To advance the national security interests of the United States by reducing its dependency on oil through renewable and clean, alternative fuel technologies while building a bridge to the future through expanded access to Federal oil and natural gas resources, revising the relationship between the oil and gas industry and the consumers who own those resources and deserve a fair return from the development of publicly owned oil and gas, ending tax subsidies for large oil and gas companies, and facilitating energy efficiencies in the building, housing, and transportation sectors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2008

Mr. Rahall (for himself, Mr. Gene Green of Texas, Mr. George Miller of California, and Mr. Dingell) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Oversight and Government Reform, the Judiciary, Financial Services, Transportation and Infrastructure, the Budget, Rules, Science and Technology, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To advance the national security interests of the United States by reducing its dependency on oil through renewable and clean, alternative fuel technologies while building a bridge to the future through expanded access to Federal oil and natural gas resources, revising the relationship between the oil and gas industry and the consumers who own those resources and deserve a fair re-
turn from the development of publicly owned oil and gas, ending tax subsidies for large oil and gas companies, and facilitating energy efficiencies in the building, housing, and transportation sectors, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Comprehensive Amer-
ican Energy Security and Consumer Protection Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—FEDERAL OIL AND GAS LEASING

Subtitle A—Outer Continental Shelf Oil and Gas Leasing

Sec. 101. Prohibition on leasing.
Sec. 102. Opening of certain areas to oil and gas leasing.
Sec. 103. Coastal State roles and responsibilities.
Sec. 104. Protection of the environment and conservation of the natural re-
sources of the Outer Continental Shelf.
Sec. 105. Limitations.
Sec. 106. Prohibition on leasing in certain Federal protected areas.
Sec. 107. No effect on applicable law.
Sec. 108. Buy American requirements.
Sec. 109. Small, woman-owned, and minority-owned businesses.
Sec. 110. Definitions.

Subtitle B—Diligent Development of Federal Oil and Gas Leases

Sec. 121. Clarification.
Sec. 122. Covered provisions.
Sec. 123. Regulations.
Sec. 124. Resource estimates and leasing program management indicators.

Subtitle C—Royalties Under Offshore Oil and Gas Leases

Sec. 131. Short title.
Sec. 132. Price thresholds for royalty suspension provisions.
Sec. 133. Clarification of authority to impose price thresholds for certain lease sales.
Sec. 134. Eligibility for new leases and the transfer of leases; conservation of resources fees.
Sec. 135. Strategic Energy Efficiency and Renewables Reserve.

Subtitle D—Accountability and Integrity in the Federal Energy Program

Sec. 141. Royalty in-kind.
Sec. 142. Fair return on production of Federal oil and gas resources.
Sec. 143. Royalty-in-kind ethics.
Sec. 144. Prohibition on certain gifts.
Sec. 145. Strengthening the ability of the Interior Department Inspector General to secure cooperation.

Subtitle E—Federal Oil and Gas Royalty Reform

Sec. 151. Amendments to definitions.
Sec. 152. Interest.
Sec. 153. Obligation period.
Sec. 154. Tolling agreements and subpoenas.
Sec. 155. Liability for royalty payments.

Subtitle F—National Petroleum Reserve in Alaska

Sec. 161. Short title.
Sec. 162. Acceleration of lease sales for National Petroleum Reserve in Alaska.
Sec. 164. Alaska natural gas pipeline project facilitation.
Sec. 165. Project labor agreements and other pipeline requirements.
Sec. 166. Ban on export of Alaskan oil.

Subtitle G—Oil Shale

Sec. 171. Oil shale leasing.

TITLE II—CONSUMER ENERGY SUPPLY

Sec. 201. Short title.
Sec. 203. Sale and replacement of oil from the Strategic Petroleum Reserve.

TITLE III—PUBLIC TRANSPORTATION

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Grants to improve public transportation services.
Sec. 304. Increased Federal share for Clean Air Act compliance.
Sec. 305. Transportation fringe benefits.
Sec. 306. Capital cost of contracting vanpool pilot program.
Sec. 307. National consumer awareness program.
Sec. 308. Exception to alternative fuel procurement requirement.

TITLE IV—GREATER ENERGY EFFICIENCY IN BUILDING CODES

Sec. 401. Greater energy efficiency in building codes.

TITLE V—FEDERAL RENEWABLE ELECTRICITY STANDARD


TITLE VI—GREEN RESOURCES FOR ENERGY EFFICIENT NEIGHBORHOODS
Sec. 601. Short title and table of contents.
Sec. 602. Definitions.
Sec. 603. Implementation of energy efficiency participation incentives for HUD programs.
Sec. 604. Minimum HUD energy efficiency standards and standards for additional credit.
Sec. 605. Energy efficiency and conservation demonstration program for multifamily housing projects assisted with project-based rental assistance.
Sec. 606. Additional credit for Fannie Mae and Freddie Mac housing goals for energy efficient mortgages.
Sec. 607. Duty to serve underserved markets for energy-efficient and location-efficient mortgages.
Sec. 608. Consideration of energy efficiency under FHA mortgage insurance programs and Native American and Native Hawaiian loan guarantee programs.
Sec. 609. Energy efficient mortgages education and outreach campaign.
Sec. 610. Collection of information on energy-efficient and location efficient mortgages through Home Mortgage Disclosure Act.
Sec. 611. Ensuring availability of homeowners insurance for homes not connected to electricity grid.
Sec. 612. Mortgage incentives for energy-efficient multifamily housing.
Sec. 613. Energy efficiency certifications for housing with mortgages insured by FHA.
Sec. 614. Assisted housing energy loan pilot program.
Sec. 615. Residential energy efficiency block grant program.
Sec. 616. Including sustainable development in comprehensive housing affordability strategies.
Sec. 617. Grant program to increase sustainable low-income community development capacity.
Sec. 618. Utilization of energy performance contracts in HOPE VI.
Sec. 619. HOPE VI green developments requirement.
Sec. 620. Consideration of energy-efficiency improvements in appraisals.
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Sec. 622. Rural housing and economic development assistance.
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Sec. 624. Green banking centers.
Sec. 625. Public housing energy cost report.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Alternative fuel pumps.
Sec. 702. National Energy Center of Excellence.
Sec. 703. Sense of Congress regarding renewable biomass.

TITLE VIII—ENERGY TAX INCENTIVES

Sec. 800. Short title, etc.

Subtitle A—Energy Production Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

Sec. 801. Renewable energy credit.
Sec. 802. Production credit for electricity produced from marine renewables.
Sec. 803. Energy credit.

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Sec. 811. Expansion and modification of advanced coal project investment credit.
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Sec. 815. Carbon audit of the tax code.


Sec. 821. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
Sec. 822. Credits for biodiesel and renewable diesel.
Sec. 823. Clarification that credits for fuel are designed to provide an incentive for United States production.
Sec. 824. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 825. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
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Sec. 829. Energy security bonds.
Sec. 830. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.


Sec. 841. Qualified energy conservation bonds.
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Sec. 846. Qualified green building and sustainable design projects.

Subtitle D—Revenue Provisions

Sec. 851. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
Sec. 852. Clarification of determination of foreign oil and gas extraction income.
Sec. 853. Time for payment of corporate estimated taxes.
TITLE I—FEDERAL OIL AND GAS LEASING

Subtitle A—Outer Continental Shelf Oil and Gas Leasing

SEC. 101. PROHIBITION ON LEASING.

(a) Prohibition.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) notwithstanding, the Secretary shall not take nor authorize any action related to oil and gas preleasing or leasing of any area of the Outer Continental Shelf that was not available for oil and gas leasing as of July 1, 2008, unless that action is expressly authorized by this subtitle or a statute enacted by Congress after the date of enactment of this Act.

(b) Treatment of Areas in Gulf of Mexico.—For purposes of this subtitle, such action with respect to an area referred to in section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (title I of division C of Public Law 109–432; 42 U.S.C. 1331 note) taken or authorized after the period referred to in that section shall be treated as authorized by this subtitle, and such leasing of such area shall be treated as authorized under section 102(a).

SEC. 102. OPENING OF CERTAIN AREAS TO OIL AND GAS LEASING.

(a) Leasing Authorized.—The Secretary may offer for oil and gas leasing, preleasing, or other related
activities, in accordance with this section and the Outer
Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and
subject to subsection (b) of this section, section 103 of
this Act, and section 307 of the Coastal Zone Management
Act of 1972 (16 U.S.C. 1456), any area—

(1) that is in any Outer Continental Shelf Plan-
ing Area in the Atlantic Ocean or Pacific Ocean
that is located farther than 50 miles from the coast-
line; and

(2) that was not otherwise available for oil and
gas leasing, preleasing, and other related activities
as of July 1, 2008.

(b) INCLUSION IN LEASING PROGRAM REQUIRED.—
An area may be offered for lease under this section only
if it has been included in an Outer Continental Shelf leas-
ing program approved by the Secretary in accordance with
section 18 of the Outer Continental Shelf Lands Act (43

(c) REQUIREMENT TO CONDUCT LEASE SALES.—As
soon as practicable, consistent with subsection (b) and sec-
tion 103(a), but not later than 3 years after the date of
enactment of this Act, and as appropriate thereafter, the
Secretary shall conduct oil and gas lease sales under the
Outer Continental Shelf lands Act (43 U.S.C. 1331 et
sequ.) for areas that are made available for leasing by this section.

SEC. 103. COASTAL STATE ROLES AND RESPONSIBILITIES.

(a) State Approval of Certain Leasing Required.—The Secretary may not conduct any oil and gas leasing or preleasing activity in any area made available for oil and gas leasing by section 102(a) that is located within 100 miles from the coastline and within the seaward lateral boundaries of an adjacent State, unless the adjacent State has enacted a law approving of the issuance of such leasing by the Secretary.

(b) Consultation With Adjacent and Neighboring States.—

(1) In General.—In addition to the consultation provided for under section 19 of the Outer Continental Shelf Lands Act (43 U.S.C. 1345), the Governor of a State that has a coastline within 100 miles of an area of the Outer Continental Shelf being considered for oil and gas leasing and made available for such leasing by section 102(a) may submit recommendations to the Secretary with respect to—

(A) the size, timing, or location of a proposed lease sale; or
(B) a proposed development and production plan.

(2) REQUIREMENTS.—Subsections (b), (c), and (d) of section 19 of the Outer Continental Shelf Lands Act (43 U.S.C. 1345) shall apply to the recommendations provided for in paragraph (1).

SEC. 104. PROTECTION OF THE ENVIRONMENT AND CONSERVATION OF THE NATURAL RESOURCES OF THE OUTER CONTINENTAL SHELF.

The Secretary—

(1) shall ensure that any activity under this subtitle is carried out in a manner that provides for the protection of the coastal environment, marine environment, and human environment of State coastal zones and the Outer Continental Shelf; and

(2) shall review all Federal regulations that are otherwise applicable to activities authorized by this subtitle to ensure environmentally sound oil and gas operations on the Outer Continental Shelf.

SEC. 105. LIMITATIONS.

(a) COMPLIANCE WITH MEMORANDUM.—Any oil and gas leasing of areas of the Outer Continental Shelf shall be conducted in accordance with the document entitled “Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual
Concerns On The Outer Continental Shelf” and dated July 2, 1983, and such revisions thereto as may be agreed to by the Secretary of Defense and the Secretary of the Interior; except that no such revisions may be made prior to January 21, 2009.

(b) National Security.—Notwithstanding subsection (a), the United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the Outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

SEC. 106. PROHIBITION ON LEASING IN CERTAIN FEDERAL PROTECTED AREAS.

(a) In General.—Notwithstanding any other provision of this or any other Federal law, no lease or other authorization may be issued by the Federal Government that authorizes exploration, development, or production of oil or natural gas in—

(1) any marine national monument or national marine sanctuary; or

(2) the fishing grounds known as Georges Bank in the waters of the United States, which is one of the largest and historically important fishing grounds of the United States.
(b) IDENTIFICATION OF COORDINATES OF GEORGES BANK.—The Secretary of Commerce, after publication of public notice and an opportunity for public comment, shall identify the specific coordinates that delineate Georges Bank in the waters of the United States for purposes of subsection (a).

SEC. 107. NO EFFECT ON APPLICABLE LAW.

Except as otherwise specifically provided in this subtitle, nothing in this subtitle waives or modifies any applicable environmental or other law.

SEC. 108. BUY AMERICAN REQUIREMENTS.

(a) IN GENERAL.—It is the intent of Congress that this Act, among other things, result in a healthy and growing American industrial, manufacturing, transportation, and service sector employing the vast talents of America’s workforce to assist in the development of energy from domestic sources. Moreover, the Congress intends to monitor the deployment of personnel and material onshore and offshore to encourage the development of American technology and manufacturing to enable United States workers to benefit from this Act by good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.

(b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—Section 30(a) of the Outer Continental Shelf Lands Act
(43 U.S.C. 1356(a)) is amended in the matter preceding paragraph (1) by striking “regulations which” and inserting “regulations that shall be supplemental and complimentary with and under no circumstances a substitution for the provisions of the Constitution and laws of the United States extended to the subsoil and seabed of the outer Continental Shelf pursuant to section 4 of this Act, except insofar as such laws would otherwise apply to individuals who have extraordinary ability in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim, and that”.

SEC. 109. SMALL, WOMAN-OWNED, AND MINORITY-OWNED BUSINESSES.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

“(q) OPPORTUNITIES FOR LEASING.—The Secretary shall establish goals to ensure equal opportunity to bid on offshore leases for qualified small, women-owned, and minority-owned exploration and production companies and may implement, where appropriate, outreach programs for qualified historically underutilized exploration and production companies to participate in the bidding process for offshore leases.”.
SEC. 110. DEFINITIONS.

In this subtitle:

(1) ADJACENT STATE.—The term “adjacent State” means, with respect to any program, plan, lease sale, leased tract, or other activity, proposed, conducted, or approved in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the State, the laws of which are declared pursuant to section 4(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)) to be the law of the United States for the portion of the Outer Continental Shelf on which the program, plan, lease sale, leased tract, or activity is, or is proposed to be, conducted.

(2) COASTAL ENVIRONMENT.—The term “coastal environment” has the meaning given that term in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(3) COASTAL ZONE.—The term “coastal zone” has the meaning given that term in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(4) COASTLINE.—The term “coastline” has the meaning given the term “coast line” under section 2 of the Submerged Lands Act (43 U.S.C. 1301).

(5) HUMAN ENVIRONMENT.—The term “human environment” has the meaning given that term in
the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(6) MARINE ENVIRONMENT.—The term “marine environment” has the meaning given that term in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(7) OUTER CONTINENTAL SHELF.—The term “Outer Continental Shelf” has the meaning given the term “outer Continental Shelf” under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(8) SEAWARD LATERAL BOUNDARY.—The term “seaward lateral boundary” means a boundary drawn by the Minerals Management Service in the Federal Register notice of January 3, 2006 (vol 71, no. 1).

(9) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

Subtitle B—Diligent Development of Federal Oil and Gas Leases

SEC. 121. CLARIFICATION.

The lands subject to each lease that authorizes the exploration for or development or production of oil or natural gas that is issued under a provision of law described in section 122 shall be diligently developed for such pro-
duction by the person holding the lease in order to ensure timely production from the lease.

SEC. 122. COVERED PROVISIONS.

The provisions referred to in section 121 are the following:

(2) Section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a).
(3) The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

SEC. 123. REGULATIONS.

The Secretary shall issue regulations within 180 days after the date of enactment of this Act that establish what constitutes diligently developing for purposes of this subtitle.

SEC. 124. RESOURCE ESTIMATES AND LEASING PROGRAM MANAGEMENT INDICATORS.

(a) IN GENERAL.—The Secretary of the Interior shall annually collect and report to Congress—

(1) the number of leases and the number of acres of land under Federal onshore oil and gas lease, per State and per year the lease was issued—
(A) on which seismic exploration activity is occurring or has occurred;

(B) on which permits to drill have been applied for, but not yet awarded;

(C) on which permits to drill have been approved, but no drilling has yet occurred;

(D) on which wells have been drilled but no production has occurred; and

(E) on which production is occurring;

(2) resource estimates for and the number of acres of Federal onshore and offshore lands, by State or offshore planning area—

(A) under lease, per year the lease was issued;

(B) under lease and not producing, per year the lease was issued;

(C) under lease and drilled, but not producing, per year the lease was issued;

(D) offered for lease in a lease sale conducted during the previous year, but not leased; and

(E) available for leasing but not under lease or offered for leasing in the previous year;
(3) resource estimates for and the number of acres of unleased Federal onshore and offshore land available for oil and gas leasing;

(4) resource estimates for and the number of acres of areas of the Outer Continental Shelf—

(A) included in proposed sale areas in the most recent 5-year plan developed by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344); and

(B) available for oil and gas leasing but not included in the 5-year plan;

(5) the number of leases and the number of acres of Federal onshore land, per Bureau of Land Management field office, offered in a lease sale conducted during the previous year, including data on the number of protests filed and how many lease tracts were withdrawn as a result of such protests, and how many leases were offered and issued with stipulations as a result of those protests, including the name of the entity or entities filing the protests;

(6) the number of applications for permits to drill received, approved, pending, and denied, in the previous year per Bureau of Land Management and Minerals Management Service field office;
(7) the number of environmental inspections conducted per State and per Bureau of Land Management and Minerals Management Service field office in the previous year; and

(8) the number of full time staff equivalent (FTEs) devoted to permit processing and oversight per Bureau of Land Management and Minerals Management Service field office.

(b) COVERED PROVISIONS.—Subsection (a) shall apply with respect to leases and land eligible for leasing pursuant to—

(1) section 17 of the Mineral Leasing Act (30 U.S.C. 226);

(2) the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.);

(3) section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a);

or

(4) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

Subtitle C—Royalties Under Offshore Oil and Gas Leases

SEC. 131. SHORT TITLE.

This subtitle may be cited as the “Royalty Relief for American Consumers Act of 2008”.
SEC. 132. PRICE THRESHOLDS FOR ROYALTY SUSPENSION PROVISIONS.

The Secretary of the Interior shall agree to a request by any lessee to amend any oil and gas lease issued for any Gulf of Mexico tract during the period of January 1, 1998, through December 31, 1999, to incorporate price thresholds applicable to royalty suspension provisions, that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)). Any amended lease shall impose the new or revised price thresholds effective October 1, 2006. Existing lease provisions shall prevail through September 30, 2006.

SEC. 133. CLARIFICATION OF AUTHORITY TO IMPOSE PRICE THRESHOLDS FOR CERTAIN LEASE SALES.

Congress reaffirms the authority of the Secretary of the Interior under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)) to vary, based on the price of production from a lease, the suspension of royalties under any lease subject to section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (Public Law 104–58; 43 U.S.C. 1337 note).
SEC. 134. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES; CONSERVATION OF RESOURCES FEES.

(a) ISSUANCE OF NEW LEASES.—

(1) IN GENERAL.—The Secretary shall not issue any new lease that authorizes the production of oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person described in paragraph (2) unless—

(A) the person has renegotiated each covered lease with respect to which the person is a lessee, to modify the payment responsibilities of the person to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)); or

(B) the person has—

(i) paid all fees established by the Secretary under subsection (b) that are due with respect to each covered lease for which the person is a lessee; or

(ii) entered into an agreement with the Secretary under which the person is obligated to pay such fees.
(2) **PERSONS DESCRIBED.**—A person referred to in paragraph (1) is a person that—

(A) is a lessee that—

(i) holds a covered lease on the date on which the Secretary considers the issuance of the new lease; or

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or affiliate of the lessee) after the date of enactment of this Act; or

(B) any other person or entity who has any direct or indirect interest in, or who derives any benefit from, a covered lease;

(3) **MULTIPLE LESSEES.**—

(A) **IN GENERAL.**—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of
section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(B) Treatment of share as covered lease.—Beginning on the effective date of an agreement under subparagraph (A), any share subject to the agreement shall not constitute a covered lease with respect to any lessees that entered into the agreement.

(b) Conservation of Resources Fees.—

(1) In general.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior by regulation shall establish—

(A) a conservation of resources fee for producing Federal oil and gas leases in the Gulf of Mexico; and

(B) a conservation of resources fee for nonproducing Federal oil and gas leases in the Gulf of Mexico.

(2) Producing lease fee terms.—The fee under paragraph (1)(A)—

(A) subject to subparagraph (C), shall apply to covered leases that are producing leases;
(B) shall be set at $9 per barrel for oil and
$1.25 per million Btu for gas, respectively, in
2005 dollars; and

(C) shall apply only to production of oil or
gas occurring—

(i) in any calendar year in which the
arithmetic average of the daily closing
prices for light sweet crude oil on the New
York Mercantile Exchange (NYMEX) ex-
cceeds $34.73 per barrel for oil and $4.34
per million Btu for gas in 2005 dollars;
and

(ii) on or after October 1, 2006.

(3) NONPRODUCING LEASE FEE TERMS.—The
fee under paragraph (1)(B)—

(A) subject to subparagraph (C), shall
apply to leases that are nonproducing leases;

(B) shall be set at $3.75 per acre per year
in 2005 dollars; and

(C) shall apply on and after October 1,
2006.

(4) TREATMENT OF RECEIPTS.—Amounts re-
ceived by the United States as fees under this sub-
section shall be treated as offsetting receipts.
(c) **TRANSFERS.**—A lessee or any other person who has any direct or indirect interest in, or who derives a benefit from, a lease shall not be eligible to obtain by sale or other transfer (including through a swap, spinoff, servicing, or other agreement) any covered lease, the economic benefit of any covered lease, or any other lease for the production of oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), unless—

1. the lessee or other person has—
   
   (A) renegotiated all covered leases of the lessee or other person; and
   
   (B) entered into an agreement with the Secretary to modify the terms of all covered leases of the lessee or other person to include limitations on royalty relief based on market prices that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)); or

2. the lessee or other person has—
   
   (A) paid all fees established by the Secretary under subsection (b) that are due with respect to each covered lease for which the person is a lessee; or
(B) entered into an agreement with the Secretary under which the person is obligated to pay such fees.

(d) DEFINITIONS.—In this section—

(1) COVERED LEASE.—The term “covered lease” means a lease for oil or gas production in the Gulf of Mexico that is—

(A) in existence on the date of enactment of this Act;

(B) issued by the Department of the Interior under section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (43 U.S.C. 1337 note; Public Law 104–58); and

(C) not subject to limitations on royalty relief based on market price that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(2) LESSEE.—The term “lessee” includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
SEC. 135. STRATEGIC ENERGY EFFICIENCY AND RENEWABLES RESERVE.

(a) In general.—For budgetary purposes, the net increase in Federal receipts by reason of the enactment of this Act shall be held in a separate account to be known as the “Strategic Energy Efficiency and Renewables Reserve”. The Strategic Energy Efficiency and Renewables Reserve shall be available to offset the cost of subsequent legislation—

(1) to accelerate the use of clean domestic renewable energy resources and alternative fuels;

(2) to promote the utilization of energy-efficient products and practices and energy conservation;

(3) to increase research, development, and deployment of clean renewable energy and efficiency technologies;

(4) to provide increased assistance for low income home energy and weatherization programs;

(5) to further the purposes set forth in section 1(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4); and

(6) to increase research, development, and demonstration of carbon capture and sequestration technologies.

(b) Procedure for adjustments.—
(1) **Budget committee chairman.**—After the reporting of a bill or joint resolution, or the offering of an amendment thereto or the submission of a conference report thereon, providing funding for the purposes set forth in subsection (a) in excess of the amounts provided for those purposes for fiscal year 2007, the chairman of the Committee on the Budget of the applicable House of Congress shall make the adjustments set forth in paragraph (2) for the amount of new budget authority and outlays in that measure and the outlays flowing from that budget authority.

(2) **Matters to be adjusted.**—The adjustments referred to in paragraph (1) are to be made to—

(A) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(B) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of Congressional Budget Act of 1974; and

(C) the budget aggregates contained in the appropriate concurrent resolution on the budget
as required by section 301(a) of Congressional Budget Act of 1974.

