amended by subsection*  
20 *(b), is amended by inserting after section 6045A the*  
21 *following new section:*

1 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**  
2 **BASIS OF SPECIFIED SECURITIES.**

3       “(a) *IN GENERAL.*—According to the forms or regula-  
4 tions prescribed by the Secretary, any issuer of a specified  
5 security shall make a return setting forth—

6           “(1) a description of any organizational action  
7 which affects the basis of such specified security of  
8 such issuer,

9           “(2) the quantitative effect on the basis of such  
10 specified security resulting from such action, and

11           “(3) such other information as the Secretary  
12 may prescribe.

13       “(b) *TIME FOR FILING RETURN.*—Any return required  
14 by subsection (a) shall be filed not later than the earlier  
15 of—

16           “(1) 45 days after the date of the action de-  
17 scribed in subsection (a), or

18           “(2) January 15 of the year following the cal-  
19 endar year during which such action occurred.

20       “(c) *STATEMENTS TO BE FURNISHED TO HOLDERS OF*  
21 *SPECIFIED SECURITIES OR THEIR NOMINEES.*—According  
22 to the forms or regulations prescribed by the Secretary,  
23 every person required to make a return under subsection  
24 (a) with respect to a specified security shall furnish to the  
25 nominee with respect to the specified security (or certificate

1 holder if there is no nominee) a written statement show-  
2 ing—

3           “(1) the name, address, and phone number of the  
4 information contact of the person required to make  
5 such return,

6           “(2) the information required to be shown on  
7 such return with respect to such security, and

8           “(3) such other information as the Secretary  
9 may prescribe.

10 The written statement required under the preceding sen-  
11 tence shall be furnished to the holder on or before January  
12 15 of the year following the calendar year during which  
13 the action described in subsection (a) occurred.

14           “(d) SPECIFIED SECURITY.—For purposes of this sec-  
15 tion, the term ‘specified security’ has the meaning given  
16 such term by section 6045(g)(3)(B). No return shall be re-  
17 quired under this section with respect to actions described  
18 in subsection (a) with respect to a specified security which  
19 occur before the applicable date (as defined in section  
20 6045(g)(3)(C)) with respect to such security.

21           “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The  
22 Secretary may waive the requirements under subsections  
23 (a) and (c) with respect to a specified security, if the person  
24 required to make the return under subsection (a) makes  
25 publicly available, in such form and manner as the Sec-

1 *retary determines necessary to carry out the purposes of this*  
2 *section—*

3           “(1) *the name, address, phone number, and*  
4 *email address of the information contact of such per-*  
5 *son, and*

6           “(2) *the information described in paragraphs*  
7 *(1), (2), and (3) of subsection (a).”.*

8           (2) *ASSESSABLE PENALTIES.—*

9           (A) *Subparagraph (B) of section*  
10 *6724(d)(1), as amended by the Housing Assist-*  
11 *ance Tax Act of 2008, is amended by redesign-*  
12 *ating clause (iv) and each of the clauses which*  
13 *follow as clauses (v) through (xxiii), respectively,*  
14 *and by inserting after clause (iii) the following*  
15 *new clause:*

16                   “(iv) *section 6045B(a) (relating to re-*  
17 *turns relating to actions affecting basis of*  
18 *specified securities),”.*

19           (B) *Paragraph (2) of section 6724(d), as*  
20 *amended by the Housing Assistance Tax Act of*  
21 *2008 and by subsection (c)(2), is amended by re-*  
22 *designating subparagraphs (J) through (EE) as*  
23 *subparagraphs (K) through (FF), respectively,*  
24 *and by inserting after subparagraph (I) the fol-*  
25 *lowing new subparagraph:*

1           “(J) subsections (c) and (e) of section  
2           6045B (relating to returns relating to actions af-  
3           fecting basis of specified securities),”.

4           (3) *CLERICAL AMENDMENT.*—The table of sec-  
5           tions for subpart B of part III of subchapter A of  
6           chapter 61, as amended by subsection (b)(3), is  
7           amended by inserting after the item relating to sec-  
8           tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securities.”.

9           (e) *EFFECTIVE DATE.*—

10           (1) *IN GENERAL.*—Except as otherwise provided  
11           in this subsection, the amendments made by this sec-  
12           tion shall take effect on January 1, 2011.

13           (2) *EXTENSION OF PERIOD FOR STATEMENTS*  
14           *SENT TO CUSTOMERS.*—The amendments made by  
15           subsection (a)(3) shall apply to statements required to  
16           be furnished after December 31, 2008.

17 **SEC. 404. 0.2 PERCENT FUTA SURTAX.**

18           (a) *IN GENERAL.*—Section 3301 (relating to rate of  
19 *tax*) is amended—

20           (1) by striking “through 2008” in paragraph (1)  
21           and inserting “through 2009”, and

22           (2) by striking “calendar year 2009” in para-  
23           graph (2) and inserting “calendar year 2010”.

24           (b) *EFFECTIVE DATE.*—The amendments made by this  
25           section shall apply to wages paid after December 31, 2008.

1 **SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**  
2 **ITY TRUST FUND TAX.**

3 (a) *INCREASE IN RATE.*—

4 (1) *IN GENERAL.*—Section 4611(c)(2)(B) (relat-  
5 ing to rates) is amended by striking “is 5 cents a bar-  
6 rel.” and inserting “is—

7 “(i) in the case of crude oil received or  
8 petroleum products entered before January  
9 1, 2017, 8 cents a barrel, and

10 “(ii) in the case of crude oil received or  
11 petroleum products entered after December  
12 31, 2016, 9 cents a barrel.”.

13 (2) *EFFECTIVE DATE.*—The amendment made by  
14 this subsection shall apply on and after the first day  
15 of the first calendar quarter beginning more than 60  
16 days after the date of the enactment of this Act.

17 (b) *EXTENSION.*—

18 (1) *IN GENERAL.*—Section 4611(f) (relating to  
19 application of Oil Spill Liability Trust Fund financ-  
20 ing rate) is amended by striking paragraphs (2) and  
21 (3) and inserting the following new paragraph:

22 “(2) *TERMINATION.*—The Oil Spill Liability  
23 Trust Fund financing rate shall not apply after De-  
24 cember 31, 2017.”.

1           (2)       CONFORMING       AMENDMENT.—Section  
2       4611(f)(1) is amended by striking “paragraphs (2)  
3       and (3)” and inserting “paragraph (2)”.

4           (3)       EFFECTIVE DATE.—The amendments made  
5       by this subsection shall take effect on the date of the  
6       enactment of this Act.

7       ***DIVISION C—TAX EXTENDERS***  
8       ***AND ALTERNATIVE MINIMUM***  
9       ***TAX RELIEF***

10       ***SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;***

11                       ***TABLE OF CONTENTS.***

12       (a)       SHORT TITLE.—This division may be cited as the  
13       “Tax Extenders and Alternative Minimum Tax Relief Act  
14       of 2008”.

15       (b)       AMENDMENT OF 1986 CODE.—Except as otherwise  
16       expressly provided, whenever in this division an amend-  
17       ment or repeal is expressed in terms of an amendment to,  
18       or repeal of, a section or other provision, the reference shall  
19       be considered to be made to a section or other provision  
20       of the Internal Revenue Code of 1986.

21       (c)       TABLE OF CONTENTS.—The table of contents of this  
22       division is as follows:

*Sec. 1. Short title; amendment of 1986 Code; table of contents.*

***TITLE I—ALTERNATIVE MINIMUM TAX RELIEF***

*Sec. 101. Extension of alternative minimum tax relief for nonrefundable personal credits.*

*Sec. 102. Extension of increased alternative minimum tax exemption amount.*

*Sec. 103. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.*

**TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS**

*Sec. 201. Deduction for State and local sales taxes.*

*Sec. 202. Deduction of qualified tuition and related expenses.*

*Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.*

*Sec. 204. Additional standard deduction for real property taxes for nonitemizers.*

*Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.*

*Sec. 206. Treatment of certain dividends of regulated investment companies.*

*Sec. 207. Stock in RIC for purposes of determining estates of nonresidents not citizens.*

*Sec. 208. Qualified investment entities.*

**TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS**

*Sec. 301. Extension and modification of research credit.*

*Sec. 302. New markets tax credit.*

*Sec. 303. Subpart F exception for active financing income.*

*Sec. 304. Extension of look-thru rule for related controlled foreign corporations.*

*Sec. 305. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.*

*Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations.*

*Sec. 307. Basis adjustment to stock of S corporations making charitable contributions of property.*

*Sec. 308. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.*

*Sec. 309. Extension of economic development credit for American Samoa.*

*Sec. 310. Extension of mine rescue team training credit.*

*Sec. 311. Extension of election to expense advanced mine safety equipment.*

*Sec. 312. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.*

*Sec. 313. Qualified zone academy bonds.*

*Sec. 314. Indian employment credit.*

*Sec. 315. Accelerated depreciation for business property on Indian reservations.*

*Sec. 316. Railroad track maintenance.*

*Sec. 317. Seven-year cost recovery period for motorsports racing track facility.*

*Sec. 318. Expensing of environmental remediation costs.*

*Sec. 319. Extension of work opportunity tax credit for Hurricane Katrina employees.*

*Sec. 320. Extension of increased rehabilitation credit for structures in the Gulf Opportunity Zone.*

*Sec. 321. Enhanced deduction for qualified computer contributions.*

*Sec. 322. Tax incentives for investment in the District of Columbia.*

*Sec. 323. Enhanced charitable deductions for contributions of food inventory.*

*Sec. 324. Extension of enhanced charitable deduction for contributions of book inventory.*

*Sec. 325. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.*



*TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS*

- Sec. 401. Permanent authority for undercover operations.*  
*Sec. 402. Permanent authority for disclosure of information relating to terrorist activities.*

*TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS*

*Subtitle A—General Provisions*

- Sec. 501. \$8,500 income threshold used to calculate refundable portion of child tax credit.*  
*Sec. 502. Provisions related to film and television productions.*  
*Sec. 503. Exemption from excise tax for certain wooden arrows designed for use by children.*  
*Sec. 504. Income averaging for amounts received in connection with the Exxon Valdez litigation.*  
*Sec. 505. Certain farming business machinery and equipment treated as 5-year property.*  
*Sec. 506. Modification of penalty on understatement of taxpayer's liability by tax return preparer.*

*Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008*

- Sec. 511. Short title.*  
*Sec. 512. Mental health parity.*

*TITLE VI—OTHER PROVISIONS*

- Sec. 601. Secure rural schools and community self-determination program.*  
*Sec. 602. Transfer to abandoned mine reclamation fund.*

*TITLE VII—DISASTER RELIEF*

*Subtitle A—Heartland and Hurricane Ike Disaster Relief*

- Sec. 701. Short title.*  
*Sec. 702. Temporary tax relief for areas damaged by 2008 Midwestern severe storms, tornados, and flooding.*  
*Sec. 703. Reporting requirements relating to disaster relief contributions.*  
*Sec. 704. Temporary tax-exempt bond financing and low-income housing tax relief for areas damaged by Hurricane Ike.*

*Subtitle B—National Disaster Relief*

- Sec. 706. Losses attributable to federally declared disasters.*  
*Sec. 707. Expensing of Qualified Disaster Expenses.*  
*Sec. 708. Net operating losses attributable to federally declared disasters.*  
*Sec. 709. Waiver of certain mortgage revenue bond requirements following federally declared disasters.*  
*Sec. 710. Special depreciation allowance for qualified disaster property.*  
*Sec. 711. Increased expensing for qualified disaster assistance property.*  
*Sec. 712. Coordination with Heartland disaster relief.*

*TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY*

- Sec. 801. Nonqualified deferred compensation from certain tax indifferent parties.*

1                   **TITLE I—ALTERNATIVE**  
2                   **MINIMUM TAX RELIEF**

3   **SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**  
4                   **LIEF FOR NONREFUNDABLE PERSONAL**  
5                   **CREDITS.**

6           (a) *IN GENERAL.*—Paragraph (2) of section 26(a) (re-  
7 relating to special rule for taxable years 2000 through 2007)  
8 is amended—

9                   (1) by striking “or 2007” and inserting “2007,  
10 or 2008”, and

11                   (2) by striking “2007” in the heading thereof and  
12 inserting “2008”.

13           (b) *EFFECTIVE DATE.*—The amendments made by this  
14 section shall apply to taxable years beginning after Decem-  
15 ber 31, 2007.

16   **SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MIN-**  
17                   **IMUM TAX EXEMPTION AMOUNT.**

18           (a) *IN GENERAL.*—Paragraph (1) of section 55(d) (re-  
19 relating to exemption amount) is amended—

20                   (1) by striking “(\$66,250 in the case of taxable  
21 years beginning in 2007)” in subparagraph (A) and  
22 inserting “(\$69,950 in the case of taxable years begin-  
23 ning in 2008)”, and

24                   (2) by striking “(\$44,350 in the case of taxable  
25 years beginning in 2007)” in subparagraph (B) and

1       inserting “(\$46,200 in the case of taxable years begin-  
2       ning in 2008)”.

3       (b) *EFFECTIVE DATE.*—The amendments made by this  
4 section shall apply to taxable years beginning after Decem-  
5 ber 31, 2007.

6 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT**  
7                   **FOR INDIVIDUALS WITH LONG-TERM UNUSED**  
8                   **CREDITS FOR PRIOR YEAR MINIMUM TAX LI-**  
9                   **ABILITY, ETC.**

10       (a) *IN GENERAL.*—Paragraph (2) of section 53(e) is  
11 amended to read as follows:

12               “(2) *AMT REFUNDABLE CREDIT AMOUNT.*—For  
13 purposes of paragraph (1), the term ‘AMT refundable  
14 credit amount’ means, with respect to any taxable  
15 year, the amount (not in excess of the long-term un-  
16 used minimum tax credit for such taxable year) equal  
17 to the greater of—

18                   “(A) 50 percent of the long-term unused  
19 minimum tax credit for such taxable year, or

20                   “(B) the amount (if any) of the AMT re-  
21 fundable credit amount determined under this  
22 paragraph for the taxpayer’s preceding taxable  
23 year (determined without regard to subsection  
24 (f)(2)).”.

1       **(b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-**  
2 **TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-**  
3 **MENT OF INCENTIVE STOCK OPTIONS.**—Section 53 is  
4 amended by adding at the end the following new subsection:

5       **“(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-**  
6 **TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-**  
7 **MENT OF INCENTIVE STOCK OPTIONS.**—

8           **“(1) ABATEMENT.**—Any underpayment of tax  
9 outstanding on the date of the enactment of this sub-  
10 section which is attributable to the application of sec-  
11 tion 56(b)(3) for any taxable year ending before Jan-  
12 uary 1, 2008, and any interest or penalty with re-  
13 spect to such underpayment which is outstanding on  
14 such date of enactment, is hereby abated. The amount  
15 determined under subsection (b)(1) shall not include  
16 any tax abated under the preceding sentence.

17           **“(2) INCREASE IN CREDIT FOR CERTAIN INTER-**  
18 **EST AND PENALTIES ALREADY PAID.**—The AMT re-  
19 fundable credit amount, and the minimum tax credit  
20 determined under subsection (b), for the taxpayer’s  
21 first 2 taxable years beginning after December 31,  
22 2007, shall each be increased by 50 percent of the ag-  
23 gregate amount of the interest and penalties which  
24 were paid by the taxpayer before the date of the enact-

1 *ment of this subsection and which would (but for such*  
2 *payment) have been abated under paragraph (1).”.*

3 *(c) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—Except as provided in para-*  
5 *graph (2), the amendments made by this section shall*  
6 *apply to taxable years beginning after December 31,*  
7 *2007.*

8 *(2) ABATEMENT.—Section 53(f)(1), as added by*  
9 *subsection (b), shall take effect on the date of the en-*  
10 *actment of this Act.*

## 11 **TITLE II—EXTENSION OF** 12 **INDIVIDUAL TAX PROVISIONS**

### 13 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES TAXES.**

14 *(a) IN GENERAL.—Subparagraph (I) of section*  
15 *164(b)(5) is amended by striking “January 1, 2008” and*  
16 *inserting “January 1, 2010”.*

17 *(b) EFFECTIVE DATE.—The amendment made by this*  
18 *section shall apply to taxable years beginning after Decem-*  
19 *ber 31, 2007.*

### 20 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-** 21 **LATED EXPENSES.**

22 *(a) IN GENERAL.—Subsection (e) of section 222 (relat-*  
23 *ing to termination) is amended by striking “December 31,*  
24 *2007” and inserting “December 31, 2009”.*

1       (b) *EFFECTIVE DATE.*—*The amendment made by this*  
2 *section shall apply to taxable years beginning after Decem-*  
3 *ber 31, 2007.*

4 **SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELEMEN-**  
5 **TARY AND SECONDARY SCHOOL TEACHERS.**

6       (a) *IN GENERAL.*—*Subparagraph (D) of section*  
7 *62(a)(2) (relating to certain expenses of elementary and sec-*  
8 *ondary school teachers) is amended by striking “or 2007”*  
9 *and inserting “2007, 2008, or 2009”.*

10       (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
11 *section (a) shall apply to taxable years beginning after De-*  
12 *cember 31, 2007.*

13 **SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL**  
14 **PROPERTY TAXES FOR NONITEMIZERS.**

15       (a) *IN GENERAL.*—*Subparagraph (C) of section*  
16 *63(c)(1), as added by the Housing Assistance Tax Act of*  
17 *2008, is amended by inserting “or 2009” after “2008”.*

18       (b) *EFFECTIVE DATE.*—*The amendment made by this*  
19 *section shall apply to taxable years beginning after Decem-*  
20 *ber 31, 2008.*

1 **SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
2 **TIREMENT PLANS FOR CHARITABLE PUR-**  
3 **POSES.**

4 (a) *IN GENERAL.*—Subparagraph (F) of section  
5 408(d)(8) (relating to termination) is amended by striking  
6 “December 31, 2007” and inserting “December 31, 2009”.

7 (b) *EFFECTIVE DATE.*—The amendment made by this  
8 section shall apply to distributions made in taxable years  
9 beginning after December 31, 2007.

10 **SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**  
11 **LATED INVESTMENT COMPANIES.**

12 (a) *INTEREST-RELATED DIVIDENDS.*—Subparagraph  
13 (C) of section 871(k)(1) (defining interest-related dividend)  
14 is amended by striking “December 31, 2007” and inserting  
15 “December 31, 2009”.

16 (b) *SHORT-TERM CAPITAL GAIN DIVIDENDS.*—Sub-  
17 paragraph (C) of section 871(k)(2) (defining short-term  
18 capital gain dividend) is amended by striking “December  
19 31, 2007” and inserting “December 31, 2009”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this  
21 section shall apply to dividends with respect to taxable  
22 years of regulated investment companies beginning after  
23 December 31, 2007.

1 **SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING**  
2 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

3 (a) *IN GENERAL.*—Paragraph (3) of section 2105(d)  
4 (relating to stock in a RIC) is amended by striking “Decem-  
5 ber 31, 2007” and inserting “December 31, 2009”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this  
7 section shall apply to decedents dying after December 31,  
8 2007.

9 **SEC. 208. QUALIFIED INVESTMENT ENTITIES.**

10 (a) *IN GENERAL.*—Clause (ii) of section 897(h)(4)(A)  
11 (relating to termination) is amended by striking “December  
12 31, 2007” and inserting “December 31, 2009”.

13 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
14 section (a) shall take effect on January 1, 2008.

15 **TITLE III—EXTENSION OF**  
16 **BUSINESS TAX PROVISIONS**

17 **SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH**  
18 **CREDIT.**

19 (a) *EXTENSION.*—

20 (1) *IN GENERAL.*—Section 41(h) (relating to ter-  
21 mination) is amended by striking “December 31,  
22 2007” and inserting “December 31, 2009” in para-  
23 graph (1)(B).

24 (2) *CONFORMING AMENDMENT.*—Subparagraph  
25 (D) of section 45C(b)(1) (relating to special rule) is



1        *amended by striking “after December 31, 2007” and*  
2        *inserting “after December 31, 2009”.*

3        *(b) TERMINATION OF ALTERNATIVE INCREMENTAL*  
4        *CREDIT.—Section 41(h) is amended by redesignating para-*  
5        *graph (2) as paragraph (3), and by inserting after para-*  
6        *graph (1) the following new paragraph:*

7                *“(2) TERMINATION OF ALTERNATIVE INCRE-*  
8        *MENTAL CREDIT.—No election under subsection (c)(4)*  
9        *shall apply to taxable years beginning after December*  
10        *31, 2008.”.*

11        *(c) MODIFICATION OF ALTERNATIVE SIMPLIFIED*  
12        *CREDIT.—Paragraph (5)(A) of section 41(c) (relating to*  
13        *election of alternative simplified credit) is amended by*  
14        *striking “12 percent” and inserting “14 percent (12 percent*  
15        *in the case of taxable years ending before January 1,*  
16        *2009)”.*

17        *(d) TECHNICAL CORRECTION.—Paragraph (3) of sec-*  
18        *tion 41(h) is amended to read as follows:*

19                *“(2) COMPUTATION FOR TAXABLE YEAR IN*  
20        *WHICH CREDIT TERMINATES.—In the case of any tax-*  
21        *able year with respect to which this section applies to*  
22        *a number of days which is less than the total number*  
23        *of days in such taxable year—*

24                *“(A) the amount determined under sub-*  
25        *section (c)(1)(B) with respect to such taxable*

1           year shall be the amount which bears the same  
2           ratio to such amount (determined without regard  
3           to this paragraph) as the number of days in such  
4           taxable year to which this section applies bears  
5           to the total number of days in such taxable year,  
6           and

7           “(B) for purposes of subsection (c)(5), the  
8           average qualified research expenses for the pre-  
9           ceding 3 taxable years shall be the amount which  
10          bears the same ratio to such average qualified re-  
11          search expenses (determined without regard to  
12          this paragraph) as the number of days in such  
13          taxable year to which this section applies bears  
14          to the total number of days in such taxable  
15          year.”.

16       (e) *EFFECTIVE DATE.*—

17           (1) *IN GENERAL.*—*Except as provided in para-*  
18           *graph (2), the amendments made by this section shall*  
19           *apply to taxable years beginning after December 31,*  
20           *2007.*

21           (2) *EXTENSION.*—*The amendments made by sub-*  
22           *section (a) shall apply to amounts paid or incurred*  
23           *after December 31, 2007.*

1 **SEC. 302. NEW MARKETS TAX CREDIT.**

2 *Subparagraph (D) of section 45D(f)(1) (relating to na-*  
3 *tional limitation on amount of investments designated) is*  
4 *amended by striking “and 2008” and inserting “2008, and*  
5 *2009”.*

6 **SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING**  
7 **INCOME.**

8 *(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of*  
9 *section 953(e) (relating to application) is amended—*

10 *(1) by striking “January 1, 2009” and inserting*  
11 *“January 1, 2010”, and*

12 *(2) by striking “December 31, 2008” and insert-*  
13 *ing “December 31, 2009”.*

14 *(b) EXCEPTION TO TREATMENT AS FOREIGN PER-*  
15 *SONAL HOLDING COMPANY INCOME.—Paragraph (9) of sec-*  
16 *tion 954(h) (relating to application) is amended by striking*  
17 *“January 1, 2009” and inserting “January 1, 2010”.*

18 **SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED**  
19 **CONTROLLED FOREIGN CORPORATIONS.**

20 *(a) IN GENERAL.—Subparagraph (C) of section*  
21 *954(c)(6) (relating to application) is amended by striking*  
22 *“January 1, 2009” and inserting “January 1, 2010”.*

23 *(b) EFFECTIVE DATE.—The amendment made by this*  
24 *section shall apply to taxable years of foreign corporations*  
25 *beginning after December 31, 2007, and to taxable years*

1 of United States shareholders with or within which such  
2 taxable years of foreign corporations end.

3 **SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RE-**  
4 **COVERY FOR QUALIFIED LEASEHOLD IM-**  
5 **PROVEMENTS AND QUALIFIED RESTAURANT**  
6 **IMPROVEMENTS; 15-YEAR STRAIGHT-LINE**  
7 **COST RECOVERY FOR CERTAIN IMPROVE-**  
8 **MENTS TO RETAIL SPACE.**

9 (a) *EXTENSION OF LEASEHOLD AND RESTAURANT IM-*  
10 *PROVEMENTS.*—

11 (1) *IN GENERAL.*—*Clauses (iv) and (v) of section*  
12 *168(e)(3)(E) (relating to 15-year property) are each*  
13 *amended by striking “January 1, 2008” and insert-*  
14 *ing “January 1, 2010”.*

15 (2) *EFFECTIVE DATE.*—*The amendments made*  
16 *by this subsection shall apply to property placed in*  
17 *service after December 31, 2007.*

18 (b) *TREATMENT TO INCLUDE NEW CONSTRUCTION.*—

19 (1) *IN GENERAL.*—*Paragraph (7) of section*  
20 *168(e) (relating to classification of property) is*  
21 *amended to read as follows:*

22 “(7) *QUALIFIED RESTAURANT PROPERTY.*—

23 “(A) *IN GENERAL.*—*The term ‘qualified res-*  
24 *taurant property’ means any section 1250 prop-*  
25 *erty which is—*

1           “(i) a building, if such building is  
2           placed in service after December 31, 2008,  
3           and before January 1, 2010, or

4           “(ii) an improvement to a building,  
5           if more than 50 percent of the building’s square  
6           footage is devoted to preparation of, and seating  
7           for on-premises consumption of, prepared meals.

8           “(B) *EXCLUSION FROM BONUS DEPRECIATION.*—Property described in this paragraph  
9           shall not be considered qualified property for  
10          purposes of subsection (k).”.

11          (2) *EFFECTIVE DATE.*—The amendment made by  
12          this subsection shall apply to property placed in serv-  
13          ice after December 31, 2008.

14          (c) *RECOVERY PERIOD FOR DEPRECIATION OF CER-*  
15          *TAIN IMPROVEMENTS TO RETAIL SPACE.*—

16          (1) *15-YEAR RECOVERY PERIOD.*—Section  
17          168(e)(3)(E) (relating to 15-year property) is amend-  
18          ed by striking “and” at the end of clause (vii), by  
19          striking the period at the end of clause (viii) and in-  
20          serting “, and”, and by adding at the end the fol-  
21          lowing new clause:  
22          

23                 “(ix) any qualified retail improvement  
24                 property placed in service after December  
25                 31, 2008, and before January 1, 2010.”.

1           (2) *QUALIFIED RETAIL IMPROVEMENT PROP-*  
2           *ERTY.*—Section 168(e) is amended by adding at the  
3           end the following new paragraph:

4           “(8) *QUALIFIED RETAIL IMPROVEMENT PROP-*  
5           *ERTY.*—

6           “(A) *IN GENERAL.*—The term ‘qualified re-  
7           tail improvement property’ means any improve-  
8           ment to an interior portion of a building which  
9           is nonresidential real property if—

10           “(i) such portion is open to the general  
11           public and is used in the retail trade or  
12           business of selling tangible personal prop-  
13           erty to the general public, and

14           “(ii) such improvement is placed in  
15           service more than 3 years after the date the  
16           building was first placed in service.

17           “(B) *IMPROVEMENTS MADE BY OWNER.*—In  
18           the case of an improvement made by the owner  
19           of such improvement, such improvement shall be  
20           qualified retail improvement property (if at all)  
21           only so long as such improvement is held by such  
22           owner. Rules similar to the rules under para-  
23           graph (6)(B) shall apply for purposes of the pre-  
24           ceding sentence.

1           “(C) *CERTAIN IMPROVEMENTS NOT IN-*  
2           *CLUDED.—Such term shall not include any im-*  
3           *provement for which the expenditure is attrib-*  
4           *utable to—*

5                     “(i) *the enlargement of the building,*

6                     “(ii) *any elevator or escalator,*

7                     “(iii) *any structural component bene-*  
8                     *fitting a common area, or*

9                     “(iv) *the internal structural framework*  
10                    *of the building.*

11           “(D) *EXCLUSION FROM BONUS DEPRECIA-*  
12           *TION.—Property described in this paragraph*  
13           *shall not be considered qualified property for*  
14           *purposes of subsection (k).*

15           “(E) *TERMINATION.—Such term shall not*  
16           *include any improvement placed in service after*  
17           *December 31, 2009.”.*

18           (3) *REQUIREMENT TO USE STRAIGHT LINE*  
19           *METHOD.—Section 168(b)(3) is amended by adding*  
20           *at the end the following new subparagraph:*

21                     “(I) *Qualified retail improvement property*  
22                     *described in subsection (e)(8).”.*

23           (4) *ALTERNATIVE SYSTEM.—The table contained*  
24           *in section 168(g)(3)(B) is amended by inserting after*

1       the item relating to subparagraph (E)(viii) the fol-  
 2       lowing new item:

“*(E)(ix)* ..... 39”.

