

In the Senate of the United States,

September 23 (legislative day, September 17), 2008.

Resolved, That the bill from the House of Representatives (H.R. 6049) entitled “An Act 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 purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE, ETC.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the “En-*
3 *ergy Improvement and Extension Act of 2008”.*

4 (b) *REFERENCE.*—*Except as otherwise expressly pro-*
5 *vided, whenever in this Act an amendment or repeal is ex-*
6 *pressed in terms of an amendment to, or repeal of, a section*
7 *or other provision, the reference shall be considered to be*
8 *made to a section or other provision of the Internal Revenue*
9 *Code of 1986.*

1 *(c) TABLE OF CONTENTS.—The table of contents for*
 2 *this Act 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*
13 *45(d) is amended by striking “January 1, 2009” and*
14 *inserting “January 1, 2011”:*

1 (A) *Clauses (i) and (ii) of paragraph*
2 (2)(A).

3 (B) *Clauses (i)(I) and (ii) of paragraph*
4 (3)(A).

5 (C) *Paragraph (4).*

6 (D) *Paragraph (5).*

7 (E) *Paragraph (6).*

8 (F) *Paragraph (7).*

9 (G) *Subparagraphs (A) and (B) of para-*
10 *graph (9).*

11 (b) *MODIFICATION OF REFINED COAL AS A QUALIFIED*
12 *ENERGY RESOURCE.—*

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

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

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

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

21 (2) *INCREASE IN REQUIRED EMISSION REDUC-*
22 *TION.—Section 45(c)(7)(B) (defining qualified emis-*
23 *sion reduction) is amended by inserting “at least 40*
24 *percent of the emissions of” after “nitrogen oxide*
25 *and”.*

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

3 (1) by striking “facility which burns” and in-
4 sserting “facility (other than a facility described in
5 paragraph (6)) which uses”, and

6 (2) by striking “COMBUSTION”.

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

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

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

20 (2) *CLOSED-LOOP BIOMASS FACILITIES.*—Para-
21 graph (2) of section 45(d) is amended by redesign-
22 ating subparagraph (B) as subparagraph (C) and
23 inserting after subparagraph (A) the following new
24 subparagraph:

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

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

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

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

20 “(ii) the nonhydroelectric dam was
21 placed in service before the date of the en-
22 actment of this paragraph and operated for
23 flood control, navigation, or water supply
24 purposes and did not produce hydroelectric

1 *power on the date of the enactment of this*
2 *paragraph, and*

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

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

21 *(f) EFFECTIVE DATE.—*

22 *(1) IN GENERAL.—Except as otherwise provided*
23 *in this subsection, the amendments made by this sec-*
24 *tion shall apply to property originally placed in serv-*
25 *ice after December 31, 2008.*

1 (2) *REFINED COAL.*—*The amendments made by*
2 *subsection (b) shall apply to coal produced and sold*
3 *from facilities placed in service after December 31,*
4 *2008.*

5 (3) *TRASH FACILITY CLARIFICATION.*—*The*
6 *amendments made by subsection (c) shall apply to*
7 *electricity produced and sold after the date of the en-*
8 *actment of this Act.*

9 (4) *EXPANSION OF BIOMASS FACILITIES.*—*The*
10 *amendments made by subsection (d) shall apply to*
11 *property placed in service after the date of the enact-*
12 *ment of this Act.*

13 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
14 **DUCTION FROM MARINE RENEWABLES.**

15 (a) *IN GENERAL.*—*Paragraph (1) of section 45(c) is*
16 *amended by striking “and” at the end of subparagraph (G),*
17 *by striking the period at the end of subparagraph (H) and*
18 *inserting “, and”, and by adding at the end the following*
19 *new subparagraph:*

20 *“(I) marine and hydrokinetic renewable en-*
21 *ergy.”.*

22 (b) *MARINE RENEWABLES.*—*Subsection (c) of section*
23 *45 is amended by adding at the end the following new para-*
24 *graph:*

1 “(10) *MARINE AND HYDROKINETIC RENEWABLE*
2 *ENERGY.*—

3 “(A) *IN GENERAL.*—*The term ‘marine and*
4 *hydrokinetic renewable energy’ means energy de-*
5 *rived from—*

6 “(i) *waves, tides, and currents in*
7 *oceans, estuaries, and tidal areas,*

8 “(ii) *free flowing water in rivers, lakes,*
9 *and streams,*

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

16 “(iv) *differentials in ocean temperature*
17 *(ocean thermal energy conversion).*

18 “(B) *EXCEPTIONS.*—*Such term shall not in-*
19 *clude any energy which is derived from any*
20 *source which utilizes a dam, diversionary struc-*
21 *ture (except as provided in subparagraph*
22 *(A)(iii)), or impoundment for electric power pro-*
23 *duction purposes.”.*

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

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

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

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

14 (d) *CREDIT RATE.*—Subparagraph (A) of section
15 45(b)(4) is amended by striking “or (9)” and inserting “(9),
16 or (11)”.

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

21 (f) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to electricity produced and sold after
23 the date of the enactment of this Act, in taxable years end-
24 ing after such date.

1 **SEC. 103. ENERGY CREDIT.**

2 (a) *EXTENSION OF CREDIT.*—

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

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

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

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

15 (1) *IN GENERAL.*—*Subparagraph (B) of section*
16 *38(c)(4), as amended by the Housing Assistance Tax*
17 *Act of 2008, is amended by redesignating clause (vi)*
18 *as clause (vi) and (vii), respectively, and by inserting*
19 *after clause (iv) the following new clause:*

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

24 (2) *TECHNICAL AMENDMENT.*—*Clause (vi) of sec-*
25 *tion 38(c)(4)(B), as redesignated by paragraph (1), is*
26 *amended by striking “section 47 to the extent attrib-*

1 *utable to” and inserting “section 46 to the extent that*
 2 *such credit is attributable to the rehabilitation credit*
 3 *under section 47, but only with respect to”.*

4 *(c) ENERGY CREDIT FOR COMBINED HEAT AND*
 5 *POWER SYSTEM PROPERTY.—*

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

10 *“(v) combined heat and power system*
 11 *property,”.*

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

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

18 *(B) by adding at the end the following new*
 19 *paragraph:*

20 *“(3) COMBINED HEAT AND POWER SYSTEM PROP-*
 21 *ERTY.—*

22 *“(A) COMBINED HEAT AND POWER SYSTEM*
 23 *PROPERTY.—The term ‘combined heat and power*
 24 *system property’ means property comprising a*
 25 *system—*

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

8 “(ii) which produces—

9 “(I) at least 20 percent of its total
10 useful energy in the form of thermal
11 energy which is not used to produce
12 electrical or mechanical power (or com-
13 bination thereof), and

14 “(II) at least 20 percent of its
15 total useful energy in the form of elec-
16 trical or mechanical power (or com-
17 bination thereof),

18 “(iii) the energy efficiency percentage
19 of which exceeds 60 percent, and

20 “(iv) which is placed in service before
21 January 1, 2017.

22 “(B) LIMITATION.—

23 “(i) IN GENERAL.—In the case of com-
24 bined heat and power system property with
25 an electrical capacity in excess of the appli-

1 *cable capacity placed in service during the*
2 *taxable year, the credit under subsection*
3 *(a)(1) (determined without regard to this*
4 *paragraph) for such year shall be equal to*
5 *the amount which bears the same ratio to*
6 *such credit as the applicable capacity bears*
7 *to the capacity of such property.*

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

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

23 “(C) *SPECIAL RULES.*—

24 “(i) *ENERGY EFFICIENCY PERCENT-*
25 *AGE.*—*For purposes of this paragraph, the*

1 *energy efficiency percentage of a system is*
2 *the fraction—*

3 “(I) *the numerator of which is the*
4 *total useful electrical, thermal, and me-*
5 *chanical power produced by the system*
6 *at normal operating rates, and ex-*
7 *pected to be consumed in its normal*
8 *application, and*

9 “(II) *the denominator of which is*
10 *the lower heating value of the fuel*
11 *sources for the system.*

12 “(ii) *DETERMINATIONS MADE ON BTU*
13 *BASIS.—The energy efficiency percentage*
14 *and the percentages under subparagraph*
15 *(A)(ii) shall be determined on a Btu basis.*

16 “(iii) *INPUT AND OUTPUT PROPERTY*
17 *NOT INCLUDED.—The term ‘combined heat*
18 *and power system property’ does not in-*
19 *clude property used to transport the energy*
20 *source to the facility or to distribute energy*
21 *produced by the facility.*

22 “(D) *SYSTEMS USING BIOMASS.—If a sys-*
23 *tem is designed to use biomass (within the mean-*
24 *ing of paragraphs (2) and (3) of section 45(c)*
25 *without regard to the last sentence of paragraph*

1 (3)(A)) for at least 90 percent of the energy
2 source—

3 “(i) subparagraph (A)(iii) shall not
4 apply, but

5 “(ii) the amount of credit determined
6 under subsection (a) with respect to such
7 system shall not exceed the amount which
8 bears the same ratio to such amount of cred-
9 it (determined without regard to this sub-
10 paragraph) as the energy efficiency percent-
11 age of such system bears to 60 percent.”.

12 (3) *CONFORMING AMENDMENT.*—Section 48(a)(1)
13 is amended by striking “paragraphs (1)(B) and
14 (2)(B)” and inserting “paragraphs (1)(B), (2)(B),
15 and (3)(B)”.

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

19 (e) *PUBLIC UTILITY PROPERTY TAKEN INTO AC-*
20 *COUNT.*—

21 (1) *IN GENERAL.*—Paragraph (3) of section
22 48(a) is amended by striking the second sentence
23 thereof.

24 (2) *CONFORMING AMENDMENTS.*—

1 (A) Paragraph (1) of section 48(c) is
2 amended by striking subparagraph (D) and re-
3 designating subparagraph (E) as subparagraph
4 (D).

5 (B) Paragraph (2) of section 48(c) is
6 amended by striking subparagraph (D) and re-
7 designating subparagraph (E) as subparagraph
8 (D).

9 (f) *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 the date of the enactment of*
13 *this Act.*

14 (2) *ALLOWANCE AGAINST ALTERNATIVE MINIMUM*
15 *TAX.*—*The amendments made by subsection (b) shall*
16 *apply to credits determined under section 46 of the*
17 *Internal Revenue Code of 1986 in taxable years begin-*
18 *ning after the date of the enactment of this Act and*
19 *to carrybacks of such credits.*

20 (3) *COMBINED HEAT AND POWER AND FUEL*
21 *CELL PROPERTY.*—*The amendments made by sub-*
22 *sections (c) and (d) shall apply to periods after the*
23 *date of the enactment of this Act, in taxable years*
24 *ending after such date, under rules similar to the*
25 *rules of section 48(m) of the Internal Revenue Code*

1 of 1986 (as in effect on the day before the date of the
2 enactment of the Revenue Reconciliation Act of 1990).

3 (4) *PUBLIC UTILITY PROPERTY.*—The amend-
4 ments made by subsection (e) shall apply to periods
5 after February 13, 2008, in taxable years ending after
6 such date, under rules similar to the rules of section
7 48(m) of the Internal Revenue Code of 1986 (as in ef-
8 fect on the day before the date of the enactment of the
9 Revenue Reconciliation Act of 1990).

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

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

15 “(vi) qualified small wind energy
16 property.”

17 (b) *30 PERCENT CREDIT.*—Section 48(a)(2)(A)(i) is
18 amended by striking “and” at the end of subclause (II) and
19 by inserting after subclause (III) the following new sub-
20 clause:

21 “(IV) qualified small wind energy
22 property, and”.