(3) AMOUNTS OF ADJUSTMENTS.—The adjustments referred to in paragraphs (1) and (2) shall not exceed the total of the receipts over a 10-year period, as estimated by the Congressional Budget Office upon the enactment of this Act.

Subtitle D—Accountability and Integrity in the Federal Energy Program

SEC. 141. ROYALTY IN-KIND.

Section 342(d) of the Energy Policy Act of 2005 (42 U.S.C. 15902(d)) is amended to read as follows:

“(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that would likely be received if the royalties were taken in-value, and if the Secretary determines that receiving royalties in-kind is consistent with the fiduciary duties of the Secretary on behalf of the American people.”.
SEC. 142. FAIR RETURN ON PRODUCTION OF FEDERAL OIL AND GAS RESOURCES.

(a) Royalty Payments.—The Secretary of the Interior shall take all steps necessary to ensure that lessees under leases for exploration, development, and production of oil and natural gas on Federal lands, including leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Outer Continental Shelf Lands Act (30 U.S.C. 1331 et seq.), and all other mineral leasing laws, are making prompt, transparent, and accurate royalty payments under such leases.

(b) Recommendations for Legislative Action.—In order to facilitate implementation of subsection (a), the Secretary of the Interior shall, within 180 days after the date of enactment of this Act and in consultation with the affected States, prepare and transmit to Congress recommendations for legislative action to improve the accurate collection of Federal oil and gas royalties.

SEC. 143. ROYALTY-IN-KIND ETHICS.

(a) Gift Ban.—

(1) Prohibition.—No employee of the Minerals Management Service may—

(A) accept gifts of any value from any prohibited source; or
(B) seek, accept, or hold employment with any prohibited source.

(2) PENALTY.—Any person who violates paragraph (1) shall be subject to such penalties as the Secretary of the Interior considers appropriate, which may include suspension without pay or termination.

(b) TRAINING.—The Secretary of the Interior shall implement a robust ethics training program for employees of the Royalty-In-Kind division of the Minerals Management Service that is in addition to the standard ethics training that such employees are already required to attend. Such additional training program shall require written certification by each such employee that the employee knows and understands the ethics requirements by which the employee is bound.

(c) CODE OF ETHICS.—The Secretary of the Interior shall promulgate, within 180 days after the date of the enactment of this Act, a code of ethics for all employees of the Minerals Management Service. The code of ethics shall provide clear direction relating to the obligations, prohibitions, and consequences of misconduct.

(d) DRUG TESTING.—The Secretary of the Interior shall, within 180 days after the date of the enactment of this Act, implement a random drug testing program for
the employees of the royalty-in-kind division of the Minerals Management Service.

(c) DEFINITIONS.—In this section:

(1) GIFT.—The term “gift”—

(A) includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value; and

(B) includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(2) PROHIBITED SOURCE.—The term “prohibited source” means, with respect to an employee, any person who—

(A) is seeking official action by the Minerals Management Service;

(B) does business or seeks to do business with the Minerals Management Service;

(C) conducts activities regulated by the Minerals Management Service;

(D) has interests that may be substantially affected by performance or nonperformance of the employee’s official duties; or
(E) is an organization a majority of whose members are described in any of subparagraphs (A) through (D).

(f) Other Ethics Requirements Apply.—The prohibitions and requirements under this section are to be in addition to any other requirements that apply to employees of the Minerals Management Service.

SEC. 144. PROHIBITION ON CERTAIN GIFTS.

Section 201 of title 18, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f); and

(2) by inserting after subsection (c) the following new subsection:

“(d)(1) Whoever—

“(A) seeking or holding one or more leases of property from the United States, through the Minerals Management Service of the Department of the Interior, for purposes of oil or mineral extraction, knowingly engages in a course of conduct that consists of providing things of value to a public official of, or person who has been selected to be a public official of, the Minerals Management Service, because of the offi-
cial’s or person’s position in the Minerals Man-
agement Service; or

“(B) being a public official of, or person
who has been selected to be a public official of,
the Minerals Management Service of the De-
partment of the Interior, knowingly engages in
a course of conduct consisting of receiving
things of value, knowing that such things of
value were provided because of the official’s or
person’s position in the Minerals Management
Service, from a person seeking or holding one
or more leases of property from the United
States, through the Minerals Management Serv-
ice, for purposes of oil or mineral extraction;
shall be fined under this title, imprisoned for not more
than two years, or both, except that a corporation, part-
nership, or other organization that violates subparagraph
(A) shall be fined $25,000,000 and an amount equal to
its gross revenues arising, during the period in which the
course of conduct described in subparagraph (A) occurred,
from the lease or leases described in that subparagraph.
“(2) For purposes of this subsection, the term ‘course
of conduct’ means a series of acts over a period of time
evidencing a continuity of purpose.
“(3)(A) The Attorney General may bring a civil action in the appropriate United States district court against any corporation, partnership, or other organization that engages in conduct constituting an offense under paragraph (1)(A) and, upon proof of such conduct by a preponderance of the evidence, such corporation, partnership, or other organization shall be subject to a civil penalty of not more than $25,000,000 and an amount equal to its gross revenues arising, during the period in which the course of conduct described in paragraph (1)(A) occurred, from the lease or leases described in that paragraph.

“(B) If a corporation, partnership, or other organization is held liable for a civil penalty under subparagraph (A) for a violation of paragraph (1)(A), the United States may terminate the lease or leases that were the subject to the violation, and the United States shall not be liable for any damages to any party to such lease or leases by reason of such termination.

“(C) The imposition of a civil penalty under this paragraph does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available to the United States, or any other person, under this section or any other law.”.
SEC. 145. STRENGTHENING THE ABILITY OF THE INTERIOR DEPARTMENT INSPECTOR GENERAL TO SECURE COOPERATION.

The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8K the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE INTERIOR

"SEC. 8L. Notwithstanding section 6(a)(4), the Inspector General of the Department of the Interior may, in any inquiry or investigation involving leases of property from the United States through the Minerals Management Services for purposes of oil and mineral extraction, require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium, including electronically stored information and tangible things, and testimony necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided, that procedures other than subpoenas shall be used by the Inspector General to obtain documents, information, or testimony from Federal agencies."."
Subtitle E—Federal Oil and Gas
Royalty Reform

SEC. 151. AMENDMENTS TO DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702) is amended—

(1) in paragraph (20)(A), by striking “: Provided, That” and all that follows through “subject of the judicial proceeding”;

(2) in paragraph (20)(B), by striking “(with written notice to the lessee who designated the designee)”;

(3) in paragraph (23)(A), by striking “(with written notice to the lessee who designated the designee)”;

(4) by amending paragraph (24) to read as follows:

“(24) ‘designee’ means any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments a lessee must make pursuant to section 102(a);”;

(5) in paragraph (25)(B), by striking “(subject to the provisions of section 102(a) of this Act)”;

(6) in paragraph (26), by striking “(with notice to the lessee who designated the designee)”.

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SEC. 152. INTEREST.

(a) Estimated Payments; Interest on Amount of Underpayment.—Section 111(j) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(j)) is amended by striking “If the estimated payment exceeds the actual royalties due, interest is owed on the overpayment.”.

(b) Overpayments.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by striking subsections (h) and (i).

(c) Effective Date.—The amendments made by this section shall be effective one year after the date of enactment of this Act.

SEC. 153. OBLIGATION PERIOD.

Section 115(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(c)) is amended by adding at the end the following:

“(3) Adjustments.—In the case of an adjustment under section 111A(a) (30 U.S.C. 1721a(a)) in which a recoupment by the lessee results in an underpayment of an obligation, for purposes of this Act the obligation becomes due on the date the lessee or its designee makes the adjustment.”.

SEC. 154. TOLLING AGREEMENTS AND SUBPOENAS.

(a) Tolling Agreements.—Section 115(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982...
(30 U.S.C. 1724(d)(1)) is amended by striking "(with no-

ice to the lessee who designated the designee)".

(b) Subpoenas.—Section 115(d)(2)(A) of the Fed-
eral Oil and Gas Royalty Management Act of 1982 (30
U.S.C. 1724(d)(2)(A)) is amended by striking "(with no-
tice to the lessee who designated the designee, which notice
shall not constitute a subpoena to the lessee)".

SEC. 155. LIABILITY FOR ROYALTY PAYMENTS.

Section 102(a) of the Federal Oil and Gas Royalty
Management Act of 1982 (30 U.S.C. 1712(a)) is amended
to read as follows:

“(a) In order to increase receipts and achieve effec-
tive collections of royalty and other payments, a lessee who
is required to make any royalty or other payment under
a lease or under the mineral leasing laws, shall make such
payments in the time and manner as may be specified by
the Secretary or the applicable delegated State. Any per-
son who pays, offsets or credits monies, makes adjust-
ments, requests and receives refunds, or submits reports
with respect to payments the lessee must make is the les-
see’s designee under this Act. Notwithstanding any other

provision of this Act to the contrary, a designee shall be
liable for any payment obligation of any lessee on whose
behalf the designee pays royalty under the lease. The per-
son owning operating rights in a lease and a person own-
ing legal record title in a lease shall be liable for that per-
son’s pro rata share of payment obligations under the
lease.”.

Subtitle F—National Petroleum
Reserve in Alaska

SEC. 161. SHORT TITLE.
This subtitle may be cited as the “Drill Responsibly
in Leased Lands Act of 2008”.

SEC. 162. ACCELERATION OF LEASE SALES FOR NATIONAL
PETROLEUM RESERVE IN ALASKA.
Section 107(d) of the Naval Petroleum Reserves Pro-
duction Act of 1976 (42 U.S.C. 6506a(d)) is amended—
(1) by striking “(d)” and all that follows
through “; first lease sale” and inserting the fol-
lowing:
“(d) LEASE SALES.—
“(1) FIRST LEASE SALE.—The first lease sale”; and
(2) by adding at the end the following:
“(2) SUBSEQUENT LEASE SALES.—The Sec-
retary shall accelerate, to the maximum extent prac-
ticable, competitive and environmentally responsible
leasing of oil and gas in the Reserve in accordance
with this Act and all applicable environmental laws,
including at least 1 lease sale during each of cal-
endar years 2009 through 2013.”.

SEC. 163. NATIONAL PETROLEUM RESERVE IN ALASKA: PIPELINE CONSTRUCTION.

The Federal Energy Regulatory Commission shall fa-
cilitate, in an environmentally responsible manner and in coordination with the Secretary of the Interior, the Sec-
retary of Transportation, the Secretary of Energy, and the State of Alaska, the construction of pipelines necessary to transport oil and natural gas from or through the National Petroleum Reserve in Alaska to existing transportation or processing infrastructure on the North Slope of Alaska.

SEC. 164. ALASKA NATURAL GAS PIPELINE PROJECT FA-
CILITATION.

(a) FINDINGS.—Congress finds the following:

(1) Over 35 trillion cubic feet of natural gas re-
serves have been discovered on Federal and State lands currently open to oil and natural gas leasing on the North Slope of Alaska.

(2) These gas supplies could make a significant contribution to meeting the energy needs of the United States, but the lack of a natural gas trans-
portation system has prevented these natural gas re-
serves from reaching markets in the lower 48 States.
(b) FACILITATION BY PRESIDENT.—The President shall, pursuant to the Alaska Natural Gas Pipeline Act (division C of Public Law 108–324; 15 U.S.C. 720 et seq.) and other applicable law, coordinate with producers of natural gas on the North Slope of Alaska, Federal agencies, the State of Alaska, Canadian authorities, pipeline companies, and other interested persons in order to facilitate construction of a natural gas pipeline from Alaska to United States markets as expeditiously as possible.

SEC. 165. PROJECT LABOR AGREEMENTS AND OTHER PIPELINE REQUIREMENTS.

(a) PROJECT LABOR AGREEMENTS.—The President, as a term and condition of any permit required under Federal law for the pipelines referred to in section 163 and 164, and in recognizing the Government’s interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of such pipelines to be developed under such permits and the special concerns of the holders of such permits, shall require that the operators of such pipelines and their agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction for such pipelines.
(b) Pipeline Maintenance.—The Secretary of Transportation shall require every pipeline operator authorized to transport oil and gas produced under Federal oil and gas leases in Alaska through the Trans-Alaska Pipeline, any pipeline constructed pursuant to section 163 or 164 of this Act, or any other federally approved pipeline transporting oil and gas from the North Slope of Alaska, to certify to the Secretary of Transportation annually that such pipeline is being fully maintained and operated in an efficient manner. The Secretary of Transportation shall assess appropriate civil penalties for violations of this requirement in the same manner as civil penalties are assessed for violations under section 60122(a)(1) of title 49, United States Code.

SEC. 166. Ban on Export of Alaskan Oil.

(a) Repeal of Provision authorizing Exports.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is repealed.

(b) Reimposition of Prohibition on Crude Oil Exports.—Upon the effective date of this Act, subsection (d) of section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406(d)), shall be effective, and any other provision of that Act (including sections 11 and 12) shall be effective to the extent necessary to carry out such section 7(d), notwithstanding section 20 of that Act or any
other provision of law that would otherwise allow exports
of oil to which such section 7(d) applies.

Subtitle G—Oil Shale

SEC. 171. OIL SHALE LEASING.

(a) Repeal of Restriction.—Section 433 of the
Department of the Interior, Environment, and Related
Agencies Appropriations Act, 2008 (division F of Public
Law 110–161; 121 Stat. 2152) is repealed.

(b) Requirement That State Approve of Oil
Shale Leasing.—Section 369 of the Energy Policy Act
of 2005 (42 U.S.C. 15927) is amended by adding at the
end the following:

“(t) Requirement That State Approve of Oil
Shale Leasing.—No lease may be issued under this sec-
tion, section 21 of the Mineral Leasing Act (30 U.S.C.
241), or any other law, for exploration, research, develop-
ment, or production of oil shale on lands located in a
State, unless the State has enacted a law approving of
Federal oil shale leasing in the State. Nothing in this sub-
section shall be construed as preventing the Department
of the Interior from preparing an environmental impact
statement under the existing authority under the National
Environmental Policy Act of 1969 (42 U.S.C. 4321 et
seq.) with respect to an individual lease sale proposed
under the commercial leasing program established under
this section.”.

TITLE II—CONSUMER ENERGY
SUPPLY

SEC. 201. SHORT TITLE.
This title may be cited as the “Consumer Energy
Supply Act of 2008”.

SEC. 202. DEFINITIONS.
In this title—
(1) the term “light grade petroleum” means
crude oil with an API gravity of 30 degrees or high-
er;
(2) the term “heavy grade petroleum” means
crude oil with an API gravity of 26 degrees or lower;
and
(3) the term “Secretary” means the Secretary
of Energy.

SEC. 203. SALE AND REPLACEMENT OF OIL FROM THE
STRATEGIC PETROLEUM RESERVE.
(a) Initial Petroleum Sale and Replacement.—Notwithstanding section 161 of the Energy Policy
and Conservation Act (42 U.S.C. 6241), the Secretary
shall publish a plan not later than 15 days after the date
of enactment of this Act to—
(1) sell, in the amounts and on the schedule described in subsection (b), light grade petroleum from the Strategic Petroleum Reserve and acquire an equivalent volume of heavy grade petroleum;

(2) deposit the cash proceeds from sales under paragraph (1) into the SPR Petroleum Account established under section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247); and

(3) from the cash proceeds deposited pursuant to paragraph (2), withdraw the amount necessary to pay for the direct administrative and operational costs of the sale and acquisition.

(b) AMOUNTS AND SCHEDULE.—The sale and acquisition described in subsection (a) shall require the offer for sale of a total quantity of 70,000,000 barrels of light grade petroleum from the Strategic Petroleum Reserve. The sale shall commence, whether or not a plan has been published under subsection (a), not later than 30 days after the date of enactment of this Act and be completed no more than six months after the date of enactment of this Act, with at least 20,000,000 barrels to be offered for sale within the first 60 days after the date of enactment of this Act. In no event shall the Secretary sell barrels of oil under subsection (a) that would result in a Strategic Petroleum Reserve that contains fewer than 90 per-
cent of the total amount of barrels in the Strategic Petroleum Reserve as of the date of enactment of this Act.

Heavy grade petroleum, to replace the quantities of light grade petroleum sold under this section, shall be obtained through acquisitions which—

(1) shall commence no sooner than 6 months after the date of enactment of this Act;

(2) shall be completed, at the discretion of the Secretary, not later than 5 years after the date of enactment of this Act;

(3) shall be carried out in a manner so as to maximize the monetary value to the Federal Government; and

(4) shall be carried out using the receipts from the sales of light grade petroleum authorized under this section.

(c) DEFERRALS.—The Secretary is encouraged to, when economically beneficial and practical, grant requests to defer scheduled deliveries of petroleum to the Reserve under subsection (a) if the deferral will result in a premium paid in additional barrels of oil which will reduce the cost of oil acquisition and increase the volume of oil delivered to the Reserve or yield additional cash bonuses.
TITLE III—PUBLIC TRANSPORTATION

SEC. 301. SHORT TITLE.
This title may be cited as the “Saving Energy Through Public Transportation Act of 2008”.

SEC. 302. FINDINGS.
Congress finds the following:

(1) In 2007, people in the United States took more than 10.3 billion trips using public transportation, the highest level in 50 years.

(2) Public transportation use in the United States is up 32 percent since 1995, a figure that is more than double the growth rate of the Nation’s population and is substantially greater than the growth rate for vehicle miles traveled on the Nation’s highways for that same period.

(3) Public transportation use saves fuel, reduces emissions, and saves money for the people of the United States.

(4) The direct petroleum savings attributable to public transportation use is 1.4 billion gallons per year, and when the secondary effects of transit availability on travel are also taken into account, public transportation use saves the United States the
equivalent of 4.2 billion gallons of gasoline per year
(more than 11 million gallons of gasoline per day).

(5) Public transportation use in the United
States is estimated to reduce carbon dioxide emis-
sions by 37 million metric tons annually.

(6) An individual who commutes to work using
a single occupancy vehicle can reduce carbon dioxide
emissions by 20 pounds per day (more than 4,800
pounds per year) by switching to public transpor-
tation.

(7) Public transportation use provides an af-
fordable alternative to driving, as households that
use public transportation save an average of $6,251
every year.

(8) Although under existing laws Federal em-
ployees in the National Capital Region receive tran-
sit benefits, transit benefits should be available to all
Federal employees in the United States so that the
Federal Government sets a leading example of great-
er public transportation use.

(9) Public transportation stakeholders should
engage and involve local communities in the edu-
cation and promotion of the importance of utilizing
public transportation.
(10) Increasing public transportation use is a national priority.

SEC. 303. GRANTS TO IMPROVE PUBLIC TRANSPORTATION SERVICES.

(a) Authorizations of Appropriations.—

(1) Urbanized area formula grants.—In addition to amounts allocated under section 5338(b)(2)(B) of title 49, United States Code, to carry out section 5307 of such title, there is authorized to be appropriated $750,000,000 for each of fiscal years 2008 and 2009 to carry out such section 5307. Such funds shall be apportioned, not later than 7 days after the date on which the funds are appropriated, in accordance with section 5336 (other than subsections (i)(1) and (j)) of such title but may not be combined or commingled with any other funds apportioned under such section 5336.

(2) Formula grants for other than urbanized areas.—In addition to amounts allocated under section 5338(b)(2)(G) of title 49, United States Code, to carry out section 5311 of such title, there is authorized to be appropriated $100,000,000 for each of fiscal years 2008 and 2009 to carry out such section 5311. Such funds shall be apportioned, not later than 7 days after the date on which the funds are appropriated.
funds are appropriated, in accordance with such sec-
section 5311 but may not be combined or commingled
with any other funds apportioned under such section
5311.

(b) USE OF FUNDS.—Notwithstanding sections 5307
and 5311 of title 49, United States Code, the Secretary
of Transportation may make grants under such sections
from amounts appropriated under subsection (a) only for
one or more of the following:

(1) If the recipient of the grant is reducing, or
certifies to the Secretary within the time the Sec-
cretary prescribes that, during the term of the grant,
the recipient will reduce one or more fares the re-
cipient charges for public transportation, or in the
case of subsection (f) of such section 5311, intercity
bus service, those operating costs of equipment and
facilities being used to provide the public transpor-
tation, or in the case of subsection (f) of such sec-
tion 5311, intercity bus service, that the recipient is
no longer able to pay from the revenues derived
from such fare or fares as a result of such reduction.

(2) If the recipient of the grant is expanding,
or certifies to the Secretary within the time the Sec-
cretary prescribes that, during the term of the grant,
the recipient will expand public transportation serv-
ice, or in the case of subsection (f) of such section 5311, intercity bus service, those operating and capital costs of equipment and facilities being used to provide the public transportation service, or in the case of subsection (f) of such section 5311, intercity bus service, that the recipient incurs as a result of the expansion of such service.

(3) To avoid increases in fares for public transportation, or in the case of subsection (f) of such section 5311, intercity bus service, or decreases in current public transportation service, or in the case of subsection (f) of such section 5311, intercity bus service, that would otherwise result from an increase in costs to the public transportation or intercity bus agency for transportation-related fuel or meeting additional transportation-related equipment or facility maintenance needs, if the recipient of the grant certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will not increase the fares that the recipient charges for public transportation, or in the case of subsection (f) of such section 5311, intercity bus service, or, will not decrease the public transportation service, or in the case of subsection (f) of
such section 5311, intercity bus service, that the recipient provides.

(4) If the recipient of the grant is acquiring, or certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will acquire, clean fuel or alternative fuel vehicle-related equipment or facilities for the purpose of improving fuel efficiency, the costs of acquiring the equipment or facilities.

(5) If the recipient of the grant is establishing or expanding, or certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will establish or expand, commuter matching services to provide commuters with information and assistance about alternatives to single occupancy vehicle use, those administrative costs in establishing or expanding such services.

(c) Federal Share.—Notwithstanding any other provision of law, the Federal share of the costs for which a grant is made under this section shall be 100 percent.

(d) Period of Availability.—Funds appropriated under this section shall remain available for a period of 2 fiscal years.
SEC. 304. INCREASED FEDERAL SHARE FOR CLEAN AIR ACT COMPLIANCE.

Notwithstanding section 5323(i)(1) of title 49, United States Code, a grant for a project to be assisted under chapter 53 of such title during fiscal years 2008 and 2009 that involves acquiring clean fuel or alternative fuel vehicle-related equipment or facilities for the purposes of complying with or maintaining compliance with the Clean Air Act (42 U.S.C. 7401 et seq.) shall be for 100 percent of the net project cost of the equipment or facility attributable to compliance with that Act unless the grant recipient requests a lower grant percentage.

SEC. 305. TRANSPORTATION FRINGE BENEFITS.

(a) REQUIREMENT THAT AGENCIES OFFER TRANSIT PASS TRANSPORTATION FRINGE BENEFITS TO THEIR EMPLOYEES NATIONWIDE.—

(1) IN GENERAL.—Section 3049(a)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (5 U.S.C. 7905 note; 119 Stat. 1711) is amended—

(A) by striking “Effective” and all that follows through “each covered agency” and inserting “Each agency”; and

(B) by inserting “at a location in an urbanized area of the United States that is served
by fixed route public transportation” before
“shall be offered”.

(2) CONFORMING AMENDMENTS.—Section
3049(a) of such Act (5 U.S.C. 7905 note; 119 Stat.
1711) is amended—

(A) in paragraph (3)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs
(B) through (F) as subparagraphs (A)
through (E), respectively; and

(B) in paragraph (4) by striking “a cov-
ered agency” and inserting “an agency”.