3               (5) *EFFECTIVE DATE.*—*The amendments made*  
 4       *by this subsection shall apply to property placed in*  
 5       *service after December 31, 2008.*

6       **SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
 7                       **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
 8                       **NIZATIONS.**

9               (a) *IN GENERAL.*—*Clause (iv) of section 512(b)(13)(E)*  
 10       *(relating to termination) is amended by striking “December*  
 11       *31, 2007” and inserting “December 31, 2009”.*

12              (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 13       *section shall apply to payments received or accrued after*  
 14       *December 31, 2007.*

15       **SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
 16                       **TIONS MAKING CHARITABLE CONTRIBUTIONS**  
 17                       **OF PROPERTY.**

18              (a) *IN GENERAL.*—*The last sentence of section*  
 19       *1367(a)(2) (relating to decreases in basis) is amended by*  
 20       *striking “December 31, 2007” and inserting “December 31,*  
 21       *2009”.*

22              (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 23       *section shall apply to contributions made in taxable years*  
 24       *beginning after December 31, 2007.*



1 **SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**  
2 **CISE TAX TO PUERTO RICO AND THE VIRGIN**  
3 **ISLANDS.**

4 (a) *IN GENERAL.*—Paragraph (1) of section 7652(f) is  
5 amended by striking “January 1, 2008” and inserting  
6 “January 1, 2010”.

7 (b) *EFFECTIVE DATE.*—The amendment made by this  
8 section shall apply to distilled spirits brought into the  
9 United States after December 31, 2007.

10 **SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CRED-**  
11 **IT FOR AMERICAN SAMOA.**

12 (a) *IN GENERAL.*—Subsection (d) of section 119 of di-  
13 vision A of the Tax Relief and Health Care Act of 2006  
14 is amended—

15 (1) by striking “first two taxable years” and in-  
16 serting “first 4 taxable years”, and

17 (2) by striking “January 1, 2008” and inserting  
18 “January 1, 2010”.

19 (b) *EFFECTIVE DATE.*—The amendments made by this  
20 section shall apply to taxable years beginning after Decem-  
21 ber 31, 2007.

22 **SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING**  
23 **CREDIT.**

24 Section 45N(e) (relating to termination) is amended  
25 by striking “December 31, 2008” and inserting “December  
26 31, 2009”.

1 **SEC. 311. EXTENSION OF ELECTION TO EXPENSE AD-**  
2 **VANCED MINE SAFETY EQUIPMENT.**

3 *Section 179E(g) (relating to termination) is amended*  
4 *by striking “December 31, 2008” and inserting “December*  
5 *31, 2009”.*

6 **SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
7 **COME ATTRIBUTABLE TO DOMESTIC PRODUC-**  
8 **TION ACTIVITIES IN PUERTO RICO.**

9 *(a) IN GENERAL.—Subparagraph (C) of section*  
10 *199(d)(8) (relating to termination) is amended—*

11 *(1) by striking “first 2 taxable years” and in-*  
12 *serting “first 4 taxable years”, and*

13 *(2) by striking “January 1, 2008” and inserting*  
14 *“January 1, 2010”.*

15 *(b) EFFECTIVE DATE.—The amendments made by this*  
16 *section shall apply to taxable years beginning after Decem-*  
17 *ber 31, 2007.*

18 **SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

19 *(a) IN GENERAL.—Subpart I of part IV of subchapter*  
20 *A of chapter 1 is amended by adding at the end the fol-*  
21 *lowing new section:*

22 **“SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.**

23 *“(a) QUALIFIED ZONE ACADEMY BONDS.—For pur-*  
24 *poses of this subchapter, the term ‘qualified zone academy*  
25 *bond’ means any bond issued as part of an issue if—*

1           “(1) 100 percent of the available project proceeds  
2           of such issue are to be used for a qualified purpose  
3           with respect to a qualified zone academy established  
4           by an eligible local education agency,

5           “(2) the bond is issued by a State or local gov-  
6           ernment within the jurisdiction of which such acad-  
7           emy is located, and

8           “(3) the issuer—

9                   “(A) designates such bond for purposes of  
10                  this section,

11                   “(B) certifies that it has written assurances  
12                  that the private business contribution require-  
13                  ment of subsection (b) will be met with respect  
14                  to such academy, and

15                   “(C) certifies that it has the written ap-  
16                  proval of the eligible local education agency for  
17                  such bond issuance.

18           “(b) *PRIVATE BUSINESS CONTRIBUTION REQUIRE-*  
19 *MENT.*—For purposes of subsection (a), the private business  
20 contribution requirement of this subsection is met with re-  
21 spect to any issue if the eligible local education agency that  
22 established the qualified zone academy has written commit-  
23 ments from private entities to make qualified contributions  
24 having a present value (as of the date of issuance of the  
25 issue) of not less than 10 percent of the proceeds of the issue.

1       “(c) *LIMITATION ON AMOUNT OF BONDS DES-*  
2 *IGNATED.*—

3               “(1) *NATIONAL LIMITATION.*—*There is a na-*  
4 *tional zone academy bond limitation for each cal-*  
5 *endar year. Such limitation is \$400,000,000 for 2008*  
6 *and 2009, and, except as provided in paragraph (4),*  
7 *zero thereafter.*

8               “(2) *ALLOCATION OF LIMITATION.*—*The national*  
9 *zone academy bond limitation for a calendar year*  
10 *shall be allocated by the Secretary among the States*  
11 *on the basis of their respective populations of individ-*  
12 *uals below the poverty line (as defined by the Office*  
13 *of Management and Budget). The limitation amount*  
14 *allocated to a State under the preceding sentence shall*  
15 *be allocated by the State education agency to quali-*  
16 *fied zone academies within such State.*

17               “(3) *DESIGNATION SUBJECT TO LIMITATION*  
18 *AMOUNT.*—*The maximum aggregate face amount of*  
19 *bonds issued during any calendar year which may be*  
20 *designated under subsection (a) with respect to any*  
21 *qualified zone academy shall not exceed the limitation*  
22 *amount allocated to such academy under paragraph*  
23 *(2) for such calendar year.*

24               “(4) *CARRYOVER OF UNUSED LIMITATION.*—

1           “(A) *IN GENERAL.*—*If for any calendar*  
2           *year—*

3                     “(i) *the limitation amount for any*  
4                     *State, exceeds*

5                     “(ii) *the amount of bonds issued dur-*  
6                     *ing such year which are designated under*  
7                     *subsection (a) with respect to qualified zone*  
8                     *academies within such State,*

9           *the limitation amount for such State for the fol-*  
10           *lowing calendar year shall be increased by the*  
11           *amount of such excess.*

12           “(B) *LIMITATION ON CARRYOVER.*—*Any*  
13           *carryforward of a limitation amount may be*  
14           *carried only to the first 2 years following the un-*  
15           *used limitation year. For purposes of the pre-*  
16           *ceding sentence, a limitation amount shall be*  
17           *treated as used on a first-in first-out basis.*

18           “(C) *COORDINATION WITH SECTION 1397E.*—  
19           *Any carryover determined under section*  
20           *1397E(e)(4) (relating to carryover of unused*  
21           *limitation) with respect to any State to calendar*  
22           *year 2008 or 2009 shall be treated for purposes*  
23           *of this section as a carryover with respect to such*  
24           *State for such calendar year under subparagraph*  
25           *(A), and the limitation of subparagraph (B)*

1           *shall apply to such carryover taking into account*  
2           *the calendar years to which such carryover re-*  
3           *lates.*

4           “(d) *DEFINITIONS.—For purposes of this section—*

5                 “(1) *QUALIFIED ZONE ACADEMY.—The term*  
6                 *‘qualified zone academy’ means any public school (or*  
7                 *academic program within a public school) which is*  
8                 *established by and operated under the supervision of*  
9                 *an eligible local education agency to provide edu-*  
10                *cation or training below the postsecondary level if—*

11                         “(A) *such public school or program (as the*  
12                         *case may be) is designed in cooperation with*  
13                         *business to enhance the academic curriculum, in-*  
14                         *crease graduation and employment rates, and*  
15                         *better prepare students for the rigors of college*  
16                         *and the increasingly complex workforce,*

17                         “(B) *students in such public school or pro-*  
18                         *gram (as the case may be) will be subject to the*  
19                         *same academic standards and assessments as*  
20                         *other students educated by the eligible local edu-*  
21                         *cation agency,*

22                         “(C) *the comprehensive education plan of*  
23                         *such public school or program is approved by the*  
24                         *eligible local education agency, and*

1           “(D)(i) such public school is located in an  
2           empowerment zone or enterprise community (in-  
3           cluding any such zone or community designated  
4           after the date of the enactment of this section),  
5           or

6           “(ii) there is a reasonable expectation (as of  
7           the date of issuance of the bonds) that at least  
8           35 percent of the students attending such school  
9           or participating in such program (as the case  
10          may be) will be eligible for free or reduced-cost  
11          lunches under the school lunch program estab-  
12          lished under the National School Lunch Act.

13          “(2) *ELIGIBLE LOCAL EDUCATION AGENCY.*—For  
14          purposes of this section, the term ‘eligible local edu-  
15          cation agency’ means any local educational agency as  
16          defined in section 9101 of the *Elementary and Sec-  
17          ondary Education Act of 1965.*

18          “(3) *QUALIFIED PURPOSE.*—The term ‘qualified  
19          purpose’ means, with respect to any qualified zone  
20          academy—

21                 “(A) rehabilitating or repairing the public  
22                 school facility in which the academy is estab-  
23                 lished,

24                 “(B) providing equipment for use at such  
25                 academy,

1           “(C) *developing course materials for edu-*  
2           *cation to be provided at such academy, and*

3           “(D) *training teachers and other school per-*  
4           *sonnel in such academy.*

5           “(4) *QUALIFIED CONTRIBUTIONS.—The term*  
6           *‘qualified contribution’ means any contribution (of a*  
7           *type and quality acceptable to the eligible local edu-*  
8           *cation agency) of—*

9           “(A) *equipment for use in the qualified zone*  
10           *academy (including state-of-the-art technology*  
11           *and vocational equipment),*

12           “(B) *technical assistance in developing cur-*  
13           *riculum or in training teachers in order to pro-*  
14           *mote appropriate market driven technology in*  
15           *the classroom,*

16           “(C) *services of employees as volunteer men-*  
17           *tors,*

18           “(D) *internships, field trips, or other edu-*  
19           *cational opportunities outside the academy for*  
20           *students, or*

21           “(E) *any other property or service specified*  
22           *by the eligible local education agency.”.*

23           (b) *CONFORMING AMENDMENTS.—*

24           (1) *Paragraph (1) of section 54A(d), as amended*  
25           *by this Act, is amended by striking “or” at the end*



1 of subparagraph (B), by inserting “or” at the end of  
2 subparagraph (C), and by inserting after subpara-  
3 graph (C) the following new subparagraph:

4 “(D) a qualified zone academy bond,”.

5 (2) Subparagraph (C) of section 54A(d)(2), as  
6 amended by this Act, is amended by striking “and”  
7 at the end of clause (ii), by striking the period at the  
8 end of clause (iii) and inserting “, and”, and by add-  
9 ing at the end the following new clause:

10 “(iv) in the case of a qualified zone  
11 academy bond, a purpose specified in sec-  
12 tion 54E(a)(1).”.

13 (3) Section 1397E is amended by adding at the  
14 end the following new subsection:

15 “(m) *TERMINATION*.—This section shall not apply to  
16 any obligation issued after the date of the enactment of the  
17 *Tax Extenders and Alternative Minimum Tax Relief Act*  
18 *of 2008*.”.

19 (4) The table of sections for subpart I of part IV  
20 of subchapter A of chapter 1 is amended by adding  
21 at the end the following new item:

“Sec. 54E. Qualified zone academy bonds.”.

22 (c) *EFFECTIVE DATE*.—The amendments made by this  
23 section shall apply to obligations issued after the date of  
24 the enactment of this Act.

1 **SEC. 314. INDIAN EMPLOYMENT CREDIT.**

2 (a) *IN GENERAL.*—Subsection (f) of section 45A (relat-  
3 ing to termination) is amended by striking “December 31,  
4 2007” and inserting “December 31, 2009”.

5 (b) *EFFECTIVE DATE.*—The amendment made by this  
6 section shall apply to taxable years beginning after Decem-  
7 ber 31, 2007.

8 **SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS**  
9 **PROPERTY ON INDIAN RESERVATIONS.**

10 (a) *IN GENERAL.*—Paragraph (8) of section 168(j) (re-  
11 lating to termination) is amended by striking “December  
12 31, 2007” and inserting “December 31, 2009”.

13 (b) *EFFECTIVE DATE.*—The amendment made by this  
14 section shall apply to property placed in service after De-  
15 cember 31, 2007.

16 **SEC. 316. RAILROAD TRACK MAINTENANCE.**

17 (a) *IN GENERAL.*—Subsection (f) of section 45G (relat-  
18 ing to application of section) is amended by striking “Jan-  
19 uary 1, 2008” and inserting “January 1, 2010”.

20 (b) *CREDIT ALLOWED AGAINST ALTERNATIVE MIN-*  
21 *IMUM TAX.*—Subparagraph (B) of section 38(c)(4), as  
22 amended by this Act, is amended—

23 (1) by redesignating clauses (v), (vi), and (vii)  
24 as clauses (vi), (vii), and (viii), respectively, and

25 (2) by inserting after clause (iv) the following  
26 new clause:

1                   “(v) the credit determined under sec-  
2                   tion 45G.”.

3           (c) *EFFECTIVE DATES.*—

4                   (1) *The amendment made by subsection (a) shall*  
5                   *apply to expenditures paid or incurred during tax-*  
6                   *able years beginning after December 31, 2007.*

7                   (2) *The amendments made by subsection (b)*  
8                   *shall apply to credits determined under section 45G*  
9                   *of the Internal Revenue Code of 1986 in taxable years*  
10                   *beginning after December 31, 2007, and to carrybacks*  
11                   *of such credits.*

12 **SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**  
13 **TORSPO RTS RACING TRACK FACILITY.**

14           (a) *IN GENERAL.*—Subparagraph (D) of section  
15 168(i)(15) (relating to termination) is amended by striking  
16 “December 31, 2007” and inserting “December 31, 2009”.

17           (b) *EFFECTIVE DATE.*—The amendment made by this  
18 section shall apply to property placed in service after De-  
19 cember 31, 2007.

20 **SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
21 **COSTS.**

22           (a) *IN GENERAL.*—Subsection (h) of section 198 (relat-  
23 ing to termination) is amended by striking “December 31,  
24 2007” and inserting “December 31, 2009”.

1       **(b) EFFECTIVE DATE.**—*The amendment made by this*  
2 *section shall apply to expenditures paid or incurred after*  
3 *December 31, 2007.*

4 **SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT**  
5 **FOR HURRICANE KATRINA EMPLOYEES.**

6       **(a) IN GENERAL.**—*Paragraph (1) of section 201(b) of*  
7 *the Katrina Emergency Tax Relief Act of 2005 is amended*  
8 *by striking “2-year” and inserting “4-year”.*

9       **(b) EFFECTIVE DATE.**—*The amendment made by sub-*  
10 *section (a) shall apply to individuals hired after August*  
11 *27, 2007.*

12 **SEC. 320. EXTENSION OF INCREASED REHABILITATION**  
13 **CREDIT FOR STRUCTURES IN THE GULF OP-**  
14 **PORTUNITY ZONE.**

15       **(a) IN GENERAL.**—*Subsection (h) of section 1400N is*  
16 *amended by striking “December 31, 2008” and inserting*  
17 *“December 31, 2009”.*

18       **(b) EFFECTIVE DATE.**—*The amendment made by this*  
19 *section shall apply to expenditures paid or incurred after*  
20 *the date of the enactment of this Act.*

21 **SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COM-**  
22 **PUTER CONTRIBUTIONS.**

23       **(a) IN GENERAL.**—*Subparagraph (G) of section*  
24 *170(e)(6) is amended by striking “December 31, 2007” and*  
25 *inserting “December 31, 2009”.*

1       **(b) EFFECTIVE DATE.**—*The amendment made by this*  
2 *section shall apply to contributions made during taxable*  
3 *years beginning after December 31, 2007.*

4 **SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
5 **TRICT OF COLUMBIA.**

6       **(a) DESIGNATION OF ZONE.**—

7           **(1) IN GENERAL.**—*Subsection (f) of section 1400*  
8 *is amended by striking “2007” both places it appears*  
9 *and inserting “2009”.*

10          **(2) EFFECTIVE DATE.**—*The amendments made*  
11 *by this subsection shall apply to periods beginning*  
12 *after December 31, 2007.*

13       **(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.**—

14           **(1) IN GENERAL.**—*Subsection (b) of section*  
15 *1400A is amended by striking “2007” and inserting*  
16 *“2009”.*

17           **(2) EFFECTIVE DATE.**—*The amendment made by*  
18 *this subsection shall apply to bonds issued after De-*  
19 *cember 31, 2007.*

20       **(c) ZERO PERCENT CAPITAL GAINS RATE.**—

21           **(1) IN GENERAL.**—*Subsection (b) of section*  
22 *1400B is amended by striking “2008” each place it*  
23 *appears and inserting “2010”.*

24           **(2) CONFORMING AMENDMENTS.**—

25           **(A)** *Section 1400B(e)(2) is amended—*

1                   (i) by striking “2012” and inserting  
2                   “2014”, and

3                   (ii) by striking “2012” in the heading  
4                   thereof and inserting “2014”.

5                   (B) Section 1400B(g)(2) is amended by  
6                   striking “2012” and inserting “2014”.

7                   (C) Section 1400F(d) is amended by strik-  
8                   ing “2012” and inserting “2014”.

9                   (3) *EFFECTIVE DATES.*—

10                   (A) *EXTENSION.*—The amendments made  
11                   by paragraph (1) shall apply to acquisitions  
12                   after December 31, 2007.

13                   (B) *CONFORMING AMENDMENTS.*—The  
14                   amendments made by paragraph (2) shall take  
15                   effect on the date of the enactment of this Act.

16                   (d) *FIRST-TIME HOMEBUYER CREDIT.*—

17                   (1) *IN GENERAL.*—Subsection (i) of section  
18                   1400C is amended by striking “2008” and inserting  
19                   “2010”.

20                   (2) *EFFECTIVE DATE.*—The amendment made by  
21                   this subsection shall apply to property purchased  
22                   after December 31, 2007.

23 **SEC. 323. ENHANCED CHARITABLE DEDUCTIONS FOR CON-**  
24 **TRIBUTIONS OF FOOD INVENTORY.**

25                   (a) *INCREASED AMOUNT OF DEDUCTION.*—

1           (1) *IN GENERAL.*—*Clause (iv) of section*  
2           *170(e)(3)(C) (relating to termination) is amended by*  
3           *striking “December 31, 2007” and inserting “Decem-*  
4           *ber 31, 2009”.*

5           (2) *EFFECTIVE DATE.*—*The amendment made by*  
6           *this subsection shall apply to contributions made*  
7           *after December 31, 2007.*

8           (b) *TEMPORARY SUSPENSION OF LIMITATIONS ON*  
9           *CHARITABLE CONTRIBUTIONS.*—

10           (1) *IN GENERAL.*—*Section 170(b) is amended by*  
11           *adding at the end the following new paragraph:*

12           “*(3) TEMPORARY SUSPENSION OF LIMITATIONS*  
13           *ON CHARITABLE CONTRIBUTIONS.*—*In the case of a*  
14           *qualified farmer or rancher (as defined in paragraph*  
15           *(1)(E)(v)), any charitable contribution of food—*

16           “*(A) to which subsection (e)(3)(C) applies*  
17           *(without regard to clause (ii) thereof), and*

18           “*(B) which is made during the period be-*  
19           *ginning on the date of the enactment of this*  
20           *paragraph and before January 1, 2009,*

21           *shall be treated for purposes of paragraph (1)(E) or*  
22           *(2)(B), whichever is applicable, as if it were a quali-*  
23           *fied conservation contribution which is made by a*  
24           *qualified farmer or rancher and which otherwise*  
25           *meets the requirements of such paragraph.”.*

1           (2) *EFFECTIVE DATE.*—*The amendment made by*  
2           *this subsection shall apply to taxable years ending*  
3           *after the date of the enactment of this Act.*

4 **SEC. 324. EXTENSION OF ENHANCED CHARITABLE DEDUC-**  
5                           **TION FOR CONTRIBUTIONS OF BOOK INVEN-**  
6                           **TORY.**

7           (a) *EXTENSION.*—*Clause (iv) of section 170(e)(3)(D)*  
8           *(relating to termination) is amended by striking “December*  
9           *31, 2007” and inserting “December 31, 2009”.*

10          (b) *CLERICAL AMENDMENT.*—*Clause (iii) of section*  
11          *170(e)(3)(D) (relating to certification by donee) is amended*  
12          *by inserting “of books” after “to any contribution”.*

13          (c) *EFFECTIVE DATE.*—*The amendments made by this*  
14          *section shall apply to contributions made after December*  
15          *31, 2007.*

16 **SEC. 325. EXTENSION AND MODIFICATION OF DUTY SUS-**  
17                           **PENSION ON WOOL PRODUCTS; WOOL RE-**  
18                           **SEARCH FUND; WOOL DUTY REFUNDS.**

19          (a) *EXTENSION OF TEMPORARY DUTY REDUCTIONS.*—  
20          *Each of the following headings of the Harmonized Tariff*  
21          *Schedule of the United States is amended by striking the*  
22          *date in the effective period column and inserting “12/31/*  
23          *2014”:*

24                  (1) *Heading 9902.51.11 (relating to fabrics of*  
25                  *worsted wool).*



1           (2) *Heading 9902.51.13 (relating to yarn of*  
2 *combed wool).*

3           (3) *Heading 9902.51.14 (relating to wool fiber,*  
4 *waste, garnetted stock, combed wool, or wool top).*

5           (4) *Heading 9902.51.15 (relating to fabrics of*  
6 *combed wool).*

7           (5) *Heading 9902.51.16 (relating to fabrics of*  
8 *combed wool).*

9           (b) *EXTENSION OF DUTY REFUNDS AND WOOL RE-*  
10 *SEARCH TRUST FUND.—*

11           (1) *IN GENERAL.—Section 4002(c) of the Wool*  
12 *Suit and Textile Trade Extension Act of 2004 (Public*  
13 *Law 108–429; 118 Stat. 2603) is amended—*

14                   (A) *in paragraph (3)(C), by striking*  
15 *“2010” and inserting “2015”; and*

16                   (B) *in paragraph (6)(A), by striking*  
17 *“through 2009” and inserting “through 2014”.*

18           (2) *SUNSET.—Section 506(f) of the Trade and*  
19 *Development Act of 2000 (Public 106–200; 114 Stat.*  
20 *303 (7 U.S.C. 7101 note)) is amended by striking*  
21 *“2010” and inserting “2015”.*

1     **TITLE IV—EXTENSION OF TAX**  
2     **ADMINISTRATION PROVISIONS**

3     **SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OP-**  
4             **ERATIONS.**

5             (a) *IN GENERAL.*—Section 7608(c) (relating to rules  
6 relating to undercover operations) is amended by striking  
7 paragraph (6).

8             (b) *EFFECTIVE DATE.*—The amendment made by this  
9 section shall apply to operations conducted after the date  
10 of the enactment of this Act.

11     **SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF IN-**  
12             **FORMATION RELATING TO TERRORIST AC-**  
13             **TIVITIES.**

14             (a) *DISCLOSURE OF RETURN INFORMATION TO AP-*  
15 *PROPRIATE OFFICIALS OF TERRORIST ACTIVI-*  
16 *TIES.*—Subparagraph (C) of section 6103(i)(3) is amended  
17 by striking clause (iv).

18             (b) *DISCLOSURE UPON REQUEST OF INFORMATION*  
19 *RELATING TO TERRORIST ACTIVITIES.*—Paragraph (7) of  
20 section 6103(i) is amended by striking subparagraph (E).

21             (c) *EFFECTIVE DATE.*—The amendments made by this  
22 section shall apply to disclosures after the date of the enact-  
23 ment of this Act.

1 **TITLE V—ADDITIONAL TAX RE-**  
2 **LIEF AND OTHER TAX PROVI-**  
3 **SIONS**

4 **Subtitle A—General Provisions**

5 **SEC. 501. \$8,500 INCOME THRESHOLD USED TO CALCULATE**  
6 **REFUNDABLE PORTION OF CHILD TAX CRED-**  
7 **IT.**

8 (a) *IN GENERAL.*—Section 24(d) is amended by add-  
9 ing at the end the following new paragraph:

10 “(4) *SPECIAL RULE FOR 2008.*—Notwithstanding  
11 paragraph (3), in the case of any taxable year begin-  
12 ning in 2008, the dollar amount in effect for such  
13 taxable year under paragraph (1)(B)(i) shall be  
14 \$8,500.”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this  
16 section shall apply to taxable years beginning after Decem-  
17 ber 31, 2007.

18 **SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION**  
19 **PRODUCTIONS.**

20 (a) *EXTENSION OF EXPENSING RULES FOR QUALIFIED*  
21 *FILM AND TELEVISION PRODUCTIONS.*—Section 181(f) (re-  
22 lating to termination) is amended by striking “December  
23 31, 2008” and inserting “December 31, 2009”.

1       **(b) MODIFICATION OF LIMITATION ON EXPENSING.**—  
2       *Subparagraph (A) of section 181(a)(2) is amended to read*  
3       *as follows:*

4               “(A) *IN GENERAL.*—*Paragraph (1) shall*  
5               *not apply to so much of the aggregate cost of any*  
6               *qualified film or television production as exceeds*  
7               *\$15,000,000.”.*

8       **(c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC**  
9       **ACTIVITIES.**—

10            (1) *DETERMINATION OF W-2 WAGES.*—*Para-*  
11            *graph (2) of section 199(b) is amended by adding at*  
12            *the end the following new subparagraph:*

13               “(D) *SPECIAL RULE FOR QUALIFIED*  
14               *FILM.*—*In the case of a qualified film, such term*  
15               *shall include compensation for services performed*  
16               *in the United States by actors, production per-*  
17               *sonnel, directors, and producers.”.*

18            (2) *DEFINITION OF QUALIFIED FILM.*—*Para-*  
19            *graph (6) of section 199(c) is amended by adding at*  
20            *the end the following: “A qualified film shall include*  
21            *any copyrights, trademarks, or other intangibles with*  
22            *respect to such film. The methods and means of dis-*  
23            *tributing a qualified film shall not affect the avail-*  
24            *ability of the deduction under this section.”.*

1           (3) *PARTNERSHIPS*.—Subparagraph (A) of sec-  
2           tion 199(d)(1) is amended by striking “and” at the  
3           end of clause (ii), by striking the period at the end  
4           of clause (iii) and inserting “, and”, and by adding  
5           at the end the following new clause:

6                     “(iv) in the case of each partner of a  
7                     partnership, or shareholder of an S corpora-  
8                     tion, who owns (directly or indirectly) at  
9                     least 20 percent of the capital interests in  
10                    such partnership or of the stock of such S  
11                    corporation—

12                    “(I) such partner or shareholder  
13                    shall be treated as having engaged di-  
14                    rectly in any film produced by such  
15                    partnership or S corporation, and

16                    “(II) such partnership or S cor-  
17                    poration shall be treated as having en-  
18                    gaged directly in any film produced by  
19                    such partner or shareholder.”.

20           (d) *CONFORMING AMENDMENT*.—Section 181(d)(3)(A)  
21           is amended by striking “actors” and all that follows and  
22           inserting “actors, production personnel, directors, and pro-  
23           ducers.”.

24           (e) *EFFECTIVE DATES*.—

1           (1) *IN GENERAL.*—*Except as otherwise provided*  
2           *in this subsection, the amendments made by this sec-*  
3           *tion shall apply to qualified film and television pro-*  
4           *ductions commencing after December 31, 2007.*

5           (2) *DEDUCTION.*—*The amendments made by sub-*  
6           *section (c) shall apply to taxable years beginning*  
7           *after December 31, 2007.*

8 **SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN**  
9           **WOODEN ARROWS DESIGNED FOR USE BY**  
10           **CHILDREN.**

11           (a) *IN GENERAL.*—*Paragraph (2) of section 4161(b)*  
12           *is amended by redesignating subparagraph (B) as subpara-*  
13           *graph (C) and by inserting after subparagraph (A) the fol-*  
14           *lowing new subparagraph:*

15                   “(B) *EXEMPTION FOR CERTAIN WOODEN*  
16                   *ARROW SHAFTS.*—*Subparagraph (A) shall not*  
17                   *apply to any shaft consisting of all natural wood*  
18                   *with no laminations or artificial means of en-*  
19                   *hancing the spine of such shaft (whether sold sep-*  
20                   *arately or incorporated as part of a finished or*  
21                   *unfinished product) of a type used in the manu-*  
22                   *facture of any arrow which after its assembly—*

23                           “(i) *measures  $\frac{5}{16}$  of an inch or less in*  
24                           *diameter, and*

1                   “(ii) is not suitable for use with a bow  
2                   described in paragraph (1)(A).”.