23 (c) *QUALIFIED SMALL WIND ENERGY PROPERTY.*—
24 Section 48(c), as amended by section 103, is amended by
25 adding at the end the following new paragraph:

1 “(4) *QUALIFIED SMALL WIND ENERGY PROP-*
2 *ERTY.—*—

3 “(A) *IN GENERAL.—The term ‘qualified*
4 *small wind energy property’ means property*
5 *which uses a qualifying small wind turbine to*
6 *generate electricity.*

7 “(B) *LIMITATION.—In the case of qualified*
8 *small wind energy property placed in service*
9 *during the taxable year, the credit otherwise de-*
10 *termined under subsection (a)(1) for such year*
11 *with respect to all such property of the taxpayer*
12 *shall not exceed \$4,000.*

13 “(C) *QUALIFYING SMALL WIND TURBINE.—*
14 *The term ‘qualifying small wind turbine’ means*
15 *a wind turbine which has a nameplate capacity*
16 *of not more than 100 kilowatts.*

17 “(D) *TERMINATION.—The term ‘qualified*
18 *small wind energy property’ shall not include*
19 *any property for any period after December 31,*
20 *2016.”.*

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

1 (e) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to periods after the date of the enactment*
3 *of this Act, in taxable years ending after such date, under*
4 *rules similar to the rules of section 48(m) of the Internal*
5 *Revenue Code of 1986 (as in effect on the day before the*
6 *date of the enactment of the Revenue Reconciliation Act of*
7 *1990).*

8 **SEC. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP**
9 **SYSTEMS.**

10 (a) *IN GENERAL.*—*Subparagraph (A) of section*
11 *48(a)(3), as amended by this Act, is amended by striking*
12 *“or” at the end of clause (v), by inserting “or” at the end*
13 *of clause (vi), and by adding at the end the following new*
14 *clause:*

15 “(vii) *equipment which uses the*
16 *ground or ground water as a thermal en-*
17 *ergy source to heat a structure or as a ther-*
18 *mal energy sink to cool a structure, but*
19 *only with respect to periods ending before*
20 *January 1, 2017,”.*

21 (b) *EFFECTIVE DATE.*—*The amendments made by this*
22 *section shall apply to periods after the date of the enactment*
23 *of this Act, in taxable years ending after such date, under*
24 *rules similar to the rules of section 48(m) of the Internal*
25 *Revenue Code of 1986 (as in effect on the day before the*

1 *date of the enactment of the Revenue Reconciliation Act of*
2 *1990).*

3 **SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
4 **PROPERTY.**

5 (a) *EXTENSION.*—*Section 25D(g) is amended by strik-*
6 *ing “December 31, 2008” and inserting “December 31,*
7 *2016”.*

8 (b) *REMOVAL OF LIMITATION FOR SOLAR ELECTRIC*
9 *PROPERTY.*—

10 (1) *IN GENERAL.*—*Section 25D(b)(1), as amend-*
11 *ed by subsections (c) and (d), is amended—*

12 (A) *by striking subparagraph (A), and*

13 (B) *by redesignating subparagraphs (B)*
14 *through (E) as subparagraphs (A) through and*
15 *(D), respectively.*

16 (2) *CONFORMING AMENDMENT.*—*Section*
17 *25D(e)(4)(A), as amended by subsections (c) and (d),*
18 *is amended—*

19 (A) *by striking clause (i), and*

20 (B) *by redesignating clauses (ii) through (v)*
21 *as clauses (i) and (iv), respectively.*

22 (c) *CREDIT FOR RESIDENTIAL WIND PROPERTY.*—

23 (1) *IN GENERAL.*—*Section 25D(a) is amended by*
24 *striking “and” at the end of paragraph (2), by strik-*
25 *ing the period at the end of paragraph (3) and insert-*

1 *ing “, and”, and by adding at the end the following*
2 *new paragraph:*

3 *“(4) 30 percent of the qualified small wind en-*
4 *ergy property expenditures made by the taxpayer*
5 *during such year.”.*

6 (2) *LIMITATION.—Section 25D(b)(1) is amended*
7 *by striking “and” at the end of subparagraph (B), by*
8 *striking the period at the end of subparagraph (C)*
9 *and inserting “, and”, and by adding at the end the*
10 *following new subparagraph:*

11 *“(D) \$500 with respect to each half kilowatt*
12 *of capacity (not to exceed \$4,000) of wind tur-*
13 *bines for which qualified small wind energy*
14 *property expenditures are made.”.*

15 (3) *QUALIFIED SMALL WIND ENERGY PROPERTY*
16 *EXPENDITURES.—*

17 (A) *IN GENERAL.—Section 25D(d) is*
18 *amended by adding at the end the following new*
19 *paragraph:*

20 *“(4) QUALIFIED SMALL WIND ENERGY PROPERTY*
21 *EXPENDITURE.—The term ‘qualified small wind en-*
22 *ergy property expenditure’ means an expenditure for*
23 *property which uses a wind turbine to generate elec-*
24 *tricity for use in connection with a dwelling unit lo-*

1 *cated in the United States and used as a residence by*
2 *the taxpayer.”.*

3 (B) *NO DOUBLE BENEFIT.*—Section
4 *45(d)(1) is amended by adding at the end the*
5 *following new sentence: “Such term shall not in-*
6 *clude any facility with respect to which any*
7 *qualified small wind energy property expendi-*
8 *ture (as defined in subsection (d)(4) of section*
9 *25D) is taken into account in determining the*
10 *credit under such section.”.*

11 (4) *MAXIMUM EXPENDITURES IN CASE OF JOINT*
12 *OCCUPANCY.*—Section *25D(e)(4)(A) is amended by*
13 *striking “and” at the end of clause (ii), by striking*
14 *the period at the end of clause (iii) and inserting “,*
15 *and”, and by adding at the end the following new*
16 *clause:*

17 *“(iv) \$1,667 in the case of each half*
18 *kilowatt of capacity (not to exceed \$13,333)*
19 *of wind turbines for which qualified small*
20 *wind energy property expenditures are*
21 *made.”.*

22 (d) *CREDIT FOR GEOTHERMAL HEAT PUMP SYS-*
23 *TEMS.*—

24 (1) *IN GENERAL.*—Section *25D(a), as amended*
25 *by subsection (c), is amended by striking “and” at the*

1 *end of paragraph (3), by striking the period at the*
2 *end of paragraph (4) and inserting “, and”, and by*
3 *adding at the end the following new paragraph:*

4 “(5) 30 percent of the qualified geothermal heat
5 pump property expenditures made by the taxpayer
6 during such year.”.

7 (2) *LIMITATION.*—Section 25D(b)(1), as amend-
8 ed by subsection (c), is amended by striking “and” at
9 the end of subparagraph (C), by striking the period
10 at the end of subparagraph (D) and inserting “,
11 and”, and by adding at the end the following new
12 subparagraph:

13 “(E) \$2,000 with respect to any qualified
14 geothermal heat pump property expenditures.”.

15 (3) *QUALIFIED GEOTHERMAL HEAT PUMP PROP-*
16 *ERTY EXPENDITURE.*—Section 25D(d), as amended by
17 subsection (c), is amended by adding at the end the
18 following new paragraph:

19 “(5) *QUALIFIED GEOTHERMAL HEAT PUMP*
20 *PROPERTY EXPENDITURE.*—

21 “(A) *IN GENERAL.*—The term ‘qualified geo-
22 thermal heat pump property expenditure’ means
23 an expenditure for qualified geothermal heat
24 pump property installed on or in connection

1 *with a dwelling unit located in the United States*
2 *and used as a residence by the taxpayer.*

3 “(B) *QUALIFIED GEOTHERMAL HEAT PUMP*
4 *PROPERTY.—The term ‘qualified geothermal heat*
5 *pump property’ means any equipment which—*

6 “(i) *uses the ground or ground water*
7 *as a thermal energy source to heat the*
8 *dwelling unit referred to in subparagraph*
9 *(A) or as a thermal energy sink to cool such*
10 *dwelling unit, and*

11 “(ii) *meets the requirements of the En-*
12 *ergy Star program which are in effect at*
13 *the time that the expenditure for such*
14 *equipment is made.”.*

15 (4) *MAXIMUM EXPENDITURES IN CASE OF JOINT*
16 *OCCUPANCY.—Section 25D(e)(4)(A), as amended by*
17 *subsection (c), is amended by striking “and” at the*
18 *end of clause (iii), by striking the period at the end*
19 *of clause (iv) and inserting “, and”, and by adding*
20 *at the end the following new clause:*

21 “(v) *\$6,667 in the case of any qualified*
22 *geothermal heat pump property expendi-*
23 *tures.”.*

24 (e) *CREDIT ALLOWED AGAINST ALTERNATIVE MIN-*
25 *IMUM TAX.—*

1 (1) *IN GENERAL.*—Subsection (c) of section 25D
2 is amended to read as follows:

3 “(c) *LIMITATION BASED ON AMOUNT OF TAX;*
4 *CARRYFORWARD OF UNUSED CREDIT.*—

5 “(1) *LIMITATION BASED ON AMOUNT OF TAX.*—
6 *In the case of a taxable year to which section 26(a)(2)*
7 *does not apply, the credit allowed under subsection*
8 *(a) for the taxable year shall not exceed the excess*
9 *of—*

10 “(A) *the sum of the regular tax liability (as*
11 *defined in section 26(b)) plus the tax imposed by*
12 *section 55, over*

13 “(B) *the sum of the credits allowable under*
14 *this subpart (other than this section) and section*
15 *27 for the taxable year.*

16 “(2) *CARRYFORWARD OF UNUSED CREDIT.*—

17 “(A) *RULE FOR YEARS IN WHICH ALL PER-*
18 *SONAL CREDITS ALLOWED AGAINST REGULAR*
19 *AND ALTERNATIVE MINIMUM TAX.*—*In the case of*
20 *a taxable year to which section 26(a)(2) applies,*
21 *if the credit allowable under subsection (a) ex-*
22 *ceeds the limitation imposed by section 26(a)(2)*
23 *for such taxable year reduced by the sum of the*
24 *credits allowable under this subpart (other than*
25 *this section), such excess shall be carried to the*

1 *succeeding taxable year and added to the credit*
2 *allowable under subsection (a) for such suc-*
3 *ceeding taxable year.*

4 *“(B) RULE FOR OTHER YEARS.—In the case*
5 *of a taxable year to which section 26(a)(2) does*
6 *not apply, if the credit allowable under sub-*
7 *section (a) exceeds the limitation imposed by*
8 *paragraph (1) for such taxable year, such excess*
9 *shall be carried to the succeeding taxable year*
10 *and added to the credit allowable under sub-*
11 *section (a) for such succeeding taxable year.”.*

12 *(2) CONFORMING AMENDMENTS.—*

13 *(A) Section 23(b)(4)(B) is amended by in-*
14 *serting “and section 25D” after “this section”.*

15 *(B) Section 24(b)(3)(B) is amended by*
16 *striking “and 25B” and inserting “, 25B, and*
17 *25D”.*

18 *(C) Section 25B(g)(2) is amended by strik-*
19 *ing “section 23” and inserting “sections 23 and*
20 *25D”.*

21 *(D) Section 26(a)(1) is amended by striking*
22 *“and 25B” and inserting “25B, and 25D”.*

23 *(f) EFFECTIVE DATE.—*

24 *(1) IN GENERAL.—Except as provided in para-*
25 *graph (2), the amendments made by this section shall*

1 *apply to taxable years beginning after December 31,*
2 *2007.*

3 (2) *SOLAR ELECTRIC PROPERTY LIMITATION.—*
4 *The amendments made by subsection (b) shall apply*
5 *to taxable years beginning after December 31, 2008.*

6 (3) *APPLICATION OF EGTRRA SUNSET.—The*
7 *amendments made by subparagraphs (A) and (B) of*
8 *subsection (e)(2) shall be subject to title IX of the Eco-*
9 *nomic Growth and Tax Relief Reconciliation Act of*
10 *2001 in the same manner as the provisions of such*
11 *Act to which such amendments relate.*

12 **SEC. 107. NEW CLEAN RENEWABLE ENERGY BONDS.**

13 (a) *IN GENERAL.—Subpart I of part IV of subchapter*
14 *A of chapter 1 is amended by adding at the end the fol-*
15 *lowing new section:*

16 **“SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.**

17 “(a) *NEW CLEAN RENEWABLE ENERGY BOND.—For*
18 *purposes of this subpart, the term ‘new clean renewable en-*
19 *ergy bond’ means any bond issued as part of an issue if—*

20 “(1) *100 percent of the available project proceeds*
21 *of such issue are to be used for capital expenditures*
22 *incurred by governmental bodies, public power pro-*
23 *viders, or cooperative electric companies for one or*
24 *more qualified renewable energy facilities,*

25 “(2) *the bond is issued by a qualified issuer, and*

1 “(3) *the issuer designates such bond for purposes*
2 *of this section.*

3 “(b) *REDUCED CREDIT AMOUNT.—The annual credit*
4 *determined under section 54A(b) with respect to any new*
5 *clean renewable energy bond shall be 70 percent of the*
6 *amount so determined without regard to this subsection.*

7 “(c) *LIMITATION ON AMOUNT OF BONDS DES-*
8 *IGNATED.—*

9 “(1) *IN GENERAL.—The maximum aggregate*
10 *face amount of bonds which may be designated under*
11 *subsection (a) by any issuer shall not exceed the limi-*
12 *tation amount allocated under this subsection to such*
13 *issuer.*

14 “(2) *NATIONAL LIMITATION ON AMOUNT OF*
15 *BONDS DESIGNATED.—There is a national new clean*
16 *renewable energy bond limitation of \$800,000,000*
17 *which shall be allocated by the Secretary as provided*
18 *in paragraph (3), except that—*

19 “(A) *not more than 33¹/₃ percent thereof*
20 *may be allocated to qualified projects of public*
21 *power providers,*

22 “(B) *not more than 33¹/₃ percent thereof*
23 *may be allocated to qualified projects of govern-*
24 *mental bodies, and*

1 “(C) not more than $33\frac{1}{3}$ percent thereof
2 may be allocated to qualified projects of coopera-
3 tive electric companies.

4 “(3) METHOD OF ALLOCATION.—

5 “(A) ALLOCATION AMONG PUBLIC POWER
6 PROVIDERS.—After the Secretary determines the
7 qualified projects of public power providers
8 which are appropriate for receiving an alloca-
9 tion of the national new clean renewable energy
10 bond limitation, the Secretary shall, to the max-
11 imum extent practicable, make allocations
12 among such projects in such manner that the
13 amount allocated to each such project bears the
14 same ratio to the cost of such project as the limi-
15 tation under paragraph (2)(A) bears to the cost
16 of all such projects.

17 “(B) ALLOCATION AMONG GOVERNMENTAL
18 BODIES AND COOPERATIVE ELECTRIC COMPA-
19 NIES.—The Secretary shall make allocations of
20 the amount of the national new clean renewable
21 energy bond limitation described in paragraphs
22 (2)(B) and (2)(C) among qualified projects of
23 governmental bodies and cooperative electric
24 companies, respectively, in such manner as the
25 Secretary determines appropriate.

