

Calendar No. 446110TH CONGRESS
1ST SESSION**S. 2242****[Report No. 110-206]**

To amend the Trade Act of 1974 to establish supplemental agricultural disaster assistance and to amend the Internal Revenue Code of 1986 to provide tax incentives for conservation and alternative energy sources and to provide tax relief for farmers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2007

Mr. BAUCUS, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Trade Act of 1974 to establish supplemental agricultural disaster assistance and to amend the Internal Revenue Code of 1986 to provide tax incentives for conservation and alternative energy sources and to provide tax relief for farmers, 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; AMENDMENTS TO 1986 CODE;**
 2 **TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Heartland, Habitat, Harvest, and Horticulture Act of
 5 2007”.

6 (b) **AMENDMENTS TO 1986 CODE.**—Except as other-
 7 wise expressly provided, whenever in this Act an amend-
 8 ment or repeal is expressed in terms of an amendment
 9 to, or repeal of, a section or other provision, the reference
 10 shall be considered to be made to a section or other provi-
 11 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendments to 1986 Code; table of contents.

**TITLE I—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE
 FROM THE AGRICULTURE DISASTER RELIEF TRUST FUND**

Sec. 101. Supplemental agriculture disaster assistance.

TITLE II—CONSERVATION PROVISIONS

Subtitle A—Land and Species Preservation Provisions

Sec. 201. Conservation reserve tax credit.

Sec. 202. Exclusion of Conservation Reserve Program payments from SECA
 tax for certain individuals.

Sec. 203. Permanent extension of special rule encouraging contributions of cap-
 ital gain real property for conservation purposes.

Sec. 204. Tax credit for recovery and restoration of endangered species.

Sec. 205. Deduction for endangered species recovery expenditures.

Sec. 206. Exclusion for certain payments and programs relating to fish and
 wildlife.

Sec. 207. Credit for easements granted under certain Department of Agri-
 culture conservation programs.

Subtitle B—Timber Provisions

Sec. 211. Forest conservation bonds.

Sec. 212. Deduction for qualified timber gain.

Sec. 213. Excise tax not applicable to section 1203 deduction of real estate in-
 vestment trusts.

- Sec. 214. Timber REIT modernization.
- Sec. 215. Mineral royalty income qualifying income for timber REITs.
- Sec. 216. Modification of taxable REIT subsidiary asset test for timber REITs.
- Sec. 217. Safe harbor for timber property.

TITLE III—ENERGY PROVISIONS

Subtitle A—Electricity Generation

- Sec. 301. Credit for residential and business wind property.
- Sec. 302. Landowner incentive to encourage electric transmission build-out.
- Sec. 303. Exception to reduction of renewable electricity credit.

Subtitle B—Alcohol Fuel

- Sec. 311. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
- Sec. 312. Credit for production of cellulosic biomass alcohol.
- Sec. 313. Extension of small ethanol producer credit.
- Sec. 314. Credit for producers of fossil free alcohol.
- Sec. 315. Modification of alcohol credit.
- Sec. 316. Calculation of volume of alcohol for fuel credits.
- Sec. 317. Ethanol tariff extension.
- Sec. 318. Elimination and reductions of duty drawback on certain imported ethanol.

Subtitle C—Biodiesel and Renewable Diesel Fuel

- Sec. 321. Extension and modification of credit for biodiesel and renewable diesel used as fuel.
- Sec. 322. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.

Subtitle D—Alternative Fuel

- Sec. 331. Extension and modification of alternative fuel credit.
- Sec. 332. Extension of alternative fuel vehicle refueling property credit.

TITLE IV—AGRICULTURAL PROVISIONS

- Sec. 401. Increase in loan limits on agricultural bonds.
- Sec. 402. Modification of installment sale rules for certain farm property.
- Sec. 403. Allowance of section 1031 treatment for exchanges involving certain mutual ditch, reservoir, or irrigation company stock.
- Sec. 404. Credit to holders of rural renaissance bonds.
- Sec. 405. Agricultural chemicals security credit.
- Sec. 406. Credit for drug safety and effectiveness testing for minor animal species.
- Sec. 407. Certain farming business machinery and equipment treated as 5-year property.
- Sec. 408. Expensing of broadband Internet access expenditures.
- Sec. 409. Credit for energy efficient motors.

TITLE V—REVENUE RAISING PROVISIONS

Subtitle A—Miscellaneous Revenue Provisions

- Sec. 501. Limitation on farming losses of certain taxpayers.

- Sec. 502. Modification to optional method of computing net earnings from self-employment.
- Sec. 503. Information reporting for Commodity Credit Corporation transactions.
- Sec. 504. Modification of section 1031 treatment for certain real estate.
- Sec. 505. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 506. Time for payment of corporate estimated taxes.
- Sec. 507. Ineligibility of collectibles for nontaxable like kind exchange treatment.
- Sec. 508. Denial of deduction for certain fines, penalties, and other amounts.
- Sec. 509. Increase in information return penalties.

Subtitle B—Economic Substance Doctrine

- Sec. 511. Clarification of economic substance doctrine.
- Sec. 512. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 513. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

1 **TITLE I—SUPPLEMENTAL AGRI-**
 2 **CULTURAL DISASTER ASSIST-**
 3 **ANCE FROM THE AGRI-**
 4 **CULTURE DISASTER RELIEF**
 5 **TRUST FUND**

6 **SEC. 101. SUPPLEMENTAL AGRICULTURE DISASTER AS-**
 7 **SISTANCE.**

8 (a) IN GENERAL.—The Trade Act of 1974 (19
 9 U.S.C. 2101 et seq.) is amended by adding at the end
 10 the following:

11 **“TITLE IX—SUPPLEMENTAL AG-**
 12 **RICULTURE DISASTER AS-**
 13 **SISTANCE**

14 **“SEC. 901. PERMANENT AUTHORITY FOR SUPPLEMENTAL**
 15 **REVENUE ASSISTANCE.**

16 “(a) DEFINITIONS.—In this section:

1 “(1) ACTUAL PRODUCTION HISTORY YIELD.—
2 The term ‘actual production history yield’ means the
3 weighted average actual production history for each
4 insurable commodity or noninsurable commodity, as
5 calculated under the Federal Crop Insurance Act (7
6 U.S.C. 1501 et seq.) or the noninsured crop disaster
7 assistance program, respectively.

8 “(2) COUNTER-CYCLICAL PROGRAM PAYMENT
9 YIELD.—The term ‘counter-cyclical program pay-
10 ment yield’ means the weighted average payment
11 yield established under section 1102 of the Farm Se-
12 curity and Rural Investment Act of 2002 (7 U.S.C.
13 7912).

14 “(3) DISASTER COUNTY.—

15 “(A) IN GENERAL.—The term ‘disaster
16 county’ means a county included in the geo-
17 graphic area covered by a qualifying natural
18 disaster declaration.

19 “(B) INCLUSION.—The term ‘disaster
20 county’ includes—

21 “(i) a county contiguous to a county
22 described in subparagraph (A); and

23 “(ii) any farm in which, during a cal-
24 endar year, the total loss of production of
25 the farm relating to weather is greater

1 than 50 percent of the normal production
2 of the farm, as determined by the Sec-
3 retary.

4 “(4) ELIGIBLE PRODUCER ON A FARM.—

5 “(A) IN GENERAL.—The term ‘eligible pro-
6 ducer on a farm’ means an individual or entity
7 described in subparagraph (B) that, as deter-
8 mined by the Secretary, assumes the production
9 and market risks associated with the agricul-
10 tural production of crops or livestock.

11 “(B) DESCRIPTION.—An individual or en-
12 tity referred to in subparagraph (A) is—

13 “(i) a citizen of the United States;

14 “(ii) a resident alien;

15 “(iii) a partnership of citizens of the
16 United States; or

17 “(iv) a corporation, limited liability
18 corporation, or other farm organizational
19 structure organized under State law.

20 “(5) FARM.—

21 “(A) IN GENERAL.—The term ‘farm’
22 means, in relation to an eligible producer on a
23 farm, the sum of all crop acreage in all counties
24 that—

1 “(i) is used for grazing by the eligible
2 producer; or

3 “(ii) is planted or intended to be
4 planted for harvest by the eligible pro-
5 ducer.

6 “(B) AQUACULTURE.—In the case of
7 aquaculture, the term ‘farm’ means, in relation
8 to an eligible producer on a farm, all fish being
9 produced in all counties that are intended to be
10 harvested for sale by the eligible producer.

11 “(C) HONEY.—In the case of honey, the
12 term ‘farm’ means, in relation to an eligible
13 producer on a farm, all bees and beehives in all
14 counties that are intended to be harvested for
15 a honey crop by the eligible producer.

16 “(6) FARM-RAISED FISH.—The term ‘farm-
17 raised fish’ means any aquatic species (including any
18 species of finfish, mollusk, crustacean, or other
19 aquatic invertebrate, amphibian, reptile, or aquatic
20 plant) that is propagated and reared in a controlled
21 or semicontrolled environment.

22 “(7) INSURABLE COMMODITY.—The term ‘in-
23 surable commodity’ means an agricultural com-
24 modity (excluding livestock) for which the producer
25 on a farm is eligible to obtain a policy or plan of in-

1 surance under the Federal Crop Insurance Act (7
2 U.S.C. 1501 et seq.).

3 “(8) LIVESTOCK.—The term ‘livestock’ in-
4 cludes—

5 “(A) cattle (including dairy cattle);

6 “(B) bison;

7 “(C) poultry;

8 “(D) sheep;

9 “(E) swine;

10 “(F) horses; and

11 “(G) other livestock, as determined by the
12 Secretary.

13 “(9) MOVING 5-YEAR OLYMPIC AVERAGE COUN-
14 TY YIELD.—The term ‘moving 5-year Olympic aver-
15 age county yield’ means the weighted average yield
16 obtained from the 5 most recent years of yield data
17 provided by the National Agriculture Statistics Serv-
18 ice obtained from data after dropping the highest
19 and the lowest yields.

20 “(10) NONINSURABLE COMMODITY.—The term
21 ‘noninsurable commodity’ means a crop for which
22 the eligible producers on a farm are eligible to ob-
23 tain assistance under the noninsured crop assistance
24 program.