3           (b) *EFFECTIVE DATE.*—*The amendments made by this*  
4 *section shall apply to shafts first sold after the date of enact-*  
5 *ment of this Act.*

6 **SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN**  
7 **CONNECTION WITH THE EXXON VALDEZ LITI-**  
8 **GATION.**

9           (a) *INCOME AVERAGING OF AMOUNTS RECEIVED FROM*  
10 *THE EXXON VALDEZ LITIGATION.*—*For purposes of section*  
11 *1301 of the Internal Revenue Code of 1986—*

12                   (1) *any qualified taxpayer who receives any*  
13 *qualified settlement income in any taxable year shall*  
14 *be treated as engaged in a fishing business (deter-*  
15 *mined without regard to the commercial nature of the*  
16 *business), and*

17                   (2) *such qualified settlement income shall be*  
18 *treated as income attributable to such a fishing busi-*  
19 *ness for such taxable year.*

20           (b) *CONTRIBUTIONS OF AMOUNTS RECEIVED TO RE-*  
21 *TIREMENT ACCOUNTS.*—

22                   (1) *IN GENERAL.*—*Any qualified taxpayer who*  
23 *receives qualified settlement income during the tax-*  
24 *able year may, at any time before the end of the tax-*  
25 *able year in which such income was received, make*

1 *one or more contributions to an eligible retirement*  
2 *plan of which such qualified taxpayer is a beneficiary*  
3 *in an aggregate amount not to exceed the lesser of—*

4 (A) *\$100,000 (reduced by the amount of*  
5 *qualified settlement income contributed to an eli-*  
6 *gible retirement plan in prior taxable years pur-*  
7 *suant to this subsection), or*

8 (B) *the amount of qualified settlement in-*  
9 *come received by the individual during the tax-*  
10 *able year.*

11 (2) *TIME WHEN CONTRIBUTIONS DEEMED*  
12 *MADE.—For purposes of paragraph (1), a qualified*  
13 *taxpayer shall be deemed to have made a contribution*  
14 *to an eligible retirement plan on the last day of the*  
15 *taxable year in which such income is received if the*  
16 *contribution is made on account of such taxable year*  
17 *and is made not later than the time prescribed by law*  
18 *for filing the return for such taxable year (not includ-*  
19 *ing extensions thereof).*

20 (3) *TREATMENT OF CONTRIBUTIONS TO ELIGIBLE*  
21 *RETIREMENT PLANS.—For purposes of the Internal*  
22 *Revenue Code of 1986, if a contribution is made pur-*  
23 *suant to paragraph (1) with respect to qualified set-*  
24 *tlement income, then—*

25 (A) *except as provided in paragraph (4)—*



1           (i) to the extent of such contribution,  
2           the qualified settlement income shall not be  
3           included in taxable income, and

4           (ii) for purposes of section 72 of such  
5           Code, such contribution shall not be consid-  
6           ered to be investment in the contract,

7           (B) the qualified taxpayer shall, to the ex-  
8           tent of the amount of the contribution, be treat-  
9           ed—

10           (i) as having received the qualified set-  
11           tlement income—

12           (I) in the case of a contribution to  
13           an individual retirement plan (as de-  
14           fined under section 7701(a)(37) of such  
15           Code), in a distribution described in  
16           section 408(d)(3) of such Code, and

17           (II) in the case of any other eligi-  
18           ble retirement plan, in an eligible roll-  
19           over distribution (as defined under sec-  
20           tion 402(f)(2) of such Code), and

21           (ii) as having transferred the amount  
22           to the eligible retirement plan in a direct  
23           trustee to trustee transfer within 60 days of  
24           the distribution,

1           (C) section 408(d)(3)(B) of the Internal  
2           Revenue Code of 1986 shall not apply with re-  
3           spect to amounts treated as a rollover under this  
4           paragraph, and

5           (D) section 408A(c)(3)(B) of the Internal  
6           Revenue Code of 1986 shall not apply with re-  
7           spect to amounts contributed to a Roth IRA (as  
8           defined under section 408A(b) of such Code) or  
9           a designated Roth contribution to an applicable  
10          retirement plan (within the meaning of section  
11          402A of such Code) under this paragraph.

12          (4) SPECIAL RULE FOR ROTH IRAS AND ROTH  
13          401(k)s.—For purposes of the Internal Revenue Code  
14          of 1986, if a contribution is made pursuant to para-  
15          graph (1) with respect to qualified settlement income  
16          to a Roth IRA (as defined under section 408A(b) of  
17          such Code) or as a designated Roth contribution to an  
18          applicable retirement plan (within the meaning of  
19          section 402A of such Code), then—

20               (A) the qualified settlement income shall be  
21               includible in taxable income, and

22               (B) for purposes of section 72 of such Code,  
23               such contribution shall be considered to be in-  
24               vestment in the contract.

1           (5) *ELIGIBLE RETIREMENT PLAN.*—For purpose  
2           of this subsection, the term “eligible retirement plan”  
3           has the meaning given such term under section  
4           402(c)(8)(B) of the Internal Revenue Code of 1986.

5           (c) *TREATMENT OF QUALIFIED SETTLEMENT INCOME*  
6 *UNDER EMPLOYMENT TAXES.*—

7           (1) *SECA.*—For purposes of chapter 2 of the In-  
8           ternal Revenue Code of 1986 and section 211 of the  
9           Social Security Act, no portion of qualified settlement  
10          income received by a qualified taxpayer shall be treat-  
11          ed as self-employment income.

12          (2) *FICA.*—For purposes of chapter 21 of the In-  
13          ternal Revenue Code of 1986 and section 209 of the  
14          Social Security Act, no portion of qualified settlement  
15          income received by a qualified taxpayer shall be treat-  
16          ed as wages.

17          (d) *QUALIFIED TAXPAYER.*—For purposes of this sec-  
18          tion, the term “qualified taxpayer” means—

19               (1) any individual who is a plaintiff in the civil  
20               action *In re Exxon Valdez*, No. 89–095–CV (HRH)  
21               (Consolidated) (D. Alaska); or

22               (2) any individual who is a beneficiary of the es-  
23               tate of such a plaintiff who—

24                       (A) acquired the right to receive qualified  
25                       settlement income from that plaintiff; and

1                   (B) was the spouse or an immediate relative  
2                   of that plaintiff.

3           (e) *QUALIFIED SETTLEMENT INCOME.*—For purposes  
4 of this section, the term “qualified settlement income”  
5 means any interest and punitive damage awards which  
6 are—

7                   (1) otherwise includible in taxable income, and  
8                   (2) received (whether as lump sums or periodic  
9                   payments) in connection with the civil action *In re*  
10                   *Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated)  
11                   (D. Alaska) (whether pre- or post-judgment and  
12                   whether related to a settlement or judgment).

13 **SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND**  
14                   **EQUIPMENT TREATED AS 5-YEAR PROPERTY.**

15           (a) *IN GENERAL.*—Section 168(e)(3)(B) (defining 5-  
16 year property) is amended by striking “and” at the end  
17 of clause (v), by striking the period at the end of clause  
18 (vi)(III) and inserting “, and”, and by inserting after  
19 clause (vi) the following new clause:

20                   “(vii) any machinery or equipment  
21                   (other than any grain bin, cotton ginning  
22                   asset, fence, or other land improvement)  
23                   which is used in a farming business (as de-  
24                   fined in section 263A(e)(4)), the original  
25                   use of which commences with the taxpayer

1           *after December 31, 2008, and which is*  
 2           *placed in service before January 1, 2010.”.*

3           **(b) ALTERNATIVE SYSTEM.**—*The table contained in*  
 4 *section 168(g)(3)(B) (relating to special rule for certain*  
 5 *property assigned to classes) is amended by inserting after*  
 6 *the item relating to subparagraph (B)(iii) the following:*

*(B)(vii) ..... 10”.*

7           **(c) EFFECTIVE DATE.**—*The amendments made by this*  
 8 *section shall apply to property placed in service after De-*  
 9 *cember 31, 2008.*

10 **SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATE-**  
 11 **MENT OF TAXPAYER’S LIABILITY BY TAX RE-**  
 12 **TURN PREPARER.**

13           **(a) IN GENERAL.**—*Subsection (a) of section 6694 is*  
 14 *amended to read as follows:*

15           **“(a) UNDERSTATEMENT DUE TO UNREASONABLE PO-**  
 16 **SITIONS.**—

17           **“(1) IN GENERAL.**—*If a tax return preparer—*

18                   **“(A) prepares any return or claim of refund**  
 19                   *with respect to which any part of an understate-*  
 20                   *ment of liability is due to a position described*  
 21                   *in paragraph (2), and*

22                   **“(B) knew (or reasonably should have**  
 23                   *known) of the position,*

1 *such tax return preparer shall pay a penalty with re-*  
2 *spect to each such return or claim in an amount*  
3 *equal to the greater of \$1,000 or 50 percent of the in-*  
4 *come derived (or to be derived) by the tax return pre-*  
5 *parer with respect to the return or claim.*

6 “(2) *UNREASONABLE POSITION.*—

7 “(A) *IN GENERAL.*—*Except as otherwise*  
8 *provided in this paragraph, a position is de-*  
9 *scribed in this paragraph unless there is or was*  
10 *substantial authority for the position.*

11 “(B) *DISCLOSED POSITIONS.*—*If the posi-*  
12 *tion was disclosed as provided in section*  
13 *6662(d)(2)(B)(i)(I) and is not a position to*  
14 *which subparagraph (C) applies, the position is*  
15 *described in this paragraph unless there is a rea-*  
16 *sonable basis for the position.*

17 “(C) *TAX SHELTERS AND REPORTABLE*  
18 *TRANSACTIONS.*—*If the position is with respect*  
19 *to a tax shelter (as defined in section*  
20 *6662(d)(2)(C)(ii)) or a reportable transaction to*  
21 *which section 6662A applies, the position is de-*  
22 *scribed in this paragraph unless it is reasonable*  
23 *to believe that the position would more likely*  
24 *than not be sustained on its merits.*

1           “(3) *REASONABLE CAUSE EXCEPTION.*—No pen-  
2           alty shall be imposed under this subsection if it is  
3           shown that there is reasonable cause for the under-  
4           statement and the tax return preparer acted in good  
5           faith.”.

6           (b) *EFFECTIVE DATE.*—The amendment made by this  
7           section shall apply—

8                   (1) in the case of a position other than a posi-  
9                   tion described in subparagraph (C) of section  
10                  6694(a)(2) of the Internal Revenue Code of 1986 (as  
11                  amended by this section), to returns prepared after  
12                  May 25, 2007, and

13                   (2) in the case of a position described in such  
14                   subparagraph (C), to returns prepared for taxable  
15                   years ending after the date of the enactment of this  
16                   Act.

17           ***Subtitle B—Paul Wellstone and***  
18           ***Pete Domenici Mental Health***  
19           ***Parity and Addiction Equity Act***  
20           ***of 2008***

21           ***SEC. 511. SHORT TITLE.***

22           *This subtitle may be cited as the “Paul Wellstone and*  
23           *Pete Domenici Mental Health Parity and Addiction Equity*  
24           *Act of 2008”.*

1 **SEC. 512. MENTAL HEALTH PARITY.**

2 (a) *AMENDMENTS TO ERISA.*—Section 712 of the *Em-*  
3 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*  
4 *1185a)* is amended—

5 (1) *in subsection (a), by adding at the end the*  
6 *following:*

7 “(3) *FINANCIAL REQUIREMENTS AND TREATMENT*  
8 *LIMITATIONS.*—

9 “(A) *IN GENERAL.*—*In the case of a group*  
10 *health plan (or health insurance coverage offered*  
11 *in connection with such a plan) that provides*  
12 *both medical and surgical benefits and mental*  
13 *health or substance use disorder benefits, such*  
14 *plan or coverage shall ensure that—*

15 “(i) *the financial requirements appli-*  
16 *cable to such mental health or substance use*  
17 *disorder benefits are no more restrictive*  
18 *than the predominant financial require-*  
19 *ments applied to substantially all medical*  
20 *and surgical benefits covered by the plan (or*  
21 *coverage), and there are no separate cost*  
22 *sharing requirements that are applicable*  
23 *only with respect to mental health or sub-*  
24 *stance use disorder benefits; and*

25 “(ii) *the treatment limitations applica-*  
26 *ble to such mental health or substance use*



1           *disorder benefits are no more restrictive*  
2           *than the predominant treatment limitations*  
3           *applied to substantially all medical and*  
4           *surgical benefits covered by the plan (or*  
5           *coverage) and there are no separate treat-*  
6           *ment limitations that are applicable only*  
7           *with respect to mental health or substance*  
8           *use disorder benefits.*

9           “(B) *DEFINITIONS.—In this paragraph:*

10           “(i) *FINANCIAL REQUIREMENT.—The*  
11           *term ‘financial requirement’ includes*  
12           *deductibles, copayments, coinsurance, and*  
13           *out-of-pocket expenses, but excludes an ag-*  
14           *gregate lifetime limit and an annual limit*  
15           *subject to paragraphs (1) and (2),*

16           “(ii) *PREDOMINANT.—A financial re-*  
17           *quirement or treatment limit is considered*  
18           *to be predominant if it is the most common*  
19           *or frequent of such type of limit or require-*  
20           *ment.*

21           “(iii) *TREATMENT LIMITATION.—The*  
22           *term ‘treatment limitation’ includes limits*  
23           *on the frequency of treatment, number of*  
24           *visits, days of coverage, or other similar*

1           *limits on the scope or duration of treat-*  
2           *ment.*

3           “(4) *AVAILABILITY OF PLAN INFORMATION.—The*  
4           *criteria for medical necessity determinations made*  
5           *under the plan with respect to mental health or sub-*  
6           *stance use disorder benefits (or the health insurance*  
7           *coverage offered in connection with the plan with re-*  
8           *spect to such benefits) shall be made available by the*  
9           *plan administrator (or the health insurance issuer of-*  
10           *fering such coverage) in accordance with regulations*  
11           *to any current or potential participant, beneficiary,*  
12           *or contracting provider upon request. The reason for*  
13           *any denial under the plan (or coverage) of reimburse-*  
14           *ment or payment for services with respect to mental*  
15           *health or substance use disorder benefits in the case*  
16           *of any participant or beneficiary shall, on request or*  
17           *as otherwise required, be made available by the plan*  
18           *administrator (or the health insurance issuer offering*  
19           *such coverage) to the participant or beneficiary in ac-*  
20           *cordance with regulations.*

21           “(5) *OUT-OF-NETWORK PROVIDERS.—In the case*  
22           *of a plan or coverage that provides both medical and*  
23           *surgical benefits and mental health or substance use*  
24           *disorder benefits, if the plan or coverage provides cov-*  
25           *erage for medical or surgical benefits provided by out-*

1 *of-network providers, the plan or coverage shall pro-*  
2 *vide coverage for mental health or substance use dis-*  
3 *order benefits provided by out-of-network providers in*  
4 *a manner that is consistent with the requirements of*  
5 *this section.”;*

6 *(2) in subsection (b), by amending paragraph*  
7 *(2) to read as follows:*

8 *“(2) in the case of a group health plan (or health*  
9 *insurance coverage offered in connection with such a*  
10 *plan) that provides mental health or substance use*  
11 *disorder benefits, as affecting the terms and condi-*  
12 *tions of the plan or coverage relating to such benefits*  
13 *under the plan or coverage, except as provided in sub-*  
14 *section (a).”;*

15 *(3) in subsection (c)—*

16 *(A) in paragraph (1)(B)—*

17 *(i) by inserting “(or 1 in the case of*  
18 *an employer residing in a State that per-*  
19 *mits small groups to include a single indi-*  
20 *vidual)” after “at least 2” the first place*  
21 *that such appears; and*

22 *(ii) by striking “and who employs at*  
23 *least 2 employees on the first day of the*  
24 *plan year”;* and

1           *(B) by striking paragraph (2) and inserting*  
2           *the following:*

3           “(2) *COST EXEMPTION.—*

4                   “(A) *IN GENERAL.—With respect to a group*  
5           *health plan (or health insurance coverage offered*  
6           *in connection with such a plan), if the applica-*  
7           *tion of this section to such plan (or coverage) re-*  
8           *sults in an increase for the plan year involved*  
9           *of the actual total costs of coverage with respect*  
10           *to medical and surgical benefits and mental*  
11           *health and substance use disorder benefits under*  
12           *the plan (as determined and certified under sub-*  
13           *paragraph (C)) by an amount that exceeds the*  
14           *applicable percentage described in subparagraph*  
15           *(B) of the actual total plan costs, the provisions*  
16           *of this section shall not apply to such plan (or*  
17           *coverage) during the following plan year, and*  
18           *such exemption shall apply to the plan (or cov-*  
19           *erage) for 1 plan year. An employer may elect*  
20           *to continue to apply mental health and substance*  
21           *use disorder parity pursuant to this section with*  
22           *respect to the group health plan (or coverage) in-*  
23           *volved regardless of any increase in total costs.*

24                   “(B) *APPLICABLE PERCENTAGE.—With re-*  
25           *spect to a plan (or coverage), the applicable per-*

1           *centage described in this subparagraph shall*  
2           *be—*

3                     *“(i) 2 percent in the case of the first*  
4                     *plan year in which this section is applied;*  
5                     *and*

6                     *“(ii) 1 percent in the case of each sub-*  
7                     *sequent plan year.*

8                     *“(C) DETERMINATIONS BY ACTUARIES.—*  
9                     *Determinations as to increases in actual costs*  
10                    *under a plan (or coverage) for purposes of this*  
11                    *section shall be made and certified by a qualified*  
12                    *and licensed actuary who is a member in good*  
13                    *standing of the American Academy of Actuaries.*  
14                    *All such determinations shall be in a written re-*  
15                    *port prepared by the actuary. The report, and*  
16                    *all underlying documentation relied upon by the*  
17                    *actuary, shall be maintained by the group health*  
18                    *plan or health insurance issuer for a period of*  
19                    *6 years following the notification made under*  
20                    *subparagraph (E).*

21                    *“(D) 6-MONTH DETERMINATIONS.—If a*  
22                    *group health plan (or a health insurance issuer*  
23                    *offering coverage in connection with a group*  
24                    *health plan) seeks an exemption under this para-*  
25                    *graph, determinations under subparagraph (A)*

1           *shall be made after such plan (or coverage) has*  
2           *complied with this section for the first 6 months*  
3           *of the plan year involved.*

4           “(E) NOTIFICATION.—

5                   “(i) IN GENERAL.—A group health  
6                   plan (or a health insurance issuer offering  
7                   coverage in connection with a group health  
8                   plan) that, based upon a certification de-  
9                   scribed under subparagraph (C), qualifies  
10                  for an exemption under this paragraph,  
11                  and elects to implement the exemption, shall  
12                  promptly notify the Secretary, the appro-  
13                  priate State agencies, and participants and  
14                  beneficiaries in the plan of such election.

15                  “(ii) REQUIREMENT.—A notification  
16                  to the Secretary under clause (i) shall in-  
17                  clude—

18                           “(I) a description of the number  
19                           of covered lives under the plan (or cov-  
20                           erage) involved at the time of the noti-  
21                           fication, and as applicable, at the time  
22                           of any prior election of the cost-exemp-  
23                           tion under this paragraph by such  
24                           plan (or coverage);

1           “(II) for both the plan year upon  
2           which a cost exemption is sought and  
3           the year prior, a description of the ac-  
4           tual total costs of coverage with respect  
5           to medical and surgical benefits and  
6           mental health and substance use dis-  
7           order benefits under the plan; and

8           “(III) for both the plan year upon  
9           which a cost exemption is sought and  
10          the year prior, the actual total costs of  
11          coverage with respect to mental health  
12          and substance use disorder benefits  
13          under the plan.

14          “(iii) CONFIDENTIALITY.—A notifica-  
15          tion to the Secretary under clause (i) shall  
16          be confidential. The Secretary shall make  
17          available, upon request and on not more  
18          than an annual basis, an anonymous  
19          itemization of such notifications, that in-  
20          cludes—

21                 “(I) a breakdown of States by the  
22                 size and type of employers submitting  
23                 such notification; and

24                 “(II) a summary of the data re-  
25                 ceived under clause (ii).

1           “(F) AUDITS BY APPROPRIATE AGENCIES.—  
2           *To determine compliance with this paragraph,*  
3           *the Secretary may audit the books and records of*  
4           *a group health plan or health insurance issuer*  
5           *relating to an exemption, including any actu-*  
6           *arial reports prepared pursuant to subparagraph*  
7           *(C), during the 6 year period following the noti-*  
8           *fication of such exemption under subparagraph*  
9           *(E). A State agency receiving a notification*  
10           *under subparagraph (E) may also conduct such*  
11           *an audit with respect to an exemption covered*  
12           *by such notification.”;*

13           (4) in subsection (e), by striking paragraph (4)  
14           and inserting the following:

15           “(4) MENTAL HEALTH BENEFITS.—*The term*  
16           *‘mental health benefits’ means benefits with respect to*  
17           *services for mental health conditions, as defined under*  
18           *the terms of the plan and in accordance with applica-*  
19           *ble Federal and State law.*

20           “(5) SUBSTANCE USE DISORDER BENEFITS.—  
21           *The term ‘substance use disorder benefits’ means bene-*  
22           *fits with respect to services for substance use dis-*  
23           *orders, as defined under the terms of the plan and in*  
24           *accordance with applicable Federal and State law.”;*

25           (5) by striking subsection (f);



1           (6) by inserting after subsection (e) the following:

2           “(f) *SECRETARY REPORT.*—The Secretary shall, by  
3 *January 1, 2012, and every two years thereafter, submit*  
4 *to the appropriate committees of Congress a report on com-*  
5 *pliance of group health plans (and health insurance cov-*  
6 *erage offered in connection with such plans) with the re-*  
7 *quirements of this section. Such report shall include the re-*  
8 *sults of any surveys or audits on compliance of group health*  
9 *plans (and health insurance coverage offered in connection*  
10 *with such plans) with such requirements and an analysis*  
11 *of the reasons for any failures to comply.*

12           “(g) *NOTICE AND ASSISTANCE.*—The Secretary, in co-  
13 *operation with the Secretaries of Health and Human Serv-*  
14 *ices and Treasury, as appropriate, shall publish and widely*  
15 *disseminate guidance and information for group health*  
16 *plans, participants and beneficiaries, applicable State and*  
17 *local regulatory bodies, and the National Association of In-*  
18 *surance Commissioners concerning the requirements of this*  
19 *section and shall provide assistance concerning such re-*  
20 *quirements and the continued operation of applicable State*  
21 *law. Such guidance and information shall inform partici-*  
22 *pants and beneficiaries of how they may obtain assistance*  
23 *under this section, including, where appropriate, assistance*  
24 *from State consumer and insurance agencies.”;*

1           (7) by striking “mental health benefits” and in-  
2           serting “mental health and substance use disorder  
3           benefits” each place it appears in subsections  
4           (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);  
5           and

6           (8) by striking “mental health benefits” and in-  
7           serting “mental health or substance use disorder bene-  
8           fits” each place it appears (other than in any provi-  
9           sion amended by the previous paragraph).

10          (b) *AMENDMENTS TO PUBLIC HEALTH SERVICE*  
11 *ACT.*—Section 2705 of the Public Health Service Act (42  
12 *U.S.C. 300gg–5*) is amended—

13           (1) in subsection (a), by adding at the end the  
14           following:

15           “(3) *FINANCIAL REQUIREMENTS AND TREATMENT*  
16           *LIMITATIONS.*—

17           “(A) *IN GENERAL.*—In the case of a group  
18           health plan (or health insurance coverage offered  
19           in connection with such a plan) that provides  
20           both medical and surgical benefits and mental  
21           health or substance use disorder benefits, such  
22           plan or coverage shall ensure that—

23           “(i) the financial requirements appli-  
24           cable to such mental health or substance use  
25           disorder benefits are no more restrictive

1           *than the predominant financial require-*  
2           *ments applied to substantially all medical*  
3           *and surgical benefits covered by the plan (or*  
4           *coverage), and there are no separate cost*  
5           *sharing requirements that are applicable*  
6           *only with respect to mental health or sub-*  
7           *stance use disorder benefits; and*

8           “(ii) *the treatment limitations applica-*  
9           *ble to such mental health or substance use*  
10           *disorder benefits are no more restrictive*  
11           *than the predominant treatment limitations*  
12           *applied to substantially all medical and*  
13           *surgical benefits covered by the plan (or*  
14           *coverage) and there are no separate treat-*  
15           *ment limitations that are applicable only*  
16           *with respect to mental health or substance*  
17           *use disorder benefits.*

18           “(B) *DEFINITIONS.—In this paragraph:*

19           “(i) *FINANCIAL REQUIREMENT.—The*  
20           *term ‘financial requirement’ includes*  
21           *deductibles, copayments, coinsurance, and*  
22           *out-of-pocket expenses, but excludes an ag-*  
23           *gregate lifetime limit and an annual limit*  
24           *subject to paragraphs (1) and (2).*

1                   “(ii) *PREDOMINANT*.—A financial re-  
2                   quirement or treatment limit is considered  
3                   to be predominant if it is the most common  
4                   or frequent of such type of limit or require-  
5                   ment.

6                   “(iii) *TREATMENT LIMITATION*.—The  
7                   term ‘treatment limitation’ includes limits  
8                   on the frequency of treatment, number of  
9                   visits, days of coverage, or other similar  
10                  limits on the scope or duration of treat-  
11                  ment.

12                 “(4) *AVAILABILITY OF PLAN INFORMATION*.—The  
13                 criteria for medical necessity determinations made  
14                 under the plan with respect to mental health or sub-  
15                 stance use disorder benefits (or the health insurance  
16                 coverage offered in connection with the plan with re-  
17                 spect to such benefits) shall be made available by the  
18                 plan administrator (or the health insurance issuer of-  
19                 fering such coverage) in accordance with regulations  
20                 to any current or potential participant, beneficiary,  
21                 or contracting provider upon request. The reason for  
22                 any denial under the plan (or coverage) of reimburse-  
23                 ment or payment for services with respect to mental  
24                 health or substance use disorder benefits in the case  
25                 of any participant or beneficiary shall, on request or

1 *as otherwise required, be made available by the plan*  
2 *administrator (or the health insurance issuer offering*  
3 *such coverage) to the participant or beneficiary in ac-*  
4 *cordance with regulations.*

5 “(5) *OUT-OF-NETWORK PROVIDERS.—In the case*  
6 *of a plan or coverage that provides both medical and*  
7 *surgical benefits and mental health or substance use*  
8 *disorder benefits, if the plan or coverage provides cov-*  
9 *erage for medical or surgical benefits provided by out-*  
10 *of-network providers, the plan or coverage shall pro-*  
11 *vide coverage for mental health or substance use dis-*  
12 *order benefits provided by out-of-network providers in*  
13 *a manner that is consistent with the requirements of*  
14 *this section.”;*

15 (2) *in subsection (b), by amending paragraph*  
16 *(2) to read as follows:*

17 “(2) *in the case of a group health plan (or health*  
18 *insurance coverage offered in connection with such a*  
19 *plan) that provides mental health or substance use*  
20 *disorder benefits, as affecting the terms and condi-*  
21 *tions of the plan or coverage relating to such benefits*  
22 *under the plan or coverage, except as provided in sub-*  
23 *section (a).”;*

24 (3) *in subsection (c)—*

1           (A) in paragraph (1), by inserting before  
2           the period the following: “(as defined in section  
3           2791(e)(4), except that for purposes of this para-  
4           graph such term shall include employers with 1  
5           employee in the case of an employer residing in  
6           a State that permits small groups to include a  
7           single individual)”; and

8           (B) by striking paragraph (2) and inserting  
9           the following:

10          “(2) COST EXEMPTION.—

11           “(A) IN GENERAL.—With respect to a group  
12           health plan (or health insurance coverage offered  
13           in connection with such a plan), if the applica-  
14           tion of this section to such plan (or coverage) re-  
15           sults in an increase for the plan year involved  
16           of the actual total costs of coverage with respect  
17           to medical and surgical benefits and mental  
18           health and substance use disorder benefits under  
19           the plan (as determined and certified under sub-  
20           paragraph (C)) by an amount that exceeds the  
21           applicable percentage described in subparagraph  
22           (B) of the actual total plan costs, the provisions  
23           of this section shall not apply to such plan (or  
24           coverage) during the following plan year, and  
25           such exemption shall apply to the plan (or cov-

1           *erage) for 1 plan year. An employer may elect*  
2           *to continue to apply mental health and substance*  
3           *use disorder parity pursuant to this section with*  
4           *respect to the group health plan (or coverage) in-*  
5           *volved regardless of any increase in total costs.*

6           “(B) *APPLICABLE PERCENTAGE.*—*With re-*  
7           *spect to a plan (or coverage), the applicable per-*  
8           *centage described in this subparagraph shall*  
9           *be—*

10           “(i) *2 percent in the case of the first*  
11           *plan year in which this section is applied;*  
12           *and*

13           “(ii) *1 percent in the case of each sub-*  
14           *sequent plan year.*

15           “(C) *DETERMINATIONS BY ACTUARIES.*—  
16           *Determinations as to increases in actual costs*  
17           *under a plan (or coverage) for purposes of this*  
18           *section shall be made and certified by a qualified*  
19           *and licensed actuary who is a member in good*  
20           *standing of the American Academy of Actuaries.*  
21           *All such determinations shall be in a written re-*  
22           *port prepared by the actuary. The report, and*  
23           *all underlying documentation relied upon by the*  
24           *actuary, shall be maintained by the group health*  
25           *plan or health insurance issuer for a period of*

1           6 years following the notification made under  
2           subparagraph (E).

