

110TH CONGRESS
2D SESSION

H. R. 6049

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.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Renewable Energy and Job Creation Act of 2008”.

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

10 (c) **TABLE OF CONTENTS.**—The table of contents for
11 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART I—RENEWABLE ENERGY INCENTIVES

Sec. 101. Renewable energy credit.

Sec. 102. Production credit for electricity produced from marine renewables.

Sec. 103. Energy credit.

Sec. 104. Credit for residential energy efficient property.

Sec. 105. Special rule to implement FERC and State electric restructuring pol-
icy.

Sec. 106. New clean renewable energy bonds.

PART II—CARBON MITIGATION PROVISIONS

Sec. 111. Expansion and modification of advanced coal project investment cred-
it.

Sec. 112. Expansion and modification of coal gasification investment credit.

Sec. 113. Temporary increase in coal excise tax.

Sec. 114. Special rules for refund of the coal excise tax to certain coal pro-
ducers and exporters.

Sec. 115. Carbon audit of the tax code.

Subtitle B—Transportation and Domestic Fuel Security Provisions

Sec. 121. Inclusion of cellulosic biofuel in bonus depreciation for biomass eth-
anol plant property.

Sec. 122. Credits for biodiesel and renewable diesel.

Sec. 123. Clarification that credits for fuel are designed to provide an incentive
for United States production.

- Sec. 124. Credit for new qualified plug-in electric drive motor vehicles.
- Sec. 125. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
- Sec. 126. Restructuring of New York Liberty Zone tax credits.
- Sec. 127. Transportation fringe benefit to bicycle commuters.
- Sec. 128. Alternative fuel vehicle refueling property credit.

Subtitle C—Energy Conservation and Efficiency Provisions

- Sec. 141. Qualified energy conservation bonds.
- Sec. 142. Credit for nonbusiness energy property.
- Sec. 143. Energy efficient commercial buildings deduction.
- Sec. 144. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 145. Accelerated recovery period for depreciation of smart meters and smart grid systems.
- Sec. 146. Qualified green building and sustainable design projects.

TITLE II—ONE-YEAR EXTENSION OF TEMPORARY PROVISIONS

Subtitle A—Extensions Primarily Affecting Individuals

- Sec. 201. Deduction for State and local sales taxes.
- Sec. 202. Deduction of qualified tuition and related expenses.
- Sec. 203. Treatment of certain dividends of regulated investment companies.
- Sec. 204. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 205. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 206. Election to include combat pay as earned income for purposes of earned income tax credit.
- Sec. 207. Modification of mortgage revenue bonds for veterans.
- Sec. 208. Distributions from retirement plans to individuals called to active duty.
- Sec. 209. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 210. Qualified investment entities.
- Sec. 211. Exclusion of amounts received under qualified group legal services plans.

Subtitle B—Extensions Primarily Affecting Businesses

- Sec. 221. Research credit.
- Sec. 222. Indian employment credit.
- Sec. 223. New markets tax credit.
- Sec. 224. Railroad track maintenance.
- Sec. 225. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.
- Sec. 226. Seven-year cost recovery period for motorsports racing track facility.
- Sec. 227. Accelerated depreciation for business property on Indian reservation.
- Sec. 228. Expensing of environmental remediation costs.
- Sec. 229. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 230. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 231. Qualified zone academy bonds.
- Sec. 232. Tax incentives for investment in the District of Columbia.

- Sec. 233. Economic development credit for American Samoa.
- Sec. 234. Enhanced charitable deduction for contributions of food inventory.
- Sec. 235. Enhanced charitable deduction for contributions of book inventory to public schools.
- Sec. 236. Enhanced deduction for qualified computer contributions.
- Sec. 237. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 238. Work opportunity tax credit for Hurricane Katrina employees.
- Sec. 239. Subpart F exception for active financing income.
- Sec. 240. Look-thru rule for related controlled foreign corporations.
- Sec. 241. Expensing for certain qualified film and television productions.

Subtitle C—Other Extensions

- Sec. 251. Authority to disclose information related to terrorist activities made permanent.
- Sec. 252. Authority for undercover operations made permanent.
- Sec. 253. Authority to disclose return information for certain veterans programs made permanent.
- Sec. 254. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.
- Sec. 255. Parity in the application of certain limits to mental health benefits.

TITLE III—ADDITIONAL TAX RELIEF

Subtitle A—Individual Tax Relief

- Sec. 301. Additional standard deduction for real property taxes for non-itemizers.
- Sec. 302. Refundable child credit.
- Sec. 303. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

Subtitle B—Business Related Provisions

- Sec. 311. Uniform treatment of attorney-advanced expenses and court costs in contingency fee cases.
- Sec. 312. Provisions related to film and television productions.

Subtitle C—Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer

- Sec. 321. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

Subtitle D—Extension and Expansion of Certain GO Zone Incentives

- Sec. 331. Certain GO Zone incentives.

TITLE IV—REVENUE PROVISIONS

- Sec. 401. Nonqualified deferred compensation from certain tax indifferent parties.
- Sec. 402. Delay in application of worldwide allocation of interest.
- Sec. 403. Time for payment of corporate estimated taxes.

1 **TITLE I—ENERGY TAX**
2 **INCENTIVES**
3 **Subtitle A—Energy Production**
4 **Incentives**

5 **PART I—RENEWABLE ENERGY INCENTIVES**

6 **SEC. 101. RENEWABLE ENERGY CREDIT.**

7 (a) EXTENSION OF CREDIT.—

8 (1) 1-YEAR EXTENSION FOR WIND FACILI-
9 TIES.—Paragraph (1) of section 45(d) is amended
10 by striking “January 1, 2009” and inserting “Janu-
11 ary 1, 2010”.

12 (2) 3-YEAR EXTENSION FOR CERTAIN OTHER
13 FACILITIES.—Each of the following provisions of
14 section 45(d) is amended by striking “January 1,
15 2009” and inserting “January 1, 2012”:

16 (A) Clauses (i) and (ii) of paragraph
17 (2)(A).

18 (B) Clauses (i)(I) and (ii) of paragraph
19 (3)(A).

20 (C) Paragraph (4).

21 (D) Paragraph (5).

22 (E) Paragraph (6).

23 (F) Paragraph (7).

24 (G) Subparagraphs (A) and (B) of para-
25 graph (9).

1 (b) MODIFICATION OF CREDIT PHASEOUT.—

2 (1) REPEAL OF PHASEOUT.—Subsection (b) of
3 section 45 is amended—

4 (A) by striking paragraph (1), and

5 (B) by striking “the 8 cent amount in
6 paragraph (1),” in paragraph (2) thereof.

7 (2) LIMITATION BASED ON INVESTMENT IN FA-
8 CILITY.—Subsection (b) of section 45 is amended by
9 inserting before paragraph (2) the following new
10 paragraph:

11 “(1) LIMITATION BASED ON INVESTMENT IN
12 FACILITY.—

13 “(A) IN GENERAL.—In the case of any
14 qualified facility originally placed in service
15 after December 31, 2009, the amount of the
16 credit determined under subsection (a) for any
17 taxable year with respect to electricity produced
18 at such facility shall not exceed the product
19 of—

20 “(i) the applicable percentage with re-
21 spect to such facility, multiplied by

22 “(ii) the eligible basis of such facility.

23 “(B) CARRYFORWARD OF UNUSED LIMITA-
24 TION AND EXCESS CREDIT.—

1 “(i) UNUSED LIMITATION.—If the
2 limitation imposed under subparagraph (A)
3 with respect to any facility for any taxable
4 year exceeds the prelimitation credit for
5 such facility for such taxable year, the lim-
6 itation imposed under subparagraph (A)
7 with respect to such facility for the suc-
8 ceeding taxable year shall be increased by
9 the amount of such excess.

10 “(ii) EXCESS CREDIT.—If the
11 prelimitation credit with respect to any fa-
12 cility for any taxable year exceeds the limi-
13 tation imposed under subparagraph (A)
14 with respect to such facility for such tax-
15 able year, the credit determined under sub-
16 section (a) with respect to such facility for
17 the succeeding taxable year (determined
18 before the application of subparagraph (A)
19 for such succeeding taxable year) shall be
20 increased by the amount of such excess.
21 With respect to any facility, no amount
22 may be carried forward under this clause
23 to any taxable year beginning after the 10-
24 year period described in subsection
25 (a)(2)(A)(ii) with respect to such facility.

1 “(iii) PRELIMINATION CREDIT.—The
2 term ‘prelimination credit’ with respect to
3 any facility for a taxable year means the
4 credit determined under subsection (a)
5 with respect to such facility for such tax-
6 able year, determined without regard to
7 subparagraph (A) and after taking into ac-
8 count any increase for such taxable year
9 under clause (ii).

10 “(C) APPLICABLE PERCENTAGE.—For
11 purposes of this paragraph—

12 “(i) IN GENERAL.—The term ‘applica-
13 ble percentage’ means, with respect to any
14 facility, the appropriate percentage pre-
15 scribed by the Secretary for the month in
16 which such facility is originally placed in
17 service.

18 “(ii) METHOD OF PRESCRIBING AP-
19 PLICABLE PERCENTAGES.—The applicable
20 percentages prescribed by the Secretary for
21 any month under clause (i) shall be per-
22 centages which yield over a 10-year period
23 amounts of limitation under subparagraph
24 (A) which have a present value equal to 35
25 percent of the eligible basis of the facility.

1 “(iii) METHOD OF DISCOUNTING.—

2 The present value under clause (ii) shall be
3 determined—

4 “(I) as of the last day of the 1st
5 year of the 10-year period referred to
6 in clause (ii),

7 “(II) by using a discount rate
8 equal to the greater of 110 percent of
9 the Federal long-term rate as in effect
10 under section 1274(d) for the month
11 preceding the month for which the ap-
12 plicable percentage is being pre-
13 scribed, or 4.5 percent, and

14 “(III) by taking into account the
15 limitation under subparagraph (A) for
16 any year on the last day of such year.

17 “(D) ELIGIBLE BASIS.—For purposes of
18 this paragraph—

19 “(i) IN GENERAL.—The term ‘eligible
20 basis’ means, with respect to any facility,
21 the sum of—

22 “(I) the basis of such facility de-
23 termined as of the time that such fa-
24 cility is originally placed in service,
25 and

1 “(II) the portion of the basis of
2 any shared qualified property which is
3 properly allocable to such facility
4 under clause (ii).

5 “(ii) RULES FOR ALLOCATION.—For
6 purposes of subclause (II) of clause (i), the
7 basis of shared qualified property shall be
8 allocated among all qualified facilities
9 which are projected to be placed in service
10 and which require utilization of such prop-
11 erty in proportion to projected generation
12 from such facilities.

13 “(iii) SHARED QUALIFIED PROP-
14 ERTY.—For purposes of this paragraph,
15 the term ‘shared qualified property’ means,
16 with respect to any facility, any property
17 described in section 168(e)(3)(B)(vi)—

18 “(I) which a qualified facility will
19 require for utilization of such facility,
20 and

21 “(II) which is not a qualified fa-
22 cility.

23 “(iv) SPECIAL RULE RELATING TO
24 GEOTHERMAL FACILITIES.—In the case of
25 any qualified facility using geothermal en-

1 ergy to produce electricity, the basis of
2 such facility for purposes of this paragraph
3 shall be determined as though intangible
4 drilling and development costs described in
5 section 263(c) were capitalized rather than
6 expensed.

7 “(E) SPECIAL RULE FOR FIRST AND LAST
8 YEAR OF CREDIT PERIOD.—In the case of any
9 taxable year any portion of which is not within
10 the 10-year period described in subsection
11 (a)(2)(A)(ii) with respect to any facility, the
12 amount of the limitation under subparagraph
13 (A) with respect to such facility shall be re-
14 duced by an amount which bears the same ratio
15 to the amount of such limitation (determined
16 without regard to this subparagraph) as such
17 portion of the taxable year which is not within
18 such period bears to the entire taxable year.

19 “(F) ELECTION TO TREAT ALL FACILITIES
20 PLACED IN SERVICE IN A YEAR AS 1 FACIL-
21 ITY.—At the election of the taxpayer, all quali-
22 fied facilities which are part of the same project
23 and which are placed in service during the same
24 calendar year shall be treated for purposes of
25 this section as 1 facility which is placed in serv-

1 ice at the mid-point of such year or the first
2 day of the following calendar year.”.

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

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

8 (2) by striking “COMBUSTION”.

9 (d) EXPANSION OF BIOMASS FACILITIES.—

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

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

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

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

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

10 (e) SALES OF NET ELECTRICITY TO REGULATED
11 PUBLIC UTILITIES TREATED AS SALES TO UNRELATED
12 PERSONS.—Paragraph (4) of section 45(e) is amended by
13 adding at the end the following new sentence: “The net
14 amount of electricity sold by any taxpayer to a regulated
15 public utility (as defined in section 7701(a)(33)) shall be
16 treated as sold to an unrelated person.”.

17 (f) MODIFICATION OF RULES FOR HYDROPOWER
18 PRODUCTION.—Subparagraph (C) of section 45(c)(8) is
19 amended to read as follows:

20 “(C) NONHYDROELECTRIC DAM.—For pur-
21 poses of subparagraph (A), a facility is de-
22 scribed in this subparagraph if—

23 “(i) the hydroelectric project installed
24 on the nonhydroelectric dam is licensed by
25 the Federal Energy Regulatory Commis-

1 sion and meets all other applicable environ-
2 mental, licensing, and regulatory require-
3 ments,

4 “(ii) the nonhydroelectric dam was
5 placed in service before the date of the en-
6 actment of this paragraph and operated
7 for flood control, navigation, or water sup-
8 ply purposes and did not produce hydro-
9 electric power on the date of the enactment
10 of this paragraph, and

11 “(iii) the hydroelectric project is oper-
12 ated so that the water surface elevation at
13 any given location and time that would
14 have occurred in the absence of the hydro-
15 electric project is maintained, subject to
16 any license requirements imposed under
17 applicable law that change the water sur-
18 face elevation for the purpose of improving
19 environmental quality of the affected wa-
20 terway.

21 The Secretary, in consultation with the Federal
22 Energy Regulatory Commission, shall certify if
23 a hydroelectric project licensed at a nonhydro-
24 electric dam meets the criteria in clause (iii).

25 Nothing in this section shall affect the stand-

1 ards under which the Federal Energy Regu-
2 latory Commission issues licenses for and regu-
3 lates hydropower projects under part I of the
4 Federal Power Act.”.

5 (g) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as otherwise pro-
7 vided in this subsection, the amendments made by
8 this section shall apply to property originally placed
9 in service after December 31, 2008.

10 (2) REPEAL OF CREDIT PHASEOUT.—The
11 amendments made by subsection (b)(1) shall apply
12 to taxable years ending after December 31, 2008.

13 (3) LIMITATION BASED ON INVESTMENT IN FA-
14 CILITY.—The amendment made by subsection (b)(2)
15 shall apply to property originally placed in service
16 after December 31, 2009.

17 (4) TRASH FACILITY CLARIFICATION; SALES TO
18 RELATED REGULATED PUBLIC UTILITIES.—The
19 amendments made by subsections (c) and (e) shall
20 apply to electricity produced and sold after the date
21 of the enactment of this Act.

22 (5) EXPANSION OF BIOMASS FACILITIES.—The
23 amendments made by subsection (d) shall apply to
24 property placed in service after the date of the en-
25 actment of this Act.

1 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
2 **DUCE** **FROM MARINE RENEWABLES.**

3 (a) **IN GENERAL.**—Paragraph (1) of section 45(c) is
4 amended by striking “and” at the end of subparagraph
5 (G), by striking the period at the end of subparagraph
6 (H) and inserting “, and”, and by adding at the end the
7 following new subparagraph:

8 “(I) marine and hydrokinetic renewable en-
9 ergy.”.

10 (b) **MARINE RENEWABLES.**—Subsection (c) of sec-
11 tion 45 is amended by adding at the end the following
12 new paragraph:

13 “(10) **MARINE AND HYDROKINETIC RENEW-**
14 **ABLE ENERGY.**—

15 “(A) **IN GENERAL.**—The term ‘marine and
16 hydrokinetic renewable energy’ means energy
17 derived from—

18 “(i) waves, tides, and currents in
19 oceans, estuaries, and tidal areas,

20 “(ii) free flowing water in rivers,
21 lakes, and streams,

22 “(iii) free flowing water in an irriga-
23 tion system, canal, or other man-made
24 channel, including projects that utilize non-
25 mechanical structures to accelerate the

1 flow of water for electric power production
2 purposes, or

3 “(iv) differentials in ocean tempera-
4 ture (ocean thermal energy conversion).

5 “(B) EXCEPTIONS.—Such term shall not
6 include any energy which is derived from any
7 source which utilizes a dam, diversionary struc-
8 ture (except as provided in subparagraph
9 (A)(iii)), or impoundment for electric power
10 production purposes.”.

11 (c) DEFINITION OF FACILITY.—Subsection (d) of
12 section 45 is amended by adding at the end the following
13 new paragraph:

14 “(11) MARINE AND HYDROKINETIC RENEW-
15 ABLE ENERGY FACILITIES.—In the case of a facility
16 producing electricity from marine and hydrokinetic
17 renewable energy, the term ‘qualified facility’ means
18 any facility owned by the taxpayer—

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

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

1 (d) CREDIT RATE.—Subparagraph (A) of section
2 45(b)(4) is amended by striking “or (9)” and inserting
3 “(9), or (11)”.

4 (e) COORDINATION WITH SMALL IRRIGATION
5 POWER.—Paragraph (5) of section 45(d), as amended by
6 section 101, is amended by striking “January 1, 2012”
7 and inserting “the date of the enactment of paragraph
8 (11)”.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to electricity produced and sold
11 after the date of the enactment of this Act, in taxable
12 years ending after such date.

13 **SEC. 103. ENERGY CREDIT.**

14 (a) EXTENSION OF CREDIT.—

15 (1) SOLAR ENERGY PROPERTY.—Paragraphs
16 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each
17 amended by striking “January 1, 2009” and insert-
18 ing “January 1, 2015”.

19 (2) FUEL CELL PROPERTY.—Subparagraph (E)
20 of section 48(e)(1) is amended by striking “Decem-
21 ber 31, 2008” and inserting “December 31, 2014”.

22 (3) MICROTURBINE PROPERTY.—Subparagraph
23 (E) of section 48(e)(2) is amended by striking “De-
24 cember 31, 2008” and inserting “December 31,
25 2014”.

1 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
2 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
3 38(c)(4) is amended by striking “and” at the end of clause
4 (iii), by redesignating clause (iv) as clause (v), and by in-
5 serting after clause (iii) the following new clause:

6 “(iv) the credit determined under sec-
7 tion 46 to the extent that such credit is at-
8 tributable to the energy credit determined
9 under section 48, and”.

10 (c) ENERGY CREDIT FOR COMBINED HEAT AND
11 POWER SYSTEM PROPERTY.—

12 (1) IN GENERAL.—Section 48(a)(3)(A) (defin-
13 ing energy property) is amended by striking “or” at
14 the end of clause (iii), by inserting “or” at the end
15 of clause (iv), and by adding at the end the following
16 new clause:

17 “(v) combined heat and power system
18 property,”.