1 “(11) NONINSURED CROP ASSISTANCE PRO-
2 GRAM.—The term ‘noninsured crop assistance pro-
3 gram’ means the program carried out under section
4 196 of the Federal Agriculture Improvement and
5 Reform Act of 1996 (7 U.S.C. 7333).

6 “(12) QUALIFYING NATURAL DISASTER DEC-
7 LARATION.—The term ‘qualifying natural disaster
8 declaration’ means a natural disaster declared by the
9 Secretary for production losses under section 321(a)
10 of the Consolidated Farm and Rural Development
11 Act (7 U.S.C. 1961(a)).

12 “(13) SECRETARY.—The term ‘Secretary’
13 means the Secretary of Agriculture.

14 “(14) STATE.—The term ‘State’ means—

15 “(A) a State;

16 “(B) the District of Columbia;

17 “(C) the Commonwealth of Puerto Rico;

18 and

19 “(D) any other territory or possession of
20 the United States.

21 “(15) TRUST FUND.—The term ‘Trust Fund’
22 means the Agriculture Disaster Relief Trust Fund
23 established under section 902.

1 “(16) UNITED STATES.—The term ‘United
2 States’ when used in a geographical sense, means all
3 of the States.

4 “(b) SUPPLEMENTAL REVENUE ASSISTANCE PAY-
5 MENTS.—

6 “(1) IN GENERAL.—The Secretary shall use
7 such sums as are necessary from the Trust Fund to
8 make crop disaster assistance payments to eligible
9 producers on farms in disaster counties that have in-
10 curred crop production losses or crop quality losses,
11 or both, during the crop year.

12 “(2) AMOUNT.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (B), the Secretary shall provide crop dis-
15 aster assistance payments under this section to
16 an eligible producer on a farm in an amount
17 equal to 52 percent of the difference between—

18 “(i) the disaster assistance program
19 guarantee, as described in paragraph (3);
20 and

21 “(ii) the total farm revenue for a
22 farm, as described in paragraph (4).

23 “(B) LIMITATION.—The disaster assist-
24 ance program guarantee for a crop used to cal-
25 culate the payments for a farm under subpara-

1 graph (A)(i) may not be greater than 90 per-
 2 cent of the sum of the expected revenue, as de-
 3 scribed in paragraph (5) for each of the crops
 4 on a farm, as determined by the Secretary.

5 “(3) SUPPLEMENTAL REVENUE ASSISTANCE
 6 PROGRAM GUARANTEE.—

7 “(A) IN GENERAL.—Except as otherwise
 8 provided in this paragraph, the supplemental
 9 assistance program guarantee shall be the sum
 10 obtained by adding—

11 “(i) for each insurable commodity on
 12 the farm, the product obtained by multi-
 13 plying—

14 “(I) the greatest of—

15 “(aa) the actual production
 16 history yield;

17 “(bb) 85 percent of the mov-
 18 ing 5-year Olympic average coun-
 19 ty yield; and

20 “(cc) the counter-cyclical
 21 program payment yield for each
 22 crop;

23 “(II) the percentage of the crop
 24 insurance yield guarantee;

1 “(III) the percentage of crop in-
2 surance price elected by the eligible
3 producer;

4 “(IV) the crop insurance price;
5 and

6 “(V) 115 percent; and

7 “(ii) for each noninsurable commodity
8 on a farm, the product obtained by multi-
9 plying—

10 “(I) the weighted noninsured
11 crop assistance program yield guar-
12 antee;

13 “(II) except as provided in sub-
14 paragraph (B), 100 percent of the
15 noninsured crop assistance program
16 established price; and

17 “(III) 115 percent.

18 “(B) SUPPLEMENTAL BUY-UP NON-
19 INSURED ASSISTANCE PROGRAM.—Beginning on
20 the date that the Secretary makes available
21 supplemental buy-up coverage under the non-
22 insured assistance program in accordance with
23 subsection (h), the percentage described in sub-
24 clause (II) of subparagraph (A)(ii) shall be
25 equal to the percentage of the noninsured as-

1 sistance program price guarantee elected by the
2 producer.

3 “(C) ADJUSTMENT INSURANCE GUAR-
4 ANTEE.—Notwithstanding subparagraph (A), in
5 the case of an insurable commodity for which a
6 plan of insurance provides for an adjustment in
7 the guarantee, such as in the case of prevented
8 planting, the adjusted insurance guarantee shall
9 be the basis for determining the disaster assist-
10 ance program guarantee for the insurable com-
11 modity.

12 “(D) ADJUSTED ASSISTANCE LEVEL.—
13 Notwithstanding subparagraph (A), in the case
14 of a noninsurable commodity for which the non-
15 insured crop assistance program provides for an
16 adjustment in the level of assistance, such as in
17 the case of prevented harvesting, the adjusted
18 assistance level shall be the basis for deter-
19 mining the disaster assistance program guar-
20 antee for the noninsurable commodity.

21 “(E) EQUITABLE TREATMENT FOR NON-
22 YIELD BASED POLICIES.—The Secretary shall
23 establish equitable treatment for non-yield
24 based policies and plans of insurance, such as

1 the Adjusted Gross Revenue Lite insurance pro-
2 gram.

3 “(F) PUBLIC MANAGED LAND.—Notwith-
4 standing subparagraph (A), if rangeland is
5 managed by a Federal agency and the carrying
6 capacity of the managed rangeland is reduced
7 as a result of a disaster in the preceding year
8 that was the basis for a qualifying natural dis-
9 aster declaration—

10 “(i) the calculation for the supple-
11 mental assistance program guarantee de-
12 termined under subparagraph (A) as the
13 guarantee applies to the managed range-
14 land shall be not less than 75 percent of
15 the guarantee for the preceding year; and

16 “(ii) the requirement for a designation
17 by the Secretary for the current year is
18 waived.

19 “(4) FARM REVENUE.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the total farm revenue for a farm,
22 shall equal the sum obtained by adding—

23 “(i) the estimated actual value for
24 grazing and for each crop produced on a

1 farm by using the product obtained by
2 multiplying—

3 “(I) the actual crop acreage
4 grazed or harvested by an eligible pro-
5 ducer on a farm;

6 “(II) the estimated actual yield
7 of the grazing land or crop produc-
8 tion; and

9 “(III) subject to subparagraphs
10 (B) and (C), the average market price
11 received or value of the production
12 during the first 5 months of the mar-
13 keting year for the county in which
14 the farm or portion of a farm is lo-
15 cated;

16 “(ii) 20 percent of amount of any di-
17 rect payments made to the producer under
18 section 1103 of the Farm Security and
19 Rural Investment Act of 2002 (7 U.S.C.
20 7913);

21 “(iii) the amount of payments for pre-
22 vented planting on a farm;

23 “(iv) the amount of crop insurance in-
24 demnities received by an eligible producer

1 on a farm for each crop on a farm, includ-
2 ing indemnities for grazing losses;

3 “(v) the amount of payments an eligi-
4 ble producer on a farm received under the
5 noninsured crop assistance program for
6 each crop on a farm, including grazing
7 losses; and

8 “(vi) the value of any other natural
9 disaster assistance payments provided by
10 the Federal Government to an eligible pro-
11 ducer on a farm for each crop on a farm
12 for the same loss for which the eligible pro-
13 ducer is seeking assistance.

14 “(B) ADJUSTMENT.—The Secretary shall
15 adjust the average market price received by the
16 eligible producer on a farm—

17 “(i) to reflect the average quality dis-
18 counts applied to the local or regional mar-
19 ket price of a crop, hay, or forage due to
20 a reduction in the intrinsic characteristics
21 of the production resulting from adverse
22 weather, as determined annually by the
23 State office of the Farm Service Agency;
24 and

1 “(ii) to account for a crop the value of
2 which is reduced due to excess moisture re-
3 sulting from a disaster-related condition.

4 “(C) MAXIMUM AMOUNT FOR CERTAIN
5 CROPS.—With respect to a crop for which an el-
6 igible producer on a farm receives assistance
7 under the noninsured crop assistance program,
8 the average market price received or value of
9 the production during the first 5 months of the
10 marketing year for the county in which the
11 farm or portion of a farm is located shall be an
12 amount not more than 100 percent of the price
13 of the crop established under the noninsured
14 crop assistance program.

15 “(5) EXPECTED REVENUE.—The expected rev-
16 enue for each crop on a farm shall equal the sum
17 obtained by adding—

18 “(A) the expected value of grazing;

19 “(B) the product obtained by multi-
20 plying—

21 “(i) the greatest of—

22 “(I) the actual production history
23 yield of the eligible producer on a
24 farm;

1 “(II) the moving 5-year Olympic
2 average county yield; and

3 “(III) the counter-cyclical pro-
4 gram payment yield;

5 “(ii) the acreage planted or intended
6 to be planted for each crop; and

7 “(iii) 100 percent of the insurance
8 price guarantee; and

9 “(C) the product obtained by multi-
10 plying—

11 “(i) 100 percent of the noninsured
12 crop assistance program yield; and

13 “(ii) 100 percent of the noninsured
14 crop assistance program price for each of
15 the crops on a farm.

16 “(c) LIVESTOCK INDEMNITY PAYMENTS.—

17 “(1) IN GENERAL.—The Secretary shall use
18 such sums as are necessary from the Trust Fund to
19 make livestock indemnity payments to eligible pro-
20 ducers on farms that have incurred livestock death
21 losses in excess of the normal mortality due to ad-
22 verse weather, as determined by the Secretary, dur-
23 ing the calendar year, including losses due to hurri-
24 canes, floods, blizzards, disease, wildfires, extreme
25 heat, and extreme cold.

1 “(2) PAYMENT RATES.—Indemnity payments to
2 an eligible producer on a farm under paragraph (1)
3 shall be made at a rate of 75 percent of the market
4 value of the applicable livestock on the day before
5 the date of death of the livestock, as determined by
6 the Secretary.

7 “(d) EMERGENCY ASSISTANCE FOR LIVESTOCK,
8 HONEY BEES, AND FARM-RAISED FISH.—

9 “(1) IN GENERAL.—The Secretary shall use up
10 to \$35,000,000 per year from the Trust Fund to
11 provide emergency relief to eligible producers of live-
12 stock, honey bees, and farm-raised fish to aid in the
13 reduction of losses due to adverse weather or other
14 environmental conditions, such as blizzards and
15 wildfires, as determined by the Secretary, that are
16 not covered under the authority of the Secretary to
17 make qualifying natural disaster declarations.