1 “(d) DEFINITIONS.—For purposes of this section—

2 “(1) QUALIFIED RENEWABLE ENERGY FACIL-
3 ITY.—The term ‘qualified renewable energy facility’
4 means a qualified facility (as determined under sec-
5 tion 45(d) without regard to paragraphs (8) and (10)
6 thereof and to any placed in service date) owned by
7 a public power provider, a governmental body, or a
8 cooperative electric company.

9 “(2) PUBLIC POWER PROVIDER.—The term ‘pub-
10 lic power provider’ means a State utility with a serv-
11 ice obligation, as such terms are defined in section
12 217 of the Federal Power Act (as in effect on the date
13 of the enactment of this paragraph).

14 “(3) GOVERNMENTAL BODY.—The term ‘govern-
15 mental body’ means any State or Indian tribal gov-
16 ernment, or any political subdivision thereof.

17 “(4) COOPERATIVE ELECTRIC COMPANY.—The
18 term ‘cooperative electric company’ means a mutual
19 or cooperative electric company described in section
20 501(c)(12) or section 1381(a)(2)(C).

21 “(5) CLEAN RENEWABLE ENERGY BOND LEND-
22 ER.—The term ‘clean renewable energy bond lender’
23 means a lender which is a cooperative which is owned
24 by, or has outstanding loans to, 100 or more coopera-
25 tive electric companies and is in existence on Feb-

1 *ruary 1, 2002, and shall include any affiliated entity*
2 *which is controlled by such lender.*

3 “(6) *QUALIFIED ISSUER.*—*The term ‘qualified*
4 *issuer’ means a public power provider, a cooperative*
5 *electric company, a governmental body, a clean re-*
6 *newable energy bond lender, or a not-for-profit elec-*
7 *tric utility which has received a loan or loan guar-*
8 *antee under the Rural Electrification Act.”.*

9 *(b) CONFORMING AMENDMENTS.—*

10 *(1) Paragraph (1) of section 54A(d) is amended*
11 *to read as follows:*

12 “(1) *QUALIFIED TAX CREDIT BOND.*—*The term*
13 *‘qualified tax credit bond’ means—*

14 *“(A) a qualified forestry conservation bond,*
15 *or*

16 *“(B) a new clean renewable energy bond,*
17 *which is part of an issue that meets requirements of*
18 *paragraphs (2), (3), (4), (5), and (6).”.*

19 *(2) Subparagraph (C) of section 54A(d)(2) is*
20 *amended to read as follows:*

21 “(C) *QUALIFIED PURPOSE.*—*For purposes*
22 *of this paragraph, the term ‘qualified purpose’*
23 *means—*

1 “(i) in the case of a qualified forestry
2 conservation bond, a purpose specified in
3 section 54B(e), and

4 “(ii) in the case of a new clean renew-
5 able energy bond, a purpose specified in sec-
6 tion 54C(a)(1).”.

7 (3) The table of sections for subpart I of part IV
8 of subchapter A of chapter 1 is amended by adding
9 at the end the following new item:

“Sec. 54C. Qualified clean renewable energy bonds.”.

10 (c) *EXTENSION FOR CLEAN RENEWABLE ENERGY*
11 *BONDS.*—Subsection (m) of section 54 is amended by strik-
12 ing “December 31, 2008” and inserting “December 31,
13 2009”.

14 (d) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to obligations issued after the date of
16 the enactment of this Act.

17 **SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.**

18 (a) *TREATMENT AS REFINED COAL.*—

19 (1) *IN GENERAL.*—Subparagraph (A) of section
20 45(c)(7) of the Internal Revenue Code of 1986 (relat-
21 ing to refined coal), as amended by this Act, is
22 amended to read as follows:

23 “(A) *IN GENERAL.*—The term ‘refined coal’
24 means a fuel—

25 “(i) which—

1 “(I) is a liquid, gaseous, or solid
2 fuel produced from coal (including lig-
3 nite) or high carbon fly ash, including
4 such fuel used as a feedstock,

5 “(II) is sold by the taxpayer with
6 the reasonable expectation that it will
7 be used for purpose of producing
8 steam,

9 “(III) is certified by the taxpayer
10 as resulting (when used in the produc-
11 tion of steam) in a qualified emission
12 reduction, and

13 “(IV) is produced in such a man-
14 ner as to result in an increase of at
15 least 50 percent in the market value of
16 the refined coal (excluding any in-
17 crease caused by materials combined or
18 added during the production process),
19 as compared to the value of the feed-
20 stock coal, or

21 “(ii) which is steel industry fuel.”.

22 (2) *STEEL INDUSTRY FUEL DEFINED.*—Para-
23 graph (7) of section 45(c) of such Code is amended by
24 adding at the end the following new subparagraph:

25 “(C) *STEEL INDUSTRY FUEL.*—

1 “(i) *IN GENERAL.*—*The term ‘steel in-*
2 *dustry fuel’ means a fuel which—*

3 “(I) *is produced through a process*
4 *of liquifying coal waste sludge and dis-*
5 *tributing it on coal, and*

6 “(II) *is used as a feedstock for the*
7 *manufacture of coke.*

8 “(ii) *COAL WASTE SLUDGE.*—*The term*
9 *‘coal waste sludge’ means the tar decanter*
10 *sludge and related byproducts of the coking*
11 *process, including such materials that have*
12 *been stored in ground, in tanks and in la-*
13 *goons, that have been treated as hazardous*
14 *wastes under applicable Federal environ-*
15 *mental rules absent liquefaction and proc-*
16 *essing with coal into a feedstock for the*
17 *manufacture of coke.”.*

18 (b) *CREDIT AMOUNT.*—

19 (1) *IN GENERAL.*—*Paragraph (8) of section 45(e)*
20 *of the Internal Revenue Code of 1986 (relating to re-*
21 *fined coal production facilities) is amended by adding*
22 *at the end the following new subparagraph*

23 “(D) *SPECIAL RULE FOR STEEL INDUSTRY*
24 *FUEL.*—

1 “(i) *IN GENERAL.*—*In the case of a*
2 *taxpayer who produces steel industry fuel—*

3 “(I) *this paragraph shall be ap-*
4 *plied separately with respect to steel*
5 *industry fuel and other refined coal,*
6 *and*

7 “(II) *in applying this paragraph*
8 *to steel industry fuel, the modifications*
9 *in clause (ii) shall apply.*

10 “(ii) *MODIFICATIONS.*—

11 “(I) *CREDIT AMOUNT.*—*Subpara-*
12 *graph (A) shall be applied by sub-*
13 *stituting ‘\$2 per barrel-of-oil equiva-*
14 *lent’ for ‘\$4.375 per ton’.*

15 “(II) *CREDIT PERIOD.*—*In lieu of*
16 *the 10-year period referred to in*
17 *clauses (i) and (ii)(II) of subpara-*
18 *graph (A), the credit period shall be*
19 *the period beginning on the later of the*
20 *date such facility was originally placed*
21 *in service, the date the modifications*
22 *described in clause (iii) were placed in*
23 *service, or October 1, 2008, and ending*
24 *on the later of December 31, 2009, or*
25 *the date which is 1 year after the date*

1 *such facility or the modifications de-*
2 *scribed in clause (iii) were placed in*
3 *service.*

4 “(III) *NO PHASEOUT.*—Subpara-
5 *graph (B) shall not apply.*

6 “(iii) *MODIFICATIONS.*—*The modifica-*
7 *tions described in this clause are modifica-*
8 *tions to an existing facility which allow*
9 *such facility to produce steel industry fuel.*

10 “(iv) *BARREL-OF-OIL EQUIVALENT.*—
11 *For purposes of this subparagraph, a bar-*
12 *rel-of-oil equivalent is the amount of steel*
13 *industry fuel that has a Btu content of*
14 *5,800,000 Btus.”.*

15 (2) *INFLATION ADJUSTMENT.*—*Paragraph (2) of*
16 *section 45(b) of such Code is amended by inserting*
17 *“the \$3 amount in subsection (e)(8)(D)(i)(I),” after*
18 *“subsection (e)(8)(A),”.*

19 (c) *TERMINATION.*—*Paragraph (8) of section 45(d) of*
20 *the Internal Revenue Code of 1986 (relating to refined coal*
21 *production facility), as amended by this Act, is amended*
22 *to read as follows:*

23 “(8) *REFINED COAL PRODUCTION FACILITY.*—*In*
24 *the case of a facility that produces refined coal, the*
25 *term ‘refined coal production facility’ means—*

1 “(A) with respect to a facility producing
2 steel industry fuel, any facility (or any modi-
3 fication to a facility) which is placed in service
4 before January 1, 2010, and

5 “(B) with respect to any other facility pro-
6 ducing refined coal, any facility placed in serv-
7 ice after the date of the enactment of the Amer-
8 ican Jobs Creation Act of 2004 and before Janu-
9 ary 1, 2010.”.

10 (d) *COORDINATION WITH CREDIT FOR PRODUCING*
11 *FUEL FROM A NONCONVENTIONAL SOURCE.—*

12 (1) *IN GENERAL.—*Subparagraph (B) of section
13 45(e)(9) of the Internal Revenue Code of 1986 is
14 amended—

15 (A) by striking “The term” and inserting
16 the following:

17 “(i) *IN GENERAL.—*The term”, and

18 (B) by adding at the end the following new
19 clause:

20 “(ii) *EXCEPTION FOR STEEL INDUSTRY*
21 *COAL.—*In the case of a facility producing
22 steel industry fuel, clause (i) shall not apply
23 to so much of the refined coal produced at
24 such facility as is steel industry fuel.”.

1 (2) *NO DOUBLE BENEFIT.*—Section 45K(g)(2) of
2 such Code is amended by adding at the end the fol-
3 lowing new subparagraph:

4 “(E) *COORDINATION WITH SECTION 45.*—No
5 credit shall be allowed with respect to any quali-
6 fied fuel which is steel industry fuel (as defined
7 in section 45(c)(7)) if a credit is allowed to the
8 taxpayer for such fuel under section 45.”.

9 (e) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to fuel produced and sold after Sep-
11 tember 30, 2008.

12 **SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
13 **ELECTRIC RESTRUCTURING POLICY.**

14 (a) *EXTENSION FOR QUALIFIED ELECTRIC UTILI-*
15 *TIES.*—

16 (1) *IN GENERAL.*—Paragraph (3) of section
17 451(i) is amended by inserting “(before January 1,
18 2010, in the case of a qualified electric utility)” after
19 “January 1, 2008”.

20 (2) *QUALIFIED ELECTRIC UTILITY.*—Subsection
21 (i) of section 451 is amended by redesignating para-
22 graphs (6) through (10) as paragraphs (7) through
23 (11), respectively, and by inserting after paragraph
24 (5) the following new paragraph:

1 “(6) *QUALIFIED ELECTRIC UTILITY.*—For pur-
2 poses of this subsection, the term ‘qualified electric
3 utility’ means a person that, as of the date of the
4 qualifying electric transmission transaction, is
5 vertically integrated, in that it is both—

6 “(A) a transmitting utility (as defined in
7 section 3(23) of the Federal Power Act (16
8 U.S.C. 796(23))) with respect to the transmission
9 facilities to which the election under this sub-
10 section applies, and

11 “(B) an electric utility (as defined in sec-
12 tion 3(22) of the Federal Power Act (16 U.S.C.
13 796(22))).”.

14 (b) *EXTENSION OF PERIOD FOR TRANSFER OF OPER-*
15 *ATIONAL CONTROL AUTHORIZED BY FERC.*—Clause (ii) of
16 section 451(i)(4)(B) is amended by striking “December 31,
17 2007” and inserting “the date which is 4 years after the
18 close of the taxable year in which the transaction occurs”.

19 (c) *PROPERTY LOCATED OUTSIDE THE UNITED*
20 *STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.*—
21 Paragraph (5) of section 451(i) is amended by adding at
22 the end the following new subparagraph:

23 “(C) *EXCEPTION FOR PROPERTY LOCATED*
24 *OUTSIDE THE UNITED STATES.*—The term ‘ex-
25 empt utility property’ shall not include any

1 *property which is located outside the United*
2 *States.”.*

3 *(d) EFFECTIVE DATES.—*

4 *(1) EXTENSION.—The amendments made by sub-*
5 *section (a) shall apply to transactions after December*
6 *31, 2007.*

7 *(2) TRANSFERS OF OPERATIONAL CONTROL.—*
8 *The amendment made by subsection (b) shall take ef-*
9 *fect as if included in section 909 of the American Jobs*
10 *Creation Act of 2004.*

11 *(3) EXCEPTION FOR PROPERTY LOCATED OUT-*
12 *SIDE THE UNITED STATES.—The amendment made by*
13 *subsection (c) shall apply to transactions after the*
14 *date of the enactment of this Act.*

15 ***Subtitle B—Carbon Mitigation and***
16 ***Coal Provisions***

17 ***SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED***
18 ***COAL PROJECT INVESTMENT CREDIT.***

19 *(a) MODIFICATION OF CREDIT AMOUNT.—Section*
20 *48A(a) is amended by striking “and” at the end of para-*
21 *graph (1), by striking the period at the end of paragraph*
22 *(2) and inserting “, and”, and by adding at the end the*
23 *following new paragraph:*

1 “(3) 30 percent of the qualified investment for
2 such taxable year in the case of projects described in
3 clause (iii) of subsection (d)(3)(B).”.

4 (b) *EXPANSION OF AGGREGATE CREDITS.*—Section
5 48A(d)(3)(A) is amended by striking “\$1,300,000,000” and
6 inserting “\$2,550,000,000”.