19 (2) COMBINED HEAT AND POWER SYSTEM
20 PROPERTY.—Section 48 is amended by adding at
21 the end the following new subsection:

22 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
23 erty.—For purposes of subsection (a)(3)(A)(v)—

24 “(1) COMBINED HEAT AND POWER SYSTEM
25 PROPERTY.—The term ‘combined heat and power

1 system property’ means property comprising a sys-
2 tem—

3 “(A) which uses the same energy source
4 for the simultaneous or sequential generation of
5 electrical power, mechanical shaft power, or
6 both, in combination with the generation of
7 steam or other forms of useful thermal energy
8 (including heating and cooling applications),

9 “(B) which produces—

10 “(i) at least 20 percent of its total
11 useful energy in the form of thermal en-
12 ergy which is not used to produce electrical
13 or mechanical power (or combination
14 thereof), and

15 “(ii) at least 20 percent of its total
16 useful energy in the form of electrical or
17 mechanical power (or combination thereof),

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

20 “(D) which is placed in service before Jan-
21 uary 1, 2015.

22 “(2) LIMITATION.—

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

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

7 “(B) APPLICABLE CAPACITY.—For pur-
8 poses of subparagraph (A), the term ‘applicable
9 capacity’ means 15 megawatts or a mechanical
10 energy capacity of more than 20,000 horse-
11 power or an equivalent combination of electrical
12 and mechanical energy capacities.

13 “(C) MAXIMUM CAPACITY.—The term
14 ‘combined heat and power system property’
15 shall not include any property comprising a sys-
16 tem if such system has a capacity in excess of
17 50 megawatts or a mechanical energy capacity
18 in excess of 67,000 horsepower or an equivalent
19 combination of electrical and mechanical energy
20 capacities.

21 “(3) SPECIAL RULES.—

22 “(A) ENERGY EFFICIENCY PERCENT-
23 AGE.—For purposes of this subsection, the en-
24 ergy efficiency percentage of a system is the
25 fraction—

1 “(i) the numerator of which is the
2 total useful electrical, thermal, and me-
3 chanical power produced by the system at
4 normal operating rates, and expected to be
5 consumed in its normal application, and

6 “(ii) the denominator of which is the
7 lower heating value of the fuel sources for
8 the system.

9 “(B) DETERMINATIONS MADE ON BTU
10 BASIS.—The energy efficiency percentage and
11 the percentages under paragraph (1)(B) shall
12 be determined on a Btu basis.

13 “(C) INPUT AND OUTPUT PROPERTY NOT
14 INCLUDED.—The term ‘combined heat and
15 power system property’ does not include prop-
16 erty used to transport the energy source to the
17 facility or to distribute energy produced by the
18 facility.

19 “(4) SYSTEMS USING BIOMASS.—If a system is
20 designed to use biomass (within the meaning of
21 paragraphs (2) and (3) of section 45(c) without re-
22 gard to the last sentence of paragraph (3)(A)) for at
23 least 90 percent of the energy source—

24 “(A) paragraph (1)(C) shall not apply, but

1 “(B) the amount of credit determined
2 under subsection (a) with respect to such sys-
3 tem shall not exceed the amount which bears
4 the same ratio to such amount of credit (deter-
5 mined without regard to this paragraph) as the
6 energy efficiency percentage of such system
7 bears to 60 percent.”.

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

11 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-
12 COUNT.—

13 (1) IN GENERAL.—Paragraph (3) of section
14 48(a) is amended by striking the second sentence
15 thereof.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Paragraph (1) of section 48(c) is
18 amended by striking subparagraph (D) and re-
19 designating subparagraph (E) as subparagraph
20 (D).

21 (B) Paragraph (2) of section 48(c) is
22 amended by striking subparagraph (D) and re-
23 designating subparagraph (E) as subparagraph
24 (D).

25 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall take effect on the date of the en-
4 actment of this Act.

5 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
6 IMUM TAX.—The amendments made by subsection
7 (b) shall apply to credits determined under section
8 46 of the Internal Revenue Code of 1986 in taxable
9 years beginning after the date of the enactment of
10 this Act and to carrybacks of such credits.

11 (3) COMBINED HEAT AND POWER AND FUEL
12 CELL PROPERTY.—The amendments made by sub-
13 sections (c) and (d) shall apply to periods after the
14 date of the enactment of this Act, in taxable years
15 ending after such date, under rules similar to the
16 rules of section 48(m) of the Internal Revenue Code
17 of 1986 (as in effect on the day before the date of
18 the enactment of the Revenue Reconciliation Act of
19 1990).

20 (4) PUBLIC UTILITY PROPERTY.—The amend-
21 ments made by subsection (e) shall apply to periods
22 after February 13, 2008, in taxable years ending
23 after such date, under rules similar to the rules of
24 section 48(m) of the Internal Revenue Code of 1986

1 (as in effect on the day before the date of the enact-
2 ment of the Revenue Reconciliation Act of 1990).

3 **SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
4 **PROPERTY.**

5 (a) EXTENSION.—Section 25D(g) is amended by
6 striking “December 31, 2008” and inserting “December
7 31, 2014”.

8 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
9 erty.—

10 (1) IN GENERAL.—Section 25D(b)(1)(A) is
11 amended by striking “\$2,000” and inserting
12 “\$4,000”.

13 (2) CONFORMING AMENDMENT.—Section
14 25D(e)(4)(A)(i) is amended by striking “\$6,667”
15 and inserting “\$13,333”.

16 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

17 (1) IN GENERAL.—Section 25D(a) is amended
18 by striking “and” at the end of paragraph (2), by
19 striking the period at the end of paragraph (3) and
20 inserting “, and”, and by adding at the end the fol-
21 lowing new paragraph:

22 “(4) 30 percent of the qualified small wind en-
23 ergy property expenditures made by the taxpayer
24 during such year.”.

1 (2) LIMITATION.—Section 25D(b)(1) is amend-
2 ed by striking “and” at the end of subparagraph
3 (B), by striking the period at the end of subpara-
4 graph (C) and inserting “, and”, and by adding at
5 the end the following new subparagraph:

6 “(D) \$500 with respect to each half kilo-
7 watt of capacity (not to exceed \$4,000) of wind
8 turbines for which qualified small wind energy
9 property expenditures are made.”.

10 (3) QUALIFIED SMALL WIND ENERGY PROP-
11 ERTY EXPENDITURES.—

12 (A) IN GENERAL.—Section 25D(d) is
13 amended by adding at the end the following
14 new paragraph:

15 “(4) QUALIFIED SMALL WIND ENERGY PROP-
16 ERTY EXPENDITURE.—The term ‘qualified small
17 wind energy property expenditure’ means an expend-
18 iture for property which uses a wind turbine to gen-
19 erate electricity for use in connection with a dwelling
20 unit located in the United States and used as a resi-
21 dence by the taxpayer.”.

22 (B) NO DOUBLE BENEFIT.—Section
23 45(d)(1) is amended by adding at the end the
24 following new sentence: “Such term shall not
25 include any facility with respect to which any

1 qualified small wind energy property expendi-
2 ture (as defined in subsection (d)(4) of section
3 25D) is taken into account in determining the
4 credit under such section.”.

5 (4) MAXIMUM EXPENDITURES IN CASE OF
6 JOINT OCCUPANCY.—Section 25D(e)(4)(A) is
7 amended by striking “and” at the end of clause (ii),
8 by striking the period at the end of clause (iii) and
9 inserting “, and”, and by adding at the end the fol-
10 lowing new clause:

11 “(iv) \$1,667 in the case of each half
12 kilowatt of capacity (not to exceed
13 \$13,333) of wind turbines for which quali-
14 fied small wind energy property expendi-
15 tures are made.”.

16 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
17 TEMS.—

18 (1) IN GENERAL.—Section 25D(a), as amended
19 by subsection (c), is amended by striking “and” at
20 the end of paragraph (3), by striking the period at
21 the end of paragraph (4) and inserting “, and”, and
22 by adding at the end the following new paragraph:

23 “(5) 30 percent of the qualified geothermal
24 heat pump property expenditures made by the tax-
25 payer during such year.”.

1 (2) LIMITATION.—Section 25D(b)(1), as
2 amended by subsection (c), is amended by striking
3 “and” at the end of subparagraph (C), by striking
4 the period at the end of subparagraph (D) and in-
5 serting “, and”, and by adding at the end the fol-
6 lowing new subparagraph:

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

9 (3) QUALIFIED GEOTHERMAL HEAT PUMP
10 PROPERTY EXPENDITURE.—Section 25D(d), as
11 amended by subsection (c), is amended by adding at
12 the end the following new paragraph:

13 “(5) QUALIFIED GEOTHERMAL HEAT PUMP
14 PROPERTY EXPENDITURE.—

15 “(A) IN GENERAL.—The term ‘qualified
16 geothermal heat pump property expenditure’
17 means an expenditure for qualified geothermal
18 heat pump property installed on or in connec-
19 tion with a dwelling unit located in the United
20 States and used as a residence by the taxpayer.

21 “(B) QUALIFIED GEOTHERMAL HEAT
22 PUMP PROPERTY.—The term ‘qualified geo-
23 thermal heat pump property’ means any equip-
24 ment which—

1 “(i) uses the ground or ground water
2 as a thermal energy source to heat the
3 dwelling unit referred to in subparagraph
4 (A) or as a thermal energy sink to cool
5 such dwelling unit, and

6 “(ii) meets the requirements of the
7 Energy Star program which are in effect
8 at the time that the expenditure for such
9 equipment is made.”.

10 (4) MAXIMUM EXPENDITURES IN CASE OF
11 JOINT OCCUPANCY.—Section 25D(e)(4)(A), as
12 amended by subsection (c), is amended by striking
13 “and” at the end of clause (iii), by striking the pe-
14 riod at the end of clause (iv) and inserting “, and”,
15 and by adding at the end the following new clause:

16 “(v) \$6,667 in the case of any quali-
17 fied geothermal heat pump property ex-
18 penditures.”.

19 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
20 IMUM TAX.—

21 (1) IN GENERAL.—Subsection (c) of section
22 25D is amended to read as follows:

23 “(c) LIMITATION BASED ON AMOUNT OF TAX;
24 CARRYFORWARD OF UNUSED CREDIT.—

1 “(1) LIMITATION BASED ON AMOUNT OF
2 TAX.—In the case of a taxable year to which section
3 26(a)(2) does not apply, the credit allowed under
4 subsection (a) for the taxable year shall not exceed
5 the excess of—

6 “(A) the sum of the regular tax liability
7 (as defined in section 26(b)) plus the tax im-
8 posed by section 55, over

9 “(B) the sum of the credits allowable
10 under this subpart (other than this section) and
11 section 27 for the taxable year.

12 “(2) CARRYFORWARD OF UNUSED CREDIT.—

13 “(A) RULE FOR YEARS IN WHICH ALL
14 PERSONAL CREDITS ALLOWED AGAINST REG-
15 ULAR AND ALTERNATIVE MINIMUM TAX.—In
16 the case of a taxable year to which section
17 26(a)(2) applies, if the credit allowable under
18 subsection (a) exceeds the limitation imposed by
19 section 26(a)(2) for such taxable year reduced
20 by the sum of the credits allowable under this
21 subpart (other than this section), such excess
22 shall be carried to the succeeding taxable year
23 and added to the credit allowable under sub-
24 section (a) for such succeeding taxable year.

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

10 (2) CONFORMING AMENDMENTS.—

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

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

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

19 (D) Section 26(a)(1) is amended by strik-
20 ing “and 25B” and inserting “25B, and 25D”.

21 (f) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to taxable years beginning
24 after December 31, 2007.

1 (2) APPLICATION OF EGTRRA SUNSET.—The
2 amendments made by subparagraphs (A) and (B) of
3 subsection (e)(2) shall be subject to title IX of the
4 Economic Growth and Tax Relief Reconciliation Act
5 of 2001 in the same manner as the provisions of
6 such Act to which such amendments relate.

7 **SEC. 105. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
8 **ELECTRIC RESTRUCTURING POLICY.**

9 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
10 TIES.—

11 (1) IN GENERAL.—Paragraph (3) of section
12 451(i) is amended by inserting “(before January 1,
13 2010, in the case of a qualified electric utility)”
14 after “January 1, 2008”.

15 (2) QUALIFIED ELECTRIC UTILITY.—Subsection
16 (i) of section 451 is amended by redesignating para-
17 graphs (6) through (10) as paragraphs (7) through
18 (11), respectively, and by inserting after paragraph
19 (5) the following new paragraph:

20 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-
21 poses of this subsection, the term ‘qualified electric
22 utility’ means a person that, as of the date of the
23 qualifying electric transmission transaction, is
24 vertically integrated, in that it is both—

1 “(A) a transmitting utility (as defined in
2 section 3(23) of the Federal Power Act (16
3 U.S.C. 796(23))) with respect to the trans-
4 mission facilities to which the election under
5 this subsection applies, and

6 “(B) an electric utility (as defined in sec-
7 tion 3(22) of the Federal Power Act (16 U.S.C.
8 796(22))).”.

9 (b) EXTENSION OF PERIOD FOR TRANSFER OF
10 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
11 Clause (ii) of section 451(i)(4)(B) is amended by striking
12 “December 31, 2007” and inserting “the date which is
13 4 years after the close of the taxable year in which the
14 transaction occurs”.

15 (c) PROPERTY LOCATED OUTSIDE THE UNITED
16 STATES NOT TREATED AS EXEMPT UTILITY PROP-
17 ERTY.—Paragraph (5) of section 451(i) is amended by
18 adding at the end the following new subparagraph:

19 “(C) EXCEPTION FOR PROPERTY LOCATED
20 OUTSIDE THE UNITED STATES.—The term ‘ex-
21 empt utility property’ shall not include any
22 property which is located outside the United
23 States.”.

24 (d) EFFECTIVE DATES.—

1 (1) EXTENSION.—The amendments made by
2 subsection (a) shall apply to transactions after De-
3 cember 31, 2007.

4 (2) TRANSFERS OF OPERATIONAL CONTROL.—
5 The amendment made by subsection (b) shall take
6 effect as if included in section 909 of the American
7 Jobs Creation Act of 2004.

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

12 **SEC. 106. NEW CLEAN RENEWABLE ENERGY BONDS.**

13 (a) IN GENERAL.—Part IV of subchapter A of chap-
14 ter 1 is amended by adding at the end the following new
15 subpart:

16 **“Subpart I—Qualified Tax Credit Bonds**

“Sec. 54A. Credit to holders of qualified tax credit bonds.

“Sec. 54B. New clean renewable energy bonds.

17 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-**
18 **IT BONDS.**

19 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
20 a qualified tax credit bond on one or more credit allowance
21 dates of the bond during any taxable year, there shall be
22 allowed as a credit against the tax imposed by this chapter
23 for the taxable year an amount equal to the sum of the

1 credits determined under subsection (b) with respect to
2 such dates.

3 “(b) AMOUNT OF CREDIT.—

4 “(1) IN GENERAL.—The amount of the credit
5 determined under this subsection with respect to any
6 credit allowance date for a qualified tax credit bond
7 is 25 percent of the annual credit determined with
8 respect to such bond.

9 “(2) ANNUAL CREDIT.—The annual credit de-
10 termined with respect to any qualified tax credit
11 bond is the product of—

12 “(A) the applicable credit rate, multiplied
13 by

14 “(B) the outstanding face amount of the
15 bond.

16 “(3) APPLICABLE CREDIT RATE.—For purposes
17 of paragraph (2), the applicable credit rate is the
18 rate which the Secretary estimates will permit the
19 issuance of qualified tax credit bonds with a speci-
20 fied maturity or redemption date without discount
21 and without interest cost to the qualified issuer. The
22 applicable credit rate with respect to any qualified
23 tax credit bond shall be determined as of the first
24 day on which there is a binding, written contract for
25 the sale or exchange of the bond.

1 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
2 DEMPTION.—In the case of a bond which is issued
3 during the 3-month period ending on a credit allow-
4 ance date, the amount of the credit determined
5 under this subsection with respect to such credit al-
6 lowance date shall be a ratable portion of the credit
7 otherwise determined based on the portion of the 3-
8 month period during which the bond is outstanding.
9 A similar rule shall apply when the bond is redeemed
10 or matures.

11 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

12 “(1) IN GENERAL.—The credit allowed under
13 subsection (a) for any taxable year shall not exceed
14 the excess of—

15 “(A) the sum of the regular tax liability
16 (as defined in section 26(b)) plus the tax im-
17 posed by section 55, over

18 “(B) the sum of the credits allowable
19 under this part (other than subpart C and this
20 subpart).

21 “(2) CARRYOVER OF UNUSED CREDIT.—If the
22 credit allowable under subsection (a) exceeds the
23 limitation imposed by paragraph (1) for such taxable
24 year, such excess shall be carried to the succeeding
25 taxable year and added to the credit allowable under

1 subsection (a) for such taxable year (determined be-
2 fore the application of paragraph (1) for such suc-
3 ceeding taxable year).

4 “(d) QUALIFIED TAX CREDIT BOND.—For purposes
5 of this section—

6 “(1) QUALIFIED TAX CREDIT BOND.—The term
7 ‘qualified tax credit bond’ means a new clean renew-
8 able energy bond which is part of an issue that
9 meets the requirements of paragraphs (2), (3), (4),
10 (5), and (6).

11 “(2) SPECIAL RULES RELATING TO EXPENDI-
12 TURES.—

13 “(A) IN GENERAL.—An issue shall be
14 treated as meeting the requirements of this
15 paragraph if, as of the date of issuance, the
16 issuer reasonably expects—

17 “(i) 100 percent or more of the avail-
18 able project proceeds to be spent for 1 or
19 more qualified purposes within the 3-year
20 period beginning on such date of issuance,
21 and

22 “(ii) a binding commitment with a
23 third party to spend at least 10 percent of
24 such available project proceeds will be in-

1 curred within the 6-month period begin-
2 ning on such date of issuance.

3 “(B) FAILURE TO SPEND REQUIRED
4 AMOUNT OF BOND PROCEEDS WITHIN 3
5 YEARS.—

6 “(i) IN GENERAL.—To the extent that
7 less than 100 percent of the available
8 project proceeds of the issue are expended
9 by the close of the expenditure period for
10 1 or more qualified purposes, the issuer
11 shall redeem all of the nonqualified bonds
12 within 90 days after the end of such pe-
13 riod. For purposes of this paragraph, the
14 amount of the nonqualified bonds required
15 to be redeemed shall be determined in the
16 same manner as under section 142.

17 “(ii) EXPENDITURE PERIOD.—For
18 purposes of this subpart, the term ‘expend-
19 iture period’ means, with respect to any
20 issue, the 3-year period beginning on the
21 date of issuance. Such term shall include
22 any extension of such period under clause
23 (iii).

24 “(iii) EXTENSION OF PERIOD.—Upon
25 submission of a request prior to the expira-

1 tion of the expenditure period (determined
2 without regard to any extension under this
3 clause), the Secretary may extend such pe-
4 riod if the issuer establishes that the fail-
5 ure to expend the proceeds within the
6 original expenditure period is due to rea-
7 sonable cause and the expenditures for
8 qualified purposes will continue to proceed
9 with due diligence.