18 “(2) USE OF FUNDS.—Funds made available
19 under this subsection shall be used to reduce losses
20 caused by feed or water shortages, disease, or other
21 factors as determined by the Secretary.

22 “(3) AVAILABILITY OF FUNDS.—Any funds
23 made available under this subsection and not used in
24 a crop year shall remain available until expended.

25 “(e) TREE ASSISTANCE PROGRAM.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) ELIGIBLE ORCHARDIST.—The term
3 ‘eligible orchardist’ means a person that—

4 “(i) produces annual crops from trees
5 for commercial purposes; or

6 “(ii) produces nursery, ornamental,
7 fruit, nut, or Christmas trees for commer-
8 cial sale.

9 “(B) NATURAL DISASTER.—The term ‘nat-
10 ural disaster’ means plant disease, insect infes-
11 tation, drought, fire, freeze, flood, earthquake,
12 lightning, or other occurrence, as determined by
13 the Secretary.

14 “(C) TREE.—The term ‘tree’ includes a
15 tree, bush, and vine.

16 “(2) ELIGIBILITY.—

17 “(A) LOSS.—Subject to subparagraph (B),
18 the Secretary shall provide assistance under
19 paragraph (3) to eligible orchardists that plant-
20 ed trees for commercial purposes but lost the
21 trees as a result of a natural disaster, as deter-
22 mined by the Secretary.

23 “(B) LIMITATION.—An eligible orchardist
24 shall qualify for assistance under subparagraph
25 (A) only if the tree mortality of the eligible or-

1 orchardist, as a result of damaging weather or re-
 2 lated condition, exceeds 15 percent (adjusted
 3 for normal mortality).

4 “(3) ASSISTANCE.—The assistance provided by
 5 the Secretary to eligible orchardists for losses de-
 6 scribed in paragraph (2) shall consist of—

7 “(A)(i) reimbursement of 75 percent of the
 8 cost of replanting trees lost due to a natural
 9 disaster, as determined by the Secretary, in ex-
 10 cess of 15 percent mortality (adjusted for nor-
 11 mal mortality); or

12 “(ii) at the option of the Secretary, suffi-
 13 cient seedlings to reestablish a stand; and

14 “(B) reimbursement of 50 percent of the
 15 cost of pruning, removal, and other costs in-
 16 curred by an eligible orchardist to salvage exist-
 17 ing trees or, in the case of tree mortality, to
 18 prepare the land to replant trees as a result of
 19 damage or tree mortality due to a natural dis-
 20 aster, as determined by the Secretary, in excess
 21 of 15 percent damage or mortality (adjusted for
 22 normal tree damage and mortality).

23 “(f) PEST AND DISEASE MANAGEMENT AND DIS-
 24 ASTER PREVENTION.—

25 “(1) DEFINITIONS.—In this subsection:

1 “(A) EARLY PEST DETECTION AND SUR-
2 VEILLANCE.—The term ‘early pest detection
3 and surveillance’ means the full range of activi-
4 ties undertaken to find newly introduced pests,
5 whether the pests are new to the United States
6 or new to certain areas of the United States,
7 before—

8 “(i) the pests become established; or

9 “(ii) the pest infestations become too
10 large and costly to eradicate or control.

11 “(B) PEST.—The term ‘pest’ has the
12 meaning given the term ‘plant pest’ in section
13 403 of the Plant Protection Act (7 U.S.C.
14 7702).

15 “(C) SPECIALTY CROP.—The term ‘spe-
16 cialty crop’ has the meaning given the term in
17 section 3 of the Specialty Crops Competitive-
18 ness Act of 2004 (7 U.S.C. 1621 note; Public
19 Law 108–465).

20 “(D) STATE DEPARTMENT OF AGRI-
21 CULTURE.—The term ‘State department of ag-
22 riculture’ means an agency of a State that has
23 a legal responsibility to perform early pest de-
24 tection and surveillance activities.

1 “(2) ESTABLISHMENT.—The Secretary shall es-
2 tablish a program—

3 “(A) to conduct early pest detection and
4 surveillance activities in cooperation with State
5 departments of agriculture;

6 “(B) to determine and prioritize pest and
7 disease threats to domestic production of spe-
8 cialty crops;

9 “(C) to create an audit-based certification
10 approach to protect against the spread of plant
11 pests and to facilitate the interstate movement
12 of plants and plant products; and

13 “(D) to prevent potential damage from
14 crop disasters caused by pests and diseases.

15 “(3) EARLY PEST DETECTION AND SURVEIL-
16 LANCE IMPROVEMENT PROGRAM.—

17 “(A) COOPERATIVE AGREEMENTS.—The
18 Secretary shall enter into cooperative agree-
19 ments with State departments of agriculture to
20 provide grants to the State departments of agri-
21 culture for early pest detection and surveillance
22 activities.

23 “(B) APPLICATION.—

24 “(i) IN GENERAL.—A State depart-
25 ment of agriculture seeking to enter into a

1 cooperative agreement under this sub-
2 section shall submit to the Secretary an
3 application containing such information as
4 the Secretary may require.

5 “(ii) NOTIFICATION.—The Secretary
6 shall notify applicants of—

7 “(I) the requirements to be im-
8 posed on a State department of agri-
9 culture for auditing of, and reporting
10 on, the use of any funds provided by
11 the Secretary under the cooperative
12 agreement;

13 “(II) the criteria to be used to
14 ensure that early pest detection and
15 surveillance activities supported under
16 the cooperative agreement are based
17 on sound scientific data or thorough
18 risk assessments; and

19 “(III) the means of identifying
20 pathways of pest introductions.

21 “(C) USE OF FUNDS.—

22 “(i) PEST DETECTION AND SURVEIL-
23 LANCE ACTIVITIES.—A State department
24 of agriculture that receives funds under
25 this subsection shall use the funds to carry

1 out early pest detection and surveillance
2 activities approved by the Secretary to pre-
3 vent the introduction or spread of a pest.

4 “(ii) SUBAGREEMENTS.—A State de-
5 partment of agriculture may use funds re-
6 ceived under this subsection to enter into
7 subagreements with political subdivisions
8 in the State that have legal responsibilities
9 relating to agricultural pest and disease
10 surveillance.

11 “(D) SPECIAL FUNDING CONSIDER-
12 ATIONS.—Subject to the availability of funds
13 under paragraph (9), the Secretary shall pro-
14 vide funds to a State department of agriculture
15 that the Secretary determines is in a State that
16 has a high risk of being affected by 1 or more
17 pest, based on—

18 “(i) the number of international air-
19 ports and maritime facilities in the State;

20 “(ii) the volume of international pas-
21 senger and cargo entry into the State;

22 “(iii)(I) the geographic location of the
23 State; and

24 “(II) whether the location is conducive
25 to agricultural pest and disease establish-

1 ment due to the climate or crop diversity
2 of the State;

3 “(iv)(I) the types of agricultural com-
4 modities or plants produced in the State;
5 and

6 “(II) whether the commodities or
7 plants produced are conducive to agricul-
8 tural pest and disease establishment due to
9 the climate or crop diversity of the State;

10 “(v) whether the Secretary has de-
11 clared an emergency in the State pursuant
12 to section 442 of the Plant Protection Act
13 (7 U.S.C. 7772) due to an agricultural
14 pest or disease of Federal concern; and

15 “(vi) such other factors as the Sec-
16 retary considers appropriate.

17 “(E) COST-SHARE.—

18 “(i) FEDERAL COST SHARE; FORM OF
19 NON-FEDERAL COST SHARE.—Except as
20 provided in clause (ii), a cooperative agree-
21 ment entered into under subparagraph (A)
22 shall provide that—

23 “(I) the Federal share of car-
24 rying out the cooperative agreement

1 shall not exceed 75 percent of the
2 total cost;

3 “(II) the non-Federal share of
4 the cost of carrying out the agreement
5 may be provided in-kind; and

6 “(III) any in-kind costs may in-
7 clude indirect costs as considered ap-
8 propriate by the Secretary.

9 “(ii) ABILITY TO PROVIDE FUNDS.—
10 The Secretary shall not take the ability to
11 provide non-Federal costs to carry out a
12 cooperative agreement entered into under
13 subparagraph (A) into consideration in de-
14 ciding whether to enter into a cooperative
15 agreement with a State department of ag-
16 riculture.

17 “(iii) SPECIAL FUNDING CONSIDER-
18 ATIONS.—The non-Federal share of car-
19 rying out subparagraph (D) shall not ex-
20 ceed 40 percent of the total costs of car-
21 rying out that subparagraph.

22 “(F) REPORTING REQUIREMENT.—Not
23 later than 180 days after the date of completion
24 of an early pest detection and surveillance activ-
25 ity conducted by a State department of agri-

1 culture using funds provided under this sub-
2 section, the State department of agriculture
3 shall submit to the Secretary a report that de-
4 scribes the purposes and results of the activi-
5 ties, including any activities conducted pursuant
6 to a subagreement referred to in subparagraph
7 (C)(ii).

8 “(4) THREAT IDENTIFICATION AND MITIGATION
9 PROGRAM.—

10 “(A) IN GENERAL.—In conducting the pro-
11 gram established under paragraph (2), the Sec-
12 retary shall—

13 “(i) develop risk assessments of the
14 existing and potential threat to the spe-
15 cialty crop industry in the United States
16 from pests and disease;

17 “(ii) prepare a list that prioritizes
18 pest and disease threats to the specialty
19 crop industry;

20 “(iii) develop action plans, in con-
21 sultation with State departments of agri-
22 culture and other State or regional re-
23 source partnerships, that effectively ad-
24 dress pest and disease threats to the spe-
25 cialty crop industry, including pathway

1 analysis, domestic and offshore mitigation
2 measures, and comprehensive exclusion
3 measures at ports of entry and other key
4 distribution centers, in addition to strate-
5 gies to employ if a pest or disease is intro-
6 duced;

7 “(iv) implement the action plans as
8 soon as the action plans are developed to
9 test the effectiveness of the action plans
10 and help prevent new foreign and domestic
11 pest and disease threats from being intro-
12 duced or widely disseminated in the United
13 States; and

14 “(v) collaborate with the nursery in-
15 dustry, research institutions, and other ap-
16 propriate entities to develop a nursery pest
17 risk management system—

18 “(I) to identify nursery pests and
19 diseases;

20 “(II) to prevent the introduction,
21 establishment, and spread of the pests
22 and diseases; and

23 “(III) to reduce the risk of,
24 prioritize, mitigate, and eradicate the
25 pests and diseases.