3           “(D) 6-MONTH DETERMINATIONS.—If a  
4           group health plan (or a health insurance issuer  
5           offering coverage in connection with a group  
6           health plan) seeks an exemption under this para-  
7           graph, determinations under subparagraph (A)  
8           shall be made after such plan (or coverage) has  
9           complied with this section for the first 6 months  
10          of the plan year involved.

11          “(E) NOTIFICATION.—

12                 “(i) IN GENERAL.—A group health  
13                 plan (or a health insurance issuer offering  
14                 coverage in connection with a group health  
15                 plan) that, based upon a certification de-  
16                 scribed under subparagraph (C), qualifies  
17                 for an exemption under this paragraph,  
18                 and elects to implement the exemption, shall  
19                 promptly notify the Secretary, the appro-  
20                 priate State agencies, and participants and  
21                 beneficiaries in the plan of such election.

22                 “(ii) REQUIREMENT.—A notification  
23                 to the Secretary under clause (i) shall in-  
24                 clude—



1           “(I) a description of the number  
2           of covered lives under the plan (or cov-  
3           erage) involved at the time of the noti-  
4           fication, and as applicable, at the time  
5           of any prior election of the cost-exemp-  
6           tion under this paragraph by such  
7           plan (or coverage);

8           “(II) for both the plan year upon  
9           which a cost exemption is sought and  
10          the year prior, a description of the ac-  
11          tual total costs of coverage with respect  
12          to medical and surgical benefits and  
13          mental health and substance use dis-  
14          order benefits under the plan; and

15          “(III) for both the plan year upon  
16          which a cost exemption is sought and  
17          the year prior, the actual total costs of  
18          coverage with respect to mental health  
19          and substance use disorder benefits  
20          under the plan.

21          “(iii) *CONFIDENTIALITY*.—A notifica-  
22          tion to the Secretary under clause (i) shall  
23          be confidential. The Secretary shall make  
24          available, upon request and on not more  
25          than an annual basis, an anonymous

1            *itemization of such notifications, that in-*  
2            *cludes—*

3                            *“(I) a breakdown of States by the*  
4                            *size and type of employers submitting*  
5                            *such notification; and*

6                            *“(II) a summary of the data re-*  
7                            *ceived under clause (ii).*

8                            *“(F) AUDITS BY APPROPRIATE AGENCIES.—*

9            *To determine compliance with this paragraph,*  
10           *the Secretary may audit the books and records of*  
11           *a group health plan or health insurance issuer*  
12           *relating to an exemption, including any actu-*  
13           *arial reports prepared pursuant to subparagraph*  
14           *(C), during the 6 year period following the noti-*  
15           *fication of such exemption under subparagraph*  
16           *(E). A State agency receiving a notification*  
17           *under subparagraph (E) may also conduct such*  
18           *an audit with respect to an exemption covered*  
19           *by such notification.”;*

20            *(4) in subsection (e), by striking paragraph (4)*  
21           *and inserting the following:*

22                            *“(4) MENTAL HEALTH BENEFITS.—The term*  
23                            *‘mental health benefits’ means benefits with respect to*  
24                            *services for mental health conditions, as defined under*

1 *the terms of the plan and in accordance with applica-*  
2 *ble Federal and State law.*

3 “(5) *SUBSTANCE USE DISORDER BENEFITS.*—  
4 *The term ‘substance use disorder benefits’ means bene-*  
5 *fits with respect to services for substance use dis-*  
6 *orders, as defined under the terms of the plan and in*  
7 *accordance with applicable Federal and State law.”;*

8 *(5) by striking subsection (f);*

9 *(6) by striking “mental health benefits” and in-*  
10 *serting “mental health and substance use disorder*  
11 *benefits” each place it appears in subsections*  
12 *(a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);*  
13 *and*

14 *(7) by striking “mental health benefits” and in-*  
15 *serting “mental health or substance use disorder bene-*  
16 *fits” each place it appears (other than in any provi-*  
17 *sion amended by the previous paragraph).*

18 *(c) AMENDMENTS TO INTERNAL REVENUE CODE.*—  
19 *Section 9812 of the Internal Revenue Code of 1986 is*  
20 *amended—*

21 *(1) in subsection (a), by adding at the end the*  
22 *following:*

23 “(3) *FINANCIAL REQUIREMENTS AND TREATMENT*  
24 *LIMITATIONS.*—

1           “(A) *IN GENERAL.*—*In the case of a group*  
2 *health plan that provides both medical and sur-*  
3 *gical benefits and mental health or substance use*  
4 *disorder benefits, such plan shall ensure that—*

5                   “(i) *the financial requirements appli-*  
6 *cable to such mental health or substance use*  
7 *disorder benefits are no more restrictive*  
8 *than the predominant financial require-*  
9 *ments applied to substantially all medical*  
10 *and surgical benefits covered by the plan,*  
11 *and there are no separate cost sharing re-*  
12 *quirements that are applicable only with re-*  
13 *spect to mental health or substance use dis-*  
14 *order benefits; and*

15                   “(ii) *the treatment limitations applica-*  
16 *ble to such mental health or substance use*  
17 *disorder benefits are no more restrictive*  
18 *than the predominant treatment limitations*  
19 *applied to substantially all medical and*  
20 *surgical benefits covered by the plan and*  
21 *there are no separate treatment limitations*  
22 *that are applicable only with respect to*  
23 *mental health or substance use disorder ben-*  
24 *efits.*

25           “(B) *DEFINITIONS.*—*In this paragraph:*

1           “(i) *FINANCIAL REQUIREMENT.*—*The*  
2           *term ‘financial requirement’ includes*  
3           *deductibles, copayments, coinsurance, and*  
4           *out-of-pocket expenses, but excludes an ag-*  
5           *gregate lifetime limit and an annual limit*  
6           *subject to paragraphs (1) and (2),*

7           “(ii) *PREDOMINANT.*—*A financial re-*  
8           *quirement or treatment limit is considered*  
9           *to be predominant if it is the most common*  
10           *or frequent of such type of limit or require-*  
11           *ment.*

12           “(iii) *TREATMENT LIMITATION.*—*The*  
13           *term ‘treatment limitation’ includes limits*  
14           *on the frequency of treatment, number of*  
15           *visits, days of coverage, or other similar*  
16           *limits on the scope or duration of treat-*  
17           *ment.*

18           “(4) *AVAILABILITY OF PLAN INFORMATION.*—*The*  
19           *criteria for medical necessity determinations made*  
20           *under the plan with respect to mental health or sub-*  
21           *stance use disorder benefits shall be made available by*  
22           *the plan administrator in accordance with regula-*  
23           *tions to any current or potential participant, bene-*  
24           *ficiary, or contracting provider upon request. The*  
25           *reason for any denial under the plan of reimburse-*

1 *ment or payment for services with respect to mental*  
2 *health or substance use disorder benefits in the case*  
3 *of any participant or beneficiary shall, on request or*  
4 *as otherwise required, be made available by the plan*  
5 *administrator to the participant or beneficiary in ac-*  
6 *cordance with regulations.*

7 “(5) *OUT-OF-NETWORK PROVIDERS.—In the case*  
8 *of a plan that provides both medical and surgical*  
9 *benefits and mental health or substance use disorder*  
10 *benefits, if the plan provides coverage for medical or*  
11 *surgical benefits provided by out-of-network providers,*  
12 *the plan shall provide coverage for mental health or*  
13 *substance use disorder benefits provided by out-of-net-*  
14 *work providers in a manner that is consistent with*  
15 *the requirements of this section.”;*

16 (2) *in subsection (b), by amending paragraph*  
17 *(2) to read as follows:*

18 “(2) *in the case of a group health plan that pro-*  
19 *vides mental health or substance use disorder benefits,*  
20 *as affecting the terms and conditions of the plan re-*  
21 *lating to such benefits under the plan, except as pro-*  
22 *vided in subsection (a).”;*

23 (3) *in subsection (c)—*

24 (A) *by amending paragraph (1) to read as*  
25 *follows:*

1           “(1) *SMALL EMPLOYER EXEMPTION.*—

2                   “(A) *IN GENERAL.*—*This section shall not*  
3 *apply to any group health plan for any plan*  
4 *year of a small employer.*

5                   “(B) *SMALL EMPLOYER.*—*For purposes of*  
6 *subparagraph (A), the term ‘small employer’*  
7 *means, with respect to a calendar year and a*  
8 *plan year, an employer who employed an aver-*  
9 *age of at least 2 (or 1 in the case of an employer*  
10 *residing in a State that permits small groups to*  
11 *include a single individual) but not more than*  
12 *50 employees on business days during the pre-*  
13 *ceding calendar year. For purposes of the pre-*  
14 *ceding sentence, all persons treated as a single*  
15 *employer under subsection (b), (c), (m), or (o) of*  
16 *section 414 shall be treated as 1 employer and*  
17 *rules similar to rules of subparagraphs (B) and*  
18 *(C) of section 4980D(d)(2) shall apply.”; and*

19                   (B) *by striking paragraph (2) and inserting*  
20 *the following:*

21           “(2) *COST EXEMPTION.*—

22                   “(A) *IN GENERAL.*—*With respect to a group*  
23 *health plan, if the application of this section to*  
24 *such plan results in an increase for the plan*  
25 *year involved of the actual total costs of coverage*

1           *with respect to medical and surgical benefits and*  
2           *mental health and substance use disorder benefits*  
3           *under the plan (as determined and certified*  
4           *under subparagraph (C)) by an amount that ex-*  
5           *ceeds the applicable percentage described in sub-*  
6           *paragraph (B) of the actual total plan costs, the*  
7           *provisions of this section shall not apply to such*  
8           *plan during the following plan year, and such*  
9           *exemption shall apply to the plan for 1 plan*  
10          *year. An employer may elect to continue to*  
11          *apply mental health and substance use disorder*  
12          *parity pursuant to this section with respect to*  
13          *the group health plan involved regardless of any*  
14          *increase in total costs.*

15                 “(B) *APPLICABLE PERCENTAGE.*—*With re-*  
16                 *spect to a plan, the applicable percentage de-*  
17                 *scribed in this subparagraph shall be—*

18                         “(i) *2 percent in the case of the first*  
19                         *plan year in which this section is applied;*  
20                         *and*

21                         “(ii) *1 percent in the case of each sub-*  
22                         *sequent plan year.*

23                 “(C) *DETERMINATIONS BY ACTUARIES.*—  
24                 *Determinations as to increases in actual costs*  
25                 *under a plan for purposes of this section shall be*



1           *made and certified by a qualified and licensed*  
2           *actuary who is a member in good standing of the*  
3           *American Academy of Actuaries. All such deter-*  
4           *minations shall be in a written report prepared*  
5           *by the actuary. The report, and all underlying*  
6           *documentation relied upon by the actuary, shall*  
7           *be maintained by the group health plan for a pe-*  
8           *riod of 6 years following the notification made*  
9           *under subparagraph (E).*

10           “(D) 6-MONTH DETERMINATIONS.—*If a*  
11           *group health plan seeks an exemption under this*  
12           *paragraph, determinations under subparagraph*  
13           *(A) shall be made after such plan has complied*  
14           *with this section for the first 6 months of the*  
15           *plan year involved.*

16           “(E) NOTIFICATION.—

17           “(i) IN GENERAL.—*A group health*  
18           *plan that, based upon a certification de-*  
19           *scribed under subparagraph (C), qualifies*  
20           *for an exemption under this paragraph,*  
21           *and elects to implement the exemption, shall*  
22           *promptly notify the Secretary, the appro-*  
23           *priate State agencies, and participants and*  
24           *beneficiaries in the plan of such election.*

1           “(ii) *REQUIREMENT.*—A notification  
2 to the Secretary under clause (i) shall in-  
3 clude—

4           “(I) a description of the number  
5 of covered lives under the plan involved  
6 at the time of the notification, and as  
7 applicable, at the time of any prior  
8 election of the cost-exemption under  
9 this paragraph by such plan;

10           “(II) for both the plan year upon  
11 which a cost exemption is sought and  
12 the year prior, a description of the ac-  
13 tual total costs of coverage with respect  
14 to medical and surgical benefits and  
15 mental health and substance use dis-  
16 order benefits under the plan; and

17           “(III) for both the plan year upon  
18 which a cost exemption is sought and  
19 the year prior, the actual total costs of  
20 coverage with respect to mental health  
21 and substance use disorder benefits  
22 under the plan.

23           “(iii) *CONFIDENTIALITY.*—A notifica-  
24 tion to the Secretary under clause (i) shall  
25 be confidential. The Secretary shall make

1           *available, upon request and on not more*  
2           *than an annual basis, an anonymous*  
3           *itemization of such notifications, that in-*  
4           *cludes—*

5                     *“(I) a breakdown of States by the*  
6                     *size and type of employers submitting*  
7                     *such notification; and*

8                     *“(II) a summary of the data re-*  
9                     *ceived under clause (ii).*

10                    *“(F) AUDITS BY APPROPRIATE AGENCIES.—*

11           *To determine compliance with this paragraph,*  
12           *the Secretary may audit the books and records of*  
13           *a group health plan relating to an exemption,*  
14           *including any actuarial reports prepared pursu-*  
15           *ant to subparagraph (C), during the 6 year pe-*  
16           *riod following the notification of such exemption*  
17           *under subparagraph (E). A State agency receiv-*  
18           *ing a notification under subparagraph (E) may*  
19           *also conduct such an audit with respect to an ex-*  
20           *emption covered by such notification.”;*

21           *(4) in subsection (e), by striking paragraph (4)*  
22           *and inserting the following:*

23                     *“(4) MENTAL HEALTH BENEFITS.—The term*  
24                     *‘mental health benefits’ means benefits with respect to*  
25                     *services for mental health conditions, as defined under*

1       *the terms of the plan and in accordance with applica-*  
2       *ble Federal and State law.*

3               “(5) *SUBSTANCE USE DISORDER BENEFITS.*—  
4       *The term ‘substance use disorder benefits’ means bene-*  
5       *fits with respect to services for substance use dis-*  
6       *orders, as defined under the terms of the plan and in*  
7       *accordance with applicable Federal and State law.”;*

8               (5) *by striking subsection (f);*

9               (6) *by striking “mental health benefits” and in-*  
10       *serting “mental health and substance use disorder*  
11       *benefits” each place it appears in subsections*  
12       *(a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);*  
13       *and*

14               (7) *by striking “mental health benefits” and in-*  
15       *serting “mental health or substance use disorder bene-*  
16       *fits” each place it appears (other than in any provi-*  
17       *sion amended by the previous paragraph).*

18       (d) *REGULATIONS.*—*Not later than 1 year after the*  
19       *date of enactment of this Act, the Secretaries of Labor,*  
20       *Health and Human Services, and the Treasury shall issue*  
21       *regulations to carry out the amendments made by sub-*  
22       *sections (a), (b), and (c), respectively.*

23       (e) *EFFECTIVE DATE.*—

24               (1) *IN GENERAL.*—*The amendments made by*  
25       *this section shall apply with respect to group health*

1 *plans for plan years beginning after the date that is*  
2 *1 year after the date of enactment of this Act, regard-*  
3 *less of whether regulations have been issued to carry*  
4 *out such amendments by such effective date, except*  
5 *that the amendments made by subsections (a)(5),*  
6 *(b)(5), and (c)(5), relating to striking of certain sun-*  
7 *set provisions, shall take effect on January 1, 2009.*

8 (2) *SPECIAL RULE FOR COLLECTIVE BARGAINING*  
9 *AGREEMENTS.—In the case of a group health plan*  
10 *maintained pursuant to one or more collective bar-*  
11 *gaining agreements between employee representatives*  
12 *and one or more employers ratified before the date of*  
13 *the enactment of this Act, the amendments made by*  
14 *this section shall not apply to plan years beginning*  
15 *before the later of—*

16 (A) *the date on which the last of the collec-*  
17 *tive bargaining agreements relating to the plan*  
18 *terminates (determined without regard to any*  
19 *extension thereof agreed to after the date of the*  
20 *enactment of this Act), or*

21 (B) *January 1, 2009.*

22 *For purposes of subparagraph (A), any plan amend-*  
23 *ment made pursuant to a collective bargaining agree-*  
24 *ment relating to the plan which amends the plan sole-*  
25 *ly to conform to any requirement added by this sec-*

1        *tion shall not be treated as a termination of such col-*  
2        *lective bargaining agreement.*

3        (f) *ASSURING COORDINATION.*—*The Secretary of*  
4        *Health and Human Services, the Secretary of Labor, and*  
5        *the Secretary of the Treasury may ensure, through the exe-*  
6        *cution or revision of an interagency memorandum of under-*  
7        *standing among such Secretaries, that—*

8            (1) *regulations, rulings, and interpretations*  
9            *issued by such Secretaries relating to the same matter*  
10           *over which two or more such Secretaries have respon-*  
11           *sibility under this section (and the amendments made*  
12           *by this section) are administered so as to have the*  
13           *same effect at all times; and*

14           (2) *coordination of policies relating to enforcing*  
15           *the same requirements through such Secretaries in*  
16           *order to have a coordinated enforcement strategy that*  
17           *avoids duplication of enforcement efforts and assigns*  
18           *priorities in enforcement.*

19        (g) *CONFORMING CLERICAL AMENDMENTS.*—

20           (1) *ERISA HEADING.*—

21           (A) *IN GENERAL.*—*The heading of section*  
22           *712 of the Employee Retirement Income Security*  
23           *Act of 1974 is amended to read as follows:*

1 **“SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE**  
2 **USE DISORDER BENEFITS.”.**

3 (B) *CLERICAL AMENDMENT.*—*The table of*  
4 *contents in section 1 of such Act is amended by*  
5 *striking the item relating to section 712 and in-*  
6 *serting the following new item:*

*“Sec. 712. Parity in mental health and substance use disorder benefits.”.*

7 (2) *PHSA HEADING.*—*The heading of section*  
8 *2705 of the Public Health Service Act is amended to*  
9 *read as follows:*

10 **“SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE**  
11 **USE DISORDER BENEFITS.”.**

12 (3) *IRC HEADING.*—

13 (A) *IN GENERAL.*—*The heading of section*  
14 *9812 of the Internal Revenue Code of 1986 is*  
15 *amended to read as follows:*

16 **“SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE**  
17 **USE DISORDER BENEFITS.”.**

18 (B) *CLERICAL AMENDMENT.*—*The table of*  
19 *sections for subchapter B of chapter 100 of such*  
20 *Code is amended by striking the item relating to*  
21 *section 9812 and inserting the following new*  
22 *item:*

*“Sec. 9812. Parity in mental health and substance use disorder benefits.”.*

1        *(h) GAO STUDY ON COVERAGE AND EXCLUSION OF*  
2 *MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAG-*  
3 *NOSES.—*

4            *(1) IN GENERAL.—The Comptroller General of*  
5 *the United States shall conduct a study that analyzes*  
6 *the specific rates, patterns, and trends in coverage*  
7 *and exclusion of specific mental health and substance*  
8 *use disorder diagnoses by health plans and health in-*  
9 *surance. The study shall include an analysis of—*

10            *(A) specific coverage rates for all mental*  
11 *health conditions and substance use disorders;*

12            *(B) which diagnoses are most commonly*  
13 *covered or excluded;*

14            *(C) whether implementation of this Act has*  
15 *affected trends in coverage or exclusion of such*  
16 *diagnoses; and*

17            *(D) the impact of covering or excluding spe-*  
18 *cific diagnoses on participants' and enrollees'*  
19 *health, their health care coverage, and the costs*  
20 *of delivering health care.*

21            *(2) REPORTS.—Not later than 3 years after the*  
22 *date of the enactment of this Act, and 2 years after*  
23 *the date of submission the first report under this*  
24 *paragraph, the Comptroller General shall submit to*



1 Congress a report on the results of the study con-  
2 ducted under paragraph (1).

3 **TITLE VI—OTHER PROVISIONS**

4 **SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-**  
5 **DETERMINATION PROGRAM.**

6 (a) *REAUTHORIZATION OF THE SECURE RURAL*  
7 *SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF*  
8 *2000.*—*The Secure Rural Schools and Community Self-De-*  
9 *termination Act of 2000 (16 U.S.C. 500 note; Public Law*  
10 *106–393) is amended by striking sections 1 through 403*  
11 *and inserting the following:*

12 **“SECTION 1. SHORT TITLE.**

13 *“This Act may be cited as the ‘Secure Rural Schools*  
14 *and Community Self-Determination Act of 2000’.*

15 **“SEC. 2. PURPOSES.**

16 *“The purposes of this Act are—*

17 *“(1) to stabilize and transition payments to*  
18 *counties to provide funding for schools and roads that*  
19 *supplements other available funds;*

20 *“(2) to make additional investments in, and cre-*  
21 *ate additional employment opportunities through,*  
22 *projects that—*

23 *“(A)(i) improve the maintenance of existing*  
24 *infrastructure;*

1           “(i) implement stewardship objectives that  
2           enhance forest ecosystems; and

3           “(iii) restore and improve land health and  
4           water quality;

5           “(B) enjoy broad-based support; and

6           “(C) have objectives that may include—

7                 “(i) road, trail, and infrastructure  
8                 maintenance or obliteration;

9                 “(ii) soil productivity improvement;

10                “(iii) improvements in forest ecosystem  
11                health;

12                “(iv) watershed restoration and main-  
13                tenance;

14                “(v) the restoration, maintenance, and  
15                improvement of wildlife and fish habitat;

16                “(vi) the control of noxious and exotic  
17                weeds; and

18                “(vii) the reestablishment of native spe-  
19                cies; and

20           “(3) to improve cooperative relationships  
21           among—

22                “(A) the people that use and care for Fed-  
23                eral land; and

24                “(B) the agencies that manage the Federal  
25                land.

1 **“SEC. 3. DEFINITIONS.**

2 *“In this Act:*

3 *“(1) ADJUSTED SHARE.—The term ‘adjusted*  
4 *share’ means the number equal to the quotient ob-*  
5 *tained by dividing—*

6 *“(A) the number equal to the quotient ob-*  
7 *tained by dividing—*

8 *“(i) the base share for the eligible coun-*  
9 *ty; by*

10 *“(ii) the income adjustment for the eli-*  
11 *gible county; by*

12 *“(B) the number equal to the sum of the*  
13 *quotients obtained under subparagraph (A) and*  
14 *paragraph (8)(A) for all eligible counties.*

15 *“(2) BASE SHARE.—The term ‘base share’ means*  
16 *the number equal to the average of—*

17 *“(A) the quotient obtained by dividing—*

18 *“(i) the number of acres of Federal*  
19 *land described in paragraph (7)(A) in each*  
20 *eligible county; by*

21 *“(ii) the total number acres of Federal*  
22 *land in all eligible counties in all eligible*  
23 *States; and*

24 *“(B) the quotient obtained by dividing—*

25 *“(i) the amount equal to the average of*  
26 *the 3 highest 25-percent payments and safe-*

1            *ty net payments made to each eligible State*  
2            *for each eligible county during the eligi-*  
3            *bility period; by*

4            *“(ii) the amount equal to the sum of*  
5            *the amounts calculated under clause (i) and*  
6            *paragraph (9)(B)(i) for all eligible counties*  
7            *in all eligible States during the eligibility*  
8            *period.*

9            *“(3) COUNTY PAYMENT.—The term ‘county pay-*  
10          *ment’ means the payment for an eligible county cal-*  
11          *culated under section 101(b).*

12          *“(4) ELIGIBLE COUNTY.—The term ‘eligible*  
13          *county’ means any county that—*

14            *“(A) contains Federal land (as defined in*  
15            *paragraph (7)); and*

16            *“(B) elects to receive a share of the State*  
17            *payment or the county payment under section*  
18            *102(b).*

19          *“(5) ELIGIBILITY PERIOD.—The term ‘eligibility*  
20          *period’ means fiscal year 1986 through fiscal year*  
21          *1999.*

22          *“(6) ELIGIBLE STATE.—The term ‘eligible State’*  
23          *means a State or territory of the United States that*  
24          *received a 25-percent payment for 1 or more fiscal*  
25          *years of the eligibility period.*

1           “(7) *FEDERAL LAND.*—*The term ‘Federal land’*  
2 *means—*

3           “(A) *land within the National Forest Sys-*  
4 *tem, as defined in section 11(a) of the Forest and*  
5 *Rangeland Renewable Resources Planning Act of*  
6 *1974 (16 U.S.C. 1609(a)) exclusive of the Na-*  
7 *tional Grasslands and land utilization projects*  
8 *designated as National Grasslands administered*  
9 *pursuant to the Act of July 22, 1937 (7 U.S.C.*  
10 *1010–1012); and*

11           “(B) *such portions of the revested Oregon*  
12 *and California Railroad and reconveyed Coos*  
13 *Bay Wagon Road grant land as are or may*  
14 *hereafter come under the jurisdiction of the De-*  
15 *partment of the Interior, which have heretofore*  
16 *or may hereafter be classified as timberlands,*  
17 *and power-site land valuable for timber, that*  
18 *shall be managed, except as provided in the*  
19 *former section 3 of the Act of August 28, 1937*  
20 *(50 Stat. 875; 43 U.S.C. 1181c), for permanent*  
21 *forest production.*

22           “(8) *50-PERCENT ADJUSTED SHARE.*—*The term*  
23 *‘50-percent adjusted share’ means the number equal to*  
24 *the quotient obtained by dividing—*

1           “(A) the number equal to the quotient ob-  
2           tained by dividing—

3                   “(i) the 50-percent base share for the  
4                   eligible county; by

5                   “(ii) the income adjustment for the eli-  
6                   gible county; by

7           “(B) the number equal to the sum of the  
8           quotients obtained under subparagraph (A) and  
9           paragraph (1)(A) for all eligible counties.

10           “(9) 50-PERCENT BASE SHARE.—The term ‘50-  
11           percent base share’ means the number equal to the av-  
12           erage of—

13                   “(A) the quotient obtained by dividing—

14                           “(i) the number of acres of Federal  
15                           land described in paragraph (7)(B) in each  
16                           eligible county; by

17                           “(ii) the total number acres of Federal  
18                           land in all eligible counties in all eligible  
19                           States; and

20                   “(B) the quotient obtained by dividing—

21                           “(i) the amount equal to the average of  
22                           the 3 highest 50-percent payments made to  
23                           each eligible county during the eligibility  
24                           period; by

1           “(i) the amount equal to the sum of  
2           the amounts calculated under clause (i) and  
3           paragraph (2)(B)(i) for all eligible counties  
4           in all eligible States during the eligibility  
5           period.

6           “(10) 50-PERCENT PAYMENT.—The term ‘50-per-  
7           cent payment’ means the payment that is the sum of  
8           the 50-percent share otherwise paid to a county pur-  
9           suant to title II of the Act of August 28, 1937 (chap-  
10          ter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the pay-  
11          ment made to a county pursuant to the Act of May  
12          24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f-  
13          1 et seq.).

14          “(11) FULL FUNDING AMOUNT.—The term ‘full  
15          funding amount’ means—

16                 “(A) \$500,000,000 for fiscal year 2008; and

17                 “(B) for fiscal year 2009 and each fiscal  
18                 year thereafter, the amount that is equal to 90  
19                 percent of the full funding amount for the pre-  
20                 ceding fiscal year.