(b) BENEFITS DESCRIBED.—Section 3049(a)(2) of
such Act (5 U.S.C. 7905 note; 119 Stat. 1711) is amended
by striking the period at the end and inserting the fol-
lowing: “, except that the maximum level of such benefits
shall be the maximum amount which may be excluded
from gross income for qualified parking as in effect for
a month under section 132(f)(2)(B) of the Internal Rev-

(e) GUIDANCE.—Section 3049(a) of such Act (5
U.S.C. 7905 note; 119 Stat. 1711) is amended by adding
at the end the following:

“(5) GUIDANCE.—
“(A) ISSUANCE.—Not later than 60 days after the date of enactment of this paragraph, the Secretary of Transportation shall issue guidance on nationwide implementation of the transit pass transportation fringe benefits program under this subsection.

“(B) UNIFORM APPLICATION.—

“(i) IN GENERAL.—The guidance to be issued under subparagraph (A) shall contain a uniform application for use by all Federal employees applying for benefits from an agency under the program.

“(ii) REQUIRED INFORMATION.—As part of such an application, an employee shall provide, at a minimum, the employee’s home and work addresses, a breakdown of the employee’s commuting costs, and a certification of the employee’s eligibility for benefits under the program.

“(iii) WARNING AGAINST FALSE STATEMENTS.—Such an application shall contain a warning against making false statements in the application.

“(C) INDEPENDENT VERIFICATION REQUIREMENTS.—The guidance to be issued
under subparagraph (A) shall contain independent verification requirements to ensure that, with respect to an employee of an agency—

“(i) the eligibility of the employee for benefits under the program is verified by an official of the agency;

“(ii) employee commuting costs are verified by an official of the agency; and

“(iii) records of the agency are checked to ensure that the employee is not receiving parking benefits from the agency.

“(D) Program implementation requirements.—The guidance to be issued under subparagraph (A) shall contain program implementation requirements applicable to each agency to ensure that—

“(i) benefits provided by the agency under the program are adjusted in cases of employee travel, leave, or change of address;

“(ii) removal from the program is included in the procedures of the agency relating to an employee separating from employment with the agency; and
“(iii) benefits provided by the agency under the program are made available using an electronic format (rather than using paper fare media) where such a format is available for use.

“(E) ENFORCEMENT AND PENALTIES.—
The guidance to be issued under subparagraph (A) shall contain a uniform administrative policy on enforcement and penalties. Such policy shall be implemented by each agency to ensure compliance with program requirements, to prevent fraud and abuse, and, as appropriate, to penalize employees who have abused or misused the benefits provided under the program.

“(F) PERIODIC REVIEWS.—The guidance to be issued under subparagraph (A) shall require each agency, not later than September 1 of the first fiscal year beginning after the date of enactment of this paragraph, and every 3 years thereafter, to develop and submit to the Secretary a review of the agency’s implementation of the program. Each such review shall contain, at a minimum, the following:

“(i) An assessment of the agency’s implementation of the guidance, including
a summary of the audits and investigations, if any, of the program conducted by the Inspector General of the agency.

“(ii) Information on the total number of employees of the agency that are participating in the program.

“(iii) Information on the total number of single occupancy vehicles removed from the roadway network as a result of participation by employees of the agency in the program.

“(iv) Information on energy savings and emissions reductions, including reductions in greenhouse gas emissions, resulting from reductions in single occupancy vehicle use by employees of the agency that are participating in the program.

“(v) Information on reduced congestion and improved air quality resulting from reductions in single occupancy vehicle use by employees of the agency that are participating in the program.

“(vi) Recommendations to increase program participation and thereby reduce
single occupancy vehicle use by Federal employees nationwide.

“(6) Reporting requirements.—Not later than September 30 of the first fiscal year beginning after the date of enactment of this paragraph, and every 3 years thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on nationwide implementation of the transit pass transportation fringe benefits program under this subsection, including a summary of the information submitted by agencies pursuant to paragraph (5)(F).”.

(d) Effective date.—Except as otherwise specifically provided, the amendments made by this section shall become effective on the first day of the first fiscal year beginning after the date of enactment of this Act.

SEC. 306. CAPITAL COST OF CONTRACTING VANPOOL PILOT PROGRAM.

(a) Establishment.—The Secretary of Transportation shall establish and implement a pilot program to carry out vanpool demonstration projects in not more than
3 urbanized areas and not more than 2 other than urban-
ized areas.

(b) Pilot Program.—

(1) In general.—Notwithstanding section 5323(i) of title 49, United States Code, for each project selected for participation in the pilot pro-
gram, the Secretary shall allow the non-Federal share provided by a recipient of assistance for a cap-
ital project under chapter 53 of such title to include the amounts described in paragraph (2).

(2) Conditions on acquisition of vans.—
The amounts referred to in paragraph (1) are any amounts expended by a private provider of public transportation by vanpool for the acquisition of vans to be used by such private provider in the recipient’s service area, excluding any amounts the provider may have received in Federal, State, or local govern-
ment assistance for such acquisition, if the private provider enters into a legally binding agreement with the recipient that requires the private provider to use all revenues it receives in providing public trans-
portation in such service area, in excess of its oper-
ating costs, for the purpose of acquiring vans to be used by the private provider in such service area.
(c) Program Term.—The Secretary may approve an application for a vanpool demonstration project for fiscal years 2008 through 2009.

(d) Report to Congress.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing an assessment of the costs, benefits, and efficiencies of the vanpool demonstration projects.


(a) In General.—The Secretary of Transportation shall carry out a national consumer awareness program to educate the public on the environmental, energy, and economic benefits of public transportation alternatives to the use of single occupancy vehicles.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2009. Such sums shall remain available until expended.
SEC. 308. EXCEPTION TO ALTERNATIVE FUEL PROCUREMENT REQUIREMENT.

Section 526 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S. C. 17142) is amended—

(1) by striking “No Federal agency” and inserting “(a) REQUIREMENT.—Except as provided in subsection (b), no Federal agency”; and

(2) by adding at the end the following:

“(b) EXCEPTION.—Subsection (a) does not prohibit a Federal agency from entering into a contract to purchase a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source, if—

“(1) the contract does not specifically require the contractor to provide an alternative or synthetic fuel or fuel from a nonconventional petroleum source;

“(2) the purpose of the contract is not to obtain an alternative or synthetic fuel or fuel from a nonconventional petroleum source; and

“(3) the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.”.
TITLE IV—GREATER ENERGY EFFICIENCY IN BUILDING CODES

SEC. 401. GREATER ENERGY EFFICIENCY IN BUILDING CODES.

(a) IN GENERAL.—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

“SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

“(a) UPDATING NATIONAL MODEL BUILDING ENERGY CODES.—(1) The Secretary shall support updating the national model building energy codes and standards at least every three years to achieve overall energy savings, compared to the 2006 IECC for residential buildings and ASHRAE Standard 90.1–2004 for commercial buildings, of at least—

“(A) 30 percent in editions of each model code or standard released in or after 2010; and

“(B) 50 percent in editions of each model code or standard released in or after 2020.

Targets for specific years shall be set by the Secretary at least 3 years in advance of each target year, coordinated with the IECC and ASHRAE Standard 90.1 cycles, at the
maximum level of energy efficiency that is technologically feasible and life-cycle cost effective.

“(2)(A) Whenever the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall make a preliminary determination not later than 90 days after the date of the revision, and a final determination not later than 12 months after the date of such revision, on—

“(i) whether such revision will improve energy efficiency in buildings; and

“(ii) whether such revision will meet the targets under paragraph (1).

“(B) If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard does not meet the targets under paragraph (1), or if a national model code or standard is not updated for more than three years, then the Secretary shall, within 12 months after such determination, establish a modified code or standard that meets such targets. Any such modified code or standard—

“(i) shall achieve the maximum level of energy savings that is technologically feasible and life-cycle cost-effective;

“(ii) shall be based on the latest revision of the IECC or ASHRAE Standard 90.1, including any
amendments or additions thereto, but may also con-
consider other model codes or standards; and
“(iii) shall serve as the baseline for the next de-
termination under subparagraph (A)(i).
“(C) The Secretary shall provide the opportunity for
public comment on targets, determinations, and modified
codes and standards under this subsection, and shall pub-
lish notice of targets, determinations, and modified codes
and standards under this subsection in the Federal Reg-
ister.
“(b) State Certification of Building Energy
Code Updates.—(1) Not later than 2 years after the
date of enactment of this subsection, each State shall cer-
tify to the Secretary that it has reviewed and updated the
provisions of its residential and commercial building codes
regarding energy efficiency. Such certification shall in-
clude a demonstration that such State’s code provisions
meet or exceed the 2006 IECC for residential buildings
and the ASHRAE Standard 90.1–2007 for commercial
buildings, or achieve equivalent or greater energy savings.
“(2)(A) If the Secretary makes an affirmative deter-
mination under subsection (a)(2)(A)(i) or establishes a
modified code or standard under subsection (a)(2)(B),
each State shall, within 2 years after such determination
or establishment, certify that it has reviewed and updated
the provisions of its building code regarding energy efficiency. Such certification shall include a demonstration that such State’s code provisions meet or exceed the revised code or standard, or achieve equivalent or greater energy savings.

“(B) If the Secretary fails to make a determination under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2), or makes a negative determination, each State shall within 2 years after the specified date or the date of the determination, certify that it has reviewed the revised code or standard, and updated the provisions of its building code regarding energy efficiency to meet or exceed any provisions found to improve energy efficiency in buildings, or to achieve equivalent or greater energy savings in other ways.

“(c) State Certification of Compliance With Building Codes.—(1) Each State shall, not later than 3 years after a certification under subsection (b), certify that it has—

“(A) achieved compliance under paragraph (3) with the certified State building energy code or with the associated model code or standard; or

“(B) made significant progress under paragraph (4) toward achieving compliance with the cer-
tified State building energy code or with the associated model code or standard.

If the State certifies progress toward achieving compliance, the State shall repeat the certification each year until it certifies that it has achieved compliance.

“(2) A certification under paragraph (1) shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the code in the preceding year, or based on an alternative method that yields an accurate measure of compliance.

“(3)(A) A State shall be considered to achieve compliance under paragraph (1) if—

“(i) at least 90 percent of new and renovated building space covered by the code in the preceding year substantially meets all the requirements of the code regarding energy efficiency, or achieves an equivalent energy savings level; or

“(ii) the estimated excess energy use of new and renovated buildings that did not meet the code in the preceding year, compared to a baseline of comparable buildings that meet the code, is not more than 5 percent of the estimated energy use of all new and renovated buildings covered by the code in the preceding year.
“(B) Only renovations with building permits are covered under this paragraph. If the Secretary determines the percentage targets under subparagraph (A) are not reasonably achievable for renovated residential or commercial buildings, the Secretary may reduce the targets for such renovated buildings to the highest achievable level.

“(4)(A) A State shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1) if the State—

“(i) has developed and is implementing a plan for achieving compliance within 8 years, assuming continued adequate funding, including active training and enforcement programs;

“(ii) after one or more years of adequate funding, has demonstrated progress, in conformance with the plan described in clause (i), toward compliance;

“(iii) after five or more years of adequate funding, meets the requirement in paragraph (3) substituting 80 percent for 90 percent or substituting 10 percent for 5 percent; and

“(iv) has not had more than 8 years of adequate funding.

“(B) Funding shall be considered adequate, for purposes of this paragraph, when the Federal Government provides to the States at least $50,000,000 in a year in
funding and support for development and implementation
of State building energy codes, including for training and
enforcement.

“(d) Failure to Meet Deadlines.—(1) A State
that has not made a certification required under sub-
section (b) or (c) by the applicable deadline shall submit
to the Secretary a report on—

“(A) the status of the State with respect to
meeting the requirements and submitting the certifi-
cation; and

“(B) a plan for meeting the requirements and
submitting the certification.

“(2) Any State for which the Secretary has not ac-
cepted a certification by a deadline under subsection (b)
or (c) of this section is out of compliance with this section.

“(3) In any State that is out of compliance with this
section, a local government may be in compliance with this
section by meeting the certification requirements under
subsections (b) and (c) of this section.

“(4) The Secretary shall annually submit to Con-
gress, and publish in the Federal Register, a report on
the status of national model building energy codes and
standards, the status of code adoption and compliance in
the States, and implementation of this section. The report
shall include estimates of impacts of past action under this
section and potential impacts of further action on lifetime energy use by buildings and resulting energy costs to individuals and businesses.

“(e) TECHNICAL ASSISTANCE.—(1) The Secretary shall on a timely basis provide technical assistance to model code-setting and standard development organizations. This assistance shall include technical assistance as requested by the organizations in evaluating code or standards proposals or revisions, building energy analysis and design tools, building demonstrations, and design assistance and training. The Secretary shall submit code and standard amendment proposals, with supporting evidence, sufficient to enable the national model building energy codes and standards to meet the targets in subsection (a)(1).

“(2) The Secretary shall provide technical assistance to States to implement the requirements of this section, including procedures for States to demonstrate that their code provisions achieve equivalent or greater energy savings than the national model codes and standards, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

“(f) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to
implement the requirements of this section, and to im-
prove and implement State residential and commercial
building energy efficiency codes, including increasing and
verifying compliance with such codes. In determining
whether, and in what amount, to provide incentive funding
under this subsection, the Secretary shall consider the ac-
tions proposed by the State to implement the requirements
of this section, to improve and implement residential and
commercial building energy efficiency codes, and to pro-
mote building energy efficiency through the use of such
codes.

“(2) Additional funding shall be provided under this
subsection for implementation of a plan to achieve and
document at least a 90 percent rate of compliance with
residential and commercial building energy efficiency
codes, based on energy performance—

“(A) to a State that has adopted and is imple-
menting, on a Statewide basis—

“(i) a residential building energy efficiency
code that meets or exceeds the requirements of
the 2006 IECC, or any succeeding version of
that code that has received an affirmative de-
termination from the Secretary under sub-
section (a)(2)(A)(i); and
“(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2007, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); or

“(B) in a State in which there is no Statewide energy code for either residential buildings or commercial buildings, or where State codes fail to comply with subparagraph (A), to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

“(3) Of the amounts made available under this subsection, the Secretary may use amounts required, not exceeding $500,000 for each State, to train State and local officials to implement codes described in paragraph (2).

“(4) There are authorized to be appropriated to carry out this subsection—

“(A) $70,000,000 for each of fiscal years 2009 through 2013; and

“(B) such sums as are necessary for fiscal year 2014 and each fiscal year thereafter.’’.
(b) Definition.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended by adding at the end the following new paragraph:

“(17) The term ‘IECC’ means the International Energy Conservation Code.”

**TITLE V—FEDERAL RENEWABLE ELECTRICITY STANDARD**

**SEC. 501. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

(a) In General.—Title VI of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end the following:

“(17) The term ‘IECC’ means the International Energy Conservation Code.”

**SEC. 610. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

“(a) Definitions.—For purposes of this section:

“(1) Biomass.—

“(A) In General.—The term ‘biomass’ means each of the following:

“(i) Cellulosic (plant fiber) organic materials from a plant that is planted for the purpose of being used to produce energy.

“(ii) Nonhazardous, plant or algal matter that is derived from any of the following:

“(I) An agricultural crop, crop byproduct or residue resource.
“(II) Waste such as landscape or right-of-way trimmings (but not including municipal solid waste, recyclable postconsumer waste paper, painted, treated, or pressurized wood, wood contaminated with plastic or metals).

“(iii) Animal waste or animal byproducts.

“(iv) Landfill methane.

“(B) National forest lands and certain other public lands.—With respect to organic material removed from National Forest System lands or from public lands administered by the Secretary of the Interior, the term ‘biomass’ covers only organic material from (i) ecological forest restoration; (ii) pre-commercial thinnings; (iii) brush; (iv) mill residues; and (v) slash.

“(C) Exclusion of certain federal lands.—Notwithstanding subparagraph (B), material or matter that would otherwise qualify as biomass are not included in the term biomass if they are located on the following Federal lands:
“(i) Federal land containing old
growth forest or late successional forest
unless the Secretary of the Interior or the
Secretary of Agriculture determines that
the removal of organic material from such
land is appropriate for the applicable forest
type and maximizes the retention of late-
successional and large and old growth
trees, late-successional and old growth for-
est structure, and late-successional and old
growth forest composition.

“(ii) Federal land on which the re-
moval of vegetation is prohibited, including
components of the National Wilderness
Preservation System.

“(iii) Wilderness Study Areas.

“(iv) Inventoried roadless areas.

“(v) Components of the National
Landscape Conservation System.

“(vi) National Monuments.

“(2) ELIGIBLE FACILITY.—The term ‘eligible
facility’ means—

“(A) a facility for the generation of electric
ergy from a renewable energy resource that is
placed in service on or after January 1, 2001;

or

“(B) a repowering or cofiring increment.

“(3) EXISTING FACILITY.—The term ‘existing facility’ means a facility for the generation of electric energy from a renewable energy resource that is not an eligible facility.

“(4) INCREMENTAL HYDROPOWER.—The term ‘incremental hydropower’ means additional generation that is achieved from increased efficiency or additions of capacity made on or after January 1, 2001, or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date.

“(5) INDIAN LAND.—The term ‘Indian land’ means—

“(A) any land within the limits of any Indian reservation, pueblo, or rancheria;

“(B) any land not within the limits of any Indian reservation, pueblo, or rancheria title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to
restriction by the United States against alienation;

“(C) any dependent Indian community; or

“(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

“(6) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(7) RENEWABLE ENERGY.—The term ‘renewable energy’ means electric energy generated by a renewable energy resource.

“(8) RENEWABLE ENERGY RESOURCE.—The term ‘renewable energy resource’ means solar, wind, ocean, tidal, geothermal energy, biomass, landfill gas, incremental hydropower, or hydrokinetic energy.

“(9) REPOWERING OR COFIRING INCREMENT.—The term ‘repowering or cofiring increment’ means—
“(A) the additional generation from a modification that is placed in service on or after January 1, 2001, to expand electricity production at a facility used to generate electric energy from a renewable energy resource;

“(B) the additional generation above the average generation in the 3 years preceding the date of enactment of this section at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section; or

“(C) the portion of the electric generation from a facility placed in service on or after January 1, 2001, or a modification to a facility placed in service before the date of enactment of this section made on or after January 1, 2001, associated with cofiring biomass.

“(10) RETAIL ELECTRIC SUPPLIER.—(A) The term ‘retail electric supplier’ means a person that sells electric energy to electric consumers (other than consumers in Hawaii) that sold not less than 1,000,000 megawatt-hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year. For purposes of this
section, a person that sells electric energy to electric consumers that, in combination with the sales of any affiliate organized after the date of enactment of this section, sells not less that 1,000,000 megawatt hours of electric energy to consumers for purposes other than resale shall qualify as a retail electric supplier. For purposes of this paragraph, sales by any person to a parent company or to other affiliates of such person shall not be treated as sales to electric consumers.

“(B) Such term does not include the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a rural electric cooperative, except that a political subdivision of a State, or an agency, authority, or instrumentality of the United States, a State or a political subdivision of a State, or a rural electric cooperative that sells electric energy to electric consumers or any other entity that sells electric energy to electric consumers that would not otherwise qualify as a retail electric supplier shall be deemed a retail electric supplier if such entity notifies the Secretary that it voluntarily agrees to participate in the Federal renewable electricity standard program.
“(11) Retail electric supplier’s base amount.—The term ‘retail electric supplier’s base amount’ means the total amount of electric energy sold by the retail electric supplier, expressed in terms of kilowatt hours, to electric customers for purposes other than resale during the most recent calendar year for which information is available, excluding—

“(A) electric energy that is not incremental hydropower generated by a hydroelectric facility; and

“(B) electricity generated through the incineration of municipal solid waste.

“(b) Compliance.—For each calendar year beginning in calendar year 2010, each retail electric supplier shall meet the requirements of subsection (c) by submitting to the Secretary, not later than April 1 of the following calendar year, one or more of the following:

“(1) Federal renewable energy credits issued under subsection (e).

“(2) Federal energy efficiency credits issued under subsection (i), except that Federal energy efficiency credits may not be used to meet more than 27 percent of the requirements of subsection (c) in any calendar year. Energy efficiency credits may
only be used for compliance in a State where the Governor has petitioned the Secretary pursuant to subjection (i)(2).

“(3) Certification of the renewable energy generated and electricity savings pursuant to the funds associated with State compliance payments as specified in subsection (e)(3)(G).

“(4) Alternative compliance payments pursuant to subsection (j).

“(c) REQUIRED ANNUAL PERCENTAGE.—For calendar years 2010 through 2039, the required annual percentage of the retail electric supplier’s base amount that shall be generated from renewable energy resources, or otherwise credited towards such percentage requirement pursuant to subsection (d), shall be the percentage specified in the following table:

<table>
<thead>
<tr>
<th>Calendar Years</th>
<th>Required annual percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>2.75</td>
</tr>
<tr>
<td>2011</td>
<td>2.75</td>
</tr>
<tr>
<td>2012</td>
<td>3.75</td>
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<tr>
<td>2013</td>
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<td>2018</td>
<td>10.25</td>
</tr>
<tr>
<td>2019</td>
<td>12.25</td>
</tr>
<tr>
<td>2020 and thereafter through 2039</td>
<td>15</td>
</tr>
</tbody>
</table>

“(d) RENEWABLE ENERGY AND ENERGY EFFICIENCY CREDITS.—(1) A retail electric supplier may sat-
isfy the requirements of subsection (b)(1) through the sub-
mission of Federal renewable energy credits—

“(A) issued to the retail electric supplier under
subsection (e);

“(B) obtained by purchase or exchange under
subsection (f) or (g); or

“(C) borrowed under subsection (h).

“(2) A retail electric supplier may satisfy the require-
ments of subsection (b)(2) through the submission of Fed-
eral energy efficiency credits issued to the retail electric
supplier obtained by purchase or exchange pursuant to
subsection (i).

“(3) A Federal renewable energy credit may be
counted toward compliance with subsection (b)(1) only
once. A Federal energy efficiency credit may be counted
toward compliance with subsection (b)(2) only once.

“(e) ISSUANCE OF FEDERAL RENEWABLE ENERGY
CREDITS.—(1) The Secretary shall establish by rule, not
later than 1 year after the date of enactment of this sec-
tion, a program to verify and issue Federal renewable en-
ergy credits to generators of renewable energy, track their
sale, exchange, and retirement and to enforce the require-
ments of this section. To the extent possible, in estab-
lishing such program, the Secretary shall rely upon exist-
ing and emerging State or regional tracking systems that
issue and track non-Federal renewable energy credits.

“(2) An entity that generates electric energy through
the use of a renewable energy resource may apply to the
Secretary for the issuance of renewable energy credits.
The applicant must demonstrate that the electric energy
will be transmitted onto the grid or, in the case of a gen-
eration offset, that the electric energy offset would have
otherwise been consumed on site. The application shall in-
dicate—

“(A) the type of renewable energy resource used
to produce the electricity;

“(B) the location where the electric energy was
produced; and

“(C) any other information the Secretary deter-
mines appropriate.

“(3)(A) Except as provided in subparagraphs (B),
(C), and (D), the Secretary shall issue to a generator of
electric energy one Federal renewable energy credit for
each kilowatt hour of electric energy generated by the use
of a renewable energy resource at an eligible facility.

“(B) For purpose of compliance with this section,
Federal renewable energy credits for incremental hydرو-
power shall be based, on the increase in average annual
generation resulting from the efficiency improvements or
capacity additions. The incremental generation shall be
calculated using the same water flow information used to
determine a historic average annual generation baseline
for the hydroelectric facility and certified by the Secretary
or the Federal Energy Regulatory Commission. The cal-
culation of the Federal renewable energy credits for incre-
mental hydropower shall not be based on any operational
changes at the hydroelectric facility not directly associated
with the efficiency improvements or capacity additions.

“(C) The Secretary shall issue 2 renewable energy
credits for each kilowatt hour of electric energy generated
and supplied to the grid in that calendar year through the
use of a renewable energy resource at an eligible facility
located on Indian land. For purposes of this paragraph,
renewable energy generated by biomass cofired with other
fuels is eligible for two credits only if the biomass was
grown on such land.