1 “(B) REPORTS.—Not later than 1 year
2 after the date of enactment of this title, and an-
3 nually thereafter, the Secretary shall update
4 and submit to Congress the priority list and ac-
5 tion plans described in subparagraph (A), in-
6 cluding an accounting of funds expended on the
7 action plans.

8 “(5) AUDIT-BASED APPROACH TO SPECIALTY
9 CROP PHYTOSANITARY CERTIFICATION.—In con-
10 ducting the program established under paragraph
11 (2), the Secretary shall provide funds and technical
12 assistance to specialty crop growers, organizations
13 representing specialty crop growers, and State and
14 local agencies working with specialty crop growers
15 and organizations for the development and imple-
16 mentation of certification systems based on audit-
17 based approaches (such as best management prac-
18 tices or nursery pest risk management systems) to
19 address plant pests and mitigate the risk of plant
20 pests in the movement of plants and plant products.

21 “(6) COOPERATIVE AGREEMENTS.—The Sec-
22 retary may enter into cooperative agreements with
23 other Federal departments or agencies, States or po-
24 litical subdivisions of States, national governments,
25 local governments of other nations, domestic or

1 international organizations, domestic or inter-
 2 national associations, and other persons to carry out
 3 this subsection.

4 “(7) CONSULTATION.—The Secretary shall con-
 5 sult with the National Plant Board, State depart-
 6 ments of agriculture, and specialty crop grower or-
 7 ganizations to establish funding priorities under this
 8 subsection for each fiscal year.

9 “(8) ADMINISTRATIVE COSTS.—Not more than
 10 5 percent of the funds provided under this sub-
 11 section may be used for administrative costs.

12 “(9) FUNDING.—The Secretary shall use from
 13 the Trust Fund to carry out this subsection—

14 “(A) \$10,000,000 for fiscal year 2008;

15 “(B) \$15,000,000 for fiscal year 2009;

16 “(C) \$30,000,000 for fiscal year 2010;

17 “(D) \$45,000,000 for fiscal year 2011;

18 and

19 “(E) \$60,000,000 for fiscal year 2012.

20 “(g) RISK MANAGEMENT PURCHASE REQUIRE-
 21 MENT.—

22 “(1) IN GENERAL.—Except as otherwise pro-
 23 vided in this subsection, the eligible producers on a
 24 farm shall not be eligible for assistance under this
 25 section with respect to losses to an insurable com-

1 modity or noninsurable commodity if the eligible
2 producers on the farm—

3 “(A) in the case of an insurable com-
4 modity, did not obtain a policy or plan of insur-
5 ance for the insurable commodity under the
6 Federal Crop Insurance Act (7 U.S.C. 1501 et
7 seq.) (excluding a crop insurance pilot program
8 under that Act) for the crop incurring the
9 losses; or

10 “(B) in the case of a noninsurable com-
11 modity, did not file the required paperwork, and
12 pay the administrative fee by the applicable
13 State filing deadline, for the noninsurable com-
14 modity under the noninsured crop assistance
15 program for the crop incurring the losses.

16 “(2) MINIMUM.—To be considered to have ob-
17 tained insurance under paragraph (1), an eligible
18 producer on a farm shall have obtained a policy or
19 plan of insurance with not less than 50 percent yield
20 coverage at 55 percent of the insurable price for
21 each crop grazed, planted, or intended to be planted
22 for harvest on a whole farm.

23 “(3) WAIVER.—With respect to eligible pro-
24 ducers that are limited resource, minority, or begin-

1 ning farmers or ranchers, as determined by the Sec-
2 retary, the Secretary may—

3 “(A) waive paragraph (1); and

4 “(B) provide disaster assistance under this
5 section at a level that the Secretary determines
6 to be equitable and appropriate.

7 “(4) **EQUITABLE RELIEF.**—The Secretary may
8 provide equitable relief to eligible producers on a
9 farm that unintentionally fail to meet the require-
10 ments of paragraph (1) for 1 or more crops on a
11 farm on a case-by-case basis, as determined by the
12 Secretary.

13 “(h) **SUPPLEMENTAL BUY-UP NONINSURED ASSIST-**
14 **ANCE PROGRAM.**—

15 “(1) **IN GENERAL.**—The Secretary shall estab-
16 lish a program under which eligible producers on a
17 farm may purchase under the noninsured crop as-
18 sistance program additional yield and price coverage
19 for a crop, including a forage, hay, or honey crop,
20 of—

21 “(A) 60 or 65 percent (as elected by the
22 producers on the farm) of the yield established
23 for the crop under the program; and

24 “(B) 100 percent of the price established
25 for the crop under the program.

1 “(2) FEES.—The Secretary shall establish and
2 collect fees from eligible producers on a farm partici-
3 pating in the program established under paragraph
4 (1) to offset all of the costs of the program, as de-
5 termined by the Secretary.

6 “(i) PAYMENT LIMITATIONS.—

7 “(1) IN GENERAL.—The total amount of dis-
8 aster assistance that an eligible producer on a farm
9 may receive under this section may not exceed
10 \$100,000.

11 “(2) AGI LIMITATION.—Section 1001D of the
12 Food Security Act of 1985 (7 U.S.C. 1308–3a or
13 any successor provision) shall apply with respect to
14 assistance provided under this section.

15 “(j) PERIOD OF EFFECTIVENESS.—This section shall
16 be effective only for losses that are incurred as the result
17 of a disaster, adverse weather, or other environmental con-
18 dition that occurs on or before September 30, 2012, as
19 determined by the Secretary.

20 **“SEC. 902. AGRICULTURE DISASTER RELIEF TRUST FUND.**

21 “(a) CREATION OF TRUST FUND.—There is estab-
22 lished in the Treasury of the United States a trust fund
23 to be known as the ‘Agriculture Disaster Relief Trust
24 Fund’, consisting of such amounts as may be appropriated
25 or credited to such Trust Fund as provided in this section.

1 “(b) TRANSFER TO TRUST FUND.—

2 “(1) IN GENERAL.—There are appropriated to
3 the Agriculture Disaster Relief Trust Fund amounts
4 equivalent to 3.34 percent of the amounts received
5 in the general fund of the Treasury of the United
6 States during fiscal years 2008 through 2012 attrib-
7 utable to the duties collected on articles entered, or
8 withdrawn from warehouse, for consumption under
9 the Harmonized Tariff Schedule of the United
10 States.

11 “(2) AMOUNTS BASED ON ESTIMATES.—The
12 amounts appropriated under this section shall be
13 transferred at least monthly from the general fund
14 of the Treasury of the United States to the Agri-
15 culture Disaster Relief Trust Fund on the basis of
16 estimates made by the Secretary of the Treasury.
17 Proper adjustments shall be made in the amounts
18 subsequently transferred to the extent prior esti-
19 mates were in excess of or less than the amounts re-
20 quired to be transferred.

21 “(c) ADMINISTRATION.—

22 “(1) REPORTS.—The Secretary of the Treasury
23 shall be the trustee of the Agriculture Disaster Re-
24 lief Trust Fund and shall submit an annual report
25 to Congress each year on the financial condition and

1 the results of the operations of such Trust Fund
2 during the preceding fiscal year and on its expected
3 condition and operations during the 5 fiscal years
4 succeeding such fiscal year. Such report shall be
5 printed as a House document of the session of Con-
6 gress to which the report is made.

7 “(2) INVESTMENT.—

8 “(A) IN GENERAL.—The Secretary of the
9 Treasury shall invest such portion of the Agri-
10 culture Disaster Relief Trust Fund as is not in
11 his judgment required to meet current with-
12 draws. Such investments may be made only in
13 interest bearing obligations of the United
14 States. For such purpose, such obligations may
15 be acquired—

16 “(i) on original issue at the issue
17 price, or

18 “(ii) by purchase of outstanding obli-
19 gations at the market price.

20 “(B) SALE OF OBLIGATIONS.—Any obliga-
21 tion acquired by the Agriculture Disaster Relief
22 Trust Fund may be sold by the Secretary of the
23 Treasury at the market price.

24 “(C) INTEREST ON CERTAIN PROCEEDS.—

25 The interest on, and the proceeds from the sale

1 or redemption of, any obligations held in the
2 Agriculture Disaster Relief Trust Fund shall be
3 credited to and form a part of such Trust
4 Fund.

5 “(d) EXPENDITURES FROM TRUST FUND.—
6 Amounts in the Agriculture Disaster Relief Trust Fund
7 shall be available for the purposes of making expenditures
8 to meet those obligations of the United States incurred
9 under section 901.

10 “(e) AUTHORITY TO BORROW.—

11 “(1) IN GENERAL.—There are authorized to be
12 appropriated, and are appropriated, to the Agri-
13 culture Disaster Relief Trust Fund, as repayable ad-
14 vances, such sums as may be necessary to carry out
15 the purposes of such Trust Fund.

16 “(2) REPAYMENT OF ADVANCES.—

17 “(A) IN GENERAL.—Advances made to the
18 Agriculture Disaster Relief Trust Fund shall be
19 repaid, and interest on such advances shall be
20 paid, to the general fund of the Treasury when
21 the Secretary determines that moneys are avail-
22 able for such purposes in such Trust Fund.

23 “(B) RATE OF INTEREST.—Interest on ad-
24 vances made pursuant to this subsection shall
25 be—

1 “(i) at a rate determined by the Sec-
 2 retary of the Treasury (as of the close of
 3 the calendar month preceding the month in
 4 which the advance is made) to be equal to
 5 the current average market yield on out-
 6 standing marketable obligations of the
 7 United States with remaining periods to
 8 maturity comparable to the anticipated pe-
 9 riod during which the advance will be out-
 10 standing, and

11 “(ii) compounded annually.”.

12 (b) SECRETARIAL DISCRETION.—Section 442(c) of
 13 the Plant Protection Act (7 U.S.C. 7772(c)) is amended
 14 by striking “of longer than 60 days”.

