

110TH CONGRESS  
2D SESSION

# H. R. 7060

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## AN ACT

To amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

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

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

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

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

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

Sec. 1. Short title, etc.

TITLE I—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

Sec. 101. Renewable energy credit.

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

Sec. 103. Energy credit.

Sec. 104. Credit for residential energy efficient property.

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

PART 2—CARBON MITIGATION PROVISIONS

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

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

Sec. 113. Temporary increase in coal excise tax.

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

Sec. 115. Carbon audit of the tax code.

Subtitle B—Transportation and Domestic Fuel Security Provisions

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

Sec. 122. Credits for biodiesel and renewable diesel.

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

Sec. 124. Credit for new qualified plug-in electric drive motor vehicles.

- Sec. 125. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
- Sec. 126. Transportation fringe benefit to bicycle commuters.
- Sec. 127. Alternative fuel vehicle refueling property credit.
- Sec. 128. 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.

#### Subtitle C—Energy Conservation and Efficiency Provisions

- Sec. 131. Credit for nonbusiness energy property.
- Sec. 132. Energy efficient commercial buildings deduction.
- Sec. 133. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 134. Accelerated recovery period for depreciation of smart meters and smart grid systems.
- Sec. 135. Qualified green building and sustainable design projects.

### TITLE II—EXTENSION OF TEMPORARY PROVISIONS

#### Subtitle A—Extensions Primarily Affecting Individuals

- Sec. 201. Deduction for State and local sales taxes.
- Sec. 202. Deduction of qualified tuition and related expenses.
- Sec. 203. Treatment of certain dividends of regulated investment companies.
- Sec. 204. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 205. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 206. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 207. Qualified investment entities.
- Sec. 208. Real property tax standard deduction.

#### Subtitle B—Extensions Primarily Affecting Businesses

- Sec. 221. Research credit.
- Sec. 222. Indian employment credit.
- Sec. 223. New markets tax credit.
- Sec. 224. Railroad track maintenance.
- Sec. 225. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.
- Sec. 226. Seven-year cost recovery period for motorsports racing track facility.
- Sec. 227. Accelerated depreciation for business property on Indian reservation.
- Sec. 228. Expensing of environmental remediation costs.
- Sec. 229. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 230. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 231. Qualified zone academy bonds.
- Sec. 232. Tax incentives for investment in the District of Columbia.
- Sec. 233. Economic development credit for American Samoa.
- Sec. 234. Enhanced charitable deduction for contributions of food inventory.
- Sec. 235. Enhanced charitable deduction for contributions of book inventory to public schools.
- Sec. 236. Enhanced deduction for qualified computer contributions.

- Sec. 237. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 238. Work opportunity tax credit for Hurricane Katrina employees.
- Sec. 239. Subpart F exception for active financing income.
- Sec. 240. Look-thru rule for related controlled foreign corporations.
- Sec. 241. Expensing for certain qualified film and television productions.

#### Subtitle C—Other Extensions

- Sec. 251. Authority to disclose information related to terrorist activities made permanent.
- Sec. 252. Authority for undercover operations made permanent.
- Sec. 253. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.

#### TITLE III—ADDITIONAL TAX RELIEF AND OTHER PROVISIONS

- Sec. 301. Refundable child credit.
- Sec. 302. Provisions related to film and television productions.
- Sec. 303. Exemption from excise tax for certain arrows designed for use by children.
- Sec. 304. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

#### TITLE IV—REVENUE PROVISIONS

- Sec. 401. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
- Sec. 402. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
- Sec. 403. Broker reporting of customer's basis in securities transactions.
- Sec. 404. 0.2 percent FUTA surtax.
- Sec. 405. Increase and extension of Oil Spill Liability Trust Fund tax.
- Sec. 406. Nonqualified deferred compensation from certain tax indifferent parties.
- Sec. 407. Delay in application of worldwide allocation of interest.
- Sec. 408. Time for payment of corporate estimated taxes.

1                   **TITLE I—ENERGY TAX**

2                   **INCENTIVES**

3                   **Subtitle A—Energy Production**

4                   **Incentives**

5                   **PART 1—RENEWABLE ENERGY INCENTIVES**

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

7                   (a) **EXTENSION OF CREDIT.—**

1           (1) WIND FACILITIES.—Paragraph (1) of sec-  
2           tion 45(d) is amended by striking “January 1,  
3           2009” and inserting “January 1, 2010”.

4           (2) OTHER FACILITIES.—Each of the following  
5           provisions of section 45(d) is amended by striking  
6           “January 1, 2009” and inserting “October 1,  
7           2011”:

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

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

12                   (C) Paragraph (4).

13                   (D) Paragraph (5).

14                   (E) Paragraph (6).

15                   (F) Paragraph (7).

16                   (G) Subparagraphs (A) and (B) of para-  
17                   graph (9).

18           (b) MODIFICATION OF CREDIT PHASEOUT.—

19                   (1) REPEAL OF PHASEOUT.—Subsection (b) of  
20                   section 45 is amended—

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

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

24                   (2) LIMITATION BASED ON INVESTMENT IN FA-  
25                   CILITY.—Subsection (b) of section 45 is amended by

1 inserting before paragraph (2) the following new  
2 paragraph:

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

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

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

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

15 “(B) CARRYFORWARD OF UNUSED LIMITA-  
16 TION AND EXCESS CREDIT.—

17 “(i) UNUSED LIMITATION.—If the  
18 limitation imposed under subparagraph (A)  
19 with respect to any facility for any taxable  
20 year exceeds the prelimitation credit for  
21 such facility for such taxable year, the lim-  
22 itation imposed under subparagraph (A)  
23 with respect to such facility for the suc-  
24 ceeding taxable year shall be increased by  
25 the amount of such excess.

1           “(ii) EXCESS CREDIT.—If the  
2           prelimination credit with respect to any fa-  
3           cility for any taxable year exceeds the limi-  
4           tation imposed under subparagraph (A)  
5           with respect to such facility for such tax-  
6           able year, the credit determined under sub-  
7           section (a) with respect to such facility for  
8           the succeeding taxable year (determined  
9           before the application of subparagraph (A)  
10          for such succeeding taxable year) shall be  
11          increased by the amount of such excess.  
12          With respect to any facility, no amount  
13          may be carried forward under this clause  
14          to any taxable year beginning after the 10-  
15          year period described in subsection  
16          (a)(2)(A)(ii) with respect to such facility.

17          “(iii) PRELIMINATION CREDIT.—The  
18          term ‘prelimination credit’ with respect to  
19          any facility for a taxable year means the  
20          credit determined under subsection (a)  
21          with respect to such facility for such tax-  
22          able year, determined without regard to  
23          subparagraph (A) and after taking into ac-  
24          count any increase for such taxable year  
25          under clause (ii).

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

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

9           “(ii) METHOD OF PRESCRIBING AP-  
10 PLICABLE PERCENTAGE.—The applicable  
11 percentage prescribed by the Secretary for  
12 any month under clause (i) shall be the  
13 percentage which yields over a 10-year pe-  
14 riod amounts of limitation under subpara-  
15 graph (A) which have a present value  
16 equal to 35 percent of the eligible basis of  
17 the facility.

18           “(iii) METHOD OF DISCOUNTING.—  
19 The present value under clause (ii) shall be  
20 determined—

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

24           “(II) by using a discount rate  
25 equal to the greater of 110 percent of



1 the Federal long-term rate as in effect  
2 under section 1274(d) for the month  
3 preceding the month for which the ap-  
4 plicable percentage is being pre-  
5 scribed, or 4.5 percent, and

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

9 “(D) ELIGIBLE BASIS.—For purposes of  
10 this paragraph—

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

14 “(I) the basis of such facility de-  
15 termined as of the time that such fa-  
16 cility is originally placed in service,  
17 and

18 “(II) the portion of the basis of  
19 any shared qualified property which is  
20 properly allocable to such facility  
21 under clause (ii).

22 “(ii) RULES FOR ALLOCATION.—For  
23 purposes of subclause (II) of clause (i), the  
24 basis of shared qualified property shall be  
25 allocated among all qualified facilities

1 which are projected to be placed in service  
2 and which require utilization of such prop-  
3 erty in proportion to projected generation  
4 from such facilities.

5 “(iii) SHARED QUALIFIED PROP-  
6 erty.—For purposes of this paragraph,  
7 the term ‘shared qualified property’ means,  
8 with respect to any facility, any property  
9 described in section 168(e)(3)(B)(vi)—

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

13 “(II) which is not a qualified fa-  
14 cility.

15 “(iv) SPECIAL RULE RELATING TO  
16 GEOTHERMAL FACILITIES.—In the case of  
17 any qualified facility using geothermal en-  
18 ergy to produce electricity, the basis of  
19 such facility for purposes of this paragraph  
20 shall be determined as though intangible  
21 drilling and development costs described in  
22 section 263(c) were capitalized rather than  
23 expensed.

24 “(E) SPECIAL RULE FOR FIRST AND LAST  
25 YEAR OF CREDIT PERIOD.—In the case of any

1 taxable year any portion of which is not within  
2 the 10-year period described in subsection  
3 (a)(2)(A)(ii) with respect to any facility, the  
4 amount of the limitation under subparagraph  
5 (A) with respect to such facility shall be re-  
6 duced by an amount which bears the same ratio  
7 to the amount of such limitation (determined  
8 without regard to this subparagraph) as such  
9 portion of the taxable year which is not within  
10 such period bears to the entire taxable year.

11 “(F) ELECTION TO TREAT ALL FACILITIES  
12 PLACED IN SERVICE IN A YEAR AS 1 FACIL-  
13 ITY.—At the election of the taxpayer, all quali-  
14 fied facilities which are part of the same project  
15 and which are originally placed in service dur-  
16 ing the same calendar year shall be treated for  
17 purposes of this section as 1 facility which is  
18 originally placed in service at the mid-point of  
19 such year or the first day of the following cal-  
20 endar year.”.

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

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

1           (2) by striking “COMBUSTION”.

2           (d) EXPANSION OF BIOMASS FACILITIES.—

3           (1) OPEN-LOOP BIOMASS FACILITIES.—Para-  
4           graph (3) of section 45(d) is amended by redesignig-  
5           nating subparagraph (B) as subparagraph (C) and  
6           by inserting after subparagraph (A) the following  
7           new subparagraph:

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

15          (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-  
16          graph (2) of section 45(d) is amended by redesignig-  
17          nating subparagraph (B) as subparagraph (C) and  
18          inserting after subparagraph (A) the following new  
19          subparagraph:

20                   “(B) EXPANSION OF FACILITY.—Such  
21                   term shall include a new unit placed in service  
22                   after the date of the enactment of this subpara-  
23                   graph in connection with a facility described in  
24                   subparagraph (A)(i), but only to the extent of

1           the increased amount of electricity produced at  
2           the facility by reason of such new unit.”.

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

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

9                           “(i) the hydroelectric project installed  
10                          on the nonhydroelectric dam is licensed by  
11                          the Federal Energy Regulatory Commis-  
12                          sion and meets all other applicable environ-  
13                          mental, licensing, and regulatory require-  
14                          ments,

15                           “(ii) the nonhydroelectric dam was  
16                          placed in service before the date of the en-  
17                          actment of this paragraph and operated  
18                          for flood control, navigation, or water sup-  
19                          ply purposes and did not produce hydro-  
20                          electric power on the date of the enactment  
21                          of this paragraph, and

22                           “(iii) the hydroelectric project is oper-  
23                          ated so that the water surface elevation at  
24                          any given location and time that would  
25                          have occurred in the absence of the hydro-

1 electric project is maintained, subject to  
2 any license requirements imposed under  
3 applicable law that change the water sur-  
4 face elevation for the purpose of improving  
5 environmental quality of the affected wa-  
6 terway.

7 The Secretary, in consultation with the Federal  
8 Energy Regulatory Commission, shall certify if  
9 a hydroelectric project licensed at a nonhydro-  
10 electric dam meets the criteria in clause (iii).  
11 Nothing in this section shall affect the stand-  
12 ards under which the Federal Energy Regu-  
13 latory Commission issues licenses for and regu-  
14 lates hydropower projects under part I of the  
15 Federal Power Act.”.

16 (f) EFFECTIVE DATE.—

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

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

24 (3) LIMITATION BASED ON INVESTMENT IN FA-  
25 CILITY.—The amendment made by subsection (b)(2)

1 shall apply to property originally placed in service  
2 after December 31, 2009.

3 (4) TRASH FACILITY CLARIFICATION.—The  
4 amendments made by subsection (c) shall apply to  
5 electricity produced and sold after the date of the  
6 enactment of this Act.

7 (5) EXPANSION OF BIOMASS FACILITIES.—The  
8 amendments made by subsection (d) shall apply to  
9 property placed in service after the date of the en-  
10 actment of this Act.

11 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**  
12 **DUCTION FROM MARINE RENEWABLES.**

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

18 “(I) marine and hydrokinetic renewable en-  
19 ergy.”.

20 (b) MARINE RENEWABLES.—Subsection (c) of sec-  
21 tion 45 is amended by adding at the end the following  
22 new paragraph:

23 “(10) MARINE AND HYDROKINETIC RENEW-  
24 ABLE ENERGY.—

1           “(A) IN GENERAL.—The term ‘marine and  
2 hydrokinetic renewable energy’ means energy  
3 derived from—

4           “(i) waves, tides, and currents in  
5 oceans, estuaries, and tidal areas,

6           “(ii) free flowing water in rivers,  
7 lakes, and streams,

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

14           “(iv) differentials in ocean tempera-  
15 ture (ocean thermal energy conversion).

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

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



1           “(11) MARINE AND HYDROKINETIC RENEW-  
2 ABLE ENERGY FACILITIES.—In the case of a facility  
3 producing electricity from marine and hydrokinetic  
4 renewable energy, the term ‘qualified facility’ means  
5 any facility owned by the taxpayer—

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

8                   “(B) which is originally placed in service  
9                   on or after the date of the enactment of this  
10                  paragraph and before October 1, 2011.”.

11          (d) CREDIT RATE.—Subparagraph (A) of section  
12 45(b)(4) is amended by striking “or (9)” and inserting  
13 “(9), or (11)”.

14          (e) COORDINATION WITH SMALL IRRIGATION  
15 POWER.—Paragraph (5) of section 45(d), as amended by  
16 section 101, is amended by striking “October 1, 2011”  
17 and inserting “the date of the enactment of paragraph  
18 (11)”.

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

23 **SEC. 103. ENERGY CREDIT.**

24          (a) EXTENSION OF CREDIT.—

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

5           (2) FUEL CELL PROPERTY.—Subparagraph (E)  
6           of section 48(c)(1) is amended by striking “Decem-  
7           ber 31, 2008” and inserting “December 31, 2016”.

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

12          (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
13          TERNATIVE MINIMUM TAX.—

14           (1) IN GENERAL.—Subparagraph (B) of section  
15           38(c)(4) is amended by redesignating clause (vi) as  
16           clause (vii), by striking “and” at the end of clause  
17           (v), and by inserting after clause (v) the following  
18           new clause:

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

23           (2) TECHNICAL AMENDMENT.—Clause (v) of  
24           section 38(c)(4)(B) is amended by striking “section  
25           47 to the extent attributable to” and inserting “sec-

1       tion 46 to the extent that such credit is attributable  
 2       to the rehabilitation credit under section 47, but  
 3       only with respect to”.

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

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

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

12           (2) COMBINED HEAT AND POWER SYSTEM  
 13 PROPERTY.—Subsection (c) of section 48 is amend-  
 14 ed—

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

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

21                   “(3) COMBINED HEAT AND POWER SYSTEM  
 22 PROPERTY.—

23                           “(A) COMBINED HEAT AND POWER SYS-  
 24       TEM PROPERTY.—The term ‘combined heat and

1 power system property’ means property com-  
2 prising a system—

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

10 “(ii) which produces—

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

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

20 “(iii) the energy efficiency percentage  
21 of which exceeds 60 percent, and

22 “(iv) which is placed in service before  
23 January 1, 2017.

24 “(B) LIMITATION.—

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

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

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

1 power or an equivalent combination of elec-  
2 trical and mechanical energy capacities.

3 “(C) SPECIAL RULES.—

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

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

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

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

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

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

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

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

11                   “(ii) the amount of credit determined  
12                  under subsection (a) with respect to such  
13                  system shall not exceed the amount which  
14                  bears the same ratio to such amount of  
15                  credit (determined without regard to this  
16                  subparagraph) as the energy efficiency per-  
17                  centage of such system bears to 60 per-  
18                  cent.”.