10 “(C) QUALIFIED PURPOSE.—For purposes
11 of this paragraph, the term ‘qualified purpose’
12 means a purpose specified in section 54B(a)(1).

13 “(D) REIMBURSEMENT.—For purposes of
14 this subtitle, available project proceeds of an
15 issue shall be treated as spent for a qualified
16 purpose if such proceeds are used to reimburse
17 the issuer for amounts paid for a qualified pur-
18 pose after the date that the Secretary makes an
19 allocation of bond limitation with respect to
20 such issue, but only if—

21 “(i) prior to the payment of the origi-
22 nal expenditure, the issuer declared its in-
23 tent to reimburse such expenditure with
24 the proceeds of a qualified tax credit bond,

1 “(ii) not later than 60 days after pay-
2 ment of the original expenditure, the issuer
3 adopts an official intent to reimburse the
4 original expenditure with such proceeds,
5 and

6 “(iii) the reimbursement is made not
7 later than 18 months after the date the
8 original expenditure is paid.

9 “(3) REPORTING.—An issue shall be treated as
10 meeting the requirements of this paragraph if the
11 issuer of qualified tax credit bonds submits reports
12 similar to the reports required under section 149(e).

13 “(4) SPECIAL RULES RELATING TO ARBI-
14 TRAGE.—

15 “(A) IN GENERAL.—An issue shall be
16 treated as meeting the requirements of this
17 paragraph if the issuer satisfies the require-
18 ments of section 148 with respect to the pro-
19 ceeds of the issue.

20 “(B) SPECIAL RULE FOR INVESTMENTS
21 DURING EXPENDITURE PERIOD.—An issue shall
22 not be treated as failing to meet the require-
23 ments of subparagraph (A) by reason of any in-
24 vestment of available project proceeds during
25 the expenditure period.

1 “(C) SPECIAL RULE FOR RESERVE
2 FUNDS.—An issue shall not be treated as fail-
3 ing to meet the requirements of subparagraph
4 (A) by reason of any fund which is expected to
5 be used to repay such issue if—

6 “(i) such fund is funded at a rate not
7 more rapid than equal annual installments,

8 “(ii) such fund is funded in a manner
9 reasonably expected to result in an amount
10 not greater than an amount necessary to
11 repay the issue, and

12 “(iii) the yield on such fund is not
13 greater than the discount rate determined
14 under paragraph (5)(B) with respect to the
15 issue.

16 “(5) MATURITY LIMITATION.—

17 “(A) IN GENERAL.—An issue shall not be
18 treated as meeting the requirements of this
19 paragraph if the maturity of any bond which is
20 part of such issue exceeds the maximum term
21 determined by the Secretary under subpara-
22 graph (B).

23 “(B) MAXIMUM TERM.—During each cal-
24 endar month, the Secretary shall determine the
25 maximum term permitted under this paragraph

1 for bonds issued during the following calendar
2 month. Such maximum term shall be the term
3 which the Secretary estimates will result in the
4 present value of the obligation to repay the
5 principal on the bond being equal to 50 percent
6 of the face amount of such bond. Such present
7 value shall be determined using as a discount
8 rate the average annual interest rate of tax-ex-
9 empt obligations having a term of 10 years or
10 more which are issued during the month. If the
11 term as so determined is not a multiple of a
12 whole year, such term shall be rounded to the
13 next highest whole year.

14 “(6) PROHIBITION ON FINANCIAL CONFLICTS
15 OF INTEREST.—An issue shall be treated as meeting
16 the requirements of this paragraph if the issuer cer-
17 tifies that—

18 “(A) applicable State and local law re-
19 quirements governing conflicts of interest are
20 satisfied with respect to such issue, and

21 “(B) if the Secretary prescribes additional
22 conflicts of interest rules governing the appro-
23 priate Members of Congress, Federal, State,
24 and local officials, and their spouses, such addi-

1 tional rules are satisfied with respect to such
2 issue.

3 “(e) OTHER DEFINITIONS.—For purposes of this
4 subchapter—

5 “(1) CREDIT ALLOWANCE DATE.—The term
6 ‘credit allowance date’ means—

7 “(A) March 15,

8 “(B) June 15,

9 “(C) September 15, and

10 “(D) December 15.

11 Such term includes the last day on which the bond
12 is outstanding.

13 “(2) BOND.—The term ‘bond’ includes any ob-
14 ligation.

15 “(3) STATE.—The term ‘State’ includes the
16 District of Columbia and any possession of the
17 United States.

18 “(4) AVAILABLE PROJECT PROCEEDS.—The
19 term ‘available project proceeds’ means—

20 “(A) the excess of—

21 “(i) the proceeds from the sale of an
22 issue, over

23 “(ii) the issuance costs financed by
24 the issue (to the extent that such costs do

1 not exceed 2 percent of such proceeds),
2 and

3 “(B) the proceeds from any investment of
4 the excess described in subparagraph (A).

5 “(f) CREDIT TREATED AS INTEREST.—For purposes
6 of this subtitle, the credit determined under subsection (a)
7 shall be treated as interest which is includible in gross in-
8 come.

9 “(g) S CORPORATIONS AND PARTNERSHIPS.—In the
10 case of a tax credit bond held by an S corporation or part-
11 nership, the allocation of the credit allowed by this section
12 to the shareholders of such corporation or partners of such
13 partnership shall be treated as a distribution.

14 “(h) BONDS HELD BY REGULATED INVESTMENT
15 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—
16 If any qualified tax credit bond is held by a regulated in-
17 vestment company or a real estate investment trust, the
18 credit determined under subsection (a) shall be allowed to
19 shareholders of such company or beneficiaries of such
20 trust (and any gross income included under subsection (f)
21 with respect to such credit shall be treated as distributed
22 to such shareholders or beneficiaries) under procedures
23 prescribed by the Secretary.

24 “(i) CREDITS MAY BE STRIPPED.—Under regula-
25 tions prescribed by the Secretary—

1 “(1) IN GENERAL.—There may be a separation
2 (including at issuance) of the ownership of a quali-
3 fied tax credit bond and the entitlement to the credit
4 under this section with respect to such bond. In case
5 of any such separation, the credit under this section
6 shall be allowed to the person who on the credit al-
7 lowance date holds the instrument evidencing the en-
8 titlement to the credit and not to the holder of the
9 bond.

10 “(2) CERTAIN RULES TO APPLY.—In the case
11 of a separation described in paragraph (1), the rules
12 of section 1286 shall apply to the qualified tax credit
13 bond as if it were a stripped bond and to the credit
14 under this section as if it were a stripped coupon.

15 **“SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.**

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

20 “(1) 100 percent of the available project pro-
21 ceeds of such issue are to be used for capital expend-
22 itures incurred by public power providers or coopera-
23 tive electric companies for one or more qualified re-
24 newable energy facilities,

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

3 “(3) the issuer designates such bond for pur-
4 poses of this section.

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

9 “(c) LIMITATION ON AMOUNT OF BONDS DES-
10 IGNATED.—

11 “(1) IN GENERAL.—The maximum aggregate
12 face amount of bonds which may be designated
13 under subsection (a) by any issuer shall not exceed
14 the limitation amount allocated under this sub-
15 section to such issuer.

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

21 “(A) not more than 33 $\frac{1}{3}$ percent thereof
22 may be allocated to qualified projects of public
23 power providers,

1 “(B) not more than 33 $\frac{1}{3}$ percent thereof
2 may be allocated to qualified projects of govern-
3 mental bodies, and

4 “(C) not more than 33 $\frac{1}{3}$ percent thereof
5 may be allocated to qualified projects of cooper-
6 ative electric companies.

7 “(3) METHOD OF ALLOCATION.—

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

20 “(B) ALLOCATION AMONG GOVERNMENTAL
21 BODIES AND COOPERATIVE ELECTRIC COMPA-
22 NIES.—The Secretary shall make allocations of
23 the amount of the national new clean renewable
24 energy bond limitation described in paragraphs
25 (2)(B) and (2)(C) among qualified projects of

1 governmental bodies and cooperative electric
2 companies, respectively, in such manner as the
3 Secretary determines appropriate.

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

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

12 “(2) PUBLIC POWER PROVIDER.—The term
13 ‘public power provider’ means a State utility with a
14 service obligation, as such terms are defined in sec-
15 tion 217 of the Federal Power Act (as in effect on
16 the date of the enactment of this paragraph).

17 “(3) GOVERNMENTAL BODY.—The term ‘gov-
18 ernmental body’ means any State or Indian tribal
19 government, or any political subdivision thereof.

20 “(4) COOPERATIVE ELECTRIC COMPANY.—The
21 term ‘cooperative electric company’ means a mutual
22 or cooperative electric company described in section
23 501(c)(12) or section 1381(a)(2)(C).

24 “(5) CLEAN RENEWABLE ENERGY BOND LEND-
25 ER.—The term ‘clean renewable energy bond lender’

1 means a lender which is a cooperative which is
2 owned by, or has outstanding loans to, 100 or more
3 cooperative electric companies and is in existence on
4 February 1, 2002, and shall include any affiliated
5 entity which is controlled by such lender.

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

12 (b) REPORTING.—Subsection (d) of section 6049 is
13 amended by adding at the end the following new para-
14 graph:

15 “(9) REPORTING OF CREDIT ON QUALIFIED
16 TAX CREDIT BONDS.—

17 “(A) IN GENERAL.—For purposes of sub-
18 section (a), the term ‘interest’ includes amounts
19 includible in gross income under section 54A
20 and such amounts shall be treated as paid on
21 the credit allowance date (as defined in section
22 54A(e)(1)).

23 “(B) REPORTING TO CORPORATIONS,
24 ETC.—Except as otherwise provided in regula-
25 tions, in the case of any interest described in

1 subparagraph (A) of this paragraph, subsection
2 (b)(4) of this section shall be applied without
3 regard to subparagraphs (A), (H), (I), (J), (K),
4 and (L)(i).

5 “(C) REGULATORY AUTHORITY.—The Sec-
6 retary may prescribe such regulations as are
7 necessary or appropriate to carry out the pur-
8 poses of this paragraph, including regulations
9 which require more frequent or more detailed
10 reporting.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Sections 54(c)(2) and 1400N(l)(3)(B) are
13 each amended by striking “subpart C” and inserting
14 “subparts C and I”.

15 (2) Section 1397E(c)(2) is amended by striking
16 “subpart H” and inserting “subparts H and I”.

17 (3) Section 6401(b)(1) is amended by striking
18 “and H” and inserting “H, and I”.

19 (4) The heading of subpart H of part IV of
20 subchapter A of chapter 1 is amended by striking
21 “**Certain Bonds**” and inserting “**Clean Re-**
22 **newable Energy Bonds**”.

23 (5) The table of subparts for part IV of sub-
24 chapter A of chapter 1 is amended by striking the

1 item relating to subpart H and inserting the fol-
 2 lowing new items:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE
 ENERGY BONDS.

“SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

3 (d) APPLICATION OF CERTAIN LABOR STANDARDS
 4 ON PROJECTS FINANCED UNDER TAX CREDIT BONDS.—
 5 Subchapter IV of chapter 31 of title 40, United States
 6 Code, shall apply to projects financed with the proceeds
 7 of any tax credit bond (as defined in section 54A of the
 8 Internal Revenue Code of 1986).

9 (e) EFFECTIVE DATES.—The amendments made by
 10 this section shall apply to obligations issued after the date
 11 of the enactment of this Act.

12 **PART II—CARBON MITIGATION PROVISIONS**

13 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED**
 14 **COAL PROJECT INVESTMENT CREDIT.**

15 (a) MODIFICATION OF CREDIT AMOUNT.—Section
 16 48A(a) is amended by striking “and” at the end of para-
 17 graph (1), by striking the period at the end of paragraph
 18 (2) and inserting “, and”, and by adding at the end the
 19 following new paragraph:

20 “(3) 30 percent of the qualified investment for
 21 such taxable year in the case of projects described
 22 in clause (iii) of subsection (d)(3)(B).”.

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

4 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

5 (1) IN GENERAL.—Subparagraph (B) of section
6 48A(d)(3) is amended to read as follows:

7 “(B) PARTICULAR PROJECTS.—Of the dol-
8 lar amount in subparagraph (A), the Secretary
9 is authorized to certify—

10 “(i) \$800,000,000 for integrated gas-
11 ification combined cycle projects the appli-
12 cation for which is submitted during the
13 period described in paragraph (2)(A)(i),

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

19 “(iii) \$1,250,000,000 for advanced
20 coal-based generation technology projects
21 the application for which is submitted dur-
22 ing the period described in paragraph
23 (2)(A)(ii).”.

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

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

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

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

21 (3) CAPTURE AND SEQUESTRATION OF CARBON
22 DIOXIDE EMISSIONS REQUIREMENT.—

23 (A) IN GENERAL.—Section 48A(e)(1) is
24 amended by striking “and” at the end of sub-
25 paragraph (E), by striking the period at the

1 end of subparagraph (F) and inserting “; and”,
2 and by adding at the end the following new sub-
3 paragraph:

4 “(G) in the case of any project the applica-
5 tion for which is submitted during the period
6 described in subsection (d)(2)(A)(ii), the project
7 includes equipment which separates and seques-
8 ters at least 65 percent (70 percent in the case
9 of an application for reallocated credits under
10 subsection (d)(4)) of such project’s total carbon
11 dioxide emissions.”.

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

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

23 (C) RECAPTURE OF CREDIT FOR FAILURE
24 TO SEQUESTER.—Section 48A is amended by
25 adding at the end the following new subsection:

1 “(h) RECAPTURE OF CREDIT FOR FAILURE TO SE-
2 QUESTER.—The Secretary shall provide for recapturing
3 the benefit of any credit allowable under subsection (a)
4 with respect to any project which fails to attain or main-
5 tain the separation and sequestration requirements of sub-
6 section (e)(1)(G).”.

7 (4) ADDITIONAL PRIORITY FOR RESEARCH
8 PARTNERSHIPS.—Section 48A(e)(3)(B), as amended
9 by paragraph (3)(B), is amended—

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

11 (ii),

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

13 (iv), and

14 (C) by inserting after clause (ii) the fol-
15 lowing new clause:

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

20 (5) CLERICAL AMENDMENT.—Section 48A(e)(3)
21 is amended by striking “INTEGRATED GASIFICATION
22 COMBINED CYCLE” in the heading and inserting
23 “CERTAIN”.

24 (d) COMPETITIVE CERTIFICATION AWARDS MODI-
25 FICATION AUTHORITY.—Section 48A, as amended by sub-

1 section (c)(3), is amended by adding at the end the fol-
2 lowing new subsection:

3 “(i) COMPETITIVE CERTIFICATION AWARDS MODI-
4 FICATION AUTHORITY.—In implementing this section or
5 section 48B, the Secretary is directed to modify the terms
6 of any competitive certification award and any associated
7 closing agreement where such modification—

8 “(1) is consistent with the objectives of such
9 section,

10 “(2) is requested by the recipient of the com-
11 petitive certification award, and

12 “(3) involves moving the project site to improve
13 the potential to capture and sequester carbon dioxide
14 emissions, reduce costs of transporting feedstock,
15 and serve a broader customer base,

16 unless the Secretary determines that the dollar amount
17 of tax credits available to the taxpayer under such section
18 would increase as a result of the modification or such
19 modification would result in such project not being origi-
20 nally certified. In considering any such modification, the
21 Secretary shall consult with other relevant Federal agen-
22 cies, including the Department of Energy.”.

23 (e) DISCLOSURE OF ALLOCATIONS.—Section 48A(d)
24 is amended by adding at the end the following new para-
25 graph:

1 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
2 retary shall, upon making a certification under this
3 subsection or section 48B(d), publicly disclose the
4 identity of the applicant and the amount of the cred-
5 it certified with respect to such applicant.”.

6 (f) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the amendments made by
9 this section shall apply to credits the application for
10 which is submitted during the period described in
11 section 48A(d)(2)(A)(ii) of the Internal Revenue
12 Code of 1986 and which are allocated or reallocated
13 after the date of the enactment of this Act.

14 (2) COMPETITIVE CERTIFICATION AWARDS
15 MODIFICATION AUTHORITY.—The amendment made
16 by subsection (d) shall take effect on the date of the
17 enactment of this Act and is applicable to all com-
18 petitive certification awards entered into under sec-
19 tion 48A or 48B of the Internal Revenue Code of
20 1986, whether such awards were issued before, on,
21 or after such date of enactment.

22 (3) DISCLOSURE OF ALLOCATIONS.—The
23 amendment made by subsection (e) shall apply to
24 certifications made after the date of the enactment
25 of this Act.

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

5 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**
6 **CATION INVESTMENT CREDIT.**

7 (a) MODIFICATION OF CREDIT AMOUNT.—Section
8 48B(a) is amended by inserting “(30 percent in the case
9 of credits allocated under subsection (d)(1)(B))” after “20
10 percent”.

11 (b) EXPANSION OF AGGREGATE CREDITS.—Section
12 48B(d)(1) is amended by striking “shall not exceed
13 \$350,000,000” and all that follows and inserting “shall
14 not exceed—

15 “(A) \$350,000,000, plus

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

20 (c) RECAPTURE OF CREDIT FOR FAILURE TO SE-
21 QUESTER.—Section 48B is amended by adding at the end
22 the following new subsection:

23 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-
24 QUESTER.—The Secretary shall provide for recapturing
25 the benefit of any credit allowable under subsection (a)

1 with respect to any project which fails to attain or main-
2 tain the separation and sequestration requirements for
3 such project under subsection (d)(1).”.

4 (d) SELECTION PRIORITIES.—Section 48B(d) is
5 amended by adding at the end the following new para-
6 graph:

7 “(4) SELECTION PRIORITIES.—In determining
8 which qualifying gasification projects to certify
9 under this section, the Secretary shall—

10 “(A) give highest priority to projects with
11 the greatest separation and sequestration per-
12 centage of total carbon dioxide emissions, and

13 “(B) give high priority to applicant partici-
14 pants who have a research partnership with an
15 eligible educational institution (as defined in
16 section 529(e)(5)).”.

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

22 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX.**

23 Paragraph (2) of section 4121(e) is amended—

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

1 (2) by striking “January 1 after 1981” in sub-
2 paragraph (B) and inserting “December 31 after
3 2007”.

4 **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**
5 **CISE TAX TO CERTAIN COAL PRODUCERS**
6 **AND EXPORTERS.**

7 (a) REFUND.—

8 (1) COAL PRODUCERS.—

9 (A) IN GENERAL.—Notwithstanding sub-
10 sections (a)(1) and (c) of section 6416 and sec-
11 tion 6511 of the Internal Revenue Code of
12 1986, if—

13 (i) a coal producer establishes that
14 such coal producer, or a party related to
15 such coal producer, exported coal produced
16 by such coal producer to a foreign country
17 or shipped coal produced by such coal pro-
18 ducer to a possession of the United States,
19 or caused such coal to be exported or
20 shipped, the export or shipment of which
21 was other than through an exporter who
22 meets the requirements of paragraph (2),

23 (ii) such coal producer filed an excise
24 tax return on or after October 1, 1990,

1 and on or before the date of the enactment
2 of this Act, and

3 (iii) such coal producer files a claim
4 for refund with the Secretary not later
5 than the close of the 30-day period begin-
6 ning on the date of the enactment of this
7 Act,

8 then the Secretary shall pay to such coal pro-
9 ducer an amount equal to the tax paid under
10 section 4121 of such Code on such coal ex-
11 ported or shipped by the coal producer or a
12 party related to such coal producer, or caused
13 by the coal producer or a party related to such
14 coal producer to be exported or shipped.