“(D) For electric energy generated by a renewable
energy resource at an on-site eligible facility no larger
than one megawatt in capacity and used to offset part or
all of the customer’s requirements for electric energy, the
Secretary shall issue 3 renewable energy credits to such
customer for each kilowatt hour generated.
“(E) In the case of an on-site eligible facility on Indian land no more than 3 credits per kilowatt hour may be issued.

“(F) If both a renewable energy resource and a non-renewable energy resource are used to generate the electric energy, the Secretary shall issue the Federal renewable energy credits based on the proportion of the renewable energy resources used.

“(G) When a generator has sold electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract for power from an existing facility, and the contract has not determined ownership of the Federal renewable energy credits associated with such generation, the Secretary shall issue such Federal renewable energy credits to the retail electric supplier for the duration of the contract.

“(H) Payments made by a retail electricity supplier, directly or indirectly, to a State for compliance with a State renewable portfolio standard program, or for an alternative compliance mechanism, shall be valued at one credit per kilowatt hour for the purpose of subsection (b)(2) based on the amount of electric energy generation from renewable resources and electricity savings up to 27 percent of the utility’s requirement that results from those payments.
“(f) EXISTING FACILITIES.—The Secretary shall en-
sure that a retail electric supplier that acquires Federal
renewable energy credits associated with the generation of
renewable energy from an existing facility may use such
credits for purpose of its compliance with subsection
(b)(1). Such credits may not be sold, exchanged, or trans-
ferred for the purpose of compliance by another retail elec-
tric supplier.

“(g) RENEWABLE ENERGY CREDIT TRADING.—(1) A
Federal renewable energy credit, may be sold, transferred,
or exchanged by the entity to whom issued or by any other
entity who acquires the Federal renewable energy credit,
except for those renewable energy credits from existing fa-
cilities. A Federal renewable energy credit for any year
that is not submitted to satisfy the minimum renewable
generation requirement of subsection (e) for that year may
be carried forward for use pursuant to subsection (b)(1)
within the next 3 years.

“(2) A federally owned or cooperatively owned utility,
or a State or subdivision thereof, that is not a retail elec-
tric supplier that generates electric energy by the use of
a renewable energy resource at an eligible facility may only
sell, transfer or exchange a Federal renewable energy
credit to a cooperatively owned utility or an agency, au-
thority, or instrumentality of a State or political subdivi-
sion of a State that is a retail electric supplier that has
taken the electric energy associated with the credit.

“(3) The Secretary may delegate to an appropriate
market-making entity the administration of a national
tradeable renewable energy credit market and a national
energy efficiency credit market for purposes of creating
a transparent national market for the sale or trade of re-
newable energy credits and a transparent national market
for the sale or trade of Federal energy efficiency credits.

“(h) RENEWABLE ENERGY CREDIT BORROWING.—
At any time before the end of calendar year 2012, a retail
electric supplier that has reason to believe it will not be
able to fully comply with subsection (b) may—

“(1) submit a plan to the Secretary dem-
onstrating that the retail electric supplier will earn
sufficient Federal renewable energy credits and Fed-
eral energy efficiency credits within the next 3 cal-
endar years which, when taken into account, will en-
able the retail electric supplier to meet the require-
ments of subsection (b) for calendar year 2012 and
the subsequent calendar years involved; and

“(2) upon the approval of the plan by the Sec-
retary, apply Federal renewable energy credits and
Federal energy efficiency credits that the plan dem-
onsstrates will be earned within the next 3 calendar
years to meet the requirements of subsection (b) for each calendar year involved.

The retail electric supplier must repay all of the borrowed Federal renewable energy credits and Federal energy efficiency credits by submitting an equivalent number of Federal renewable energy credits and Federal energy efficiency credits, in addition to those otherwise required under subsection (b), by calendar year 2020 or any earlier deadlines specified in the approved plan. Failure to repay the borrowed Federal renewable energy credits and Federal energy efficiency credits shall subject the retail electric supplier to civil penalties under subsection (i) for violation of the requirements of subsection (b) for each calendar year involved.

“(i) ENERGY EFFICIENCY CREDITS.—

“(1) DEFINITIONS.—In this subsection—

“(A) CUSTOMER FACILITY SAVINGS.—The term ‘customer facility savings’ means a reduction in end-use electricity at a facility of an end-use consumer of electricity served by a retail electric supplier, as compared to—

“(i) consumption at the facility during a base year;

“(ii) in the case of new equipment (regardless of whether the new equipment re-
places existing equipment at the end of the
useful life of the existing equipment), con-
sumption by the new equipment of average
efficiency; or

“(iii) in the case of a new facility,
consumption at a reference facility.

“(B) ELECTRICITY SAVINGS.—The term
‘electricity savings’ means—

“(i) customer facility savings of elec-
tricity consumption adjusted to reflect any
associated increase in fuel consumption at
the facility;

“(ii) reductions in distribution system
losses of electricity achieved by a retail
electricity distributor, as compared to
losses during the base years;

“(iii) the output of new combined heat
and power systems, to the extent provided
under paragraph (5); and

“(iv) recycled energy savings.

“(C) QUALIFYING ELECTRICITY SAV-
ings.—The term ‘qualifying electricity savings’
means electricity savings that meet the meas-
urement and verification requirements of para-
graph (4).
“(D) RECYCLED ENERGY SAVINGS.—The term ‘recycled energy savings’ means a reduction in electricity consumption that is attributable to electrical or mechanical power, or both, produced by modifying an industrial or commercial system that was in operation before July 1, 2007, in order to recapture energy that would otherwise be wasted.

“(2) PETITION.—The Governor of a State may petition the Secretary to allow up to 27 percent of the requirements of a retail electric supplier under subsection (c) in the State to be met by submitting Federal energy efficiency credits issued pursuant to this subsection.

“(3) ISSUANCE OF CREDITS.—(A) Upon petition by the Governor, the Secretary shall issue energy efficiency credits for electricity savings described in subparagraph (B) achieved in States described in paragraph (2) in accordance with this subsection.

“(B) In accordance with regulations promulgated by the Secretary, the Secretary shall issue credits for—
“(i) qualified electricity savings achieved by a retail electric supplier in a calendar year; and

“(ii) qualified electricity savings achieved by other entities if—

“(I) the measures used to achieve the qualifying electricity savings were installed or placed in operation by the entity seeking the credit or the designated agent of the entity; and

“(II) no retail electric supplier paid a substantial portion of the cost of achieving the qualified electricity savings (unless the retail electric supplier has waived any entitlement to the credit).

“(4) MEASUREMENT AND VERIFICATION OF ELECTRICITY SAVINGS.—Not later than June 30, 2009, the Secretary shall promulgate regulations regarding the measurement and verification of electricity savings under this subsection, including regulations covering—

“(A) procedures and standards for defining and measuring electricity savings that will be eligible to receive credits under paragraph (3), which shall—
“(i) specify the types of energy efficiency and energy conservation that will be eligible for the credits;

“(ii) require that energy consumption for customer facilities or portions of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production, and building area;

“(iii) account for the useful life of electricity savings measures;

“(iv) include specified electricity savings values for specific, commonly-used efficiency measures;

“(v) specify the extent to which electricity savings attributable to measures carried out before the date of enactment of this section are eligible to receive credits under this subsection; and

“(vi) exclude electricity savings that (I) are not properly attributable to measures carried out by the entity seeking the credit; or (II) have already been credited under this section to another entity;
“(B) procedures and standards for third-party verification of reported electricity savings; and

“(C) such requirements for information, reports, and access to facilities as may be necessary to carry out this subsection.

“(5) Combined heat and power.—Under regulations promulgated by the Secretary, the increment of electricity output of a new combined heat and power system that is attributable to the higher efficiency of the combined system (as compared to the efficiency of separate production of the electric and thermal outputs), shall be considered electricity savings under this subsection.

“(j) Enforcement.—A retail electric supplier that does not comply with subsection (b) shall be liable for the payment of a civil penalty. That penalty shall be calculated on the basis of the number of kilowatt-hours represented by the retail electric supplier’s failure to comply with subsection (b), multiplied by the lesser of 4.5 cents (adjusted for inflation for such calendar year, based on the Gross Domestic Product Implicit Price Deflator) or 300 percent of the average market value of Federal renewable energy credits and energy efficiency credits for the compliance period. Any such penalty shall be due and payable without
demand to the Secretary as provided in the regulations issued under subsection (e).

“(k) ALTERNATIVE COMPLIANCE PAYMENTS.—The Secretary shall accept payment equal to the lesser of:

“(1) 200 percent of the average market value of Federal renewable energy credits and Federal energy efficiency credits for the applicable compliance period; or

“(2) 2.5 cents per kilowatt hour adjusted on January 1 of each year following calendar year 2006, based on the Gross Domestic Product Implicit Price Deflator,

as a means of compliance under subsection (b)(4)

“(l) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

“(1) the annual renewable energy generation of any retail electric supplier, Federal renewable energy credits submitted by a retail electric supplier pursuant to subsection (b)(1) and Federal energy efficiency credits submitted by a retail electric supplier pursuant to subsection (b)(2);

“(2) annual electricity savings achieved pursuant to subsection (i);
“(3) the validity of Federal renewable energy credits submitted for compliance by a retail electric supplier to the Secretary; and

“(4) the quantity of electricity sales of all retail electric suppliers.

“(m) ENVIRONMENTAL SAVINGS CLAUSE.—Incremental hydropower shall be subject to all applicable environmental laws and licensing and regulatory requirements.

“(n) STATE PROGRAMS.—(1) Nothing in this section diminishes any authority of a State or political subdivision of a State to—

“(A) adopt or enforce any law or regulation respecting renewable energy or energy efficiency, including but not limited to programs that exceed the required amount of renewable energy or energy efficiency under this section, or

“(B) regulate the acquisition and disposition of Federal renewable energy credits and Federal energy efficiency credits by retail electric suppliers.

No law or regulation referred to in subparagraph (A) shall relieve any person of any requirement otherwise applicable under this section. The Secretary, in consultation with States having renewable energy programs and energy efficiency programs, shall preserve the integrity of such State programs, including
programs that exceed the required amount of renewable energy and energy efficiency under this section, and shall facilitate coordination between the Federal program and State programs.

“(2) In the rule establishing the program under this section, the Secretary shall incorporate common elements of existing renewable energy and energy efficiency programs, including State programs, to ensure administrative ease, market transparency, and effective enforcement. The Secretary shall work with the States to minimize administrative burdens and costs to retail electric suppliers.

“(o) RECOVERY OF COSTS.—An electric utility whose sales of electric energy are subject to rate regulation, including any utility whose rates are regulated by the Commission and any State regulated electric utility, shall not be denied the opportunity to recover the full amount of the prudently incurred incremental cost of renewable energy and energy efficiency obtained to comply with the requirements of subsection (b). For purposes of this subsection, the definitions in section 3 of this Act shall apply to the terms electric utility, State regulated electric utility, State agency, Commission, and State regulatory authority.

“(p) PROGRAM REVIEW.—The Secretary shall enter into a contract with the National Academy of Sciences to conduct a comprehensive evaluation of all aspects of the
program established under this section, within 8 years of enactment of this section. The study shall include an evaluation of—

“(1) the effectiveness of the program in increasing the market penetration and lowering the cost of the eligible renewable energy and energy efficiency technologies;

“(2) the opportunities for any additional technologies and sources of renewable energy and energy efficiency emerging since enactment of this section;

“(3) the impact on the regional diversity and reliability of supply sources, including the power quality benefits of distributed generation;

“(4) the regional resource development relative to renewable potential and reasons for any under investment in renewable resources; and

“(5) the net cost/benefit of the renewable electricity standard to the national and State economies, including retail power costs, economic development benefits of investment, avoided costs related to environmental and congestion mitigation investments that would otherwise have been required, impact on natural gas demand and price, effectiveness of green marketing programs at reducing the cost of renewable resources.
The Secretary shall transmit the results of the evaluation and any recommendations for modifications and improvements to the program to Congress not later than January 1, 2016.

“(q) State Renewable Energy and Energy Efficiency Account Program.—(1) There is established in the Treasury a State renewable energy and energy efficiency account program.

“(2) All money collected by the Secretary from the alternative compliance payments under subsection (k) shall be deposited into the State renewable energy and energy efficiency account established pursuant to this subsection.

“(3) Proceeds deposited in the State renewable energy and energy efficiency account shall be used by the Secretary, subject to annual appropriations, for a program to provide grants to the State agency responsible for administering a fund to promote renewable energy generation and energy efficiency for customers of the State, or an alternative agency designated by the State, or if no such agency exists, to the State agency developing State energy conservation plans under section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322) for the purposes of promoting renewable energy production and pro-
viding energy assistance and weatherization services to
low-income consumers.

“(4) The Secretary may issue guidelines and criteria
for grants awarded under this subsection. At least 75 per-
cent of the funds provided to each State shall be used for
promoting renewable energy production and energy effi-
ciency through grants, production incentives or other
state-approved funding mechanisms. The funds shall be
allocated to the States on the basis of retail electric sales
subject to the Renewable electricity Standard under this
section or through voluntary participation. State agencies
receiving grants under this section shall maintain such
records and evidence of compliance as the Secretary may
require.”.

(b) TABLE OF CONTENTS.—The table of contents for
such title is amended by adding the following new item
at the end:

“Sec. 610. Federal renewable electricity standard.”.

(c) SUNSET.—Section 610 of such title and the item
relating to such section 610 in the table of contents for
such title are each repealed as of December 31, 2039.
TITLE VI—GREEN RESOURCES
FOR ENERGY EFFICIENT NEIGHBORHOODS

SEC. 601. SHORT TITLE AND TABLE OF CONTENTS.
This title may be cited as the “Green Resources for Energy Efficient Neighborhoods Act of 2008” or the “GREEN Act of 2008”.

SEC. 602. DEFINITIONS.
For purposes of this title, the following definitions shall apply:

(1) GREEN BUILDING STANDARDS.—The term “green building standards” means standards to require use of sustainable design principles to reduce the use of nonrenewable resources, encourage energy-efficient construction and rehabilitation and the use of renewable energy resources, minimize the impact of development on the environment, and improve indoor air quality.

(2) HUD.—The term “HUD” means the Department of Housing and Urban Development.

(3) HUD ASSISTANCE.—The term “HUD assistance” means financial assistance that is awarded, competitively or noncompetitively, allocated by formula, or provided by HUD through loan insurance or guarantee.
(4) **NONRESIDENTIAL STRUCTURE.**—The term “nonresidential structures” means only nonresidential structures that are appurtenant to single family or multifamily housing residential structures, or those that are funded by the Secretary of Housing and Urban Development through the HUD Community Development Block Grant program.

(5) **SECRETARY.**—The term “Secretary”, unless otherwise specified, means the Secretary of Housing and Urban Development.

**SEC. 603. IMPLEMENTATION OF ENERGY EFFICIENCY PARTICIPATION INCENTIVES FOR HUD PROGRAMS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue such regulations as may be necessary to establish annual energy efficiency participation incentives to encourage participants in programs administered by the Secretary, including recipients under programs for which HUD assistance is provided, to achieve substantial improvements in energy efficiency.

(b) **REQUIREMENT FOR APPROPRIATION OF FUNDS.**—The requirement under subsection (a) for the Secretary to provide annual energy efficiency participation
incentives pursuant to the provisions of this title shall be
subject to the annual appropriation of necessary funds.

SEC. 604. MINIMUM HUD ENERGY EFFICIENCY STANDARDS
AND STANDARDS FOR ADDITIONAL CREDIT.

(a) MINIMUM HUD STANDARD.—

(1) RESIDENTIAL STRUCTURES.—A residential
single family or multifamily structure shall be con-
sidered to comply with the energy efficiency require-
ments under this subsection if—

(A) the structure complies with the appli-
cable provisions of the American Society of
Heating, Refrigerating, and Air-Conditioning
Engineers Standard 90.1–2007, as such stand-
ard or successor standard is in effect for pur-
poses of this section pursuant subsection (c);

(B) the structure complies with the appli-
cable provisions of the 2006 International En-
ergy Conservation Code, as such standard or
successor standard is in effect for purposes of
this section pursuant subsection (c);

(C) in the case only of an existing struc-
ture, where determined cost effective, the struc-
ture has undergone rehabilitation or improve-
ments, completed after the date of the enact-
ment of this Act, and the energy consumption
for the structure has been reduced by at least 20 percent from the previous level of consumption, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption; or

(D) the structure complies with the applicable provisions of such other energy efficiency requirements, standards, checklists, or ratings systems as the Secretary may adopt and apply by regulation, as may be necessary, for purposes of this section for specific types of residential single family or multifamily structures or otherwise, except that the Secretary shall make a determination regarding whether to adopt and apply any such requirements, standards, checklists, or rating system for purposes of this section not later than the expiration of the 180-day period beginning upon the date of receipt of any written request, made in such form as the Secretary shall provide, for such adoption and application.

In addition to compliance with any of subparagraphs (A) through (D), the Secretary shall by regulation require, for any newly constructed residential single
family or multifamily structure to be considered to comply with the energy efficiency requirements under this subsection, that the structure have appropriate electrical outlets with the facility and capacity to recharge a standard electric passenger vehicle, including an electric hybrid vehicle, where such vehicle would normally be parked.

(2) Nonresidential structures.—For purposes of this section, the Secretary shall identify and adopt by regulation, as may be necessary, energy efficiency requirements, standards, checklists, or rating systems applicable to nonresidential structures that are constructed or rehabilitated with HUD assistance. A nonresidential structure shall be considered to comply with the energy efficiency requirements under this subsection if the structure complies with the applicable provisions of any such energy efficiency requirements, standards, checklist, or rating systems identified and adopted by the Secretary pursuant to this paragraph, as such standards are in effect for purposes of this section pursuant to subsection (c).

(b) Additional credit for compliance with enhanced energy efficiency standards.—
(1) IN GENERAL.—In addition to compliance with the energy efficiency requirements under subsection (a), a residential or nonresidential structure shall be considered to comply with the enhanced energy efficiency and conservation standards or the green building standards under this subsection, to the extent that such structure complies with the applicable provisions of the standards under paragraph (2) or (3), respectively (as such standards are in effect for purposes of this section, pursuant to subsection (c)), in a manner that is not required for compliance with the energy efficiency requirements under subsection (a) and subject to the Secretary’s determination of which standards are applicable to which structures.

(2) ENERGY EFFICIENCY AND CONSERVATION STANDARDS.—The energy efficiency and conservation standards under this paragraph are as follows:

(A) RESIDENTIAL STRUCTURES.—With respect to residential structures:

(i) NEW CONSTRUCTION.—For new construction, the Energy Star standards established by the Environmental Protection Agency, as such standards are in ef-
fect for purposes of this subsection pursuant to subsection (e);

(ii) Existing structures.—For existing structures, a reduction in energy consumption from the previous level of consumption for the structure, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption, that exceeds the reduction necessary for compliance with the energy efficiency requirement under subsection (a)(1)(C).

(B) Nonresidential structures.—With respect to nonresidential structures, such energy efficiency and conservation requirements, standards, checklists, or rating systems for nonresidential structures as the Secretary shall identify and adopt by regulation, as may be necessary, for purposes of this paragraph.

(3) Green building standards.—The green building standards under this paragraph are as follows:

(A) The national Green Communities criteria checklist for residential construction that
provides criteria for the design, development, 
and operation of affordable housing, as such 
checklist or successor checklist is in effect for 
purposes of this section pursuant to subsection 
(c).

(B) The gold certification level for the 
LEED for New Construction rating system, the 
LEED for Homes rating system, the LEED for 
Core and Shell rating system, as applicable, as 
such systems or successor systems are in effect 
for purposes of this section pursuant to sub-
section (c).

(C) The Green Globes assessment and rat-
ing system of the Green Buildings Initiative.

(D) For manufactured housing, energy 
star rating with respect to fixtures, appliances, 
and equipment in such housing, as such stand-
ard or successor standard is in effect for pur-
poses of this section pursuant to subsection (c).

(E) The National Green Building Stand-
ard, but such standard shall apply for purposes 
of this paragraph only—

(i) if such standard is ratified under 
the American National Standards Institute 
process;
(ii) upon expiration of the 180-day pe-
period beginning upon such ratification; and

(iii) if, during such 180-day period, the Secretary of Housing and Urban De-
development does not reject the applicability of such standard for purposes of this para-
graph.

(F) Any other requirements, standards,
checklists, or rating systems for green building or sustainability as the Secretary may identify and adopt by regulation, as may be necessary for purposes of this paragraph, except that the Secretary shall make a determination regarding whether to adopt and apply any such require-
ments, standards, checklist, or rating system for purposes of this section not later than the expiration of the 180-day period beginning upon date of receipt of any written request, made in such form as the Secretary shall provide, for such adoption and application.

(4) GREEN BUILDING.—For purposes of this subsection, the term “green building” means, with respect to standards for structures, standards to re-
quire use of sustainable design principles to reduce the use of nonrenewable resources, minimize the im-

impact of development on the environment, and to improve indoor air quality.

(5) ENERGY AUDITS.—The Secretary shall establish standards and requirements for energy audits for purposes of paragraph (2)(A)(ii) and, in establishing such standards, may consult with any advisory committees established pursuant to section 605(c)(2) of this title.

(e) APPLICABILITY AND UPDATING OF STANDARDS.—

(1) APPLICABILITY.—Except as provided in paragraph (2), the requirements, standards, checklists, and rating systems referred to in subsections (a) and (b) that are in effect for purposes of this section are such requirements, standards, checklists, and systems are as in existence upon the date of the enactment of this Act.

(2) UPDATING.—For purposes of this section, the Secretary may adopt and apply by regulation, as may be necessary, future amendments and supplements to, and editions of, the requirements, standards, checklists, and rating systems referred to in subsections (a) and (b).
SEC. 605. ENERGY EFFICIENCY AND CONSERVATION DEMONSTRATION PROGRAM FOR MULTIFAMILY HOUSING PROJECTS ASSISTED WITH PROJECT-BASED RENTAL ASSISTANCE.

(a) AUTHORITY.—For multifamily housing projects for which project-based rental assistance is provided under a covered multifamily assistance program, the Secretary shall, subject to the availability of amounts provided in advance in appropriation Acts, carry out a program to demonstrate the effectiveness of funding a portion of the costs of meeting the enhanced energy efficiency standards under section 604(b). At the discretion of the Secretary, the demonstration program may include incentives for housing that is assisted with Indian housing block grants provided pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, but only to the extent that such inclusion does not violate such Act, its regulations, and the goal of such Act of tribal self-determination.

(b) GOALS.—The demonstration program under this section shall be carried out in a manner that—

(1) protects the financial interests of the Federal Government;

(2) reduces the proportion of funds provided by the Federal Government and by owners and resi-
dents of multifamily housing projects that are used for costs of utilities for the projects;

(3) encourages energy efficiency and conservation by owners and residents of multifamily housing projects and installation of renewable energy improvements, such as improvements providing for use of solar, wind, geothermal, or biomass energy sources;

(4) creates incentives for project owners to carry out such energy efficiency renovations and improvements by allowing a portion of the savings in operating costs resulting from such renovations and improvements to be retained by the project owner, notwithstanding otherwise applicable limitations on dividends;

(5) promotes the installation, in existing residential buildings, of energy-efficient and cost-effective improvements and renewable energy improvements, such as improvements providing for use of solar, wind, geothermal, or biomass energy sources;

(6) tests the efficacy of a variety of energy efficiency measures for multifamily housing projects of various sizes and in various geographic locations;

(7) tests methods for addressing the various, and often competing, incentives that impede owners
and residents of multifamily housing projects from
working together to achieve energy efficiency or con-
servation; and

(8) creates a database of energy efficiency and
conservation, and renewable energy, techniques, en-
ergy savings management practices, and energy effi-
ciency and conservation financing vehicles.