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

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

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

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

6 (2) CONFORMING AMENDMENTS.—

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

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

15 (f) EFFECTIVE DATE.—

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

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



1           (3) COMBINED HEAT AND POWER AND FUEL  
2 CELL PROPERTY.—The amendments made by sub-  
3 sections (c) and (d) shall apply to periods after the  
4 date of the enactment of this Act, in taxable years  
5 ending after such date, under rules similar to the  
6 rules of section 48(m) of the Internal Revenue Code  
7 of 1986 (as in effect on the day before the date of  
8 the enactment of the Revenue Reconciliation Act of  
9 1990).

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

17 **SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
18 **PROPERTY.**

19           (a) EXTENSION.—Section 25D(g) is amended by  
20 striking “December 31, 2008” and inserting “December  
21 31, 2016”.

22           (b) REMOVAL OF LIMITATION FOR SOLAR ELECTRIC  
23 PROPERTY.—

24           (1) IN GENERAL.—Section 25D(b)(1), as  
25 amended by subsections (c) and (d), is amended—

1 (A) by striking subparagraph (A), and  
2 (B) by redesignating subparagraphs (B)  
3 through (E) as subparagraphs (A) through and  
4 (D), respectively.

5 (2) CONFORMING AMENDMENT.—Section  
6 25D(e)(4)(A), as amended by subsections (c) and  
7 (d), is amended—

8 (A) by striking clause (i), and  
9 (B) by redesignating clauses (ii) through  
10 (v) as clauses (i) and (iv), respectively.

11 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

12 (1) IN GENERAL.—Section 25D(a) is amended  
13 by striking “and” at the end of paragraph (2), by  
14 striking the period at the end of paragraph (3) and  
15 inserting “, and”, and by adding at the end the fol-  
16 lowing new paragraph:

17 “(4) 30 percent of the qualified small wind en-  
18 ergy property expenditures made by the taxpayer  
19 during such year.”.

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

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

5           (3) QUALIFIED SMALL WIND ENERGY PROP-  
6           ERTY EXPENDITURES.—

7           (A) IN GENERAL.—Section 25D(d) is  
8           amended by adding at the end the following  
9           new paragraph:

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

17           (B) NO DOUBLE BENEFIT.—Section  
18           45(d)(1) is amended by adding at the end the  
19           following new sentence: “Such term shall not  
20           include any facility with respect to which any  
21           qualified small wind energy property expendi-  
22           ture (as defined in subsection (d)(4) of section  
23           25D) is taken into account in determining the  
24           credit under such section.”.

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

7                   “(iv) \$1,667 in the case of each half  
8 kilowatt of capacity (not to exceed  
9 \$13,333) of wind turbines for which quali-  
10 fied small wind energy property expendi-  
11 tures are made.”.

12       (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-  
13 TEMS.—

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

19                   “(5) 30 percent of the qualified geothermal  
20 heat pump property expenditures made by the tax-  
21 payer during such year.”.

22           (2) LIMITATION.—Section 25D(b)(1), as  
23 amended by subsection (c), is amended by striking  
24 “and” at the end of subparagraph (C), by striking  
25 the period at the end of subparagraph (D) and in-

1       serting “, and”, and by adding at the end the fol-  
2       lowing new subparagraph:

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

5               (3) QUALIFIED GEOTHERMAL HEAT PUMP  
6       PROPERTY EXPENDITURE.—Section 25D(d), as  
7       amended by subsection (c), is amended by adding at  
8       the end the following new paragraph:

9               “(5) QUALIFIED GEOTHERMAL HEAT PUMP  
10       PROPERTY EXPENDITURE.—

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

17               “(B) QUALIFIED GEOTHERMAL HEAT  
18       PUMP PROPERTY.—The term ‘qualified geo-  
19       thermal heat pump property’ means any equip-  
20       ment which—

21               “(i) uses the ground or ground water  
22               as a thermal energy source to heat the  
23               dwelling unit referred to in subparagraph  
24               (A) or as a thermal energy sink to cool  
25               such dwelling unit, and

1                   “(ii) meets the requirements of the  
2                   Energy Star program which are in effect  
3                   at the time that the expenditure for such  
4                   equipment is made.”.

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

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

14                  (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
15                  IMUM TAX.—

16                   (1) IN GENERAL.—Subsection (c) of section  
17                   25D is amended to read as follows:

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

20                                 “(1) LIMITATION BASED ON AMOUNT OF  
21                   TAX.—In the case of a taxable year to which section  
22                   26(a)(2) does not apply, the credit allowed under  
23                   subsection (a) for the taxable year shall not exceed  
24                   the excess of—

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

4           “(B) the sum of the credits allowable  
5           under this subpart (other than this section) and  
6           section 27 for the taxable year.

7           “(2) CARRYFORWARD OF UNUSED CREDIT.—

8           “(A) RULE FOR YEARS IN WHICH ALL  
9           PERSONAL CREDITS ALLOWED AGAINST REG-  
10           ULAR AND ALTERNATIVE MINIMUM TAX.—In  
11           the case of a taxable year to which section  
12           26(a)(2) applies, if the credit allowable under  
13           subsection (a) exceeds the limitation imposed by  
14           section 26(a)(2) for such taxable year reduced  
15           by the sum of the credits allowable under this  
16           subpart (other than this section), such excess  
17           shall be carried to the succeeding taxable year  
18           and added to the credit allowable under sub-  
19           section (a) for such succeeding taxable year.

20           “(B) RULE FOR OTHER YEARS.—In the  
21           case of a taxable year to which section 26(a)(2)  
22           does not apply, if the credit allowable under  
23           subsection (a) exceeds the limitation imposed by  
24           paragraph (1) for such taxable year, such ex-  
25           cess shall be carried to the succeeding taxable

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

4 (2) CONFORMING AMENDMENTS.—

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

7 (B) Section 24(b)(3)(B) is amended by  
8 striking “and 25B” and inserting “, 25B, and  
9 25D”.

10 (C) Section 25B(g)(2) is amended by strik-  
11 ing “section 23” and inserting “sections 23 and  
12 25D”.

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

15 (f) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-  
17 graph (2), the amendments made by this section  
18 shall apply to taxable years beginning after Decem-  
19 ber 31, 2007.

20 (2) SOLAR ELECTRIC PROPERTY LIMITATION.—

21 The amendments made by subsection (b) shall apply  
22 to property placed in service after the date of the en-  
23 actment of this Act, in taxable years ending after  
24 such date.



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

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

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

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

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

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

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

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

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

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

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

24          (d) EFFECTIVE DATES.—

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

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

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

12       **PART 2—CARBON MITIGATION PROVISIONS**

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

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

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

23       (b) EXPANSION OF AGGREGATE CREDITS.—Section  
24 48A(d)(3)(A) is amended by striking “\$1,300,000,000”  
25 and inserting “\$2,250,000,000”.

1 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

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

4 “(B) PARTICULAR PROJECTS.—Of the dol-  
5 lar amount in subparagraph (A), the Secretary  
6 is authorized to certify—

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

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

16 “(iii) \$950,000,000 for advanced coal-  
17 based generation technology projects the  
18 application for which is submitted during  
19 the period described in paragraph  
20 (2)(A)(ii).”.

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

24 “(A) APPLICATION PERIOD.—Each appli-  
25 cant for certification under this paragraph shall

1 submit an application meeting the requirements  
2 of subparagraph (B). An applicant may only  
3 submit an application—

4 “(i) for an allocation from the dollar  
5 amount specified in clause (i) or (ii) of  
6 paragraph (3)(B) during the 3-year period  
7 beginning on the date the Secretary estab-  
8 lishes the program under paragraph (1),  
9 and

10 “(ii) for an allocation from the dollar  
11 amount specified in paragraph (3)(B)(iii)  
12 during the 3-year period beginning at the  
13 earlier of the termination of the period de-  
14 scribed in clause (i) or the date prescribed  
15 by the Secretary.”.

16 (3) CAPTURE AND SEQUESTRATION OF CARBON  
17 DIOXIDE EMISSIONS REQUIREMENT.—

18 (A) IN GENERAL.—Section 48A(e)(1) is  
19 amended by striking “and” at the end of sub-  
20 paragraph (E), by striking the period at the  
21 end of subparagraph (F) and inserting “; and”,  
22 and by adding at the end the following new sub-  
23 paragraph:

24 “(G) in the case of any project the applica-  
25 tion for which is submitted during the period

1 described in subsection (d)(2)(A)(ii), the project  
2 includes equipment which separates and seques-  
3 ters at least 65 percent (70 percent in the case  
4 of an application for reallocated credits under  
5 subsection (d)(4)) of such project’s total carbon  
6 dioxide emissions.”.

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

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

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

21 “(i) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
22 QUESTER.—The Secretary shall provide for recapturing  
23 the benefit of any credit allowable under subsection (a)  
24 with respect to any project which fails to attain or main-

1 tain the separation and sequestration requirements of sub-  
2 section (e)(1)(G).”.

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

6 (A) by striking “and” at the end of clause  
7 (ii),

8 (B) by redesignating clause (iii) as clause  
9 (iv), and

10 (C) by inserting after clause (ii) the fol-  
11 lowing new clause:

12 “(iii) applicant participants who have  
13 a research partnership with an eligible edu-  
14 cational institution (as defined in section  
15 529(e)(5)), and”.

16 (5) CLERICAL AMENDMENT.—Section 48A(e)(3)  
17 is amended by striking “INTEGRATED GASIFICATION  
18 COMBINED CYCLE” in the heading and inserting  
19 “CERTAIN”.

20 (d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d)  
21 is amended by adding at the end the following new para-  
22 graph:

23 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
24 retary shall, upon making a certification under this  
25 subsection or section 48B(d), publicly disclose the

1 identity of the applicant and the amount of the cred-  
2 it certified with respect to such applicant.”.

3 (e) EFFECTIVE DATES.—

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

11 (2) DISCLOSURE OF ALLOCATIONS.—The  
12 amendment made by subsection (d) shall apply to  
13 certifications made after the date of the enactment  
14 of this Act.

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

19 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**  
20 **CATION INVESTMENT CREDIT.**

21 (a) MODIFICATION OF CREDIT AMOUNT.—Section  
22 48B(a) is amended by inserting “(30 percent in the case  
23 of credits allocated under subsection (d)(1)(B))” after “20  
24 percent”.



1 (b) EXPANSION OF AGGREGATE CREDITS.—Section  
2 48B(d)(1) is amended by striking “shall not exceed  
3 \$350,000,000” and all that follows and inserting “shall  
4 not exceed—

5 “(A) \$350,000,000, plus

6 “(B) \$150,000,000 for qualifying gasifi-  
7 cation projects that include equipment which  
8 separates and sequesters at least 75 percent of  
9 such project’s total carbon dioxide emissions.”.

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

13 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
14 QUESTER.—The Secretary shall provide for recapturing  
15 the benefit of any credit allowable under subsection (a)  
16 with respect to any project which fails to attain or main-  
17 tain the separation and sequestration requirements for  
18 such project under subsection (d)(1).”.

19 (d) SELECTION PRIORITIES.—Section 48B(d) is  
20 amended by adding at the end the following new para-  
21 graph:

22 “(4) SELECTION PRIORITIES.—In determining  
23 which qualifying gasification projects to certify  
24 under this section, the Secretary shall—

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

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

8           (e) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to credits described in section  
10          48B(d)(1)(B) of the Internal Revenue Code of 1986 which  
11          are allocated or reallocated after the date of the enactment  
12          of this Act.

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

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

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

17                 (2) by striking “January 1 after 1981” in sub-  
18                 paragraph (B) and inserting “December 31 after  
19                 2007”.

20          **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**  
21                         **CISE TAX TO CERTAIN COAL PRODUCERS**  
22                         **AND EXPORTERS.**

23                 (a) REFUND.—

24                         (1) COAL PRODUCERS.—

1 (A) IN GENERAL.—Notwithstanding sub-  
2 sections (a)(1) and (c) of section 6416 and sec-  
3 tion 6511 of the Internal Revenue Code of  
4 1986, if—

5 (i) a coal producer establishes that  
6 such coal producer, or a party related to  
7 such coal producer, exported coal produced  
8 by such coal producer to a foreign country  
9 or shipped coal produced by such coal pro-  
10 ducer to a possession of the United States,  
11 or caused such coal to be exported or  
12 shipped, the export or shipment of which  
13 was other than through an exporter who  
14 meets the requirements of paragraph (2),

15 (ii) such coal producer filed an excise  
16 tax return on or after October 1, 1990,  
17 and on or before the date of the enactment  
18 of this Act, and

19 (iii) such coal producer files a claim  
20 for refund with the Secretary not later  
21 than the close of the 30-day period begin-  
22 ning on the date of the enactment of this  
23 Act,

24 then the Secretary shall pay to such coal pro-  
25 ducer an amount equal to the tax paid under

1 section 4121 of such Code on such coal ex-  
2 ported or shipped by the coal producer or a  
3 party related to such coal producer, or caused  
4 by the coal producer or a party related to such  
5 coal producer to be exported or shipped.

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

8 (i) IN GENERAL.—If a coal producer  
9 or a party related to a coal producer has  
10 received a judgment described in clause  
11 (iii), such coal producer shall be deemed to  
12 have established the export of coal to a for-  
13 eign country or shipment of coal to a pos-  
14 session of the United States under sub-  
15 paragraph (A)(i).

16 (ii) AMOUNT OF PAYMENT.—If a tax-  
17 payer described in clause (i) is entitled to  
18 a payment under subparagraph (A), the  
19 amount of such payment shall be reduced  
20 by any amount paid pursuant to the judg-  
21 ment described in clause (iii).

22 (iii) JUDGMENT DESCRIBED.—A judg-  
23 ment is described in this subparagraph if  
24 such judgment—

1 (I) is made by a court of com-  
2 petent jurisdiction within the United  
3 States,

4 (II) relates to the constitu-  
5 tionality of any tax paid on exported  
6 coal under section 4121 of the Inter-  
7 nal Revenue Code of 1986, and

8 (III) is in favor of the coal pro-  
9 ducer or the party related to the coal  
10 producer.

11 (2) EXPORTERS.—Notwithstanding subsections  
12 (a)(1) and (c) of section 6416 and section 6511 of  
13 the Internal Revenue Code of 1986, and a judgment  
14 described in paragraph (1)(B)(iii) of this subsection,  
15 if—

16 (A) an exporter establishes that such ex-  
17 porter exported coal to a foreign country or  
18 shipped coal to a possession of the United  
19 States, or caused such coal to be so exported or  
20 shipped,

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

24 (C) such exporter files a claim for refund  
25 with the Secretary not later than the close of

1           the 30-day period beginning on the date of the  
2           enactment of this Act,  
3           then the Secretary shall pay to such exporter an  
4           amount equal to \$0.825 per ton of such coal ex-  
5           ported by the exporter or caused to be exported or  
6           shipped, or caused to be exported or shipped, by the  
7           exporter.

8           (b) LIMITATIONS.—Subsection (a) shall not apply  
9           with respect to exported coal if a settlement with the Fed-  
10          eral Government has been made with and accepted by, the  
11          coal producer, a party related to such coal producer, or  
12          the exporter, of such coal, as of the date that the claim  
13          is filed under this section with respect to such exported  
14          coal. For purposes of this subsection, the term “settlement  
15          with the Federal Government” shall not include any settle-  
16          ment or stipulation entered into as of the date of the en-  
17          actment of this Act, the terms of which contemplate a  
18          judgment concerning which any party has reserved the  
19          right to file an appeal, or has filed an appeal.

20          (c) SUBSEQUENT REFUND PROHIBITED.—No refund  
21          shall be made under this section to the extent that a credit  
22          or refund of such tax on such exported or shipped coal  
23          has been paid to any person.

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

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

12          (2) EXPORTER.—The term “exporter” means a  
13          person, other than a coal producer, who does not  
14          have a contract, fee arrangement, or any other  
15          agreement with a producer or seller of such coal to  
16          export or ship such coal to a third party on behalf  
17          of the producer or seller of such coal and—

18                 (A) is indicated in the shipper’s export  
19                 declaration or other documentation as the ex-  
20                 porter of record, or

21                 (B) actually exported such coal to a for-  
22                 eign country or shipped such coal to a posses-  
23                 sion of the United States, or caused such coal  
24                 to be so exported or shipped.