15 **TITLE II—CONSERVATION**
 16 **PROVISIONS**
 17 **Subtitle A—Land and Species**
 18 **Preservation Provisions**

19 **SEC. 201. CONSERVATION RESERVE TAX CREDIT.**

20 (a) ALLOWANCE OF CREDIT.—Subpart B of part IV
 21 of subchapter A of chapter 1 is amended by adding at
 22 the end the following new section:

23 **“SEC. 30D. CONSERVATION RESERVE CREDIT.**

24 “(a) IN GENERAL.—There shall be allowed as a cred-
 25 it against the tax imposed by this chapter for the taxable

1 year an amount equal to the rental value of any land en-
2 rolled in the conservation reserve program.

3 “(b) LIMITATIONS.—

4 “(1) LIMITATION BASED ON AMOUNT OF
5 TAX.—The credit allowed under this section for any
6 taxable year shall not exceed the excess of—

7 “(A) the regular tax liability for the tax-
8 able year reduced by the sum of the credits al-
9 lowable under subpart A and sections 27, 30,
10 30B, and 30C, over

11 “(B) the tentative minimum tax for the
12 taxable year.

13 “(2) LIMITATION BASED ON ALLOCATED POR-
14 TION OF NATIONAL LIMITATION.—The credit allowed
15 under subsection (a) for any taxpayer for any tax-
16 able year shall not exceed the excess of—

17 “(A) the amount of the national credit lim-
18 itation allocated to such taxpayer under sub-
19 section (c) for the fiscal year in which such tax-
20 able year ends and all prior fiscal years, over

21 “(B) the credit allowed under subsection
22 (a) for all prior taxable years.

23 “(c) CONSERVATION RESERVE CREDIT LIMITA-
24 TION.—

1 “(1) IN GENERAL.—There is a conservation re-
2 serve credit limitation for each fiscal year of the
3 United States. Such limitation is—

4 “(A) \$750,000,000 for each of fiscal years
5 2008 through 2012, and

6 “(B) zero thereafter.

7 “(2) ALLOCATION.—

8 “(A) IN GENERAL.—The Secretary, in con-
9 sultation with the Secretary of Agriculture,
10 shall allocate the conservation reserve credit
11 limitation to taxpayers—

12 “(i) who are owners or operators of
13 land enrolled in the conservation reserve
14 program, and

15 “(ii) who have entered into an agree-
16 ment with the Secretary of Agriculture to
17 receive an allocation under this paragraph
18 in lieu of a rental payment for such year
19 under section 1234 of the Food Security
20 Act of 1985.

21 “(B) ALLOCATION LIMITATION.—The Sec-
22 retary may not allocate more than \$50,000 to
23 any 1 taxpayer for any fiscal year.

24 “(3) CARRYFORWARD OF LIMITATION.—

1 “(A) IN GENERAL.—If for any fiscal year
2 the limitation under paragraph (1) (after the
3 application of this paragraph) exceeds the
4 amount allocated to all eligible taxpayers for
5 such fiscal year, the limitation amount for the
6 following fiscal year shall be increased by the
7 amount of such excess.

8 “(B) SPECIAL RULE FOR 2012.—Notwith-
9 standing subparagraph (A), no amount of the
10 conservation reserve credit limitation may be
11 carried to any fiscal year following fiscal year
12 2012.

13 “(d) CARRYFORWARD.—If the amount of the credit
14 allowable under subsection (a) for any taxpayer for any
15 taxable year (determined without regard to subsection
16 (b)(1)) exceeds the limitation under subsection (b)(1),
17 such excess may be carried forward to the succeeding tax-
18 able year and added to the credit allowable under sub-
19 section (a) for such succeeding taxable year.

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

22 “(1) CONSERVATION RESERVE PROGRAM.—For
23 purposes of this subsection, the term ‘conservation
24 reserve program’ means the conservation reserve
25 program established under subchapter B of chapter

1 1 of subtitle D of title XII of the Food Security Act
2 of 1985.

3 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
4 tion or other credit shall be allowed under this chap-
5 ter for any amount with respect to which a credit is
6 allowed under subsection (a).

7 “(3) RECAPTURE OF ALLOCATION.—If a tax-
8 payer terminates a contract under the conservation
9 reserve program before the end of the fiscal year
10 with respect to which an allocation under subsection
11 (c)(2) is made, the Secretary shall recapture the
12 amount of the credit allowed under this section
13 which bears the same ratio to the amount so allo-
14 cated as the number of days in the fiscal year during
15 which the contract was not in effect bears to 365.

16 “(4) TREATMENT OF CREDIT UNDER INCOME
17 TAX AND SELF-EMPLOYMENT INCOME TAX.—Not-
18 withstanding any agreement between the taxpayer
19 and the Secretary of Agriculture, for purposes of
20 this chapter and chapter 2, the amount of any credit
21 received under this section shall not be treated as in-
22 come.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-
24 tions for subpart B of part IV of subchapter A of chapter

1 1 is amended by inserting after the item relating to section
2 30C the following new item:

“Sec. 30D. Conservation reserve credit.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after the
5 date of the enactment of this Act.

6 **SEC. 202. EXCLUSION OF CONSERVATION RESERVE PRO-**
7 **GRAM PAYMENTS FROM SECA TAX FOR CER-**
8 **TAIN INDIVIDUALS.**

9 (a) INTERNAL REVENUE CODE.—Section 1402(a)(1)
10 (defining net earnings from self-employment) is amended
11 by inserting “, and including payments under section
12 1233(2) of the Food Security Act of 1985 (16 U.S.C.
13 3833(2)) to individuals receiving benefits under section
14 202 or 223 of the Social Security Act” after “crop
15 shares”.

16 (b) SOCIAL SECURITY ACT.—Section 211(a)(1) of
17 the Social Security Act is amended by inserting “, and
18 including payments under section 1233(2) of the Food Se-
19 curity Act of 1985 (16 U.S.C. 3833(2)) to individuals re-
20 ceiving benefits under section 202 or 223” after “crop
21 shares”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to payments made after December
24 31, 2007.

1 **SEC. 203. PERMANENT EXTENSION OF SPECIAL RULE EN-**
2 **COURAGING CONTRIBUTIONS OF CAPITAL**
3 **GAIN REAL PROPERTY FOR CONSERVATION**
4 **PURPOSES.**

5 (a) IN GENERAL.—

6 (1) INDIVIDUALS.—Subparagraph (E) of sec-
7 tion 170(b)(1) (relating to contributions of qualified
8 conservation contributions) is amended by striking
9 clause (vi).

10 (2) CORPORATIONS.—Subparagraph (B) of sec-
11 tion 170(b)(2) (relating to qualified conservation
12 contributions by certain corporate farmers and
13 ranchers) is amended by striking clause (iii).

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

17 **SEC. 204. TAX CREDIT FOR RECOVERY AND RESTORATION**
18 **OF ENDANGERED SPECIES.**

19 (a) IN GENERAL.—Subpart B of part IV of sub-
20 chapter A of chapter 1, as amended by this Act, is amend-
21 ed by adding at the end the following new section:

22 **“SEC. 30E. ENDANGERED SPECIES RECOVERY AND RES-**
23 **TORATION CREDIT.**

24 “(a) IN GENERAL.—In the case of an eligible tax-
25 payer, there shall be allowed as a credit against the tax

1 imposed by this chapter for the taxable year an amount
2 equal to the sum of—

3 “(1) the habitat protection easement credit,
4 plus

5 “(2) the habitat restoration credit.

6 “(b) LIMITATION.—

7 “(1) IN GENERAL.—The credit allowed under
8 subsection (a) for any taxpayer for any taxable year
9 shall not exceed the endangered species recovery
10 credit limitation allocated to the eligible taxpayer
11 under subsection (f) for the calendar year in which
12 the taxpayer’s taxable year ends.

13 “(2) CARRYFORWARDS.—

14 “(A) IN GENERAL.—If the amount of the
15 credit allowable under subsection (a) for any
16 taxpayer for any taxable year (determined with-
17 out regard to paragraph (1)) exceeds the en-
18 dangered species recovery credit limitation allo-
19 cated under subsection (f) to such taxpayer for
20 the calendar year in which the taxpayer’s tax-
21 able year ends, such excess may be carried for-
22 ward to the next taxable year for which an allo-
23 cation is made to such taxpayer under sub-
24 section (f). Any amount carried to another tax-
25 able year under this subparagraph shall be

1 treated as added to the credit allowable under
2 subsection (a)(1) or (a)(2), whichever is appro-
3 priate, for such taxable year.

4 “(B) CARRYFORWARD OF ALLOCATION
5 AMOUNT.—If the amount of the endangered
6 species recovery credit limitation allocated to a
7 taxpayer for any calendar year under subsection
8 (f) exceeds the amount of the credit allowed to
9 the taxpayer under subsection (a) for the tax-
10 able year ending in such calendar year, such ex-
11 cess may be carried forward to the next taxable
12 year of the taxpayer. Any amount carried to an-
13 other taxable year under this subparagraph
14 shall be treated as allocated to the taxpayer for
15 use in such taxable year under subsection (f).

16 “(c) ELIGIBLE TAXPAYER; QUALIFIED AGREE-
17 MENTS.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘eligible taxpayer’
19 means—

20 “(A) a taxpayer who—

21 “(i) owns real property which contains
22 the habitat of a qualified species, and

23 “(ii) enters into a qualified perpetual
24 habitat protection agreement, a qualified
25 30-year habitat protection agreement, or a

1 qualified habitat protection agreement with
2 respect to such real property, and

3 “(B) any other taxpayer who—

4 “(i) is a party to a qualified perpetual
5 habitat protection agreement, a qualified
6 30-year habitat protection agreement, or a
7 qualified habitat protection agreement, and

8 “(ii) as part of any such agreement,
9 agrees to assume responsibility for costs
10 paid or incurred as a result of imple-
11 menting such agreement.

12 “(2) QUALIFIED PERPETUAL HABITAT PROTEC-
13 TION AGREEMENT.—The term ‘qualified perpetual
14 habitat protection agreement’ means an agree-
15 ment—

16 “(A) under which a taxpayer described in
17 paragraph (1)(A) grants to the appropriate Sec-
18 retary, the Secretary of Agriculture, the Sec-
19 retary of Defense, or a State an easement in
20 perpetuity for the protection of the habitat of a
21 qualified species, and

22 “(B) which meets the requirements of
23 paragraph (5).