21          “(12) INCOME ADJUSTMENT.—The term ‘income  
22          adjustment’ means the square of the quotient obtained  
23          by dividing—

24                 “(A) the per capita personal income for  
25                 each eligible county; by

1           “(B) *the median per capita personal income*  
2           *of all eligible counties.*

3           “(13) *PER CAPITA PERSONAL INCOME.*—*The*  
4           *term ‘per capita personal income’ means the most re-*  
5           *cent per capita personal income data, as determined*  
6           *by the Bureau of Economic Analysis.*

7           “(14) *SAFETY NET PAYMENTS.*—*The term ‘safety*  
8           *net payments’ means the special payment amounts*  
9           *paid to States and counties required by section 13982*  
10           *or 13983 of the Omnibus Budget Reconciliation Act*  
11           *of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43*  
12           *U.S.C. 1181f note).*

13           “(15) *SECRETARY CONCERNED.*—*The term ‘Sec-*  
14           *retary concerned’ means—*

15                   “(A) *the Secretary of Agriculture or the des-*  
16                   *ignee of the Secretary of Agriculture with respect*  
17                   *to the Federal land described in paragraph*  
18                   *(7)(A); and*

19                   “(B) *the Secretary of the Interior or the des-*  
20                   *ignee of the Secretary of the Interior with respect*  
21                   *to the Federal land described in paragraph*  
22                   *(7)(B).*

23           “(16) *STATE PAYMENT.*—*The term ‘State pay-*  
24           *ment’ means the payment for an eligible State cal-*  
25           *culated under section 101(a).*





1           “(2) *the full funding amount for the fiscal year.*

2   **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

3           “(a) *PAYMENT AMOUNTS.—Except as provided in sec-*  
4 *tion 103, the Secretary of the Treasury shall pay to—*

5           “(1) *a State or territory of the United States an*  
6 *amount equal to the sum of the amounts elected under*  
7 *subsection (b) by each county within the State or ter-*  
8 *ritory for—*

9           “(A) *if the county is eligible for the 25-per-*  
10 *cent payment, the share of the 25-percent pay-*  
11 *ment; or*

12           “(B) *the share of the State payment of the*  
13 *eligible county; and*

14           “(2) *a county an amount equal to the amount*  
15 *elected under subsection (b) by each county for—*

16           “(A) *if the county is eligible for the 50-per-*  
17 *cent payment, the 50-percent payment; or*

18           “(B) *the county payment for the eligible*  
19 *county.*

20           “(b) *ELECTION TO RECEIVE PAYMENT AMOUNT.—*

21           “(1) *ELECTION; SUBMISSION OF RESULTS.—*

22           “(A) *IN GENERAL.—The election to receive*  
23 *a share of the State payment, the county pay-*  
24 *ment, a share of the State payment and the*  
25 *county payment, a share of the 25-percent pay-*

1           *ment, the 50-percent payment, or a share of the*  
2           *25-percent payment and the 50-percent payment,*  
3           *as applicable, shall be made at the discretion of*  
4           *each affected county by August 1, 2008 (or as*  
5           *soon thereafter as the Secretary concerned deter-*  
6           *mines is practicable), and August 1 of each sec-*  
7           *ond fiscal year thereafter, in accordance with*  
8           *paragraph (2), and transmitted to the Secretary*  
9           *concerned by the Governor of each eligible State.*

10           “(B) *FAILURE TO TRANSMIT.*—*If an elec-*  
11           *tion for an affected county is not transmitted to*  
12           *the Secretary concerned by the date specified*  
13           *under subparagraph (A), the affected county*  
14           *shall be considered to have elected to receive a*  
15           *share of the State payment, the county payment,*  
16           *or a share of the State payment and the county*  
17           *payment, as applicable.*

18           “(2) *DURATION OF ELECTION.*—

19           “(A) *IN GENERAL.*—*A county election to re-*  
20           *ceive a share of the 25-percent payment or 50-*  
21           *percent payment, as applicable, shall be effective*  
22           *for 2 fiscal years.*

23           “(B) *FULL FUNDING AMOUNT.*—*If a county*  
24           *elects to receive a share of the State payment or*  
25           *the county payment, the election shall be effective*

1           *for all subsequent fiscal years through fiscal year*  
2           *2011.*

3           “(3) *SOURCE OF PAYMENT AMOUNTS.—The pay-*  
4           *ment to an eligible State or eligible county under this*  
5           *section for a fiscal year shall be derived from—*

6                   “(A) *any amounts that are appropriated to*  
7                   *carry out this Act;*

8                   “(B) *any revenues, fees, penalties, or mis-*  
9                   *cellaneous receipts, exclusive of deposits to any*  
10                   *relevant trust fund, special account, or perma-*  
11                   *nent operating funds, received by the Federal*  
12                   *Government from activities by the Bureau of*  
13                   *Land Management or the Forest Service on the*  
14                   *applicable Federal land; and*

15                   “(C) *to the extent of any shortfall, out of*  
16                   *any amounts in the Treasury of the United*  
17                   *States not otherwise appropriated.*

18           “(c) *DISTRIBUTION AND EXPENDITURE OF PAY-*  
19           *MENTS.—*

20                   “(1) *DISTRIBUTION METHOD.—A State that re-*  
21                   *ceives a payment under subsection (a) for Federal*  
22                   *land described in section 3(7)(A) shall distribute the*  
23                   *appropriate payment amount among the appropriate*  
24                   *counties in the State in accordance with—*

1           “(A) *the Act of May 23, 1908 (16 U.S.C.*  
2           *500); and*

3           “(B) *section 13 of the Act of March 1, 1911*  
4           *(36 Stat. 963; 16 U.S.C. 500).*

5           “(2) *EXPENDITURE PURPOSES.—Subject to sub-*  
6           *section (d), payments received by a State under sub-*  
7           *section (a) and distributed to counties in accordance*  
8           *with paragraph (1) shall be expended as required by*  
9           *the laws referred to in paragraph (1).*

10          “(d) *EXPENDITURE RULES FOR ELIGIBLE COUN-*  
11 *TIES.—*

12           “(1) *ALLOCATIONS.—*

13           “(A) *USE OF PORTION IN SAME MANNER AS*  
14           *25-PERCENT PAYMENT OR 50-PERCENT PAYMENT,*  
15           *AS APPLICABLE.—Except as provided in para-*  
16           *graph (3)(B), if an eligible county elects to re-*  
17           *ceive its share of the State payment or the coun-*  
18           *ty payment, not less than 80 percent, but not*  
19           *more than 85 percent, of the funds shall be ex-*  
20           *pended in the same manner in which the 25-per-*  
21           *cent payments or 50-percent payment, as appli-*  
22           *able, are required to be expended.*

23           “(B) *ELECTION AS TO USE OF BALANCE.—*  
24           *Except as provided in subparagraph (C), an eli-*  
25           *gible county shall elect to do 1 or more of the fol-*

1           *lowing with the balance of any funds not ex-*  
2           *pende*d pursuant to subparagraph (A):

3                   “(i) Reserve any portion of the balance  
4                   for projects in accordance with title II.

5                   “(ii) Reserve not more than 7 percent  
6                   of the total share for the eligible county of  
7                   the State payment or the county payment  
8                   for projects in accordance with title III.

9                   “(iii) Return the portion of the balance  
10                  not reserved under clauses (i) and (ii) to the  
11                  Treasury of the United States.

12                  “(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to  
13                  which more than \$100,000, but less than  
14                  \$350,000, is distributed for any fiscal year pur-  
15                  suant to either or both of paragraphs (1)(B) and  
16                  (2)(B) of subsection (a), the eligible county, with  
17                  respect to the balance of any funds not expended  
18                  pursuant to subparagraph (A) for that fiscal  
19                  year, shall—  
20                  year, shall—

21                   “(i) reserve any portion of the balance  
22                   for—

23                           “(I) carrying out projects under  
24                           title II;

1                   “(II) carrying out projects under  
2                   title III; or

3                   “(III) a combination of the pur-  
4                   poses described in subclauses (I) and  
5                   (II); or

6                   “(ii) return the portion of the balance  
7                   not reserved under clause (i) to the Treas-  
8                   ury of the United States.

9                   “(2) DISTRIBUTION OF FUNDS.—

10                   “(A) IN GENERAL.—Funds reserved by an  
11                   eligible county under subparagraph (B)(i) or  
12                   (C)(i) of paragraph (1) for carrying out projects  
13                   under title II shall be deposited in a special ac-  
14                   count in the Treasury of the United States.

15                   “(B) AVAILABILITY.—Amounts deposited  
16                   under subparagraph (A) shall—

17                   “(i) be available for expenditure by the  
18                   Secretary concerned, without further appro-  
19                   priation; and

20                   “(ii) remain available until expended  
21                   in accordance with title II.

22                   “(3) ELECTION.—

23                   “(A) NOTIFICATION.—

24                   “(i) IN GENERAL.—An eligible county  
25                   shall notify the Secretary concerned of an

1           *election by the eligible county under this*  
2           *subsection not later than September 30,*  
3           *2008 (or as soon thereafter as the Secretary*  
4           *concerned determines is practicable), and*  
5           *each September 30 thereafter for each suc-*  
6           *ceeding fiscal year.*

7           “(i) *FAILURE TO ELECT.*—*Except as*  
8           *provided in subparagraph (B), if the eligi-*  
9           *ble county fails to make an election by the*  
10           *date specified in clause (i), the eligible*  
11           *county shall—*

12                   “(I) *be considered to have elected*  
13                   *to expend 85 percent of the funds in*  
14                   *accordance with paragraph (1)(A); and*

15                   “(II) *return the balance to the*  
16                   *Treasury of the United States.*

17           “(B) *COUNTIES WITH MINOR DISTRIBUTIONS.*—*In the case of each eligible county to*  
18           *which less than \$100,000 is distributed for any*  
19           *fiscal year pursuant to either or both of para-*  
20           *graphs (1)(B) and (2)(B) of subsection (a), the*  
21           *eligible county may elect to expend all the funds*  
22           *in the same manner in which the 25-percent*  
23           *payments or 50-percent payments, as applicable,*  
24           *are required to be expended.*  
25



1       “(e) *TIME FOR PAYMENT.*—*The payments required*  
2 *under this section for a fiscal year shall be made as soon*  
3 *as practicable after the end of that fiscal year.*

4       **“SEC. 103. TRANSITION PAYMENTS TO STATES.**

5       “(a) *DEFINITIONS.*—*In this section:*

6               “(1) *ADJUSTED AMOUNT.*—*The term ‘adjusted*  
7 *amount’ means, with respect to a covered State—*

8                       “(A) *for fiscal year 2008, 90 percent of—*

9                               “(i) *the sum of the amounts paid for*  
10 *fiscal year 2006 under section 102(a)(2) (as*  
11 *in effect on September 29, 2006) for the eli-*  
12 *gible counties in the covered State that have*  
13 *elected under section 102(b) to receive a*  
14 *share of the State payment for fiscal year*  
15 *2008; and*

16                               “(ii) *the sum of the amounts paid for*  
17 *fiscal year 2006 under section 103(a)(2) (as*  
18 *in effect on September 29, 2006) for the eli-*  
19 *gible counties in the State of Oregon that*  
20 *have elected under section 102(b) to receive*  
21 *the county payment for fiscal year 2008;*

22                       “(B) *for fiscal year 2009, 81 percent of—*

23                               “(i) *the sum of the amounts paid for*  
24 *fiscal year 2006 under section 102(a)(2) (as*  
25 *in effect on September 29, 2006) for the eli-*

1            *gible counties in the covered State that have*  
2            *elected under section 102(b) to receive a*  
3            *share of the State payment for fiscal year*  
4            *2009; and*

5            *“(ii) the sum of the amounts paid for*  
6            *fiscal year 2006 under section 103(a)(2) (as*  
7            *in effect on September 29, 2006) for the eli-*  
8            *gible counties in the State of Oregon that*  
9            *have elected under section 102(b) to receive*  
10           *the county payment for fiscal year 2009;*  
11           *and*

12           *“(C) for fiscal year 2010, 73 percent of—*

13           *“(i) the sum of the amounts paid for*  
14           *fiscal year 2006 under section 102(a)(2) (as*  
15           *in effect on September 29, 2006) for the eli-*  
16           *gible counties in the covered State that have*  
17           *elected under section 102(b) to receive a*  
18           *share of the State payment for fiscal year*  
19           *2010; and*

20           *“(ii) the sum of the amounts paid for*  
21           *fiscal year 2006 under section 103(a)(2) (as*  
22           *in effect on September 29, 2006) for the eli-*  
23           *gible counties in the State of Oregon that*  
24           *have elected under section 102(b) to receive*  
25           *the county payment for fiscal year 2010.*

1           “(2) *COVERED STATE.*—*The term ‘covered State’*  
2           *means each of the States of California, Louisiana, Or-*  
3           *egon, Pennsylvania, South Carolina, South Dakota,*  
4           *Texas, and Washington.*

5           “(b) *TRANSITION PAYMENTS.*—*For each of fiscal years*  
6           *2008 through 2010, in lieu of the payment amounts that*  
7           *otherwise would have been made under paragraphs (1)(B)*  
8           *and (2)(B) of section 102(a), the Secretary of the Treasury*  
9           *shall pay the adjusted amount to each covered State and*  
10          *the eligible counties within the covered State, as applicable.*

11          “(c) *DISTRIBUTION OF ADJUSTED AMOUNT.*—*Except*  
12          *as provided in subsection (d), it is the intent of Congress*  
13          *that the method of distributing the payments under sub-*  
14          *section (b) among the counties in the covered States for each*  
15          *of fiscal years 2008 through 2010 be in the same proportion*  
16          *that the payments were distributed to the eligible counties*  
17          *in fiscal year 2006.*

18          “(d) *DISTRIBUTION OF PAYMENTS IN CALIFORNIA.*—  
19          *The following payments shall be distributed among the eli-*  
20          *gible counties in the State of California in the same propor-*  
21          *tion that payments under section 102(a)(2) (as in effect on*  
22          *September 29, 2006) were distributed to the eligible counties*  
23          *for fiscal year 2006:*

24                  “(1) *Payments to the State of California under*  
25                  *subsection (b).*

1           “(2) *The shares of the eligible counties of the*  
2           *State payment for California under section 102 for*  
3           *fiscal year 2011.*

4           “(e) *TREATMENT OF PAYMENTS.—For purposes of this*  
5           *Act, any payment made under subsection (b) shall be con-*  
6           *sidered to be a payment made under section 102(a).*

7           **“TITLE II—SPECIAL PROJECTS**  
8                           **ON FEDERAL LAND**

9           **“SEC. 201. DEFINITIONS.**

10           *“In this title:*

11                   “(1) *PARTICIPATING COUNTY.—The term ‘par-*  
12                   *ticipating county’ means an eligible county that elects*  
13                   *under section 102(d) to expend a portion of the Fed-*  
14                   *eral funds received under section 102 in accordance*  
15                   *with this title.*

16                   “(2) *PROJECT FUNDS.—The term ‘project funds’*  
17                   *means all funds an eligible county elects under section*  
18                   *102(d) to reserve for expenditure in accordance with*  
19                   *this title.*

20                   “(3) *RESOURCE ADVISORY COMMITTEE.—The*  
21                   *term ‘resource advisory committee’ means—*

22                           “(A) *an advisory committee established by*  
23                   *the Secretary concerned under section 205; or*

1           “(B) an advisory committee determined by  
2           the Secretary concerned to meet the requirements  
3           of section 205.

4           “(4) *RESOURCE MANAGEMENT PLAN*.—The term  
5           ‘resource management plan’ means—

6                   “(A) a land use plan prepared by the Bu-  
7                   reau of Land Management for units of the Fed-  
8                   eral land described in section 3(7)(B) pursuant  
9                   to section 202 of the Federal Land Policy and  
10                  Management Act of 1976 (43 U.S.C. 1712); or

11                   “(B) a land and resource management plan  
12                   prepared by the Forest Service for units of the  
13                   National Forest System pursuant to section 6 of  
14                   the Forest and Rangeland Renewable Resources  
15                   Planning Act of 1974 (16 U.S.C. 1604).

16   **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**  
17                   **FUNDS.**

18           “(a) *LIMITATION*.—Project funds shall be expended  
19           solely on projects that meet the requirements of this title.

20           “(b) *AUTHORIZED USES*.—Project funds may be used  
21           by the Secretary concerned for the purpose of entering into  
22           and implementing cooperative agreements with willing  
23           Federal agencies, State and local governments, private and  
24           nonprofit entities, and landowners for protection, restora-  
25           tion, and enhancement of fish and wildlife habitat, and

1 *other resource objectives consistent with the purposes of this*  
2 *Act on Federal land and on non-Federal land where projects*  
3 *would benefit the resources on Federal land.*

4 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

5 *“(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-*  
6 *RETARY CONCERNED.—*

7 *“(1) PROJECTS FUNDED USING PROJECT*  
8 *FUNDS.—Not later than September 30 for fiscal year*  
9 *2008 (or as soon thereafter as the Secretary concerned*  
10 *determines is practicable), and each September 30*  
11 *thereafter for each succeeding fiscal year through fis-*  
12 *cal year 2011, each resource advisory committee shall*  
13 *submit to the Secretary concerned a description of*  
14 *any projects that the resource advisory committee pro-*  
15 *poses the Secretary undertake using any project funds*  
16 *reserved by eligible counties in the area in which the*  
17 *resource advisory committee has geographic jurisdic-*  
18 *tion.*

19 *“(2) PROJECTS FUNDED USING OTHER FUNDS.—*  
20 *A resource advisory committee may submit to the Sec-*  
21 *retary concerned a description of any projects that the*  
22 *committee proposes the Secretary undertake using*  
23 *funds from State or local governments, or from the*  
24 *private sector, other than project funds and funds ap-*

1     *propriated and otherwise available to do similar*  
2     *work.*

3             “(3) *JOINT PROJECTS.—Participating counties*  
4     *or other persons may propose to pool project funds or*  
5     *other funds, described in paragraph (2), and jointly*  
6     *propose a project or group of projects to a resource*  
7     *advisory committee established under section 205.*

8             “(b) *REQUIRED DESCRIPTION OF PROJECTS.—In sub-*  
9     *mitting proposed projects to the Secretary concerned under*  
10    *subsection (a), a resource advisory committee shall include*  
11    *in the description of each proposed project the following in-*  
12    *formation:*

13             “(1) *The purpose of the project and a description*  
14    *of how the project will meet the purposes of this title.*

15             “(2) *The anticipated duration of the project.*

16             “(3) *The anticipated cost of the project.*

17             “(4) *The proposed source of funding for the*  
18    *project, whether project funds or other funds.*

19             “(5)(A) *Expected outcomes, including how the*  
20    *project will meet or exceed desired ecological condi-*  
21    *tions, maintenance objectives, or stewardship objec-*  
22    *tives.*

23             “(B) *An estimate of the amount of any timber,*  
24    *forage, and other commodities and other economic ac-*

1 *tivity, including jobs generated, if any, anticipated as*  
2 *part of the project.*

3 *“(6) A detailed monitoring plan, including fund-*  
4 *ing needs and sources, that—*

5 *“(A) tracks and identifies the positive or*  
6 *negative impacts of the project, implementation,*  
7 *and provides for validation monitoring; and*

8 *“(B) includes an assessment of the fol-*  
9 *lowing:*

10 *“(i) Whether or not the project met or*  
11 *exceeded desired ecological conditions; cre-*  
12 *ated local employment or training opportu-*  
13 *nities, including summer youth jobs pro-*  
14 *grams such as the Youth Conservation*  
15 *Corps where appropriate.*

16 *“(ii) Whether the project improved the*  
17 *use of, or added value to, any products re-*  
18 *moved from land consistent with the pur-*  
19 *poses of this title.*

20 *“(7) An assessment that the project is to be in*  
21 *the public interest.*

22 *“(c) AUTHORIZED PROJECTS.—Projects proposed*  
23 *under subsection (a) shall be consistent with section 2.*



1 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**  
2 **SECRETARY CONCERNED.**

3 “(a) *CONDITIONS FOR APPROVAL OF PROPOSED*  
4 *PROJECT.—The Secretary concerned may make a decision*  
5 *to approve a project submitted by a resource advisory com-*  
6 *mittee under section 203 only if the proposed project satis-*  
7 *fies each of the following conditions:*

8 “(1) *The project complies with all applicable*  
9 *Federal laws (including regulations).*

10 “(2) *The project is consistent with the applicable*  
11 *resource management plan and with any watershed*  
12 *or subsequent plan developed pursuant to the resource*  
13 *management plan and approved by the Secretary*  
14 *concerned.*

15 “(3) *The project has been approved by the re-*  
16 *source advisory committee in accordance with section*  
17 *205, including the procedures issued under subsection*  
18 *(e) of that section.*

19 “(4) *A project description has been submitted by*  
20 *the resource advisory committee to the Secretary con-*  
21 *cerned in accordance with section 203.*

22 “(5) *The project will improve the maintenance of*  
23 *existing infrastructure, implement stewardship objec-*  
24 *tives that enhance forest ecosystems, and restore and*  
25 *improve land health and water quality.*

26 “(b) *ENVIRONMENTAL REVIEWS.—*

1           “(1) *REQUEST FOR PAYMENT BY COUNTY.*—*The*  
2           *Secretary concerned may request the resource advi-*  
3           *sory committee submitting a proposed project to agree*  
4           *to the use of project funds to pay for any environ-*  
5           *mental review, consultation, or compliance with ap-*  
6           *plicable environmental laws required in connection*  
7           *with the project.*

8           “(2) *CONDUCT OF ENVIRONMENTAL REVIEW.*—*If*  
9           *a payment is requested under paragraph (1) and the*  
10          *resource advisory committee agrees to the expenditure*  
11          *of funds for this purpose, the Secretary concerned*  
12          *shall conduct environmental review, consultation, or*  
13          *other compliance responsibilities in accordance with*  
14          *Federal laws (including regulations).*

15          “(3) *EFFECT OF REFUSAL TO PAY.*—

16                 “(A) *IN GENERAL.*—*If a resource advisory*  
17                 *committee does not agree to the expenditure of*  
18                 *funds under paragraph (1), the project shall be*  
19                 *deemed withdrawn from further consideration by*  
20                 *the Secretary concerned pursuant to this title.*

21                 “(B) *EFFECT OF WITHDRAWAL.*—*A with-*  
22                 *drawal under subparagraph (A) shall be deemed*  
23                 *to be a rejection of the project for purposes of sec-*  
24                 *tion 207(c).*

25          “(c) *DECISIONS OF SECRETARY CONCERNED.*—

1           “(1) *REJECTION OF PROJECTS.*—

2                   “(A) *IN GENERAL.*—A decision by the Sec-  
3           retary concerned to reject a proposed project  
4           shall be at the sole discretion of the Secretary  
5           concerned.

6                   “(B) *NO ADMINISTRATIVE APPEAL OR JUDI-*  
7           *CIAL REVIEW.*—Notwithstanding any other pro-  
8           vision of law, a decision by the Secretary con-  
9           cerned to reject a proposed project shall not be  
10          subject to administrative appeal or judicial re-  
11          view.

12                  “(C) *NOTICE OF REJECTION.*—Not later  
13          than 30 days after the date on which the Sec-  
14          retary concerned makes the rejection decision, the  
15          Secretary concerned shall notify in writing the  
16          resource advisory committee that submitted the  
17          proposed project of the rejection and the reasons  
18          for rejection.

19                  “(2) *NOTICE OF PROJECT APPROVAL.*—The Sec-  
20          retary concerned shall publish in the *Federal Register*  
21          notice of each project approved under subsection (a)  
22          if the notice would be required had the project origi-  
23          nated with the Secretary.

24                  “(d) *SOURCE AND CONDUCT OF PROJECT.*—Once the  
25          Secretary concerned accepts a project for review under sec-

1 *tion 203, the acceptance shall be deemed a Federal action*  
2 *for all purposes.*

3 “(e) *IMPLEMENTATION OF APPROVED PROJECTS.—*

4 “(1) *COOPERATION.—Notwithstanding chapter*  
5 *63 of title 31, United States Code, using project funds*  
6 *the Secretary concerned may enter into contracts,*  
7 *grants, and cooperative agreements with States and*  
8 *local governments, private and nonprofit entities, and*  
9 *landowners and other persons to assist the Secretary*  
10 *in carrying out an approved project.*

11 “(2) *BEST VALUE CONTRACTING.—*

12 “(A) *IN GENERAL.—For any project involv-*  
13 *ing a contract authorized by paragraph (1) the*  
14 *Secretary concerned may elect a source for per-*  
15 *formance of the contract on a best value basis.*

16 “(B) *FACTORS.—The Secretary concerned*  
17 *shall determine best value based on such factors*  
18 *as—*

19 “(i) *the technical demands and com-*  
20 *plexity of the work to be done;*

21 “(ii)(I) *the ecological objectives of the*  
22 *project; and*

23 “(II) *the sensitivity of the resources*  
24 *being treated;*

1           “(iii) *the past experience by the con-*  
2           *tractor with the type of work being done,*  
3           *using the type of equipment proposed for*  
4           *the project, and meeting or exceeding de-*  
5           *sired ecological conditions; and*

6           “(iv) *the commitment of the contractor*  
7           *to hiring highly qualified workers and local*  
8           *residents.*

9           “(3) *MERCHANTABLE TIMBER CONTRACTING*  
10          *PILOT PROGRAM.—*

11           “(A) *ESTABLISHMENT.—The Secretary con-*  
12           *cerned shall establish a pilot program to imple-*  
13           *ment a certain percentage of approved projects*  
14           *involving the sale of merchantable timber using*  
15           *separate contracts for—*

16           “(i) *the harvesting or collection of mer-*  
17           *chantable timber; and*

18           “(ii) *the sale of the timber.*

19           “(B) *ANNUAL PERCENTAGES.—Under the*  
20           *pilot program, the Secretary concerned shall en-*  
21           *sure that, on a nationwide basis, not less than*  
22           *the following percentage of all approved projects*  
23           *involving the sale of merchantable timber are*  
24           *implemented using separate contracts:*

25           “(i) *For fiscal year 2008, 35 percent.*

1                   “(ii) For fiscal year 2009, 45 percent.

2                   “(iii) For each of fiscal years 2010 and  
3                   2011, 50 percent.

4                   “(C) *INCLUSION IN PILOT PROGRAM.*—*The*  
5                   *decision whether to use separate contracts to im-*  
6                   *plement a project involving the sale of merchant-*  
7                   *able timber shall be made by the Secretary con-*  
8                   *cerned after the approval of the project under*  
9                   *this title.*

10                   “(D) *ASSISTANCE.*—

11                   “(i) *IN GENERAL.*—*The Secretary con-*  
12                   *cerned may use funds from any appro-*  
13                   *priated account available to the Secretary*  
14                   *for the Federal land to assist in the admin-*  
15                   *istration of projects conducted under the*  
16                   *pilot program.*

17                   “(ii) *MAXIMUM AMOUNT OF ASSIST-*  
18                   *ANCE.*—*The total amount obligated under*  
19                   *this subparagraph may not exceed*  
20                   *\$1,000,000 for any fiscal year during which*  
21                   *the pilot program is in effect.*

22                   “(E) *REVIEW AND REPORT.*—

23                   “(i) *INITIAL REPORT.*—*Not later than*  
24                   *September 30, 2010, the Comptroller Gen-*  
25                   *eral shall submit to the Committees on Ag-*

1            *riculture, Nutrition, and Forestry and En-*  
2            *ergy and Natural Resources of the Senate*  
3            *and the Committees on Agriculture and*  
4            *Natural Resources of the House of Rep-*  
5            *resentatives a report assessing the pilot pro-*  
6            *gram.*

7            “(ii) *ANNUAL REPORT.—The Secretary*  
8            *concerned shall submit to the Committees on*  
9            *Agriculture, Nutrition, and Forestry and*  
10           *Energy and Natural Resources of the Senate*  
11           *and the Committees on Agriculture and*  
12           *Natural Resources of the House of Rep-*  
13           *resentatives an annual report describing the*  
14           *results of the pilot program.*

15           “(f) *REQUIREMENTS FOR PROJECT FUNDS.—The Sec-*  
16           *retary shall ensure that at least 50 percent of all project*  
17           *funds be used for projects that are primarily dedicated—*

18                    “(1) *to road maintenance, decommissioning, or*  
19                    *obliteration; or*

20                    “(2) *to restoration of streams and watersheds.*

21           **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

22                    “(a) *ESTABLISHMENT AND PURPOSE OF RESOURCE*  
23           *ADVISORY COMMITTEES.—*

24                    “(1) *ESTABLISHMENT.—The Secretary concerned*  
25           *shall establish and maintain resource advisory com-*

1 *mittees to perform the duties in subsection (b), except*  
2 *as provided in paragraph (4).*

3 “(2) *PURPOSE.—The purpose of a resource advi-*  
4 *sory committee shall be—*

5 “(A) *to improve collaborative relationships;*  
6 *and*

7 “(B) *to provide advice and recommenda-*  
8 *tions to the land management agencies consistent*  
9 *with the purposes of this title.*

10 “(3) *ACCESS TO RESOURCE ADVISORY COMMIT-*  
11 *TEES.—To ensure that each unit of Federal land has*  
12 *access to a resource advisory committee, and that*  
13 *there is sufficient interest in participation on a com-*  
14 *mittee to ensure that membership can be balanced in*  
15 *terms of the points of view represented and the func-*  
16 *tions to be performed, the Secretary concerned may,*  
17 *establish resource advisory committees for part of, or*  
18 *1 or more, units of Federal land.*

19 “(4) *EXISTING ADVISORY COMMITTEES.—*

20 “(A) *IN GENERAL.—An advisory committee*  
21 *that meets the requirements of this section, a re-*  
22 *source advisory committee established before Sep-*  
23 *tember 29, 2006, or an advisory committee deter-*  
24 *mined by the Secretary concerned before Sep-*  
25 *tember 29, 2006, to meet the requirements of this*



1           *section may be deemed by the Secretary con-*  
2           *cerned to be a resource advisory committee for*  
3           *the purposes of this title.*

4           “(B) *CHARTER.*—*A charter for a committee*  
5           *described in subparagraph (A) that was filed on*  
6           *or before September 29, 2006, shall be considered*  
7           *to be filed for purposes of this Act.*

8           “(C) *BUREAU OF LAND MANAGEMENT ADVI-*  
9           *SORY COMMITTEES.*—*The Secretary of the Inte-*  
10          *rior may deem a resource advisory committee*  
11          *meeting the requirements of subpart 1784 of part*  
12          *1780 of title 43, Code of Federal Regulations, as*  
13          *a resource advisory committee for the purposes of*  
14          *this title.*

15          “(b) *DUTIES.*—*A resource advisory committee shall—*

16                “(1) *review projects proposed under this title by*  
17                *participating counties and other persons;*

18                “(2) *propose projects and funding to the Sec-*  
19                *retary concerned under section 203;*

20                “(3) *provide early and continuous coordination*  
21                *with appropriate land management agency officials*  
22                *in recommending projects consistent with purposes of*  
23                *this Act under this title;*

24                “(4) *provide frequent opportunities for citizens,*  
25                *organizations, tribes, land management agencies, and*

1 *other interested parties to participate openly and*  
2 *meaningfully, beginning at the early stages of the*  
3 *project development process under this title;*

4 *“(5)(A) monitor projects that have been approved*  
5 *under section 204; and*

6 *“(B) advise the designated Federal official on the*  
7 *progress of the monitoring efforts under subparagraph*  
8 *(A); and*

9 *“(6) make recommendations to the Secretary*  
10 *concerned for any appropriate changes or adjustments*  
11 *to the projects being monitored by the resource advi-*  
12 *sory committee.*

13 *“(c) APPOINTMENT BY THE SECRETARY.—*

14 *“(1) APPOINTMENT AND TERM.—*

15 *“(A) IN GENERAL.—The Secretary con-*  
16 *cerned, shall appoint the members of resource ad-*  
17 *visory committees for a term of 4 years begin-*  
18 *ning on the date of appointment.*

19 *“(B) REAPPOINTMENT.—The Secretary con-*  
20 *cerned may reappoint members to subsequent 4-*  
21 *year terms.*

22 *“(2) BASIC REQUIREMENTS.—The Secretary con-*  
23 *cerned shall ensure that each resource advisory com-*  
24 *mittee established meets the requirements of subsection*  
25 *(d).*

1           “(3) *INITIAL APPOINTMENT.*—Not later than 180  
2           *days after the date of the enactment of this Act, the*  
3           *Secretary concerned shall make initial appointments*  
4           *to the resource advisory committees.*

5           “(4) *VACANCIES.*—The Secretary concerned shall  
6           *make appointments to fill vacancies on any resource*  
7           *advisory committee as soon as practicable after the*  
8           *vacancy has occurred.*

9           “(5) *COMPENSATION.*—Members of the resource  
10           *advisory committees shall not receive any compensa-*  
11           *tion.*

12           “(d) *COMPOSITION OF ADVISORY COMMITTEE.*—

13           “(1) *NUMBER.*—Each resource advisory com-  
14           *mittee shall be comprised of 15 members.*

15           “(2) *COMMUNITY INTERESTS REPRESENTED.*—  
16           *Committee members shall be representative of the in-*  
17           *terests of the following 3 categories:*

18           “(A) 5 persons that—

19           “(i) represent organized labor or non-  
20           *timber forest product harvester groups;*

21           “(ii) represent developed outdoor recre-  
22           *ation, off highway vehicle users, or commer-*  
23           *cial recreation activities;*

24           “(iii) represent—

1                   “(I) energy and mineral develop-  
2                   ment interests; or

3                   “(II) commercial or recreational  
4                   fishing interests;

5                   “(iv) represent the commercial timber  
6                   industry; or

7                   “(v) hold Federal grazing or other land  
8                   use permits, or represent nonindustrial pri-  
9                   vate forest land owners, within the area for  
10                  which the committee is organized.