7 (c) *AUTHORIZATION OF ADDITIONAL PROJECTS.*—

8 (1) *IN GENERAL.*—Subparagraph (B) of section
9 48A(d)(3) is amended to read as follows:

10 “(B) *PARTICULAR PROJECTS.*—Of the dollar
11 amount in subparagraph (A), the Secretary is
12 authorized to certify—

13 “(i) \$800,000,000 for integrated gasifi-
14 cation combined cycle projects the applica-
15 tion for which is submitted during the pe-
16 riod described in paragraph (2)(A)(i),

17 “(ii) \$500,000,000 for projects which
18 use other advanced coal-based generation
19 technologies the application for which is
20 submitted during the period described in
21 paragraph (2)(A)(i), and

22 “(iii) \$1,250,000,000 for advanced
23 coal-based generation technology projects the
24 application for which is submitted during

1 the period described in paragraph
2 (2)(A)(ii).”.

3 (2) *APPLICATION PERIOD FOR ADDITIONAL*
4 *PROJECTS.—Subparagraph (A) of section 48A(d)(2)*
5 *is amended to read as follows:*

6 “(A) *APPLICATION PERIOD.—Each appli-*
7 *cant for certification under this paragraph shall*
8 *submit an application meeting the requirements*
9 *of subparagraph (B). An applicant may only*
10 *submit an application—*

11 “(i) *for an allocation from the dollar*
12 *amount specified in clause (i) or (ii) of*
13 *paragraph (3)(B) during the 3-year period*
14 *beginning on the date the Secretary estab-*
15 *lishes the program under paragraph (1),*
16 *and*

17 “(ii) *for an allocation from the dollar*
18 *amount specified in paragraph (3)(B)(iii)*
19 *during the 3-year period beginning at the*
20 *earlier of the termination of the period de-*
21 *scribed in clause (i) or the date prescribed*
22 *by the Secretary.”.*

23 (3) *CAPTURE AND SEQUESTRATION OF CARBON*
24 *DIOXIDE EMISSIONS REQUIREMENT.—*

1 (A) *IN GENERAL.*—Section 48A(e)(1) is
2 amended by striking “and” at the end of sub-
3 paragraph (E), by striking the period at the end
4 of subparagraph (F) and inserting “; and”, and
5 by adding at the end the following new subpara-
6 graph:

7 “(G) in the case of any project the applica-
8 tion for which is submitted during the period de-
9 scribed in subsection (d)(2)(A)(ii), the project in-
10 cludes equipment which separates and sequesters
11 at least 65 percent (70 percent in the case of an
12 application for reallocated credits under sub-
13 section (d)(4)) of such project’s total carbon diox-
14 ide emissions.”.

15 (B) *HIGHEST PRIORITY FOR PROJECTS*
16 *WHICH SEQUESTER CARBON DIOXIDE EMIS-*
17 *SIONS.*—Section 48A(e)(3) is amended by strik-
18 ing “and” at the end of subparagraph (A)(iii),
19 by striking the period at the end of subpara-
20 graph (B)(iii) and inserting “, and”, and by
21 adding at the end the following new subpara-
22 graph:

23 “(C) give highest priority to projects with
24 the greatest separation and sequestration per-
25 centage of total carbon dioxide emissions.”.

1 (C) *RECAPTURE OF CREDIT FOR FAILURE*
2 *TO SEQUESTER.*—Section 48A is amended by
3 adding at the end the following new subsection:

4 “(i) *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 of subsection
9 (e)(1)(G).”.

10 (4) *ADDITIONAL PRIORITY FOR RESEARCH PART-*
11 *NERSHIPS.*—Section 48A(e)(3)(B), as amended by
12 paragraph (3)(B), is amended—

13 (A) by striking “and” at the end of clause

14 (ii),

15 (B) by redesignating clause (iii) as clause

16 (iv), and

17 (C) by inserting after clause (ii) the fol-
18 lowing new clause:

19 “(iii) *applicant participants who have*
20 *a research partnership with an eligible edu-*
21 *cational institution (as defined in section*
22 *529(e)(5)), and”.*

23 (5) *CLERICAL AMENDMENT.*—Section 48A(e)(3)
24 is amended by striking “*INTEGRATED GASIFICATION*

1 *COMBINED CYCLE*” in the heading and inserting
2 “*CERTAIN*”.

3 *(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is*
4 *amended by adding at the end the following new paragraph:*

5 “*(5) DISCLOSURE OF ALLOCATIONS.—The Sec-*
6 *retary shall, upon making a certification under this*
7 *subsection or section 48B(d), publicly disclose the*
8 *identity of the applicant and the amount of the credit*
9 *certified with respect to such applicant.*”.

10 *(e) EFFECTIVE DATES.—*

11 *(1) IN GENERAL.—Except as otherwise provided*
12 *in this subsection, the amendments made by this sec-*
13 *tion shall apply to credits the application for which*
14 *is submitted during the period described in section*
15 *48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986*
16 *and which are allocated or reallocated after the date*
17 *of the enactment of this Act.*

18 *(2) DISCLOSURE OF ALLOCATIONS.—The amend-*
19 *ment made by subsection (d) shall apply to certifi-*
20 *cations made after the date of the enactment of this*
21 *Act.*

22 *(3) CLERICAL AMENDMENT.—The amendment*
23 *made by subsection (c)(5) shall take effect as if in-*
24 *cluded in the amendment made by section 1307(b) of*
25 *the Energy Tax Incentives Act of 2005.*

1 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**
2 **CATION INVESTMENT CREDIT.**

3 (a) *MODIFICATION OF CREDIT AMOUNT.*—Section
4 48B(a) is amended by inserting “(30 percent in the case
5 of credits allocated under subsection (d)(1)(B))” after “20
6 percent”.

7 (b) *EXPANSION OF AGGREGATE CREDITS.*—Section
8 48B(d)(1) is amended by striking “shall not exceed
9 \$350,000,000” and all that follows and inserting “shall not
10 exceed—

11 “(A) \$350,000,000, plus

12 “(B) \$250,000,000 for qualifying gasifi-
13 cation projects that include equipment which
14 separates and sequesters at least 75 percent of
15 such project’s total carbon dioxide emissions.”.

16 (c) *RECAPTURE OF CREDIT FOR FAILURE TO SEQUES-*
17 *TER.*—Section 48B is amended by adding at the end the
18 following new subsection:

19 “(f) *RECAPTURE OF CREDIT FOR FAILURE TO SE-*
20 *QUESTER.*—The Secretary shall provide for recapturing the
21 benefit of any credit allowable under subsection (a) with
22 respect to any project which fails to attain or maintain
23 the separation and sequestration requirements for such
24 project under subsection (d)(1).”.

25 (d) *SELECTION PRIORITIES.*—Section 48B(d) is
26 amended by adding at the end the following new paragraph:

1 “(4) *SELECTION PRIORITIES.*—*In determining*
2 *which qualifying gasification projects to certify under*
3 *this section, the Secretary shall—*

4 “(A) *give highest priority to projects with*
5 *the greatest separation and sequestration per-*
6 *centage of total carbon dioxide emissions, and*

7 “(B) *give high priority to applicant par-*
8 *ticipants who have a research partnership with*
9 *an eligible educational institution (as defined in*
10 *section 529(e)(5)).”.*

11 (e) *ELIGIBLE PROJECTS INCLUDE TRANSPORTATION*
12 *GRADE LIQUID FUELS.*—*Section 48B(c)(7) (defining eligi-*
13 *ble entity) is amended by striking “and” at the end of sub-*
14 *paragraph (F), by striking the period at the end of subpara-*
15 *graph (G) and inserting “, and”, and by adding at the end*
16 *the following new subparagraph:*

17 “(H) *transportation grade liquid fuels.”.*

18 (f) *EFFECTIVE DATE.*—*The amendments made by this*
19 *section shall apply to credits described in section*
20 *48B(d)(1)(B) of the Internal Revenue Code of 1986 which*
21 *are allocated or reallocated after the date of the enactment*
22 *of this Act.*

1 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX;**
2 **FUNDING OF BLACK LUNG DISABILITY TRUST**
3 **FUND.**

4 (a) *EXTENSION OF TEMPORARY INCREASE.*—*Para-*
5 *graph (2) of section 4121(e) is amended—*

6 (1) *by striking “January 1, 2014” in subpara-*
7 *graph (A) and inserting “December 31, 2018”, and*

8 (2) *by striking “January 1 after 1981” in sub-*
9 *paragraph (B) and inserting “December 31 after*
10 *2007”.*

11 (b) *RESTRUCTURING OF TRUST FUND DEBT.*—

12 (1) *DEFINITIONS.*—*For purposes of this sub-*
13 *section—*

14 (A) *MARKET VALUE OF THE OUTSTANDING*
15 *REPAYABLE ADVANCES, PLUS ACCRUED INTER-*
16 *EST.*—*The term “market value of the out-*
17 *standing repayable advances, plus accrued inter-*
18 *est” means the present value (determined by the*
19 *Secretary of the Treasury as of the refinancing*
20 *date and using the Treasury rate as the discount*
21 *rate) of the stream of principal and interest pay-*
22 *ments derived assuming that each repayable ad-*
23 *vance that is outstanding on the refinancing*
24 *date is due on the 30th anniversary of the end*
25 *of the fiscal year in which the advance was made*
26 *to the Trust Fund, and that all such principal*

1 *and interest payments are made on September*
2 *30 of the applicable fiscal year.*

3 (B) *REFINANCING DATE.*—*The term “refi-*
4 *nancing date” means the date occurring 2 days*
5 *after the enactment of this Act.*

6 (C) *REPAYABLE ADVANCE.*—*The term “re-*
7 *payable advance” means an amount that has*
8 *been appropriated to the Trust Fund in order to*
9 *make benefit payments and other expenditures*
10 *that are authorized under section 9501 of the In-*
11 *ternal Revenue Code of 1986 and are required to*
12 *be repaid when the Secretary of the Treasury de-*
13 *termines that monies are available in the Trust*
14 *Fund for such purpose.*

15 (D) *TREASURY RATE.*—*The term “Treasury*
16 *rate” means a rate determined by the Secretary*
17 *of the Treasury, taking into consideration cur-*
18 *rent market yields on outstanding marketable ob-*
19 *ligations of the United States of comparable ma-*
20 *turities.*

21 (E) *TREASURY 1-YEAR RATE.*—*The term*
22 *“Treasury 1-year rate” means a rate determined*
23 *by the Secretary of the Treasury, taking into*
24 *consideration current market yields on out-*
25 *standing marketable obligations of the United*

1 *States with remaining periods to maturity of*
2 *approximately 1 year, to have been in effect as*
3 *of the close of business 1 business day prior to*
4 *the date on which the Trust Fund issues obliga-*
5 *tions to the Secretary of the Treasury under*
6 *paragraph (2)(B).*

7 (2) *REFINANCING OF OUTSTANDING PRINCIPAL*
8 *OF REPAYABLE ADVANCES AND UNPAID INTEREST ON*
9 *SUCH ADVANCES.—*

10 (A) *TRANSFER TO GENERAL FUND.—On the*
11 *refinancing date, the Trust Fund shall repay the*
12 *market value of the outstanding repayable ad-*
13 *vances, plus accrued interest, by transferring*
14 *into the general fund of the Treasury the fol-*
15 *lowing sums:*

16 (i) *The proceeds from obligations that*
17 *the Trust Fund shall issue to the Secretary*
18 *of the Treasury in such amounts as the Sec-*
19 *retaries of Labor and the Treasury shall de-*
20 *termine and bearing interest at the Treas-*
21 *ury rate, and that shall be in such forms*
22 *and denominations and be subject to such*
23 *other terms and conditions, including matu-*
24 *rity, as the Secretary of the Treasury shall*
25 *prescribe.*

1 (ii) *All, or that portion, of the appro-*
2 *priation made to the Trust Fund pursuant*
3 *to paragraph (3) that is needed to cover the*
4 *difference defined in that paragraph.*

5 (B) *REPAYMENT OF OBLIGATIONS.—In the*
6 *event that the Trust Fund is unable to repay the*
7 *obligations that it has issued to the Secretary of*
8 *the Treasury under subparagraph (A)(i) and*
9 *this subparagraph, or is unable to make benefit*
10 *payments and other authorized expenditures, the*
11 *Trust Fund shall issue obligations to the Sec-*
12 *retary of the Treasury in such amounts as may*
13 *be necessary to make such repayments, pay-*
14 *ments, and expenditures, with a maturity of 1*
15 *year, and bearing interest at the Treasury 1-year*
16 *rate. These obligations shall be in such forms and*
17 *denominations and be subject to such other terms*
18 *and conditions as the Secretary of the Treasury*
19 *shall prescribe.*

20 (C) *AUTHORITY TO ISSUE OBLIGATIONS.—*
21 *The Trust Fund is authorized to issue obliga-*
22 *tions to the Secretary of the Treasury under sub-*
23 *paragraphs (A)(i) and (B). The Secretary of the*
24 *Treasury is authorized to purchase such obliga-*
25 *tions of the Trust Fund. For the purposes of*

1 *making such purchases, the Secretary of the*
2 *Treasury may use as a public debt transaction*
3 *the proceeds from the sale of any securities issued*
4 *under chapter 31 of title 31, United States Code,*
5 *and the purposes for which securities may be*
6 *issued under such chapter are extended to in-*
7 *clude any purchase of such Trust Fund obliga-*
8 *tions under this subparagraph.*