24 “(3) QUALIFIED 30-YEAR HABITAT PROTECTION
25 AGREEMENT.—The term ‘qualified 30-year habitat

1 protection agreement’ means an agreement not de-
2 scribed in paragraph (2)—

3 “(A) under which a taxpayer described in
4 paragraph (1)(A) grants to the appropriate Sec-
5 retary, the Secretary of Agriculture, the Sec-
6 retary of Defense, or a State an easement for
7 a period of 30 years or greater for the protec-
8 tion of the habitat of a qualified species, and

9 “(B) which meets the requirements of
10 paragraph (5).

11 “(4) QUALIFIED HABITAT PROTECTION AGREE-
12 MENT.—The term ‘qualified habitat protection
13 agreement’ means an agreement—

14 “(A) under which a taxpayer described in
15 paragraph (1)(A) enters into an agreement not
16 described in paragraph (2) or (3) with the ap-
17 propriate Secretary, the Secretary of Agri-
18 culture, the Secretary of Defense, or a State to
19 protect the habitat of a qualified species for a
20 specified period of time, and

21 “(B) which meets the requirements of
22 paragraph (5).

23 “(5) REQUIREMENTS.—An agreement meets
24 the requirements of this paragraph if the agree-
25 ment—

1 “(A) is consistent with any recovery plan
2 which is applicable and which has been ap-
3 proved for a qualified species under section 4 of
4 the Endangered Species Act of 1973,

5 “(B) includes a habitat management plan
6 agreed to by the appropriate Secretary and the
7 eligible taxpayer, and

8 “(C) requires that technical assistance
9 with respect to the duties under the habitat
10 management plan be provided to the taxpayer
11 by the appropriate Secretary or an entity ap-
12 proved by the appropriate Secretary.

13 “(d) HABITAT PROTECTION EASEMENT CREDIT.—

14 “(1) IN GENERAL.—For purposes of subsection
15 (a)(1), the habitat protection easement credit for
16 any taxable year is an amount equal to—

17 “(A) in the case of a taxpayer described in
18 subsection (c)(1)(A) who has entered into a
19 qualified perpetual habitat protection agreement
20 during such taxable year, 100 percent of the ex-
21 cess (if any) of—

22 “(i) the fair market value of the real
23 property with respect to which the quali-
24 fied perpetual habitat protection agreement

1 is made, determined on the day before
2 such agreement is entered into, over

3 “(ii) the fair market value of such
4 property, determined on the day after such
5 agreement is entered into,

6 “(B) in the case of a taxpayer described in
7 subsection (c)(1)(A) who has entered into a
8 qualified 30-year habitat protection agreement
9 during such taxable year, 75 percent of such ex-
10 cess, and

11 “(C) in the case of any other taxpayer,
12 zero.

13 “(2) REDUCTION FOR AMOUNT RECEIVED FOR
14 EASEMENT.—The amount determined under para-
15 graph (1) shall be reduced by any amount received
16 by the taxpayer in connection with the easement.

17 “(3) LIMITATION BASED ON AMOUNT OF
18 TAX.—The credit allowed under subsection (a)(1) for
19 any taxable year shall not exceed the sum of—

20 “(A) the taxpayer’s regular tax liability for
21 the taxable year reduced by the sum of the
22 credits allowable under subpart A and sections
23 27, 30, 30B, 30C, and 30D, and

24 “(B) the tax imposed by section 55(a) for
25 the taxable year.

1 “(4) CARRYFORWARD OF UNUSED CREDIT.—If
2 the credit allowable under subsection (a)(1) for any
3 taxable year exceeds the limitation imposed by para-
4 graph (3) for such taxable year, such excess shall be
5 carried to the succeeding taxable year and added to
6 the credit allowable under subsection (a)(1) for such
7 succeeding taxable year.

8 “(5) QUALIFIED APPRAISALS REQUIRED.—No
9 amount shall be taken into account under this sub-
10 section unless the eligible taxpayer includes with the
11 taxpayer’s return for the taxable year a qualified ap-
12 praisal (within the meaning of section
13 170(f)(11)(E)) of the real property.

14 “(e) HABITAT RESTORATION CREDIT.—

15 “(1) IN GENERAL.—For purposes of subsection
16 (a)(2), the habitat restoration credit for any taxable
17 year shall be an amount equal to—

18 “(A) in the case of a qualified perpetual
19 habitat protection agreement, 100 percent of
20 the costs paid or incurred by an eligible tax-
21 payer during such taxable year pursuant to the
22 habitat management plan under such agree-
23 ment,

24 “(B) in the case of a qualified 30-year
25 habitat protection agreement, 75 percent of the

1 costs paid or incurred by an eligible taxpayer
2 during such taxable year pursuant to the habi-
3 tat management plan under such agreement,
4 and

5 “(C) in the case of a qualified habitat pro-
6 tection agreement, 50 percent of the costs paid
7 or incurred by an eligible taxpayer during such
8 taxable year pursuant to the habitat manage-
9 ment plan under such agreement.

10 “(2) LIMITATION BASED ON AMOUNT OF
11 TAX.—The credit allowed under subsection (a)(2) for
12 any taxable year shall not exceed the excess (if any)
13 of—

14 “(A) the regular tax liability for the tax-
15 able year reduced by the sum of the credits al-
16 lowable under subpart A, sections 27, 30, 30B,
17 30C, 30D, and subsection (a)(1), over

18 “(B) the tentative minimum tax for the
19 taxable year.

20 “(3) CARRYFORWARD OF UNUSED CREDIT.—If
21 the credit allowable under subsection (a)(2) for any
22 taxable year exceeds the limitation imposed by para-
23 graph (2) for such taxable year, such excess shall be
24 carried to the succeeding taxable year and added to

1 the credit allowable under subsection (a)(2) for such
2 succeeding taxable year.

3 “(4) SPECIAL RULES.—

4 “(A) CERTAIN COSTS NOT INCLUDED.—No
5 amount shall be taken into account with respect
6 to any cost which is paid or incurred by a tax-
7 payer to comply with any requirement of a Fed-
8 eral, State, or local government (other than
9 costs required under an agreement described in
10 subsection (c)).

11 “(B) SUBSIDIZED FINANCING.—For pur-
12 poses of paragraph (1), the amount of costs
13 paid or incurred by an eligible taxpayer pursu-
14 ant to any habitat management plan described
15 in subsection (c)(5)(B) shall be reduced by the
16 amount of any financing provided under any
17 Federal or State program a principal purpose
18 of which is to subsidize financing for the con-
19 servation of the habitat of a qualified species.

20 “(f) ENDANGERED SPECIES RECOVERY CREDIT LIM-
21 ITATION.—

22 “(1) IN GENERAL.—There is an endangered
23 species recovery credit limitation for each calendar
24 year. Such limitation is—

1 “(A) for 2008, 2009, 2010, 2011, and
2 2012—

3 “(i) with respect to allocations de-
4 scribed in paragraph (2)(A)—

5 “(I) \$5,000,000 with respect to
6 qualified perpetual habitat protection
7 agreements,

8 “(II) \$2,000,000 with respect to
9 qualified 30-year habitat protection
10 agreements, and

11 “(III) \$1,000,000 with respect to
12 qualified habitat protection agree-
13 ments, and

14 “(ii) with respect to allocations de-
15 scribed in paragraph (2)(B)—

16 “(I) \$290,000,000 with respect
17 to qualified perpetual habitat protec-
18 tion agreements,

19 “(II) \$55,000,000 with respect to
20 qualified 30-year habitat protection
21 agreements, and

22 “(III) \$35,000,000 with respect
23 to qualified habitat protection agree-
24 ments, and

1 “(B) except as provided in paragraph (3),
2 zero thereafter.

3 “(2) ALLOCATION OF LIMITATION.—

4 “(A) ALLOCATIONS IN COORDINATION
5 WITH THE SECRETARY OF AGRICULTURE.—The
6 limitations described in paragraph (1)(A)(i)
7 shall be allocated to eligible taxpayers by the
8 Secretary in consultation with the Secretary of
9 Agriculture.

10 “(B) OTHER ALLOCATIONS.—

11 “(i) IN GENERAL.—The limitations
12 described in paragraph (1)(A)(ii) shall be
13 allocated to eligible taxpayers in consulta-
14 tion with the Secretary of the Interior and
15 the Secretary of Commerce.

16 “(ii) ESTABLISHMENT OF ALLOCA-
17 TION PROGRAM.—Not later than 180 days
18 after the date of the enactment of this Act,
19 the Secretary, in consultation with the Sec-
20 retary of the Interior and the Secretary of
21 Commerce, shall, by regulation, establish a
22 program to process applications from eligi-
23 ble taxpayers and to determine how to best
24 allocate the credit limitations under clause

1 (i) taking into account the considerations
2 described in clause (iii).

3 “(iii) CONSIDERATIONS.—In accepting
4 applications to make allocations to eligible
5 taxpayers under this section, priority shall
6 be given to taxpayers with agreements—

7 “(I) relating to habitats that will
8 significantly increase the likelihood of
9 recovering and delisting a species as
10 an endangered species or a threatened
11 species (as defined under section 2 of
12 the Endangered Species Act of 1973),

13 “(II) that are cost-effective and
14 maximize the benefits to a qualified
15 species per dollar expended,

16 “(III) relating to habitats of spe-
17 cies which have a federally approved
18 recovery plan pursuant to section 4 of
19 the Endangered Species Act of 1973,

20 “(IV) relating to habitats with
21 the potential to contribute signifi-
22 cantly to the improvement of the sta-
23 tus of a qualified species,

24 “(V) relating to habitats with the
25 potential to contribute significantly to

1 the eradication or control of invasive
2 species that are imperiling a qualified
3 species,

4 “(VI) with habitat management
5 plans that will manage multiple quali-
6 fied species,

7 “(VII) with habitat management
8 plans that will create adjacent or
9 proximate habitat for the recovery of
10 a qualified species,

11 “(VIII) relating to habitats for
12 qualified species with an urgent need
13 for protection,

14 “(IX) with habitat management
15 plans that assist in preventing the
16 listing of a species as endangered or
17 threatened under the Endangered
18 Species Act of 1973 or a similar State
19 law,

20 “(X) with habitat management
21 plans that may resolve conflicts be-
22 tween the protection of qualified spe-
23 cies and otherwise lawful human ac-
24 tivities, and

1 “(XI) with habitat management
2 plans that may resolve conflicts be-
3 tween the protection of a qualified
4 species and military training or other
5 military operations.