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

3                   (A) is related to such coal producer  
4                   through any degree of common management,  
5                   stock ownership, or voting control,

6                   (B) is related (within the meaning of sec-  
7                   tion 144(a)(3) of the Internal Revenue Code of  
8                   1986) to such coal producer, or

9                   (C) has a contract, fee arrangement, or  
10                  any other agreement with such coal producer to  
11                  sell such coal to a third party on behalf of such  
12                  coal producer.

13           (4) SECRETARY.—The term “Secretary” means  
14           the Secretary of Treasury or the Secretary’s des-  
15           ignee.

16           (e) TIMING OF REFUND.—With respect to any claim  
17           for refund filed pursuant to this section, the Secretary  
18           shall determine whether the requirements of this section  
19           are met not later than 180 days after such claim is filed.  
20           If the Secretary determines that the requirements of this  
21           section are met, the claim for refund shall be paid not  
22           later than 180 days after the Secretary makes such deter-  
23           mination.

24           (f) INTEREST.—Any refund paid pursuant to this  
25           section shall be paid by the Secretary with interest from



1 the date of overpayment determined by using the overpay-  
2 ment rate and method under section 6621 of the Internal  
3 Revenue Code of 1986.

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

7 (1) in the case of a payment to a coal producer,  
8 the amount of tax paid under section 4121 of the  
9 Internal Revenue Code of 1986 with respect to such  
10 coal by such coal producer or a party related to such  
11 coal producer, and

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

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

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

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

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

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

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
8 authorized to be appropriated to carry out this section  
9 \$1,500,000 for the period of fiscal years 2009 and 2010.

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

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

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

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

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

1           (1) by striking “cellulosic biomass ethanol”  
 2           each place it appears and inserting “cellulosic  
 3           biofuel”,

4           (2) by striking “CELLULOSIC BIOMASS ETH-  
 5           ANOL” in the heading of such subsection and insert-  
 6           ing “CELLULOSIC BIOFUEL”, and

7           (3) by striking “CELLULOSIC BIOMASS ETH-  
 8           ANOL” in the heading of paragraph (2) thereof and  
 9           inserting “CELLULOSIC BIOFUEL”.

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

14      **SEC. 122. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**  
 15    **SEL.**

16          (a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and  
 17 6427(e)(5)(B) are each amended by striking “December  
 18 31, 2008” and inserting “December 31, 2009”.

19          (b) INCREASE IN RATE OF CREDIT.—

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

23               (2) EXCISE TAX CREDIT.—Paragraph (2) of  
 24 section 6426(c) is amended to read as follows:

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

3           (3) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

21                 “(4) CERTAIN AVIATION FUEL.—

22                         “(A) IN GENERAL.—Except as provided in  
23                         the last three sentences of paragraph (3), the  
24                         term ‘renewable diesel’ shall include fuel derived  
25                         from biomass which meets the requirements of

1 a Department of Defense specification for mili-  
2 tary jet fuel or an American Society of Testing  
3 and Materials specification for aviation turbine  
4 fuel.

5 “(B) APPLICATION OF MIXTURE CRED-  
6 ITS.—In the case of fuel which is treated as re-  
7 newable diesel solely by reason of subparagraph  
8 (A), subsection (b)(1) and section 6426(c) shall  
9 be applied with respect to such fuel by treating  
10 kerosene as though it were diesel fuel.”.

11 (f) EFFECTIVE DATE.—

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

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

20 **SEC. 123. CLARIFICATION THAT CREDITS FOR FUEL ARE**  
21 **DESIGNED TO PROVIDE AN INCENTIVE FOR**  
22 **UNITED STATES PRODUCTION.**

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

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

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

11           “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
12           TION TO THE UNITED STATES.—No credit shall be  
13           determined under this section with respect to any  
14           biodiesel which is produced outside the United  
15           States for use as a fuel outside the United States.  
16           For purposes of this paragraph, the term ‘United  
17           States’ includes any possession of the United  
18           States.”.

19           (c) EXCISE TAX CREDIT.—

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

22           “(i) LIMITATION TO FUELS WITH CONNECTION TO  
23          THE UNITED STATES.—

24           “(1) ALCOHOL.—No credit shall be determined  
25           under this section with respect to any alcohol which

1 is produced outside the United States for use as a  
2 fuel outside the United States.

3 “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
4 No credit shall be determined under this section  
5 with respect to any biodiesel or alternative fuel  
6 which is produced outside the United States for use  
7 as a fuel outside the United States.

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

10 (2) CONFORMING AMENDMENT.—Subsection (e)  
11 of section 6427 is amended by redesignating para-  
12 graph (5) as paragraph (6) and by inserting after  
13 paragraph (4) the following new paragraph:

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

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to claims for credit or payment  
22 made on or after May 15, 2008.



1 **SEC. 124. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**  
2 **DRIVE MOTOR VEHICLES.**

3 (a) IN GENERAL.—Section 30 is amended to read as  
4 follows:

5 **“SEC. 30. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**  
6 **MOTOR VEHICLES.**

7 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
8 lowed as a credit against the tax imposed by this chapter  
9 for the taxable year an amount equal to the sum of the  
10 credit amounts determined under subsection (b) with re-  
11 spect to each new qualified plug-in electric drive motor ve-  
12 hicle placed in service by the taxpayer during the taxable  
13 year.

14 “(b) PER VEHICLE DOLLAR LIMITATION.—

15 “(1) IN GENERAL.—The amount determined  
16 under this subsection with respect to any new quali-  
17 fied plug-in electric drive motor vehicle is the sum  
18 of the amounts determined under paragraphs (2)  
19 and (3) with respect to such vehicle.

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

22 “(3) BATTERY CAPACITY.—In the case of a ve-  
23 hicle which draws propulsion energy from a battery  
24 with not less than 5 kilowatt hours of capacity, the  
25 amount determined under this paragraph is \$200,  
26 plus \$200 for each kilowatt hour of capacity in ex-

1       cess of 5 kilowatt hours. The amount determined  
2       under this paragraph shall not exceed \$2,000.

3       “(c) APPLICATION WITH OTHER CREDITS.—

4               “(1) BUSINESS CREDIT TREATED AS PART OF  
5       GENERAL BUSINESS CREDIT.—So much of the credit  
6       which would be allowed under subsection (a) for any  
7       taxable year (determined without regard to this sub-  
8       section) that is attributable to property of a char-  
9       acter subject to an allowance for depreciation shall  
10       be treated as a credit listed in section 38(b) for such  
11       taxable year (and not allowed under subsection (a)).

12       “(2) PERSONAL CREDIT.—

13               “(A) IN GENERAL.—For purposes of this  
14       title, the credit allowed under subsection (a) for  
15       any taxable year (determined after application  
16       of paragraph (1)) shall be treated as a credit  
17       allowable under subpart A for such taxable  
18       year.

19               “(B) LIMITATION BASED ON AMOUNT OF  
20       TAX.—In the case of a taxable year to which  
21       section 26(a)(2) does not apply, the credit al-  
22       lowed under subsection (a) for any taxable year  
23       (determined after application of paragraph (1))  
24       shall not exceed the excess of—

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

4                   “(ii) the sum of the credits allowable  
5                   under subpart A (other than this section  
6                   and sections 23 and 25D) and section 27  
7                   for the taxable year.

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

10                   “(1) IN GENERAL.—The term ‘new qualified  
11                   plug-in electric drive motor vehicle’ means a motor  
12                   vehicle—

13                   “(A) the original use of which commences  
14                   with the taxpayer,

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

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

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

20                   “(E) which has received a certificate of  
21                   conformity under the Clean Air Act and meets  
22                   or exceeds the Bin 5 Tier II emission standard  
23                   established in regulations prescribed by the Ad-  
24                   ministrator of the Environmental Protection

1 Agency under section 202(i) of the Clean Air  
2 Act for that make and model year vehicle, and

3 “(F) which is propelled to a significant ex-  
4 tent by an electric motor which draws electricity  
5 from a battery which—

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

8 “(ii) is capable of being recharged  
9 from an external source of electricity.

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

15 “(3) MOTOR VEHICLE.—The term ‘motor vehi-  
16 cle’ means any vehicle which is manufactured pri-  
17 marily for use on public streets, roads, and highways  
18 (not including a vehicle operated exclusively on a rail  
19 or rails) and which has at least 4 wheels.

20 “(4) OTHER TERMS.—The terms ‘passenger  
21 automobile’, ‘light truck’, and ‘manufacturer’ have  
22 the meanings given such terms in regulations pre-  
23 scribed by the Administrator of the Environmental  
24 Protection Agency for purposes of the administra-

1 tion of title II of the Clean Air Act (42 U.S.C. 7521  
2 et seq.).

3 “(5) BATTERY CAPACITY.—The term ‘capacity’  
4 means, with respect to any battery, the quantity of  
5 electricity which the battery is capable of storing, ex-  
6 pressed in kilowatt hours, as measured from a 100  
7 percent state of charge to a 0 percent state of  
8 charge.

9 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED  
10 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE  
11 FOR CREDIT.—

12 “(1) IN GENERAL.—In the case of a new quali-  
13 fied plug-in electric drive motor vehicle sold during  
14 the phaseout period, only the applicable percentage  
15 of the credit otherwise allowable under subsection  
16 (a) shall be allowed.

17 “(2) PHASEOUT PERIOD.—For purposes of this  
18 subsection, the phaseout period is the period begin-  
19 ning with the second calendar quarter following the  
20 calendar quarter which includes the first date on  
21 which the number of new qualified plug-in electric  
22 drive motor vehicles manufactured by the manufac-  
23 turer of the vehicle referred to in paragraph (1) sold  
24 for use in the United States after the date of the en-  
25 actment of this section, is at least 60,000.

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

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

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

7           “(C) 0 percent for each calendar quarter  
8 thereafter.

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

12          “(f) SPECIAL RULES.—

13           “(1) BASIS REDUCTION.—The basis of any  
14 property for which a credit is allowable under sub-  
15 section (a) shall be reduced by the amount of such  
16 credit (determined without regard to subsection (c)).

17           “(2) RECAPTURE.—The Secretary shall, by reg-  
18 ulations, provide for recapturing the benefit of any  
19 credit allowable under subsection (a) with respect to  
20 any property which ceases to be property eligible for  
21 such credit.

22           “(3) PROPERTY USED OUTSIDE UNITED  
23 STATES, ETC., NOT QUALIFIED.—No credit shall be  
24 allowed under subsection (a) with respect to any  
25 property referred to in section 50(b)(1) or with re-

1       spect to the portion of the cost of any property  
2       taken into account under section 179.

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

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

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

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

20      (c) CREDIT MADE PART OF GENERAL BUSINESS  
21      CREDIT.—Section 38(b) is amended by striking “plus” at  
22      the end of paragraph (32), by striking the period at the  
23      end of paragraph (33) and inserting “, plus”, and by add-  
24      ing at the end the following new paragraph:

1           “(34) the portion of the new qualified plug-in  
2           electric drive motor vehicle credit to which section  
3           30(c)(1) applies.”.

4           (d) CONFORMING AMENDMENTS.—

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

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

10          (C) Section 25B(g)(2), as amended by section  
11          104, is amended by striking “and 25D” and insert-  
12          ing “, 25D, and 30”.

13          (D) Section 26(a)(1), as amended by section  
14          104, is amended by striking “and 25D” and insert-  
15          ing “25D, and 30”.

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

18          (2) Section 30B(h)(1) is amended by striking  
19          “section 30(c)(2)” and inserting “section 30(d)(3)”.

20          (3)(A) Section 53(d)(1)(B) is amended by strik-  
21          ing clause (iii) and redesignating clause (iv) as  
22          clause (iii).

23          (B) Subclause (II) of section 53(d)(1)(B)(iii),  
24          as so redesignated, is amended by striking “in-  
25          creased in the manner provided in clause (iii)”.



1 (4) Section 55(c)(3) is amended by striking  
2 “30(b)(3),”.

3 (5) Section 1016(a)(25) is amended by striking  
4 “section 30(d)(1)” and inserting “section 30(f)(1)”.

5 (6) Section 6501(m) is amended by striking  
6 “section 30(d)(4)” and inserting “section 30(f)(4)”.

7 (7) The item in the table of sections for subpart  
8 B of part IV of subchapter A of chapter 1 is amend-  
9 ed to read as follows:

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

10 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE  
11 CREDIT AS A PERSONAL CREDIT.—

12 (1) IN GENERAL.—Paragraph (2) of section  
13 30B(g) is amended to read as follows:

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

19 (2) CONFORMING AMENDMENTS.—

20 (A) Subparagraph (A) of section 30C(d)(2)  
21 is amended by striking “sections 27, 30, and  
22 30B” and inserting “section 27”.

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

25 (f) EFFECTIVE DATE.—

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

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

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

14       **SEC. 125. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**  
15                               **REDUCTION UNITS AND ADVANCED INSULA-**  
16                               **TION.**

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

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

21                       “(A) is designed to provide to a vehicle  
22                       those services (such as heat, air conditioning, or  
23                       electricity) that would otherwise require the op-  
24                       eration of the main drive engine while the vehi-  
25                       cle is temporarily parked or remains stationary

1 using one or more devices affixed to a tractor  
2 or truck, and

3 “(B) is determined by the Administrator of  
4 the Environmental Protection Agency, in con-  
5 sultation with the Secretary of Energy and the  
6 Secretary of Transportation, to reduce idling of  
7 such vehicle at a motor vehicle rest stop or  
8 other location where such vehicles are tempo-  
9 rarily parked or remain stationary.

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

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

15 **SEC. 126. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**  
16 **COMMUTERS.**

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

19 “(D) Any qualified bicycle commuting re-  
20 imbursement.”.

21 (b) **LIMITATION ON EXCLUSION.**—Paragraph (2) of  
22 section 132(f) is amended by striking “and” at the end  
23 of subparagraph (A), by striking the period at the end  
24 of subparagraph (B) and inserting “, and”, and by adding  
25 at the end the following new subparagraph:

1           “(C) the applicable annual limitation in  
2           the case of any qualified bicycle commuting re-  
3           imbursement.”.

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

6           “(F) DEFINITIONS RELATED TO BICYCLE  
7           COMMUTING REIMBURSEMENT.—

8           “(i) QUALIFIED BICYCLE COMMUTING  
9           REIMBURSEMENT.—The term ‘qualified bi-  
10          cycle commuting reimbursement’ means,  
11          with respect to any calendar year, any em-  
12          ployer reimbursement during the 15-month  
13          period beginning with the first day of such  
14          calendar year for reasonable expenses in-  
15          curred by the employee during such cal-  
16          endar year for the purchase of a bicycle  
17          and bicycle improvements, repair, and stor-  
18          age, if such bicycle is regularly used for  
19          travel between the employee’s residence  
20          and place of employment.

21          “(ii) APPLICABLE ANNUAL LIMITA-  
22          TION.—The term ‘applicable annual limita-  
23          tion’ means, with respect to any employee  
24          for any calendar year, the product of \$20

1 multiplied by the number of qualified bicy-  
2 cle commuting months during such year.

3 “(iii) QUALIFIED BICYCLE COM-  
4 MUTING MONTH.—The term ‘qualified bi-  
5 cycle commuting month’ means, with re-  
6 spect to any employee, any month during  
7 which such employee—

8 “(I) regularly uses the bicycle for  
9 a substantial portion of the travel be-  
10 tween the employee’s residence and  
11 place of employment, and

12 “(II) does not receive any benefit  
13 described in subparagraph (A), (B),  
14 or (C) of paragraph (1).”.

15 (d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Para-  
16 graph (4) of section 132(f) is amended by inserting  
17 “(other than a qualified bicycle commuting reimburse-  
18 ment)” after “qualified transportation fringe”.

19 (e) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2008.

22 **SEC. 127. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**  
23 **ERTY CREDIT.**

24 (a) INCREASE IN CREDIT AMOUNT.—Section 30C is  
25 amended—

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

3           (2) by striking “\$30,000” in subsection (b)(1)  
4           and inserting “\$50,000”, and

5           (3) by striking “\$1,000” in subsection (b)(2)  
6           and inserting “\$2,000”.

7           (b) EXTENSION OF CREDIT.—Subsection (g) of sec-  
8           tion 30C is amended to read as follows:

9           “(g) TERMINATION.—This section shall not apply to  
10          any property placed in service after—

11           “(1) December 31 2017, in the case of property  
12          relating to natural gas, compressed natural gas, or  
13          liquified natural gas, and which is not of a character  
14          subject to an allowance for depreciation,

15           “(2) December 31, 2014, in the case of—

16           “(A) property relating to hydrogen, and

17           “(B) property relating to natural gas, com-  
18          pressed natural gas, or liquified natural gas,  
19          and which is of a character subject to an allow-  
20          ance for depreciation, and

21           “(3) December 31, 2010, in any other case.”.