(c) APPROACHES.—In carrying out the demonstra-
tion program under this section, the Secretary may—

(1) enter into agreements with the Building
America Program of the Department of Energy and
other consensus committees under which such pro-
grams, partnerships, or committees assume some or
all of the functions, obligations, and benefits of the
Secretary with respect to energy savings;

(2) establish advisory committees to advise the
Secretary and any such third party partners on tech-
nological and other developments in the area of en-
ergy efficiency and the creation of an energy effi-
ciency and conservation credit facility and other fi-
nancing opportunities, which committees shall in-
clude representatives of homebuilders, realtors, ar-
chitects, nonprofit housing organizations, environ-
mental protection organizations, renewable energy
organizations, and advocacy organizations for the el-
derly and persons with disabilities; any advisory committees established pursuant to this paragraph shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.);

(3) approve, for a period not to exceed 10 years, additional adjustments in the maximum monthly rents or additional project rental assistance, or additional Indian housing block grant funds under the Native American Housing Assistance and Self-Determination Act of 1996, as applicable, for dwelling units in multifamily housing projects that are provided project-based rental assistance under a covered multifamily assistance program, in such amounts as may be necessary to amortize a portion of the cost of energy efficiency and conservation measures for such projects;

(4) develop a competitive process for the award of such additional assistance for multifamily housing projects seeking to implement energy efficiency, renewable energy sources, or conservation measures; and

(5) waive or modify any existing statutory or regulatory provision that would otherwise impair the implementation or effectiveness of the demonstration program under this section, including provisions re-
lating to methods for rent adjustments, comp-
parability standards, maximum rent schedules, and
utility allowances; notwithstanding the preceding
provisions of this paragraph, the Secretary may not
waive any statutory requirement relating to fair
housing, nondiscrimination, labor standards, or the
environment, except pursuant to existing authority
to waive non-statutory environmental and other ap-
licable requirements.

(d) REQUIREMENT.—During the 4-year period begin-
ning 12 months after the date of the enactment of this
Act, the Secretary shall carry out demonstration programs
under this section with respect to not fewer than 50,000
dwelling units.

(e) SELECTION.—

(1) SCOPE.—In order to provide a broad and
representative profile for use in designing a program
which can become operational and effective nation-
wide, the Secretary shall carry out the demonstra-
tion program under this section with respect to
dwelling units located in a wide variety of geographic
areas and project types assisted by the various cov-
ered multifamily assistance programs and using a
variety of energy efficiency and conservation and
funding techniques to reflect differences in climate,
types of dwelling units and technical and scientific methodologies, and financing options. The Secretary shall ensure that the geographic areas included in the demonstration program include dwelling units on Indian lands (as such term is defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501), to the extent that dwelling units on Indian land have the type of residential structures that are the focus of the demonstration program.

(2) PRIORITY.—The Secretary shall provide priority for selection for participation in the program under this section based on the extent to which, as a result of assistance provided, the project will comply with the energy efficiency standards under subsection (a), (b), or (c) of section 604 of this title.

(f) USE OF EXISTING PARTNERSHIPS.—To the extent feasible, the Secretary shall—

(1) utilize the Partnership for Advancing Technology in Housing of the Department of Housing and Urban Development to assist in carrying out the requirements of this section and to provide education and outreach regarding the demonstration program authorized under this section; and

(2) consult with the Secretary of Energy, the Administrator of the Environmental Protection
Agency, and the Secretary of the Army regarding utilizing the Building America Program of the Department of Energy, the Energy Star Program, and the Army Corps of Engineers, respectively, to determine the manner in which they might assist in carrying out the goals of this section and providing education and outreach regarding the demonstration program authorized under this section.

(g) REPORTS.—

(1) ANNUAL.—Not later than the expiration of the 2-year beginning upon the date of the enactment of this Act, and for each year thereafter during the term of the demonstration program, the Secretary shall submit a report to the Congress annually that describes and assesses the demonstration program under this section.

(2) FINAL.—Not later than six months after the expiration of the 4-year period described in subsection (d), the Secretary shall submit a final report to the Congress assessing the demonstration program, which—

(A) shall assess the potential for expanding the demonstration program on a nationwide basis; and

(B) shall include descriptions of—
(i) the size of each multifamily housing project for which assistance was provided under the program;

(ii) the geographic location of each project assisted, by State and region;

(iii) the criteria used to select the projects for which assistance is provided under the program;

(iv) the energy efficiency and conservation measures and financing sources used for each project that is assisted under the program;

(v) the difference, before and during participation in the demonstration program, in the amount of the monthly assistance payments under the covered multifamily assistance program for each project assisted under the program;

(vi) the average length of the term of the such assistance provided under the program for a project;

(vii) the aggregate amount of savings generated by the demonstration program and the amount of savings expected to be
generated by the program over time on a per-unit and aggregate program basis;

(viii) the functions performed in connection with the implementation of the demonstration program that were transferred or contracted out to any third parties;

(ix) an evaluation of the overall successes and failures of the demonstration program; and

(x) recommendations for any actions to be taken as a result of the such successes and failures.

(3) CONTENTS.—Each annual report pursuant to paragraph (1) and the final report pursuant to paragraph (2) shall include—

(A) a description of the status of each multifamily housing project selected for participation in the demonstration program under this section; and

(B) findings from the program and recommendations for any legislative actions.

(h) COVERED MULTIFAMILY ASSISTANCE PROGRAM.—For purposes of this section, the term “covered multifamily assistance program” means—
(1) the program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for project-based rental assistance;

(2) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) for assistance for supportive housing for the elderly;

(3) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) for supportive housing for persons with disabilities; and

(4) the program for assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111).

(i) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $50,000,000 for each fiscal year in which the demonstration program under this section is carried out.

(j) Regulations.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary shall issue any regulations necessary to carry out this section.
SEC. 606. ADDITIONAL CREDIT FOR FANNIE MAE AND FREDDIE MAC HOUSING GOALS FOR ENERGY EFFICIENT MORTGAGES.

Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)), as amended by the Federal Housing Finance Regulatory Reform Act of 2008 (Public Law 110–289; 122 Stat. 2654), is amended—

(1) in paragraph (2), by striking “paragraph (5)” and inserting “paragraphs (5) and (6)”; and

(2) by adding at the end the following new paragraph:

“(6) ADDITIONAL CREDIT.—

“(A) IN GENERAL.—In assigning credit toward achievement under this section of the housing goals for mortgage purchase activities of the enterprises, the Director shall assign—

“(i) more than 125 percent credit, for such purchases that both—

“(I) comply with the requirements of such goals; and

“(II) support housing that meets the energy efficiency standards under section 604(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2008; and
“(ii) credit in addition to credit under clause (i), for purchases that both—

“(I) comply with the requirements of such goals, and

“(II) support housing that complies with the enhanced energy efficiency and conservation standards, or the green building standards, under section 604(b) of such Act, or both,

and such additional credit shall be given based on the extent to which the housing supported with such purchases complies with such standards.

“(B) TREATMENT OF ADDITIONAL CREDIT.—The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.”.

SEC. 607. DUTY TO SERVE UNDERSERVED MARKETS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.

Reform Act of 2008 (Public Law 110–289; 122 Stat. 2654), is amended—

(1) in subsection (a)(1), by adding at the end the following new subparagraph:

“(D) MARKETS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.—

“(i) DUTY.—Subject to clause (ii), the enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for energy-efficient and location-efficient mortgages on housing for very low-, low-, and moderate income families, and for second and junior mortgages made for purposes of energy efficiency or renewable energy improvements, or both.

“(ii) AUTHORITY TO SUSPEND.—Notwithstanding any other provision of this section, the Director may suspend the applicability of the requirement under clause (i) with respect to an enterprise, for such period as is necessary, if the Director determines that exigent circumstances exist and such suspension is appropriate to en-
sure the safety and soundness of the port-
folio holdings of the enterprise.”;

(2) by adding at the end the following new sub-
section:

“(e) DEFINITIONS.—For purposes of this section, the
following definitions shall apply:

“(1) ENERGY-EFFICIENT MORTGAGE.—The
term ‘energy efficient mortgage’ means a mortgage
loan under which the income of the borrower, for
purposes of qualification for such loan, is considered
to be increased by not less than $1 for each $1 of
savings projected to be realized by the borrower as
a result of cost-effective energy saving design, con-
struction or improvements (including use of renew-
able energy sources, such as solar, geothermal, bio-
mass, and wind, super-insulation, energy-saving win-
dows, insulating glass and film, and radiant barrier)
for the home for which the loan is made.

“(2) LOCATION-EFFICIENT MORTGAGE.—The
term ‘location efficient mortgage’ means a mortgage
loan under which—

“(A) the income of the borrower, for pur-
poses of qualification for such loan, is consid-
ered to be increased by not less than $1 for
each $1 of savings projected to be realized by
the borrower because the location of the home
for which loan is made will result in decreased
transportation costs for the household of the
borrower; or

“(B) the sum of the principal, interest,
taxes, and insurance due under the mortgage
loan is decreased by not less than $1 for each
$1 of savings projected to be realized by the
borrower because the location of the home for
which loan is made will result in decreased
transportation costs for the household of the
borrower.”.

SEC. 608. CONSIDERATION OF ENERGY EFFICIENCY UNDER
FHA MORTGAGE INSURANCE PROGRAMS AND
NATIVE AMERICAN AND NATIVE HAWAIIAN
LOAN GUARANTEE PROGRAMS.

(a) FHA MORTGAGE INSURANCE.—

(1) REQUIREMENT.—Title V of the National
Housing Act is amended by adding after section 542
(12 U.S.C. 1735f–20) the following new section:

“SEC. 543. CONSIDERATION OF ENERGY EFFICIENCY.

“(a) UNDERWRITING STANDARDS.—The Secretary
shall establish a method to consider, in its underwriting
standards for mortgages on single-family housing meeting
the energy efficiency standards under section 604(a) of
the Green Resources for Energy Efficient Neighborhoods Act of 2008 that are insured under this Act, the impact that savings on utility costs has on the income of the mortgagor.

“(b) GOAL.—It is the sense of the Congress that, in carrying out this Act, the Secretary should endeavor to insure mortgages on single-family housing meeting the energy efficiency standards under section 604(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2008 such that at least 50,000 such mortgages are insured during the period beginning upon the date of the enactment of such Act and ending on December 31, 2012.”

(2) REPORTING ON DEFAULTS.—Section 540(b) of the National Housing Act (12 U.S.C. 1735f–18(b)) is amended by adding at the end the following new paragraph:

“(3) With respect to each collection period that commences after December 31, 2011, the total number of mortgages on single-family housing meeting the energy efficiency standards under section 604(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2008 that are insured by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on
such mortgages during such period, the percentage
of the total of such mortgages insured during such
period on which defaults and foreclosure occurred,
and the rate for such period of defaults and fore-
closures on such mortgages compared to the overall
rate for such period of defaults and foreclosures on
mortgages for single-family housing insured under
this Act by the Secretary.”.

(b) INDIAN HOUSING LOAN GUARANTEES.—

(1) REQUIREMENT.—Section 184 of the Hous-
ing and Community Development Act of 1992 (12
U.S.C. 1715z–13a) is amended—

(A) by redesignating subsection (l) as sub-
section (m); and

(B) by inserting after subsection (k) the
following new subsection:

“(l) CONSIDERATION OF ENERGY EFFICIENCY.—The
Secretary shall establish a method to consider, in its un-
derwriting standards for loans for single-family housing
meeting the energy efficiency standards under section
604(a) of the Green Resources for Energy Efficient
Neighborhoods Act of 2008 that are guaranteed under
this section, the impact that savings on utility costs has
on the income of the borrower.”.
(2) REPORTING ON DEFAULTS.—Section 540(b) of the National Housing Act (12 U.S.C. 1735f–18(b)), as amended by subsection (a)(2) of this section, is further amended by adding at the end the following new paragraph:

“(4) With respect to each collection period that commences after December 31, 2011, the total number of loans guaranteed under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) on single-family housing meeting the enhanced energy efficiency standards under section 604(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2008 that are guaranteed by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such loans during such period, the percentage of the total of such loans guaranteed during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such loans compared to the overall rate for such period of defaults and foreclosures on loans for single-family housing guaranteed under such section 184 by the Secretary.”.

(c) NATIVE HAWAIIAN HOUSING LOAN GUARANTEES.—
(1) REQUIREMENT.—Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b) is amended by inserting after subsection (l) the following new subsection:

“(m) ENERGY-EFFICIENT HOUSING REQUIREMENT.—The Secretary shall establish a method to consider, in its underwriting standards for loans for single-family housing meeting the energy efficiency standards under section 604(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2008 that are guaranteed under this section, the impact that savings on utility costs has on the income of the borrower.”.

(2) REPORTING ON DEFAULTS.—Section 540(b) of the National Housing Act (12 U.S.C. 1735f–18(b)), as amended by the preceding provisions of this section, is further amended by adding at the end the following new paragraph:

“(5) With respect to each collection period that commences after December 31, 2011, the total number of loans guaranteed under section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b) on single-family housing meeting the enhanced energy efficiency standards under section 604(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2008 that are
guaranteed by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such loans during such period, the percentage of the total of such loans guaranteed during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such loans compared to the overall rate for such period of defaults and foreclosures on loans for single-family housing guaranteed under such section 184A by the Secretary.”.

SEC. 609. ENERGY EFFICIENT MORTGAGES EDUCATION AND OUTREACH CAMPAIGN.

Section 106 of the Energy Policy Act of 1992 (12 U.S.C. 1701z–16) is amended by adding at the end the following new subsection:

“(g) EDUCATION AND OUTREACH CAMPAIGN.—

“(1) DEVELOPMENT OF ENERGY-EFFICIENT MORTGAGE OUTREACH PROGRAM.—

“(A) COMMISSION.—The Secretary, in consultation and coordination with the Secretary of Energy, the Secretary of Education, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, shall establish a commission to develop and recommend model mortgage products and underwriting
guidelines that provide market-based incentives
to prospective home buyers, lenders, and sellers
to incorporate energy efficiency upgrades in
new mortgage loan transactions.

“(B) REPORT.—Not later than 24 months
after the date of the enactment of the Green
Resources for Energy Efficient Neighborhoods
Act of 2008, the Secretary shall provide a writ-
ten report to the Congress on the results of
work of the commission established pursuant to
subparagraph (A) and that identifies model
mortgage products and underwriting guidelines
that may encourage energy efficiency.

“(2) IMPLEMENTATION.—After submission of
the report under paragraph (1)(B), the Secretary, in
consultation and coordination with the Secretary of
Energy, the Secretary of Education, and the Admin-
istrator of the Environmental Protection Agency,
shall carry out a public awareness, education, and
outreach campaign based on the findings of the com-
mission established pursuant to paragraph (1) to in-
form and educate residential lenders and prospective
borrowers regarding the availability, benefits, advan-
tages, and terms of energy efficient mortgages made
available pursuant to this section, energy efficient
mortgages that meet the requirements of section 1335 of the Housing and Community Development Act of 1992 (42 U.S.C. 4565), and other mortgages, including mortgages for multifamily housing, that have energy improvement features and to publicize such availability, benefits, advantages, and terms. Such actions may include entering into a contract with an appropriate entity to publicize and market such mortgages through appropriate media.

“(3) RENEWABLE ENERGY HOME PRODUCT EXPOS.—The Congress hereby encourages the Secretary of Housing and Urban Development to work with appropriate entities to organize and hold renewable energy expositions that provide an opportunity for the public to view and learn about renewable energy products for the home that are currently on the market.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $5,000,000 for each of fiscal years 2009 through 2012.”.
SEC. 610. COLLECTION OF INFORMATION ON ENERGY-EFFICIENT AND LOCATION EFFICIENT MORTGAGES THROUGH HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(5) the number and dollar amount of mortgage loans for single-family housing and for multi-family housing that are energy-efficient mortgages (as such term is defined in section 1335 of Housing and Community Development Act of 1992); and

“(6) the number and dollar amount of mortgage loans for single-family housing and for multi-family housing that are location-efficient mortgages (as such term is defined in section 1335 of Housing and Community Development Act of 1992).”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to the first calendar
year that begins after the expiration of the 30-day period
beginning on the date of the enactment of this Act.

SEC. 611. ENSURING AVAILABILITY OF HOMEOWNERS INSURANCE FOR HOMES NOT CONNECTED TO ELECTRICITY GRID.

(a) IN GENERAL.—In the case of any covered structure (as such term is defined in subsection (d)), it shall be unlawful for any insurer to deny homeowners insurance coverage for the structure, or to otherwise discriminate in the issuance, cancellation, amount of such coverage, or conditions of such coverage for the structure, based solely and without any additional actuarial risks upon the fact that the structure is not connected to, or able to receive electricity service from, any wholesale or retail electric power provider.

(b) CONSIDERATION OF ACTUARIAL RISK.—Subsection (a) may not be construed to prevent any insurer from charging rates for homeowners insurance coverage for a structure that are based on a good faith actuarial analysis of the risk associated with the structure not being connected to, or able to receive electricity service from, any wholesale or retail electric power provide. Any good faith analysis of such risk shall include analysis of the manner in which electric power for the structure is provided.
INSURING HOMES AND RELATED PROPERTY IN INDIAN AREAS.—Notwithstanding any other provision of law, covered structures located in Indian areas (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) and constructed or maintained using assistance, loan guarantees, or other authority under the Native American Housing Assistance and Self-Determination Act of 1996 may be insured by any tribally owned self-insurance risk pool approved by the Secretary of Housing and Urban Development.

COVERED STRUCTURE.—For purposes of this section, the term “covered structure” means a residential structure that—

(1) consists of one to four dwelling units;

(2) is provided power, heat, or electricity from renewable energy sources (such as solar, wind, geothermal, or biomass) or a fuel cell; and

(3) is not connected to any wholesale or retail electrical power grid.

SEC. 612. MORTGAGE INCENTIVES FOR ENERGY-EFFICIENT MULTIFAMILY HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall establish incentives for increasing the energy efficiency of multifamily housing that is
subject to a mortgage to be insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.) so that the housing meets the energy efficiency standards under section 604(a) of this title and incentives to encourage compliance of such housing with the energy efficiency and conservation standards, and the green building standards, under section 604(b) of this title, to the extent that such incentives are based on the impact that savings on utility costs has on the operating costs of the housing, as determined by the Secretary.

(b) Incentives.—Such incentives may include, for any such multifamily housing that complies with the energy efficiency standards under section 604(a)—

(1) providing a discount on the chargeable premiums for the mortgage insurance for such housing from the amount otherwise chargeable for such mortgage insurance;

(2) allowing mortgages to exceed the dollar amount limits otherwise applicable under law to the extent such additional amounts are used to finance improvements or measures designed to meet the standards referred to in subsection (a); and

(3) reducing the amount that the owner of such multifamily housing meeting the standards referred to in subsection (a) is required to contribute.
SEC. 613. ENERGY EFFICIENCY CERTIFICATIONS FOR HOUSING WITH MORTGAGES INSURED BY FHA.

Section 526 of the National Housing Act (12 U.S.C. 1735f–4(a)) is amended—

(1) in subsection (a)—

(A) by striking “, other than manufactured homes,” each place such term appears;

(B) by inserting after the period at the end the following: “The energy performance requirements developed and established by the Secretary under this section for manufactured homes shall require energy star rating for wall fixtures, appliances, and equipment in such housing.”;

(C) by inserting “(1)” after “(a)”;

(D) by adding at the end the following new paragraphs:

“(2) The Secretary shall require, with respect to any single- or multi-family residential housing subject to a mortgage insured under this Act, that any approval or certification of the housing for meeting any energy efficiency or conservation criteria, standards, or requirements pursuant to this title and any approval or certification required pursuant to this title with respect to energy conserving improvements or any renewable energy sources, such as...
wind, solar energy geothermal, or biomass, shall be conducted only by an individual certified by a home energy rating system provider who has been accredited to conduct such ratings by the Home Energy Ratings System Council, the Residential Energy Services Network, or such other appropriate national organization, as the Secretary may provide, or by licensed professional architect or engineer. If any organization makes a request to the Secretary for approval to accredit individuals to conduct energy efficiency or conservation ratings, the Secretary shall review and approve or disapprove such request not later than the expiration of the 6-month period beginning upon receipt of such request.

“(3) The Secretary shall periodically examine the method used to conduct inspections for compliance with the requirements under this section, analyze various other approaches for conducting such inspections, and review the costs and benefits of the current method compared with other methods.”; and

(2) in subsection (b), by striking “, other than a manufactured home,”.

SEC. 614. ASSISTED HOUSING ENERGY LOAN PILOT PROGRAM.

(a) AUTHORITY.—Not later than the expiration of the 12-month period beginning on the date of the enact-
ment of this Act, the Secretary shall develop and implement a pilot program under this section to facilitate the financing of cost-effective capital improvements for covered assisted housing projects to improve the energy efficiency and conservation of such projects.

(b) Loans.—The pilot program under this section shall involve not less than three and not more than five lenders, and shall provide for a privately financed loan to be made for a covered assisted housing project, which shall—

(1) finance capital improvements for the project that meet such requirements as the Secretary shall establish, and may involve contracts with third parties to perform such capital improvements, including the design of such improvements by licensed professional architects or engineers;

(2) have a term to maturity of not more than 20 years, which shall be based upon the duration necessary to realize cost savings sufficient to repay the loan;

(3) be secured by a mortgage subordinate to the mortgage for the project that is insured under the National Housing Act; and

(4) provide for a reduction in the remaining principal obligation under the loan based on the ac-
tual resulting cost savings realized from the capital improvements financed with the loan.

(c) **UNDERWRITING STANDARDS.**—The Secretary shall establish underwriting requirements for loans made under the pilot program under this section, which shall—

1. require the cost savings projected to be realized from the capital improvements financed with the loan, during the term of the loan, to exceed the costs of repaying the loan;

2. allow the designer or contractor involved in designing capital improvements to be financed with a loan under the program to carry out such capital improvements; and

3. include such energy, audit, property, financial, ownership, and approval requirements as the Secretary considers appropriate.

(d) **TREATMENT OF SAVINGS.**—The pilot program under this section shall provide that the project owner shall receive the full financial benefit from any reduction in the cost of utilities resulting from capital improvements financed with a loan made under the program.

(e) **COVERED ASSISTED HOUSING PROJECTS.**—For purposes of this section, the term “covered assisted housing project” means a housing project that—

1. is financed by a loan or mortgage that is—
(A) insured by the Secretary under subsection (d)(3) or (d)(4) of section 221 of the National Housing Act (12 U.S.C. 1715l), and bears interest at a rate determined under the proviso of section 221(d)(5) of such Act; or

(B) insured or assisted under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(2) at the time a loan under this section is made, is provided project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for 50 percent or more of the dwelling units in the project; and

(3) is not a housing project owned or held by the Secretary, or subject to a mortgage held by the Secretary.

SEC. 615. RESIDENTIAL ENERGY EFFICIENCY BLOCK GRANT PROGRAM.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 123. RESIDENTIAL ENERGY EFFICIENCY BLOCK GRANT PROGRAM.

"(a) IN GENERAL.—To the extent amounts are made available for grants under this section, the Secretary shall
make grants under this section to States, metropolitan cities and urban counties, Indian tribes, and insular areas to carry out energy efficiency improvements in new and existing single-family and multifamily housing.

“(b) ALLOCATIONS.—

“(1) IN GENERAL.—Of the total amount made available for each fiscal year for grants under this section that remains after reserving amounts pursuant to paragraph (2), the Secretary shall allocate for insular areas, for metropolitan cities and urban counties, and for States, an amount that bears the same ratio to such total amount as the amount allocated for such fiscal year under section 106 for Indian tribes, for insular areas, for metropolitan cities and urban counties, and for States, respectively, bears to the total amount made available for such fiscal year for grants under section 106.

“(2) SET ASIDE FOR INDIAN TRIBES.—Of the total amount made available for each fiscal year for grants under this section, the Secretary shall allocate not less than one percent to Indian tribes.