11                 “(B) 5 persons that represent—

12                   “(i) nationally recognized environ-  
13                   mental organizations;

14                   “(ii) regionally or locally recognized  
15                   environmental organizations;

16                   “(iii) dispersed recreational activities;

17                   “(iv) archaeological and historical in-  
18                   terests; or

19                   “(v) nationally or regionally recog-  
20                   nized wild horse and burro interest groups,  
21                   wildlife or hunting organizations, or water-  
22                   shed associations.

23                 “(C) 5 persons that—

24                   “(i) hold State elected office (or a des-  
25                   ignee);

1                   “(ii) hold county or local elected office;

2                   “(iii) represent American Indian tribes  
3                   within or adjacent to the area for which the  
4                   committee is organized;

5                   “(iv) are school officials or teachers; or

6                   “(v) represent the affected public at  
7                   large.

8                   “(3) *BALANCED REPRESENTATION.*—*In appoint-*  
9                   *ing committee members from the 3 categories in para-*  
10                  *graph (2), the Secretary concerned shall provide for*  
11                  *balanced and broad representation from within each*  
12                  *category.*

13                  “(4) *GEOGRAPHIC DISTRIBUTION.*—*The members*  
14                  *of a resource advisory committee shall reside within*  
15                  *the State in which the committee has jurisdiction*  
16                  *and, to extent practicable, the Secretary concerned*  
17                  *shall ensure local representation in each category in*  
18                  *paragraph (2).*

19                  “(5) *CHAIRPERSON.*—*A majority on each re-*  
20                  *source advisory committee shall select the chairperson*  
21                  *of the committee.*

22                  “(e) *APPROVAL PROCEDURES.*—

23                  “(1) *IN GENERAL.*—*Subject to paragraph (3),*  
24                  *each resource advisory committee shall establish pro-*

1 *cedures for proposing projects to the Secretary con-*  
2 *cerned under this title.*

3 “(2) *QUORUM.*—*A quorum must be present to*  
4 *constitute an official meeting of the committee.*

5 “(3) *APPROVAL BY MAJORITY OF MEMBERS.*—*A*  
6 *project may be proposed by a resource advisory com-*  
7 *mittee to the Secretary concerned under section*  
8 *203(a), if the project has been approved by a majority*  
9 *of members of the committee from each of the 3 cat-*  
10 *egories in subsection (d)(2).*

11 “(f) *OTHER COMMITTEE AUTHORITIES AND REQUIRE-*  
12 *MENTS.*—

13 “(1) *STAFF ASSISTANCE.*—*A resource advisory*  
14 *committee may submit to the Secretary concerned a*  
15 *request for periodic staff assistance from Federal em-*  
16 *ployees under the jurisdiction of the Secretary.*

17 “(2) *MEETINGS.*—*All meetings of a resource ad-*  
18 *visory committee shall be announced at least 1 week*  
19 *in advance in a local newspaper of record and shall*  
20 *be open to the public.*

21 “(3) *RECORDS.*—*A resource advisory committee*  
22 *shall maintain records of the meetings of the com-*  
23 *mittee and make the records available for public in-*  
24 *spection.*

1 **“SEC. 206. USE OF PROJECT FUNDS.**

2       “(a) *AGREEMENT REGARDING SCHEDULE AND COST*  
3 *OF PROJECT.*—

4               “(1) *AGREEMENT BETWEEN PARTIES.*—*The Sec-*  
5 *retary concerned may carry out a project submitted*  
6 *by a resource advisory committee under section*  
7 *203(a) using project funds or other funds described in*  
8 *section 203(a)(2), if, as soon as practicable after the*  
9 *issuance of a decision document for the project and*  
10 *the exhaustion of all administrative appeals and judi-*  
11 *cial review of the project decision, the Secretary con-*  
12 *cerned and the resource advisory committee enter into*  
13 *an agreement addressing, at a minimum, the fol-*  
14 *lowing:*

15               “(A) *The schedule for completing the*  
16 *project.*

17               “(B) *The total cost of the project, including*  
18 *the level of agency overhead to be assessed*  
19 *against the project.*

20               “(C) *For a multiyear project, the estimated*  
21 *cost of the project for each of the fiscal years in*  
22 *which it will be carried out.*

23               “(D) *The remedies for failure of the Sec-*  
24 *retary concerned to comply with the terms of the*  
25 *agreement consistent with current Federal law.*

1           “(2) *LIMITED USE OF FEDERAL FUNDS.*—*The*  
2           *Secretary concerned may decide, at the sole discretion*  
3           *of the Secretary concerned, to cover the costs of a por-*  
4           *tion of an approved project using Federal funds ap-*  
5           *propriated or otherwise available to the Secretary for*  
6           *the same purposes as the project.*

7           “(b) *TRANSFER OF PROJECT FUNDS.*—

8           “(1) *INITIAL TRANSFER REQUIRED.*—*As soon as*  
9           *practicable after the agreement is reached under sub-*  
10          *section (a) with regard to a project to be funded in*  
11          *whole or in part using project funds, or other funds*  
12          *described in section 203(a)(2), the Secretary con-*  
13          *cerned shall transfer to the applicable unit of Na-*  
14          *tional Forest System land or Bureau of Land Man-*  
15          *agement District an amount of project funds equal*  
16          *to—*

17               “(A) *in the case of a project to be completed*  
18               *in a single fiscal year, the total amount specified*  
19               *in the agreement to be paid using project funds,*  
20               *or other funds described in section 203(a)(2); or*

21               “(B) *in the case of a multiyear project, the*  
22               *amount specified in the agreement to be paid*  
23               *using project funds, or other funds described in*  
24               *section 203(a)(2) for the first fiscal year.*



1           “(2) *CONDITION ON PROJECT COMMENCEMENT.*—  
2           *The unit of National Forest System land or Bureau*  
3           *of Land Management District concerned, shall not*  
4           *commence a project until the project funds, or other*  
5           *funds described in section 203(a)(2) required to be*  
6           *transferred under paragraph (1) for the project, have*  
7           *been made available by the Secretary concerned.*

8           “(3) *SUBSEQUENT TRANSFERS FOR MULTIYEAR*  
9           *PROJECTS.*—

10           “(A) *IN GENERAL.*—*For the second and sub-*  
11           *sequent fiscal years of a multiyear project to be*  
12           *funded in whole or in part using project funds,*  
13           *the unit of National Forest System land or Bu-*  
14           *reau of Land Management District concerned*  
15           *shall use the amount of project funds required to*  
16           *continue the project in that fiscal year according*  
17           *to the agreement entered into under subsection*  
18           *(a).*

19           “(B) *SUSPENSION OF WORK.*—*The Sec-*  
20           *retary concerned shall suspend work on the*  
21           *project if the project funds required by the agree-*  
22           *ment in the second and subsequent fiscal years*  
23           *are not available.*

1 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

2       “(a) *SUBMISSION OF PROPOSED PROJECTS TO OBLI-*  
3 *GATE FUNDS.—By September 30, 2008 (or as soon there-*  
4 *after as the Secretary concerned determines is practicable),*  
5 *and each September 30 thereafter for each succeeding fiscal*  
6 *year through fiscal year 2011, a resource advisory com-*  
7 *mittee shall submit to the Secretary concerned pursuant to*  
8 *section 203(a)(1) a sufficient number of project proposals*  
9 *that, if approved, would result in the obligation of at least*  
10 *the full amount of the project funds reserved by the partici-*  
11 *pating county in the preceding fiscal year.*

12       “(b) *USE OR TRANSFER OF UNOBLIGATED FUNDS.—*  
13 *Subject to section 208, if a resource advisory committee fails*  
14 *to comply with subsection (a) for a fiscal year, any project*  
15 *funds reserved by the participating county in the preceding*  
16 *fiscal year and remaining unobligated shall be available for*  
17 *use as part of the project submissions in the next fiscal year.*

18       “(c) *EFFECT OF REJECTION OF PROJECTS.—Subject*  
19 *to section 208, any project funds reserved by a partici-*  
20 *pating county in the preceding fiscal year that are unobli-*  
21 *gated at the end of a fiscal year because the Secretary con-*  
22 *cerned has rejected one or more proposed projects shall be*  
23 *available for use as part of the project submissions in the*  
24 *next fiscal year.*

25       “(d) *EFFECT OF COURT ORDERS.—*

1           “(1) *IN GENERAL.*—*If an approved project under*  
2           *this Act is enjoined or prohibited by a Federal court,*  
3           *the Secretary concerned shall return the unobligated*  
4           *project funds related to the project to the partici-*  
5           *parting county or counties that reserved the funds.*

6           “(2) *EXPENDITURE OF FUNDS.*—*The returned*  
7           *funds shall be available for the county to expend in*  
8           *the same manner as the funds reserved by the county*  
9           *under subparagraph (B) or (C)(i) of section*  
10          *102(d)(1).*

11   **“SEC. 208. TERMINATION OF AUTHORITY.**

12          “(a) *IN GENERAL.*—*The authority to initiate projects*  
13          *under this title shall terminate on September 30, 2011.*

14          “(b) *DEPOSITS IN TREASURY.*—*Any project funds not*  
15          *obligated by September 30, 2012, shall be deposited in the*  
16          *Treasury of the United States.*

17          **“TITLE III—COUNTY FUNDS**

18   **“SEC. 301. DEFINITIONS.**

19          *“In this title:*

20               “(1) *COUNTY FUNDS.*—*The term ‘county funds’*  
21               *means all funds an eligible county elects under section*  
22               *102(d) to reserve for expenditure in accordance with*  
23               *this title.*

24               “(2) *PARTICIPATING COUNTY.*—*The term ‘par-*  
25               *ticipating county’ means an eligible county that elects*

1       *under section 102(d) to expend a portion of the Fed-*  
2       *eral funds received under section 102 in accordance*  
3       *with this title.*

4       **“SEC. 302. USE.**

5       “(a) *AUTHORIZED USES.—A participating county,*  
6       *including any applicable agencies of the participating*  
7       *county, shall use county funds, in accordance with this title,*  
8       *only—*

9               “(1) *to carry out activities under the Firewise*  
10       *Communities program to provide to homeowners in*  
11       *fire-sensitive ecosystems education on, and assistance*  
12       *with implementing, techniques in home siting, home*  
13       *construction, and home landscaping that can increase*  
14       *the protection of people and property from wildfires;*

15               “(2) *to reimburse the participating county for*  
16       *search and rescue and other emergency services, in-*  
17       *cluding firefighting, that are—*

18                       “(A) *performed on Federal land after the*  
19       *date on which the use was approved under sub-*  
20       *section (b);*

21                       “(B) *paid for by the participating county;*  
22       *and*

23               “(3) *to develop community wildfire protection*  
24       *plans in coordination with the appropriate Secretary*  
25       *concerned.*

1       “(b) *PROPOSALS.*—A participating county shall use  
2 county funds for a use described in subsection (a) only after  
3 a 45-day public comment period, at the beginning of which  
4 the participating county shall—

5               “(1) publish in any publications of local record  
6 a proposal that describes the proposed use of the coun-  
7 ty funds; and

8               “(2) submit the proposal to any resource advi-  
9 sory committee established under section 205 for the  
10 participating county.

11 **“SEC. 303. CERTIFICATION.**

12       “(a) *IN GENERAL.*—Not later than February 1 of the  
13 year after the year in which any county funds were ex-  
14 pended by a participating county, the appropriate official  
15 of the participating county shall submit to the Secretary  
16 concerned a certification that the county funds expended in  
17 the applicable year have been used for the uses authorized  
18 under section 302(a), including a description of the  
19 amounts expended and the uses for which the amounts were  
20 expended.

21       “(b) *REVIEW.*—The Secretary concerned shall review  
22 the certifications submitted under subsection (a) as the Sec-  
23 retary concerned determines to be appropriate.



1       **(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES**  
 2 **AND COUNTIES.**—

3           (1) *ACT OF MAY 23, 1908.*—*The sixth paragraph*  
 4 *under the heading “FOREST SERVICE” in the Act*  
 5 *of May 23, 1908 (16 U.S.C. 500) is amended in the*  
 6 *first sentence by striking “twenty-five percentum”*  
 7 *and all that follows through “shall be paid” and in-*  
 8 *serting the following: “an amount equal to the annual*  
 9 *average of 25 percent of all amounts received for the*  
 10 *applicable fiscal year and each of the preceding 6 fis-*  
 11 *cal years from each national forest shall be paid”.*

12           (2) *WEEKS LAW.*—*Section 13 of the Act of*  
 13 *March 1, 1911 (commonly known as the “Weeks*  
 14 *Law”)* (16 U.S.C. 500) *is amended in the first sen-*  
 15 *tence by striking “twenty-five percentum” and all*  
 16 *that follows through “shall be paid” and inserting the*  
 17 *following: “an amount equal to the annual average of*  
 18 *25 percent of all amounts received for the applicable*  
 19 *fiscal year and each of the preceding 6 fiscal years*  
 20 *from each national forest shall be paid”.*

21       **(c) PAYMENTS IN LIEU OF TAXES.**—

22           (1) *IN GENERAL.*—*Section 6906 of title 31,*  
 23 *United States Code, is amended to read as follows:*

24       **“§ 6906. Funding**

25       *“For each of fiscal years 2008 through 2012—*

1           “(1) each county or other eligible unit of local  
2 government shall be entitled to payment under this  
3 chapter; and

4           “(2) sums shall be made available to the Sec-  
5 retary of the Interior for obligation or expenditure in  
6 accordance with this chapter.”.

7           (2) *CONFORMING AMENDMENT.*—*The table of sec-*  
8 *tions for chapter 69 of title 31, United States Code,*  
9 *is amended by striking the item relating to section*  
10 *6906 and inserting the following:*

*“6906. Funding.”.*

11           (3) *BUDGET SCOREKEEPING.*—

12           (A) *IN GENERAL.*—*Notwithstanding the*  
13 *Budget Scorekeeping Guidelines and the accom-*  
14 *panying list of programs and accounts set forth*  
15 *in the joint explanatory statement of the com-*  
16 *mittee of conference accompanying Conference*  
17 *Report 105–217, the section in this title regard-*  
18 *ing Payments in Lieu of Taxes shall be treated*  
19 *in the baseline for purposes of section 257 of the*  
20 *Balanced Budget and Emergency Deficit Control*  
21 *Act of 1985 (as in effect prior to September 30,*  
22 *2002), and by the Chairmen of the House and*  
23 *Senate Budget Committees, as appropriate, for*  
24 *purposes of budget enforcement in the House and*  
25 *Senate, and under the Congressional Budget Act*



1           of 1974 as if Payment in Lieu of Taxes (14–  
2           1114–0–1–806) were an account designated as  
3           Appropriated Entitlements and Mandatories for  
4           Fiscal Year 1997 in the joint explanatory state-  
5           ment of the committee of conference accom-  
6           panying Conference Report 105–217.

7           (B) *EFFECTIVE DATE.*—This paragraph  
8           shall remain in effect for the fiscal years to  
9           which the entitlement in section 6906 of title 31,  
10          United States Code (as amended by paragraph  
11          (1)), applies.

12 **SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION**  
13           **FUND.**

14          Subparagraph (C) of section 402(i)(1) of the Surface  
15          Mining Control and Reclamation Act of 1977 (30 U.S.C.  
16          1232(i)(1)) is amended by striking “and \$9,000,000 on Oc-  
17          tober 1, 2009” and inserting “\$9,000,000 on October 1,  
18          2009, and \$9,000,000 on October 1, 2010”.

19           **TITLE VII—DISASTER RELIEF**  
20           **Subtitle A—Heartland and**  
21           **Hurricane Ike Disaster Relief**

22 **SEC. 701. SHORT TITLE.**

23          This subtitle may be cited as the “Heartland Disaster  
24          Tax Relief Act of 2008”.

1 **SEC. 702. TEMPORARY TAX RELIEF FOR AREAS DAMAGED**  
2 **BY 2008 MIDWESTERN SEVERE STORMS, TOR-**  
3 **NADOS, AND FLOODING.**

4 (a) *IN GENERAL.*—Subject to the modifications de-  
5 scribed in this section, the following provisions of or relat-  
6 ing to the Internal Revenue Code of 1986 shall apply to  
7 any Midwestern disaster area in addition to the areas to  
8 which such provisions otherwise apply:

9 (1) *GO ZONE BENEFITS.*—

10 (A) *Section 1400N (relating to tax benefits)*  
11 *other than subsections (b), (d), (e), (i), (j), (m),*  
12 *and (o) thereof.*

13 (B) *Section 1400O (relating to education*  
14 *tax benefits).*

15 (C) *Section 1400P (relating to housing tax*  
16 *benefits).*

17 (D) *Section 1400Q (relating to special rules*  
18 *for use of retirement funds).*

19 (E) *Section 1400R(a) (relating to employee*  
20 *retention credit for employers).*

21 (F) *Section 1400S (relating to additional*  
22 *tax relief) other than subsection (d) thereof.*

23 (G) *Section 1400T (relating to special rules*  
24 *for mortgage revenue bonds).*

25 (2) *OTHER BENEFITS INCLUDED IN KATRINA*  
26 *EMERGENCY TAX RELIEF ACT OF 2005.*—Sections 302,

1     303, 304, 401, and 405 of the *Katrina Emergency*  
2     *Tax Relief Act of 2005.*

3     **(b) MIDWESTERN DISASTER AREA.—**

4             **(1) IN GENERAL.—***For purposes of this section*  
5     *and for applying the substitutions described in sub-*  
6     *sections (d) and (e), the term “Midwestern disaster*  
7     *area” means an area—*

8                     **(A)** *with respect to which a major disaster*  
9     *has been declared by the President on or after*  
10    *May 20, 2008, and before August 1, 2008, under*  
11    *section 401 of the Robert T. Stafford Disaster*  
12    *Relief and Emergency Assistance Act by reason*  
13    *of severe storms, tornados, or flooding occurring*  
14    *in any of the States of Arkansas, Illinois, Indi-*  
15    *ana, Iowa, Kansas, Michigan, Minnesota, Mis-*  
16    *souri, Nebraska, and Wisconsin, and*

17                     **(B)** *determined by the President to warrant*  
18    *individual or individual and public assistance*  
19    *from the Federal Government under such Act*  
20    *with respect to damages attributable to such se-*  
21    *vere storms, tornados, or flooding.*

22             **(2) CERTAIN BENEFITS AVAILABLE TO AREAS EL-**  
23     **IGIBLE ONLY FOR PUBLIC ASSISTANCE.—***For purposes*  
24     *of applying this section to benefits under the following*

1 *provisions, paragraph (1) shall be applied without re-*  
2 *gard to subparagraph (B):*

3 (A) *Sections 1400Q, 1400S(b), and*  
4 *1400S(d) of the Internal Revenue Code of 1986.*

5 (B) *Sections 302, 401, and 405 of the*  
6 *Katrina Emergency Tax Relief Act of 2005.*

7 (c) *REFERENCES.—*

8 (1) *AREA.—Any reference in such provisions to*  
9 *the Hurricane Katrina disaster area or the Gulf Op-*  
10 *portunity Zone shall be treated as a reference to any*  
11 *Midwestern disaster area and any reference to the*  
12 *Hurricane Katrina disaster area or the Gulf Oppor-*  
13 *tunity Zone within a State shall be treated as a ref-*  
14 *erence to all Midwestern disaster areas within the*  
15 *State.*

16 (2) *ITEMS ATTRIBUTABLE TO DISASTER.—Any*  
17 *reference in such provisions to any loss, damage, or*  
18 *other item attributable to Hurricane Katrina shall be*  
19 *treated as a reference to any loss, damage, or other*  
20 *item attributable to the severe storms, tornados, or*  
21 *flooding giving rise to any Presidential declaration*  
22 *described in subsection (b)(1)(A).*

23 (3) *APPLICABLE DISASTER DATE.—For purposes*  
24 *of applying the substitutions described in subsections*  
25 *(d) and (e), the term “applicable disaster date”*

1       *means, with respect to any Midwestern disaster area,*  
2       *the date on which the severe storms, tornados, or*  
3       *flooding giving rise to the Presidential declaration de-*  
4       *scribed in subsection (b)(1)(A) occurred.*

5       *(d) MODIFICATIONS TO 1986 CODE.—The following*  
6       *provisions of the Internal Revenue Code of 1986 shall be*  
7       *applied with the following modifications:*

8               *(1) TAX-EXEMPT BOND FINANCING.—Section*  
9       *1400N(a)—*

10               *(A) by substituting “qualified Midwestern*  
11               *disaster area bond” for “qualified Gulf Oppor-*  
12               *tunity Zone Bond” each place it appears, except*  
13               *that in determining whether a bond is a quali-*  
14               *fied Midwestern disaster area bond—*

15                       *(i) paragraph (2)(A)(i) shall be ap-*  
16                       *plied by only treating costs as qualified*  
17                       *project costs if—*

18                               *(I) in the case of a project involv-*  
19                               *ing a private business use (as defined*  
20                               *in section 141(b)(6)), either the person*  
21                               *using the property suffered a loss in a*  
22                               *trade or business attributable to the se-*  
23                               *vere storms, tornados, or flooding giv-*  
24                               *ing rise to any Presidential declara-*  
25                               *tion described in subsection (b)(1)(A)*

1            *or is a person designated for purposes*  
2            *of this section by the Governor of the*  
3            *State in which the project is located as*  
4            *a person carrying on a trade or busi-*  
5            *ness replacing a trade or business with*  
6            *respect to which another person suf-*  
7            *fered such a loss, and*

8            *(II) in the case of a project relat-*  
9            *ing to public utility property, the*  
10           *project involves repair or reconstruc-*  
11           *tion of public utility property dam-*  
12           *aged by such severe storms, tornados,*  
13           *or flooding, and*

14           *(ii) paragraph (2)(A)(i) shall be ap-*  
15           *plied by treating an issue as a qualified*  
16           *mortgage issue only if 95 percent or more of*  
17           *the net proceeds (as defined in section*  
18           *150(a)(3)) of the issue are to be used to pro-*  
19           *vide financing for mortgagors who suffered*  
20           *damages to their principal residences at-*  
21           *tributable to such severe storms, tornados,*  
22           *or flooding.*

23           *(B) by substituting “any State in which a*  
24           *Midwestern disaster area is located” for “the*

1        *State of Alabama, Louisiana, or Mississippi” in*  
2        *paragraph (2)(B),*

3                *(C) by substituting “designated for purposes*  
4        *of this section (on the basis of providing assist-*  
5        *ance to areas in the order in which such assist-*  
6        *ance is most needed)” for “designated for pur-*  
7        *poses of this section” in paragraph (2)(C),*

8                *(D) by substituting “January 1, 2013” for*  
9        *“January 1, 2011” in paragraph (2)(D),*

10               *(E) in paragraph (3)(A)—*

11                    *(i) by substituting “\$1,000” for*  
12                    *“\$2,500”, and*

13                    *(ii) by substituting “before the earliest*  
14                    *applicable disaster date for Midwestern dis-*  
15                    *aster areas within the State” for “before*  
16                    *August 28, 2005”,*

17                *(F) by substituting “qualified Midwestern*  
18        *disaster area repair or construction” for “quali-*  
19        *fied GO Zone repair or construction” each place*  
20        *it appears,*

21                *(G) by substituting “after the date of the en-*  
22        *actment of the Heartland Disaster Tax Relief*  
23        *Act of 2008 and before January 1, 2013” for*  
24        *“after the date of the enactment of this para-*

1           *graph and before January 1, 2011” in para-*  
2           *graph (7)(C), and*

3           *(H) by disregarding paragraph (8) thereof.*

4           (2) *LOW-INCOME HOUSING CREDIT.—Section*  
5           *1400N(c)—*

6           *(A) only with respect to calendar years*  
7           *2008, 2009, and 2010,*

8           *(B) by substituting “Disaster Recovery As-*  
9           *stance housing amount” for “Gulf Opportunity*  
10           *housing amount” each place it appears,*

11           *(C) in paragraph (1)(B)—*

12           *(i) by substituting “\$8.00” for*  
13           *“\$18.00”, and*

14           *(ii) by substituting “before the earliest*  
15           *applicable disaster date for Midwestern dis-*  
16           *aster areas within the State” for “before*  
17           *August 28, 2005”, and*

18           *(D) determined without regard to para-*  
19           *graphs (2), (3), (4), (5), and (6) thereof.*

20           (3) *EXPENSING FOR CERTAIN DEMOLITION AND*  
21           *CLEAN-UP COSTS.—Section 1400N(f)—*

22           *(A) by substituting “qualified Disaster Re-*  
23           *covery Assistance clean-up cost” for “qualified*  
24           *Gulf Opportunity Zone clean-up cost” each place*  
25           *it appears,*



1           (B) by substituting “beginning on the ap-  
2           plicable disaster date and ending on December  
3           31, 2010” for “beginning on August 28, 2005,  
4           and ending on December 31, 2007” in para-  
5           graph (2), and

6           (C) by treating costs as qualified Disaster  
7           Recovery Assistance clean-up costs only if the re-  
8           moval of debris or demolition of any structure  
9           was necessary due to damage attributable to the  
10          severe storms, tornados, or flooding giving rise to  
11          any Presidential declaration described in sub-  
12          section (b)(1)(A).