22          (c) EFFECTIVE DATE.—The amendments made by  
23          this section shall apply to property placed in service after  
24          the date of the enactment of this Act, in taxable years  
25          ending after such date.

1 **SEC. 128. CERTAIN INCOME AND GAINS RELATING TO AL-**  
2 **COHOL FUELS AND MIXTURES, BIODIESEL**  
3 **FUELS AND MIXTURES, AND ALTERNATIVE**  
4 **FUELS AND MIXTURES TREATED AS QUALI-**  
5 **FYING INCOME FOR PUBLICLY TRADED**  
6 **PARTNERSHIPS.**

7 (a) **IN GENERAL.**—Subparagraph (E) of section  
8 7704(d)(1) is amended by inserting “, or the transpor-  
9 tation or storage of any fuel described in subsection (b),  
10 (c), (d), or (e) of section 6426, or any alcohol fuel defined  
11 in section 6426(b)(4)(A) or any biodiesel fuel as defined  
12 in section 40A(d)(1)” after “timber”).

13 (b) **EFFECTIVE DATE.**—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 the date of the enactment of this Act.

16 **Subtitle C—Energy Conservation**  
17 **and Efficiency Provisions**

18 **SEC. 131. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

19 (a) **EXTENSION OF CREDIT.**—Section 25C(g) is  
20 amended by striking “placed in service after December 31,  
21 2007” and inserting “placed in service—

22 “(1) after December 31, 2007, and before Jan-  
23 uary 1, 2009, or

24 “(2) after December 31, 2009.”.

25 (b) **QUALIFIED BIOMASS FUEL PROPERTY.**—

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

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

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

7           (C) by adding at the end the following new  
8 subparagraph:

9           “(F) a stove which uses the burning of bio-  
10 mass fuel to heat a dwelling unit located in the  
11 United States and used as a residence by the  
12 taxpayer, or to heat water for use in such a  
13 dwelling unit, and which has a thermal effi-  
14 ciency rating of at least 75 percent.”.

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

18           “(6) BIOMASS FUEL.—The term ‘biomass fuel’  
19 means any plant-derived fuel available on a renew-  
20 able or recurring basis, including agricultural crops  
21 and trees, wood and wood waste and residues (in-  
22 cluding wood pellets), plants (including aquatic  
23 plants), grasses, residues, and fibers.”.

24           (c) COORDINATION WITH CREDIT FOR QUALIFIED  
25 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—



1           (1) IN GENERAL.—Paragraph (3) of section  
2           25C(d), as amended by subsection (b), is amended  
3           by striking subparagraph (C) and by redesignating  
4           subparagraphs (D), (E), and (F) as subparagraphs  
5           (C), (D), and (E), respectively.

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

9                   “(C) REQUIREMENTS AND STANDARDS  
10                   FOR AIR CONDITIONERS AND HEAT PUMPS.—  
11                   The standards and requirements prescribed by  
12                   the Secretary under subparagraph (B) with re-  
13                   spect to the energy efficiency ratio (EER) for  
14                   central air conditioners and electric heat  
15                   pumps—

16                           “(i) shall require measurements to be  
17                           based on published data which is tested by  
18                           manufacturers at 95 degrees Fahrenheit,  
19                           and

20                                   “(ii) may be based on the certified  
21                                   data of the Air Conditioning and Refrig-  
22                                   eration Institute that are prepared in part-  
23                                   nership with the Consortium for Energy  
24                                   Efficiency.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to expenditures made after Decem-  
3 ber 31, 2008.

4 **SEC. 132. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
5 **DUCTION.**

6 Subsection (h) of section 179D is amended by strik-  
7 ing “December 31, 2008” and inserting “December 31,  
8 2013”.

9 **SEC. 133. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
10 **ANCE CREDIT FOR APPLIANCES PRODUCED**  
11 **AFTER 2007.**

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

14 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
15 section (a)—

16 “(1) DISHWASHERS.—The applicable amount  
17 is—

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

22 “(B) \$75 in the case of a dishwasher  
23 which is manufactured in calendar year 2008,  
24 2009, or 2010 and which uses no more than  
25 307 kilowatt hours per year and 5.0 gallons per

1 cycle (5.5 gallons per cycle for dishwashers de-  
2 signed for greater than 12 place settings).

3 “(2) CLOTHES WASHERS.—The applicable  
4 amount is—

5 “(A) \$75 in the case of a residential top-  
6 loading clothes washer manufactured in cal-  
7 endar year 2008 which meets or exceeds a 1.72  
8 modified energy factor and does not exceed a  
9 8.0 water consumption factor,

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

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

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

1           “(3) REFRIGERATORS.—The applicable amount  
2           is—

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

8                   “(B) \$75 in the case of a refrigerator  
9                   which is manufactured in calendar year 2008 or  
10                  2009, and consumes at least 23 percent but no  
11                  more than 24.9 percent less kilowatt hours per  
12                  year than the 2001 energy conservation stand-  
13                  ards,

14                  “(C) \$100 in the case of a refrigerator  
15                  which is manufactured in calendar year 2008,  
16                  2009, or 2010, and consumes at least 25 per-  
17                  cent but not more than 29.9 percent less kilo-  
18                  watt hours per year than the 2001 energy con-  
19                  servation standards, and

20                  “(D) \$200 in the case of a refrigerator  
21                  manufactured in calendar year 2008, 2009, or  
22                  2010 and which consumes at least 30 percent  
23                  less energy than the 2001 energy conservation  
24                  standards.”.

25           (b) ELIGIBLE PRODUCTION.—

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

4                   (A) by striking paragraph (2),

5                   (B) by striking “(1) IN GENERAL” and all  
6           that follows through “the eligible” and inserting  
7           “The eligible”,

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

10                   (D) by redesignating subparagraphs (A)  
11           and (B) as paragraphs (1) and (2), respectively,  
12           and by moving such paragraphs 2 ems to the  
13           left.

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

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

21           “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—  
22           For purposes of this section, the types of energy efficient  
23           appliances are—

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

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

3           “(3) refrigerators described in subsection  
4           (b)(3).”.

5           (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

8           “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

9           The aggregate amount of credit allowed under sub-  
10           section (a) with respect to a taxpayer for any tax-  
11           able year shall not exceed \$75,000,000 reduced by  
12           the amount of the credit allowed under subsection  
13           (a) to the taxpayer (or any predecessor) for all prior  
14           taxable years beginning after December 31, 2007.”.

15           (2) EXCEPTION FOR CERTAIN REFRIGERATOR  
16           AND CLOTHES WASHERS.—Paragraph (2) of section  
17           45M(e) is amended to read as follows:

18           “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-  
19           ERATORS AND CLOTHES WASHERS.—Refrigerators  
20           described in subsection (b)(3)(D) and clothes wash-  
21           ers described in subsection (b)(2)(D) shall not be  
22           taken into account under paragraph (1).”.

23           (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           45M(f) (defining qualified energy efficient appliance)  
3           is amended to read as follows:

4           “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
5           ANCE.—The term ‘qualified energy efficient appli-  
6           ance’ means—

7                   “(A) any dishwasher described in sub-  
8                   section (b)(1),

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

11                   “(C) any refrigerator described in sub-  
12                   section (b)(3).”.

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

16           (3) TOP-LOADING CLOTHES WASHER.—Sub-  
17           section (f) of section 45M is amended by redesignig-  
18           nating paragraphs (4), (5), (6), and (7) as para-  
19           graphs (5), (6), (7), and (8), respectively, and by in-  
20           serting after paragraph (3) the following new para-  
21           graph:

22                   “(4) TOP-LOADING CLOTHES WASHER.—The  
23                   term ‘top-loading clothes washer’ means a clothes  
24                   washer which has the clothes container compartment

1 access located on the top of the machine and which  
2 operates on a vertical axis.”.

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

6 “(6) MODIFIED ENERGY FACTOR.—The term  
7 ‘modified energy factor’ means the modified energy  
8 factor established by the Department of Energy for  
9 compliance with the Federal energy conservation  
10 standard.”.

11 (5) GALLONS PER CYCLE; WATER CONSUMP-  
12 TION FACTOR.—Section 45M(f), as amended by  
13 paragraph (3), is amended by adding at the end the  
14 following:

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

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



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

4 **SEC. 134. ACCELERATED RECOVERY PERIOD FOR DEPRE-**  
5 **CIATION OF SMART METERS AND SMART**  
6 **GRID SYSTEMS.**

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

11 “(iii) any qualified smart electric  
12 meter, and

13 “(iv) any qualified smart electric grid  
14 system.”.

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

17 “(18) QUALIFIED SMART ELECTRIC METERS.—

18 “(A) IN GENERAL.—The term ‘qualified  
19 smart electric meter’ means any smart electric  
20 meter which is placed in service by a taxpayer  
21 who is a supplier of electric energy or a pro-  
22 vider of electric energy services.

23 “(B) SMART ELECTRIC METER.—For pur-  
24 poses of subparagraph (A), the term ‘smart  
25 electric meter’ means any time-based meter and

1 related communication equipment which is ca-  
2 pable of being used by the taxpayer as part of  
3 a system that—

4 “(i) measures and records electricity  
5 usage data on a time-differentiated basis  
6 in at least 24 separate time segments per  
7 day,

8 “(ii) provides for the exchange of in-  
9 formation between supplier or provider and  
10 the customer’s electric meter in support of  
11 time-based rates or other forms of demand  
12 response,

13 “(iii) provides data to such supplier or  
14 provider so that the supplier or provider  
15 can provide energy usage information to  
16 customers electronically, and

17 “(iv) provides net metering.

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

20 “(A) IN GENERAL.—The term ‘qualified  
21 smart electric grid system’ means any smart  
22 grid property used as part of a system for elec-  
23 tric distribution grid communications, moni-  
24 toring, and management placed in service by a

1 taxpayer who is a supplier of electric energy or  
2 a provider of electric energy services.

3 “(B) SMART GRID PROPERTY.—For the  
4 purposes of subparagraph (A), the term ‘smart  
5 grid property’ means electronics and related  
6 equipment that is capable of—

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

10 “(ii) providing real-time, two-way  
11 communications to monitor or manage  
12 such grid, and

13 “(iii) providing real time analysis of  
14 and event prediction based upon collected  
15 data that can be used to improve electric  
16 distribution system reliability, quality, and  
17 performance.”.

18 (c) CONTINUED APPLICATION OF 150 PERCENT DE-  
19 CLINING BALANCE METHOD.—Paragraph (2) of section  
20 168(b) is amended by striking “or” at the end of subpara-  
21 graph (B), by redesignating subparagraph (C) as subpara-  
22 graph (D), and by inserting after subparagraph (B) the  
23 following new subparagraph:

24 “(C) any property (other than property de-  
25 scribed in paragraph (3)) which is a qualified

1 smart electric meter or qualified smart electric  
2 grid system, or”.

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

6 **SEC. 135. QUALIFIED GREEN BUILDING AND SUSTAINABLE**  
7 **DESIGN PROJECTS.**

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

11 (b) TREATMENT OF CURRENT REFUNDING  
12 BONDS.—Paragraph (9) of section 142(l) is amended by  
13 striking “October 1, 2009” and inserting “October 1,  
14 2012”.

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

1           **TITLE II—EXTENSION OF**  
2           **TEMPORARY PROVISIONS**  
3           **Subtitle A—Extensions Primarily**  
4           **Affecting Individuals**

5   **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES**  
6           **TAXES.**

7           (a) IN GENERAL.—Subparagraph (I) of section  
8   164(b)(5) is amended by striking “January 1, 2008” and  
9   inserting “January 1, 2010”.

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

13   **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**  
14           **LATED EXPENSES.**

15          (a) IN GENERAL.—Subsection (e) of section 222 is  
16   amended by striking “December 31, 2007” and inserting  
17   “December 31, 2009”.

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

21          (c) TEMPORARY COORDINATION WITH HOPE AND  
22   LIFETIME LEARNING CREDIT.—In the case of any tax-  
23   payer for any taxable year beginning in 2008 or 2009,  
24   no deduction shall be allowed under section 222 of the In-  
25   ternal Revenue Code of 1986 if—

1           (1) the taxpayer’s net Federal income tax re-  
2           duction which would be attributable to such deduc-  
3           tion for such taxable year, is less than

4           (2) the credit which would be allowed to the  
5           taxpayer for such taxable year under section 25A of  
6           such Code (determined without regard to sections  
7           25A(e) and 26 of such Code).

8 **SEC. 203. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**  
9 **LATED INVESTMENT COMPANIES.**

10       (a) **INTEREST-RELATED DIVIDENDS.**—Subpara-  
11 graph (C) of section 871(k)(1) (defining interest-related  
12 dividend) is amended by striking “December 31, 2007”  
13 and inserting “December 31, 2009”.

14       (b) **SHORT-TERM CAPITAL GAIN DIVIDENDS.**—Sub-  
15 paragraph (C) of section 871(k)(2) (defining short-term  
16 capital gain dividend) is amended by striking “December  
17 31, 2007” and inserting “December 31, 2009”.

18       (c) **EFFECTIVE DATE.**—The amendments made by  
19 this section shall apply to dividends with respect to taxable  
20 years of regulated investment companies beginning after  
21 December 31, 2007.

1 **SEC. 204. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
2 **TIREMENT PLANS FOR CHARITABLE PUR-**  
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section  
5 408(d)(8) is amended by striking “December 31, 2007”  
6 and inserting “December 31, 2009”.

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

10 **SEC. 205. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**  
11 **MENTARY AND SECONDARY SCHOOL TEACH-**  
12 **ERS.**

13 (a) IN GENERAL.—Subparagraph (D) of section  
14 62(a)(2) is amended by striking “or 2007” and inserting  
15 “2007, 2008, or 2009”.

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

19 **SEC. 206. STOCK IN RIC FOR PURPOSES OF DETERMINING**  
20 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

21 (a) IN GENERAL.—Paragraph (3) of section 2105(d)  
22 is amended by striking “December 31, 2007” and insert-  
23 ing “December 31, 2009”.

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

1 **SEC. 207. QUALIFIED INVESTMENT ENTITIES.**

2 (a) IN GENERAL.—Clause (ii) of section  
3 897(h)(4)(A) is amended by striking “December 31,  
4 2007” and inserting “December 31, 2009”.

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

10 **SEC. 208. REAL PROPERTY TAX STANDARD DEDUCTION.**

11 (a) IN GENERAL.—Subparagraph (C) of section  
12 63(c)(1) is amended by inserting “or 2009” after “2008”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2008.

16 **Subtitle B—Extensions Primarily**  
17 **Affecting Businesses**

18 **SEC. 221. RESEARCH CREDIT.**

19 (a) IN GENERAL.—Subparagraph (B) of section  
20 41(h)(1) is amended by striking “December 31, 2007”  
21 and inserting “December 31, 2009”.

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

25 “(2) COMPUTATION OF CREDIT FOR TAXABLE  
26 YEAR IN WHICH CREDIT TERMINATES.—



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

12           “(B) APPLICABLE BASE AMOUNT.—For  
13 purposes of subparagraph (A), the term ‘appli-  
14 cable base amount’ means, with respect to any  
15 taxable year—

16                   “(i) except as otherwise provided in  
17 this subparagraph, the base amount for  
18 the taxable year,

19                   “(ii) in the case of a taxable year with  
20 respect to which an election under sub-  
21 section (c)(4) (relating to election of alter-  
22 native incremental credit) is in effect, the  
23 average described in subsection (c)(1)(B)  
24 for the taxable year, and

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

8           (c) CONFORMING AMENDMENT.—Subparagraph (D)  
9           of section 45C(b)(1) is amended by striking “December  
10          31, 2007” and inserting “December 31, 2009”.

11          (d) EFFECTIVE DATE.—

12           (1) IN GENERAL.—Except as provided in para-  
13          graph (2), the amendments made by this section  
14          shall apply to amounts paid or incurred after De-  
15          cember 31, 2007.

16           (2) COMPUTATION OF CREDIT FOR TAXABLE  
17          YEAR IN WHICH CREDIT BEGINS.—The amendment  
18          made by subsection (b) shall apply to taxable years  
19          beginning after December 31, 2007.

20          **SEC. 222. INDIAN EMPLOYMENT CREDIT.**

21           (a) IN GENERAL.—Subsection (f) of section 45A is  
22          amended by striking “December 31, 2007” and inserting  
23          “December 31, 2009”.