6 “(3) CARRYOVER OF UNUSED LIMITATION.—If
7 for any calendar year any of the limitations under
8 paragraph (1) (after the application of this para-
9 graph) exceeds the amount allocated to eligible tax-
10 payers for such calendar year, such limitation
11 amount for the following calendar year shall be in-
12 creased by the amount of such excess.

13 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—

14 “(1) APPROPRIATE SECRETARY.—The term ‘ap-
15 propriate Secretary’ has the meaning given to the
16 term ‘Secretary’ under section 3(15) of the Endan-
17 gered Species Act of 1973.

18 “(2) HABITAT MANAGEMENT PLAN.—The term
19 ‘habitat management plan’ means, with respect to
20 any habitat, a plan which—

21 “(A) identifies one or more qualified spe-
22 cies to which the plan applies,

23 “(B) is designed to—

24 “(i) restore or enhance the habitat of
25 the qualified species, or

1 “(ii) reduce threats to the qualified
2 species through the management of the
3 habitat,

4 “(C) describes the current condition of the
5 habitat to be restored or enhanced,

6 “(D) describes the threats to the qualified
7 species that are intended to be reduced through
8 the plan,

9 “(E) describes the management practices
10 to be undertaken by the taxpayer,

11 “(F) provides a schedule of deadlines for
12 undertaking such management practices and
13 the expected responses of the habitat and the
14 species,

15 “(G) requires monitoring of the manage-
16 ment practices and the status of the qualified
17 species and its habitat, and

18 “(H) describes the technical assistance to
19 be provided to the taxpayer and identifies the
20 entity that will provide such assistance.

21 “(3) QUALIFIED SPECIES.—The term ‘qualified
22 species’ means—

23 “(A) any species listed as an endangered
24 species or threatened species under the Endan-
25 gered Species Act of 1973, or

1 “(B) any species for which a finding has
2 been made under section 4(b)(3) of the Endan-
3 gered Species Act of 1973 that listing under
4 such Act may be warranted.

5 “(4) TAKING.—The term ‘taking’ has the
6 meaning given to such term under the Endangered
7 Species Act of 1973.

8 “(5) REDUCTION IN BASIS.—For purposes of
9 this subtitle—

10 “(A) HABITAT PROTECTION EASEMENT
11 CREDIT.—The basis of any property for which
12 a credit is allowed under subsection (a)(1) shall
13 be reduced by the amount of basis which is allo-
14 cated, under regulations prescribed by the Sec-
15 retary, to the easement granted as part of a
16 qualified perpetual habitat protection agreement
17 or a qualified 30-year habitat protection agree-
18 ment.

19 “(B) HABITAT RESTORATION CREDIT.—If
20 a credit is allowed under subsection (a)(2) for
21 any expenditure with respect to any property,
22 the increase in the basis of such property which
23 would (but for this subparagraph) result from
24 such expenditure shall be reduced by the
25 amount of the credit so allowed.

1 “(6) DENIAL OF DOUBLE BENEFIT.—No deduc-
2 tion or other credit shall be allowed under this chap-
3 ter for any amount with respect to which a credit is
4 allowed under subsection (a).

5 “(7) CERTIFICATION.—No credit shall be al-
6 lowed under subsection (a) unless the appropriate
7 Secretary certifies that any agreement described in
8 subsection (c) will contribute to the recovery of a
9 qualified species.

10 “(8) REQUEST FOR AUTHORIZATION OF INCI-
11 DENTAL TAKINGS.—The Secretary shall request the
12 appropriate Secretary to consider whether to author-
13 ize under the Endangered Species Act of 1973
14 takings by an eligible taxpayer of a qualified species
15 to which an agreement described in subsection (c)
16 relates if the takings are incidental to—

17 “(A) the restoration, enhancement, or
18 management of the habitat pursuant to the
19 habitat management plan under the agreement,
20 or

21 “(B) the use of the property to which the
22 agreement pertains at any time after the expi-
23 ration of the easement or the specified period
24 described in subsection (c)(4)(A), but only if
25 such use will leave the qualified species at least

1 as well off on the property as it was before the
2 agreement was made.

3 “(9) RECAPTURE.—The Secretary shall, by reg-
4 ulations, provide for recapturing the benefit under
5 any credit allowable under subsection (a) if the Sec-
6 retary determines that—

7 “(A) the taxpayer has failed to carry out
8 the duties of the taxpayer under the terms of
9 a qualified perpetual habitat protection agree-
10 ment, a qualified 30-year habitat protection
11 agreement, or a qualified habitat protection
12 agreement, and

13 “(B) there are no other available means to
14 remediate such failure.”.

15 (b) GAO STUDY.—

16 (1) IN GENERAL.—The Comptroller General of
17 the United States shall undertake a study on the ef-
18 fectiveness of the credit allowed under section 30E
19 of the Internal Revenue Code of 1986 (as added by
20 this Act).

21 (2) ISSUES TO BE STUDIED.—The study under
22 paragraph (1) shall—

23 (A) evaluate—

24 (i) the contributions that habitat man-
25 agement plans established under such

1 credit have made in restoring or enhancing
2 species habitat and reducing threats to
3 species, and

4 (ii) the implementation of the credit
5 allocation program established in section
6 30E(f)(2) of such Code (as so added), and

7 (B) include recommendations for improv-
8 ing the effectiveness of such credit.

9 (3) REPORTS.—

10 (A) INTERIM REPORT.—Not later than 3
11 years after the date of the enactment of this
12 Act, the Comptroller General of the United
13 States shall submit to Congress an interim re-
14 port on the study conducted under paragraph
15 (1).

16 (B) FINAL REPORT.—Not later than 5
17 years after the date of the enactment of this
18 Act, the Comptroller General of the United
19 States shall submit to Congress a final report
20 on the study conducted under paragraph (1).

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 1016(a) is amended by striking
23 “and” at the end of paragraph (36), by striking the
24 period at the end of paragraph (37) and inserting “,

1 and”, and by inserting after paragraph (37) the fol-
2 lowing new paragraph:

3 “(38) to the extent provided in section
4 30E(g)(5).”.

5 (2) The table of sections for subpart B of part
6 IV of subchapter A of chapter 1, as amended by this
7 Act, is amended by inserting after the item relating
8 to section 30D the following new item:

“Sec. 30E. Endangered species recovery and restoration credit.”.

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

12 **SEC. 205. DEDUCTION FOR ENDANGERED SPECIES RECOV-**
13 **ERY EXPENDITURES.**

14 (a) **DEDUCTION FOR ENDANGERED SPECIES RECOV-**
15 **ERY EXPENDITURES.**—

16 (1) **IN GENERAL.**—Paragraph (1) of section
17 175(c) (relating to definitions) is amended by insert-
18 ing after the first sentence the following new sen-
19 tence: “Such term shall include expenditures paid or
20 incurred for the purpose of achieving site-specific
21 management actions recommended in recovery plans
22 approved pursuant to the Endangered Species Act of
23 1973.”.

24 (2) **CONFORMING AMENDMENTS.**—

1 (A) Section 175 is amended by inserting “,
2 or for endangered species recovery” after “pre-
3 vention of erosion of land used in farming”
4 each place it appears in subsections (a) and (c).

5 (B) The heading of section 175 is amended
6 by inserting “; **ENDANGERED SPECIES RE-**
7 **COVERY EXPENDITURES**” before the period.

8 (C) The item relating to section 175 in the
9 table of sections for part VI of subchapter B of
10 chapter 1 is amended by inserting “; endan-
11 gered species recovery expenditures” before the
12 period.

13 (b) LIMITATIONS.—Paragraph (3) of section 175(c)
14 (relating to additional limitations) is amended—

15 (1) in the heading, by inserting “OR ENDAN-
16 GERED SPECIES RECOVERY PLAN” after “CONSERVA-
17 TION PLAN”, and

18 (2) in subparagraph (A)(i), by inserting “or the
19 recovery plan approved pursuant to the Endangered
20 Species Act of 1973” after “Department of Agri-
21 culture”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to expenditures paid or incurred
24 after the date of the enactment of this Act.

1 **SEC. 206. EXCLUSION FOR CERTAIN PAYMENTS AND PRO-**
 2 **GRAMS RELATING TO FISH AND WILDLIFE.**

3 (a) IN GENERAL.—Subsection (a) of section 126 (re-
 4 lating to certain cost-sharing payments) is amended by re-
 5 designating paragraph (10) as paragraph (13) and by in-
 6 serting after paragraph (9) the following new paragraphs:

7 “(10) The Partners for Fish and Wildlife Pro-
 8 gram authorized by the Partners for Fish and Wild-
 9 life Act.

10 “(11) The Landowner Incentive Program, the
 11 State Wildlife Grants Program, and the Private
 12 Stewardship Grants Program authorized by the Fish
 13 and Wildlife Act of 1956.

14 “(12) The Forest Health Protection Program
 15 and the program related to integrated pest manage-
 16 ment authorized by the Cooperative Forestry Assist-
 17 ance Act of 1978.”.

18 (b) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to payments received after the date
 20 of the enactment of this Act.

21 **SEC. 207. CREDIT FOR EASEMENTS GRANTED UNDER CER-**
 22 **TAIN DEPARTMENT OF AGRICULTURE CON-**
 23 **SERVATION PROGRAMS.**

24 (a) IN GENERAL.—Subpart B of part IV of sub-
 25 chapter A of chapter 1, as amended by this Act, is amend-
 26 ed by adding at the end the following new section:

1 **“SEC. 30F. AGRICULTURE CONSERVATION EASEMENT**
 2 **CREDIT.**

3 “(a) IN GENERAL.—There shall be allowed as a cred-
 4 it against the tax imposed by this chapter for the taxable
 5 year an amount equal to the sum of—

6 “(1) the wetlands reserve conservation credit,
 7 plus

8 “(2) the working grassland protection credit.

9 “(b) LIMITATIONS.—

10 “(1) LIMITATION BASED ON AMOUNT OF
 11 TAX.—The credit allowed under this section for any
 12 taxable year shall not exceed the excess of—

13 “(A) the regular tax liability for the tax-
 14 able year reduced by the sum of the credits al-
 15 lowable under subpart A and sections 27, 30,
 16 30B, 30C, 30D, 30E(a)(1), and 30E(a)(2),
 17 over

18 “(B) the tentative minimum tax for the
 19 taxable year.