13          (4) *EXTENSION OF EXPENSING FOR ENVIRON-*  
14          *MENTAL REMEDIATION COSTS.—Section 1400N(g)—*

15               (A) by substituting “the applicable disaster  
16               date” for “August 28, 2005” each place it ap-  
17               pears,

18               (B) by substituting “January 1, 2011” for  
19               “January 1, 2008” in paragraph (1),

20               (C) by substituting “December 31, 2010” for  
21               “December 31, 2007” in paragraph (1), and

22               (D) by treating a site as a qualified con-  
23               taminated site only if the release (or threat of re-  
24               lease) or disposal of a hazardous substance at the  
25               site was attributable to the severe storms, tor-

1            *nados, or flooding giving rise to any Presidential*  
2            *declaration described in subsection (b)(1)(A).*

3            *(5) INCREASE IN REHABILITATION CREDIT.—Section*  
4            *1400N(h), as amended by this Act—*

5                    *(A) by substituting “the applicable disaster*  
6                    *date” for “August 28, 2005”,*

7                    *(B) by substituting “December 31, 2011”*  
8                    *for “December 31, 2009” in paragraph (1), and*

9                    *(C) by only applying such subsection to*  
10                   *qualified rehabilitation expenditures with respect*  
11                   *to any building or structure which was damaged*  
12                   *or destroyed as a result of the severe storms, tor-*  
13                   *nados, or flooding giving rise to any Presidential*  
14                   *declaration described in subsection (b)(1)(A).*

15            *(6) TREATMENT OF NET OPERATING LOSSES AT-*  
16            *TRIBUTABLE TO DISASTER LOSSES.—Section*  
17            *1400N(k)—*

18                    *(A) by substituting “qualified Disaster Re-*  
19                    *covery Assistance loss” for “qualified Gulf Op-*  
20                    *portunity Zone loss” each place it appears,*

21                    *(B) by substituting “after the day before the*  
22                    *applicable disaster date, and before January 1,*  
23                    *2011” for “after August 27, 2005, and before*  
24                    *January 1, 2008” each place it appears,*

1           (C) by substituting “the applicable disaster  
2           date” for “August 28, 2005” in paragraph  
3           (2)(B)(ii)(I),

4           (D) by substituting “qualified Disaster Re-  
5           covery Assistance property” for “qualified Gulf  
6           Opportunity Zone property” in paragraph  
7           (2)(B)(iv), and

8           (E) by substituting “qualified Disaster Re-  
9           covery Assistance casualty loss” for “qualified  
10          Gulf Opportunity Zone casualty loss” each place  
11          it appears.

12          (7) CREDIT TO HOLDERS OF TAX CREDIT  
13          BONDS.—Section 1400N(l)—

14           (A) by substituting “Midwestern tax credit  
15           bond” for “Gulf tax credit bond” each place it  
16           appears,

17           (B) by substituting “any State in which a  
18           Midwestern disaster area is located or any in-  
19           strumentality of the State” for “the State of Ala-  
20           bama, Louisiana, or Mississippi” in paragraph  
21           (4)(A)(i),

22           (C) by substituting “after December 31,  
23           2008 and before January 1, 2010” for “after De-  
24           cember 31, 2005, and before January 1, 2007”,

1           (D) by substituting “shall not exceed  
2           \$100,000,000 for any State with an aggregate  
3           population located in all Midwestern disaster  
4           areas within the State of at least 2,000,000,  
5           \$50,000,000 for any State with an aggregate  
6           population located in all Midwestern disaster  
7           areas within the State of at least 1,000,000 but  
8           less than 2,000,000, and zero for any other State.  
9           The population of a State within any area shall  
10          be determined on the basis of the most recent cen-  
11          sus estimate of resident population released by  
12          the Bureau of Census before the earliest applica-  
13          ble disaster date for Midwestern disaster areas  
14          within the State.” for “shall not exceed” and all  
15          that follows in paragraph (4)(C), and

16          (E) by substituting “the earliest applicable  
17          disaster date for Midwestern disaster areas with-  
18          in the State” for “August 28, 2005” in para-  
19          graph (5)(A).

20          (8) *EDUCATION TAX BENEFITS*.—Section 1400O,  
21          by substituting “2008 or 2009” for “2005 or 2006”.

22          (9) *HOUSING TAX BENEFITS*.—Section 1400P, by  
23          substituting “the applicable disaster date” for “Au-  
24          gust 28, 2005” in subsection (c)(1).

1           (10) *SPECIAL RULES FOR USE OF RETIREMENT*  
2 *FUNDS.—Section 1400Q—*

3           (A) *by substituting “qualified Disaster Re-*  
4 *covery Assistance distribution” for “qualified*  
5 *hurricane distribution” each place it appears,*

6           (B) *by substituting “on or after the applica-*  
7 *ble disaster date and before January 1, 2010” for*  
8 *“on or after August 25, 2005, and before Janu-*  
9 *ary 1, 2007” in subsection (a)(4)(A)(i),*

10          (C) *by substituting “the applicable disaster*  
11 *date” for “August 28, 2005” in subsections*  
12 *(a)(4)(A)(i) and (c)(3)(B),*

13          (D) *by disregarding clauses (ii) and (iii) of*  
14 *subsection (a)(4)(A) thereof,*

15          (E) *by substituting “qualified storm dam-*  
16 *age distribution” for “qualified Katrina dis-*  
17 *tribution” each place it appears,*

18          (F) *by substituting “after the date which is*  
19 *6 months before the applicable disaster date and*  
20 *before the date which is the day after the appli-*  
21 *cable disaster date” for “after February 28,*  
22 *2005, and before August 29, 2005” in subsection*  
23 *(b)(2)(B)(ii),*

24          (G) *by substituting “the Midwestern dis-*  
25 *aster area, but not so purchased or constructed*

1           *on account of severe storms, tornados, or flooding*  
2           *giving rise to the designation of the area as a*  
3           *disaster area” for “the Hurricane Katrina dis-*  
4           *aster area, but not so purchased or constructed*  
5           *on account of Hurricane Katrina” in subsection*  
6           *(b)(2)(B)(iii),*

7           *(H) by substituting “beginning on the ap-*  
8           *plicable disaster date and ending on the date*  
9           *which is 5 months after the date of the enactment*  
10           *of the Heartland Disaster Tax Relief Act of*  
11           *2008” for “beginning on August 25, 2005, and*  
12           *ending on February 28, 2006” in subsection*  
13           *(b)(3)(A),*

14           *(I) by substituting “qualified storm damage*  
15           *individual” for “qualified Hurricane Katrina*  
16           *individual” each place it appears,*

17           *(J) by substituting “December 31, 2009” for*  
18           *“December 31, 2006” in subsection (c)(2)(A),*

19           *(K) by disregarding subparagraphs (C) and*  
20           *(D) of subsection (c)(3) thereof,*

21           *(L) by substituting “beginning on the date*  
22           *of the enactment of the Heartland Disaster Tax*  
23           *Relief Act of 2008 and ending on December 31,*  
24           *2009” for “beginning on September 24, 2005,*

1           *and ending on December 31, 2006*” in subsection  
2           (c)(4)(A)(i),

3           (M) by substituting “the applicable disaster  
4           date” for “August 25, 2005” in subsection  
5           (c)(4)(A)(ii), and

6           (N) by substituting “January 1, 2010” for  
7           “January 1, 2007” in subsection (d)(2)(A)(ii).

8           (11) *EMPLOYEE RETENTION CREDIT FOR EM-*  
9           *PLOYERS AFFECTED BY SEVERE STORMS, TORNADOS,*  
10          *AND FLOODING.—Section 1400R(a)—*

11           (A) by substituting “the applicable disaster  
12           date” for “August 28, 2005” each place it ap-  
13           pears,

14           (B) by substituting “January 1, 2009” for  
15           “January 1, 2006” both places it appears, and

16           (C) only with respect to eligible employers  
17           who employed an average of not more than 200  
18           employees on business days during the taxable  
19           year before the applicable disaster date.

20           (12) *TEMPORARY SUSPENSION OF LIMITATIONS*  
21           *ON CHARITABLE CONTRIBUTIONS.—Section 1400S(a),*  
22           *by substituting the following paragraph for para-*  
23           *graph (4) thereof:*

24           “(4) *QUALIFIED CONTRIBUTIONS.—*

1           “(A) *IN GENERAL.*—For purposes of this  
2 subsection, the term ‘qualified contribution’  
3 means any charitable contribution (as defined in  
4 section 170(c)) if—

5           “(i) such contribution—

6           “(I) is paid during the period be-  
7 ginning on the earliest applicable dis-  
8 aster date for all States and ending on  
9 December 31, 2008, in cash to an orga-  
10 nization described in section  
11 170(b)(1)(A), and

12           “(II) is made for relief efforts in  
13 1 or more Midwestern disaster areas,

14           “(ii) the taxpayer obtains from such  
15 organization contemporaneous written ac-  
16 knowledgment (within the meaning of sec-  
17 tion 170(f)(8)) that such contribution was  
18 used (or is to be used) for relief efforts in  
19 1 or more Midwestern disaster areas, and

20           “(iii) the taxpayer has elected the ap-  
21 plication of this subsection with respect to  
22 such contribution.

23           “(B) *EXCEPTION.*—Such term shall not in-  
24 clude a contribution by a donor if the contribu-  
25 tion is—



1           “(i) to an organization described in  
2           section 509(a)(3), or

3           “(ii) for establishment of a new, or  
4           maintenance of an existing, donor advised  
5           fund (as defined in section 4966(d)(2)).

6           “(C) APPLICATION OF ELECTION TO PART-  
7           NERSHIPS AND S CORPORATIONS.—In the case of  
8           a partnership or S corporation, the election  
9           under subparagraph (A)(iii) shall be made sepa-  
10          rately by each partner or shareholder.”.

11          (13) SUSPENSION OF CERTAIN LIMITATIONS ON  
12          PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1),  
13          by substituting “the applicable disaster date” for  
14          “August 25, 2005”.

15          (14) SPECIAL RULE FOR DETERMINING EARNED  
16          INCOME.—Section 1400S(d)—

17                (A) by treating an individual as a qualified  
18                individual if such individual’s principal place of  
19                abode on the applicable disaster date was located  
20                in a Midwestern disaster area,

21                (B) by treating the applicable disaster date  
22                with respect to any such individual as the appli-  
23                cable date for purposes of such subsection, and

24                (C) by treating an area as described in  
25                paragraph (2)(B)(ii) thereof if the area is a

1           *Midwestern disaster area only by reason of sub-*  
2           *section (b)(2) of this section (relating to areas el-*  
3           *igible only for public assistance).*

4           (15) *ADJUSTMENTS REGARDING TAXPAYER AND*  
5           *DEPENDENCY STATUS.—Section 1400S(e), by sub-*  
6           *stituting “2008 or 2009” for “2005 or 2006”.*

7           (e) *MODIFICATIONS TO KATRINA EMERGENCY TAX RE-*  
8           *LIEF ACT OF 2005.—The following provisions of the*  
9           *Katrina Emergency Tax Relief Act of 2005 shall be applied*  
10          *with the following modifications:*

11           (1) *ADDITIONAL EXEMPTION FOR HOUSING DIS-*  
12          *PLACED INDIVIDUAL.—Section 302—*

13                   (A) *by substituting “2008 or 2009” for*  
14                   *“2005 or 2006” in subsection (a) thereof,*

15                   (B) *by substituting “Midwestern displaced*  
16                   *individual” for “Hurricane Katrina displaced*  
17                   *individual” each place it appears, and*

18                   (C) *by treating an area as a core disaster*  
19                   *area for purposes of applying subsection (c)*  
20                   *thereof if the area is a Midwestern disaster area*  
21                   *without regard to subsection (b)(2) of this section*  
22                   *(relating to areas eligible only for public assist-*  
23                   *ance).*

24           (2) *INCREASE IN STANDARD MILEAGE RATE.—*  
25          *Section 303, by substituting “beginning on the appli-*

1 *cable disaster date and ending on December 31, 2008”*  
2 *for “beginning on August 25, 2005, and ending on*  
3 *December 31, 2006”.*

4 (3) *MILEAGE REIMBURSEMENTS FOR CHARITABLE VOLUNTEERS.—Section 304—*

6 (A) *by substituting “beginning on the ap-*  
7 *plicable disaster date and ending on December*  
8 *31, 2008” for “beginning on August 25, 2005,*  
9 *and ending on December 31, 2006” in subsection*  
10 *(a), and*

11 (B) *by substituting “the applicable disaster*  
12 *date” for “August 25, 2005” in subsection (a).*

13 (4) *EXCLUSION OF CERTAIN CANCELLATION OF*  
14 *INDEBTEDNESS INCOME.—Section 401—*

15 (A) *by treating an individual whose prin-*  
16 *icipal place of abode on the applicable disaster*  
17 *date was in a Midwestern disaster area (deter-*  
18 *mined without regard to subsection (b)(2) of this*  
19 *section) as an individual described in subsection*  
20 *(b)(1) thereof, and by treating an individual*  
21 *whose principal place of abode on the applicable*  
22 *disaster date was in a Midwestern disaster area*  
23 *solely by reason of subsection (b)(2) of this sec-*  
24 *tion as an individual described in subsection*  
25 *(b)(2) thereof,*

1           (B) by substituting “the applicable disaster  
2           date” for “August 28, 2005” both places it ap-  
3           pears, and

4           (C) by substituting “January 1, 2010” for  
5           “January 1, 2007” in subsection (e).

6           (5) *EXTENSION OF REPLACEMENT PERIOD FOR*  
7           *NONRECOGNITION OF GAIN.*—Section 405, by sub-  
8           stituting “on or after the applicable disaster date” for  
9           “on or after August 25, 2005”.

10 **SEC. 703. REPORTING REQUIREMENTS RELATING TO DIS-**  
11 **ASTER RELIEF CONTRIBUTIONS.**

12           (a) *IN GENERAL.*—Section 6033(b) (relating to returns  
13 of certain organizations described in section 501(c)(3)) is  
14 amended by striking “and” at the end of paragraph (13),  
15 by redesignating paragraph (14) as paragraph (15), and  
16 by adding after paragraph (13) the following new para-  
17 graph:

18           “(14) such information as the Secretary may re-  
19           quire with respect to disaster relief activities, includ-  
20           ing the amount and use of qualified contributions to  
21           which section 1400S(a) applies, and”.

22           (b) *EFFECTIVE DATE.*—The amendments made by this  
23 section shall apply to returns the due date for which (deter-  
24 mined without regard to any extension) occurs after Decem-  
25 ber 31, 2008.

1 **SEC. 704. TEMPORARY TAX-EXEMPT BOND FINANCING AND**  
2 **LOW-INCOME HOUSING TAX RELIEF FOR**  
3 **AREAS DAMAGED BY HURRICANE IKE.**

4 (a) *TAX-EXEMPT BOND FINANCING.*—Section  
5 1400N(a) of the Internal Revenue Code of 1986 shall apply  
6 to any Hurricane Ike disaster area in addition to any other  
7 area referenced in such section, but with the following modi-  
8 fications:

9 (1) *By substituting “qualified Hurricane Ike*  
10 *disaster area bond” for “qualified Gulf Opportunity*  
11 *Zone Bond” each place it appears, except that in de-*  
12 *termining whether a bond is a qualified Hurricane*  
13 *Ike disaster area bond—*

14 (A) *paragraph (2)(A)(i) shall be applied by*  
15 *only treating costs as qualified project costs if—*

16 (i) *in the case of a project involving a*  
17 *private business use (as defined in section*  
18 *141(b)(6)), either the person using the prop-*  
19 *erty suffered a loss in a trade or business*  
20 *attributable to Hurricane Ike or is a person*  
21 *designated for purposes of this section by*  
22 *the Governor of the State in which the*  
23 *project is located as a person carrying on a*  
24 *trade or business replacing a trade or busi-*  
25 *ness with respect to which another person*  
26 *suffered such a loss, and*

1           (ii) in the case of a project relating to  
2           public utility property, the project involves  
3           repair or reconstruction of public utility  
4           property damaged by Hurricane Ike, and

5           (B) paragraph (2)(A)(ii) shall be applied  
6           by treating an issue as a qualified mortgage  
7           issue only if 95 percent or more of the net pro-  
8           ceeds (as defined in section 150(a)(3)) of the  
9           issue are to be used to provide financing for  
10          mortgagors who suffered damages to their prin-  
11          cipal residences attributable to Hurricane Ike.

12          (2) By substituting “any State in which any  
13          Hurricane Ike disaster area is located” for “the State  
14          of Alabama, Louisiana, or Mississippi” in paragraph  
15          (2)(B).

16          (3) By substituting “designated for purposes of  
17          this section (on the basis of providing assistance to  
18          areas in the order in which such assistance is most  
19          needed)” for “designated for purposes of this section”  
20          in paragraph (2)(C).

21          (4) By substituting “January 1, 2013” for “Jan-  
22          uary 1, 2011” in paragraph (2)(D).

23          (5) By substituting the following for subpara-  
24          graph (A) of paragraph (3):

1           “(A) *AGGREGATE AMOUNT DESIGNATED.*—  
2           *The maximum aggregate face amount of bonds*  
3           *which may be designated under this subsection*  
4           *with respect to any State shall not exceed the*  
5           *product of \$2,000 multiplied by the portion of*  
6           *the State population which is in—*

7                     “(i) *in the case of Texas, the counties*  
8                     *of Brazoria, Chambers, Galveston, Jefferson,*  
9                     *and Orange, and*

10                    “(ii) *in the case of Louisiana, the par-*  
11                    *ishes of Calcasieu and Cameron,*  
12                    *(as determined on the basis of the most recent*  
13                    *census estimate of resident population released*  
14                    *by the Bureau of Census before September 13,*  
15                    *2008).”.*

16           (6) *By substituting “qualified Hurricane Ike*  
17           *disaster area repair or construction” for “qualified*  
18           *GO Zone repair or construction” each place it ap-*  
19           *pears.*

20           (7) *By substituting “after the date of the enact-*  
21           *ment of the Heartland Disaster Tax Relief Act of*  
22           *2008 and before January 1, 2013” for “after the date*  
23           *of the enactment of this paragraph and before Janu-*  
24           *ary 1, 2011” in paragraph (7)(C).*

25           (8) *By disregarding paragraph (8) thereof.*

1           (9) *By substituting “any Hurricane Ike disaster*  
2 *area” for “the Gulf Opportunity Zone” each place it*  
3 *appears.*

4           (b) *LOW-INCOME HOUSING CREDIT.—Section*  
5 *1400N(c) of the Internal Revenue Code of 1986 shall apply*  
6 *to any Hurricane Ike disaster area in addition to any other*  
7 *area referenced in such section, but with the following modi-*  
8 *fications:*

9           (1) *Only with respect to calendar years 2008,*  
10 *2009, and 2010.*

11           (2) *By substituting “any Hurricane Ike disaster*  
12 *area” for “the Gulf Opportunity Zone” each place it*  
13 *appears.*

14           (3) *By substituting “Hurricane Ike Recovery As-*  
15 *sistance housing amount” for “Gulf Opportunity*  
16 *housing amount” each place it appears.*

17           (4) *By substituting the following for subpara-*  
18 *graph (B) of paragraph (1):*

19           “(B) *HURRICANE IKE HOUSING AMOUNT.—*  
20 *For purposes of subparagraph (A), the term*  
21 *‘Hurricane Ike housing amount’ means, for any*  
22 *calendar year, the amount equal to the product*  
23 *of \$16.00 multiplied by the portion of the State*  
24 *population which is in—*



1                   “(i) in the case of Texas, the counties  
2                   of Brazoria, Chambers, Galveston, Jefferson,  
3                   and Orange, and

4                   “(ii) in the case of Louisiana, the par-  
5                   ishes of Calcasieu and Cameron,  
6                   (as determined on the basis of the most recent  
7                   census estimate of resident population released  
8                   by the Bureau of Census before September 13,  
9                   2008).”.

10                  (5) Determined without regard to paragraphs  
11                  (2), (3), (4), (5), and (6) thereof.

12                  (c) *HURRICANE IKE DISASTER AREA*.—For purposes  
13 of this section and for applying the substitutions described  
14 in subsections (a) and (b), the term “Hurricane Ike disaster  
15 area” means an area in the State of Texas or Louisiana—

16                  (1) with respect to which a major disaster has  
17                  been declared by the President on September 13, 2008,  
18                  under section 401 of the Robert T. Stafford Disaster  
19                  Relief and Emergency Assistance Act by reason of  
20                  Hurricane Ike, and

21                  (2) determined by the President to warrant indi-  
22                  vidual or individual and public assistance from the  
23                  Federal Government under such Act with respect to  
24                  damages attributable to Hurricane Ike.

1           ***Subtitle B—National Disaster***  
2                                   ***Relief***

3 **SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**  
4                                   **CLARED DISASTERS.**

5           (a) *WAIVER OF ADJUSTED GROSS INCOME LIMITA-*  
6 *TION.—*

7                   (1) *IN GENERAL.—*Subsection (h) of section 165  
8 *is amended by redesignating paragraphs (3) and (4)*  
9 *as paragraphs (4) and (5), respectively, and by in-*  
10 *serting after paragraph (2) the following new para-*  
11 *graph:*

12                                   “(3) *SPECIAL RULE FOR LOSSES IN FEDERALLY*  
13 *DECLARED DISASTERS.—*

14                                   “(A) *IN GENERAL.—*If an individual has a  
15 *net disaster loss for any taxable year, the*  
16 *amount determined under paragraph (2)(A)(ii)*  
17 *shall be the sum of—*

18   “(i) *such net disaster loss, and*

19   “(ii) *so much of the excess referred to*  
20 *in the matter preceding clause (i) of para-*  
21 *graph (2)(A) (reduced by the amount in*  
22 *clause (i) of this subparagraph) as exceeds*  
23 *10 percent of the adjusted gross income of*  
24 *the individual.*

1           “(B) *NET DISASTER LOSS.*—*For purposes of*  
2           *subparagraph (A), the term ‘net disaster loss’*  
3           *means the excess of—*

4                   “(i) *the personal casualty losses—*

5                           “(I) *attributable to a federally de-*  
6                           *clared disaster occurring before Janu-*  
7                           *ary 1, 2010, and*

8                           “(II) *occurring in a disaster area,*  
9                           *over*

10                   “(ii) *personal casualty gains.*

11           “(C) *FEDERALLY DECLARED DISASTER.*—  
12           *For purposes of this paragraph—*

13                   “(i) *FEDERALLY DECLARED DIS-*  
14                   *ASTER.*—*The term ‘federally declared dis-*  
15                   *aster’ means any disaster subsequently de-*  
16                   *termined by the President of the United*  
17                   *States to warrant assistance by the Federal*  
18                   *Government under the Robert T. Stafford*  
19                   *Disaster Relief and Emergency Assistance*  
20                   *Act.*

21                   “(ii) *DISASTER AREA.*—*The term ‘dis-*  
22                   *aster area’ means the area so determined to*  
23                   *warrant such assistance.”.*

24           (2) *CONFORMING AMENDMENTS.*—

1           (A) Section 165(h)(4)(B) (as so redesign-  
2           nated) is amended by striking “paragraph (2)”  
3           and inserting “paragraphs (2) and (3)”.

4           (B) Section 165(i)(1) is amended by strik-  
5           ing “loss” and all that follows through “Act”  
6           and inserting “loss occurring in a disaster area  
7           (as defined by clause (ii) of subsection (h)(3)(C))  
8           and attributable to a federally declared disaster  
9           (as defined by clause (i) of such subsection)”.

10          (C) Section 165(i)(4) is amended by strik-  
11          ing “Presidentially declared disaster (as defined  
12          by section 1033(h)(3))” and inserting “federally  
13          declared disaster (as defined by subsection  
14          (h)(3)(C)(i)”.

15          (D)(i) So much of subsection (h) of section  
16          1033 as precedes subparagraph (A) of paragraph  
17          (1) thereof is amended to read as follows:

18          “(h) *SPECIAL RULES FOR PROPERTY DAMAGED BY*  
19          *FEDERALLY DECLARED DISASTERS.*—

20                 “(1) *PRINCIPAL RESIDENCES.*—If the taxpayer’s  
21                 principal residence or any of its contents is located  
22                 in a disaster area and is compulsorily or involun-  
23                 tarily converted as a result of a federally declared dis-  
24                 aster—”.

1           (ii) Paragraph (2) of section 1033(h) is  
2           amended by striking “investment” and all that  
3           follows through “disaster” and inserting “invest-  
4           ment located in a disaster area and compulsorily  
5           or involuntarily converted as a result of a feder-  
6           ally declared disaster”.

7           (iii) Paragraph (3) of section 1033(h) is  
8           amended to read as follows:

9           “(3) *FEDERALLY DECLARED DISASTER; DIS-*  
10          *ASTER AREA.—The terms “federally declared disaster”*  
11          *and “disaster area” shall have the respective meaning*  
12          *given such terms by section 165(h)(3)(C).”.*

13          (iv) Section 139(c)(2) is amended to read as  
14          follows:

15          “(2) *federally declared disaster (as defined by*  
16          *section 165(h)(3)(C)(i)),”.*

17          (v) Subclause (II) of section  
18          172(b)(1)(F)(ii) is amended by striking “*Presi-*  
19          *dentially declared disasters (as defined in section*  
20          *1033(h)(3))”* and inserting “*federally declared*  
21          *disasters (as defined by subsection (h)(3)(C)(i))”.*

22          (vi) Subclause (III) of section  
23          172(b)(1)(F)(ii) is amended by striking “*Presi-*  
24          *dentially declared disasters”* and inserting “*fed-*  
25          *erally declared disasters”.*

1           (vii) Subsection (a) of section 7508A is  
2           amended by striking “Presidentially declared  
3           disaster (as defined in section 1033(h)(3))” and  
4           inserting “federally declared disaster (as defined  
5           by section 165(h)(3)(C)(i))”.

6           (b) INCREASE IN STANDARD DEDUCTION BY DISASTER  
7 CASUALTY LOSS.—

8           (1) IN GENERAL.—Paragraph (1) of section  
9           63(c), as amended by the Housing Assistance Tax Act  
10          of 2008, is amended by striking “and” at the end of  
11          subparagraph (B), by striking the period at the end  
12          of subparagraph (C) and inserting “, and”, and by  
13          adding at the end the following new subparagraph:

14                   “(D) the disaster loss deduction.”.

15          (2) DISASTER LOSS DEDUCTION.—Subsection (c)  
16          of section 63, as amended by the Housing Assistance  
17          Tax Act of 2008, is amended by adding at the end  
18          the following new paragraph:

19                   “(8) DISASTER LOSS DEDUCTION.—For the pur-  
20          poses of paragraph (1), the term ‘disaster loss deduc-  
21          tion’ means the net disaster loss (as defined in section  
22          165(h)(3)(B)).”.

23          (3) ALLOWANCE IN COMPUTING ALTERNATIVE  
24          MINIMUM TAXABLE INCOME.—Subparagraph (E) of  
25          section 56(b)(1) is amended by adding at the end the

1 following new sentence: “The preceding sentence shall  
2 not apply to so much of the standard deduction as is  
3 determined under section 63(c)(1)(D).”.

4 (c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS  
5 PER CASUALTY.—Paragraph (1) of section 165(h) is  
6 amended by striking “\$100” and inserting “\$500 (\$100 for  
7 taxable years beginning after December 31, 2009)”.

8 (d) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided by para-  
10 graph (2), the amendments made by this section shall  
11 apply to disasters declared in taxable years beginning  
12 after December 31, 2007.

13 (2) INCREASE IN LIMITATION ON INDIVIDUAL  
14 LOSS PER CASUALTY.—The amendment made by sub-  
15 section (c) shall apply to taxable years beginning  
16 after December 31, 2008.

17 **SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

18 (a) IN GENERAL.—Part VI of subchapter B of chapter  
19 1 is amended by inserting after section 198 the following  
20 new section:

21 **“SEC. 198A. EXPENSING OF QUALIFIED DISASTER EX-  
22 PENSES.**

23 “(a) IN GENERAL.—A taxpayer may elect to treat any  
24 qualified disaster expenses which are paid or incurred by  
25 the taxpayer as an expense which is not chargeable to cap-

1 *ital account. Any expense which is so treated shall be al-*  
2 *lowed as a deduction for the taxable year in which it is*  
3 *paid or incurred.*

4       “(b) *QUALIFIED DISASTER EXPENSE.*—*For purposes*  
5 *of this section, the term ‘qualified disaster expense’ means*  
6 *any expenditure—*

7           “(1) *which is paid or incurred in connection*  
8 *with a trade or business or with business-related*  
9 *property,*

10          “(2) *which is—*

11           “(A) *for the abatement or control of haz-*  
12 *ardous substances that were released on account*  
13 *of a federally declared disaster occurring before*  
14 *January 1, 2010,*

15           “(B) *for the removal of debris from, or the*  
16 *demolition of structures on, real property which*  
17 *is business-related property damaged or de-*  
18 *stroyed as a result of a federally declared dis-*  
19 *aster occurring before such date, or*

20           “(C) *for the repair of business-related prop-*  
21 *erty damaged as a result of a federally declared*  
22 *disaster occurring before such date, and*

23          “(3) *which is otherwise chargeable to capital ac-*  
24 *count.*



1       “(c) *OTHER DEFINITIONS.*—For purposes of this sec-  
2 *tion*—

3               “(1) *BUSINESS-RELATED PROPERTY.*—The term  
4 *‘business-related property’* means property—

5                       “(A) *held by the taxpayer for use in a trade*  
6 *or business or for the production of income, or*

7                       “(B) *described in section 1221(a)(1) in the*  
8 *hands of the taxpayer.*

9               “(2) *FEDERALLY DECLARED DISASTER.*—The  
10 *term ‘federally declared disaster’* has the meaning  
11 *given such term by section 165(h)(3)(C)(i).*

12       “(d) *DEDUCTION RECAPTURED AS ORDINARY INCOME*  
13 *ON SALE, ETC.*—Solely for purposes of section 1245, in the  
14 *case of property to which a qualified disaster expense would*  
15 *have been capitalized but for this section*—

16                       “(1) *the deduction allowed by this section for*  
17 *such expense shall be treated as a deduction for depre-*  
18 *ciation, and*

19                       “(2) *such property (if not otherwise section 1245*  
20 *property) shall be treated as section 1245 property*  
21 *solely for purposes of applying section 1245 to such*  
22 *deduction.*

23       “(e) *COORDINATION WITH OTHER PROVISIONS.*—Sec-  
24 *tions 198, 280B, and 468 shall not apply to amounts which*  
25 *are treated as expenses under this section.*

1       “(f) *REGULATIONS.*—*The Secretary shall prescribe*  
 2 *such regulations as may be necessary or appropriate to*  
 3 *carry out the purposes of this section.*”.