9 (3) *ONE-TIME APPROPRIATION.—There is hereby*
10 *appropriated to the Trust Fund an amount sufficient*
11 *to pay to the general fund of the Treasury the dif-*
12 *ference between—*

13 (A) *the market value of the outstanding re-*
14 *payable advances, plus accrued interest; and*

15 (B) *the proceeds from the obligations issued*
16 *by the Trust Fund to the Secretary of the Treas-*
17 *ury under paragraph (2)(A)(i).*

18 (4) *PREPAYMENT OF TRUST FUND OBLIGA-*
19 *TIONS.—The Trust Fund is authorized to repay any*
20 *obligation issued to the Secretary of the Treasury*
21 *under subparagraphs (A)(i) and (B) of paragraph (2)*
22 *prior to its maturity date by paying a prepayment*
23 *price that would, if the obligation being prepaid (in-*
24 *cluding all unpaid interest accrued thereon through*
25 *the date of prepayment) were purchased by a third*

1 *party and held to the maturity date of such obliga-*
2 *tion, produce a yield to the third-party purchaser for*
3 *the period from the date of purchase to the maturity*
4 *date of such obligation substantially equal to the*
5 *Treasury yield on outstanding marketable obligations*
6 *of the United States having a comparable maturity to*
7 *this period.*

8 **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**
9 **CISE TAX TO CERTAIN COAL PRODUCERS AND**
10 **EXPORTERS.**

11 *(a) REFUND.—*

12 *(1) COAL PRODUCERS.—*

13 *(A) IN GENERAL.—Notwithstanding sub-*
14 *sections (a)(1) and (c) of section 6416 and sec-*
15 *tion 6511 of the Internal Revenue Code of 1986,*
16 *if—*

17 *(i) a coal producer establishes that*
18 *such coal producer, or a party related to*
19 *such coal producer, exported coal produced*
20 *by such coal producer to a foreign country*
21 *or shipped coal produced by such coal pro-*
22 *ducer to a possession of the United States,*
23 *or caused such coal to be exported or*
24 *shipped, the export or shipment of which*

1 *was other than through an exporter who*
2 *meets the requirements of paragraph (2),*

3 *(ii) such coal producer filed an excise*
4 *tax return on or after October 1, 1990, and*
5 *on or before the date of the enactment of this*
6 *Act, and*

7 *(iii) such coal producer files a claim*
8 *for refund with the Secretary not later than*
9 *the close of the 30-day period beginning on*
10 *the date of the enactment of this Act,*

11 *then the Secretary shall pay to such coal pro-*
12 *ducer an amount equal to the tax paid under*
13 *section 4121 of such Code on such coal exported*
14 *or shipped by the coal producer or a party re-*
15 *lated to such coal producer, or caused by the coal*
16 *producer or a party related to such coal producer*
17 *to be exported or shipped.*

18 *(B) SPECIAL RULES FOR CERTAIN TAX-*
19 *PAYERS.—For purposes of this section—*

20 *(i) IN GENERAL.—If a coal producer or*
21 *a party related to a coal producer has re-*
22 *ceived a judgment described in clause (iii),*
23 *such coal producer shall be deemed to have*
24 *established the export of coal to a foreign*
25 *country or shipment of coal to a possession*

1 of the United States under subparagraph
2 (A)(i).

3 (ii) *AMOUNT OF PAYMENT.*—If a tax-
4 payer described in clause (i) is entitled to
5 a payment under subparagraph (A), the
6 amount of such payment shall be reduced by
7 any amount paid pursuant to the judgment
8 described in clause (iii).

9 (iii) *JUDGMENT DESCRIBED.*—A judg-
10 ment is described in this subparagraph if
11 such judgment—

12 (I) is made by a court of com-
13 petent jurisdiction within the United
14 States,

15 (II) relates to the constitutionality
16 of any tax paid on exported coal under
17 section 4121 of the Internal Revenue
18 Code of 1986, and

19 (III) is in favor of the coal pro-
20 ducer or the party related to the coal
21 producer.

22 (2) *EXPORTERS.*—Notwithstanding subsections
23 (a)(1) and (c) of section 6416 and section 6511 of the
24 Internal Revenue Code of 1986, and a judgment de-

1 scribed in paragraph (1)(B)(iii) of this subsection,
2 if—

3 (A) an exporter establishes that such ex-
4 porter exported coal to a foreign country or
5 shipped coal to a possession of the United States,
6 or caused such coal to be so exported or shipped,

7 (B) such exporter filed a tax return on or
8 after October 1, 1990, and on or before the date
9 of the enactment of this Act, and

10 (C) such exporter files a claim for refund
11 with the Secretary not later than the close of the
12 30-day period beginning on the date of the enact-
13 ment of this Act,

14 then the Secretary shall pay to such exporter an
15 amount equal to \$0.825 per ton of such coal exported
16 by the exporter or caused to be exported or shipped,
17 or caused to be exported or shipped, by the exporter.

18 (b) *LIMITATIONS.*—Subsection (a) shall not apply with
19 respect to exported coal if a settlement with the Federal
20 Government has been made with and accepted by, the coal
21 producer, a party related to such coal producer, or the ex-
22 porter, of such coal, as of the date that the claim is filed
23 under this section with respect to such exported coal. For
24 purposes of this subsection, the term “settlement with the
25 Federal Government” shall not include any settlement or

1 *stipulation entered into as of the date of the enactment of*
2 *this Act, the terms of which contemplate a judgment con-*
3 *cerning which any party has reserved the right to file an*
4 *appeal, or has filed an appeal.*

5 (c) *SUBSEQUENT REFUND PROHIBITED.*—*No refund*
6 *shall be made under this section to the extent that a credit*
7 *or refund of such tax on such exported or shipped coal has*
8 *been paid to any person.*

9 (d) *DEFINITIONS.*—*For purposes of this section—*

10 (1) *COAL PRODUCER.*—*The term “coal producer”*
11 *means the person in whom is vested ownership of the*
12 *coal immediately after the coal is severed from the*
13 *ground, without regard to the existence of any con-*
14 *tractual arrangement for the sale or other disposition*
15 *of the coal or the payment of any royalties between*
16 *the producer and third parties. The term includes any*
17 *person who extracts coal from coal waste refuse piles*
18 *or from the silt waste product which results from the*
19 *wet washing (or similar processing) of coal.*

20 (2) *EXPORTER.*—*The term “exporter” means a*
21 *person, other than a coal producer, who does not have*
22 *a contract, fee arrangement, or any other agreement*
23 *with a producer or seller of such coal to export or*
24 *ship such coal to a third party on behalf of the pro-*
25 *ducer or seller of such coal and—*

1 (A) is indicated in the shipper's export dec-
2 laration or other documentation as the exporter
3 of record, or

4 (B) actually exported such coal to a foreign
5 country or shipped such coal to a possession of
6 the United States, or caused such coal to be so
7 exported or shipped.

8 (3) *RELATED PARTY*.—The term “a party related
9 to such coal producer” means a person who—

10 (A) is related to such coal producer through
11 any degree of common management, stock owner-
12 ship, or voting control,

13 (B) is related (within the meaning of sec-
14 tion 144(a)(3) of the Internal Revenue Code of
15 1986) to such coal producer, or

16 (C) has a contract, fee arrangement, or any
17 other agreement with such coal producer to sell
18 such coal to a third party on behalf of such coal
19 producer.

20 (4) *SECRETARY*.—The term “Secretary” means
21 the Secretary of Treasury or the Secretary's designee.

22 (e) *TIMING OF REFUND*.—With respect to any claim
23 for refund filed pursuant to this section, the Secretary shall
24 determine whether the requirements of this section are met
25 not later than 180 days after such claim is filed. If the Sec-

1 *retary determines that the requirements of this section are*
2 *met, the claim for refund shall be paid not later than 180*
3 *days after the Secretary makes such determination.*

4 (f) *INTEREST.—Any refund paid pursuant to this sec-*
5 *tion shall be paid by the Secretary with interest from the*
6 *date of overpayment determined by using the overpayment*
7 *rate and method under section 6621 of the Internal Revenue*
8 *Code of 1986.*

9 (g) *DENIAL OF DOUBLE BENEFIT.—The payment*
10 *under subsection (a) with respect to any coal shall not ex-*
11 *ceed—*

12 (1) *in the case of a payment to a coal producer,*
13 *the amount of tax paid under section 4121 of the In-*
14 *ternal Revenue Code of 1986 with respect to such coal*
15 *by such coal producer or a party related to such coal*
16 *producer, and*

17 (2) *in the case of a payment to an exporter, an*
18 *amount equal to \$0.825 per ton with respect to such*
19 *coal exported by the exporter or caused to be exported*
20 *by the exporter.*

21 (h) *APPLICATION OF SECTION.—This section applies*
22 *only to claims on coal exported or shipped on or after Octo-*
23 *ber 1, 1990, through the date of the enactment of this Act.*

24 (i) *STANDING NOT CONFERRED.—*

1 (1) *EXPORTERS.*—*With respect to exporters, this*
 2 *section shall not confer standing upon an exporter to*
 3 *commence, or intervene in, any judicial or adminis-*
 4 *trative proceeding concerning a claim for refund by*
 5 *a coal producer of any Federal or State tax, fee, or*
 6 *royalty paid by the coal producer.*

7 (2) *COAL PRODUCERS.*—*With respect to coal pro-*
 8 *ducers, this section shall not confer standing upon a*
 9 *coal producer to commence, or intervene in, any judi-*
 10 *cial or administrative proceeding concerning a claim*
 11 *for refund by an exporter of any Federal or State tax,*
 12 *fee, or royalty paid by the producer and alleged to*
 13 *have been passed on to an exporter.*

14 **SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**
 15 **TION.**

16 (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*
 17 *A of chapter 1 (relating to business credits) is amended by*
 18 *adding at the end the following new section:*

19 **“SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

20 “(a) *GENERAL RULE.*—*For purposes of section 38, the*
 21 *carbon dioxide sequestration credit for any taxable year is*
 22 *an amount equal to the sum of—*

23 “(1) \$20 per metric ton of qualified carbon diox-

24 *ide which is—*

1 “(A) captured by the taxpayer at a quali-
2 fied facility, and

3 “(B) disposed of by the taxpayer in secure
4 geological storage, and

5 “(2) \$10 per metric ton of qualified carbon diox-
6 ide which is—

7 “(A) captured by the taxpayer at a quali-
8 fied facility, and

9 “(B) used by the taxpayer as a tertiary
10 injectant in a qualified enhanced oil or natural
11 gas recovery project.

12 “(b) **QUALIFIED CARBON DIOXIDE.**—For purposes of
13 this section—

14 “(1) **IN GENERAL.**—The term ‘qualified carbon
15 dioxide’ means carbon dioxide captured from an in-
16 dustrial source which—

17 “(A) would otherwise be released into the
18 atmosphere as industrial emission of greenhouse
19 gas, and

20 “(B) is measured at the source of capture
21 and verified at the point of disposal or injection.

22 “(2) **RECYCLED CARBON DIOXIDE.**—The term
23 ‘qualified carbon dioxide’ includes the initial deposit
24 of captured carbon dioxide used as a tertiary
25 injectant. Such term does not include carbon dioxide

1 *that is re-captured, recycled, and re-injected as part*
2 *of the enhanced oil and natural gas recovery process.*

3 “(c) *QUALIFIED FACILITY.—For purposes of this sec-*
4 *tion, the term ‘qualified facility’ means any industrial fa-*
5 *cility—*

6 “(1) *which is owned by the taxpayer,*

7 “(2) *at which carbon capture equipment is*
8 *placed in service, and*

9 “(3) *which captures not less than 500,000 metric*
10 *tons of carbon dioxide during the taxable year.*

11 “(d) *SPECIAL RULES AND OTHER DEFINITIONS.—For*
12 *purposes of this section—*

13 “(1) *ONLY CARBON DIOXIDE CAPTURED AND DIS-*
14 *POSED OF OR USED WITHIN THE UNITED STATES*
15 *TAKEN INTO ACCOUNT.—The credit under this section*
16 *shall apply only with respect to qualified carbon di-*
17 *oxide the capture and disposal or use of which is*
18 *within—*

19 “(A) *the United States (within the meaning*
20 *of section 638(1)), or*

21 “(B) *a possession of the United States*
22 *(within the meaning of section 638(2)).*

23 “(2) *SECURE GEOLOGICAL STORAGE.—The Sec-*
24 *retary, in consultation with the Administrator of the*
25 *Environmental Protection Agency, shall establish reg-*

1 *ulations for determining adequate security measures*
2 *for the geological storage of carbon dioxide under sub-*
3 *section (a)(1)(B) such that the carbon dioxide does*
4 *not escape into the atmosphere. Such term shall in-*
5 *clude storage at deep saline formations and*
6 *unminable coal seams under such conditions as the*
7 *Secretary may determine under such regulations.*

8 “(3) *TERTIARY INJECTANT.*—*The term ‘tertiary*
9 *injectant’ has the same meaning as when used within*
10 *section 193(b)(1).*

11 “(4) *QUALIFIED ENHANCED OIL OR NATURAL*
12 *GAS RECOVERY PROJECT.*—*The term ‘qualified en-*
13 *hanced oil or natural gas recovery project’ has the*
14 *meaning given the term ‘qualified enhanced oil recov-*
15 *ery project’ by section 43(c)(2), by substituting ‘crude*
16 *oil or natural gas’ for ‘crude oil’ in subparagraph*
17 *(A)(i) thereof.*

18 “(5) *CREDIT ATTRIBUTABLE TO TAXPAYER.*—
19 *Any credit under this section shall be attributable to*
20 *the person that captures and physically or contrac-*
21 *tually ensures the disposal of or the use as a tertiary*
22 *injectant of the qualified carbon dioxide, except to the*
23 *extent provided in regulations prescribed by the Sec-*
24 *retary.*

1 “(6) *RECAPTURE.*—*The Secretary shall, by regu-*
2 *lations, provide for recapturing the benefit of any*
3 *credit allowable under subsection (a) with respect to*
4 *any qualified carbon dioxide which ceases to be cap-*
5 *tured, disposed of, or used as a tertiary injectant in*
6 *a manner consistent with the requirements of this sec-*
7 *tion.*

8 “(7) *INFLATION ADJUSTMENT.*—*In the case of*
9 *any taxable year beginning in a calendar year after*
10 *2009, there shall be substituted for each dollar amount*
11 *contained in subsection (a) an amount equal to the*
12 *product of—*

13 “(A) *such dollar amount, multiplied by*
14 “(B) *the inflation adjustment factor for*
15 *such calendar year determined under section*
16 *43(b)(3)(B) for such calendar year, determined*
17 *by substituting ‘2008’ for ‘1990’.*

18 “(e) *APPLICATION OF SECTION.*—*The credit under this*
19 *section shall apply with respect to qualified carbon dioxide*
20 *before the end of the calendar year in which the Secretary,*
21 *in consultation with the Administrator of the Environ-*
22 *mental Protection Agency, certifies that 75,000,000 metric*
23 *tons of qualified carbon dioxide have been captured and dis-*
24 *posed of or used as a tertiary injectant.”.*

1 (b) *CONFORMING AMENDMENT.*—Section 38(b) (relat-
 2 ing to general business credit) is amended by striking
 3 “plus” at the end of paragraph (32), by striking the period
 4 at the end of paragraph (33) and inserting “, plus”, and
 5 by adding at the end of following new paragraph:

6 “(34) the carbon dioxide sequestration credit de-
 7 termined under section 45Q(a).”.