“(c) GRANT AMOUNTS.—

“(1) ENTITLEMENT COMMUNITIES.—From the amounts allocated pursuant to subsection (b) for metropolitan cities and urban counties for each fiscal
year, the Secretary shall make a grant for such fiscal year to each metropolitan city and urban county that complies with the requirement under subsection (d), in the amount that bears the same ratio such total amount so allocated as the amount of the grant for such fiscal year under section 106 for such metropolitan city or urban county bears to the aggregate amount of all grants for such fiscal year under section 106 for all metropolitan cities and urban counties.

“(2) STATES.—From the amounts allocated pursuant to subsection (b) for States for each fiscal year, the Secretary shall make a grant for such fiscal year to each State that complies with the requirement under subsection (d), in the amount that bears the same ratio such total amount so allocated as the amount of the grant for such fiscal year under section 106 for such State bears to the aggregate amount of all grants for such fiscal year under section 106 for all States. Grant amounts received by a State shall be used only for eligible activities under subsection (e) carried out in nonentitlement areas of the State.

“(3) INDIAN TRIBES.—From the amounts allocated pursuant to subsection (b) for Indian tribes,
the Secretary shall make grants to Indian tribes that comply with the requirement under subsection (d) on the basis of a competition conducted pursuant to specific criteria, as the Secretary shall establish by regulation, for the selection of Indian tribes to receive such amount.

“(4) **INSULAR AREAS.**—From the amounts allocated pursuant to subsection (b) for insular areas, the Secretary shall make a grant to each insular area that complies with the requirement under subsection (d) on the basis of the ratio of the population of the insular area to the aggregate population of all insular areas. In determining the distribution of amounts to insular areas, the Secretary may also include other statistical criteria as data become available from the Bureau of Census of the Department of Labor, but only if such criteria are set forth by regulation issued after notice and an opportunity for comment.

“(d) **STATEMENT OF ACTIVITIES.**—

“(1) **REQUIREMENT.**—Before receipt the receipt in any fiscal year of a grant under subsection (e) by any grantee, the grantee shall have prepared a final statement of housing energy efficiency objectives and projected use of funds as the Secretary
shall require and shall have provided the Secretary
with such certifications regarding such objectives
and use as the Secretary may require. In the case
of metropolitan cities, urban counties, units of gen-
eral local government, and insular areas receiving
grants, the statement of projected use of funds shall
consist of proposed housing energy efficiency activi-
ties. In the case of States receiving grants, the state-
ment of projected use of funds shall consist of the
method by which the States will distribute funds to
units of general local government.

“(2) PUBLIC PARTICIPATION.—The Secretary
may establish requirements to ensure the public
availability of information regarding projected use of
grant amounts and public participation in deter-
mining such projected use.

“(e) ELIGIBLE ACTIVITIES.—

“(1) REQUIREMENT.—Amounts from a grant
under this section may be used only to carry out ac-
tivities for single-family or multifamily housing that
are designed to improve the energy efficiency of the
housing so that the housing complies with the en-
ergy efficiency standard under section 604(a) of the
Green Resources for Energy Efficient Neighbor-
hoods Act of 2008, including such activities to pro-
vide energy for such housing from renewable sources, such as wind, waves, solar, biomass, and geothermal sources.

“(2) PREERENCE FOR COMPLIANCE BEYOND MINIMUM REQUIREMENTS.—In selecting activities to be funded with amounts from a grant under this section, a grantee shall give more preference to activities based on the extent to which the activities will result in compliance by the housing with the enhanced energy efficiency and conservation standards, and the green building standards, under section 604(b) of such Act.

“(f) REPORTS.—Each grantee of a grant under this section for a fiscal year shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of grant amounts, which shall contain an assessment by the grantee of the relationship of such use to the objectives identified in the grantees statement under subsection (d).

“(g) APPLICABILITY OF CDBG PROVISIONS.—Sections 109, 110, and 111 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309, 5310, 5311) shall apply to assistance received under this section to the same extent and in the same manner that such sections apply to assistance received under title I of such Act.
“(h) Authorization of Appropriations.—There is authorized to be appropriated for grants under this section $2,500,000,000 for fiscal year 2009 and such sums as may be necessary for each fiscal year thereafter.”.

SEC. 616. INCLUDING SUSTAINABLE DEVELOPMENT IN COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by striking “and” at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting “; and”;

(3) and by inserting after paragraph (20) the following:

“(21) describe the jurisdiction’s strategies to encourage sustainable development for affordable housing, including single-family and multifamily housing, as measured by—

“(A) greater energy efficiency and use of renewable energy sources, including any strategies regarding compliance with the energy efficiency requirements under section 604(a) of the Green Resources for Energy Efficient Neigh-
borhoods Act of 2008 and with the enhanced
energy efficiency and conservation standards,
and the green building standards, under section
604(b) of such Act;

“(B) increased conservation, recycling, and
reuse of resources;

“(C) more effective use of existing infra-
structure;

“(D) use of building materials and meth-
ods that are healthier for residents of the hous-
ing, including use of building materials that are
free of added known carcinogens that are classi-
fied as Group 1 Known Carcinogens by the
International Agency for Research on Cancer;
and

“(E) such other criteria as the Secretary
determines, in consultation with the Secretary
of Energy, the Secretary of Agriculture, and the
Administrator of the Environmental Protection
Agency, are in accordance with the purposes of
this paragraph.”.
SEC. 617. GRANT PROGRAM TO INCREASE SUSTAINABLE LOW-INCOME COMMUNITY DEVELOPMENT CAPACITY.

(a) IN GENERAL.—The Secretary may make grants to nonprofit organizations to use for any of the following purposes:

(1) Training, educating, supporting, or advising an eligible community development organization or qualified youth service and conservation corps in improving energy efficiency, resource conservation and reuse, design strategies to maximize energy efficiency, installing or constructing renewable energy improvements (such as wind, wave, solar, biomass, and geothermal energy sources), and effective use of existing infrastructure in affordable housing and economic development activities in low-income communities, taking into consideration energy efficiency requirements under section 604(a) of this title and with the enhanced energy efficiency and conservation standards, and the green building standards, under section 604(b) of this title.

(2) Providing loans, grants, or predevelopment assistance to eligible community development organizations or qualified youth service and conservation corps to carry out energy efficiency improvements that comply with the energy efficiency requirements
under section 604(a) of this title, resource conservation and reuse, and effective use of existing infrastructure in affordable housing and economic development activities in low-income communities. In providing assistance under this paragraph, the Secretary shall give more preference to activities based on the extent to which the activities will result in compliance with the enhanced energy efficiency and conservation standards, and the green building standards, under section 604(b) of this title.

(3) Such other purposes as the Secretary determines are in accordance with the purposes of this subsection.

(b) Application Requirement.—To be eligible for a grant under this section, a nonprofit organization shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Award of Contracts.—Contracts for architectural or engineering services funded with amounts from grants made under this section shall be awarded in accordance with chapter 11 of title 40, United States Code (relating to selection of architects and engineers).

(d) Matching Requirement.—A grant made under this section may not exceed the amount that the nonprofit
organization receiving the grant certifies, to the Secretary, will be provided (in cash or in kind) from non-governmental sources to carry out the purposes for which the grant is made.

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term “nonprofit organization” has the meaning given such term in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704).

(2) The term “eligible community development organization” means—

(A) a unit of general local government (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704));

(B) a community housing development organization (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704));

(C) an Indian tribe or tribally designated housing entity (as such terms are defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)); or
(D) a public housing agency, as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437(b)).

(3) The term “low-income community” means a census tract in which 50 percent or more of the households have an income which is less than 80 percent of the greater of—

(A) the median gross income for such year for the area in which such census tract is located; or

(B) the median gross income for such year for the State in which such census tract is located.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.

SEC. 618. UTILIZATION OF ENERGY PERFORMANCE CONTRACTS IN HOPE VI.

Section 24(d) of the United States Housing Act of 1937 (42 U.S.C. 1437v(d)) is amended by adding at the end the following new paragraph:

“(3) Energy performance contracts.—

“(A) In general.—The Secretary shall provide that a public housing agency shall re-
ceive the full financial benefit, as determined by
the Secretary, from any reduction in the cost of
utilities resulting from any contract with a
third party to undertake energy conservation
improvements in connection with a revitaliza-
tion plan under this section.

“(B) Third party contracts.—Con-
tracts described in subparagraph (A) may in-
clude contracts for equipment conversions to
less costly utility sources, projects with resi-
dent-paid utilities, and adjustments to frozen
base year consumption, including systems re-
paired to meet applicable building and safety
codes and adjustments for occupancy rates in-
creased by rehabilitation.

“(C) Term of contract.—The total
term of a contract described in subparagraph
(A) shall not exceed 20 years to allow longer
payback periods for retrofits, including win-
dows, heating system replacements, wall insula-
tion, site-based generation, advanced energy
savings technologies, including renewable en-
ergy generation, and other such retrofits.”.
SEC. 619. HOPE VI GREEN DEVELOPMENTS REQUIREMENT.

(a) MANDATORY COMPONENT.—Section 24(e) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)) is amended by adding at the end the following new paragraph:

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(4) GREEN DEVELOPMENTS REQUIREMENT.—

(A) REQUIREMENT.—The Secretary may not make a grant under this section to an applicant unless the proposed revitalization plan of the applicant to be carried out with such grant amounts meets the following requirements:

(i) GREEN COMMUNITIES CRITERIA CHECKLIST.—All residential construction under the proposed plan complies with the national Green Communities criteria checklist for residential construction that provides criteria for the design, development, and operation of affordable housing, as such checklist is in effect for purposes of this paragraph pursuant to subparagraph (D) at the date of the application for the grant, or any substantially equivalent standard or standards as determined by the Secretary, as follows:

(I) The proposed plan shall comply with all items of the national
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Green Communities criteria checklist for residential construction that are identified as mandatory.

“(II) The proposed plan shall comply with such other nonmandatory items of such national Green Communities criteria checklist so as to result in a cumulative number of points attributable to such nonmandatory items under such checklist of not less than—

“(aa) 25 points, in the case of any proposed plan (or portion thereof) consisting of new construction; and

“(bb) 20 points, in the case of any proposed plan (or portion thereof) consisting of rehabilitation.

“(ii) GREEN BUILDINGS CERTIFICATION SYSTEM.—All non-residential construction under the proposed plan complies with all minimum required levels of the green building rating systems and levels identified by the Secretary pursuant to
subparagraph (C), as such systems and
levels are in effect for purposes of this
paragraph pursuant to subparagraph (D)
at the time of the application for the
grant.

“(B) VERIFICATION.—

“(i) IN GENERAL.—The Secretary
shall verify, or provide for verification, suf-
ficient to ensure that each proposed revi-
talization plan carried out with amounts
from a grant under this section complies
with the requirements under subparagraph
(A) and that the revitalization plan is car-
rried out in accordance with such require-
ments and plan.

“(ii) TIMING.—In providing for such
verification, the Secretary shall establish
procedures to ensure such compliance with
respect to each grantee, and shall report to
the Congress with respect to the compli-
ance of each grantee, at each of the fol-
lowing times:

“(I) Not later than 6 months
after execution of the grant agreement
under this section for the grantee.
“(II) Upon completion of the re-
vitalization plan of the grantee.

“(C) IDENTIFICATION OF GREEN BUILD-
INGS RATING SYSTEMS AND LEVELS.—

“(i) IN GENERAL.—For purposes of
this paragraph, the Secretary shall identify
rating systems and levels for green build-
ings that the Secretary determines to be
the most likely to encourage a comprehe-
sive and environmentally-sound approach
to ratings and standards for green build-
ings. The identification of the ratings sys-
tems and levels shall be based on the cri-
teria specified in clause (ii), shall identify
the highest levels the Secretary determines
are appropriate above the minimum levels
required under the systems selected. With-
in 90 days of the completion of each study
required by clause (iii), the Secretary shall
review and update the rating systems and
levels, or identify alternative systems and
levels for purposes of this paragraph, tak-
ing into account the conclusions of such
study.
“(ii) CRITERIA.—In identifying the green rating systems and levels, the Secretary shall take into consideration—

“(I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this paragraph;

“(II) the ability of the applicable ratings system organizations to collect and reflect public comment;

“(III) the ability of the standards to be developed and revised through a consensus-based process;

“(IV) An evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

“(aa) efficient and sustainable use of water, energy, and other natural resources;

“(bb) use of renewable energy sources;

“(cc) improved indoor and outdoor environmental quality
through enhanced indoor and outdoor air quality, thermal comfort, acoustics, outdoor noise pollution, day lighting, pollutant source control, sustainable landscaping, and use of building system controls and low- or no-emission materials, including preference for materials with no added carcinogens that are classified as Group 1 Known Carcinogens by the International Agency for Research on Cancer; and

“(dd) such other criteria as the Secretary determines to be appropriate; and

“(V) national recognition within the building industry.

“(iii) 5-YEAR EVALUATION.—At least once every five years, the Secretary shall conduct a study to evaluate and compare available third-party green building rating systems and levels, taking into account the criteria listed in clause (ii).
“(D) **Applicability and Updating of Standards.**—

“(i) **Applicability.**—Except as provided in clause (ii) of this subparagraph, the national Green Communities criteria checklist and green building rating systems and levels referred to in clauses (i) and (ii) of subparagraph (A) that are in effect for purposes of this paragraph are such checklist systems, and levels as in existence upon the date of the enactment of the Green Resources for Energy Efficient Neighborhoods Act of 2008.

“(ii) **Updating.**—The Secretary may, by regulation, adopt and apply, for purposes of this paragraph, future amendments and supplements to, and editions of, the national Green Communities criteria checklist, any standard or standards that the Secretary has determined to be substantially equivalent to such checklist, and the green building ratings systems and levels identified by the Secretary pursuant to subparagraph (C).”.
(b) Selection Criteria; Graded Component.—

Section 24(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)(2)) is amended—

(1) in subparagraph (K), by striking “and” at the end;

(2) by redesignating subparagraph (L) as subparagraph (M); and

(3) by inserting after subparagraph (K) the following new subparagraph:

“(L) the extent to which the proposed revitalization plan—

“(i) in the case of residential construction, complies with the nonmandatory items of the national Green Communities criteria checklist identified in paragraph (4)(A)(i), or any substantially equivalent standard or standards as determined by the Secretary, but only to the extent such compliance exceeds the compliance necessary to accumulate the number of points required under such paragraph; and

“(ii) in the case of non-residential construction, complies with the components of the green building rating systems and levels identified by the Secretary pursuant
to paragraph (4)(C), but only to the extent
such compliance exceeds the minimum level
required under such systems and levels;
and”.

SEC. 620. CONSIDERATION OF ENERGY-EFFICIENCY IMPROVEMENTS IN APPRAISALS.

(a) Appraisals in Connection With Federally Related Transactions.—

(1) Requirement.—Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

(A) in paragraph (1), by striking “and” at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) that such appraisals be performed in accordance with appraisal standards that require, in determining the value of a property, consideration of any renewable energy sources for, or energy-efficiency or energy-conserving improvements or features of, the property; and”.

(2) Revision of Appraisal Standards.—

Each Federal financial institutions regulatory agen-
cy shall, not later than 6 months after the date of the enactment of this Act, revise its standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the agency to comply with the requirement under the amendments made by paragraph (1) of this subsection.

(b) Appraiser Certification and Licensing Requirements.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended—

(1) in subsection (a), by inserting before the period at the end the following: “, and meets the requirements established pursuant to subsection (f) for qualifications regarding consideration of any renewable energy sources for, or energy-efficiency or energy-conserving improvements or features of, the property”;

(2) in subsection (c), by inserting before the period at the end the following: “, which shall include compliance with the requirements established pursuant to subsection (f) regarding consideration of any renewable energy sources for, or energy-efficiency or energy-conserving improvements or features of, the property”;

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(3) in subsection (c), by striking “The” and inserting “Except as provided in subsection (f), the”;
and
(4) by adding at the end the following new subsection:

“(f) REQUIREMENTS FOR APPRAISERS REGARDING ENERGY-EFFICIENCY FEATURES.—The Appraisal Subcommittee shall establish requirements for State certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers consider and are qualified to consider, in determining the value of a property, any renewable energy sources for, or energy-efficiency or energy-conserving improvements or features of, the property.”.

(c) GUIDELINES FOR APPRAISING PHOTOVOLTAIC MEASURES AND TRAINING OF APPRAISERS.—Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection:

“(g) GUIDELINES FOR APPRAISING PHOTOVOLTAIC MEASURES AND TRAINING OF APPRAISERS.—The Appraisal Subcommittee shall, in consultation with the Secretary of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home

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Loan Mortgage Corporation, establish specific guidelines for—

“(1) appraising off- and on-grid photovoltaic measures for compliance with the appraisal standards prescribed pursuant to section 1110(2);

“(2) requirements under section 1116(f) for certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers consider, and are qualified to consider, such photovoltaic measures in determining the value of a property; and

“(3) training of appraisers to meet the requirements established pursuant to paragraph (2) of this subsection.”.

SEC. 621. ASSISTANCE FOR HOUSING ASSISTANCE COUNCIL.

The Secretary shall require the Housing Assistance Council—

(1) to encourage each organization that receives assistance from the Council with any amounts made available from the Secretary to provide that any structures and buildings developed or assisted under projects, programs, and activities funded with such amounts complies with the enhanced energy effi-
ciency requirements under section 604(a) of this title; and

(2) to establish incentives to encourage each such organization to provide that any such structures and buildings comply with the energy efficiency and conservation standards, and the green building standards, under section 604(b) of this title.

SEC. 622. RURAL HOUSING AND ECONOMIC DEVELOPMENT ASSISTANCE.

The Secretary shall—

(1) encourage each tribe, agency, organization, corporation, and other entity that receives any assistance from the Office of Rural Housing and Economic Development of the Department of Housing and Urban Development to provide that any structures and buildings developed or assisted under activities funded with such amounts complies with the energy efficiency requirements under section 604(a) of this title; and

(2) establish incentives to encourage each such tribe, agency, organization, corporation, and other entity to provide that any such structures and buildings comply with the enhanced energy efficiency and
conservation standards, and the green building standards, under section 604(b) of this title.

SEC. 623. LOANS TO STATES AND INDIAN TRIBES TO CARRY OUT RENEWABLE ENERGY SOURCES ACTIVITIES.

(a) Establishment of Fund.—There is established in the Treasury of the United States a fund, to be known as the “Alternative Energy Sources State Loan Fund”.

(b) Expenditures.—

(1) In general.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (c)(1).

(2) Administrative expenses.—Of the amounts in the Fund, not more than 5 percent shall be available for each fiscal year to pay the administrative expenses of the Department of Housing and Urban Development to carry out this section.

(c) Loans to States and Indian Tribes.—

(1) In general.—The Secretary shall use amounts in the Fund to provide loans to States and Indian tribes to provide incentives to owners of sin-
gle-family and multifamily housing, commercial
properties, and public buildings to provide—

(A) renewable energy sources for such
structures, such as wind, wave, solar, biomass,
or geothermal energy sources, including incen-
tives to companies and business to change their
source of energy to such renewable energy
sources and for changing the sources of energy
for public buildings to such renewable energy
sources;

(B) energy efficiency and energy con-
serving improvements and features for such
structures; or

(C) infrastructure related to the delivery of
electricity and hot water for structures lacking
such amenities.

(2) ELIGIBILITY.—To be eligible to receive a
loan under this subsection, a State or Indian tribe,
directly or through an appropriate State or tribal
agency, shall submit to the Secretary an application
at such time, in such manner, and containing such
information as the Secretary may require.

(3) CRITERIA FOR APPROVAL.—The Secretary
may approve an application of a State or Indian
tribe under paragraph (2) only if the Secretary de-
terminates that the State or tribe will use the funds from the loan under this subsection to carry out a program to provide incentives described in paragraph (1) that—

(A) requires that any such renewable energy sources, and energy efficiency and energy conserving improvements and features, developed pursuant to assistance under the program result in compliance of the structure so improved with the energy efficiency requirements under section 604(a) of this title; and

(B) includes such compliance and audit requirements as the Secretary determines are necessary to ensure that the program is operated in a sound and effective manner.

(4) PREFERENCE.—In making loans during each fiscal year, the Secretary shall give preference to States and Indian tribes that have not previously received a loan under this subsection.

(5) MAXIMUM AMOUNT.—The aggregate outstanding principal amount from loans under this subsection to any single State or Indian tribe may not exceed $500,000,000.

(6) LOAN TERMS.—Each loan under this subsection shall have a term to maturity of not more
than 10 years and shall bear interest at annual rate, determined by the Secretary, that shall not exceed interest rate charged by the Federal Reserve Bank of New York to commercial banks and other depository institutions for very short-term loans under the primary credit program, as most recently published in the Federal Reserve Statistical Release on selected interest rates (daily or weekly), and commonly referred to as the H.15 release, preceding the date of a determination for purposes of applying this paragraph.

(7) **LOAN REPAYMENT.**—The Secretary shall require full repayment of each loan made under this section.

(d) **INVESTMENT OF AMOUNTS.**—

(1) **IN GENERAL.**—The Secretary of the Treasury shall invest such amounts in the Fund that are not, in the judgment of the Secretary of the Treasury, required to meet needs for current withdrawals.

(2) **OBLIGATIONS OF UNITED STATES.**—Investments may be made only in interest-bearing obligations of the United States.

(e) **REPORTS.**—

(1) **REPORTS TO SECRETARY.**—For each year during the term of a loan made under subsection
(c), the State or Indian tribe that received the loan shall submit to the Secretary a report describing the State or tribal alternative energy sources program for which the loan was made and the activities conducted under the program using the loan funds during that year.

(2) REPORT TO CONGRESS.—Not later than September 30 of each year that loans made under subsection (c) are outstanding, the Secretary shall submit a report to the Congress describing the total amount of such loans provided under subsection (c) to each eligible State and Indian tribe during the fiscal year ending on such date, and an evaluation on effectiveness of the Fund.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $5,000,000,000.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given such term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

(2) STATE.—The term “State” means each of the several States, the Commonwealth of Puerto
Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

**SEC. 624. GREEN BANKING CENTERS.**

(a) **INSURED DEPOSITORY INSTITUTIONS.—** Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

“(x) ‘GREEN BANKING’ CENTERS.—

“(1) IN GENERAL.—The Federal banking agencies shall prescribe guidelines encouraging the establishment and maintenance of ‘green banking’ centers by insured depository institutions to provide any consumer who seeks information on obtaining a mortgage, home improvement loan, or home equity loan with additional information on—

“(A) obtaining an home energy rating or audit for the residence for which such mortgage or loan is sought; 

“(B) obtaining financing for cost-effective energy-saving improvements to such property; and
“(C) obtaining beneficial terms for any mortgage or loan, or qualifying for a larger mortgage or loan, secured by a residence which meets or will meet energy-efficiency standards.

“(2) INFORMATION AND REFERRALS.—The information made available to consumers under paragraph (1) may include—

“(A) information on obtaining a home energy rating and contact information on qualified energy raters in the area of the residence;

“(B) information on the secondary market guidelines that permit lenders to provide more favorable terms by allowing lenders to increase the ratio on debt-to-income requirements or to use the projected utility savings as a compensating factor;

“(C) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered by the Secretary of Housing and Urban Development, including the Energy Efficient Mortgage Program;

“(D) information including eligibility information about, and contact information for, any conservation or renewable energy programs,
grants, or loans offered for qualified military personal, reservists, and veterans by the Secretary of Veterans Affairs;

"(E) information about, and contact information for, the Office of Efficiency and Renewable Energy at the Department of Energy, including the weatherization assistance program;

"(F) information about, and contact information for, the Energy Star Program of the Environmental Protection Agency;

"(G) information from, and contact information for, the Federal Citizen Information Center of the General Services Administration on energy efficient mortgages and loans, home energy rating systems, and the availability of energy efficient mortgage information from a variety of Federal agencies; and

"(H) such other information as the agencies or the insured depository institution may determine to be appropriate or useful.”.