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

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

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

7 **SEC. 224. RAILROAD TRACK MAINTENANCE.**

8 (a) IN GENERAL.—Subsection (f) of section 45G is  
9 amended by striking “January 1, 2008” and inserting  
10 “January 1, 2010”.

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

14 **SEC. 225. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**  
15 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**  
16 **AND QUALIFIED RESTAURANT PROPERTY.**

17 (a) IN GENERAL.—Clauses (iv) and (v) of section  
18 168(e)(3)(E) are each amended by striking “January 1,  
19 2008” and inserting “January 1, 2010”.

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

1 **SEC. 226. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**  
2 **TORSPO RTS RACING TRACK FACILITY.**

3 (a) IN GENERAL.—Subparagraph (D) of section  
4 168(i)(15) is amended by striking “December 31, 2007”  
5 and inserting “December 31, 2009”.

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

9 **SEC. 227. ACCELERATED DEPRECIATION FOR BUSINESS**  
10 **PROPERTY ON INDIAN RESERVATION.**

11 (a) IN GENERAL.—Paragraph (8) of section 168(j)  
12 is amended by striking “December 31, 2007” and insert-  
13 ing “December 31, 2009”.

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

17 **SEC. 228. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
18 **COSTS.**

19 (a) IN GENERAL.—Subsection (h) of section 198 is  
20 amended by striking “December 31, 2007” and inserting  
21 “December 31, 2009”.

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

1 **SEC. 229. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
2 **COME ATTRIBUTABLE TO DOMESTIC PRO-**  
3 **DUCTION ACTIVITIES IN PUERTO RICO.**

4 (a) IN GENERAL.—Subparagraph (C) of section  
5 199(d)(8) is amended—

6 (1) by striking “first 2 taxable years” and in-  
7 serting “first 4 taxable years”, and

8 (2) by striking “January 1, 2008” and insert-  
9 ing “January 1, 2010”.

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

13 **SEC. 230. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
14 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
15 **NIZATIONS.**

16 (a) IN GENERAL.—Clause (iv) of section  
17 512(b)(13)(E) is amended by striking “December 31,  
18 2007” and inserting “December 31, 2009”.

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

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

23 (a) IN GENERAL.—Subpart I of part IV of sub-  
24 chapter A of chapter 1 is amended by adding at the end  
25 the following new section:

1 **“SEC. 54C. QUALIFIED ZONE ACADEMY BONDS.**

2 “(a) QUALIFIED ZONE ACADEMY BONDS.—For pur-  
3 poses of this subchapter, the term ‘qualified zone academy  
4 bond’ means any bond issued as part of an issue if—

5 “(1) 100 percent of the available project pro-  
6 ceeds of such issue are to be used for a qualified  
7 purpose with respect to a qualified zone academy es-  
8 tablished by an eligible local education agency,

9 “(2) the bond is issued by a State or local gov-  
10 ernment within the jurisdiction of which such acad-  
11 emy is located, and

12 “(3) the issuer—

13 “(A) designates such bond for purposes of  
14 this section,

15 “(B) certifies that it has written assur-  
16 ances that the private business contribution re-  
17 quirement of subsection (b) will be met with re-  
18 spect to such academy, and

19 “(C) certifies that it has the written ap-  
20 proval of the eligible local education agency for  
21 such bond issuance.

22 “(b) PRIVATE BUSINESS CONTRIBUTION REQUIRE-  
23 MENT.—For purposes of subsection (a), the private busi-  
24 ness contribution requirement of this subsection is met  
25 with respect to any issue if the eligible local education  
26 agency that established the qualified zone academy has

1 written commitments from private entities to make quali-  
2 fied contributions having a present value (as of the date  
3 of issuance of the issue) of not less than 10 percent of  
4 the proceeds of the issue.

5 “(c) LIMITATION ON AMOUNT OF BONDS DES-  
6 IGNATED.—

7 “(1) NATIONAL LIMITATION.—There is a na-  
8 tional zone academy bond limitation for each cal-  
9 endar year. Such limitation is \$400,000,000 for  
10 2008 and 2009, and, except as provided in para-  
11 graph (4), zero thereafter.

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

22 “(3) DESIGNATION SUBJECT TO LIMITATION  
23 AMOUNT.—The maximum aggregate face amount of  
24 bonds issued during any calendar year which may be  
25 designated under subsection (a) with respect to any

1 qualified zone academy shall not exceed the limita-  
2 tion amount allocated to such academy under para-  
3 graph (2) for such calendar year.

4 “(4) CARRYOVER OF UNUSED LIMITATION.—

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

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

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

13 the limitation amount for such State for the fol-  
14 lowing calendar year shall be increased by the  
15 amount of such excess.

16 “(B) LIMITATION ON CARRYOVER.—Any  
17 carryforward of a limitation amount may be  
18 carried only to the first 2 years following the  
19 unused limitation year. For purposes of the pre-  
20 ceeding sentence, a limitation amount shall be  
21 treated as used on a first-in first-out basis.

22 “(C) COORDINATION WITH SECTION  
23 1397E.—Any carryover determined under sec-  
24 tion 1397E(e)(4) (relating to carryover of un-  
25 used limitation) with respect to any State to



1           calendar year 2008 shall be treated for pur-  
2           poses of this section as a carryover with respect  
3           to such State for such calendar year under sub-  
4           paragraph (A), and the limitation of subpara-  
5           graph (B) shall apply to such carryover taking  
6           into account the calendar years to which such  
7           carryover relates.

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

9           “(1) QUALIFIED ZONE ACADEMY.—The term  
10          ‘qualified zone academy’ means any public school (or  
11          academic program within a public school) which is  
12          established by and operated under the supervision of  
13          an eligible local education agency to provide edu-  
14          cation or training below the postsecondary level if—

15                 “(A) such public school or program (as the  
16                 case may be) is designed in cooperation with  
17                 business to enhance the academic curriculum,  
18                 increase graduation and employment rates, and  
19                 better prepare students for the rigors of college  
20                 and the increasingly complex workforce,

21                 “(B) students in such public school or pro-  
22                 gram (as the case may be) will be subject to the  
23                 same academic standards and assessments as  
24                 other students educated by the eligible local  
25                 education agency,

1           “(C) the comprehensive education plan of  
2 such public school or program is approved by  
3 the eligible local education agency, and

4           “(D)(i) such public school is located in an  
5 empowerment zone or enterprise community  
6 (including any such zone or community des-  
7 ignated after the date of the enactment of this  
8 section), or

9           “(ii) there is a reasonable expectation (as  
10 of the date of issuance of the bonds) that at  
11 least 35 percent of the students attending such  
12 school or participating in such program (as the  
13 case may be) will be eligible for free or reduced-  
14 cost lunches under the school lunch program es-  
15 tablished under the National School Lunch Act.

16           “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—  
17 For purposes of this section, the term ‘eligible local  
18 education agency’ means any local educational agen-  
19 cy as defined in section 9101 of the Elementary and  
20 Secondary Education Act of 1965.

21           “(3) QUALIFIED PURPOSE.—The term ‘quali-  
22 fied purpose’ means, with respect to any qualified  
23 zone academy—

1           “(A) rehabilitating or repairing the public  
2 school facility in which the academy is estab-  
3 lished,

4           “(B) providing equipment for use at such  
5 academy,

6           “(C) developing course materials for edu-  
7 cation to be provided at such academy, and

8           “(D) training teachers and other school  
9 personnel in such academy.

10          “(4) QUALIFIED CONTRIBUTIONS.—The term  
11 ‘qualified contribution’ means any contribution (of a  
12 type and quality acceptable to the eligible local edu-  
13 cation agency) of—

14           “(A) equipment for use in the qualified  
15 zone academy (including state-of-the-art tech-  
16 nology and vocational equipment),

17           “(B) technical assistance in developing  
18 curriculum or in training teachers in order to  
19 promote appropriate market driven technology  
20 in the classroom,

21           “(C) services of employees as volunteer  
22 mentors,

23           “(D) internships, field trips, or other edu-  
24 cational opportunities outside the academy for  
25 students, or

1           “(E) any other property or service speci-  
2           fied by the eligible local education agency.”.

3           (b) CONFORMING AMENDMENTS.—

4           (1) Paragraph (1) of section 54A(d) is amended  
5           to read as follows:

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

8           “(A) a qualified forestry conservation  
9           bond, or

10           “(B) a qualified zone academy bond,  
11           which is part of an issue that meets the require-  
12           ments of paragraphs (2), (3), (4), (5), and (6).”.

13           (2) Subparagraph (C) of section 54A(d)(2) is  
14           amended to read as follows:

15           “(C) QUALIFIED PURPOSE.—For purposes  
16           of this paragraph, the term ‘qualified purpose’  
17           means—

18           “(i) in the case of a qualified forestry  
19           conservation bond, a purpose specified in  
20           section 54B(e), and

21           “(ii) in the case of a qualified zone  
22           academy bond, a purpose specified in sec-  
23           tion 54C(a)(1).”.

24           (3) Section 1397E is amended by adding at the  
25           end the following new subsection:

1       “(m) TERMINATION.—This section shall not apply to  
2 any obligation issued after the date of the enactment of  
3 this subsection.”.

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

“Sec. 54C. Qualified zone academy bonds.”.

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

10 **SEC. 232. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
11 **TRICT OF COLUMBIA.**

12       (a) DESIGNATION OF ZONE.—

13           (1) IN GENERAL.—Subsection (f) of section  
14 1400 is amended by striking “2007” both places it  
15 appears and inserting “2009”.

16           (2) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall apply to periods beginning  
18 after December 31, 2007.

19       (b) TAX-EXEMPT ECONOMIC DEVELOPMENT  
20 BONDS.—

21           (1) IN GENERAL.—Subsection (b) of section  
22 1400A is amended by striking “2007” and inserting  
23 “2009”.

1           (2) EFFECTIVE DATE.—The amendment made  
2           by this subsection shall apply to bonds issued after  
3           December 31, 2007.

4           (c) ZERO PERCENT CAPITAL GAINS RATE.—

5           (1) IN GENERAL.—Subsection (b) of section  
6           1400B is amended by striking “2008” each place it  
7           appears and inserting “2010”.

8           (2) CONFORMING AMENDMENTS.—

9           (A) Section 1400B(e)(2) is amended—

10                   (i) by striking “2012” and inserting  
11                   “2014”, and

12                   (ii) by striking “2012” in the heading  
13                   thereof and inserting “2014”.

14           (B) Section 1400B(g)(2) is amended by  
15           striking “2012” and inserting “2014”.

16           (C) Section 1400F(d) is amended by strik-  
17           ing “2012” and inserting “2014”.

18           (3) EFFECTIVE DATES.—

19           (A) EXTENSION.—The amendments made  
20           by paragraph (1) shall apply to acquisitions  
21           after December 31, 2007.

22           (B) CONFORMING AMENDMENTS.—The  
23           amendments made by paragraph (2) shall take  
24           effect on the date of the enactment of this Act.

25           (d) FIRST-TIME HOMEBUYER CREDIT.—

1           (1) IN GENERAL.—Subsection (i) of section  
2           1400C is amended by striking “2008” and inserting  
3           “2010”.

4           (2) EFFECTIVE DATE.—The amendment made  
5           by this subsection shall apply to property purchased  
6           after December 31, 2007.

7   **SEC. 233. ECONOMIC DEVELOPMENT CREDIT FOR AMER-**  
8                                   **ICAN SAMOA.**

9           (a) IN GENERAL.—Subsection (d) of section 119 of  
10          division A of the Tax Relief and Health Care Act of 2006  
11          is amended—

12                  (1) by striking “first two taxable years” and in-  
13                  serting “first 4 taxable years”, and

14                  (2) by striking “January 1, 2008” and insert-  
15                  ing “January 1, 2010”.

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

19   **SEC. 234. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
20                                   **TRIBUTIONS OF FOOD INVENTORY.**

21          (a) IN GENERAL.—Clause (iv) of section  
22          170(e)(3)(C) is amended by striking “December 31,  
23          2007” and inserting “December 31, 2009”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to contributions made after De-  
3 cember 31, 2007.

4 **SEC. 235. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
5 **TRIBUTIONS OF BOOK INVENTORY TO PUB-**  
6 **LIC SCHOOLS.**

7 (a) IN GENERAL.—Clause (iv) of section  
8 170(e)(3)(D) is amended by striking “December 31,  
9 2007” and inserting “December 31, 2009”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to contributions made after De-  
12 cember 31, 2007.

13 **SEC. 236. ENHANCED DEDUCTION FOR QUALIFIED COM-**  
14 **PUTER CONTRIBUTIONS.**

15 (a) IN GENERAL.—Subparagraph (G) of section  
16 170(e)(6) is amended by striking “December 31, 2007”  
17 and inserting “December 31, 2009”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to contributions made during tax-  
20 able years beginning after December 31, 2007.



1 **SEC. 237. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
2 **TIONS MAKING CHARITABLE CONTRIBU-**  
3 **TIONS OF PROPERTY.**

4 (a) IN GENERAL.—The last sentence of section  
5 1367(a)(2) is amended by striking “December 31, 2007”  
6 and inserting “December 31, 2009”.

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

10 **SEC. 238. WORK OPPORTUNITY TAX CREDIT FOR HURRI-**  
11 **CANE KATRINA EMPLOYEES.**

12 (a) IN GENERAL.—Paragraph (1) of section 201(b)  
13 of the Katrina Emergency Tax Relief Act of 2005 is  
14 amended by striking “2-year” and inserting “4-year”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply to individuals hired after August  
17 27, 2007.

18 **SEC. 239. SUBPART F EXCEPTION FOR ACTIVE FINANCING**  
19 **INCOME.**

20 (a) EXEMPT INSURANCE INCOME.—Paragraph (10)  
21 of section 953(e) (relating to application) is amended—

22 (1) by striking “January 1, 2009” and insert-  
23 ing “January 1, 2010”, and

24 (2) by striking “December 31, 2008” and in-  
25 serting “December 31, 2009”.

1 (b) EXCEPTION TO TREATMENT AS FOREIGN PER-  
2 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of  
3 section 954(h) (relating to application) is amended by  
4 striking “January 1, 2009” and inserting “January 1,  
5 2010”.

6 **SEC. 240. LOOK-THRU RULE FOR RELATED CONTROLLED**  
7 **FOREIGN CORPORATIONS.**

8 (a) IN GENERAL.—Subparagraph (C) of section  
9 954(e)(6) (relating to application) is amended by striking  
10 “January 1, 2009” and inserting “January 1, 2010”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to taxable years of foreign corpora-  
13 tions beginning after December 31, 2008, and to taxable  
14 years of United States shareholders with or within which  
15 such taxable years of foreign corporations end.

16 **SEC. 241. EXPENSING FOR CERTAIN QUALIFIED FILM AND**  
17 **TELEVISION PRODUCTIONS.**

18 (a) IN GENERAL.—Subsection (f) of section 181 is  
19 amended by striking “December 31, 2008” and inserting  
20 “December 31, 2009”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to productions commencing after  
23 December 31, 2008.

1           **Subtitle C—Other Extensions**

2   **SEC. 251. AUTHORITY TO DISCLOSE INFORMATION RE-**  
3                   **LATED TO TERRORIST ACTIVITIES MADE**  
4                   **PERMANENT.**

5           (a) IN GENERAL.—Subparagraph (C) of section  
6 6103(i)(3) is amended by striking clause (iv).

7           (b) DISCLOSURE ON REQUEST.—Paragraph (7) of  
8 section 6103(i) is amended by striking subparagraph (E).

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

12   **SEC. 252. AUTHORITY FOR UNDERCOVER OPERATIONS**  
13                   **MADE PERMANENT.**

14           (a) IN GENERAL.—Subsection (c) of section 7608 is  
15 amended by striking paragraph (6).

16           (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall take effect on January 1, 2008.

18   **SEC. 253. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**  
19                   **CISE TAX TO PUERTO RICO AND THE VIRGIN**  
20                   **ISLANDS.**

21           (a) IN GENERAL.—Paragraph (1) of section 7652(f)  
22 is amended by striking “January 1, 2008” and inserting  
23 “January 1, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to distilled spirits brought into the  
3 United States after December 31, 2007.

4 **TITLE III—ADDITIONAL TAX RE-**  
5 **LIEF AND OTHER PROVI-**  
6 **SIONS**

7 **SEC. 301. REFUNDABLE CHILD CREDIT.**

8 (a) MODIFICATION OF THRESHOLD AMOUNT.—  
9 Clause (i) of section 24(d)(1)(B) is amended by inserting  
10 “(\$8,500 in the case of taxable years beginning in 2009)”  
11 after “\$10,000”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) shall apply to taxable years beginning after  
14 December 31, 2008.