8 (c) *CLERICAL AMENDMENT.*—The table of sections for
 9 subpart B of part IV of subchapter A of chapter 1 (relating
 10 to other credits) is amended by adding at the end the fol-
 11 lowing new section:

 “Sec. 45Q. Credit for carbon dioxide sequestration.”.

12 (d) *EFFECTIVE DATE.*—The amendments made by this
 13 section shall apply to carbon dioxide captured after the date
 14 of the enactment of this Act.

15 **SEC. 116. CERTAIN INCOME AND GAINS RELATING TO IN-**
 16 **DUSTRIAL SOURCE CARBON DIOXIDE TREAT-**
 17 **ED AS QUALIFYING INCOME FOR PUBLICLY**
 18 **TRADED PARTNERSHIPS.**

19 (a) *IN GENERAL.*—Subparagraph (E) of section
 20 7704(d)(1) (defining qualifying income) is amended by in-
 21 serting “or industrial source carbon dioxide” after “tim-
 22 ber)”.

23 (b) *EFFECTIVE DATE.*—The amendment made by this
 24 section shall take effect on the date of the enactment of this
 25 Act, in taxable years ending after such date.

1 **SEC. 117. CARBON AUDIT OF THE TAX CODE.**

2 (a) *STUDY.*—*The Secretary of the Treasury shall enter*
3 *into an agreement with the National Academy of Sciences*
4 *to undertake a comprehensive review of the Internal Rev-*
5 *enue Code of 1986 to identify the types of and specific tax*
6 *provisions that have the largest effects on carbon and other*
7 *greenhouse gas emissions and to estimate the magnitude of*
8 *those effects.*

9 (b) *REPORT.*—*Not later than 2 years after the date*
10 *of enactment of this Act, the National Academy of Sciences*
11 *shall submit to Congress a report containing the results of*
12 *study authorized under this section.*

13 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
14 *authorized to be appropriated to carry out this section*
15 *\$1,500,000 for the period of fiscal years 2009 and 2010.*

16 **TITLE II—TRANSPORTATION**
17 **AND DOMESTIC FUEL SECUR-**
18 **RITY PROVISIONS**

19 **SEC. 201. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS**
20 **DEPRECIATION FOR BIOMASS ETHANOL**
21 **PLANT PROPERTY.**

22 (a) *IN GENERAL.*—*Paragraph (3) of section 168(l) is*
23 *amended to read as follows:*

24 “(3) *CELLULOSIC BIOFUEL.*—*The term ‘cellulosic*
25 *biofuel’ means any liquid fuel which is produced from*

1 *any lignocellulosic or hemicellulosic matter that is*
2 *available on a renewable or recurring basis.”.*

3 **(b) CONFORMING AMENDMENTS.**—*Subsection (l) of sec-*
4 *tion 168 is amended—*

5 *(1) by striking “cellulosic biomass ethanol” each*
6 *place it appears and inserting “cellulosic biofuel”,*

7 *(2) by striking “CELLULOSIC BIOMASS ETH-*
8 *ANOL” in the heading of such subsection and inserting*
9 *“CELLULOSIC BIOFUEL”, and*

10 *(3) by striking “CELLULOSIC BIOMASS ETHANOL”*
11 *in the heading of paragraph (2) thereof and inserting*
12 *“CELLULOSIC BIOFUEL”.*

13 **(c) EFFECTIVE DATE.**—*The amendments made by this*
14 *section shall apply to property placed in service after the*
15 *date of the enactment of this Act, in taxable years ending*
16 *after such date.*

17 **SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**
18 **SEL.**

19 **(a) IN GENERAL.**—*Sections 40A(g), 6426(c)(6), and*
20 *6427(e)(5)(B) are each amended by striking “December 31,*
21 *2008” and inserting “December 31, 2009”.*

22 **(b) INCREASE IN RATE OF CREDIT.**—

23 **(1) INCOME TAX CREDIT.**—*Paragraphs (1)(A)*
24 *and (2)(A) of section 40A(b) are each amended by*
25 *striking “50 cents” and inserting “\$1.00”.*

1 (2) *EXCISE TAX CREDIT.*—Paragraph (2) of sec-
2 tion 6426(c) is amended to read as follows:

3 “(2) *APPLICABLE AMOUNT.*—For purposes of this
4 subsection, the applicable amount is \$1.00.”.

5 (3) *CONFORMING AMENDMENTS.*—

6 (A) Subsection (b) of section 40A is amend-
7 ed by striking paragraph (3) and by redesignig-
8 nating paragraphs (4) and (5) as paragraphs
9 (3) and (4), respectively.

10 (B) Paragraph (2) of section 40A(f) is
11 amended to read as follows:

12 “(2) *EXCEPTION.*—Subsection (b)(4) shall not
13 apply with respect to renewable diesel.”.

14 (C) Paragraphs (2) and (3) of section
15 40A(e) are each amended by striking “subsection
16 (b)(5)(C)” and inserting “subsection (b)(4)(C)”.

17 (D) Clause (ii) of section 40A(d)(3)(C) is
18 amended by striking “subsection (b)(5)(B)” and
19 inserting “subsection (b)(4)(B)”.

20 (c) *UNIFORM TREATMENT OF DIESEL PRODUCED*
21 *FROM BIOMASS.*—Paragraph (3) of section 40A(f) is
22 amended—

23 (1) by striking “diesel fuel” and inserting “liq-
24 uid fuel”,

1 (2) by striking “using a thermal
2 depolymerization process”, and

3 (3) by inserting “, or other equivalent standard
4 approved by the Secretary” after “D396”.

5 (d) *COPRODUCTION OF RENEWABLE DIESEL WITH PE-*
6 *TROLEUM FEEDSTOCK.*—

7 (1) *IN GENERAL.*—Paragraph (3) of section
8 40A(f) is amended by adding at the end the following
9 new sentences: “Such term does not include any fuel
10 derived from coprocessing biomass with a feedstock
11 which is not biomass. For purposes of this paragraph,
12 the term ‘biomass’ has the meaning given such term
13 by section 45K(c)(3).”.

14 (2) *CONFORMING AMENDMENT.*—Paragraph (3)
15 of section 40A(f) is amended by striking “(as defined
16 in section 45K(c)(3))”.

17 (e) *ELIGIBILITY OF CERTAIN AVIATION FUEL.*—Sub-
18 section (f) of section 40A (relating to renewable diesel) is
19 amended by adding at the end the following new paragraph:

20 “(4) *CERTAIN AVIATION FUEL.*—

21 “(A) *IN GENERAL.*—Except as provided in
22 the last 3 sentences of paragraph (3), the term
23 ‘renewable diesel’ shall include fuel derived from
24 biomass which meets the requirements of a De-
25 partment of Defense specification for military jet

1 *fuel or an American Society of Testing and Ma-*
2 *terials specification for aviation turbine fuel.*

3 “(B) *APPLICATION OF MIXTURE CREDITS.*—
4 *In the case of fuel which is treated as renewable*
5 *diesel solely by reason of subparagraph (A), sub-*
6 *section (b)(1) and section 6426(c) shall be ap-*
7 *plied with respect to such fuel by treating ker-*
8 *osene as though it were diesel fuel.”.*

9 (f) *MODIFICATION RELATING TO DEFINITION OF AGRI-*
10 *BIODIESEL.*—*Paragraph (2) of section 40A(d) (relating to*
11 *agri-biodiesel) is amended by striking “and mustard seeds”*
12 *and inserting “mustard seeds, and camelina”.*

13 (g) *EFFECTIVE DATE.*—

14 (1) *IN GENERAL.*—*Except as otherwise provided*
15 *in this subsection, the amendments made by this sec-*
16 *tion shall apply to fuel produced, and sold or used,*
17 *after December 31, 2008.*

18 (2) *COPRODUCTION OF RENEWABLE DIESEL*
19 *WITH PETROLEUM FEEDSTOCK.*—*The amendment*
20 *made by subsection (d) shall apply to fuel produced,*
21 *and sold or used, after the date of the enactment of*
22 *this Act.*

1 **SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DE-**
2 **SIGNED TO PROVIDE AN INCENTIVE FOR**
3 **UNITED STATES PRODUCTION.**

4 (a) *ALCOHOL FUELS CREDIT.*—Subsection (d) of sec-
5 tion 40 is amended by adding at the end the following new
6 paragraph:

7 “(7) *LIMITATION TO ALCOHOL WITH CONNECTION*
8 *TO THE UNITED STATES.*—No credit shall be deter-
9 mined under this section with respect to any alcohol
10 which is produced outside the United States for use
11 as a fuel outside the United States. For purposes of
12 this paragraph, the term ‘United States’ includes any
13 possession of the United States.”.

14 (b) *BIODIESEL FUELS CREDIT.*—Subsection (d) of sec-
15 tion 40A is amended by adding at the end the following
16 new paragraph:

17 “(5) *LIMITATION TO BIODIESEL WITH CONNEC-*
18 *TION TO THE UNITED STATES.*—No credit shall be de-
19 termined under this section with respect to any bio-
20 diesel which is produced outside the United States for
21 use as a fuel outside the United States. For purposes
22 of this paragraph, the term ‘United States’ includes
23 any possession of the United States.”.

24 (c) *EXCISE TAX CREDIT.*—

25 (1) *IN GENERAL.*—Section 6426 is amended by
26 adding at the end the following new subsection:

1 “(i) *LIMITATION TO FUELS WITH CONNECTION TO*
2 *THE UNITED STATES.*—

3 “(1) *ALCOHOL.*—*No credit shall be determined*
4 *under this section with respect to any alcohol which*
5 *is produced outside the United States for use as a fuel*
6 *outside the United States.*

7 “(2) *BIODIESEL AND ALTERNATIVE FUELS.*—*No*
8 *credit shall be determined under this section with re-*
9 *spect to any biodiesel or alternative fuel which is pro-*
10 *duced outside the United States for use as a fuel out-*
11 *side the United States.*

12 *For purposes of this subsection, the term ‘United States’ in-*
13 *cludes any possession of the United States.’.*

14 “(2) *CONFORMING AMENDMENT.*—*Subsection (e)*
15 *of section 6427 is amended by redesignating para-*
16 *graph (5) as paragraph (6) and by inserting after*
17 *paragraph (4) the following new paragraph:*

18 “(5) *LIMITATION TO FUELS WITH CONNECTION*
19 *TO THE UNITED STATES.*—*No amount shall be pay-*
20 *able under paragraph (1) or (2) with respect to any*
21 *mixture or alternative fuel if credit is not allowed*
22 *with respect to such mixture or alternative fuel by*
23 *reason of section 6426(i).’.*

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to claims for credit or payment made*
3 *on or after May 15, 2008.*

4 **SEC. 204. EXTENSION AND MODIFICATION OF ALTERNATIVE**
5 **FUEL CREDIT.**

6 (a) *EXTENSION.*—

7 (1) *ALTERNATIVE FUEL CREDIT.*—*Paragraph (4)*
8 *of section 6426(d) (relating to alternative fuel credit)*
9 *is amended by striking “September 30, 2009” and in-*
10 *serting “December 31, 2009”.*

11 (2) *ALTERNATIVE FUEL MIXTURE CREDIT.*—
12 *Paragraph (3) of section 6426(e) (relating to alter-*
13 *native fuel mixture credit) is amended by striking*
14 *“September 30, 2009” and inserting “December 31,*
15 *2009”.*