15 (B) SPECIAL RULES FOR CERTAIN TAX-
16 PAYERS.—For purposes of this section—

17 (i) IN GENERAL.—If a coal producer
18 or a party related to a coal producer has
19 received a judgment described in clause
20 (iii), such coal producer shall be deemed to
21 have established the export of coal to a for-
22 eign country or shipment of coal to a pos-
23 session of the United States under sub-
24 paragraph (A)(i).

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

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

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

13 (II) relates to the constitu-
14 tionality of any tax paid on exported
15 coal under section 4121 of the Inter-
16 nal Revenue Code of 1986, and

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

20 (2) EXPORTERS.—Notwithstanding subsections
21 (a)(1) and (c) of section 6416 and section 6511 of
22 the Internal Revenue Code of 1986, and a judgment
23 described in paragraph (1)(B)(iii) of this subsection,
24 if—

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

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

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

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

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

1 ment or stipulation entered into as of the date of the en-
2 actment of this Act, the terms of which contemplate a
3 judgment concerning which any party has reserved the
4 right to file an 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
8 has been paid to any person.

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

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

21 (2) EXPORTER.—The term “exporter” means a
22 person, other than a coal producer, who does not
23 have a contract, fee arrangement, or any other
24 agreement with a producer or seller of such coal to

1 export or ship such coal to a third party on behalf
2 of the producer or seller of such coal and—

3 (A) is indicated in the shipper’s export
4 declaration or other documentation as the ex-
5 porter of record, or

6 (B) actually exported such coal to a for-
7 eign country or shipped such coal to a posses-
8 sion of the United States, or caused such coal
9 to be so exported or shipped.

10 (3) RELATED PARTY.—The term “a party re-
11 lated to such coal producer” means a person who—

12 (A) is related to such coal producer
13 through any degree of common management,
14 stock ownership, or voting control,

15 (B) is related (within the meaning of sec-
16 tion 144(a)(3) of the Internal Revenue Code of
17 1986) to such coal producer, or

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

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of Treasury or the Secretary’s des-
24 ignee.

1 (e) TIMING OF REFUND.—With respect to any claim
2 for refund filed pursuant to this section, the Secretary
3 shall determine whether the requirements of this section
4 are met not later than 180 days after such claim is filed.
5 If the Secretary determines that the requirements of this
6 section are met, the claim for refund shall be paid not
7 later than 180 days after the Secretary makes such deter-
8 mination.

9 (f) INTEREST.—Any refund paid pursuant to this
10 section shall be paid by the Secretary with interest from
11 the date of overpayment determined by using the overpay-
12 ment rate and method under section 6621 of the Internal
13 Revenue Code of 1986.

14 (g) DENIAL OF DOUBLE BENEFIT.—The payment
15 under subsection (a) with respect to any coal shall not ex-
16 ceed—

17 (1) in the case of a payment to a coal producer,
18 the amount of tax paid under section 4121 of the
19 Internal Revenue Code of 1986 with respect to such
20 coal by such coal producer or a party related to such
21 coal producer, and

22 (2) in the case of a payment to an exporter, an
23 amount equal to \$0.825 per ton with respect to such
24 coal exported by the exporter or caused to be ex-
25 ported by the exporter.

1 (h) APPLICATION OF SECTION.—This section applies
2 only to claims on coal exported or shipped on or after Oc-
3 tober 1, 1990, through the date of the enactment of this
4 Act.

5 (i) STANDING NOT CONFERRED.—

6 (1) EXPORTERS.—With respect to exporters,
7 this section shall not confer standing upon an ex-
8 porter to commence, or intervene in, any judicial or
9 administrative proceeding concerning a claim for re-
10 fund by a coal producer of any Federal or State tax,
11 fee, or royalty paid by the coal producer.

12 (2) COAL PRODUCERS.—With respect to coal
13 producers, this section shall not confer standing
14 upon a coal producer to commence, or intervene in,
15 any judicial or administrative proceeding concerning
16 a claim for refund by an exporter of any Federal or
17 State tax, fee, or royalty paid by the producer and
18 alleged to have been passed on to an exporter.

19 **SEC. 115. CARBON AUDIT OF THE TAX CODE.**

20 (a) STUDY.—The Secretary of the Treasury shall
21 enter into an agreement with the National Academy of
22 Sciences to undertake a comprehensive review of the Inter-
23 nal Revenue Code of 1986 to identify the types of and
24 specific tax provisions that have the largest effects on car-

1 bon and other greenhouse gas emissions and to estimate
2 the magnitude of those effects.

3 (b) REPORT.—Not later than 2 years after the date
4 of enactment of this Act, the National Academy of
5 Sciences shall submit to Congress a report containing the
6 results of study authorized under this section.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$1,500,000 for the period of fiscal years 2008 and 2009.

10 **Subtitle B—Transportation and** 11 **Domestic Fuel Security Provisions**

12 **SEC. 121. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS** 13 **DEPRECIATION FOR BIOMASS ETHANOL** 14 **PLANT PROPERTY.**

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

17 “(3) CELLULOSIC BIOFUEL.—The term ‘cel-
18 lulosic biofuel’ means any liquid fuel which is pro-
19 duced from any lignocellulosic or hemicellulosic mat-
20 ter that is available on a renewable or recurring
21 basis.”.

22 (b) CONFORMING AMENDMENTS.—Subsection (l) of
23 section 168 is amended—

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

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subsection (b) of section 40A is
5 amended by striking paragraph (3) and by re-
6 designating paragraphs (4) and (5) as para-
7 graphs (3) and (4), respectively.

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

10 “(2) EXCEPTION.—Subsection (b)(4) shall not
11 apply with respect to renewable diesel.”.

12 (C) Paragraphs (2) and (3) of section
13 40A(e) are each amended by striking “sub-
14 section (b)(5)(C)” and inserting “subsection
15 (b)(4)(C)”.

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

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

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

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

1 (3) by striking “or D396” in subparagraph (B)
2 and inserting “, D396, or other equivalent standard
3 approved by the Secretary”.

4 (d) COPRODUCTION OF RENEWABLE DIESEL WITH
5 PETROLEUM FEEDSTOCK.—

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

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

17 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—
18 Paragraph (3) of section 40A(f) (defining renewable die-
19 sel) is amended by adding at the end the following: “The
20 term ‘renewable diesel’ also means fuel derived from bio-
21 mass which meets the requirements of a Department of
22 Defense specification for military jet fuel or an American
23 Society of Testing and Materials specification for aviation
24 turbine fuel.”

25 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to fuel produced, and sold or
4 used, after December 31, 2008.

5 (2) COPRODUCTION OF RENEWABLE DIESEL
6 WITH PETROLEUM FEEDSTOCK.—The amendments
7 made by subsection (c) shall apply to fuel produced,
8 and sold or used, after February 13, 2008.

9 **SEC. 123. CLARIFICATION THAT CREDITS FOR FUEL ARE**
10 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
11 **UNITED STATES PRODUCTION.**

12 (a) ALCOHOL FUELS CREDIT.—Subsection (d) of
13 section 40 is amended by adding at the end the following
14 new paragraph:

15 “(6) LIMITATION TO ALCOHOL WITH CONNEC-
16 TION TO THE UNITED STATES.—No credit shall be
17 determined under this section with respect to any al-
18 cohol which is produced outside the United States
19 for use as a fuel outside the United States. For pur-
20 poses of this paragraph, the term ‘United States’ in-
21 cludes any possession of the United States.”.

22 (b) BIODIESEL FUELS CREDIT.—Subsection (d) of
23 section 40A is amended by adding at the end the following
24 new paragraph:

1 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
2 TION TO THE UNITED STATES.—No credit shall be
3 determined under this section with respect to any
4 biodiesel which is produced outside the United
5 States for use as a fuel outside the United States.
6 For purposes of this paragraph, the term ‘United
7 States’ includes any possession of the United
8 States.”.

9 (c) EXCISE TAX CREDIT.—

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

12 “(i) LIMITATION TO FUELS WITH CONNECTION TO
13 THE UNITED STATES.—

14 “(1) ALCOHOL.—No credit shall be determined
15 under this section with respect to any alcohol which
16 is produced outside the United States for use as a
17 fuel outside the United States.

18 “(2) BIODIESEL AND ALTERNATIVE FUELS.—

19 No credit shall be determined under this section
20 with respect to any biodiesel or alternative fuel
21 which is produced outside the United States for use
22 as a fuel outside the United States.

23 For purposes of this subsection, the term ‘United States’
24 includes any possession of the United States.”.

1 hicle placed in service by the taxpayer during the taxable
2 year.

3 “(b) PER VEHICLE DOLLAR LIMITATION.—

4 “(1) IN GENERAL.—The amount determined
5 under this subsection with respect to any new quali-
6 fied plug-in electric drive motor vehicle is the sum
7 of the amounts determined under paragraphs (2)
8 and (3) with respect to such vehicle.

9 “(2) BASE AMOUNT.—The amount determined
10 under this paragraph is \$3,000.

11 “(3) BATTERY CAPACITY.—In the case of a ve-
12 hicle which draws propulsion energy from a battery
13 with not less than 5 kilowatt hours of capacity, the
14 amount determined under this paragraph is \$200,
15 plus \$200 for each kilowatt hour of capacity in ex-
16 cess of 5 kilowatt hours. The amount determined
17 under this paragraph shall not exceed \$2,000.

18 “(c) APPLICATION WITH OTHER CREDITS.—

19 “(1) BUSINESS CREDIT TREATED AS PART OF
20 GENERAL BUSINESS CREDIT.—So much of the credit
21 which would be allowed under subsection (a) for any
22 taxable year (determined without regard to this sub-
23 section) that is attributable to property of a char-
24 acter subject to an allowance for depreciation shall

1 be treated as a credit listed in section 38(b) for such
2 taxable year (and not allowed under subsection (a)).

3 “(2) PERSONAL CREDIT.—

4 “(A) IN GENERAL.—For purposes of this
5 title, the credit allowed under subsection (a) for
6 any taxable year (determined after application
7 of paragraph (1)) shall be treated as a credit
8 allowable under subpart A for such taxable
9 year.

10 “(B) LIMITATION BASED ON AMOUNT OF
11 TAX.—In the case of a taxable year to which
12 section 26(a)(2) does not apply, the credit al-
13 lowed under subsection (a) for any taxable year
14 (determined after application of paragraph (1))
15 shall not exceed the excess of—

16 “(i) the sum of the regular tax liabil-
17 ity (as defined in section 26(b)) plus the
18 tax imposed by section 55, over

19 “(ii) the sum of the credits allowable
20 under subpart A (other than this section
21 and sections 23 and 25D) and section 27
22 for the taxable year.

23 “(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE
24 MOTOR VEHICLE.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘new qualified
2 plug-in electric drive motor vehicle’ means a motor
3 vehicle (as defined in section 30(c)(2))—

4 “(A) the original use of which commences
5 with the taxpayer,

6 “(B) which is acquired for use or lease by
7 the taxpayer and not for resale,

8 “(C) which is made by a manufacturer,

9 “(D) which has a gross vehicle weight rat-
10 ing of less than 14,000 pounds,

11 “(E) which has received a certificate of
12 conformity under the Clean Air Act and meets
13 or exceeds the Bin 5 Tier II emission standard
14 established in regulations prescribed by the Ad-
15 ministrator of the Environmental Protection
16 Agency under section 202(i) of the Clean Air
17 Act for that make and model year vehicle, and

18 “(F) which is propelled to a significant ex-
19 tent by an electric motor which draws electricity
20 from a battery which—

21 “(i) has a capacity of not less than 4
22 kilowatt hours, and

23 “(ii) is capable of being recharged
24 from an external source of electricity.

1 “(2) EXCEPTION.—The term ‘new qualified
2 plug-in electric drive motor vehicle’ shall not include
3 any vehicle which is not a passenger automobile or
4 light truck if such vehicle has a gross vehicle weight
5 rating of less than 8,500 pounds.

6 “(3) OTHER TERMS.—The terms ‘passenger
7 automobile’, ‘light truck’, and ‘manufacturer’ have
8 the meanings given such terms in regulations pre-
9 scribed by the Administrator of the Environmental
10 Protection Agency for purposes of the administra-
11 tion of title II of the Clean Air Act (42 U.S.C. 7521
12 et seq.).

13 “(4) BATTERY CAPACITY.—The term ‘capacity’
14 means, with respect to any battery, the quantity of
15 electricity which the battery is capable of storing, ex-
16 pressed in kilowatt hours, as measured from a 100
17 percent state of charge to a 0 percent state of
18 charge.

19 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED
20 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE
21 FOR CREDIT.—

22 “(1) IN GENERAL.—In the case of a new quali-
23 fied plug-in electric drive motor vehicle sold during
24 the phaseout period, only the applicable percentage

1 of the credit otherwise allowable under subsection
2 (a) shall be allowed.

3 “(2) PHASEOUT PERIOD.—For purposes of this
4 subsection, the phaseout period is the period begin-
5 ning with the second calendar quarter following the
6 calendar quarter which includes the first date on
7 which the number of new qualified plug-in electric
8 drive motor vehicles manufactured by the manufac-
9 turer of the vehicle referred to in paragraph (1) sold
10 for use in the United States after the date of the en-
11 actment of this section, is at least 60,000.

12 “(3) APPLICABLE PERCENTAGE.—For purposes
13 of paragraph (1), the applicable percentage is—

14 “(A) 50 percent for the first 2 calendar
15 quarters of the phaseout period,

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

18 “(C) 0 percent for each calendar quarter
19 thereafter.

20 “(4) CONTROLLED GROUPS.—Rules similar to
21 the rules of section 30B(f)(4) shall apply for pur-
22 poses of this subsection.

23 “(f) SPECIAL RULES.—

24 “(1) BASIS REDUCTION.—The basis of any
25 property for which a credit is allowable under sub-

1 section (a) shall be reduced by the amount of such
2 credit (determined without regard to subsection (c)).

3 “(2) RECAPTURE.—The Secretary shall, by reg-
4 ulations, provide for recapturing the benefit of any
5 credit allowable under subsection (a) with respect to
6 any property which ceases to be property eligible for
7 such credit.

8 “(3) PROPERTY USED OUTSIDE UNITED
9 STATES, ETC., NOT QUALIFIED.—No credit shall be
10 allowed under subsection (a) with respect to any
11 property referred to in section 50(b)(1) or with re-
12 spect to the portion of the cost of any property
13 taken into account under section 179.

14 “(4) ELECTION NOT TO TAKE CREDIT.—No
15 credit shall be allowed under subsection (a) for any
16 vehicle if the taxpayer elects to not have this section
17 apply to such vehicle.

18 “(5) PROPERTY USED BY TAX-EXEMPT ENTITY;
19 INTERACTION WITH AIR QUALITY AND MOTOR VEHI-
20 CLE SAFETY STANDARDS.—Rules similar to the rules
21 of paragraphs (6) and (10) of section 30B(h) shall
22 apply for purposes of this section.”.

23 (b) COORDINATION WITH ALTERNATIVE MOTOR VE-
24 HICLE CREDIT.—Section 30B(d)(3) is amended by adding
25 at the end the following new subparagraph:

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

6 (c) CREDIT MADE PART OF GENERAL BUSINESS
7 CREDIT.—Section 38(b) is amended—

8 (1) by striking “and” each place it appears at
9 the end of any paragraph,

10 (2) by striking “plus” each place it appears at
11 the end of any paragraph,

12 (3) by striking the period at the end of para-
13 graph (31) and inserting “, plus”, and

14 (4) by adding at the end the following new
15 paragraph:

16 “(32) the portion of the new qualified plug-in
17 electric drive motor vehicle credit to which section
18 30D(c)(1) applies.”.

19 (d) CONFORMING AMENDMENTS.—

20 (1)(A) Section 24(b)(3)(B), as amended by sec-
21 tion 104, is amended by striking “and 25D” and in-
22 serting “25D, and 30D”.

23 (B) Section 25(e)(1)(C)(ii) is amended by in-
24 serting “30D,” after “25D,”.

1 (C) Section 25B(g)(2), as amended by section
2 104, is amended by striking “and 25D” and insert-
3 ing “, 25D, and 30D”.

4 (D) Section 26(a)(1), as amended by section
5 104, is amended by striking “and 25D” and insert-
6 ing “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(f)(1).”.

16 (3) Section 6501(m) is amended by inserting
17 “30D(f)(4),” after “30C(e)(5),”.

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

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

21 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE
22 CREDIT AS A PERSONAL CREDIT.—

23 (1) IN GENERAL.—Paragraph (2) of section
24 30B(g) is amended to read as follows:

1 “(2) PERSONAL CREDIT.—The credit allowed
2 under subsection (a) for any taxable year (after ap-
3 plication of paragraph (1)) shall be treated as a
4 credit allowable under subpart A for such taxable
5 year.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Subparagraph (A) of section 30C(d)(2)
8 is amended by striking “sections 27, 30, and
9 30B” and inserting “sections 27 and 30”.

10 (B) Paragraph (3) of section 55(c) is
11 amended by striking “30B(g)(2),”.

12 (f) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as otherwise pro-
14 vided in this subsection, the amendments made by
15 this section shall apply to taxable years beginning
16 after December 31, 2008.

17 (2) TREATMENT OF ALTERNATIVE MOTOR VE-
18 HICLE CREDIT AS PERSONAL CREDIT.—The amend-
19 ments made by subsection (e) shall apply to taxable
20 years beginning after December 31, 2007.

21 (g) APPLICATION OF EGTRRA SUNSET.—The
22 amendment made by subsection (d)(1)(A) shall be subject
23 to title IX of the Economic Growth and Tax Relief Rec-
24 onciliation Act of 2001 in the same manner as the provi-
25 sion of such Act to which such amendment relates.

1 **SEC. 125. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
2 **REDUCTION UNITS AND ADVANCED INSULA-**
3 **TION.**

4 (a) **IN GENERAL.**—Section 4053 is amended by add-
5 ing at the end the following new paragraphs:

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

8 “(A) is designed to provide to a vehicle
9 those services (such as heat, air conditioning, or
10 electricity) that would otherwise require the op-
11 eration of the main drive engine while the vehi-
12 cle is temporarily parked or remains stationary
13 using one or more devices affixed to a tractor,
14 and

15 “(B) is certified by the Secretary of En-
16 ergy, in consultation with the Administrator of
17 the Environmental Protection Agency and the
18 Secretary of Transportation, to reduce idling of
19 such vehicle at a motor vehicle rest stop or
20 other location where such vehicles are tempo-
21 rarily parked or remain stationary.

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

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

1 **SEC. 126. RESTRUCTURING OF NEW YORK LIBERTY ZONE**
2 **TAX CREDITS.**

3 (a) IN GENERAL.—Part I of subchapter Y of chapter
4 1 is amended by redesignating section 1400L as section
5 1400K and by adding at the end the following new section:

6 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

7 “(a) IN GENERAL.—In the case of a New York Lib-
8 erty Zone governmental unit, there shall be allowed as a
9 credit against any taxes imposed for any payroll period
10 by section 3402 for which such governmental unit is liable
11 under section 3403 an amount equal to so much of the
12 portion of the qualifying project expenditure amount allo-
13 cated under subsection (b)(3) to such governmental unit
14 for the calendar year as is allocated by such governmental
15 unit to such period under subsection (b)(4).