15 **SEC. 302. PROVISIONS RELATED TO FILM AND TELEVISION**  
16 **PRODUCTIONS.**

17 (a) MODIFICATION OF LIMITATION ON EXPENS-  
18 ING.—Subparagraph (A) of section 181(a)(2) is amended  
19 to read as follows:

20 “(A) IN GENERAL.—Paragraph (1) shall  
21 not apply to so much of the aggregate cost of  
22 any qualified film or television production as ex-  
23 ceeds \$15,000,000.”.

24 (b) MODIFICATIONS TO DEDUCTION FOR DOMESTIC  
25 ACTIVITIES.—

1           (1) DETERMINATION OF W-2 WAGES.—Para-  
2 graph (2) of section 199(b) is amended by adding at  
3 the end the following new subparagraph:

4           “(D) SPECIAL RULE FOR QUALIFIED  
5 FILM.—In the case of a qualified film, such  
6 term shall include compensation for services  
7 performed in the United States by actors, pro-  
8 duction personnel, directors, and producers.”.

9           (2) DEFINITION OF QUALIFIED FILM.—Para-  
10 graph (6) of section 199(e) is amended by adding at  
11 the end the following: “A qualified film shall include  
12 any copyrights, trademarks, or other intangibles  
13 with respect to such film. The methods and means  
14 of distributing a qualified film shall not affect the  
15 availability of the deduction under this section.”.

16           (3) PARTNERSHIPS.—Subparagraph (A) of sec-  
17 tion 199(d)(1) is amended by striking “and” at the  
18 end of clause (ii), by striking the period at the end  
19 of clause (iii) and inserting “, and”, and by adding  
20 at the end the following new clause:

21           “(iv) in the case of each partner of a  
22 partnership, or shareholder of an S cor-  
23 poration, who owns (directly or indirectly)  
24 at least 20 percent of the capital interests

1 in such partnership or of the stock of such  
2 S corporation—

3 “(I) such partner or shareholder  
4 shall be treated as having engaged di-  
5 rectly in any film produced by such  
6 partnership or S corporation, and

7 “(II) such partnership or S cor-  
8 poration shall be treated as having en-  
9 gaged directly in any film produced by  
10 such partner or shareholder.”.

11 (c) CONFORMING AMENDMENT.—Section  
12 181(d)(3)(A) is amended by striking “actors” and all that  
13 follows and inserting “actors, production personnel, direc-  
14 tors, and producers.”.

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as otherwise pro-  
17 vided in this subsection, the amendments made by  
18 this section shall apply to taxable years beginning  
19 after December 31, 2007.

20 (2) EXPENSING.—The amendments made by  
21 subsection (a) shall apply to qualified film and tele-  
22 vision productions commencing after December 31,  
23 2007.

1 **SEC. 303. EXEMPTION FROM EXCISE TAX FOR CERTAIN AR-**  
2 **ROWS DESIGNED FOR USE BY CHILDREN.**

3 (a) IN GENERAL.—Paragraph (2) of section 4161(b)  
4 (relating to arrows) is amended by redesignating subpara-  
5 graph (B) as subparagraph (C) and by inserting after sub-  
6 paragraph (A) the following new subparagraph:

7 “(B) EXEMPTION FOR CERTAIN ARROW  
8 SHAFTS.—Subparagraph (A) shall not apply to  
9 any shaft measuring  $\frac{5}{16}$  of an inch or less in  
10 diameter and consisting of either—

11 “(i) all fiberglass and hollow, or

12 “(ii) all natural wood,

13 with no laminations or artificial means of en-  
14 hancing the spine of such shaft (whether sold  
15 separately or incorporated as part of a finished  
16 or unfinished product) of a type used in the  
17 manufacture of any arrow which after its as-  
18 sembly is not suitable for use with a bow de-  
19 scribed in paragraph (1)(A).”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to shafts first sold after the date  
22 of enactment of this Act.

1 **SEC. 304. MODIFICATION OF PENALTY ON UNDERSTATE-**  
2 **MENT OF TAXPAYER'S LIABILITY BY TAX RE-**  
3 **TURN PREPARER.**

4 (a) IN GENERAL.—Subsection (a) of section 6694  
5 (relating to understatement due to unreasonable positions)  
6 is amended to read as follows:

7 “(a) UNDERSTATEMENT DUE TO UNREASONABLE  
8 POSITIONS.—

9 “(1) IN GENERAL.—If a tax return preparer—

10 “(A) prepares any return or claim of re-  
11 fund with respect to which any part of an un-  
12 derstatement of liability is due to a position de-  
13 scribed in paragraph (2), and

14 “(B) knew (or reasonably should have  
15 known) of the position,

16 such tax return preparer shall pay a penalty with re-  
17 spect to each such return or claim in an amount  
18 equal to the greater of \$1,000 or 50 percent of the  
19 income derived (or to be derived) by the tax return  
20 preparer with respect to the return or claim.

21 “(2) UNREASONABLE POSITION.—

22 “(A) IN GENERAL.—Except as otherwise  
23 provided in this paragraph, a position is de-  
24 scribed in this paragraph unless there is or was  
25 substantial authority for the position.



1           “(B) DISCLOSED POSITIONS.—If the posi-  
2           tion was disclosed as provided in section  
3           6662(d)(2)(B)(ii)(I) and is not a position to  
4           which subparagraph (C) applies, the position is  
5           described in this paragraph unless there is a  
6           reasonable basis for the position.

7           “(C) REPORTABLE TRANSACTIONS.—If the  
8           position is with respect to a reportable trans-  
9           action to which section 6662A applies, the posi-  
10          tion is described in this paragraph unless it is  
11          reasonable to believe that the position would  
12          more likely than not be sustained on its merits.

13          “(3) REASONABLE CAUSE EXCEPTION.—No  
14          penalty shall be imposed under this subsection if it  
15          is shown that there is reasonable cause for the un-  
16          derstatement and the tax return preparer acted in  
17          good faith.”.

18          (b) EFFECTIVE DATE.—The amendment made by  
19          this section shall apply—

20                 (1) in the case of a position other than a posi-  
21                 tion described in subparagraph (C) of section  
22                 6694(a)(2) of the Internal Revenue Code of 1986  
23                 (as amended by this section), to returns prepared  
24                 after May 25, 2007, and

1           (2) in the case of a position described in such  
2           subparagraph (C), to returns prepared for taxable  
3           years beginning after the date of the enactment of  
4           this Act.

5                           **TITLE IV—REVENUE**  
6                           **PROVISIONS**

7   **SEC. 401. LIMITATION OF DEDUCTION FOR INCOME AT-**  
8                           **TRIBUTABLE TO DOMESTIC PRODUCTION OF**  
9                           **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

10           (a) IN GENERAL.—Section 199(d) is amended by re-  
11           designating paragraph (9) as paragraph (10) and by in-  
12           serting after paragraph (8) the following new paragraph:

13                           “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL  
14                           RELATED QUALIFIED PRODUCTION ACTIVITIES IN-  
15                           COME.—

16                           “(A) IN GENERAL.—If a taxpayer has oil  
17                           related qualified production activities income for  
18                           any taxable year beginning after 2009, the  
19                           amount otherwise allowable as a deduction  
20                           under subsection (a) shall be reduced by 3 per-  
21                           cent of the least of—

22   “(i) the oil related qualified produc-  
23   tion activities income of the taxpayer for  
24   the taxable year,

1           “(ii) the qualified production activities  
2           income of the taxpayer for the taxable  
3           year, or

4           “(iii) taxable income (determined  
5           without regard to this section).

6           “(B) OIL RELATED QUALIFIED PRODUC-  
7           TION ACTIVITIES INCOME.—For purposes of  
8           this paragraph, the term ‘oil related qualified  
9           production activities income’ means for any tax-  
10          able year the qualified production activities in-  
11          come which is attributable to the production,  
12          refining, processing, transportation, or distribu-  
13          tion of oil, gas, or any primary product thereof  
14          during such taxable year.

15          “(C) PRIMARY PRODUCT.—For purposes of  
16          this paragraph, the term ‘primary product’ has  
17          the same meaning as when used in section  
18          927(a)(2)(C), as in effect before its repeal.”.

19          (b) CONFORMING AMENDMENT.—Section 199(d)(2)  
20          (relating to application to individuals) is amended by  
21          striking “subsection (a)(1)(B)” and inserting “subsections  
22          (a)(1)(B) and (d)(9)(A)(iii)”.

23          (c) EFFECTIVE DATE.—The amendments made by  
24          this section shall apply to taxable years beginning after  
25          December 31, 2008.

1 **SEC. 402. ELIMINATION OF THE DIFFERENT TREATMENT**  
2 **OF FOREIGN OIL AND GAS EXTRACTION IN-**  
3 **COME AND FOREIGN OIL RELATED INCOME**  
4 **FOR PURPOSES OF THE FOREIGN TAX CRED-**  
5 **IT.**

6 (a) IN GENERAL.—Subsections (a) and (b) of section  
7 907 (relating to special rules in case of foreign oil and  
8 gas income) are amended to read as follows:

9 “(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN  
10 TAX UNDER SECTION 901.—In applying section 901, the  
11 amount of any foreign oil and gas taxes paid or accrued  
12 (or deemed to have been paid) during the taxable year  
13 which would (but for this subsection) be taken into ac-  
14 count for purposes of section 901 shall be reduced by the  
15 amount (if any) by which the amount of such taxes ex-  
16 ceeds the product of—

17 “(1) the amount of the combined foreign oil  
18 and gas income for the taxable year,

19 “(2) multiplied by—

20 “(A) in the case of a corporation, the per-  
21 centage which is equal to the highest rate of tax  
22 specified under section 11(b), or

23 “(B) in the case of an individual, a frac-  
24 tion the numerator of which is the tax against  
25 which the credit under section 901(a) is taken

1           and the denominator of which is the taxpayer's  
2           entire taxable income.

3           “(b) COMBINED FOREIGN OIL AND GAS INCOME;  
4 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-  
5 tion—

6           “(1) COMBINED FOREIGN OIL AND GAS IN-  
7 COME.—The term ‘combined foreign oil and gas in-  
8 come’ means, with respect to any taxable year, the  
9 sum of—

10                   “(A) foreign oil and gas extraction income,  
11                   and

12                   “(B) foreign oil related income.

13           “(2) FOREIGN OIL AND GAS TAXES.—The term  
14 ‘foreign oil and gas taxes’ means, with respect to  
15 any taxable year, the sum of—

16                   “(A) oil and gas extraction taxes, and

17                   “(B) any income, war profits, and excess  
18 profits taxes paid or accrued (or deemed to  
19 have been paid or accrued under section 902 or  
20 960) during the taxable year with respect to  
21 foreign oil related income (determined without  
22 regard to subsection (c)(4)) or loss which would  
23 be taken into account for purposes of section  
24 901 without regard to this section.”.

1 (b) RECAPTURE OF FOREIGN OIL AND GAS  
2 LOSSES.—Paragraph (4) of section 907(c) (relating to re-  
3 capture of foreign oil and gas extraction losses by re-  
4 characterizing later extraction income) is amended to read  
5 as follows:

6 “(4) RECAPTURE OF FOREIGN OIL AND GAS  
7 LOSSES BY RECHARACTERIZING LATER COMBINED  
8 FOREIGN OIL AND GAS INCOME.—

9 “(A) IN GENERAL.—The combined foreign  
10 oil and gas income of a taxpayer for a taxable  
11 year (determined without regard to this para-  
12 graph) shall be reduced—

13 “(i) first by the amount determined  
14 under subparagraph (B), and

15 “(ii) then by the amount determined  
16 under subparagraph (C).

17 The aggregate amount of such reductions shall  
18 be treated as income (from sources without the  
19 United States) which is not combined foreign  
20 oil and gas income.

21 “(B) REDUCTION FOR PRE-2009 FOREIGN  
22 OIL EXTRACTION LOSSES.—The reduction  
23 under this paragraph shall be equal to the less-  
24 er of—

1           “(i) the foreign oil and gas extraction  
2 income of the taxpayer for the taxable year  
3 (determined without regard to this para-  
4 graph), or

5           “(ii) the excess of—

6                 “(I) the aggregate amount of for-  
7 eign oil extraction losses for preceding  
8 taxable years beginning after Decem-  
9 ber 31, 1982, and before January 1,  
10 2009, over

11                 “(II) so much of such aggregate  
12 amount as was recharacterized under  
13 this paragraph (as in effect before  
14 and after the date of the enactment of  
15 the Renewable Energy and Job Cre-  
16 ation Tax Act of 2008) for preceding  
17 taxable years beginning after Decem-  
18 ber 31, 1982.

19           “(C) REDUCTION FOR POST-2008 FOREIGN  
20 OIL AND GAS LOSSES.—The reduction under  
21 this paragraph shall be equal to the lesser of—

22                 “(i) the combined foreign oil and gas  
23 income of the taxpayer for the taxable year  
24 (determined without regard to this para-  
25 graph), reduced by an amount equal to the

1 reduction under subparagraph (A) for the  
2 taxable year, or

3 “(ii) the excess of—

4 “(I) the aggregate amount of for-  
5 eign oil and gas losses for preceding  
6 taxable years beginning after Decem-  
7 ber 31, 2008, over

8 “(II) so much of such aggregate  
9 amount as was recharacterized under  
10 this paragraph for preceding taxable  
11 years beginning after December 31,  
12 2008.

13 “(D) FOREIGN OIL AND GAS LOSS DE-  
14 FINED.—

15 “(i) IN GENERAL.—For purposes of  
16 this paragraph, the term ‘foreign oil and  
17 gas loss’ means the amount by which—

18 “(I) the gross income for the tax-  
19 able year from sources without the  
20 United States and its possessions  
21 (whether or not the taxpayer chooses  
22 the benefits of this subpart for such  
23 taxable year) taken into account in  
24 determining the combined foreign oil



1 and gas income for such year, is ex-  
2 ceeded by

3 “(II) the sum of the deductions  
4 properly apportioned or allocated  
5 thereto.

6 “(ii) NET OPERATING LOSS DEDUC-  
7 TION NOT TAKEN INTO ACCOUNT.—For  
8 purposes of clause (i), the net operating  
9 loss deduction allowable for the taxable  
10 year under section 172(a) shall not be  
11 taken into account.

12 “(iii) EXPROPRIATION AND CASUALTY  
13 LOSSES NOT TAKEN INTO ACCOUNT.—For  
14 purposes of clause (i), there shall not be  
15 taken into account—

16 “(I) any foreign expropriation  
17 loss (as defined in section 172(h) (as  
18 in effect on the day before the date of  
19 the enactment of the Revenue Rec-  
20 onciliation Act of 1990)) for the tax-  
21 able year, or

22 “(II) any loss for the taxable  
23 year which arises from fire, storm,  
24 shipwreck, or other casualty, or from  
25 theft,

1 to the extent such loss is not compensated  
2 for by insurance or otherwise.

3 “(iv) FOREIGN OIL EXTRACTION  
4 LOSS.—For purposes of subparagraph  
5 (B)(ii)(I), foreign oil extraction losses shall  
6 be determined under this paragraph as in  
7 effect on the day before the date of the en-  
8 actment of the Renewable Energy and Job  
9 Creation Tax Act of 2008.”.

10 (c) CARRYBACK AND CARRYOVER OF DISALLOWED  
11 CREDITS.—Section 907(f) (relating to carryback and car-  
12 rryover of disallowed credits) is amended—

13 (1) by striking “oil and gas extraction taxes”  
14 each place it appears and inserting “foreign oil and  
15 gas taxes”, and

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

18 “(4) TRANSITION RULES FOR PRE-2009 AND  
19 2009 DISALLOWED CREDITS.—

20 “(A) PRE-2009 CREDITS.—In the case of  
21 any unused credit year beginning before Janu-  
22 ary 1, 2009, this subsection shall be applied to  
23 any unused oil and gas extraction taxes carried  
24 from such unused credit year to a year begin-  
25 ning after December 31, 2008—

1           “(i) by substituting ‘oil and gas ex-  
2           traction taxes’ for ‘foreign oil and gas  
3           taxes’ each place it appears in paragraphs  
4           (1), (2), and (3), and

5           “(ii) by computing, for purposes of  
6           paragraph (2)(A), the limitation under  
7           subparagraph (A) for the year to which  
8           such taxes are carried by substituting ‘for-  
9           foreign oil and gas extraction income’ for ‘for-  
10          foreign oil and gas income’ in subsection (a).