4       (b) *CLERICAL AMENDMENT.*—*The table of sections for*  
 5 *part VI of subchapter B of chapter 1 is amended by insert-*  
 6 *ing after the item relating to section 198 the following new*  
 7 *item:*

      “*Sec. 198A. Expensing of Qualified Disaster Expenses.*”.

8       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 9 *section shall apply to amounts paid or incurred after De-*  
 10 *cember 31, 2007 in connection with disaster declared after*  
 11 *such date.*

12   **SEC. 708. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**  
 13                   **ERALLY DECLARED DISASTERS.**

14       (a) *IN GENERAL.*—*Paragraph (1) of section 172(b) is*  
 15 *amended by adding at the end the following new subpara-*  
 16 *graph:*

17                   “(J) *CERTAIN LOSSES ATTRIBUTABLE FED-*  
 18                   *ERALLY DECLARED DISASTERS.*—*In the case of a*  
 19                   *taxpayer who has a qualified disaster loss (as de-*  
 20                   *finied in subsection (j)), such loss shall be a net*  
 21                   *operating loss carryback to each of the 5 taxable*  
 22                   *years preceding the taxable year of such loss.*”.

23       (b) *QUALIFIED DISASTER LOSS.*—*Section 172 is*  
 24 *amended by redesignating subsections (j) and (k) as sub-*

1 sections (k) and (l), respectively, and by inserting after sub-  
2 section (i) the following new subsection:

3 “(j) *RULES RELATING TO QUALIFIED DISASTER*  
4 *LOSSES.—For purposes of this section—*

5 “(1) *IN GENERAL.—The term ‘qualified disaster*  
6 *loss’ means the lesser of—*

7 “(A) *the sum of—*

8 “(i) *the losses allowable under section*  
9 *165 for the taxable year—*

10 “(I) *attributable to a federally de-*  
11 *clared disaster (as defined in section*  
12 *165(h)(3)(C)(i)) occurring before Janu-*  
13 *ary 1, 2010, and*

14 “(II) *occurring in a disaster area*  
15 *(as defined in section 165(h)(3)(C)(ii)),*  
16 *and*

17 “(ii) *the deduction for the taxable year*  
18 *for qualified disaster expenses which is al-*  
19 *lowable under section 198A(a) or which*  
20 *would be so allowable if not otherwise treat-*  
21 *ed as an expense, or*

22 “(B) *the net operating loss for such taxable*  
23 *year.*

24 “(2) *COORDINATION WITH SUBSECTION (b)(2).—*  
25 *For purposes of applying subsection (b)(2), a quali-*

1 *fied disaster loss for any taxable year shall be treated*  
2 *in a manner similar to the manner in which a speci-*  
3 *fied liability loss is treated.*

4 “(3) *ELECTION.*—*Any taxpayer entitled to a 5-*  
5 *year carryback under subsection (b)(1)(J) from any*  
6 *loss year may elect to have the carryback period with*  
7 *respect to such loss year determined without regard to*  
8 *subsection (b)(1)(J). Such election shall be made in*  
9 *such manner as may be prescribed by the Secretary*  
10 *and shall be made by the due date (including exten-*  
11 *sions of time) for filing the taxpayer’s return for the*  
12 *taxable year of the net operating loss. Such election,*  
13 *once made for any taxable year, shall be irrevocable*  
14 *for such taxable year.*

15 “(4) *EXCLUSION.*—*The term ‘qualified disaster*  
16 *loss’ shall not include any loss with respect to any*  
17 *property described in section 1400N(p)(3).”.*

18 (c) *LOSS DEDUCTION ALLOWED IN COMPUTING AL-*  
19 *TERNATIVE MINIMUM TAXABLE INCOME.*—*Subsection (d) of*  
20 *section 56 is amended by adding at the end the following*  
21 *new paragraph:*

22 “(3) *NET OPERATING LOSS ATTRIBUTABLE TO*  
23 *FEDERALLY DECLARED DISASTERS.*—*In the case of a*  
24 *taxpayer which has a qualified disaster loss (as de-*  
25 *finied by section 172(b)(1)(J)) for the taxable year,*

1 *paragraph (1) shall be applied by increasing the*  
2 *amount determined under subparagraph (A)(i)(I)*  
3 *thereof by the sum of the carrybacks and carryovers*  
4 *of such loss.”.*

5 *(d) CONFORMING AMENDMENTS.—*

6 *(1) Clause (ii) of section 172(b)(1)(F) is amend-*  
7 *ed by inserting “or qualified disaster loss (as defined*  
8 *in subsection (j))” before the period at the end of the*  
9 *last sentence.*

10 *(2) Paragraph (1) of section 172(i) is amended*  
11 *by adding at the end the following new flush sentence:*  
12 *“Such term shall not include any qualified disaster*  
13 *loss (as defined in subsection (j)).”.*

14 *(e) EFFECTIVE DATE.—The amendments made by this*  
15 *section shall apply to losses arising in taxable years begin-*  
16 *ning after December 31, 2007, in connection with disasters*  
17 *declared after such date.*

18 **SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**  
19 **REQUIREMENTS FOLLOWING FEDERALLY DE-**  
20 **CLARED DISASTERS.**

21 *(a) IN GENERAL.—Subsection (k) of section 143 is*  
22 *amended by adding at the end the following new paragraph:*

23 *“(12) SPECIAL RULES FOR RESIDENCES DE-*  
24 *STROYED IN FEDERALLY DECLARED DISASTERS.—*

1           “(A) *PRINCIPAL RESIDENCE DESTROYED.*—  
2           *At the election of the taxpayer, if the principal*  
3           *residence (within the meaning of section 121) of*  
4           *such taxpayer is—*

5                     “(i) *rendered unsafe for use as a resi-*  
6                     *dence by reason of a federally declared dis-*  
7                     *aster occurring before January 1, 2010, or*

8                     “(ii) *demolished or relocated by reason*  
9                     *of an order of the government of a State or*  
10                    *political subdivision thereof on account of a*  
11                    *federally declared disaster occurring before*  
12                    *such date,*

13           *then, for the 2-year period beginning on the date*  
14           *of the disaster declaration, subsection (d)(1) shall*  
15           *not apply with respect to such taxpayer and sub-*  
16           *section (e) shall be applied by substituting ‘110’*  
17           *for ‘90’ in paragraph (1) thereof.*

18           “(B) *PRINCIPAL RESIDENCE DAMAGED.*—

19                     “(i) *IN GENERAL.*—*At the election of*  
20                     *the taxpayer, if the principal residence*  
21                     *(within the meaning of section 121) of such*  
22                     *taxpayer was damaged as the result of a*  
23                     *federally declared disaster occurring before*  
24                     *January 1, 2010, any owner-financing pro-*  
25                     *vided in connection with the repair or re-*

1           *construction of such residence shall be treat-*  
2           *ed as a qualified rehabilitation loan.*

3           “(ii) *LIMITATION.—The aggregate*  
4           *owner-financing to which clause (i) applies*  
5           *shall not exceed the lesser of—*

6                     “(I) *the cost of such repair or re-*  
7                     *construction, or*

8                     “(II) *\$150,000.*

9           “(C) *FEDERALLY DECLARED DISASTER.—*  
10           *For purposes of this paragraph, the term ‘feder-*  
11           *ally declared disaster’ has the meaning given*  
12           *such term by section 165(h)(3)(C)(i).*

13           “(D) *ELECTION; DENIAL OF DOUBLE BEN-*  
14           *EFIT.—*

15                     “(i) *ELECTION.—An election under*  
16                     *this paragraph may not be revoked except*  
17                     *with the consent of the Secretary.*

18                     “(ii) *DENIAL OF DOUBLE BENEFIT.—If*  
19                     *a taxpayer elects the application of this*  
20                     *paragraph, paragraph (11) shall not apply*  
21                     *with respect to the purchase or financing of*  
22                     *any residence by such taxpayer.”.*

23           “(b) *EFFECTIVE DATE.—The amendment made by sub-*  
24           *section (a) shall apply to disasters occurring after December*  
25           *31, 2007.*

1 **SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**  
2 **FIED DISASTER PROPERTY.**

3 (a) *IN GENERAL.*—Section 168, as amended by this  
4 Act, is amended by adding at the end the following new  
5 subsection:

6 “(n) *SPECIAL ALLOWANCE FOR QUALIFIED DISASTER*  
7 *ASSISTANCE PROPERTY.*—

8 “(1) *IN GENERAL.*—In the case of any qualified  
9 disaster assistance property—

10 “(A) the depreciation deduction provided by  
11 section 167(a) for the taxable year in which such  
12 property is placed in service shall include an al-  
13 lowance equal to 50 percent of the adjusted basis  
14 of the qualified disaster assistance property, and

15 “(B) the adjusted basis of the qualified dis-  
16 aster assistance property shall be reduced by the  
17 amount of such deduction before computing the  
18 amount otherwise allowable as a depreciation de-  
19 duction under this chapter for such taxable year  
20 and any subsequent taxable year.

21 “(2) *QUALIFIED DISASTER ASSISTANCE PROP-*  
22 *ERTY.*—For purposes of this subsection—

23 “(A) *IN GENERAL.*—The term ‘qualified dis-  
24 aster assistance property’ means any property—

25 “(i)(I) which is described in subsection  
26 (k)(2)(A)(i), or



1           “(II) which is nonresidential real  
2           property or residential rental property,

3           “(ii) substantially all of the use of  
4           which is—

5           “(I) in a disaster area with re-  
6           spect to a federally declared disaster  
7           occurring before January 1, 2010, and

8           “(II) in the active conduct of a  
9           trade or business by the taxpayer in  
10          such disaster area,

11          “(iii) which—

12          “(I) rehabilitates property dam-  
13          aged, or replaces property destroyed or  
14          condemned, as a result of such feder-  
15          ally declared disaster, except that, for  
16          purposes of this clause, property shall  
17          be treated as replacing property de-  
18          stroyed or condemned if, as part of an  
19          integrated plan, such property replaces  
20          property which is included in a con-  
21          tinuous area which includes real prop-  
22          erty destroyed or condemned, and

23          “(II) is similar in nature to, and  
24          located in the same county as, the

1                    *property being rehabilitated or re-*  
2                    *placed,*

3                    *“(iv) the original use of which in such*  
4                    *disaster area commences with an eligible*  
5                    *taxpayer on or after the applicable disaster*  
6                    *date,*

7                    *“(v) which is acquired by such eligible*  
8                    *taxpayer by purchase (as defined in section*  
9                    *179(d)) on or after the applicable disaster*  
10                   *date, but only if no written binding con-*  
11                   *tract for the acquisition was in effect before*  
12                   *such date, and*

13                   *“(vi) which is placed in service by such*  
14                   *eligible taxpayer on or before the date which*  
15                   *is the last day of the third calendar year*  
16                   *following the applicable disaster date (the*  
17                   *fourth calendar year in the case of nonresi-*  
18                   *dential real property and residential rental*  
19                   *property).*

20                   *“(B) EXCEPTIONS.—*

21                   *“(i) OTHER BONUS DEPRECIATION*  
22                   *PROPERTY.—The term ‘qualified disaster*  
23                   *assistance property’ shall not include—*

1           “(I) any property to which sub-  
2           section (k) (determined without regard  
3           to paragraph (4)), (l), or (m) applies,

4           “(II) any property to which sec-  
5           tion 1400N(d) applies, and

6           “(III) any property described in  
7           section 1400N(p)(3).

8           “(ii) *ALTERNATIVE DEPRECIATION*  
9           *PROPERTY.*—The term ‘qualified disaster  
10           assistance property’ shall not include any  
11           property to which the alternative deprecia-  
12           tion system under subsection (g) applies, de-  
13           termined without regard to paragraph (7)  
14           of subsection (g) (relating to election to have  
15           system apply).

16           “(iii) *TAX-EXEMPT BOND FINANCED*  
17           *PROPERTY.*—Such term shall not include  
18           any property any portion of which is fi-  
19           nanced with the proceeds of any obligation  
20           the interest on which is exempt from tax  
21           under section 103.

22           “(iv) *QUALIFIED REVITALIZATION*  
23           *BUILDINGS.*—Such term shall not include  
24           any qualified revitalization building with  
25           respect to which the taxpayer has elected the

1           *application of paragraph (1) or (2) of sec-*  
2           *tion 1400I(a).*

3           “(v) *ELECTION OUT.*—*If a taxpayer*  
4           *makes an election under this clause with re-*  
5           *spect to any class of property for any tax-*  
6           *able year, this subsection shall not apply to*  
7           *all property in such class placed in service*  
8           *during such taxable year.*

9           “(C) *SPECIAL RULES.*—*For purposes of this*  
10          *subsection, rules similar to the rules of subpara-*  
11          *graph (E) of subsection (k)(2) shall apply, except*  
12          *that such subparagraph shall be applied—*

13                 “(i) *by substituting ‘the applicable dis-*  
14                 *aster date’ for ‘December 31, 2007’ each*  
15                 *place it appears therein,*

16                 “(ii) *without regard to ‘and before*  
17                 *January 1, 2009’ in clause (i) thereof, and*

18                 “(iii) *by substituting ‘qualified dis-*  
19                 *aster assistance property’ for ‘qualified*  
20                 *property’ in clause (iv) thereof.*

21           “(D) *ALLOWANCE AGAINST ALTERNATIVE*  
22          *MINIMUM TAX.*—*For purposes of this subsection,*  
23          *rules similar to the rules of subsection (k)(2)(G)*  
24          *shall apply.*

1           “(3) *OTHER DEFINITIONS.*—For purposes of this  
2 subsection—

3           “(A) *APPLICABLE DISASTER DATE.*—The  
4 term ‘applicable disaster date’ means, with re-  
5 spect to any federally declared disaster, the date  
6 on which such federally declared disaster occurs.

7           “(B) *FEDERALLY DECLARED DISASTER.*—  
8 The term ‘federally declared disaster’ has the  
9 meaning given such term under section  
10 165(h)(3)(C)(i).

11           “(C) *DISASTER AREA.*—The term ‘disaster  
12 area’ has the meaning given such term under  
13 section 165(h)(3)(C)(ii).

14           “(D) *ELIGIBLE TAXPAYER.*—The term ‘eli-  
15 gible taxpayer’ means a taxpayer who has suf-  
16 fered an economic loss attributable to a federally  
17 declared disaster.

18           “(4) *RECAPTURE.*—For purposes of this sub-  
19 section, rules similar to the rules under section  
20 179(d)(10) shall apply with respect to any qualified  
21 disaster assistance property which ceases to be quali-  
22 fied disaster assistance property.”

23           “(b) *EFFECTIVE DATE.*—The amendment made by this  
24 section shall apply to property placed in service after De-

1 cember 31, 2007, with respect to disasters declared after such  
2 date.

3 **SEC. 711. INCREASED EXPENSING FOR QUALIFIED DIS-**  
4 **ASTER ASSISTANCE PROPERTY.**

5 (a) *IN GENERAL.*—Section 179 is amended by adding  
6 at the end the following new subsection:

7 “(e) *SPECIAL RULES FOR QUALIFIED DISASTER AS-*  
8 *SISTANCE PROPERTY.*—

9 “(1) *IN GENERAL.*—For purposes of this sec-  
10 tion—

11 “(A) the dollar amount in effect under sub-  
12 section (b)(1) for the taxable year shall be in-  
13 creased by the lesser of—

14 “(i) \$100,000, or

15 “(ii) the cost of qualified section 179  
16 disaster assistance property placed in serv-  
17 ice during the taxable year, and

18 “(B) the dollar amount in effect under sub-  
19 section (b)(2) for the taxable year shall be in-  
20 creased by the lesser of—

21 “(i) \$600,000, or

22 “(ii) the cost of qualified section 179  
23 disaster assistance property placed in serv-  
24 ice during the taxable year.

1           “(2) *QUALIFIED SECTION 179 DISASTER ASSIST-*  
2           *ANCE PROPERTY.*—*For purposes of this subsection, the*  
3           *term ‘qualified section 179 disaster assistance prop-*  
4           *erty’ means section 179 property (as defined in sub-*  
5           *section (d)) which is qualified disaster assistance*  
6           *property (as defined in section 168(n)(2)).*

7           “(3) *COORDINATION WITH EMPOWERMENT ZONES*  
8           *AND RENEWAL COMMUNITIES.*—*For purposes of sec-*  
9           *tions 1397A and 1400J, qualified section 179 disaster*  
10           *assistance property shall not be treated as qualified*  
11           *zone property or qualified renewal property, unless*  
12           *the taxpayer elects not to take such qualified section*  
13           *179 disaster assistance property into account for pur-*  
14           *poses of this subsection.*

15           “(4) *RECAPTURE.*—*For purposes of this sub-*  
16           *section, rules similar to the rules under subsection*  
17           *(d)(10) shall apply with respect to any qualified sec-*  
18           *tion 179 disaster assistance property which ceases to*  
19           *be qualified section 179 disaster assistance property.”.*

20           “(b) *EFFECTIVE DATE.*—*The amendment made by this*  
21           *section shall apply to property placed in service after De-*  
22           *cember 31, 2007, with respect to disasters declared after such*  
23           *date.*

1 **SEC. 712. COORDINATION WITH HEARTLAND DISASTER RE-**  
 2 **LIEF.**

3 *The amendments made by this subtitle, other than the*  
 4 *amendments made by sections 706(a)(2), 710, and 711,*  
 5 *shall not apply to any disaster described in section*  
 6 *702(c)(1)(A), or to any expenditure or loss resulting from*  
 7 *such disaster.*

8 **TITLE VIII—SPENDING REDUC-**  
 9 **TIONS AND APPROPRIATE**  
 10 **REVENUE RAISERS FOR NEW**  
 11 **TAX RELIEF POLICY**

12 **SEC. 801. NONQUALIFIED DEFERRED COMPENSATION FROM**  
 13 **CERTAIN TAX INDIFFERENT PARTIES.**

14 *(a) IN GENERAL.—Subpart B of part II of subchapter*  
 15 *E of chapter 1 is amended by inserting after section 457*  
 16 *the following new section:*

17 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**  
 18 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

19 *“(a) IN GENERAL.—Any compensation which is de-*  
 20 *ferred under a nonqualified deferred compensation plan of*  
 21 *a nonqualified entity shall be includible in gross income*  
 22 *when there is no substantial risk of forfeiture of the rights*  
 23 *to such compensation.*

24 *“(b) NONQUALIFIED ENTITY.—For purposes of this*  
 25 *section, the term ‘nonqualified entity’ means—*



1           “(1) *any foreign corporation unless substantially*  
2 *all of its income is—*

3                   “(A) *effectively connected with the conduct*  
4 *of a trade or business in the United States, or*

5                   “(B) *subject to a comprehensive foreign in-*  
6 *come tax, and*

7           “(2) *any partnership unless substantially all of*  
8 *its income is allocated to persons other than—*

9                   “(A) *foreign persons with respect to whom*  
10 *such income is not subject to a comprehensive*  
11 *foreign income tax, and*

12                   “(B) *organizations which are exempt from*  
13 *tax under this title.*

14           “(c) *DETERMINABILITY OF AMOUNTS OF COMPENSA-*  
15 *TION.—*

16                   “(1) *IN GENERAL.—If the amount of any com-*  
17 *penensation is not determinable at the time that such*  
18 *compensation is otherwise includible in gross income*  
19 *under subsection (a)—*

20                   “(A) *such amount shall be so includible in*  
21 *gross income when determinable, and*

22                   “(B) *the tax imposed under this chapter for*  
23 *the taxable year in which such compensation is*  
24 *includible in gross income shall be increased by*  
25 *the sum of—*

1                   “(i) the amount of interest determined  
2                   under paragraph (2), and

3                   “(ii) an amount equal to 20 percent of  
4                   the amount of such compensation.

5                   “(2) *INTEREST.*—For purposes of paragraph  
6                   (1)(B)(i), the interest determined under this para-  
7                   graph for any taxable year is the amount of interest  
8                   at the underpayment rate under section 6621 plus 1  
9                   percentage point on the underpayments that would  
10                  have occurred had the deferred compensation been in-  
11                  cludible in gross income for the taxable year in which  
12                  first deferred or, if later, the first taxable year in  
13                  which such deferred compensation is not subject to a  
14                  substantial risk of forfeiture.

15                  “(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—For  
16                  purposes of this section—

17                  “(1) *SUBSTANTIAL RISK OF FORFEITURE.*—

18                  “(A) *IN GENERAL.*—The rights of a person  
19                  to compensation shall be treated as subject to a  
20                  substantial risk of forfeiture only if such person’s  
21                  rights to such compensation are conditioned  
22                  upon the future performance of substantial serv-  
23                  ices by any individual.

1           “(B) *EXCEPTION FOR COMPENSATION*  
2           *BASED ON GAIN RECOGNIZED ON AN INVESTMENT*  
3           *ASSET.—*

4                   “(i) *IN GENERAL.—To the extent pro-*  
5                   *vided in regulations prescribed by the Sec-*  
6                   *retary, if compensation is determined solely*  
7                   *by reference to the amount of gain recog-*  
8                   *nized on the disposition of an investment*  
9                   *asset, such compensation shall be treated as*  
10                  *subject to a substantial risk of forfeiture*  
11                  *until the date of such disposition.*

12                  “(ii) *INVESTMENT ASSET.—For pur-*  
13                  *poses of clause (i), the term ‘investment*  
14                  *asset’ means any single asset (other than an*  
15                  *investment fund or similar entity)—*

16                       “(I) *acquired directly by an in-*  
17                       *vestment fund or similar entity,*

18                       “(II) *with respect to which such*  
19                       *entity does not (nor does any person*  
20                       *related to such entity) participate in*  
21                       *the active management of such asset*  
22                       *(or if such asset is an interest in an*  
23                       *entity, in the active management of the*  
24                       *activities of such entity), and*

1                   “(III) substantially all of any  
2                   gain on the disposition of which (other  
3                   than such deferred compensation) is al-  
4                   located to investors in such entity.

5                   “(iii) COORDINATION WITH SPECIAL  
6                   RULE.—Paragraph (3)(B) shall not apply  
7                   to any compensation to which clause (i) ap-  
8                   plies.

9                   “(2) COMPREHENSIVE FOREIGN INCOME TAX.—  
10                  The term ‘comprehensive foreign income tax’ means,  
11                  with respect to any foreign person, the income tax of  
12                  a foreign country if—

13                   “(A) such person is eligible for the benefits  
14                   of a comprehensive income tax treaty between  
15                   such foreign country and the United States, or

16                   “(B) such person demonstrates to the satis-  
17                   faction of the Secretary that such foreign country  
18                   has a comprehensive income tax.

19                   “(3) NONQUALIFIED DEFERRED COMPENSATION  
20                  PLAN.—

21                   “(A) IN GENERAL.—The term ‘nonqualified  
22                   deferred compensation plan’ has the meaning  
23                   given such term under section 409A(d), except  
24                   that such term shall include any plan that pro-  
25                   vides a right to compensation based on the ap-

1           *preciation in value of a specified number of eq-*  
2           *uity units of the service recipient.*

3           “(B) *EXCEPTION.*—*Compensation shall not*  
4           *be treated as deferred for purposes of this section*  
5           *if the service provider receives payment of such*  
6           *compensation not later than 12 months after the*  
7           *end of the taxable year of the service recipient*  
8           *during which the right to the payment of such*  
9           *compensation is no longer subject to a substan-*  
10          *tial risk of forfeiture.*

11          “(4) *EXCEPTION FOR CERTAIN COMPENSATION*  
12          *WITH RESPECT TO EFFECTIVELY CONNECTED IN-*  
13          *COME.*—*In the case a foreign corporation with income*  
14          *which is taxable under section 882, this section shall*  
15          *not apply to compensation which, had such com-*  
16          *penetration had been paid in cash on the date that such*  
17          *compensation ceased to be subject to a substantial risk*  
18          *of forfeiture, would have been deductible by such for-*  
19          *foreign corporation against such income.*

20          “(5) *APPLICATION OF RULES.*—*Rules similar to*  
21          *the rules of paragraphs (5) and (6) of section 409A(d)*  
22          *shall apply.*

23          “(e) *REGULATIONS.*—*The Secretary shall prescribe*  
24          *such regulations as may be necessary or appropriate to*  
25          *carry out the purposes of this section, including regulations*

1 *disregarding a substantial risk of forfeiture in cases where*  
 2 *necessary to carry out the purposes of this section.”.*

3 (b) *CONFORMING AMENDMENT.*—Section 26(b)(2), as  
 4 amended by the *Housing Assistance Tax Act of 2008*, is  
 5 amended by striking “and” at the end of subparagraph (V),  
 6 by striking the period at the end of subparagraph (W) and  
 7 inserting “, and”, and by adding at the end the following  
 8 new subparagraph:

9 “(X) section 457A(c)(1)(B) (relating to de-  
 10 terminability of amounts of compensation).”.

11 (c) *CLERICAL AMENDMENT.*—The table of sections of  
 12 subpart B of part II of subchapter E of chapter 1 is amend-  
 13 ed by inserting after the item relating to section 457 the  
 14 following new item:

“Sec. 457A. *Nonqualified deferred compensation from certain tax indifferent parties.*”.

15 (d) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—Except as otherwise provided  
 17 in this subsection, the amendments made by this sec-  
 18 tion shall apply to amounts deferred which are attrib-  
 19 utable to services performed after December 31, 2008.

20 (2) *APPLICATION TO EXISTING DEFERRALS.*—In  
 21 the case of any amount deferred to which the amend-  
 22 ments made by this section do not apply solely by  
 23 reason of the fact that the amount is attributable to  
 24 services performed before January 1, 2009, to the ex-

1     *tent such amount is not includible in gross income in*  
2     *a taxable year beginning before 2018, such amounts*  
3     *shall be includible in gross income in the later of—*

4             *(A) the last taxable year beginning before*  
5             *2018, or*

6             *(B) the taxable year in which there is no*  
7             *substantial risk of forfeiture of the rights to such*  
8             *compensation (determined in the same manner*  
9             *as determined for purposes of section 457A of the*  
10            *Internal Revenue Code of 1986, as added by this*  
11            *section).*

12            *(3) ACCELERATED PAYMENTS.—No later than*  
13            *120 days after the date of the enactment of this Act,*  
14            *the Secretary shall issue guidance providing a limited*  
15            *period of time during which a nonqualified deferred*  
16            *compensation arrangement attributable to services*  
17            *performed on or before December 31, 2008, may, with-*  
18            *out violating the requirements of section 409A(a) of*  
19            *the Internal Revenue Code of 1986, be amended to*  
20            *conform the date of distribution to the date the*  
21            *amounts are required to be included in income.*

22            *(4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—If*  
23            *the taxpayer is also a service recipient and maintains*  
24            *one or more nonqualified deferred compensation ar-*  
25            *rangements for its service providers under which any*

1     *amount is attributable to services performed on or be-*  
2     *fore December 31, 2008, the guidance issued under*  
3     *paragraph (4) shall permit such arrangements to be*  
4     *amended to conform the dates of distribution under*  
5     *such arrangement to the date amounts are required to*  
6     *be included in the income of such taxpayer under this*  
7     *subsection.*

8             (5) *ACCELERATED PAYMENT NOT TREATED AS*  
9     *MATERIAL MODIFICATION.—Any amendment to a*  
10    *nonqualified deferred compensation arrangement*  
11    *made pursuant to paragraph (4) or (5) shall not be*  
12    *treated as a material modification of the arrangement*  
13    *for purposes of section 409A of the Internal Revenue*  
14    *Code of 1986.*

Amend the title so as to read: “An Act to provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purpose”.

Attest:

*Secretary.*





110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H.R. 1424**

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**AMENDMENTS**