16 “(b) QUALIFYING PROJECT EXPENDITURE
17 AMOUNT.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualifying
19 project expenditure amount’ means, with respect to
20 any calendar year, the sum of—

21 “(A) the total expenditures paid or in-
22 curred during such calendar year by all New
23 York Liberty Zone governmental units and the
24 Port Authority of New York and New Jersey
25 for any portion of qualifying projects located

1 wholly within the City of New York, New York,
2 and

3 “(B) any such expenditures—

4 “(i) paid or incurred in any preceding
5 calendar year which begins after the date
6 of enactment of this section, and

7 “(ii) not previously allocated under
8 paragraph (3).

9 “(2) QUALIFYING PROJECT.—The term ‘quali-
10 fying project’ means any transportation infrastruc-
11 ture project, including highways, mass transit sys-
12 tems, railroads, airports, ports, and waterways, in or
13 connecting with the New York Liberty Zone (as de-
14 fined in section 1400K(h)), which is designated as a
15 qualifying project under this section jointly by the
16 Governor of the State of New York and the Mayor
17 of the City of New York, New York.

18 “(3) GENERAL ALLOCATION.—

19 “(A) IN GENERAL.—The Governor of the
20 State of New York and the Mayor of the City
21 of New York, New York, shall jointly allocate to
22 each New York Liberty Zone governmental unit
23 the portion of the qualifying project expenditure
24 amount which may be taken into account by

1 such governmental unit under subsection (a) for
2 any calendar year in the credit period.

3 “(B) AGGREGATE LIMIT.—The aggregate
4 amount which may be allocated under subpara-
5 graph (A) for all calendar years in the credit
6 period shall not exceed \$2,000,000,000.

7 “(C) ANNUAL LIMIT.—The aggregate
8 amount which may be allocated under subpara-
9 graph (A) for any calendar year in the credit
10 period shall not exceed the sum of—

11 “(i) \$115,000,000 (\$425,000,000 in
12 the case of the last 2 years in the credit
13 period), plus

14 “(ii) the aggregate amount authorized
15 to be allocated under this paragraph for all
16 preceding calendar years in the credit pe-
17 riod which was not so allocated.

18 “(D) UNALLOCATED AMOUNTS AT END OF
19 CREDIT PERIOD.—If, as of the close of the cred-
20 it period, the amount under subparagraph (B)
21 exceeds the aggregate amount allocated under
22 subparagraph (A) for all calendar years in the
23 credit period, the Governor of the State of New
24 York and the Mayor of the City of New York,
25 New York, may jointly allocate to New York

1 Liberty Zone governmental units for any cal-
2 endar year in the 5-year period following the
3 credit period an amount equal to—

4 “(i) the lesser of—

5 “(I) such excess, or

6 “(II) the qualifying project ex-
7 penditure amount for such calendar
8 year, reduced by

9 “(ii) the aggregate amount allocated
10 under this subparagraph for all preceding
11 calendar years.

12 “(4) ALLOCATION TO PAYROLL PERIODS.—

13 Each New York Liberty Zone governmental unit
14 which has been allocated a portion of the qualifying
15 project expenditure amount under paragraph (3) for
16 a calendar year may allocate such portion to payroll
17 periods beginning in such calendar year as such gov-
18 ernmental unit determines appropriate.

19 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), if the amount allocated under subsection
22 (b)(3) to a New York Liberty Zone governmental
23 unit for any calendar year exceeds the aggregate
24 taxes imposed by section 3402 for which such gov-
25 ernmental unit is liable under section 3403 for peri-

1 ods beginning in such year, such excess shall be car-
2 ried to the succeeding calendar year and added to
3 the allocation of such governmental unit for such
4 succeeding calendar year.

5 “(2) REALLOCATION.—If a New York Liberty
6 Zone governmental unit does not use an amount al-
7 located to it under subsection (b)(3) within the time
8 prescribed by the Governor of the State of New York
9 and the Mayor of the City of New York, New York,
10 then such amount shall after such time be treated
11 for purposes of subsection (b)(3) in the same man-
12 ner as if it had never been allocated.

13 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
14 poses of this section—

15 “(1) CREDIT PERIOD.—The term ‘credit period’
16 means the 12-year period beginning on January 1,
17 2009.

18 “(2) NEW YORK LIBERTY ZONE GOVERN-
19 MENTAL UNIT.—The term ‘New York Liberty Zone
20 governmental unit’ means—

21 “(A) the State of New York,

22 “(B) the City of New York, New York, and

23 “(C) any agency or instrumentality of such
24 State or City.

1 “(3) TREATMENT OF FUNDS.—Any expenditure
2 for a qualifying project taken into account for pur-
3 poses of the credit under this section shall be consid-
4 ered State and local funds for the purpose of any
5 Federal program.

6 “(4) TREATMENT OF CREDIT AMOUNTS FOR
7 PURPOSES OF WITHHOLDING TAXES.—For purposes
8 of this title, a New York Liberty Zone governmental
9 unit shall be treated as having paid to the Secretary,
10 on the day on which wages are paid to employees,
11 an amount equal to the amount of the credit allowed
12 to such entity under subsection (a) with respect to
13 such wages, but only if such governmental unit de-
14 ducts and withholds wages for such payroll period
15 under section 3401 (relating to wage withholding).

16 “(e) REPORTING.—The Governor of the State of New
17 York and the Mayor of the City of New York, New York,
18 shall jointly submit to the Secretary an annual report—

19 “(1) which certifies—

20 “(A) the qualifying project expenditure
21 amount for the calendar year, and

22 “(B) the amount allocated to each New
23 York Liberty Zone governmental unit under
24 subsection (b)(3) for the calendar year, and

1 “(2) includes such other information as the
2 Secretary may require to carry out this section.

3 “(f) GUIDANCE.—The Secretary may prescribe such
4 guidance as may be necessary or appropriate to ensure
5 compliance with the purposes of this section.”.

6 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-
7 PENSING.—Subparagraph (A) of section 1400K(b)(2), as
8 redesignated by subsection (a), is amended by striking the
9 parenthetical therein and inserting “(in the case of non-
10 residential real property and residential rental property,
11 the date of the enactment of the Renewable Energy and
12 Job Creation Act of 2008 or, if acquired pursuant to a
13 binding contract in effect on such enactment date, Decem-
14 ber 31, 2009)”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 38(c)(3)(B) is amended by striking
17 “section 1400L(a)” and inserting “section
18 1400K(a)”.

19 (2) Section 168(k)(2)(D)(ii) is amended by
20 striking “section 1400L(c)(2)” and inserting “sec-
21 tion 1400K(c)(2)”.

22 (3) The table of sections for part I of sub-
23 chapter Y of chapter 1 is amended by redesignating
24 the item relating to section 1400L as an item relat-

1 ing to section 1400K and by inserting after such
2 item the following new item:

“Sec. 1400L. New York Liberty Zone tax credits.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 127. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**
7 **COMMUTERS.**

8 (a) **IN GENERAL.**—Paragraph (1) of section 132(f)
9 is amended by adding at the end the following:

10 “(D) Any qualified bicycle commuting re-
11 imbursement.”.

12 (b) **LIMITATION ON EXCLUSION.**—Paragraph (2) of
13 section 132(f) is amended by striking “and” at the end
14 of subparagraph (A), by striking the period at the end
15 of subparagraph (B) and inserting “, and”, and by adding
16 at the end the following new subparagraph:

17 “(C) the applicable annual limitation in
18 the case of any qualified bicycle commuting re-
19 imbursement.”.

20 (c) **DEFINITIONS.**—Paragraph (5) of section 132(f)
21 is amended by adding at the end the following:

22 “(F) **DEFINITIONS RELATED TO BICYCLE**
23 **COMMUTING REIMBURSEMENT.**—

24 “(i) **QUALIFIED BICYCLE COMMUTING**
25 **REIMBURSEMENT.**—The term ‘qualified bi-

1 cycle commuting reimbursement’ means,
2 with respect to any calendar year, any em-
3 ployer reimbursement during the 15-month
4 period beginning with the first day of such
5 calendar year for reasonable expenses in-
6 curred by the employee during such cal-
7 endar year for the purchase of a bicycle
8 and bicycle improvements, repair, and stor-
9 age, if such bicycle is regularly used for
10 travel between the employee’s residence
11 and place of employment.

12 “(ii) APPLICABLE ANNUAL LIMITA-
13 TION.—The term ‘applicable annual limita-
14 tion’ means, with respect to any employee
15 for any calendar year, the product of \$20
16 multiplied by the number of qualified bicy-
17 cle commuting months during such year.

18 “(iii) QUALIFIED BICYCLE COM-
19 MUTING MONTH.—The term ‘qualified bi-
20 cycle commuting month’ means, with re-
21 spect to any employee, any month during
22 which such employee—

23 “(I) regularly uses the bicycle for
24 a substantial portion of the travel be-

1 tween the employee’s residence and
2 place of employment, and

3 “(II) does not receive any benefit
4 described in subparagraph (A), (B),
5 or (C) of paragraph (1).”.

6 (d) **CONSTRUCTIVE RECEIPT OF BENEFIT.**—Para-
7 graph (4) of section 132(f) is amended by inserting
8 “(other than a qualified bicycle commuting reimburse-
9 ment)” after “qualified transportation fringe”.

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

13 **SEC. 128. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
14 **ERTY CREDIT.**

15 (a) **INCREASE IN CREDIT AMOUNT.**—Section 30C is
16 amended—

17 (1) by striking “30 percent” in subsection (a)
18 and inserting “50 percent”, and

19 (2) by striking “\$30,000” in subsection (b)(1)
20 and inserting “\$50,000”.

21 (b) **EXTENSION OF CREDIT.**—Paragraph (2) of sec-
22 tion 30C(g) is amended by striking “December 31, 2009”
23 and inserting “December 31, 2010”.

24 (c) **EFFECTIVE DATE.**—The amendments made by
25 this section shall apply to property placed in service after

1 the date of the enactment of this Act, in taxable years
2 ending after such date.

3 **Subtitle C—Energy Conservation**
4 **and Efficiency Provisions**

5 **SEC. 141. QUALIFIED ENERGY CONSERVATION BONDS.**

6 (a) IN GENERAL.—Subpart I of part IV of sub-
7 chapter A of chapter 1, as added by section 106, is amend-
8 ed by adding at the end the following new section:

9 **“SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.**

10 “(a) QUALIFIED ENERGY CONSERVATION BOND.—
11 For purposes of this subchapter, the term ‘qualified en-
12 ergy conservation bond’ means any bond issued as part
13 of an issue if—

14 “(1) 100 percent of the available project pro-
15 ceeds of such issue are to be used for one or more
16 qualified conservation purposes,

17 “(2) the bond is issued by a State or local gov-
18 ernment, and

19 “(3) the issuer designates such bond for pur-
20 poses of this section.

21 “(b) REDUCED CREDIT AMOUNT.—The annual credit
22 determined under section 54A(b) with respect to any
23 qualified energy conservation bond shall be 70 percent of
24 the amount so determined without regard to this sub-
25 section.

1 “(c) LIMITATION ON AMOUNT OF BONDS DES-
2 IGNATED.—The maximum aggregate face amount of
3 bonds which may be designated under subsection (a) by
4 any issuer shall not exceed the limitation amount allocated
5 to such issuer under subsection (e).

6 “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS
7 DESIGNATED.—There is a national qualified energy con-
8 servation bond limitation of \$3,000,000,000.

9 “(e) ALLOCATIONS.—

10 “(1) IN GENERAL.—The limitation applicable
11 under subsection (d) shall be allocated by the Sec-
12 retary among the States in proportion to the popu-
13 lation of the States.

14 “(2) ALLOCATIONS TO LARGEST LOCAL GOV-
15 ERNMENTS.—

16 “(A) IN GENERAL.—In the case of any
17 State in which there is a large local govern-
18 ment, each such local government shall be allo-
19 cated a portion of such State’s allocation which
20 bears the same ratio to the State’s allocation
21 (determined without regard to this subpara-
22 graph) as the population of such large local
23 government bears to the population of such
24 State.

1 “(B) ALLOCATION OF UNUSED LIMITATION
2 TO STATE.—The amount allocated under this
3 subsection to a large local government may be
4 reallocated by such local government to the
5 State in which such local government is located.

6 “(C) LARGE LOCAL GOVERNMENT.—For
7 purposes of this section, the term ‘large local
8 government’ means any municipality or county
9 if such municipality or county has a population
10 of 100,000 or more.

11 “(3) ALLOCATION TO ISSUERS; RESTRICTION
12 ON PRIVATE ACTIVITY BONDS.—Any allocation
13 under this subsection to a State or large local gov-
14 ernment shall be allocated by such State or large
15 local government to issuers within the State in a
16 manner that results in not less than 70 percent of
17 the allocation to such State or large local govern-
18 ment being used to designate bonds which are not
19 private activity bonds.

20 “(f) QUALIFIED CONSERVATION PURPOSE.—For
21 purposes of this section—

22 “(1) IN GENERAL.—The term ‘qualified con-
23 servation purpose’ means any of the following:

24 “(A) Capital expenditures incurred for
25 purposes of—

1 “(i) reducing energy consumption in
2 publicly-owned buildings by at least 20
3 percent,

4 “(ii) implementing green community
5 programs,

6 “(iii) rural development involving the
7 production of electricity from renewable
8 energy resources, or

9 “(iv) any qualified facility (as deter-
10 mined under section 45(d) without regard
11 to paragraphs (8) and (10) thereof and
12 without regard to any placed in service
13 date).

14 “(B) Expenditures with respect to research
15 facilities, and research grants, to support re-
16 search in—

17 “(i) development of cellulosic ethanol
18 or other nonfossil fuels,

19 “(ii) technologies for the capture and
20 sequestration of carbon dioxide produced
21 through the use of fossil fuels,

22 “(iii) increasing the efficiency of exist-
23 ing technologies for producing nonfossil
24 fuels,

1 “(iv) automobile battery technologies
2 and other technologies to reduce fossil fuel
3 consumption in transportation, or

4 “(v) technologies to reduce energy use
5 in buildings.

6 “(C) Mass commuting facilities and related
7 facilities that reduce the consumption of energy,
8 including expenditures to reduce pollution from
9 vehicles used for mass commuting.

10 “(D) Demonstration projects designed to
11 promote the commercialization of—

12 “(i) green building technology,

13 “(ii) conversion of agricultural waste
14 for use in the production of fuel or other-
15 wise,

16 “(iii) advanced battery manufacturing
17 technologies,

18 “(iv) technologies to reduce peak use
19 of electricity, or

20 “(v) technologies for the capture and
21 sequestration of carbon dioxide emitted
22 from combusting fossil fuels in order to
23 produce electricity.

24 “(E) Public education campaigns to pro-
25 mote energy efficiency.

1 “(2) SPECIAL RULES FOR PRIVATE ACTIVITY
2 BONDS.—For purposes of this section, in the case of
3 any private activity bond, the term ‘qualified con-
4 servation purposes’ shall not include any expenditure
5 which is not a capital expenditure.

6 “(g) POPULATION.—

7 “(1) IN GENERAL.—The population of any
8 State or local government shall be determined for
9 purposes of this section as provided in section 146(j)
10 for the calendar year which includes the date of the
11 enactment of this section.

12 “(2) SPECIAL RULE FOR COUNTIES.—In deter-
13 mining the population of any county for purposes of
14 this section, any population of such county which is
15 taken into account in determining the population of
16 any municipality which is a large local government
17 shall not be taken into account in determining the
18 population of such county.

19 “(h) APPLICATION TO INDIAN TRIBAL GOVERN-
20 MENTS.—An Indian tribal government shall be treated for
21 purposes of this section in the same manner as a large
22 local government, except that—

23 “(1) an Indian tribal government shall be treat-
24 ed for purposes of subsection (e) as located within
25 a State to the extent of so much of the population

1 of such government as resides within such State,
2 and

3 “(2) any bond issued by an Indian tribal gov-
4 ernment shall be treated as a qualified energy con-
5 servation bond only if issued as part of an issue the
6 available project proceeds of which are used for pur-
7 poses for which such Indian tribal government could
8 issue bonds to which section 103(a) applies.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Paragraph (1) of section 54A(d), as added
11 by section 106, is amended to read as follows:

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

14 “(A) a new clean renewable energy bond,
15 or

16 “(B) a qualified energy conservation 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), as
20 added by section 106, is 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 new clean renew-
2 able energy bond, a purpose specified in
3 section 54B(a)(1), and

4 “(ii) in the case of a qualified energy
5 conservation bond, a purpose specified in
6 section 54C(a)(1).”.

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

“Sec. 54C. Qualified energy conservation bonds.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to obligations issued after the date
12 of the enactment of this Act.

13 **SEC. 142. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

14 (a) EXTENSION OF CREDIT.—Section 25C(g) is
15 amended by striking “December 31, 2007” and inserting
16 “December 31, 2008”.

17 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

18 (1) IN GENERAL.—Section 25C(d)(3) is amend-
19 ed—

20 (A) by striking “and” at the end of sub-
21 paragraph (D),

22 (B) by striking the period at the end of
23 subparagraph (E) and inserting “, and”, and

24 (C) by adding at the end the following new
25 subparagraph:

1 “(F) a stove which uses the burning of bio-
2 mass fuel to heat a dwelling unit located in the
3 United States and used as a residence by the
4 taxpayer, or to heat water for use in such a
5 dwelling unit, and which has a thermal effi-
6 ciency rating of at least 75 percent.”.

7 (2) BIOMASS FUEL.—Section 25C(d) is amend-
8 ed by adding at the end the following new para-
9 graph:

10 “(6) BIOMASS FUEL.—The term ‘biomass fuel’
11 means any plant-derived fuel available on a renew-
12 able or recurring basis, including agricultural crops
13 and trees, wood and wood waste and residues (in-
14 cluding wood pellets), plants (including aquatic
15 plants), grasses, residues, and fibers.”.

16 (c) COORDINATION WITH CREDIT FOR QUALIFIED
17 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

18 (1) IN GENERAL.—Paragraph (3) of section
19 25C(d), as amended by subsection (b), is amended
20 by striking subparagraph (C) and by redesignating
21 subparagraphs (D), (E), and (F) as subparagraphs
22 (C), (D), and (E), respectively.

23 (2) CONFORMING AMENDMENT.—Subparagraph
24 (C) of section 25C(d)(2) is amended to read as fol-
25 lows:

1 “(C) REQUIREMENTS AND STANDARDS
2 FOR AIR CONDITIONERS AND HEAT PUMPS.—
3 The standards and requirements prescribed by
4 the Secretary under subparagraph (B) with re-
5 spect to the energy efficiency ratio (EER) for
6 central air conditioners and electric heat
7 pumps—

8 “(i) shall require measurements to be
9 based on published data which is tested by
10 manufacturers at 95 degrees Fahrenheit,
11 and

12 “(ii) may be based on the certified
13 data of the Air Conditioning and Refrig-
14 eration Institute that are prepared in part-
15 nership with the Consortium for Energy
16 Efficiency.”.