11          “(B) 2009 CREDITS.—In the case of any  
12          unused credit year beginning in 2009, the  
13          amendments made to this subsection by the Re-  
14          newable Energy and Job Creation Tax Act of  
15          2008 shall be treated as being in effect for any  
16          preceding year beginning before January 1,  
17          2009, solely for purposes of determining how  
18          much of the unused foreign oil and gas taxes  
19          for such unused credit year may be deemed  
20          paid or accrued in such preceding year.”.

21          (d) CONFORMING AMENDMENT.—Section 6501(i) is  
22          amended by striking “oil and gas extraction taxes” and  
23          inserting “foreign oil and gas taxes”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2008.

4 **SEC. 403. BROKER REPORTING OF CUSTOMER'S BASIS IN**  
5 **SECURITIES TRANSACTIONS.**

6 (a) IN GENERAL.—

7 (1) BROKER REPORTING FOR SECURITIES  
8 TRANSACTIONS.—Section 6045 is amended by add-  
9 ing at the end the following new subsection:

10 “(g) ADDITIONAL INFORMATION REQUIRED IN THE  
11 CASE OF SECURITIES TRANSACTIONS, ETC.—

12 “(1) IN GENERAL.—If a broker is otherwise re-  
13 quired to make a return under subsection (a) with  
14 respect to the gross proceeds of the sale of a covered  
15 security, the broker shall include in such return the  
16 information described in paragraph (2).

17 “(2) ADDITIONAL INFORMATION REQUIRED.—

18 “(A) IN GENERAL.—The information re-  
19 quired under paragraph (1) to be shown on a  
20 return with respect to a covered security of a  
21 customer shall include the customer's adjusted  
22 basis in such security and whether any gain or  
23 loss with respect to such security is long-term  
24 or short-term (within the meaning of section  
25 1222).

1                   “(B) DETERMINATION OF ADJUSTED  
2 BASIS.—For purposes of subparagraph (A)—

3                   “(i) IN GENERAL.—The customer’s  
4 adjusted basis shall be determined—

5                   “(I) in the case of any security  
6 (other than any stock for which an av-  
7 erage basis method is permissible  
8 under section 1012), in accordance  
9 with the first-in first-out method un-  
10 less the customer notifies the broker  
11 by means of making an adequate  
12 identification of the stock sold or  
13 transferred, and

14                   “(II) in the case of any stock for  
15 which an average basis method is per-  
16 missible under section 1012, in ac-  
17 cordance with the broker’s default  
18 method unless the customer notifies  
19 the broker that he elects another ac-  
20 ceptable method under section 1012  
21 with respect to the account in which  
22 such stock is held.

23                   “(ii) EXCEPTION FOR WASH SALES.—  
24 Except as otherwise provided by the Sec-  
25 retary, the customer’s adjusted basis shall

1           be determined without regard to section  
2           1091 (relating to loss from wash sales of  
3           stock or securities) unless the transactions  
4           occur in the same account with respect to  
5           identical securities.

6           “(3) COVERED SECURITY.—For purposes of  
7           this subsection—

8                   “(A) IN GENERAL.—The term ‘covered se-  
9                   curity’ means any specified security acquired on  
10                  or after the applicable date if such security—

11                           “(i) was acquired through a trans-  
12                           action in the account in which such secu-  
13                           rity is held, or

14                                   “(ii) was transferred to such account  
15                                   from an account in which such security  
16                                   was a covered security, but only if the  
17                                   broker received a statement under section  
18                                   6045A with respect to the transfer.

19                   “(B) SPECIFIED SECURITY.—The term  
20                   ‘specified security’ means—

21                           “(i) any share of stock in a corpora-  
22                           tion,

23                                   “(ii) any note, bond, debenture, or  
24                                   other evidence of indebtedness,

1           “(iii) any commodity, or contract or  
2           derivative with respect to such commodity,  
3           if the Secretary determines that adjusted  
4           basis reporting is appropriate for purposes  
5           of this subsection, and

6           “(iv) any other financial instrument  
7           with respect to which the Secretary deter-  
8           mines that adjusted basis reporting is ap-  
9           propriate for purposes of this subsection.

10           “(C) APPLICABLE DATE.—The term ‘appli-  
11           cable date’ means—

12           “(i) January 1, 2011, in the case of  
13           any specified security which is stock in a  
14           corporation (other than any stock de-  
15           scribed in clause (ii)),

16           “(ii) January 1, 2012, in the case of  
17           any stock for which an average basis meth-  
18           od is permissible under section 1012, and

19           “(iii) January 1, 2013, or such later  
20           date determined by the Secretary in the  
21           case of any other specified security.

22           “(4) TREATMENT OF S CORPORATIONS.—In the  
23           case of the sale of a covered security acquired by an  
24           S corporation (other than a financial institution)  
25           after December 31, 2011, such S corporation shall

1 be treated in the same manner as a partnership for  
2 purposes of this section.

3 “(5) SPECIAL RULES FOR SHORT SALES.—In  
4 the case of a short sale, reporting under this section  
5 shall be made for the year in which such sale is  
6 closed.”.

7 (2) BROKER INFORMATION REQUIRED WITH RE-  
8 SPECT TO OPTIONS.—Section 6045, as amended by  
9 subsection (a), is amended by adding at the end the  
10 following new subsection:

11 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

12 “(1) EXERCISE OF OPTION.—For purposes of  
13 this section, if a covered security is acquired or dis-  
14 posed of pursuant to the exercise of an option that  
15 was granted or acquired in the same account as the  
16 covered security, the amount received with respect to  
17 the grant or paid with respect to the acquisition of  
18 such option shall be treated as an adjustment to  
19 gross proceeds or as an adjustment to basis, as the  
20 case may be.

21 “(2) LAPSE OR CLOSING TRANSACTION.—In the  
22 case of the lapse (or closing transaction (as defined  
23 in section 1234(b)(2)(A))) of an option on a speci-  
24 fied security or the exercise of a cash-settled option  
25 on a specified security, reporting under subsections



1 (a) and (g) with respect to such option shall be  
2 made for the calendar year which includes the date  
3 of such lapse, closing transaction, or exercise.

4 “(3) PROSPECTIVE APPLICATION.—Paragraphs  
5 (1) and (2) shall not apply to any option which is  
6 granted or acquired before January 1, 2013.

7 “(4) DEFINITIONS.—For purposes of this sub-  
8 section, the terms ‘covered security’ and ‘specified  
9 security’ shall have the meanings given such terms  
10 in subsection (g)(3).”.

11 (3) EXTENSION OF PERIOD FOR STATEMENTS  
12 SENT TO CUSTOMERS.—

13 (A) IN GENERAL.—Subsection (b) of sec-  
14 tion 6045 is amended by striking “January 31”  
15 and inserting “February 15”.

16 (B) STATEMENTS RELATED TO SUB-  
17 STITUTE PAYMENTS.—Subsection (d) of section  
18 6045 is amended—

19 (i) by striking “at such time and”,  
20 and

21 (ii) by inserting after “other item.”  
22 the following new sentence: “The written  
23 statement required under the preceding  
24 sentence shall be furnished on or before  
25 February 15 of the year following the cal-

1           endar year in which the payment was  
2           made.”.

3           (C) OTHER STATEMENTS.—Subsection (b)  
4           of section 6045 is amended by adding at the  
5           end the following: “In the case of a consolidated  
6           reporting statement (as defined in regulations)  
7           with respect to any customer, any statement  
8           which would otherwise be required to be fur-  
9           nished on or before January 31 of a calendar  
10          year with respect to any item reportable to the  
11          taxpayer shall instead be required to be fur-  
12          nished on or before February 15 of such cal-  
13          endar year if furnished with such consolidated  
14          reporting statement.”.

15          (b) DETERMINATION OF BASIS OF CERTAIN SECURI-  
16          TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS  
17          METHOD.—Section 1012 is amended—

18               (1) by striking “The basis of property” and in-  
19               serting the following:

20               “(a) IN GENERAL.—The basis of property”,

21               (2) by striking “The cost of real property” and  
22               inserting the following:

23               “(b) SPECIAL RULE FOR APPORTIONED REAL ES-  
24          TATE TAXES.—The cost of real property”, and

1           (3) by adding at the end the following new sub-  
2 sections:

3           “(c) DETERMINATIONS BY ACCOUNT.—

4           “(1) IN GENERAL.—In the case of the sale, ex-  
5 change, or other disposition of a specified security  
6 on or after the applicable date, the conventions pre-  
7 scribed by regulations under this section shall be ap-  
8 plied on an account by account basis.

9           “(2) APPLICATION TO CERTAIN REGULATED IN-  
10 VESTMENT COMPANIES.—

11           “(A) IN GENERAL.—Except as provided in  
12 subparagraph (B), any stock for which an aver-  
13 age basis method is permissible under section  
14 1012 which is acquired before January 1, 2012,  
15 shall be treated as a separate account from any  
16 such stock acquired on or after such date.

17           “(B) ELECTION FOR TREATMENT AS SIN-  
18 GLE ACCOUNT.—If a regulated investment com-  
19 pany elects to have this subparagraph apply  
20 with respect to one or more of its stock-  
21 holders—

22           “(i) subparagraph (A) shall not apply  
23 with respect to any stock in such company  
24 held by such stockholders, and

1                   “(ii) all stock in such company which  
2                   is held by such stockholders shall be treat-  
3                   ed as covered securities described in sec-  
4                   tion 6045(g)(3) without regard to the date  
5                   of the acquisition of such stock.

6                   A rule similar to the rule of the preceding sen-  
7                   tence shall apply with respect to a broker hold-  
8                   ing such stock as a nominee.

9                   “(3) DEFINITIONS.—For purposes of this sec-  
10                  tion, the terms ‘specified security’ and ‘applicable  
11                  date’ shall have the meaning given such terms in  
12                  section 6045(g).

13                  “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-  
14                  ANT TO A PERIODIC STOCK INVESTMENT PLAN.—

15                  “(1) IN GENERAL.—In the case of any stock ac-  
16                  quired after December 31, 2010, in connection with  
17                  a periodic stock investment plan, the basis of such  
18                  stock while held as part of such plan shall be deter-  
19                  mined using one of the methods which may be used  
20                  for determining the basis of stock in a regulated in-  
21                  vestment company.

22                  “(2) TREATMENT AFTER TRANSFER.—In the  
23                  case of the transfer to another account of stock to  
24                  which paragraph (1) applies, such stock shall have  
25                  a cost basis in such other account equal to its basis

1 in the periodic stock investment plan immediately  
2 before such transfer (properly adjusted for any fees  
3 or other charges taken into account in connection  
4 with such transfer).

5 “(3) SEPARATE ACCOUNTS; ELECTION FOR  
6 TREATMENT AS SINGLE ACCOUNT.—Rules similar to  
7 the rules of subsection (c)(2) shall apply for pur-  
8 poses of this subsection.

9 “(4) PERIODIC STOCK INVESTMENT PLAN.—  
10 For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘periodic  
12 stock investment plan’ means—

13 “(i) any stock purchase plan, and

14 “(ii) any dividend reinvestment plan.

15 “(B) STOCK PURCHASE PLAN.—The term  
16 ‘stock purchase plan’ means any arrangement  
17 under which identical stock is periodically pur-  
18 chased pursuant to a written plan.

19 “(C) DIVIDEND REINVESTMENT PLAN.—

20 “(i) IN GENERAL.—The term ‘divi-  
21 dend reinvestment plan’ means any ar-  
22 rangement under which dividends on any  
23 stock are reinvested in stock identical to  
24 the stock with respect to which the divi-  
25 dends are paid.

1                   “(ii) INITIAL STOCK ACQUISITION  
2                   TREATED AS ACQUIRED IN CONNECTION  
3                   WITH PLAN.—Stock shall be treated as ac-  
4                   quired in connection with a dividend rein-  
5                   vestment plan if such stock is acquired  
6                   pursuant to such plan or if the dividends  
7                   paid on such stock are subject to such  
8                   plan.”.

9           (c) INFORMATION BY TRANSFERORS TO AID BRO-  
10   KERS.—

11           (1) IN GENERAL.—Subpart B of part III of  
12           subchapter A of chapter 61 is amended by inserting  
13           after section 6045 the following new section:

14   **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**  
15                   **WITH TRANSFERS OF COVERED SECURITIES**  
16                   **TO BROKERS.**

17           “(a) FURNISHING OF INFORMATION.—Every applica-  
18           ble person which transfers to a broker (as defined in sec-  
19           tion 6045(c)(1)) a security which is a covered security (as  
20           defined in section 6045(g)(3)) in the hands of such appli-  
21           cable person shall furnish to such broker a written state-  
22           ment in such manner and setting forth such information  
23           as the Secretary may by regulations prescribe for purposes  
24           of enabling such broker to meet the requirements of sec-  
25           tion 6045(g).

1       “(b) APPLICABLE PERSON.—For purposes of sub-  
2 section (a), the term ‘applicable person’ means—

3               “(1) any broker (as defined in section  
4 6045(e)(1)), and

5               “(2) any other person as provided by the Sec-  
6 retary in regulations.

7       “(c) TIME FOR FURNISHING STATEMENT.—Except  
8 as otherwise provided by the Secretary, any statement re-  
9 quired by subsection (a) shall be furnished not later than  
10 15 days after the date of the transfer described in such  
11 subsection.”.

12               (2) ASSESSABLE PENALTIES.—Paragraph (2)  
13 of section 6724(d) is amended by redesignating sub-  
14 paragraphs (I) through (DD) as subparagraphs (J)  
15 through (EE), respectively, and by inserting after  
16 subparagraph (H) the following new subparagraph:

17                       “(I) section 6045A (relating to information  
18 required in connection with transfers of covered  
19 securities to brokers),”.

20               (3) CLERICAL AMENDMENT.—The table of sec-  
21 tions for subpart B of part III of subchapter A of  
22 chapter 61 is amended by inserting after the item  
23 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-  
curities to brokers.”.

1 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-  
2 KERS.—

3 (1) IN GENERAL.—Subpart B of part III of  
4 subchapter A of chapter 61, as amended by sub-  
5 section (b), is amended by inserting after section  
6 6045A the following new section:

7 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**  
8 **BASIS OF SPECIFIED SECURITIES.**

9 “(a) IN GENERAL.—According to the forms or regu-  
10 lations prescribed by the Secretary, any issuer of a speci-  
11 fied security shall make a return setting forth—

12 “(1) a description of any organizational action  
13 which affects the basis of such specified security of  
14 such issuer,

15 “(2) the quantitative effect on the basis of such  
16 specified security resulting from such action, and

17 “(3) such other information as the Secretary  
18 may prescribe.

19 “(b) TIME FOR FILING RETURN.—Any return re-  
20 quired by subsection (a) shall be filed not later than the  
21 earlier of—

22 “(1) 45 days after the date of the action de-  
23 scribed in subsection (a), or

24 “(2) January 15 of the year following the cal-  
25 endar year during which such action occurred.



1           “(c) STATEMENTS TO BE FURNISHED TO HOLDERS  
2 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-  
3 cording to the forms or regulations prescribed by the Sec-  
4 retary, every person required to make a return under sub-  
5 section (a) with respect to a specified security shall furnish  
6 to the nominee with respect to the specified security (or  
7 certificate holder if there is no nominee) a written state-  
8 ment showing—

9           “(1) the name, address, and phone number of  
10 the information contact of the person required to  
11 make such return,

12           “(2) the information required to be shown on  
13 such return with respect to such security, and

14           “(3) such other information as the Secretary  
15 may prescribe.

16 The written statement required under the preceding sen-  
17 tence shall be furnished to the holder on or before January  
18 15 of the year following the calendar year during which  
19 the action described in subsection (a) occurred.

20           “(d) SPECIFIED SECURITY.—For purposes of this  
21 section, the term ‘specified security’ has the meaning given  
22 such term by section 6045(g)(3)(B). No return shall be  
23 required under this section with respect to actions de-  
24 scribed in subsection (a) with respect to a specified secu-

1 rity which occur before the applicable date (as defined in  
2 section 6045(g)(3)(C)) with respect to such security.

3 “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The  
4 Secretary may waive the requirements under subsections  
5 (a) and (c) with respect to a specified security, if the per-  
6 son required to make the return under subsection (a)  
7 makes publicly available, in such form and manner as the  
8 Secretary determines necessary to carry out the purposes  
9 of this section—

10 “(1) the name, address, phone number, and  
11 email address of the information contact of such  
12 person, and

13 “(2) the information described in paragraphs  
14 (1), (2), and (3) of subsection (a).”.