(b) INSURED CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

“(x) ‘GREEN BANKING’ CENTERS.—
“(1) IN GENERAL.—The Board shall prescribe guidelines encouraging the establishment and maintenance of ‘green banking’ centers by insured credit unions to provide any member who seeks information on obtaining a mortgage, home improvement loan, or home equity loan with additional information on—

“(A) obtaining an home energy rating or audit for the residence for which such mortgage or loan is sought;

“(B) obtaining financing for cost-effective energy-saving improvements to such property; and

“(C) obtaining beneficial terms for any mortgage or loan, or qualifying for a larger mortgage or loan, secured by a residence which meets or will meet energy-efficiency standards.

“(2) INFORMATION AND REFERRALS.—The information made available to members under paragraph (1) may include—

“(A) information on obtaining a home energy rating and contact information on qualified energy raters in the area of the residence;

“(B) information on the secondary market guidelines that permit lenders to provide more
favorable terms by allowing lenders to increase
the ratio on debt-to-income requirements or to
use the projected utility savings as a compen-
sating factor;

“(C) information including eligibility infor-
mation about, and contact information for, any
conservation or renewable energy programs,
grants, or loans offered by the Secretary of
Housing and Urban Development, including the
Energy Efficient Mortgage Program;

“(D) information including eligibility infor-
mation about, and contact information for, any
conservation or renewable energy programs,
grants, or loans offered for qualified military
personal, reservists, and veterans by the Sec-
retary of Veterans Affairs;

“(E) information about, and contact infor-
mation for, the Office of Efficiency and Renew-
able Energy at the Department of Energy, in-
cluding the weatherization assistance program;

“(F) information from, and contact infor-
mation for, the Federal Citizen Information
Center of the General Services Administration
on energy efficient mortgages and loans, home
energy rating systems, and the availability of
energy efficient mortgage information from a variety of Federal agencies; and

“(G) such other information as the Board or the insured credit union may determine to be appropriate or useful.”.

SEC. 625. PUBLIC HOUSING ENERGY COST REPORT.

(a) COLLECTION OF INFORMATION BY HUD.—The Secretary of Housing and Urban Development shall obtain from each public housing agency, by such time as may be necessary to comply with the reporting requirement under subsection (b), information regarding the energy costs for public housing administered or operated by the agency. For each public housing agency, such information shall include the monthly energy costs associated with each separate building and development of the agency, for the most recently completed 12-month period for which such information is available, and such other information as the Secretary determines is appropriate in determining which public housing buildings and developments are most in need of repairs and improvements to reduce energy needs and costs and become more energy efficient.

(b) REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Develop-
ment shall submit a report to the Congress setting forth
the information collected pursuant to subsection (a).

TITLE VII—MISCELLANEOUS
PROVISIONS

SEC. 701. ALTERNATIVE FUEL PUMPS.
(a) REQUIREMENT.—Not later than January 1, 2018, each retail automotive fueling station owned by a major integrated oil company shall have at least 1 alternative fuel pump (and necessary infrastructure and storage facilities) available to dispense for automotive purposes a fuel referred to in subparagraph (A), (B), (C), or (D) of subsection (c)(2).

(b) PENALTY.—A major integrated oil company that has failed to comply with subsection (a) as of January 1 of any calendar year beginning with 2018 shall be liable for a civil penalty in the amount of $100,000 for each automotive fueling station owned by such company that is not in compliance. Any such penalty may be assessed and collected by the Secretary of Energy by order. The Secretary may bring an action in the appropriate United States District court to require the payment of civil penalties imposed under this subsection, and such court shall have jurisdiction to enforce any order of the Secretary under this subsection.

(c) DEFINITIONS.—For purposes of this section:
(1) The term “major integrated oil company” has the meaning given that term in section 167(h)(5)(B) of the Internal Revenue Code of 1986.

(2) The term “alternative fuel pump” means a fuel pump that dispenses as a fuel for automotive purposes—

(A) natural gas;

(B) any fuel at least 85 percent of the volume of which consists of ethanol;

(C) any mixture of biodiesel and diesel or renewable diesel (as defined in regulations under section 211(o) of the Clean Air Act), determined without regard to any use of kerosene and containing at least 20 percent biodiesel or renewable diesel; or

(D) hydrogen.

(d) Regulations.—The Secretary of Energy shall promulgate such regulations as may be necessary to carry out this section.

SEC. 702. NATIONAL ENERGY CENTER OF EXCELLENCE.

(a) Establishment.—The Secretary of Energy shall award a grant on a competitive basis to one consortium of institutions of higher education (as such term is defined in section 102 of the Higher Education Act of 1965) for the establishment of a National Energy Center
of Excellence to conduct research and education activities in geological and geothermal sciences, renewable energy and energy efficiency (including energy technology using clean coal, solar, wind, oil, natural gas, hydroelectric, biofuels, ethanol, and other energy alternatives), and energy conservation, including a special emphasis on environmentally safe energy.

(b) CONSORTIUM.—The consortium shall include at least two institutions of higher education, one of which must be eligible to receive assistance under part A or B of title III or title V of the Higher Education Act of 1965.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2009 through 2013.

SEC. 703. SENSE OF CONGRESS REGARDING RENEWABLE BIOMASS.

It is the sense of Congress that—

(1) in order to fulfill the commitment of the United States to energy security and independence, the current definition of renewable biomass in the Renewable Fuel Standard (RFS) could be improved;

(2) in order to meet the United States’ energy challenges in an environmentally responsible way, the RFS should be as inclusive as possible to better
reflect the realities of our Nation’s resources, to en-
courage investment, and to help us meet the con-
gressional mandate for advanced biofuels;

(3) Congress recognizes that renewable fuels
are important to our climate and energy security
strategy, as well as the rural communities they sup-
port; and

(4) cellulosic biofuels can and should be pro-
duced from a highly diverse array of feedstocks, al-
lowing every region of the country to be a potential
producer of this fuel.

TITLE VIII—ENERGY TAX
INCENTIVES

SEC. 800. SHORT TITLE, ETC.

(a) Short Title.—This title may be cited as the
“Energy Tax Incentives Act of 2008”.

(b) Reference.—Except as otherwise expressly pro-
vided, whenever in this title an amendment or repeal is
expressed in terms of an amendment to, or repeal of, a
section or other provision, the reference shall be consid-
ered to be made to a section or other provision of the In-
Subtitle A—Energy Production Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

SEC. 801. RENEWABLE ENERGY CREDIT.

(a) Extension of Credit.—

(1) 1-Year Extension for Wind Facilities.—Paragraph (1) of section 45(d) is amended by striking “January 1, 2009” and inserting “January 1, 2010”.

(2) 3-Year Extension for Certain Other Facilities.—Each of the following provisions of section 45(d) is amended by striking “January 1, 2009” and inserting “January 1, 2012”:

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

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

(C) Paragraph (4).

(D) Paragraph (5).

(E) Paragraph (6).

(F) Paragraph (7).

(G) Subparagraphs (A) and (B) of paragraph (9).

(b) Modification of Credit Phaseout.—
1 (1) **REPEAL OF PHASEOUT.**—Subsection (b) of section 45 is amended—

(A) by striking paragraph (1), and

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

(2) **LIMITATION BASED ON INVESTMENT IN FACILITY.**—Subsection (b) of section 45 is amended by inserting before paragraph (2) the following new paragraph:

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

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

“(i) the applicable percentage with respect to such facility, multiplied by

“(ii) the eligible basis of such facility.

“(B) **CARRYFORWARD OF UNUSED LIMITATION AND EXCESS CREDIT.**—

“(i) **UNUSED LIMITATION.**—If the limitation imposed under subparagraph (A)
with respect to any facility for any taxable year exceeds the prelimitation credit for such facility for such taxable year, the limitation imposed under subparagraph (A) with respect to such facility for the succeeding taxable year shall be increased by the amount of such excess.

“(ii) Excess Credit.—If the prelimitation credit with respect to any facility for any taxable year exceeds the limitation imposed under subparagraph (A) with respect to such facility for such taxable year, the credit determined under subsection (a) with respect to such facility for the succeeding taxable year (determined before the application of subparagraph (A) for such succeeding taxable year) shall be increased by the amount of such excess. With respect to any facility, no amount may be carried forward under this clause to any taxable year beginning after the 10-year period described in subsection (a)(2)(A)(ii) with respect to such facility.

“(iii) Prelimitation Credit.—The term ‘prelimitation credit’ with respect to
any facility for a taxable year means the
credit determined under subsection (a)
with respect to such facility for such tax-
able year, determined without regard to
 subparagraph (A) and after taking into ac-
count any increase for such taxable year
under clause (ii).

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

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

“(ii) METHOD OF PRESCRIBING AP-
plicable percentage.—The applicable
percentage prescribed by the Secretary for
any month under clause (i) shall be the
percentage which yields over a 10-year pe-
riod amounts of limitation under subpara-
graph (A) which have a present value
equal to 35 percent of the eligible basis of
the facility.
“(iii) Method of Discounting.—
The present value under clause (ii) shall be
determined—

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

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

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

“(D) Eligible Basis.—For purposes of
this paragraph—

“(i) In General.—The term ‘eligible
basis’ means, with respect to any facility,
the sum of—

“(I) the basis of such facility de-
termined as of the time that such fa-
cility is originally placed in service,
“(II) the portion of the basis of any shared qualified property which is properly allocable to such facility under clause (ii).

“(ii) Rules for allocation.—For purposes of subclause (II) of clause (i), the basis of shared qualified property shall be allocated among all qualified facilities which are projected to be placed in service and which require utilization of such property in proportion to projected generation from such facilities.

“(iii) Shared qualified property.—For purposes of this paragraph, the term ‘shared qualified property’ means, with respect to any facility, any property described in section 168(e)(3)(B)(vi)—

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

“(II) which is not a qualified facility.

“(iv) Special rule relating to geothermal facilities.—In the case of any qualified facility using geothermal en-
ergy to produce electricity, the basis of such facility for purposes of this paragraph shall be determined as though intangible drilling and development costs described in section 263(c) were capitalized rather than expensed.

“(E) Special rule for first and last year of credit period.—In the case of any taxable year any portion of which is not within the 10-year period described in subsection (a)(2)(A)(ii) with respect to any facility, the amount of the limitation under subparagraph (A) with respect to such facility shall be reduced by an amount which bears the same ratio to the amount of such limitation (determined without regard to this subparagraph) as such portion of the taxable year which is not within such period bears to the entire taxable year.

“(F) Election to treat all facilities placed in service in a year as 1 facility.—At the election of the taxpayer, all qualified facilities which are part of the same project and which are originally placed in service during the same calendar year shall be treated for purposes of this section as 1 facility which is
originally placed in service at the mid-point of such year or the first day of the following calendar year.”.

(e) Trash Facility Clarification.—Paragraph (7) of section 45(d) is amended—

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

(2) by striking “combustion”.

(d) Expansion of Biomass Facilities.—

(1) Open-loop biomass facilities.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) Expansion of facility.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.”.

(2) Closed-loop biomass facilities.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and
inserting after subparagraph (A) the following new subparagraph:

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

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

“(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

“(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

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

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

The Secretary, in consultation with the Federal
Energy Regulatory Commission, shall certify if
a hydroelectric project licensed at a nonhydro-
electric dam meets the criteria in clause (iii).
Nothing in this section shall affect the stand-
ards under which the Federal Energy Regu-
latory Commission issues licenses for and regu-
lates hydropower projects under part I of the
Federal Power Act.”.

(f) Effective Date.—

(1) In general.—Except as otherwise pro-
vided in this subsection, the amendments made by
this section shall apply to property originally placed in service after December 31, 2008.

(2) **Repeal of credit phaseout.**—The amendments made by subsection (b)(1) shall apply to taxable years ending after December 31, 2008.

(3) **Limitation based on investment in facility.**—The amendment made by subsection (b)(2) shall apply to property originally placed in service after December 31, 2009.

(4) **Trash facility clarification.**—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act.

(5) **Expansion of biomass facilities.**—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 802. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.**

(a) **In General.**—Paragraph (1) of section 45(c) is amended by striking “and” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, and”, and by adding at the end the following new subparagraph:
“(I) marine and hydrokinetic renewable energy.”

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

“(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

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

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

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

“(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize non-mechanical structures to accelerate the flow of water for electric power production purposes, or

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

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

(c) Definition of Facility.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

“(11) Marine and Hydrokinetic Renewable Energy Facilities.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term ‘qualified facility’ means any facility owned by the taxpayer—

“(A) which has a nameplate capacity rating of at least 150 kilowatts, and

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

(d) Credit Rate.—Subparagraph (A) of section 45(b)(4) is amended by striking “or (9)” and inserting “(9), or (11)”.

(e) Coordination With Small Irrigation Power.—Paragraph (5) of section 45(d), as amended by section 801, is amended by striking “January 1, 2012” and inserting “the date of the enactment of paragraph (11)”.

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

SEC. 803. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking “January 1, 2009” and inserting “January 1, 2017”.

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

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking “December 31, 2008” and inserting “December 31, 2016”.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended by striking “and” at the end of clause (iii), by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

“(v) the credit determined under section 46 to the extent that such credit is at-
tributable to the energy credit determined under section 48, and”.

(c) **Energy Credit for Combined Heat and Power System Property.**—

(1) **In General.**—Section 48(a)(3)(A) (defining energy property) is amended by striking “or” at the end of clause (iii), by inserting “or” at the end of clause (iv), and by adding at the end the following new clause:

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

(2) **Combined Heat and Power System Property.**—Section 48 is amended by adding at the end the following new subsection:

“(d) **Combined Heat and Power System Property.**—For purposes of subsection (a)(3)(A)(v)—

“(1) **Combined Heat and Power System Property.**—The term ‘combined heat and power system property’ means property comprising a system—

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

“(B) which produces—

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

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

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

“(D) which is placed in service before Jan-
uary 1, 2017.

“(2) LIMITATION.—

“(A) IN GENERAL.—In the case of com-
bined heat and power system property with an
electrical capacity in excess of the applicable ca-
pacity placed in service during the taxable year,
the credit under subsection (a)(1) (determined
without regard to this paragraph) for such year
shall be equal to the amount which bears the
same ratio to such credit as the applicable ca-
pacity bears to the capacity of such property.
“(B) APPLICABLE CAPACITY.—For purposes of subparagraph (A), the term ‘applicable capacity’ means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

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

“(3) SPECIAL RULES.—

“(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

“(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and
“(ii) the denominator of which is the lower heating value of the fuel sources for the system.

“(B) Determinations made on Btu basis.—The energy efficiency percentage and the percentages under paragraph (1)(B) shall be determined on a Btu basis.

“(C) Input and output property not included.—The term ‘combined heat and power system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(4) Systems using biomass.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(e) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

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

“(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the
energy efficiency percentage of such system bears to 60 percent.”.

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

(e) **PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.**—

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

(2) **CONFORMING AMENDMENTS.**—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.
(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

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

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).
SEC. 804. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) Extension.—Section 25D(g) is amended by striking “December 31, 2008” and inserting “December 31, 2016”.

(b) Maximum Credit for Solar Electric Property.—

(1) In general.—Section 25D(b)(1)(A) is amended by striking “$2,000” and inserting “$4,000”.

(2) Conforming amendment.—Section 25D(e)(4)(A)(i) is amended by striking “$6,667” and inserting “$13,333”.

(c) Credit for Residential Wind Property.—

(1) In general.—Section 25D(a) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, and”, and by adding at the end the following new paragraph:

“(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.”.

(2) Limitation.—Section 25D(b)(1) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subpara-
graph (C) and inserting ‘‘, and’’, and by adding at
the end the following new subparagraph:

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

(3) QUALIFIED SMALL WIND ENERGY PRO-
PERTY EXPENDITURES.—

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

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

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

(4) Maximum expenditures in case of joint occupancy.—Section 25D(e)(4)(A) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

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

(d) Credit for Geothermal Heat Pump Systems.—

(1) In general.—Section 25D(a), as amended by subsection (e), is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting “, and”, and by adding at the end the following new paragraph:

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

(2) Limitation.—Section 25D(b)(1), as amended by subsection (e), is amended by striking
“and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:

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

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

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

“(A) IN GENERAL.—The term ‘qualified geothermal heat pump property expenditure’ means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

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

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

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

(4) Maximum expenditures in case of joint occupancy.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following new clause:

“(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.”.

(e) Credit allowed against alternative minimum tax.—

(1) In general.—Subsection (e) of section 25D is amended to read as follows:

“(e) Limitation based on amount of tax;

Carryforward of unused credit.—

“(1) Limitation based on amount of tax.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under
subsection (a) for the taxable year shall not exceed
the excess of—

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

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

“(2) CARRYFORWARD OF UNUSED CREDIT.—

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

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

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting “and section 25D” after “this section”.

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

(C) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25D”.

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

(f) EFFECTIVE DATE.—

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

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

SEC. 805. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

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

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

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

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

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“(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).”.

(b) Extension of Period for Transfer of Operational Control Authorized by FERC.—

Clause (ii) of section 451(i)(4)(B) is amended by striking “December 31, 2007” and inserting “the date which is 4 years after the close of the taxable year in which the transaction occurs”.

(c) Property Located Outside the United States Not Treated as Exempt Utility Property.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

“(C) Exception for property located outside the United States.—The term ‘exempt utility property’ shall not include any property which is located outside the United States.”.

(d) Effective Dates.—

(1) Extension.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) Transfers of Operational Control.—The amendment made by subsection (b) shall take
effect as if included in section 909 of the American

(3) Exception for property located outside the United States.—The amendment made
by subsection (c) shall apply to transactions after
the date of the enactment of this Act.

SEC. 806. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) In General.—Subpart I of part IV of sub-
chapter A of chapter 1 is amended by adding at the end
the following new section:

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

“(a) New Clean Renewable Energy Bond.—For
purposes of this subpart, the term ‘new clean renewable
energy bond’ means any bond issued as part of an issue
if—

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

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

and

“(3) the issuer designates such bond for pur-
poses of this section.
“(b) REDUCED CREDIT AMOUNT.—The annual credit
determined under section 54A(b) with respect to any new
clean renewable energy bond shall be 70 percent of the
amount so determined without regard to this subsection.

“(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

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

“(2) NATIONAL LIMITATION ON AMOUNT OF
BONDS DESIGNATED.—There is a national new clean
renewable energy bond limitation of $1,750,000,000
which shall be allocated by the Secretary as provided
in paragraph (3), except that—

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

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

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

“(A) Allocation among public power providers.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

“(B) Allocation among governmental bodies and cooperative electric companies.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

“(d) Definitions.—For purposes of this section—

“(1) Qualified renewable energy facility.—The term ‘qualified renewable energy facility’
means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

“(2) Public power provider.—The term ‘public power provider’ means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

“(3) Governmental body.—The term ‘governmental body’ means any State or Indian tribal government, or any political subdivision thereof.

“(4) Cooperative electric company.—The term ‘cooperative electric company’ means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

“(5) Clean renewable energy bond lender.—The term ‘clean renewable energy bond lender’ means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.
“(6) QUALIFIED ISSUER.—The term ‘qualified issuer’ means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.”.

(b) CONFORMING AMENDMENTS.—

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

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

“(A) a qualified forestry conservation bond, or

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

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

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

“(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and
“(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).”.

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

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

(c) Application of Certain Labor Standards on Projects Financed Under Tax Credit Bonds.—Subchapter IV of chapter 31 of title 40, United States Code, shall apply to projects financed with the proceeds of any tax credit bond (as defined in section 54A of the Internal Revenue Code of 1986) other than qualified forestry conservation bonds (as defined in section 54B of such Code).

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART 2—CARBON MITIGATION PROVISIONS

SEC. 811. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) Modification of Credit Amount.—Section 48A(a) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

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

(b) Expansion of Aggregate Credits.—Section 48A(d)(3)(A) is amended by striking “$1,300,000,000” and inserting “$2,250,000,000”.

(c) Authorization of Additional Projects.—

(1) In General.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

“(B) Particular projects.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

“(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

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

“(iii) $950,000,000 for advanced coal-based generation technology projects the application for which is submitted during
the period described in paragraph (2)(A)(ii).”.

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

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

“(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

“(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.”.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—
(A) IN GENERAL.—Section 48A(e)(1) is amended by striking “and” at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting “; and”, and by adding at the end the following new subparagraph:

“(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project’s total carbon dioxide emissions.”.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking “and” at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.”.
(C) **Recapture of credit for failure to sequester.**—Section 48A is amended by adding at the end the following new subsection:

“(i) **Recapture of Credit for Failure To Sequester.**—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).”.

(4) **Additional priority for research partnerships.**—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

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

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

“(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and”.

(5) **Clerical amendment.**—Section 48A(e)(3) is amended by striking “INTEGRATED GASIFICATION
COMBINED CYCLE” in the heading and inserting “CERTAIN”.

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

“(5) Disclosure of allocations.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.”.

(e) EFFECTIVE DATES.—

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

(2) Disclosure of allocations.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

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

SEC. 812. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

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

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

“(A) $350,000,000, plus

“(B) $150,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project’s total carbon dioxide emissions.”.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

“(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or main-
tain the separation and sequestration requirements for such project under subsection (d)(1).”.

(d) Selection Priorities.—Section 48B(d) is amended by adding at the end the following new paragraph:

“(4) Selection Priorities.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

“(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

“(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).”.

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

SEC. 813. TEMPORARY INCREASE IN COAL EXCISE TAX.

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

(1) by striking “January 1, 2014” in subparagraph (A) and inserting “December 31, 2018”, and
(2) by striking “January 1 after 1981” in sub-
paragraph (B) and inserting “December 31 after
2007”.

SEC. 814. SPECIAL RULES FOR REFUND OF THE COAL EX-
CISE TAX TO CERTAIN COAL PRODUCERS
AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

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

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

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

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

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) Special rules for certain taxpayers.—For purposes of this section—

(i) In general.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).
(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

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

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—
(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

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

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

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

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term “settlement with the Federal Government” shall not include any settle-
ment or stipulation entered into as of the date of the en-
actment of this Act, the terms of which contemplate a
judgment concerning which any party has reserved the
right to file an appeal, or has filed an appeal.

(c) Subsequent Refund Prohibited.—No refund
shall be made under this section to the extent that a credit
or refund of such tax on such exported or shipped coal
has been paid to any person.

(d) Definitions.—For purposes of this section—

(1) Coal producer.—The term “coal pro-
ducer” means the person in whom is vested owner-
ship of the coal immediately after the coal is severed
from the ground, without regard to the existence of
any contractual arrangement for the sale or other
disposition of the coal or the payment of any royal-
ties between the producer and third parties. The
term includes any person who extracts coal from
coal waste refuse piles or from the silt waste product
which results from the wet washing (or similar proc-
essing) of coal.

(2) Exporter.—The term “exporter” means a
person, other than a coal producer, who does not
have a contract, fee arrangement, or any other
agreement with a producer or seller of such coal to
export or ship such coal to a third party on behalf
of the producer or seller of such coal and—

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

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

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

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

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

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

(4) SECRETARY.—The term “Secretary” means
the Secretary of Treasury or the Secretary’s des-
ignee.
(e) Timing of Refund.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) Interest.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) Denial of Double Benefit.—The payment under subsection (a) with respect to any coal shall not exceed—

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

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.
(h) Application of Section.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) Standing Not Conferred.—

(1) Exporters.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

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

SEC. 815. CARBON AUDIT OF THE TAX CODE.

(a) Study.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on car-
bon and other greenhouse gas emissions and to estimate
the magnitude of those effects.

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

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

Subtitle B—Transportation and

SEC. 821. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS
DEPRECIATION FOR BIOMASS ETHANOL
PLANT PROPERTY.