17 (d) EFFECTIVE DATE.—The amendments made this
18 section shall apply to expenditures made after December
19 31, 2007.

20 **SEC. 143. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
21 **DUCTION.**

22 Subsection (h) of section 179D is amended by strik-
23 ing “December 31, 2008” and inserting “December 31,
24 2013”.

1 **SEC. 144. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
2 **ANCE CREDIT FOR APPLIANCES PRODUCED**
3 **AFTER 2007.**

4 (a) IN GENERAL.—Subsection (b) of section 45M is
5 amended to read as follows:

6 “(b) APPLICABLE AMOUNT.—For purposes of sub-
7 section (a)—

8 “(1) DISHWASHERS.—The applicable amount
9 is—

10 “(A) \$45 in the case of a dishwasher which
11 is manufactured in calendar year 2008 or 2009
12 and which uses no more than 324 kilowatt
13 hours per year and 5.8 gallons per cycle, and

14 “(B) \$75 in the case of a dishwasher
15 which is manufactured in calendar year 2008,
16 2009, or 2010 and which uses no more than
17 307 kilowatt hours per year and 5.0 gallons per
18 cycle (5.5 gallons per cycle for dishwashers de-
19 signed for greater than 12 place settings).

20 “(2) CLOTHES WASHERS.—The applicable
21 amount is—

22 “(A) \$75 in the case of a residential top-
23 loading clothes washer manufactured in cal-
24 endar year 2008 which meets or exceeds a 1.72
25 modified energy factor and does not exceed a
26 8.0 water consumption factor,

1 “(B) \$125 in the case of a residential top-
2 loading clothes washer manufactured in cal-
3 endar year 2008 or 2009 which meets or ex-
4 ceeds a 1.8 modified energy factor and does not
5 exceed a 7.5 water consumption factor,

6 “(C) \$150 in the case of a residential or
7 commercial clothes washer manufactured in cal-
8 endar year 2008, 2009, or 2010 which meets or
9 exceeds 2.0 modified energy factor and does not
10 exceed a 6.0 water consumption factor, and

11 “(D) \$250 in the case of a residential or
12 commercial clothes washer manufactured in cal-
13 endar year 2008, 2009, or 2010 which meets or
14 exceeds 2.2 modified energy factor and does not
15 exceed a 4.5 water consumption factor.

16 “(3) REFRIGERATORS.—The applicable amount
17 is—

18 “(A) \$50 in the case of a refrigerator
19 which is manufactured in calendar year 2008,
20 and consumes at least 20 percent but not more
21 than 22.9 percent less kilowatt hours per year
22 than the 2001 energy conservation standards,

23 “(B) \$75 in the case of a refrigerator
24 which is manufactured in calendar year 2008 or
25 2009, and consumes at least 23 percent but no

1 more than 24.9 percent less kilowatt hours per
2 year than the 2001 energy conservation stand-
3 ards,

4 “(C) \$100 in the case of a refrigerator
5 which is manufactured in calendar year 2008,
6 2009, or 2010, and consumes at least 25 per-
7 cent but not more than 29.9 percent less kilo-
8 watt hours per year than the 2001 energy con-
9 servation standards, and

10 “(D) \$200 in the case of a refrigerator
11 manufactured in calendar year 2008, 2009, or
12 2010 and which consumes at least 30 percent
13 less energy than the 2001 energy conservation
14 standards.”.

15 (b) ELIGIBLE PRODUCTION.—

16 (1) SIMILAR TREATMENT FOR ALL APPLI-
17 ANCES.—Subsection (c) of section 45M is amend-
18 ed—

19 (A) by striking paragraph (2),

20 (B) by striking “(1) IN GENERAL” and all
21 that follows through “the eligible” and inserting
22 “The eligible”,

23 (C) by moving the text of such subsection
24 in line with the subsection heading, and

1 (D) by redesignating subparagraphs (A)
2 and (B) as paragraphs (1) and (2), respectively,
3 and by moving such paragraphs 2 ems to the
4 left.

5 (2) MODIFICATION OF BASE PERIOD.—Para-
6 graph (2) of section 45M(c), as amended by para-
7 graph (1), is amended by striking “3-calendar year”
8 and inserting “2-calendar year”.

9 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
10 Subsection (d) of section 45M (defining types of energy
11 efficient appliances) is amended to read as follows:

12 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
13 For purposes of this section, the types of energy efficient
14 appliances are—

15 “(1) dishwashers described in subsection (b)(1),

16 “(2) clothes washers described in subsection
17 (b)(2), and

18 “(3) refrigerators described in subsection
19 (b)(3).”.

20 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

21 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-
22 tion 45M(e) is amended to read as follows:

23 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

24 The aggregate amount of credit allowed under sub-
25 section (a) with respect to a taxpayer for any tax-

1 able year shall not exceed \$75,000,000 reduced by
2 the amount of the credit allowed under subsection
3 (a) to the taxpayer (or any predecessor) for all prior
4 taxable years beginning after December 31, 2007.”.

5 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
6 AND CLOTHES WASHERS.—Paragraph (2) of section
7 45M(e) is amended to read as follows:

8 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-
9 ERATORS AND CLOTHES WASHERS.—Refrigerators
10 described in subsection (b)(3)(D) and clothes wash-
11 ers described in subsection (b)(2)(D) shall not be
12 taken into account under paragraph (1).”.

13 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

14 (1) IN GENERAL.—Paragraph (1) of section
15 45M(f) (defining qualified energy efficient appliance)
16 is amended to read as follows:

17 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
18 ANCE.—The term ‘qualified energy efficient appli-
19 ance’ means—

20 “(A) any dishwasher described in sub-
21 section (b)(1),

22 “(B) any clothes washer described in sub-
23 section (b)(2), and

24 “(C) any refrigerator described in sub-
25 section (b)(3).”.

1 (2) CLOTHES WASHER.—Section 45M(f)(3) is
2 amended by inserting “commercial” before “residen-
3 tial” the second place it appears.

4 (3) TOP-LOADING CLOTHES WASHER.—Sub-
5 section (f) of section 45M is amended by redesign-
6 ating paragraphs (4), (5), (6), and (7) as para-
7 graphs (5), (6), (7), and (8), respectively, and by in-
8 serting after paragraph (3) the following new para-
9 graph:

10 “(4) TOP-LOADING CLOTHES WASHER.—The
11 term ‘top-loading clothes washer’ means a clothes
12 washer which has the clothes container compartment
13 access located on the top of the machine and which
14 operates on a vertical axis.”.

15 (4) REPLACEMENT OF ENERGY FACTOR.—Sec-
16 tion 45M(f)(6), as redesignated by paragraph (3), is
17 amended to read as follows:

18 “(6) MODIFIED ENERGY FACTOR.—The term
19 ‘modified energy factor’ means the modified energy
20 factor established by the Department of Energy for
21 compliance with the Federal energy conservation
22 standard.”.

23 (5) GALLONS PER CYCLE; WATER CONSUMP-
24 TION FACTOR.—Section 45M(f), as amended by

1 paragraph (3), is amended by adding at the end the
2 following:

3 “(9) GALLONS PER CYCLE.—The term ‘gallons
4 per cycle’ means, with respect to a dishwasher, the
5 amount of water, expressed in gallons, required to
6 complete a normal cycle of a dishwasher.

7 “(10) WATER CONSUMPTION FACTOR.—The
8 term ‘water consumption factor’ means, with respect
9 to a clothes washer, the quotient of the total weight-
10 ed per-cycle water consumption divided by the cubic
11 foot (or liter) capacity of the clothes washer.”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to appliances produced after De-
14 cember 31, 2007.

15 **SEC. 145. ACCELERATED RECOVERY PERIOD FOR DEPREE-**
16 **CIATION OF SMART METERS AND SMART**
17 **GRID SYSTEMS.**

18 (a) IN GENERAL.—Section 168(e)(3)(D) is amended
19 by striking “and” at the end of clause (i), by striking the
20 period at the end of clause (ii) and inserting a comma,
21 and by inserting after clause (ii) the following new clauses:

22 “(iii) any qualified smart electric
23 meter, and

24 “(iv) any qualified smart electric grid
25 system.”.

1 (b) DEFINITIONS.—Section 168(i) is amended by in-
2 serting at the end the following new paragraph:

3 “(18) QUALIFIED SMART ELECTRIC METERS.—

4 “(A) IN GENERAL.—The term ‘qualified
5 smart electric meter’ means any smart electric
6 meter which is placed in service by a taxpayer
7 who is a supplier of electric energy or a pro-
8 vider of electric energy services.

9 “(B) SMART ELECTRIC METER.—For pur-
10 poses of subparagraph (A), the term ‘smart
11 electric meter’ means any time-based meter and
12 related communication equipment which is ca-
13 pable of being used by the taxpayer as part of
14 a system that—

15 “(i) measures and records electricity
16 usage data on a time-differentiated basis
17 in at least 24 separate time segments per
18 day,

19 “(ii) provides for the exchange of in-
20 formation between supplier or provider and
21 the customer’s electric meter in support of
22 time-based rates or other forms of demand
23 response,

24 “(iii) provides data to such supplier or
25 provider so that the supplier or provider

1 can provide energy usage information to
2 customers electronically, and

3 “(iv) provides net metering.

4 “(19) QUALIFIED SMART ELECTRIC GRID SYS-
5 TEMS.—

6 “(A) IN GENERAL.—The term ‘qualified
7 smart electric grid system’ means any smart
8 grid property used as part of a system for elec-
9 tric distribution grid communications, moni-
10 toring, and management placed in service by a
11 taxpayer who is a supplier of electric energy or
12 a provider of electric energy services.

13 “(B) SMART GRID PROPERTY.—For the
14 purposes of subparagraph (A), the term ‘smart
15 grid property’ means electronics and related
16 equipment that is capable of—

17 “(i) sensing, collecting, and moni-
18 toring data of or from all portions of a
19 utility’s electric distribution grid,

20 “(ii) providing real-time, two-way
21 communications to monitor or manage
22 such grid, and

23 “(iii) providing real time analysis of
24 and event prediction based upon collected
25 data that can be used to improve electric

1 distribution system reliability, quality, and
2 performance.”.

3 (c) CONTINUED APPLICATION OF 150 PERCENT DE-
4 CLINING BALANCE METHOD.—Paragraph (2) of section
5 168(b) is amended by striking “or” at the end of subpara-
6 graph (B), by redesignating subparagraph (C) as subpara-
7 graph (D), and by inserting after subparagraph (B) the
8 following new subparagraph:

9 “(C) any property (other than property de-
10 scribed in paragraph (3)) which is a qualified
11 smart electric meter or qualified smart electric
12 grid system, or”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to property placed in service after
15 the date of the enactment of this Act.

16 **SEC. 146. QUALIFIED GREEN BUILDING AND SUSTAINABLE**
17 **DESIGN PROJECTS.**

18 (a) IN GENERAL.—Paragraph (8) of section 142(l)
19 is amended by striking “September 30, 2009” and insert-
20 ing “September 30, 2012”.

21 (b) TREATMENT OF CURRENT REFUNDING
22 BONDS.—Paragraph (9) of section 142(l) is amended by
23 striking “October 1, 2009” and inserting “October 1,
24 2012”.

1 (c) ACCOUNTABILITY.—The second sentence of sec-
2 tion 701(d) of the American Jobs Creation Act of 2004
3 is amended by striking “issuance,” and inserting
4 “issuance of the last issue with respect to such project”.

5 **TITLE II—ONE-YEAR EXTENSION**
6 **OF TEMPORARY PROVISIONS**
7 **Subtitle A—Extensions Primarily**
8 **Affecting Individuals**

9 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES**
10 **TAXES.**

11 (a) IN GENERAL.—Subparagraph (I) of section
12 164(b)(5) is amended by striking “January 1, 2008” and
13 inserting “January 1, 2009”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2007.

17 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**
18 **LATED EXPENSES.**

19 (a) IN GENERAL.—Subsection (e) of section 222 is
20 amended by striking “December 31, 2007” and inserting
21 “December 31, 2008”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2007.

1 **SEC. 203. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
2 **LATED INVESTMENT COMPANIES.**

3 (a) INTEREST-RELATED DIVIDENDS.—Subpara-
4 graph (C) of section 871(k)(1) (defining interest-related
5 dividend) is amended by striking “December 31, 2007”
6 and inserting “December 31, 2008”.

7 (b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Sub-
8 paragraph (C) of section 871(k)(2) (defining short-term
9 capital gain dividend) is amended by striking “December
10 31, 2007” and inserting “December 31, 2008”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to dividends with respect to taxable
13 years of regulated investment companies beginning after
14 December 31, 2007.

15 **SEC. 204. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
16 **TIREMENT PLANS FOR CHARITABLE PUR-**
17 **POSES.**

18 (a) IN GENERAL.—Subparagraph (F) of section
19 408(d)(8) is amended by striking “December 31, 2007”
20 and inserting “December 31, 2008”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to distributions made in taxable
23 years beginning after December 31, 2007.

1 **SEC. 205. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**
2 **MENTARY AND SECONDARY SCHOOL TEACH-**
3 **ERS.**

4 (a) IN GENERAL.—Subparagraph (D) of section
5 62(a)(2) is amended by striking “or 2007” and inserting
6 “2007, or 2008”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to taxable years beginning after
9 December 31, 2007.

10 **SEC. 206. ELECTION TO INCLUDE COMBAT PAY AS EARNED**
11 **INCOME FOR PURPOSES OF EARNED INCOME**
12 **TAX CREDIT.**

13 (a) IN GENERAL.—Subclause (II) of section
14 32(c)(2)(B)(vi) (defining earned income) is amended by
15 striking “January 1, 2008” and inserting “January 1,
16 2009”.

17 (b) CONFORMING AMENDMENT.—Paragraph (4) of
18 section 6428(e) is amended by striking “except that” and
19 all that follows through “such term” and inserting “except
20 that such term”.

21 (c) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years ending after De-
23 cember 31, 2007.

1 **SEC. 207. MODIFICATION OF MORTGAGE REVENUE BONDS**
2 **FOR VETERANS.**

3 (a) QUALIFIED MORTGAGE BONDS USED TO FI-
4 NANCE RESIDENCES FOR VETERANS WITHOUT REGARD
5 TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subpara-
6 graph (D) of section 143(d)(2) is amended by striking
7 “January 1, 2008” and inserting “January 1, 2009”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to bonds issued after December
10 31, 2007.

11 **SEC. 208. DISTRIBUTIONS FROM RETIREMENT PLANS TO**
12 **INDIVIDUALS CALLED TO ACTIVE DUTY.**

13 (a) IN GENERAL.—Clause (iv) of section 72(t)(2)(G)
14 is amended by striking “December 31, 2007” and insert-
15 ing “January 1, 2009”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to individuals ordered or called to
18 active duty on or after December 31, 2007.

19 **SEC. 209. STOCK IN RIC FOR PURPOSES OF DETERMINING**
20 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

21 (a) IN GENERAL.—Paragraph (3) of section 2105(d)
22 is amended by striking “December 31, 2007” and insert-
23 ing “December 31, 2008”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to decedents dying after December
26 31, 2007.

1 **SEC. 210. QUALIFIED INVESTMENT ENTITIES.**

2 (a) IN GENERAL.—Clause (ii) of section
3 897(h)(4)(A) is amended by striking “December 31,
4 2007” and inserting “December 31, 2008”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect on January 1, 2008, except
7 that such amendment shall not apply to the application
8 of withholding requirements with respect to any payment
9 made on or before the date of the enactment of this Act.

10 **SEC. 211. EXCLUSION OF AMOUNTS RECEIVED UNDER**
11 **QUALIFIED GROUP LEGAL SERVICES PLANS.**

12 (a) IN GENERAL.—Subsection (e) of section 120 is
13 amended by striking “shall not apply to taxable years be-
14 ginning after June 30, 1992” and inserting “shall apply
15 to taxable years beginning after December 31, 2007, and
16 before January 1, 2009”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2007.

20 **Subtitle B—Extensions Primarily**
21 **Affecting Businesses**

22 **SEC. 221. RESEARCH CREDIT.**

23 (a) IN GENERAL.—Subparagraph (B) of section
24 41(h)(1) is amended by striking “December 31, 2007”
25 and inserting “December 31, 2008”.

1 (b) COMPUTATION OF CREDIT FOR TAXABLE YEAR
2 IN WHICH CREDIT TERMINATES.—Paragraph (2) of sec-
3 tion 41(h) is amended to read as follows:

4 “(2) COMPUTATION OF CREDIT FOR TAXABLE
5 YEAR IN WHICH CREDIT TERMINATES.—

6 “(A) IN GENERAL.—In the case of any
7 taxable year with respect to which this section
8 applies to a number of days which is less than
9 the total number of days in such taxable year,
10 the applicable base amount with respect to such
11 taxable year shall be the amount which bears
12 the same ratio to such applicable amount (de-
13 termined without regard to this paragraph) as
14 the number of days in such taxable year to
15 which this section applies bears to the total
16 number of days in such taxable year.

17 “(B) APPLICABLE BASE AMOUNT.—For
18 purposes of subparagraph (A), the term ‘appli-
19 cable base amount’ means, with respect to any
20 taxable year—

21 “(i) except as otherwise provided in
22 this subparagraph, the base amount for
23 the taxable year,

24 “(ii) in the case of a taxable year with
25 respect to which an election under sub-

1 section (c)(4) (relating to election of alter-
2 native incremental credit) is in effect, the
3 average described in subsection (c)(1)(B)
4 for the taxable year, and

5 “(iii) in the case of a taxable year
6 with respect to which an election under
7 subsection (c)(5) (relating to election of al-
8 ternative simplified credit) is in effect, the
9 average qualified research expenses for the
10 3 taxable years preceding the taxable
11 year.”.

12 (c) CONFORMING AMENDMENT.—Subparagraph (D)
13 of section 45C(b)(1) is amended by striking “December
14 31, 2007” and inserting “December 31, 2008”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid or incurred after
17 December 31, 2007.

18 **SEC. 222. INDIAN EMPLOYMENT CREDIT.**

19 (a) IN GENERAL.—Subsection (f) of section 45A is
20 amended by striking “December 31, 2007” and inserting
21 “December 31, 2008”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2007.

1 **SEC. 223. NEW MARKETS TAX CREDIT.**

2 Subparagraph (D) of section 45D(f)(1) is amended
3 by striking “and 2008” and inserting “2008, and 2009”.

4 **SEC. 224. RAILROAD TRACK MAINTENANCE.**

5 (a) IN GENERAL.—Subsection (f) of section 45G is
6 amended by striking “January 1, 2008” and inserting
7 “January 1, 2009”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to expenditures paid or incurred
10 during taxable years beginning after December 31, 2007.

11 **SEC. 225. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**

12 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**

13 **AND QUALIFIED RESTAURANT PROPERTY.**

14 (a) IN GENERAL.—Clauses (iv) and (v) of section
15 168(e)(3)(E) are each amended by striking “January 1,
16 2008” and inserting “January 1, 2009”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 December 31, 2007.