16 (3) *PAYMENTS.*—*Subparagraph (C) of section*
17 *6427(e)(5) (relating to termination) is amended by*
18 *striking “September 30, 2009” and inserting “Decem-*
19 *ber 31, 2009”.*

20 (b) *MODIFICATIONS.*—

21 (1) *ALTERNATIVE FUEL TO INCLUDE COM-*
22 *PRESSED OR LIQUIFIED BIOMASS GAS.*—*Paragraph*
23 *(2) of section 6426(d) (relating to alternative fuel*
24 *credit) is amended by striking “and” at the end of*
25 *subparagraph (E), by redesignating subparagraph*

1 *(F) as subparagraph (G), and by inserting after sub-*
2 *paragraph (E) the following new subparagraph:*

3 *“(F) compressed or liquefied gas derived*
4 *from biomass (as defined in section 45K(c)(3)),*
5 *and”.*

6 *(2) CREDIT ALLOWED FOR AVIATION USE OF*
7 *FUEL.—Paragraph (1) of section 6426(d) is amended*
8 *by inserting “sold by the taxpayer for use as a fuel*
9 *in aviation,” after “motorboat.”.*

10 *(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN*
11 *FUELS.—*

12 *(1) IN GENERAL.—Subsection (d) of section*
13 *6426, as amended by subsection (a), is amended by*
14 *redesignating paragraph (4) as paragraph (5) and by*
15 *inserting after paragraph (3) the following new para-*
16 *graph:*

17 *“(4) CARBON CAPTURE REQUIREMENT.—*

18 *“(A) IN GENERAL.—The requirements of*
19 *this paragraph are met if the fuel is certified,*
20 *under such procedures as required by the Sec-*
21 *retary, as having been derived from coal pro-*
22 *duced at a gasification facility which separates*
23 *and sequesters not less than the applicable per-*
24 *centage of such facility’s total carbon dioxide*
25 *emissions.*

1 “(B) *APPLICABLE PERCENTAGE.*—For pur-
2 poses of subparagraph (A), the applicable per-
3 centage is—

4 “(i) 50 percent in the case of fuel pro-
5 duced after September 30, 2009, and on or
6 before December 30, 2009, and

7 “(ii) 75 percent in the case of fuel pro-
8 duced after December 30, 2009.”.

9 (2) *CONFORMING AMENDMENT.*—Subparagraph
10 (E) of section 6426(d)(2) is amended by inserting
11 “which meets the requirements of paragraph (4) and
12 which is” after “any liquid fuel”.

13 (d) *EFFECTIVE DATE.*—The amendments made by this
14 section shall apply to fuel sold or used after the date of the
15 enactment of this Act.

16 **SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
17 **DRIVE MOTOR VEHICLES.**

18 (a) *PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CRED-*
19 *IT.*—Subpart B of part IV of subchapter A of chapter 1
20 (relating to other credits) is amended by adding at the end
21 the following new section:

22 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**
23 **MOTOR VEHICLES.**

24 “(a) *ALLOWANCE OF CREDIT.*—

1 “(1) *IN GENERAL.*—*There shall be allowed as a*
2 *credit against the tax imposed by this chapter for the*
3 *taxable year an amount equal to the applicable*
4 *amount with respect to each new qualified plug-in*
5 *electric drive motor vehicle placed in service by the*
6 *taxpayer during the taxable year.*

7 “(2) *APPLICABLE AMOUNT.*—*For purposes of*
8 *paragraph (1), the applicable amount is sum of—*

9 “(A) \$2,500, plus

10 “(B) \$417 for each kilowatt hour of traction
11 *battery capacity in excess of 4 kilowatt hours.*

12 “(b) *LIMITATIONS.*—

13 “(1) *LIMITATION BASED ON WEIGHT.*—*The*
14 *amount of the credit allowed under subsection (a) by*
15 *reason of subsection (a)(2) shall not exceed—*

16 “(A) \$7,500, in the case of any new quali-
17 *fied plug-in electric drive motor vehicle with a*
18 *gross vehicle weight rating of not more than*
19 *10,000 pounds,*

20 “(B) \$10,000, in the case of any new quali-
21 *fied plug-in electric drive motor vehicle with a*
22 *gross vehicle weight rating of more than 10,000*
23 *pounds but not more than 14,000 pounds,*

24 “(C) \$12,500, in the case of any new quali-
25 *fied plug-in electric drive motor vehicle with a*

1 *gross vehicle weight rating of more than 14,000*
2 *pounds but not more than 26,000 pounds, and*

3 *“(D) \$15,000, 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 26,000*
6 *pounds.*

7 *“(2) LIMITATION ON NUMBER OF PASSENGER VE-*
8 *HICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—*

9 *“(A) IN GENERAL.—In the case of a new*
10 *qualified plug-in electric drive motor vehicle sold*
11 *during the phaseout period, only the applicable*
12 *percentage of the credit otherwise allowable*
13 *under subsection (a) shall be allowed.*

14 *“(B) PHASEOUT PERIOD.—For purposes of*
15 *this subsection, the phaseout period is the period*
16 *beginning with the second calendar quarter fol-*
17 *lowing the calendar quarter which includes the*
18 *first date on which the total number of such new*
19 *qualified plug-in electric drive motor vehicles*
20 *sold for use in the United States after December*
21 *31, 2008, is at least 250,000.*

22 *“(C) APPLICABLE PERCENTAGE.—For pur-*
23 *poses of subparagraph (A), the applicable per-*
24 *centage is—*

1 “(i) 50 percent for the first 2 calendar
2 quarters of the phaseout period,

3 “(ii) 25 percent for the 3d and 4th cal-
4 endar quarters of the phaseout period, and

5 “(iii) 0 percent for each calendar quar-
6 ter thereafter.

7 “(D) CONTROLLED GROUPS.—Rules similar
8 to the rules of section 30B(f)(4) shall apply for
9 purposes of this subsection.

10 “(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE
11 MOTOR VEHICLE.—For purposes of this section, the term
12 ‘new qualified plug-in electric drive motor vehicle’ means
13 a motor vehicle—

14 “(1) which draws propulsion using a traction
15 battery with at least 4 kilowatt hours of capacity,

16 “(2) which uses an offboard source of energy to
17 recharge such battery,

18 “(3) which, in the case of a passenger vehicle or
19 light truck which has a gross vehicle weight rating of
20 not more than 8,500 pounds, has received a certificate
21 of conformity under the Clean Air Act and meets or
22 exceeds the equivalent qualifying California low emis-
23 sion vehicle standard under section 243(e)(2) of the
24 Clean Air Act for that make and model year, and

1 “(A) in the case of a vehicle having a gross
2 vehicle weight rating of 6,000 pounds or less, the
3 Bin 5 Tier II emission standard established in
4 regulations prescribed by the Administrator of
5 the Environmental Protection Agency under sec-
6 tion 202(i) of the Clean Air Act for that make
7 and model year vehicle, and

8 “(B) in the case of a vehicle having a gross
9 vehicle weight rating of more than 6,000 pounds
10 but not more than 8,500 pounds, the Bin 8 Tier
11 II emission standard which is so established,

12 “(4) the original use of which commences with
13 the taxpayer,

14 “(5) which is acquired for use or lease by the
15 taxpayer and not for resale, and

16 “(6) which is made by a manufacturer.

17 “(d) APPLICATION WITH OTHER CREDITS.—

18 “(1) BUSINESS CREDIT TREATED AS PART OF
19 GENERAL BUSINESS CREDIT.—So much of the credit
20 which would be allowed under subsection (a) for any
21 taxable year (determined without regard to this sub-
22 section) that is attributable to property of a character
23 subject to an allowance for depreciation shall be treat-
24 ed as a credit listed in section 38(b) for such taxable
25 year (and not allowed under subsection (a)).

1 “(2) *PERSONAL CREDIT*.—

2 “(A) *IN GENERAL*.—*For purposes of this*
3 *title, the credit allowed under subsection (a) for*
4 *any taxable year (determined after application*
5 *of paragraph (1)) shall be treated as a credit al-*
6 *lowable under subpart A for such taxable year.*

7 “(B) *LIMITATION BASED ON AMOUNT OF*
8 *TAX*.—*In the case of a taxable year to which sec-*
9 *tion 26(a)(2) does not apply, the credit allowed*
10 *under subsection (a) for any taxable year (deter-*
11 *mined after application of paragraph (1)) shall*
12 *not exceed the excess of—*

13 “(i) *the sum of the regular tax liability*
14 *(as defined in section 26(b)) plus the tax*
15 *imposed by section 55, over*

16 “(ii) *the sum of the credits allowable*
17 *under subpart A (other than this section*
18 *and sections 23 and 25D) and section 27*
19 *for the taxable year.*

20 “(e) *OTHER DEFINITIONS AND SPECIAL RULES*.—*For*
21 *purposes of this section—*

22 “(1) *MOTOR VEHICLE*.—*The term ‘motor vehicle’*
23 *has the meaning given such term by section 30(c)(2).*

24 “(2) *OTHER TERMS*.—*The terms ‘passenger auto-*
25 *mobile’, ‘light truck’, and ‘manufacturer’ have the*

1 *meanings given such terms in regulations prescribed*
2 *by the Administrator of the Environmental Protection*
3 *Agency for purposes of the administration of title II*
4 *of the Clean Air Act (42 U.S.C. 7521 et seq.).*

5 “(3) *TRACTION BATTERY CAPACITY.*—*Traction*
6 *battery capacity shall be measured in kilowatt hours*
7 *from a 100 percent state of charge to a zero percent*
8 *state of charge.*

9 “(4) *REDUCTION IN BASIS.*—*For purposes of this*
10 *subtitle, the basis of any property for which a credit*
11 *is allowable under subsection (a) shall be reduced by*
12 *the amount of such credit so allowed.*

13 “(5) *NO DOUBLE BENEFIT.*—*The amount of any*
14 *deduction or other credit allowable under this chapter*
15 *for a new qualified plug-in electric drive motor vehi-*
16 *cle shall be reduced by the amount of credit allowed*
17 *under subsection (a) for such vehicle for the taxable*
18 *year.*

19 “(6) *PROPERTY USED BY TAX-EXEMPT ENTITY.*—
20 *In the case of a vehicle the use of which is described*
21 *in paragraph (3) or (4) of section 50(b) and which*
22 *is not subject to a lease, the person who sold such ve-*
23 *hicle to the person or entity using such vehicle shall*
24 *be treated as the taxpayer that placed such vehicle in*
25 *service, but only if such person clearly discloses to*

1 *such person or entity in a document the amount of*
2 *any credit allowable under subsection (a) with respect*
3 *to such vehicle (determined without regard to sub-*
4 *section (b)(2)).*

5 “(7) *PROPERTY USED OUTSIDE UNITED STATES,*
6 *ETC., NOT QUALIFIED.*—*No credit shall be allowable*
7 *under subsection (a) with respect to any property re-*
8 *ferred to in section 50(b)(1) or with respect to the*
9 *portion of the cost of any property taken into account*
10 *under section 179.*

11 “(8) *RECAPTURE.*—*The Secretary shall, by regu-*
12 *lations, provide for recapturing the benefit of any*
13 *credit allowable under subsection (a) with respect to*
14 *any property which ceases to be property eligible for*
15 *such credit (including recapture in the case of a lease*
16 *period of less than the economic life of a vehicle).*

17 “(9) *ELECTION TO NOT TAKE CREDIT.*—*No credit*
18 *shall be allowed under subsection (a) for any vehicle*
19 *if the taxpayer elects not to have this section apply*
20 *to such vehicle.*

21 “(10) *INTERACTION WITH AIR QUALITY AND*
22 *MOTOR VEHICLE SAFETY STANDARDS.*—*Unless other-*
23 *wise provided in this section, a motor vehicle shall*
24 *not be considered eligible for a credit under this sec-*
25 *tion unless such vehicle is in compliance with—*

1 “(A) the applicable provisions of the Clean
2 Air Act for the applicable make and model year
3 of the vehicle (or applicable air quality provi-
4 sions of State law in the case of a State which
5 has adopted such provision under a waiver
6 under section 209(b) of the Clean Air Act), and

7 “(B) the motor vehicle safety provisions of
8 sections 30101 through 30169 of title 49, United
9 States Code.

10 “(f) REGULATIONS.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), the Secretary shall promulgate such regula-
13 tions as necessary to carry out the provisions of this
14 section.

15 “(2) COORDINATION IN PRESCRIPTION OF CER-
16 TAIN REGULATIONS.—The Secretary of the Treasury,
17 in coordination with the Secretary of Transportation
18 and the Administrator of the Environmental Protec-
19 tion Agency, shall prescribe such regulations as nec-
20 essary to determine whether a motor vehicle meets the
21 requirements to be eligible for a credit under this sec-
22 tion.

23 “(g) TERMINATION.—This section shall not apply to
24 property purchased after December 31, 2014.”.

1 **(b) COORDINATION WITH ALTERNATIVE MOTOR VEHI-**
2 **CLE CREDIT.**—Section 30B(d)(3) is amended by adding at
3 the end the following new subparagraph:

4 **“(D) EXCLUSION OF PLUG-IN VEHICLES.**—
5 Any vehicle with respect to which a credit is al-
6 lowable under section 30D (determined without
7 regard to subsection (d) thereof) shall not be
8 taken into account under this section.”.

9 **(c) CREDIT MADE PART OF GENERAL BUSINESS**
10 **CREDIT.**—Section 38(b), as amended by this Act, is amend-
11 ed by striking “plus” at the end of paragraph (33), by strik-
12 ing the period at the end of paragraph (34) and inserting
13 “plus”, and by adding at the end the following new para-
14 graph:

15 “(35) the portion of the new qualified plug-in
16 electric drive motor vehicle credit to which section
17 30D(d)(1) applies.”.