15 (2) ASSESSABLE PENALTIES.—

16 (A) Subparagraph (B) of section  
17 6724(d)(1) is amended by redesignating clause  
18 (iv) and each of the clauses which follow as  
19 clauses (v) through (xxiii), respectively, and by  
20 inserting after clause (iii) the following new  
21 clause:

22 “(iv) section 6045B(a) (relating to re-  
23 turns relating to actions affecting basis of  
24 specified securities),”.

1           (B) Paragraph (2) of section 6724(d), as  
2           amended by subsection (c)(2), is amended by  
3           redesignating subparagraphs (J) through (EE)  
4           as subparagraphs (K) through (FF), respec-  
5           tively, and by inserting after subparagraph (I)  
6           the following new subparagraph:

7           “(J) subsections (c) and (e) of section  
8           6045B (relating to returns relating to actions  
9           affecting basis of specified securities),”.

10          (3) CLERICAL AMENDMENT.—The table of sec-  
11          tions for subpart B of part III of subchapter A of  
12          chapter 61, as amended by subsection (b)(3), is  
13          amended by inserting after the item relating to sec-  
14          tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securi-  
ties.”.

15          (e) EFFECTIVE DATE.—

16           (1) IN GENERAL.—Except as otherwise pro-  
17           vided in this subsection, the amendments made by  
18           this section shall take effect on January 1, 2011.

19           (2) EXTENSION OF PERIOD FOR STATEMENTS  
20           SENT TO CUSTOMERS.—The amendments made by  
21           subsection (a)(3) shall apply to statements required  
22           to be furnished after December 31, 2008.

1 **SEC. 404. 0.2 PERCENT FUTA SURTAX.**

2 (a) IN GENERAL.—Section 3301 (relating to rate of  
3 tax) is amended—

4 (1) by striking “through 2008” in paragraph  
5 (1) and inserting “through 2009”, and

6 (2) by striking “calendar year 2009” in para-  
7 graph (2) and inserting “calendar year 2010”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to wages paid after December 31,  
10 2008.

11 **SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**  
12 **ITY TRUST FUND TAX.**

13 (a) INCREASE IN RATE.—

14 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-  
15 lating to rates) is amended by striking “is 5 cents  
16 a barrel.” and inserting “is—

17 “(i) in the case of crude oil received  
18 or petroleum products entered before Jan-  
19 uary 1, 2017, 8 cents a barrel, and

20 “(ii) in the case of crude oil received  
21 or petroleum products entered after De-  
22 cember 31, 2016, 9 cents a barrel.”.

23 (2) EFFECTIVE DATE.—The amendment made  
24 by this subsection shall apply on and after the first  
25 day of the first calendar quarter beginning more

1 than 60 days after the date of the enactment of this  
2 Act.

3 (b) EXTENSION.—

4 (1) IN GENERAL.—Section 4611(f) (relating to  
5 application of Oil Spill Liability Trust Fund financ-  
6 ing rate) is amended by striking paragraphs (2) and  
7 (3) and inserting the following new paragraph:

8 “(2) TERMINATION.—The Oil Spill Liability  
9 Trust Fund financing rate shall not apply after De-  
10 cember 31, 2017.”.

11 (2) CONFORMING AMENDMENT.—Section  
12 4611(f)(1) is amended by striking “paragraphs (2)  
13 and (3)” and inserting “paragraph (2)”.

14 (3) EFFECTIVE DATE.—The amendments made  
15 by this subsection shall take effect on the date of the  
16 enactment of this Act.

17 **SEC. 406. NONQUALIFIED DEFERRED COMPENSATION**  
18 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

19 (a) IN GENERAL.—Subpart B of part II of sub-  
20 chapter E of chapter 1 is amended by inserting after sec-  
21 tion 457 the following new section:

22 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**  
23 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

24 “(a) IN GENERAL.—Any compensation of a service  
25 provider which is deferred under a nonqualified deferred

1 compensation plan of a nonqualified entity shall be includ-  
2 ible in gross income when there is no substantial risk of  
3 forfeiture of the rights to such compensation.

4 “(b) NONQUALIFIED ENTITY.—For purposes of this  
5 section, the term ‘nonqualified entity’ means—

6 “(1) any foreign corporation unless substan-  
7 tially all of its income is—

8 “(A) effectively connected with the conduct  
9 of a trade or business in the United States, or

10 “(B) subject to a comprehensive foreign in-  
11 come tax, and

12 “(2) any partnership unless substantially all of  
13 its income is, directly or indirectly, allocated to—

14 “(A) United States persons (other than  
15 persons exempt from tax under this title),

16 “(B) foreign persons with respect to whom  
17 such income is subject to a comprehensive for-  
18 eign income tax,

19 “(C) foreign persons with respect to  
20 whom—

21 “(i) such income is effectively con-  
22 nected with the conduct of a trade or busi-  
23 ness within the United States, and

1                   “(ii) a withholding tax is paid under  
2                   section 1446 with respect to such income,  
3                   or

4                   “(D) organizations which are exempt from  
5                   tax under this title if such income is unrelated  
6                   business taxable income (as defined in section  
7                   512) with respect to such organization.

8                   “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-  
9                   TION.—

10                   “(1) IN GENERAL.—If the amount of any com-  
11                   pensation is not determinable at the time that such  
12                   compensation is otherwise includible in gross income  
13                   under subsection (a)—

14                   “(A) such amount shall be so includible in  
15                   gross income when determinable, and

16                   “(B) the tax imposed under this chapter  
17                   for the taxable year in which such compensation  
18                   is includible in gross income shall be increased  
19                   by the sum of—

20                   “(i) the amount of interest determined  
21                   under paragraph (2), and

22                   “(ii) an amount equal to 20 percent of  
23                   the amount of such compensation.

24                   “(2) INTEREST.—For purposes of paragraph  
25                   (1)(B)(i), the interest determined under this para-

1 graph for any taxable year is the amount of interest  
2 at the underpayment rate under section 6621 plus  
3 1 percentage point on the underpayments that would  
4 have occurred had the deferred compensation been  
5 includible in gross income for the taxable year in  
6 which first deferred or, if later, the first taxable year  
7 in which such deferred compensation is not subject  
8 to a substantial risk of forfeiture.

9 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

10 For purposes of this section—

11 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

12 “(A) IN GENERAL.—The rights of a person  
13 to compensation shall be treated as subject to  
14 a substantial risk of forfeiture only if such per-  
15 son’s rights to such compensation are condi-  
16 tioned upon the future performance of substan-  
17 tial services by any individual.

18 “(B) EXCEPTION FOR COMPENSATION  
19 BASED ON GAIN RECOGNIZED ON AN INVEST-  
20 MENT ASSET.—

21 “(i) IN GENERAL.—To the extent pro-  
22 vided in regulations prescribed by the Sec-  
23 retary, if compensation of a service pro-  
24 vider is determined solely by reference to  
25 the amount of gain recognized on the dis-



1 position of an investment asset, such com-  
2 pensation shall be treated as subject to a  
3 substantial risk of forfeiture until the date  
4 of such disposition.

5 “(ii) INVESTMENT ASSET.—For pur-  
6 poses of clause (i), the term ‘investment  
7 asset’ means any single asset (other than  
8 an investment fund or similar entity)—

9 “(I) acquired directly by an in-  
10 vestment fund or similar entity,

11 “(II) with respect to which such  
12 entity does not (nor does any person  
13 related to such entity) participate in  
14 the active management of such asset  
15 (or if such asset is an interest in an  
16 entity, in the active management of  
17 the activities of such entity), and

18 “(III) substantially all of any  
19 gain on the disposition of which (other  
20 than such deferred compensation) is  
21 allocated to investors in such entity.

22 “(iii) COORDINATION WITH SPECIAL  
23 RULE.—Paragraph (3)(B) shall not apply  
24 to any compensation to which clause (i)  
25 applies.

1           “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

2           The term ‘comprehensive foreign income tax’ means,  
3           with respect to any foreign person, the income tax  
4           of a foreign country if—

5                   “(A) such person is eligible for the benefits  
6                   of a comprehensive income tax treaty between  
7                   such foreign country and the United States, or

8                   “(B) such person demonstrates to the sat-  
9                   isfaction of the Secretary that such foreign  
10                  country has a comprehensive income tax.

11           “(3) NONQUALIFIED DEFERRED COMPENSA-  
12           TION PLAN.—

13                   “(A) IN GENERAL.—The term ‘non-  
14                   qualified deferred compensation plan’ has the  
15                   meaning given such term under section  
16                   409A(d), except that such term shall include  
17                   any plan that provides a right to compensation  
18                   based on the appreciation in value of a specified  
19                   number of equity units of the service recipient.

20                   “(B) EXCEPTION.—Compensation shall  
21                   not be treated as deferred for purposes of this  
22                   section if the service provider receives payment  
23                   of such compensation not later than 12 months  
24                   after the end of the taxable year of the service  
25                   recipient during which the right to the payment

1           of such compensation is no longer subject to a  
2           substantial risk of forfeiture.

3           “(4) SERVICE PROVIDER.—The term ‘service  
4           provider’ has the meaning given such term in the  
5           regulations under section 409A, determined without  
6           regard to method of accounting.

7           “(5) EXCEPTION FOR CERTAIN COMPENSATION  
8           WITH RESPECT TO EFFECTIVELY CONNECTED IN-  
9           COME.—In the case of a foreign corporation with in-  
10          come which is taxable under section 882, this section  
11          shall not apply to compensation payable by such for-  
12          eign corporation which, had such compensation been  
13          paid in cash on the date that such compensation  
14          ceased to be subject to a substantial risk of for-  
15          feiture, would have been deductible by such foreign  
16          corporation against such income.

17          “(6) EXCEPTION WITH RESPECT TO EMPLOY-  
18          EES OF CERTAIN SUBSIDIARIES.—This section shall  
19          not apply to compensation deferred under a non-  
20          qualified deferred compensation plan of a non-  
21          qualified entity if—

22                  “(A) such compensation is payable to an  
23                  employee of a domestic subsidiary of such enti-  
24                  ty, and

1           “(B) such compensation is reasonably ex-  
2           pected to be deductible by such subsidiary  
3           under section 404(a)(5) when such compensa-  
4           tion is includible in income by such employee.

5           “(7) APPLICATION OF RULES.—Rules similar to  
6           the rules of paragraphs (5) and (6) of section  
7           409A(d) shall apply.

8           “(e) REGULATIONS.—The Secretary shall prescribe  
9           such regulations as may be necessary or appropriate to  
10          carry out the purposes of this section, including regula-  
11          tions—

12           “(1) disregarding a substantial risk of for-  
13           feiture in cases where necessary to carry out the  
14           purposes of this section, and

15           “(2) providing appropriate treatment where an  
16           individual who was employed by an employer which  
17           is not a nonqualified entity is temporarily employed  
18           by a nonqualified entity which is related to such em-  
19           ployer.”.

20          (b) CONFORMING AMENDMENT.—Section 26(b)(2) is  
21          amended by striking “and” at the end of subparagraph  
22          (V), by striking the period at the end of subparagraph  
23          (W) and inserting “, and”, and by adding at the end the  
24          following new subparagraph:

1                   “(X) section 457A(c)(1)(B) (relating to de-  
2                   terminability of amounts of compensation).”.

3           (c) CLERICAL AMENDMENT.—The table of sections  
4 of subpart B of part II of subchapter E of chapter 1 is  
5 amended by inserting after the item relating to section  
6 457 the following new item:

          “Sec. 457A. Nonqualified deferred compensation from certain tax indifferent  
          parties.”.

7           (d) EFFECTIVE DATE.—

8                   (1) IN GENERAL.—Except as otherwise pro-  
9                   vided in this subsection, the amendments made by  
10                   this section shall apply to amounts deferred which  
11                   are attributable to services performed after Decem-  
12                   ber 31, 2008.

13                   (2) APPLICATION TO EXISTING DEFERRALS.—  
14                   In the case of any amount deferred to which the  
15                   amendments made by this section do not apply solely  
16                   by reason of the fact that the amount is attributable  
17                   to services performed before January 1, 2009, to the  
18                   extent such amount is not includible in gross income  
19                   in a taxable year beginning before 2018, such  
20                   amounts shall be includible in gross income in the  
21                   later of—

22                                   (A) the last taxable year beginning before  
23                                   2018, or

1           (B) the taxable year in which there is no  
2           substantial risk of forfeiture of the rights to  
3           such compensation (determined in the same  
4           manner as determined for purposes of section  
5           457A of the Internal Revenue Code of 1986, as  
6           added by this section).

7           (3) ACCELERATED PAYMENTS.—No later than  
8           120 days after the date of the enactment of this Act,  
9           the Secretary shall issue guidance providing a lim-  
10          ited period of time during which a nonqualified de-  
11          ferred compensation arrangement attributable to  
12          services performed on or before December 31, 2008,  
13          may, without violating the requirements of section  
14          409A(a) of the Internal Revenue Code of 1986, be  
15          amended to conform the date of distribution to the  
16          date the amounts are required to be included in in-  
17          come.

18          (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—  
19          If the taxpayer is also a service recipient and main-  
20          tains one or more nonqualified deferred compensa-  
21          tion arrangements for its service providers under  
22          which any amount is attributable to services per-  
23          formed on or before December 31, 2008, the guid-  
24          ance issued under paragraph (4) shall permit such  
25          arrangements to be amended to conform the dates of

1 distribution under such arrangement to the date  
2 amounts are required to be included in the income  
3 of such taxpayer under this subsection.

4 (5) ACCELERATED PAYMENT NOT TREATED AS  
5 MATERIAL MODIFICATION.—Any amendment to a  
6 nonqualified deferred compensation arrangement  
7 made pursuant to paragraph (4) or (5) shall not be  
8 treated as a material modification of the arrange-  
9 ment for purposes of section 409A of the Internal  
10 Revenue Code of 1986.

11 (6) CERTAIN PREEXISTING ARRANGEMENTS.—  
12 If, pursuant to a written binding contract entered  
13 into on or before December 31, 2007, any portion of  
14 compensation payable under such contract for a pe-  
15 riod is determined as a portion of the amount of  
16 gain recognized on the disposition during such pe-  
17 riod of a specified asset, the amendments made by  
18 this section shall not apply to the portion of com-  
19 pensation attributable to such disposition notwith-  
20 standing the fact that such portion of compensation  
21 may be reduced by realized losses or depreciation in  
22 the value of other assets during such period or a  
23 prior period or be attributable in part to services  
24 performed after December 31, 2008, but only if—

1 (A) payment of such portion of compensa-  
2 tion is received by the service provider and in-  
3 cluded in its gross income no later than the ear-  
4 lier of—

5 (i) 12 months after the end of the  
6 taxable year of the service recipient during  
7 which the disposition of the specified asset  
8 occurs, or

9 (ii) the last taxable year of the service  
10 provider beginning before January 1,  
11 2018; and

12 (B) the specified asset is held by the serv-  
13 ice recipient on the date of the enactment of  
14 this section.

15 **SEC. 407. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**  
16 **TION OF INTEREST.**

17 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-  
18 tion 864(f) are each amended by striking “December 31,  
19 2010” and inserting “December 31, 2016”.

20 (b) TRANSITION.—Paragraph (7) of section 864(f) is  
21 amended by striking “30 percent” and inserting “55 per-  
22 cent”.

23 (c) COORDINATION WITH OTHER LEGISLATION.—If  
24 H.R. 6983 of the 110th Congress is enacted into law—



1           (1) such law shall be treated, solely for pur-  
2           poses of carrying out the amendments made by this  
3           section, as having been enacted immediately before  
4           the enactment of this Act, and

5           (2) in lieu of the amendments made by sub-  
6           sections (a) and (b):

7                   (A) Paragraphs (5)(D) and (6) of section  
8                   864(f), as amended by such law, are each  
9                   amended by striking “December 31, 2012” and  
10                   inserting “December 31, 2018”.

11                   (B) Subsection (f) of section 864, as  
12                   amended by such law, is amended by striking  
13                   paragraph (7).

14 **SEC. 408. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
15 **TAXES.**

16           The percentage under subparagraph (C) of section  
17 401(1) of the Tax Increase Prevention and Reconciliation  
18 Act of 2005 in effect on the date of the enactment of this  
19 Act is increased by 58 percentage points.

          Passed the House of Representatives September 26,  
2008.

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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# H. R. 7060

## AN ACT

To amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.