20 **SEC. 226. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**

21 **TORSPOUNTS RACING TRACK FACILITY.**

22 (a) IN GENERAL.—Subparagraph (D) of section
23 168(i)(15) is amended by striking “December 31, 2007”
24 and inserting “December 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to property placed in service after
3 December 31, 2007.

4 **SEC. 227. ACCELERATED DEPRECIATION FOR BUSINESS**
5 **PROPERTY ON INDIAN RESERVATION.**

6 (a) IN GENERAL.—Paragraph (8) of section 168(j)
7 is amended by striking “December 31, 2007” and insert-
8 ing “December 31, 2008”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to property placed in service after
11 December 31, 2007.

12 **SEC. 228. EXPENSING OF ENVIRONMENTAL REMEDIATION**
13 **COSTS.**

14 (a) IN GENERAL.—Subsection (h) of section 198 is
15 amended by striking “December 31, 2007” and inserting
16 “December 31, 2008”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to expenditures paid or incurred
19 after December 31, 2007.

20 **SEC. 229. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
21 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
22 **DUCTION ACTIVITIES IN PUERTO RICO.**

23 (a) IN GENERAL.—Subparagraph (C) of section
24 199(d)(8) is amended—

1 (1) by striking “first 2 taxable years” and in-
2 sserting “first 3 taxable years”, and

3 (2) by striking “January 1, 2008” and insert-
4 ing “January 1, 2009”.

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

8 **SEC. 230. MODIFICATION OF TAX TREATMENT OF CERTAIN**
9 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
10 **NIZATIONS.**

11 (a) IN GENERAL.—Clause (iv) of section
12 512(b)(13)(E) is amended by striking “December 31,
13 2007” and inserting “December 31, 2008”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to payments received or accrued
16 after December 31, 2007.

17 **SEC. 231. QUALIFIED ZONE ACADEMY BONDS.**

18 (a) IN GENERAL.—Subpart I of part IV of sub-
19 chapter A of chapter 1, as amended by sections 106 and
20 141, is amended by adding at the end the following new
21 section:

22 **“SEC. 54D. 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 pro-
2 ceeds of such issue are to be used for a qualified
3 purpose with respect to a qualified zone academy es-
4 tablished 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 assur-
12 ances that the private business contribution re-
13 quirement of subsection (b) will be met with re-
14 spect 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 busi-
20 ness contribution requirement of this subsection is met
21 with respect to any issue if the eligible local education
22 agency that established the qualified zone academy has
23 written commitments from private entities to make quali-
24 fied contributions having a present value (as of the date

1 of issuance of the issue) of not less than 10 percent of
2 the proceeds of the issue.

3 “(c) LIMITATION ON AMOUNT OF BONDS DES-
4 IGNATED.—

5 “(1) NATIONAL LIMITATION.—There is a na-
6 tional zone academy bond limitation for each cal-
7 endar year. Such limitation is \$400,000,000 for
8 2008, and, except as provided in paragraph (4), zero
9 thereafter.

10 “(2) ALLOCATION OF LIMITATION.—The na-
11 tional zone academy bond limitation for a calendar
12 year shall be allocated by the Secretary among the
13 States on the basis of their respective populations of
14 individuals below the poverty line (as defined by the
15 Office of Management and Budget). The limitation
16 amount allocated to a State under the preceding
17 sentence shall be allocated by the State education
18 agency to qualified zone academies within such
19 State.

20 “(3) DESIGNATION SUBJECT TO LIMITATION
21 AMOUNT.—The maximum aggregate face amount of
22 bonds issued during any calendar year which may be
23 designated under subsection (a) with respect to any
24 qualified zone academy shall not exceed the limita-

1 tion amount allocated to such academy under para-
2 graph (2) for such calendar year.

3 “(4) CARRYOVER OF UNUSED LIMITATION.—

4 “(A) IN GENERAL.—If for any calendar
5 year—

6 “(i) the limitation amount for any
7 State, exceeds

8 “(ii) the amount of bonds issued dur-
9 ing such year which are designated under
10 subsection (a) with respect to qualified
11 zone academies within such State,

12 the limitation amount for such State for the fol-
13 lowing calendar year shall be increased by the
14 amount of such excess.

15 “(B) LIMITATION ON CARRYOVER.—Any
16 carryforward of a limitation amount may be
17 carried only to the first 2 years following the
18 unused limitation year. For purposes of the pre-
19 ceding sentence, a limitation amount shall be
20 treated as used on a first-in first-out basis.

21 “(C) COORDINATION WITH SECTION
22 1397E.—Any carryover determined under sec-
23 tion 1397E(e)(4) (relating to carryover of un-
24 used limitation) with respect to any State to
25 calendar year 2008 shall be treated for pur-

1 poses of this section as a carryover with respect
2 to such State for such calendar year under sub-
3 paragraph (A), and the limitation of subpara-
4 graph (B) shall apply to such carryover taking
5 into account the calendar years to which such
6 carryover relates.

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

8 “(1) QUALIFIED ZONE ACADEMY.—The term
9 ‘qualified zone academy’ means any public school (or
10 academic program within a public school) which is
11 established by and operated under the supervision of
12 an eligible local education agency to provide edu-
13 cation or training below the postsecondary level if—

14 “(A) such public school or program (as the
15 case may be) is designed in cooperation with
16 business to enhance the academic curriculum,
17 increase graduation and employment rates, and
18 better prepare students for the rigors of college
19 and the increasingly complex workforce,

20 “(B) students in such public school or pro-
21 gram (as the case may be) will be subject to the
22 same academic standards and assessments as
23 other students educated by the eligible local
24 education agency,

1 “(C) the comprehensive education plan of
2 such public school or program is approved by
3 the eligible local education agency, and

4 “(D)(i) such public school is located in an
5 empowerment zone or enterprise community
6 (including any such zone or community des-
7 ignated after the date of the enactment of this
8 section), or

9 “(ii) there is a reasonable expectation (as
10 of the date of issuance of the bonds) that at
11 least 35 percent of the students attending such
12 school or participating in such program (as the
13 case may be) will be eligible for free or reduced-
14 cost lunches under the school lunch program es-
15 tablished under the National School Lunch Act.

16 “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—
17 For purposes of this section, the term ‘eligible local
18 education agency’ means any local educational agen-
19 cy as defined in section 9101 of the Elementary and
20 Secondary Education Act of 1965.

21 “(3) QUALIFIED PURPOSE.—The term ‘quali-
22 fied purpose’ means, with respect to any qualified
23 zone academy—

1 “(A) rehabilitating or repairing the public
2 school facility in which the academy is estab-
3 lished,

4 “(B) providing equipment for use at such
5 academy,

6 “(C) developing course materials for edu-
7 cation to be provided at such academy, and

8 “(D) training teachers and other school
9 personnel in such academy.

10 “(4) QUALIFIED CONTRIBUTIONS.—The term
11 ‘qualified contribution’ means any contribution (of a
12 type and quality acceptable to the eligible local edu-
13 cation agency) of—

14 “(A) equipment for use in the qualified
15 zone academy (including state-of-the-art tech-
16 nology and vocational equipment),

17 “(B) technical assistance in developing
18 curriculum or in training teachers in order to
19 promote appropriate market driven technology
20 in the classroom,

21 “(C) services of employees as volunteer
22 mentors,

23 “(D) internships, field trips, or other edu-
24 cational opportunities outside the academy for
25 students, or

1 “(E) any other property or service speci-
2 fied by the eligible local education agency.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraph (1) of section 54A(d), as amend-
5 ed by sections 106 and 141, is amended by striking
6 “or” at the end of subparagraph (A), by inserting
7 “or” at the end of subparagraph (B), and by insert-
8 ing after subparagraph (B) the following new sub-
9 paragraph:

10 “(C) a qualified zone academy bond,”.

11 (2) Subparagraph (C) of section 54A(d)(2), as
12 amended by sections 106 and 141, is amended by
13 striking “and” at the end of clause (i), by striking
14 the period at the end of clause (ii) and inserting “,
15 and”, and by adding at the end the following new
16 clause:

17 “(iii) in the case of a qualified zone
18 academy bond, a purpose specified in sec-
19 tion 54D(a)(1).”.

20 (3) Section 1397E is amended by adding at the
21 end the following new subsection:

22 “(m) TERMINATION.—This section shall not apply to
23 any obligation issued after the date of the enactment of
24 this Act.”.

1 (4) The table of sections for subpart I of part
2 IV of subchapter A of chapter 1 is amended by add-
3 ing at the end the following new item:

“Sec. 54D. Qualified zone academy bonds.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to obligations issued after the date
6 of the enactment of this Act.

7 **SEC. 232. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
8 **TRICT OF COLUMBIA.**

9 (a) DESIGNATION OF ZONE.—

10 (1) IN GENERAL.—Subsection (f) of section
11 1400 is amended by striking “2007” both places it
12 appears and inserting “2008”.

13 (2) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to periods beginning
15 after December 31, 2007.

16 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
17 BONDS.—

18 (1) IN GENERAL.—Subsection (b) of section
19 1400A is amended by striking “2007” and inserting
20 “2008”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by this subsection shall apply to bonds issued after
23 December 31, 2007.

24 (c) ZERO PERCENT CAPITAL GAINS RATE.—

1 (1) IN GENERAL.—Subsection (b) of section
2 1400B is amended by striking “2008” each place it
3 appears and inserting “2009”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 1400B(e)(2) is amended—

6 (i) by striking “2012” and inserting
7 “2013”, and

8 (ii) by striking “2012” in the heading
9 thereof and inserting “2013”.

10 (B) Section 1400B(g)(2) is amended by
11 striking “2012” and inserting “2013”.

12 (C) Section 1400F(d) is amended by strik-
13 ing “2012” and inserting “2013”.

14 (3) EFFECTIVE DATES.—

15 (A) EXTENSION.—The amendments made
16 by paragraph (1) shall apply to acquisitions
17 after December 31, 2007.

18 (B) CONFORMING AMENDMENTS.—The
19 amendments made by paragraph (2) shall take
20 effect on the date of the enactment of this Act.

21 (d) FIRST-TIME HOMEBUYER CREDIT.—

22 (1) IN GENERAL.—Subsection (i) of section
23 1400C is amended by striking “2008” and inserting
24 “2009”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to property purchased
3 after December 31, 2007.

4 **SEC. 233. ECONOMIC DEVELOPMENT CREDIT FOR AMER-**
5 **ICAN SAMOA.**

6 (a) IN GENERAL.—Subsection (d) of section 119 of
7 division A of the Tax Relief and Health Care Act of 2006
8 is amended—

9 (1) by striking “first two taxable years” and in-
10 serting “first 3 taxable years”, and

11 (2) by striking “January 1, 2008” and insert-
12 ing “January 1, 2009”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2007.

16 **SEC. 234. ENHANCED CHARITABLE DEDUCTION FOR CON-**
17 **TRIBUTIONS OF FOOD INVENTORY.**

18 (a) IN GENERAL.—Clause (iv) of section
19 170(e)(3)(C) is amended by striking “December 31,
20 2007” and inserting “December 31, 2008”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to contributions made after De-
23 cember 31, 2007.

1 **SEC. 235. ENHANCED CHARITABLE DEDUCTION FOR CON-**
2 **TRIBUTIONS OF BOOK INVENTORY TO PUB-**
3 **LIC SCHOOLS.**

4 (a) IN GENERAL.—Clause (iv) of section
5 170(e)(3)(D) is amended by striking “December 31,
6 2007” and inserting “December 31, 2008”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to contributions made after De-
9 cember 31, 2007.

10 **SEC. 236. ENHANCED DEDUCTION FOR QUALIFIED COM-**
11 **PUTER CONTRIBUTIONS.**

12 (a) IN GENERAL.—Subparagraph (G) of section
13 170(e)(6) is amended by striking “December 31, 2007”
14 and inserting “December 31, 2008”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to contributions made during tax-
17 able years beginning after December 31, 2007.

18 **SEC. 237. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
19 **TIONS MAKING CHARITABLE CONTRIBU-**
20 **TIONS OF PROPERTY.**

21 (a) IN GENERAL.—The last sentence of section
22 1367(a)(2) is amended by striking “December 31, 2007”
23 and inserting “December 31, 2008”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to contributions made in taxable
26 years beginning after December 31, 2007.

1 **SEC. 238. WORK OPPORTUNITY TAX CREDIT FOR HURRI-**
2 **CANE KATRINA EMPLOYEES.**

3 (a) IN GENERAL.—Paragraph (1) of section 201(b)
4 of the Katrina Emergency Tax Relief Act of 2005 is
5 amended by striking “2-year” and inserting “3-year”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to individuals hired after August
8 27, 2007.

9 **SEC. 239. SUBPART F EXCEPTION FOR ACTIVE FINANCING**
10 **INCOME.**

11 (a) EXEMPT INSURANCE INCOME.—Paragraph (10)
12 of section 953(e) (relating to application) is amended—

13 (1) by striking “January 1, 2009” and insert-
14 ing “January 1, 2010”, and

15 (2) by striking “December 31, 2008” and in-
16 serting “December 31, 2009”.

17 (b) EXCEPTION TO TREATMENT AS FOREIGN PER-
18 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of
19 section 954(h) (relating to application) is amended by
20 striking “January 1, 2009” and inserting “January 1,
21 2010”.

22 **SEC. 240. LOOK-THRU RULE FOR RELATED CONTROLLED**
23 **FOREIGN CORPORATIONS.**

24 (a) IN GENERAL.—Subparagraph (C) of section
25 954(c)(6) (relating to application) is amended by striking
26 “January 1, 2009” and inserting “January 1, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years of foreign corpora-
3 tions beginning after December 31, 2008, and to taxable
4 years of United States shareholders with or within which
5 such taxable years of foreign corporations end.

6 **SEC. 241. EXPENSING FOR CERTAIN QUALIFIED FILM AND**
7 **TELEVISION PRODUCTIONS.**

8 (a) IN GENERAL.—Subsection (f) of section 181 is
9 amended by striking “December 31, 2008” and inserting
10 “December 31, 2009”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to productions commencing after
13 December 31, 2008.

14 **Subtitle C—Other Extensions**

15 **SEC. 251. AUTHORITY TO DISCLOSE INFORMATION RE-**
16 **LATED TO TERRORIST ACTIVITIES MADE**
17 **PERMANENT.**

18 (a) IN GENERAL.—Subparagraph (C) of section
19 6103(i)(3) is amended by striking clause (iv).

20 (b) DISCLOSURE ON REQUEST.—Paragraph (7) of
21 section 6103(i) is amended by striking subparagraph (E).

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to disclosures after the date of the
24 enactment of this Act.

1 **SEC. 252. AUTHORITY FOR UNDERCOVER OPERATIONS**
2 **MADE PERMANENT.**

3 (a) IN GENERAL.—Subsection (c) of section 7608 is
4 amended by striking paragraph (6).

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on January 1, 2008.

7 **SEC. 253. AUTHORITY TO DISCLOSE RETURN INFORMATION**
8 **FOR CERTAIN VETERANS PROGRAMS MADE**
9 **PERMANENT.**

10 (a) IN GENERAL.—Paragraph (7) of section 6103(l)
11 is amended by striking the last sentence thereof.

12 (b) CONFORMING AMENDMENT.—Section
13 6103(l)(7)(D)(viii)(III) is amended by striking “sections
14 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)”
15 and inserting “sections 1710(a)(2)(G), 1710(a)(3), and
16 1710(b)”.

17 (c) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to requests made after Sep-
19 tember 30, 2008.

20 **SEC. 254. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**
21 **CISE TAX TO PUERTO RICO AND THE VIRGIN**
22 **ISLANDS.**

23 (a) IN GENERAL.—Paragraph (1) of section 7652(f)
24 is amended by striking “January 1, 2008” and inserting
25 “January 1, 2009”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to distilled spirits brought into the
3 United States after December 31, 2007.

4 **SEC. 255. PARITY IN THE APPLICATION OF CERTAIN LIMITS**
5 **TO MENTAL HEALTH BENEFITS.**

6 Subsection (f) of section 9812 is amended—

7 (1) by striking “and” at the end of paragraph
8 (2), and

9 (2) by striking paragraph (3) and inserting the
10 following new paragraphs:

11 “(3) on or after January 1, 2008, and before
12 the date of the enactment of the Renewable Energy
13 and Job Creation Act of 2008, and

14 “(4) after December 31, 2008.”.

15 **TITLE III—ADDITIONAL TAX**
16 **RELIEF**

17 **Subtitle A—Individual Tax Relief**

18 **SEC. 301. ADDITIONAL STANDARD DEDUCTION FOR REAL**
19 **PROPERTY TAXES FOR NONITEMIZERS.**

20 (a) IN GENERAL.—Section 63(c)(1) (defining stand-
21 ard deduction) is amended by striking “and” at the end
22 of subparagraph (A), by striking the period at the end
23 of subparagraph (B) and inserting “, and”, and by adding
24 at the end the following new subparagraph:

1 “(C) in the case of any taxable year begin-
2 ning in 2008, the real property tax deduction.”.

3 (b) DEFINITION.—Section 63(c) is amended by add-
4 ing at the end the following new paragraph:

5 “(7) REAL PROPERTY TAX DEDUCTION.—For
6 purposes of paragraph (1), the real property tax de-
7 duction is the lesser of—

8 “(A) the amount allowable as a deduction
9 under this chapter for State and local taxes de-
10 scribed in section 164(a)(1), or

11 “(B) \$350 (\$700 in the case of a joint re-
12 turn).

13 Any taxes taken into account under section 62(a)
14 shall not be taken into account under this para-
15 graph.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2007.

19 **SEC. 302. REFUNDABLE CHILD CREDIT.**

20 (a) MODIFICATION OF THRESHOLD AMOUNT.—
21 Clause (i) of section 24(d)(1)(B) is amended by inserting
22 “(\$8,500 in the case of taxable years beginning in 2008)”
23 after “\$10,000”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to taxable years beginning after
3 December 31, 2007.

4 **SEC. 303. INCREASE OF AMT REFUNDABLE CREDIT**
5 **AMOUNT FOR INDIVIDUALS WITH LONG-**
6 **TERM UNUSED CREDITS FOR PRIOR YEAR**
7 **MINIMUM TAX LIABILITY, ETC.**

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

10 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
11 For purposes of paragraph (1), the term ‘AMT re-
12 fundable credit amount’ means, with respect to any
13 taxable year, the amount (not in excess of the long-
14 term unused minimum tax credit for such taxable
15 year) equal to the greater of—

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

18 “(B) the amount (if any) of the AMT re-
19 fundable credit amount for the taxpayer’s pre-
20 ceeding taxable year (determined without regard
21 to subsection (f)(2)).”.

22 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
23 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
24 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is

1 amended by adding at the end the following new sub-
2 section:

3 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
4 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
5 MENT OF INCENTIVE STOCK OPTIONS.—

6 “(1) ABATEMENT.—Any underpayment of tax
7 outstanding on the date of the enactment of this
8 subsection which is attributable to the application of
9 section 56(b)(3) for any taxable year ending before
10 January 1, 2008 (and any interest or penalty with
11 respect to such underpayment which is outstanding
12 on such date of enactment), is hereby abated. The
13 amount determined under subsection (b)(1) shall not
14 include any tax abated under the preceding sentence.