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

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

(b) CONFORMING AMENDMENTS.—Subsection (l) of
section 168 is amended—
(1) by striking “cellulosic biomass ethanol” each place it appears and inserting “cellulosic biofuel”,

(2) by striking “CELLULOSIC BIOMASS ETHANOL” in the heading of such subsection and inserting “CELLULOSIC BIOFUEL”, and

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

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

SEC. 822. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

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

(b) INCREASE IN RATE OF CREDIT.—

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

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:
“(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.”.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

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

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

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

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

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

(1) by striking “diesel fuel” and inserting “liquid fuel”,

(2) by striking “using a thermal depolymerization process”, and
(3) by striking “or D396” in subparagraph (B) and inserting “, D396, or other equivalent standard approved by the Secretary”.

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

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following flush sentence:

“Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term ‘biomass’ has the meaning given such term by section 45K(c)(3).”.

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

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

“(4) CERTAIN AVIATION FUEL.—

“(A) IN GENERAL.—Except as provided in the last three sentences of paragraph (3), the term ‘renewable diesel’ shall include fuel derived from biomass which meets the requirements of...
a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.

“(B) Application of mixture credits.—In the case of fuel which is treated as renewable diesel solely by reason of subparagraph (A), subsection (b)(1) and section 6426(c) shall be applied with respect to such fuel by treating kerosene as though it were diesel fuel.”.

(f) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) Coproduction of renewable diesel with petroleum feedstock.—The amendments made by subsection (c) shall apply to fuel produced, and sold or used, after February 13, 2008.

SEC. 823. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) Alcohol Fuels Credit.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:
“(7) Limitation to Alcohol with Connection to the United States.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term ‘United States’ includes any possession of the United States.”.

(b) Biodiesel Fuels Credit.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

“(5) Limitation to Biodiesel with Connection to the United States.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term ‘United States’ includes any possession of the United States.”.

(c) Excise Tax Credit.—

(1) In general.—Section 6426 is amended by adding at the end the following new subsection:

“(i) Limitation to Fuels with Connection to the United States.—

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

“(2) BIODIESEL AND ALTERNATIVE FUELS.—
No credit shall be determined under this section
with respect to any biodiesel or alternative fuel
which is produced outside the United States for use
as a fuel outside the United States.

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

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

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

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to claims for credit or payment
made on or after May 15, 2008.
SEC. 824. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC

DRIVE MOTOR VEHICLES.

(a) In General.—Section 30 is amended to read as
follows:

"SEC. 30. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE

MOTOR VEHICLES.

"(a) Allowance of Credit.—There shall be al-

lowed as a credit against the tax imposed by this chapter

for the taxable year an amount equal to the sum of the

credit amounts determined under subsection (b) with re-

spect to each new qualified plug-in electric drive motor ve-

hicle placed in service by the taxpayer during the taxable

year.

"(b) Per Vehicle Dollar Limitation.—

"(1) In General.—The amount determined

under this subsection with respect to any new quali-

fied plug-in electric drive motor vehicle is the sum

of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

"(2) Base Amount.—The amount determined

under this paragraph is $3,000.

"(3) Battery Capacity.—In the case of a ve-

hicle which draws propulsion energy from a battery

with not less than 5 kilowatt hours of capacity, the

amount determined under this paragraph is $200,

plus $200 for each kilowatt hour of capacity in ex-
cess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

“(c) Application With Other Credits.—

“(1) Business credit treated as part of general business credit.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) Personal credit.—

“(A) In general.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

“(B) Limitation based on amount of tax.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—
“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over
“(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

“(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—
“(1) IN GENERAL.—The term ‘new qualified plug-in electric drive motor vehicle’ means a motor vehicle—
“(A) the original use of which commences with the taxpayer,
“(B) which is acquired for use or lease by the taxpayer and not for resale,
“(C) which is made by a manufacturer,
“(D) which has a gross vehicle weight rating of less than 14,000 pounds,
“(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection
Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and “(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

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

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

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

“(3) MOTOR VEHICLE.—The term ‘motor vehicle’ means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

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

“(5) Battery capacity.—The term ‘capacity’ means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

“(e) Limitation on Number of New Qualified Plug-In Electric Drive Motor Vehicles Eligible for Credit.—

“(1) In general.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

“(2) Phaseout period.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.
“(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

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

“(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

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

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

“(f) SPECIAL RULES.—

“(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (e)).

“(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

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

“(4) Election not to take credit.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

“(5) Property used by tax-exempt entity; interaction with air quality and motor vehicle safety standards.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.”.

(b) Coordination with alternative motor vehicle credit.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

“(D) Exclusion of plug-in vehicles.—Any vehicle with respect to which a credit is allowable under section 30 (determined without regard to subsection (c) thereof) shall not be taken into account under this section.”.

(e) Credit made part of general business credit.—Section 38(b) is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus”, and by adding at the end the following new paragraph:
“(34) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30(c)(1) applies.”.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 804, is amended by striking “and 25D” and inserting “25D, and 30”.

(B) Section 25(c)(1)(C)(ii) is amended by inserting “30,” after “25D,”.

(C) Section 25B(g)(2), as amended by section 804, is amended by striking “and 25D” and inserting “, 25D, and 30”.

(D) Section 26(a)(1), as amended by section 804, is amended by striking “and 25D” and inserting “25D, and 30”.

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

(2) Section 30B(h)(1) is amended by striking “section 30(c)(2)” and inserting “section 30(d)(3)”.

(3)(A) Section 53(d)(1)(B) is amended by striking clause (iii) and redesignating clause (iv) as clause (iii).

(B) Subclause (II) of section 53(d)(1)(B)(iii), as so redesignated, is amended by striking “increased in the manner provided in clause (iii)”.
(4) Section 55(c)(3) is amended by striking “30(b)(3),”.

(5) Section 1016(a)(25) is amended by striking “section 30(d)(1)” and inserting “section 30(f)(1)”.

(6) Section 6501(m) is amended by striking “section 30(d)(4)” and inserting “section 30(f)(4)”.

(7) The item in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

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

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

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

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

(2) CONFORMING AMENDMENTS.—

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

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

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

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

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

SEC. 825. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING
REDUCTION UNITS AND ADVANCED INSULATION.

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

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

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

“(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

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

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

SEC. 826. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

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

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

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

“(b) Qualifying Project Expenditure
Amount.—For purposes of this section—

“(1) In general.—The term ‘qualifying
project expenditure amount’ means, with respect to
any calendar year, the sum of—

“(A) the total expenditures paid or in-
curred during such calendar year by all New
York Liberty Zone governmental units and the
Port Authority of New York and New Jersey
for any portion of qualifying projects located
wholly within the City of New York, New York,
and

“(B) any such expenditures—

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

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

“(2) Qualifying Project.—The term ‘quali-
fying project’ means any transportation infrastruc-
ture project, including highways, mass transit sys-
tems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

“(3) GENERAL ALLOCATION.—

“(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

“(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

“(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—
“(i) $115,000,000 ($425,000,000 in the case of the last 2 years in the credit period), plus

“(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

“(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

“(i) the lesser of—

“(I) such excess, or

“(II) the qualifying project expenditure amount for such calendar year, reduced by
“(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

“(4) Allocation to Payroll Periods.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

“(c) Carryover of Unused Allocations.—

“(1) In General.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

“(2) Reallocation.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York
and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

“(d) Definitions and Special Rules.—For purposes of this section—

“(1) Credit Period.—The term ‘credit period’ means the 12-year period beginning on January 1, 2009.

“(2) New York Liberty Zone Governmental Unit.—The term ‘New York Liberty Zone governmental unit’ means—

“(A) the State of New York,

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

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

“(3) Treatment of Funds.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

“(4) Treatment of Credit Amounts for Purposes of Withholding Taxes.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary,
on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

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

“(1) which certifies—

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

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

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

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

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical therein and inserting “(in the case of non-residential real property and residential rental property,
the date of the enactment of the Energy Tax Incentives Act of 2008 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009’’.

(c) CONFORMING AMENDMENTS.—

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

(2) Section 168(k)(2)(D)(ii) is amended by striking “section 1400L(c)(2)” and inserting “section 1400K(c)(2)”.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

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

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

SEC. 827. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

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

“(D) Any qualified bicycle commuting reimbursement.”.
(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.”.

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

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

“(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term ‘qualified bicycle commuting reimbursement’ means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee’s residence and place of employment.
“(ii) Applicable Annual Limitation.—The term ‘applicable annual limitation’ means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

“(iii) Qualified Bicycle Commuting Month.—The term ‘qualified bicycle commuting month’ means, with respect to any employee, any month during which such employee—

“(I) regularly uses the bicycle for a substantial portion of the travel between the employee’s residence and place of employment, and

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

(d) Constructive Receipt of Benefit.—Paragraph (4) of section 132(f) is amended by inserting “(other than a qualified bicycle commuting reimbursement)” after “qualified transportation fringe”.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.
SEC. 828. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

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

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

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

(3) by striking “$1,000” in subsection (b)(2) and inserting “$2,000”.

(b) EXTENSION OF CREDIT.—Subsection (g) of section 30C is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3) and inserting before paragraph (2) (as so redesignated) the following new paragraph:

“(1) in the case of property relating to natural gas, compressed natural gas, or liquified natural gas, and which is not of a character subject to an allowance for depreciation, December 31, 2017,”, and

(2) by striking “December 31, 2009” in paragraph (3) (as so redesignated) and inserting “December 31, 2010”.

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

SEC. 829. ENERGY SECURITY BONDS.

(a) In General.—Subpart I of part IV of sub-
chapter A of chapter 1, as amended by sections 806 and
841, is amended by adding at the end the following new
section:

“SEC. 54E. ENERGY SECURITY BONDS.

“(a) Energy Security Bond.—For purposes of
this subchapter, the term ‘energy security bond’ means
any bond issued as part of an issue if—

“(1) 100 percent of the available project pro-
ceeds of such issue are to be used for qualified pur-
poses,

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

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

“(4) repayments of principal and applicable in-
terest on financing provided by the issue are used
not later than the close of the 3-month period begin-
ning on the date the repayment (or complete repay-
ment) is received—

“(A) to redeem bonds which are part of
the issue, or

“(B) for any qualified purpose.
For purposes of paragraph (4), the term ‘applicable interest’ means so much of the interest on any loan as exceeds the amount payable at a 1 percent rate.

“(b) QUALIFIED PURPOSE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified purpose’ means the making of grants and low-interest loans for the purpose of placing in service natural gas refueling property at retail motor fuel stations located in the United States.

“(2) LIMITATION ON LOANS.—Such term shall not include—

“(A) any loan of more than $200,000 for property located at any one retail motor fuel station, and

“(B) any loan for more than 50 percent of the cost of such property and its installation.

“(3) NATURAL GAS REFUELING PROPERTY.—
The term ‘natural gas refueling property’ means qualified clean-fuel refueling property (as defined in section 179A(d)) which is described in section 179A(d)(3) with respect to natural gas fuel.

“(4) LOW-INTEREST LOAN.—The term ‘low-interest loan’ means any loan the rate of interest on which does not exceed the applicable Federal rate in
effect under section 1288(b)(1) determined as of the issuance of the loan.

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

“(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national energy security bond limitation of $1,750,000,000.

“(e) ALLOCATION.—

“(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national energy security bond limitation under subsection (d) among qualified issuers in such manner as the Secretary determines appropriate.

“(2) RESERVATION FOR PROPERTY IN METROPOLITAN AREA.—50 percent of the national energy security bond limitation under subsection (d) may be allocated only for loans to provide natural gas refueling property located in metropolitan statistical areas (within the meaning of section 143(k)(2)(B)).

“(3) PERCENTAGE OF STATIONS RECEIVING LOANS.—In making allocations under paragraph (1), the Secretary shall attempt to ensure that at least
10 percent of the retail motor fuel stations in the
United States received loans from the proceeds of
energy security bonds.

“(f) QUALIFIED ISSUER.—For purposes of this sec-
tion, the term ‘qualified issuer’ means any State or any
political subdivision or instrumentality thereof.

“(g) TERMINATION.—This section shall not apply
with respect to any bond issued after December 31,
2017.”.

(b) COORDINATION WITH REFUELING PROPERTY
CREDIT.—Subsection (e) of section 30C of such Code is
amended by adding at the end the following new para-
graph:

“(6) COORDINATION WITH ENERGY SECURITY
BONDS.—The cost otherwise taken into account
under this section with respect to any property shall
be reduced by the portion of such cost which is fi-
nanced by any loan provided from the proceeds of
any energy security bond (as defined in section
54E).”.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amend-
ed by sections 806 and 841, is amended by striking
“or” at the end of subparagraph (B), by adding
“or” at the end of subparagraph (C), and by insert-
ing after subparagraph (C) the following new sub-
paragraph:

“(D) an energy security bond,”.

(2) Subparagraph (C) of section 54A(d)(2), as
amended by sections 806 and 841, is amended by
striking “and” at the end of clause (ii), by striking
the period at the end of clause (iii) and inserting
“and”, and by adding at the end the following new
clause:

“(iv) in the case of an energy security
bond, a purpose specified in section
54E(b).”.

(3) The table of sections for subpart I of part
IV of subchapter A of chapter 1, as amended by sec-
tions 806 and 841, is amended by adding at the end
the following new item:

“Sec. 54E. Energy security bonds.”.

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to obligations issued after Decem-
ber 31, 2008.
SEC. 830. CERTAIN INCOME AND GAINS RELATING TO ALCOHOL FUELS AND MIXTURES, BIODIESEL FUELS AND MIXTURES, AND ALTERNATIVE FUELS AND MIXTURES TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.

(a) In General.—Subparagraph (E) of section 7704(d)(1) is amended by inserting “, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)” after “timber)”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.


SEC. 841. QUALIFIED ENERGY CONSERVATION BONDS.

(a) In General.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 806, is amended by adding at the end the following new section:

“SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

“(a) Qualified Energy Conservation Bond.—For purposes of this subchapter, the term ‘qualified energy conservation bond’ means any bond issued as part of an issue if—

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“(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

“(2) the bond is issued by a State or local government, and

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

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

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

“(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $2,625,000,000.

“(e) ALLOCATIONS.—

“(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.
“(2) Allocations to largest local governments.—

“(A) In general.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State’s allocation which bears the same ratio to the State’s allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

“(B) Allocation of unused limitation to state.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

“(C) Large local government.—For purposes of this section, the term ‘large local government’ means any municipality or county if such municipality or county has a population of 100,000 or more.

“(3) Allocation to issuers; restriction on private activity bonds.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large
local government to issuers within the State in a
manner that results in not less than 70 percent of
the allocation to such State or large local govern-
ment being used to designate bonds which are not
private activity bonds.

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

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

“(A) Capital expenditures incurred for

purposes of—

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

“(ii) implementing green community

programs,

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

“(iv) any qualified facility (as deter-
mined under section 45(d) without regard
to paragraphs (8) and (10) thereof and
without regard to any placed in service
date).
“(B) Expenditures with respect to research facilities, and research grants, to support research in—

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

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

“(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

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

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

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

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

“(i) green building technology,
“(ii) conversion of agricultural waste for use in the production of fuel or otherwise,
“(iii) advanced battery manufacturing technologies,
“(iv) technologies to reduce peak use of electricity, or
“(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.
“(E) Public education campaigns to promote energy efficiency.

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

“(g) POPULATION.—
“(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.
“(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

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

“(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

“(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by section 806, is amended by striking “or” at
the end of subparagraph (A), by adding “or” at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

“(C) a qualified energy conservation bond,”.

(2) Subparagraph (C) of section 54A(d)(2), as amended by section 806, is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “and”, and by adding at the end the following new clause:

“(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).”.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by section 806, is amended by adding at the end the following new item:

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

(c) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 842. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) Extension of Credit.—Section 25C(g) is amended by striking “December 31, 2007” and inserting “December 31, 2008”.

(b) Qualified Biomass Fuel Property.—
(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking “and” at the end of subparagraph (D),

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

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

“(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.”.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

“(6) BIOMASS FUEL.—The term ‘biomass fuel’ means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.”.

(c) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—
(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsection (b), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

“(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

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

“(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.”.
(d) EFFECTIVE DATE.—The amendments made this
section shall apply to expenditures made after December

SEC. 843. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-
DUCTION.

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

SEC. 844. MODIFICATIONS OF ENERGY EFFICIENT APPLI-
ANCE CREDIT FOR APPLIANCES PRODUCED
AFTER 2007.

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

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

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

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

“(B) $75 in the case of a dishwasher
which is manufactured in calendar year 2008,
2009, or 2010 and which uses no more than
307 kilowatt hours per year and 5.0 gallons per
cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

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

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

“(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

“(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

“(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.
“(3) Refrigerators.—The applicable amount is—

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

“(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

“(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

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

(b) Eligible Production.—
(1) **Similar Treatment for All Appliances.**—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

(B) by striking “(1) In General” and all that follows through “the eligible” and inserting “The eligible”,

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

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

(2) **Modification of Base Period.**—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking “3-calendar year” and inserting “2-calendar year”.

(c) **Types of Energy Efficient Appliances.**—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

“(d) Types of Energy Efficient Appliance.**—

For purposes of this section, the types of energy efficient appliances are—

“(1) dishwashers described in subsection (b)(1),
“(2) clothes washers described in subsection (b)(2), and
“(3) refrigerators described in subsection (b)(3).”.
(d) AGGREGATE CREDIT AMOUNT ALLOWED.—
(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:
“(1) AGGREGATE CREDIT AMOUNT ALLOWED.—
The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.”.
(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:
“(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).”.
(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—
IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) any dishwasher described in subsection (b)(1),

“(B) any clothes washer described in subsection (b)(2), and

“(C) any refrigerator described in subsection (b)(3).”.

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

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

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

(4) Replacement of Energy Factor.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

“(6) Modified Energy Factor.—The term ‘modified energy factor’ means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.”.

(5) Gallons per Cycle; Water Consumption Factor.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

“(9) Gallons per Cycle.—The term ‘gallons per cycle’ means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

“(10) Water Consumption Factor.—The term ‘water consumption factor’ means, with respect to a clothes washer, the quotient of the total weight-ed per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.”.
(f) **Effective Date.**—The amendments made by this section shall apply to appliances produced after December 31, 2007.

**SEC. 845. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.**

(a) **In General.**—Section 168(e)(3)(D) is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by inserting after clause (ii) the following new clauses:

“(iii) any qualified smart electric meter, and

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

(b) **Definitions.**—Section 168(i) is amended by inserting at the end the following new paragraph:

“(18) **Qualified smart electric meters.**—

“(A) **In General.**—The term ‘qualified smart electric meter’ means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

“(B) **Smart electric meter.**—For purposes of subparagraph (A), the term ‘smart electric meter’ means any time-based meter and
related communication equipment which is capable of being used by the taxpayer as part of a system that—

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

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

“(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

“(iv) provides net metering.

“(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

“(A) IN GENERAL.—The term ‘qualified smart electric grid system’ means any smart grid property used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a
taxpayer who is a supplier of electric energy or
a provider of electric energy services.

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

“(i) sensing, collecting, and monitoring data of or from all portions of a utility’s electric distribution grid,

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

“(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.”.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking “or” at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

“(C) any property (other than property described in paragraph (3)) which is a qualified
smart electric meter or qualified smart electric
grid system, or’’.
(d) **Effective Date.**—The amendments made by
this section shall apply to property placed in service after
the date of the enactment of this Act.

**SEC. 846. QUALIFIED GREEN BUILDING AND SUSTAINABLE**
**DESIGN PROJECTS.**

(a) **In General.**—Paragraph (8) of section 142(l)
is amended by striking ‘‘September 30, 2009’’ and insert-
ing ‘‘September 30, 2012’’.
(b) **Treatment of Current Refunding**
**Bonds.**—Paragraph (9) of section 142(l) is amended by
striking ‘‘October 1, 2009’’ and inserting ‘‘October 1,
2012’’.
(c) **Accountability.**—The second sentence of sec-
tion 701(d) of the American Jobs Creation Act of 2004
is amended by striking ‘‘issuance,’’ and inserting
‘‘issuance of the last issue with respect to such project,’’.

**Subtitle D—Revenue Provisions**

**SEC. 851. LIMITATION OF DEDUCTION FOR INCOME AT-
TRIBUTABLE TO DOMESTIC PRODUCTION OF**
**OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**
(a) **Denial of Deduction for Specified Oil**
**Companies for Income Attributable to Domestic**
**Production of Oil, Gas, or Primary Products**
THEREOF.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by inserting after clause (iii) the following new clause:

“(iv) in the case of any specified oil company (as defined in subsection (d)(9)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof.”.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN SPECIFIED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

“(A) IN GENERAL.—If a taxpayer (other than a specified oil company) has oil related qualified production activities income for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under sub-
section (a) shall be reduced by 3 percent of the least of—

“(i) the oil related qualified production activities income of the taxpayer for the taxable year,

“(ii) the qualified production activities income of the taxpayer for the taxable year, or

“(iii) taxable income (determined without regard to this section).

“(B) Oil related qualified production activities income.—For purposes of this section, the term ‘oil related qualified production activities income’ means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.

“(C) Specified oil company.—For purposes of this section, the term ‘specified oil company’ means—

“(i) any major integrated oil company (as defined in section 167(h)(5)(B)), and
“(ii) any entity in which a foreign government holds (directly or indirectly)—

“(I) any interest which (by value or voting interest) is 50 percent or more of the total of such interests in such entity, or

“(II) any other interest which provides the foreign government with effective control of such entity.

“(D) PRIMARY PRODUCT.—For purposes of this section, the term ‘primary product’ has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.”.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking “subsection (a)(1)(B)” and inserting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 852. CLARIFICATION OF DETERMINATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) IN GENERAL.—Paragraph (1) of section 907(c) is amended by redesignating subparagraph (B) as subparagraph (C), by striking “or” at the end of subpara-
graph (A), and by inserting after subparagraph (A) the following new subparagraph:

“(B) so much of any transportation of such minerals as occurs before the fair market value event, or”.

(b) Fair Market Value Event.—Subsection (c) of section 907 is amended by adding at the end the following new paragraph:

“(6) Fair market value event.—For purposes of this section, the term ‘fair market value event’ means, with respect to any mineral, the first point in time at which such mineral—

“(A) has a fair market value which can be determined on the basis of a transfer, which is an arm’s length transaction, of such mineral from the taxpayer to a person who is not related (within the meaning of section 482) to such taxpayer, or

“(B) is at a location at which the fair market value is readily ascertainable by reason of transactions among unrelated third parties with respect to the same mineral (taking into account source, location, quality, and chemical composition).”.
(c) Special Rule for Certain Petroleum Taxes.—Subsection (e) of section 907, as amended by subsection (b), is amended to by adding at the end the following new paragraph:

“(7) Oil and Gas Taxes.—In the case of any tax imposed by a foreign country which is limited in its application to taxpayers engaged in oil or gas activities—

“(A) the term ‘oil and gas extraction taxes’ shall include such tax,

“(B) the term ‘foreign oil and gas extraction income’ shall include any taxable income which is taken into account in determining such tax (or is directly attributable to the activity to which such tax relates), and

“(C) the term ‘foreign oil related income’ shall not include any taxable income which is treated as foreign oil and gas extraction income under subparagraph (B).”.

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 907(c)(1), as redesignated by this section, is amended by inserting “or used by the taxpayer in the activity described in subparagraph (B)” before the period at the end.
(2) Subparagraph (B) of section 907(c)(2) is amended to read as follows:

“(B) so much of the transportation of such minerals or primary products as is not taken into account under paragraph (1)(B),”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 853. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

In the case of a corporation—

(1) to which paragraph (1) of section 401 of the Tax Increase Prevention and Reconciliation Act of 2005 applies, and

(2) which had any significant income for the preceding taxable year referred to in such paragraph from extraction, production, processing, refining, transportation, distribution, or retail sale, of any fuel or electricity,

the percentage under subparagraph (C) of such paragraph (as in effect on the date of the enactment of this Act) is increased by 40 percentage points.