18 **(d) CONFORMING AMENDMENTS.**—

19 **(1)(A)** Section 24(b)(3)(B), as amended by sec-
20 tion 106, is amended by striking “and 25D” and in-
21 serting “25D, and 30D”.

22 **(B)** Section 25(e)(1)(C)(ii) is amended by insert-
23 ing “30D,” after “25D,”.

1 (C) *Section 25B(g)(2), as amended by section*
2 *106, is amended by striking “and 25D” and inserting*
3 *“; 25D, and 30D”.*

4 (D) *Section 26(a)(1), as amended by section 106,*
5 *is amended by striking “and 25D” and inserting*
6 *“25D, and 30D”.*

7 (E) *Section 1400C(d)(2) is amended by striking*
8 *“and 25D” and inserting “25D, and 30D”.*

9 (2) *Section 1016(a) is amended by striking*
10 *“and” at the end of paragraph (35), by striking the*
11 *period at the end of paragraph (36) and inserting “,*
12 *and”, and by adding at the end the following new*
13 *paragraph:*

14 *“(37) to the extent provided in section*
15 *30D(e)(4).”.*

16 (3) *Section 6501(m) is amended by inserting*
17 *“30D(e)(9),” after “30C(e)(5),”.*

18 (4) *The table of sections for subpart B of part IV*
19 *of subchapter A of chapter 1 is amended by adding*
20 *at the end the following new item:*

“Sec. 30D. New qualified plug-in electric drive motor vehicles.”.

21 (e) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to taxable years beginning after Decem-*
23 *ber 31, 2008.*

24 (f) *APPLICATION OF EGTRRA SUNSET.—The amend-*
25 *ment made by subsection (d)(1)(A) shall be subject to title*

1 *IX of the Economic Growth and Tax Relief Reconciliation*
2 *Act of 2001 in the same manner as the provision of such*
3 *Act to which such amendment relates.*

4 **SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
5 **REDUCTION UNITS AND ADVANCED INSULA-**
6 **TION.**

7 *(a) IN GENERAL.—Section 4053 is amended by adding*
8 *at the end the following new paragraphs:*

9 *“(9) IDLING REDUCTION DEVICE.—Any device or*
10 *system of devices which—*

11 *“(A) is designed to provide to a vehicle*
12 *those services (such as heat, air conditioning, or*
13 *electricity) that would otherwise require the oper-*
14 *ation of the main drive engine while the vehicle*
15 *is temporarily parked or remains stationary*
16 *using one or more devices affixed to a tractor,*
17 *and*

18 *“(B) is determined by the Administrator of*
19 *the Environmental Protection Agency, in con-*
20 *sultation with the Secretary of Energy and the*
21 *Secretary of Transportation, to reduce idling of*
22 *such vehicle at a motor vehicle rest stop or other*
23 *location where such vehicles are temporarily*
24 *parked or remain stationary.*

1 “(10) *ADVANCED INSULATION*.—*Any insulation*
2 *that has an R value of not less than R35 per inch.*”.

3 (b) *EFFECTIVE DATE*.—*The amendment made by this*
4 *section shall apply to sales or installations after the date*
5 *of the enactment of this Act.*

6 **SEC. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
7 **ERTY CREDIT.**

8 (a) *EXTENSION OF CREDIT*.—*Paragraph (2) of section*
9 *30C(g) is amended by striking “December 31, 2009” and*
10 *inserting “December 31, 2010”.*

11 (b) *INCLUSION OF ELECTRICITY AS A CLEAN-BURNING*
12 *FUEL*.—*Section 30C(c)(2) is amended by adding at the end*
13 *the following new subparagraph:*

14 “(C) *Electricity.*”.

15 (c) *EFFECTIVE DATE*.—*The amendments made by this*
16 *section shall apply to property placed in service after the*
17 *date of the enactment of this Act, in taxable years ending*
18 *after such date.*

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 *servation 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(c)(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 ceding year beginning before January 1, 2009,
 2 solely for purposes of determining how much of
 3 the unused foreign oil and gas taxes for such un-
 4 used credit year may be deemed paid or accrued
 5 in such preceding year.”.

6 (d) *CONFORMING AMENDMENT.*—Section 6501(i) is
 7 amended by striking “oil and gas extraction taxes” and in-
 8 serting “foreign oil and gas taxes”.

9 (e) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall apply to taxable years beginning after Decem-
 11 ber 31, 2008.

12 **SEC. 403. BROKER REPORTING OF CUSTOMER’S BASIS IN**
 13 **SECURITIES TRANSACTIONS.**

14 (a) *IN GENERAL.*—

15 (1) *BROKER REPORTING FOR SECURITIES TRANS-*
 16 *ACTIONS.*—Section 6045 is amended by adding at the
 17 end the following new subsection:

18 “(g) *ADDITIONAL INFORMATION REQUIRED IN THE*
 19 *CASE OF SECURITIES TRANSACTIONS, ETC.*—

20 “(1) *IN GENERAL.*—If a broker is otherwise re-
 21 quired to make a return under subsection (a) with re-
 22 spect to the gross proceeds of the sale of a covered se-
 23 curity, the broker shall include in such return the in-
 24 formation described in paragraph (2).

25 “(2) *ADDITIONAL INFORMATION REQUIRED.*—

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 B—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:

**DIVISION B—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX
RELIEF**

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 *lating 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 *lating 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

1 (2) by striking “(\$44,350 in the case of taxable
2 years beginning in 2007)” in subparagraph (B) and
3 inserting “(\$46,200 in the case of taxable years begin-
4 ning in 2008)”.

5 (b) *EFFECTIVE DATE.*—The amendments made by this
6 section shall apply to taxable years beginning after Decem-
7 ber 31, 2007.

8 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT**
9 **FOR INDIVIDUALS WITH LONG-TERM UNUSED**
10 **CREDITS FOR PRIOR YEAR MINIMUM TAX LI-**
11 **ABILITY, ETC.**

12 (a) *IN GENERAL.*—Paragraph (2) of section 53(e) is
13 amended to read as follows:

14 “(2) *AMT REFUNDABLE CREDIT AMOUNT.*—For
15 purposes of paragraph (1), the term ‘AMT refundable
16 credit amount’ means, with respect to any taxable
17 year, the amount (not in excess of the long-term un-
18 used minimum tax credit for such taxable year) equal
19 to the greater of—

20 “(A) 50 percent of the long-term unused
21 minimum tax credit for such taxable year, or

22 “(B) the amount (if any) of the AMT re-
23 fundable credit amount determined under this
24 paragraph for the taxpayer’s preceding taxable

1 year (determined without regard to subsection
2 (f)(2)).”.

3 (b) *TREATMENT OF CERTAIN UNDERPAYMENTS, IN-*
4 *TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-*
5 *MENT OF INCENTIVE STOCK OPTIONS.*—Section 53 is
6 amended by adding at the end the following new subsection:

7 “(f) *TREATMENT OF CERTAIN UNDERPAYMENTS, IN-*
8 *TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-*
9 *MENT OF INCENTIVE STOCK OPTIONS.*—

10 “(1) *ABATEMENT.*—Any underpayment of tax
11 outstanding on the date of the enactment of this sub-
12 section which is attributable to the application of sec-
13 tion 56(b)(3) for any taxable year ending before Jan-
14 uary 1, 2008, and any interest or penalty with re-
15 spect to such underpayment which is outstanding on
16 such date of enactment, is hereby abated. The amount
17 determined under subsection (b)(1) shall not include
18 any tax abated under the preceding sentence.

19 “(2) *INCREASE IN CREDIT FOR CERTAIN INTER-*
20 *EST AND PENALTIES ALREADY PAID.*—The AMT re-
21 fundable credit amount, and the minimum tax credit
22 determined under subsection (b), for the taxpayer’s
23 first 2 taxable years beginning after December 31,
24 2007, shall each be increased by 50 percent of the ag-
25 gregate amount of the interest and penalties which

1 *were paid by the taxpayer before the date of the enact-*
2 *ment of this subsection and which would (but for such*
3 *payment) have been abated under paragraph (1).”.*

4 *(c) EFFECTIVE DATE.—*

5 *(1) IN GENERAL.—Except as provided in para-*
6 *graph (2), the amendments made by this section shall*
7 *apply to taxable years beginning after December 31,*
8 *2007.*

9 *(2) ABATEMENT.—Section 53(f)(1), as added by*
10 *subsection (b), shall take effect on the date of the en-*
11 *actment of this Act.*

12 **TITLE II—EXTENSION OF**
13 **INDIVIDUAL TAX PROVISIONS**

14 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES TAXES.**

15 *(a) IN GENERAL.—Subparagraph (I) of section*
16 *164(b)(5) is amended by striking “January 1, 2008” and*
17 *inserting “January 1, 2010”.*

18 *(b) EFFECTIVE DATE.—The amendment made by this*
19 *section shall apply to taxable years beginning after Decem-*
20 *ber 31, 2007.*

21 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**
22 **LATED EXPENSES.**

23 *(a) IN GENERAL.—Subsection (e) of section 222 (relat-*
24 *ing to termination) is amended by striking “December 31,*
25 *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 “(17) 25-PERCENT PAYMENT.—The term ‘25-per-
2 cent payment’ means the payment to States required
3 by the sixth paragraph under the heading of ‘FOR-
4 EST SERVICE’ in the Act of May 23, 1908 (35 Stat.
5 260; 16 U.S.C. 500), and section 13 of the Act of
6 March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

7 **“TITLE I—SECURE PAYMENTS**
8 **FOR STATES AND COUNTIES**
9 **CONTAINING FEDERAL LAND**

10 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
11 **FEDERAL LAND.**

12 “(a) STATE PAYMENT.—For each of fiscal years 2008
13 through 2011, the Secretary of Agriculture shall calculate
14 for each eligible State an amount equal to the sum of the
15 products obtained by multiplying—

16 “(1) the adjusted share for each eligible county
17 within the eligible State; by

18 “(2) the full funding amount for the fiscal year.

19 “(b) COUNTY PAYMENT.—For each of fiscal years 2008
20 through 2011, the Secretary of the Interior shall calculate
21 for each eligible county that received a 50-percent payment
22 during the eligibility period an amount equal to the product
23 obtained by multiplying—

24 “(1) the 50-percent adjusted share for the eligible
25 county; by

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 DISTRIBUTI-*
18 *ONS.*—*In the case of each eligible county to*
19 *which less than \$100,000 is distributed for any*
20 *fiscal year pursuant to either or both of para-*
21 *graphs (1)(B) and (2)(B) of subsection (a), the*
22 *eligible county may elect to expend all the funds*
23 *in the same manner in which the 25-percent*
24 *payments or 50-percent payments, as applicable,*
25 *are required to be expended.*

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 regon, 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 **“SEC. 304. TERMINATION OF AUTHORITY.**

2 “(a) *IN GENERAL.*—*The authority to initiate projects*
3 *under this title terminates on September 30, 2011.*

4 “(b) *AVAILABILITY.*—*Any county funds not obligated*
5 *by September 30, 2012, shall be returned to the Treasury*
6 *of the United States.*

7 **“TITLE IV—MISCELLANEOUS**
8 **PROVISIONS**

9 **“SEC. 401. REGULATIONS.**

10 *“The Secretary of Agriculture and the Secretary of the*
11 *Interior shall issue regulations to carry out the purposes*
12 *of this Act.*

13 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

14 *“There are authorized to be appropriated such sums*
15 *as are necessary to carry out this Act for each of fiscal years*
16 *2008 through 2011.*

17 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

18 “(a) *RELATION TO OTHER APPROPRIATIONS.*—*Funds*
19 *made available under section 402 and funds made available*
20 *to a Secretary concerned under section 206 shall be in addi-*
21 *tion to any other annual appropriations for the Forest*
22 *Service and the Bureau of Land Management.*

23 “(b) *DEPOSIT OF REVENUES AND OTHER FUNDS.*—
24 *All revenues generated from projects pursuant to title II,*
25 *including any interest accrued from the revenues, shall be*
26 *deposited in the Treasury of the United States.”.*

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 redesignated) is amended by striking “paragraph (2)”
2 and inserting “paragraphs (2) and (3)”.

3 (B) Section 165(i)(1) is amended by striking “loss” and all that follows through “Act”
4 and inserting “loss occurring in a disaster area (as defined by clause (ii) of subsection (h)(3)(C))
5 and attributable to a federally declared disaster (as defined by clause (i) of such subsection)”.

6 (C) Section 165(i)(4) is amended by striking “Presidentially declared disaster (as defined
7 by section 1033(h)(3))” and inserting “federally declared disaster (as defined by subsection
8 (h)(3)(C)(i))”.

9 (D)(i) So much of subsection (h) of section 1033 as precedes subparagraph (A) of paragraph
10 (1) thereof is amended to read as follows:

11 “(h) *SPECIAL RULES FOR PROPERTY DAMAGED BY FEDERALLY DECLARED DISASTERS.*—

12 “(1) *PRINCIPAL RESIDENCES.*—If the taxpayer’s principal residence or any of its contents is located
13 in a disaster area and is compulsorily or involuntarily converted as a result of a federally declared disaster—”.

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)(ii)(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.*

Attest:

Secretary.

110TH CONGRESS
2^D SESSION

H.R. 6049

AMENDMENT