15 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-
16 EST AND PENALTIES ALREADY PAID.—The AMT re-
17 fundable credit amount, and the minimum tax credit
18 determined under subsection (b), for the taxpayer’s
19 first 2 taxable years beginning after December 31,
20 2007, shall each be increased by 50 percent of the
21 aggregate amount of the interest and penalties
22 which were paid by the taxpayer before the date of
23 the enactment of this subsection and which would
24 (but for such payment) have been abated under
25 paragraph (1).”.

1 (c) EFFECTIVE DATE.—

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

6 (2) ABATEMENT.—Section 53(f)(1) of the In-
7 ternal Revenue Code of 1986, as added by sub-
8 section (b), shall take effect on the date of the en-
9 actment of this Act.

10 **Subtitle B—Business Related**
11 **Provisions**

12 **SEC. 311. UNIFORM TREATMENT OF ATTORNEY-ADVANCED**
13 **EXPENSES AND COURT COSTS IN CONTIN-**
14 **GENCY FEE CASES.**

15 (a) IN GENERAL.—Section 162 is amended by redess-
16 ignating subsection (q) as subsection (r) and by inserting
17 after subsection (p) the following new subsection:

18 “(q) ATTORNEY-ADVANCED EXPENSES AND COURT
19 COSTS IN CONTINGENCY FEE CASES.—In the case of any
20 expense or court cost which is paid or incurred in the
21 course of the trade or business of practicing law and the
22 repayment of which is contingent on a recovery by judg-
23 ment or settlement in the action to which such expense
24 or cost relates, the deduction under subsection (a) shall

1 be determined as if such expense or cost was not subject
2 to repayment.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to expenses and costs paid or in-
5 curred in taxable years beginning after the date of the en-
6 actment of this Act.

7 **SEC. 312. PROVISIONS RELATED TO FILM AND TELEVISION**
8 **PRODUCTIONS.**

9 (a) **MODIFICATION OF LIMITATION ON EXPENS-**
10 **ING.**—Subparagraph (A) of section 181(a)(2) is amended
11 to read as follows:

12 “(A) **IN GENERAL.**—Paragraph (1) shall
13 not apply to so much of the aggregate cost of
14 any qualified film or television production as ex-
15 ceeds \$15,000,000.”.

16 (b) **MODIFICATIONS TO DEDUCTION FOR DOMESTIC**
17 **ACTIVITIES.**—

18 (1) **DETERMINATION OF W-2 WAGES.**—Para-
19 graph (2) of section 199(b) is amended by adding at
20 the end the following new subparagraph:

21 “(D) **SPECIAL RULE FOR QUALIFIED**
22 **FILM.**—In the case of a qualified film, such
23 term shall include compensation for services
24 performed in the United States by actors, pro-
25 duction personnel, directors, and producers.”.

1 (2) DEFINITION OF QUALIFIED FILM.—Para-
2 graph (6) of section 199(e) is amended by adding at
3 the end the following: “A qualified film shall include
4 any copyrights, trademarks, or other intangibles
5 with respect to such film. The methods and means
6 of distributing a qualified film shall not affect the
7 availability of the deduction under this section.”.

8 (3) PARTNERSHIPS.—Subparagraph (A) of sec-
9 tion 199(d)(1) is amended by striking “and” at the
10 end of clause (ii), by striking the period at the end
11 of clause (iii) and inserting “, and”, and by adding
12 at the end the following new clause:

13 “(iv) in the case of each partner of a
14 partnership, or shareholder of an S cor-
15 poration, who owns (directly or indirectly)
16 at least 20 percent of the capital interests
17 in such partnership or of the stock of such
18 S corporation—

19 “(I) such partner or shareholder
20 shall be treated as having engaged di-
21 rectly in any film produced by such
22 partnership or S corporation, and

23 “(II) such partnership or S cor-
24 poration shall be treated as having en-

1 gaged directly in any film produced by
2 such partner or shareholder.”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to taxable years beginning
7 after December 31, 2007.

8 (2) EXPENSING.—The amendments made by
9 subsection (a) shall apply to qualified film and tele-
10 vision productions commencing after December 31,
11 2007.

12 **Subtitle C—Modification of Penalty**
13 **on Understatement of Tax-**
14 **payer’s Liability by Tax Return**
15 **Preparer**

16 **SEC. 321. MODIFICATION OF PENALTY ON UNDERSTATE-**
17 **MENT OF TAXPAYER’S LIABILITY BY TAX RE-**
18 **TURN PREPARER.**

19 (a) IN GENERAL.—Subsection (a) of section 6694
20 (relating to understatement due to unreasonable positions)
21 is amended to read as follows:

22 “(a) UNDERSTATEMENT DUE TO UNREASONABLE
23 POSITIONS.—

24 “(1) IN GENERAL.—If a tax return preparer—

1 “(A) prepares any return or claim of re-
2 fund with respect to which any part of an un-
3 derstatement of liability is due to a position de-
4 scribed in paragraph (2), and

5 “(B) knew (or reasonably should have
6 known) of the position,

7 such tax return preparer shall pay a penalty with re-
8 spect to each such return or claim in an amount
9 equal to the greater of \$1,000 or 50 percent of the
10 income derived (or to be derived) by the tax return
11 preparer with respect to the return or claim.

12 “(2) UNREASONABLE POSITION.—

13 “(A) IN GENERAL.—Except as otherwise
14 provided in this paragraph, a position is de-
15 scribed in this paragraph unless there is or was
16 substantial authority for the position.

17 “(B) DISCLOSED POSITIONS.—If the posi-
18 tion was disclosed as provided in section
19 6662(d)(2)(B)(ii)(I) and is not a position to
20 which subparagraph (C) applies, the position is
21 described in this paragraph unless there is a
22 reasonable basis for the position.

23 “(C) TAX SHELTERS AND REPORTABLE
24 TRANSACTIONS.—If the position is with respect
25 to a tax shelter (as defined in section

1 6662(d)(2)(C)(ii)) or a reportable transaction
2 to which section 6662A applies, the position is
3 described in this paragraph unless it is reason-
4 able to believe that the position would more
5 likely than not be sustained on its merits.

6 “(3) REASONABLE CAUSE EXCEPTION.—No
7 penalty shall be imposed under this subsection if it
8 is shown that there is reasonable cause for the un-
9 derstatement and the tax return preparer acted in
10 good faith.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply—

13 (1) in the case of a position other than a posi-
14 tion described in subparagraph (C) of section
15 6694(a)(2) of the Internal Revenue Code of 1986
16 (as amended by this section), to returns prepared
17 after May 25, 2007, and

18 (2) in the case of a position described in such
19 subparagraph (C), to returns prepared for taxable
20 years ending after the date of the enactment of this
21 Act.

1 **Subtitle D—Extension and Expansion**
2 **of Certain GO Zone Incentives**
3 **tives**

4 **SEC. 331. CERTAIN GO ZONE INCENTIVES.**

5 (a) USE OF AMENDED INCOME TAX RETURNS TO
6 TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-
7 RELATED CASUALTY LOSS GRANTS BY DISALLOWING
8 PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of the Internal Revenue Code of 1986, if
11 a taxpayer claims a deduction for any taxable year
12 with respect to a casualty loss to a principal resi-
13 dence (within the meaning of section 121 of such
14 Code) resulting from Hurricane Katrina, Hurricane
15 Rita, or Hurricane Wilma and in a subsequent tax-
16 able year receives a grant under Public Law 109–
17 148, 109–234, or 110–116 as reimbursement for
18 such loss, such taxpayer may elect to file an amend-
19 ed income tax return for the taxable year in which
20 such deduction was allowed (and for any taxable
21 year to which such deduction is carried) and reduce
22 (but not below zero) the amount of such deduction
23 by the amount of such reimbursement.

24 (2) TIME OF FILING AMENDED RETURN.—
25 Paragraph (1) shall apply with respect to any grant

1 only if any amended income tax returns with respect
2 to such grant are filed not later than the later of—

3 (A) the due date for filing the tax return
4 for the taxable year in which the taxpayer re-
5 ceives such grant, or

6 (B) the date which is 1 year after the date
7 of the enactment of this Act.

8 (3) WAIVER OF PENALTIES AND INTEREST.—

9 Any underpayment of tax resulting from the reduc-
10 tion under paragraph (1) of the amount otherwise
11 allowable as a deduction shall not be subject to any
12 penalty or interest under such Code if such tax is
13 paid not later than 1 year after the filing of the
14 amended return to which such reduction relates.

15 (b) WAIVER OF DEADLINE ON CONSTRUCTION OF
16 GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECI-
17 TION.—

18 (1) IN GENERAL.—Subparagraph (B) of section
19 1400N(d)(3) is amended to read as follows:

20 “(B) without regard to ‘and before Janu-
21 ary 1, 2009’ in clause (i) thereof, and”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by this subsection shall apply to property placed in
24 service after December 31, 2007.

1 (c) INCLUSION OF CERTAIN COUNTIES IN GULF OP-
 2 PORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND
 3 FINANCING.—

4 (1) IN GENERAL.—Subsection (a) of section
 5 1400N is amended by adding at the end the fol-
 6 lowing new paragraph:

7 “(8) INCLUSION OF CERTAIN COUNTIES.—For
 8 purposes of this subsection, the Gulf Opportunity
 9 Zone includes Colbert County, Alabama and Dallas
 10 County, Alabama.”.

11 (2) EFFECTIVE DATE.—The amendment made
 12 by this subsection shall take effect as if included in
 13 the provisions of the Gulf Opportunity Zone Act of
 14 2005 to which it relates.

15 **TITLE IV—REVENUE**

16 **PROVISIONS**

17 **SEC. 401. NONQUALIFIED DEFERRED COMPENSATION**
 18 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

19 (a) IN GENERAL.—Subpart B of part II of sub-
 20 chapter E of chapter 1 is amended by inserting after sec-
 21 tion 457 the following new section:

22 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**
 23 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

24 “(a) IN GENERAL.—Any compensation which is de-
 25 ferred under a nonqualified deferred compensation plan of

1 a nonqualified entity shall be includible in gross income
2 when there is no substantial risk of forfeiture of the rights
3 to such compensation.

4 “(b) NONQUALIFIED ENTITY.—For purposes of this
5 section, the term ‘nonqualified entity’ means—

6 “(1) any foreign corporation unless substan-
7 tially all of its income is—

8 “(A) effectively connected with the conduct
9 of a trade or business in the United States, or

10 “(B) subject to a comprehensive foreign in-
11 come tax, and

12 “(2) any partnership unless substantially all of
13 its income is allocated to persons other than—

14 “(A) foreign persons with respect to whom
15 such income is not subject to a comprehensive
16 foreign income tax, and

17 “(B) organizations which are exempt from
18 tax under this title.

19 “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-
20 TION.—

21 “(1) IN GENERAL.—If the amount of any com-
22 pensation is not determinable at the time that such
23 compensation is otherwise includible in gross income
24 under subsection (a)—

1 “(A) such amount shall be so includible in
2 gross income when determinable, and

3 “(B) the tax imposed under this chapter
4 for the taxable year in which such compensation
5 is includible in gross income shall be increased
6 by the sum of—

7 “(i) the amount of interest determined
8 under paragraph (2), and

9 “(ii) an amount equal to 20 percent of
10 the amount of such compensation.

11 “(2) INTEREST.—For purposes of paragraph
12 (1)(B)(i), the interest determined under this para-
13 graph for any taxable year is the amount of interest
14 at the underpayment rate under section 6621 plus
15 1 percentage point on the underpayments that would
16 have occurred had the deferred compensation been
17 includible in gross income for the taxable year in
18 which first deferred or, if later, the first taxable year
19 in which such deferred compensation is not subject
20 to a substantial risk of forfeiture.

21 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

22 For purposes of this section—

23 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

24 “(A) IN GENERAL.—The rights of a person
25 to compensation shall be treated as subject to

1 a substantial risk of forfeiture only if such per-
2 son's rights to such compensation are condi-
3 tioned upon the future performance of substan-
4 tial services by any individual.

5 “(B) EXCEPTION FOR COMPENSATION
6 BASED ON GAIN RECOGNIZED ON AN INVEST-
7 MENT ASSET.—

8 “(i) IN GENERAL.—To the extent pro-
9 vided in regulations prescribed by the Sec-
10 retary, if compensation is determined solely
11 by reference to the amount of gain recog-
12 nized on the disposition of an investment
13 asset, such compensation shall be treated
14 as subject to a substantial risk of for-
15 feiture until the date of such disposition.

16 “(ii) INVESTMENT ASSET.—For pur-
17 poses of clause (i), the term ‘investment
18 asset’ means any single asset (other than
19 an investment fund or similar entity)—

20 “(I) acquired directly by an in-
21 vestment fund or similar entity,

22 “(II) with respect to which such
23 entity does not (nor does any person
24 related to such entity) participate in
25 the active management of such asset

1 (or if such asset is an interest in an
2 entity, in the active management of
3 the activities of such entity), and

4 “(III) substantially all of any
5 gain on the disposition of which (other
6 than such deferred compensation) is
7 allocated to investors in such entity.

8 “(iii) COORDINATION WITH SPECIAL
9 RULE.—Paragraph (3)(B) shall not apply
10 to any compensation to which clause (i)
11 applies.

12 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—
13 The term ‘comprehensive foreign income tax’ means,
14 with respect to any foreign person, the income tax
15 of a foreign country if—

16 “(A) such person is eligible for the benefits
17 of a comprehensive income tax treaty between
18 such foreign country and the United States, or

19 “(B) such person demonstrates to the sat-
20 isfaction of the Secretary that such foreign
21 country has a comprehensive income tax.

22 “(3) NONQUALIFIED DEFERRED COMPENSA-
23 TION PLAN.—

24 “(A) IN GENERAL.—The term ‘non-
25 qualified deferred compensation plan’ has the

1 meaning given such term under section
2 409A(d), except that such term shall include
3 any plan that provides a right to compensation
4 based on the appreciation in value of a specified
5 number of equity units of the service recipient.

6 “(B) EXCEPTION.—Compensation shall
7 not be treated as deferred for purposes of this
8 section if the service provider receives payment
9 of such compensation not later than 12 months
10 after the end of the taxable year of the service
11 recipient during which the right to the payment
12 of such compensation is no longer subject to a
13 substantial risk of forfeiture.

14 “(4) EXCEPTION FOR CERTAIN COMPENSATION
15 WITH RESPECT TO EFFECTIVELY CONNECTED IN-
16 COME.—In the case a foreign corporation with in-
17 come which is taxable under section 882, this section
18 shall not apply to compensation which, had such
19 compensation had been paid in cash on the date that
20 such compensation ceased to be subject to a sub-
21 stantial risk of forfeiture, would have been deduct-
22 ible by such foreign corporation against such income.

23 “(5) APPLICATION OF RULES.—Rules similar to
24 the rules of paragraphs (5) and (6) of section
25 409A(d) shall apply.

1 (2) APPLICATION TO EXISTING DEFERRALS.—

2 In the case of any amount deferred to which the
3 amendments made by this section do not apply solely
4 by reason of the fact that the amount is attributable
5 to services performed before January 1, 2009, to the
6 extent such amount is not includible in gross income
7 in a taxable year beginning before 2018, such
8 amounts shall be includible in gross income in the
9 later of—

10 (A) the last taxable year beginning before
11 2018, or

12 (B) the taxable year in which there is no
13 substantial risk of forfeiture of the rights to
14 such compensation (determined in the same
15 manner as determined for purposes of section
16 457A of the Internal Revenue Code of 1986, as
17 added by this section).

18 (3) CHARITABLE CONTRIBUTIONS OF EXISTING
19 DEFERRALS PERMITTED.—

20 (A) IN GENERAL.—Subsection (b) of sec-
21 tion 170 of the Internal Revenue Code of 1986
22 shall not apply to (and subsections (b) and (d)
23 of such section shall be applied without regard
24 to) so much of the taxpayer's qualified con-
25 tributions made during the taxpayer's last tax-

1 able year beginning before 2018 as does not ex-
2 ceed the taxpayer’s qualified inclusion amount.
3 For purposes of subsection (b) of section 170 of
4 such Code, the taxpayer’s contribution base for
5 such last taxable year shall be reduced by the
6 amount of the taxpayer’s qualified contributions
7 to which such subsection does not apply by rea-
8 son the preceding sentence.

9 (B) QUALIFIED CONTRIBUTIONS.—For
10 purposes of this paragraph, the term “qualified
11 contributions” means the aggregate charitable
12 contributions (as defined in section 170(c) of
13 such Code) paid in cash by the taxpayer to or-
14 ganizations described in section 170(b)(1)(A) of
15 such Code (other than any organization de-
16 scribed in section 509(a)(3) of such Code or
17 any fund or account described in section
18 4966(d)(2) of such Code).

19 (C) QUALIFIED INCLUSION AMOUNT.—For
20 purposes of this paragraph, the term “qualified
21 inclusion amount” means the amount includible
22 in the taxpayer’s gross income for the last tax-
23 able year beginning before 2018 by reason of
24 paragraph (2).

1 (4) ACCELERATED PAYMENTS.—No later than
2 120 days after the date of the enactment of this Act,
3 the Secretary shall issue guidance providing a lim-
4 ited period of time during which a nonqualified de-
5 ferred compensation arrangement attributable to
6 services performed on or before December 31, 2008,
7 may, without violating the requirements of section
8 409A(a) of the Internal Revenue Code of 1986, be
9 amended to conform the date of distribution to the
10 date the amounts are required to be included in in-
11 come.

12 (5) CERTAIN BACK-TO-BACK ARRANGEMENTS.—
13 If the taxpayer is also a service recipient and main-
14 tains one or more nonqualified deferred compensa-
15 tion arrangements for its service providers under
16 which any amount is attributable to services per-
17 formed on or before December 31, 2008, the guid-
18 ance issued under paragraph (4) shall permit such
19 arrangements to be amended to conform the dates of
20 distribution under such arrangement to the date
21 amounts are required to be included in the income
22 of such taxpayer under this subsection.

23 (6) ACCELERATED PAYMENT NOT TREATED AS
24 MATERIAL MODIFICATION.—Any amendment to a
25 nonqualified deferred compensation arrangement

1 made pursuant to paragraph (4) or (5) shall not be
2 treated as a material modification of the arrange-
3 ment for purposes of section 409A of the Internal
4 Revenue Code of 1986.

5 **SEC. 402. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**
6 **TION OF INTEREST.**

7 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
8 tion 864(f) are each amended by striking “December 31,
9 2008” and inserting “December 31, 2018”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2008.

13 **SEC. 403. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
14 **TAXES.**

15 (a) REPEAL OF ADJUSTMENT FOR 2012.—Subpara-
16 graph (B) of section 401(1) of the Tax Increase Preven-
17 tion and Reconciliation Act of 2005 is amended by striking
18 the percentage contained therein and inserting “100 per-
19 cent”.

20 (b) MODIFICATION OF ADJUSTMENT FOR 2013.—
21 The percentage under subparagraph (C) of section 401(1)
22 of the Tax Increase Prevention and Reconciliation Act of

- 1 2005 in effect on the date of the enactment of this Act
- 2 is increased by 37.75 percentage points.

Passed the House of Representatives May 21, 2008.

Attest:

Clerk.

110TH CONGRESS
2^D SESSION

H. R. 6049

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.