20 “(2) LIMITATION BASED ON ALLOCATED POR-
 21 TION OF NATIONAL LIMITATION.—The credit allowed
 22 under subsection (a) for any taxpayer for any tax-
 23 able year shall not exceed the excess of—

24 “(A) the amount of the national credit lim-
 25 itation allocated to such taxpayer under sub-

1 section (e) for such taxable year and all prior
2 taxable years, over

3 “(B) the credit allowed under subsection
4 (a) for all prior taxable years.

5 “(c) WETLANDS RESERVE CONSERVATION CRED-
6 IT.—

7 “(1) IN GENERAL.—For purposes of subsection
8 (a)(1), in the case of a wetlands reserve eligible tax-
9 payer, the wetlands reserve conservation credit for
10 any taxable year is an amount equal to the applica-
11 ble percentage of the wetlands reserve easement
12 value.

13 “(2) WETLANDS RESERVE ELIGIBLE TAX-
14 PAYER.—For purposes of this section, the term ‘wet-
15 lands reserve eligible taxpayer’ means any taxpayer
16 who—

17 “(A) has granted an easement to the Sec-
18 retary of Agriculture under the wetlands reserve
19 program, and

20 “(B) who has entered into an agreement
21 with the Secretary of Agriculture to receive an
22 allocation under subsection (e)(2) in lieu of a
23 payment under section 1237A(f) of the Food
24 Security Act of 1985.

1 “(3) APPLICABLE PERCENTAGE.—For purposes
2 of paragraph (1), the term ‘applicable percentage’
3 means the percentage equal to—

4 “(A) 100 percent, minus

5 “(B) the highest percentage of tax which
6 would apply under section 1 or 11 with respect
7 to the taxpayer if the taxable income of the tax-
8 payer were increased by an amount equal to the
9 wetlands reserve easement value.

10 “(4) WETLANDS RESERVE EASEMENT VALUE.—
11 For purposes of this section, the term ‘wetlands re-
12 serve easement value’ means the lesser of—

13 “(A) the product of—

14 “(i) the wetlands reserve geographic
15 area rate for the area in which the real
16 property to which the easement pertains is
17 located, and

18 “(ii) the number of acres to which the
19 easement applies, or

20 “(B) the value of any payment to which
21 the taxpayer would be entitled with respect to
22 such easement under section 1237A(f) of the
23 Food Security Act of 1985 if the taxpayer had
24 not entered into an agreement described in
25 paragraph (2)(B).

1 “(5) WETLANDS RESERVE GEOGRAPHIC AREA
2 RATE.—For purposes of paragraph (4)(A)(i), the
3 wetlands reserve geographic area rate shall be the
4 rate per acre, determined by the Secretary in con-
5 sultation with the Secretary of Agriculture, appro-
6 priate for easements granted under the wetlands re-
7 serve program in different geographic areas.

8 “(d) WORKING GRASSLAND PROTECTION CREDIT.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a)(2), in the case of any working grassland eligible
11 taxpayer, the working grassland protection credit for
12 any taxable year is an amount equal to the applica-
13 ble percentage of the working grassland easement
14 value.

15 “(2) WORKING GRASSLAND ELIGIBLE TAX-
16 PAYER.—For purposes of this section, the term
17 ‘working grassland eligible taxpayer’ means any tax-
18 payer who—

19 “(A) has granted an easement under the
20 working grassland protection program to an eli-
21 gible easement holder, and

22 “(B) who has entered into an agreement
23 with the Secretary of Agriculture to receive an
24 allocation under subsection (e)(2) in lieu of a

1 payment under section 1238P(b) of the Food
2 Security Act of 1985.

3 “(3) APPLICABLE PERCENTAGE.—For purposes
4 of paragraph (1), the term ‘applicable percentage’
5 means the percentage equal to—

6 “(A) 100 percent, minus

7 “(B) the highest percentage of tax which
8 would apply under section 1 or 11 with respect
9 to the taxpayer if the taxable income of the tax-
10 payer were increased by an amount equal to the
11 working grassland easement value.

12 “(4) WORKING GRASSLAND EASEMENT
13 VALUE.—For purposes of this section, the term
14 ‘working grassland easement value’ means—

15 “(A) in the case of a permanent conserva-
16 tion easement (within the meaning of section
17 1238N of the Food Security Act of 1985), the
18 lesser of—

19 “(i) the product of—

20 “(I) the working grassland pro-
21 tection geographic area rate for the
22 area in which the real property to
23 which the easement pertains is lo-
24 cated, and

1 “(II) the number of acres to
2 which the easement applies, or

3 “(ii) the value of any payment to
4 which the taxpayer would be entitled in re-
5 turn for such easement under section
6 1238P(b)(1)(A)(i) of the Food Security
7 Act of 1985 if the taxpayer had not en-
8 tered into an agreement described in para-
9 graph (2)(B), and

10 “(B) in the case of a 30-year conservation
11 easement (within the meaning of section 1238N
12 of such Act), the lesser of—

13 “(i) 30 percent of the lesser of the
14 amount determined under clause (i) or (ii)
15 of subparagraph (A), or

16 “(ii) the value of any payment to
17 which the taxpayer would be entitled in re-
18 turn for such easement under section
19 1238P(b)(1)(A)(ii) of such Act if the tax-
20 payer had not entered into an agreement
21 described in paragraph (2)(B).

22 “(5) WORKING GRASSLAND PROTECTION GEO-
23 GRAPHIC AREA RATE.—For purposes of paragraph
24 (4)(A)(i)(I), the working grassland protection geo-
25 graphic area rate shall be the rate, determined by

1 the Secretary in consultation with the Secretary of
2 Agriculture, appropriate for easements granted
3 under the working grassland protection program in
4 different geographic areas.

5 “(e) NATIONAL CONSERVATION CREDIT LIMITA-
6 TION.—

7 “(1) IN GENERAL.—The aggregate credits al-
8 lowed under subsection (a) for all taxpayers shall
9 not exceed \$1,000,000,000.

10 “(2) ALLOCATION.—The Secretary, in consulta-
11 tion with the Secretary of Agriculture, shall allocate
12 the credit limitation under paragraph (1) to tax-
13 payers who grant easements under the wetlands re-
14 serve program and the working grassland protection
15 program.

16 “(3) LIMITATION ON ALLOCATION.—No amount
17 of the credit limitation may be allocated to any tax-
18 payer for any taxable year which ends after Sep-
19 tember 30, 2012.

20 “(f) CARRYFORWARD.—If the amount of the credit
21 allowable under subsection (a) for any taxpayer for any
22 taxable year (determined without regard to subsection
23 (b)(1)) exceeds the limitation under subsection (b)(1),
24 such excess may be carried forward to the succeeding tax-

1 able year and added to the credit allowable under sub-
2 section (a) for such succeeding taxable year.

3 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) WETLANDS RESERVE PROGRAM.—The
6 term ‘wetlands reserve program’ means the wetlands
7 reserve program established under subchapter C of
8 chapter 1 of subtitle D of title XII of the Food Se-
9 curity Act of 1985.

10 “(2) WORKING GRASSLAND PROTECTION PRO-
11 GRAM.—The term ‘working grassland protection pro-
12 gram’ means the grassland reserve program estab-
13 lished under subchapter C of chapter 2 of subtitle D
14 of title XII of the Food Security Act of 1985.

15 “(3) ELIGIBLE EASEMENT HOLDER.—The term
16 ‘eligible easement holder’ means the Secretary of Ag-
17 riculture or a State.

18 “(4) DENIAL OF DOUBLE BENEFIT.—No deduc-
19 tion or other credit shall be allowed under this chap-
20 ter for any amount with respect to which a credit is
21 allowed under subsection (a).

22 “(5) REDUCTION IN BASIS.—For purposes of
23 this subtitle, the basis of any property for which a
24 credit is allowed under subsection (a) shall be re-
25 duced by the amount of basis which is allocated,

1 under regulations prescribed by the Secretary, to the
2 easement granted under the wetlands reserve pro-
3 gram or the working grassland protection program.

4 “(6) RECAPTURE.—The Secretary shall, by reg-
5 ulations, provide for recapturing the benefit of any
6 credit allowable under subsection (a) if the Sec-
7 retary, in consultation with the Secretary of Agri-
8 culture, determines that—

9 “(A) the eligible taxpayer has failed to
10 carry out the duties of the taxpayer under the
11 terms of the easement, and

12 “(B) there are no other available means to
13 remediate such failure.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 1016(a), as amended by this Act, is
16 amended by striking “and” at the end of paragraph
17 (37), by striking the period at the end of paragraph
18 (38) and inserting “, and”, and by inserting after
19 paragraph (38) the following new paragraph:

20 “(39) to the extent provided in section
21 30F(g)(5).”.

22 (2) The table of sections for subpart B of part
23 IV of subchapter A of chapter 1, as amended by this
24 Act, is amended by inserting after the item relating
25 to section 30E the following new item:

“Sec. 30F. Agriculture conservation easement credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to easements granted after Sep-
 3 tember 30, 2007, in taxable years ending after such date.

4 **Subtitle B—Timber Provisions**

5 **SEC. 211. FOREST CONSERVATION BONDS.**

6 (a) TAX-EXEMPT BOND FINANCING.—

7 (1) IN GENERAL.—For purposes of the Internal
 8 Revenue Code of 1986, any qualified forest con-
 9 servation bond shall be treated as an exempt facility
 10 bond under section 142 of such Code.

11 (2) QUALIFIED FOREST CONSERVATION
 12 BOND.—For purposes of this section, the term
 13 “qualified forest conservation bond” means any bond
 14 issued as part of an issue if—

15 (A) 95 percent or more of the net proceeds
 16 (as defined in section 150(a)(3) of such Code)
 17 of such issue are to be used for qualified project
 18 costs, and

19 (B) such bond is issued before the date
 20 which is 36 months after the date of the enact-
 21 ment of this Act.

22 (3) LIMITATION ON AGGREGATE AMOUNT
 23 ISSUED.—

24 (A) IN GENERAL.—The maximum aggre-
 25 gate face amount of bonds which may be issued

1 under this subsection shall not exceed
2 \$1,500,000,000 for all projects (excluding re-
3 funding bonds).

4 (B) ENFORCEMENT OF LIMITATION.—An
5 issue shall not be treated as an issue described
6 in paragraph (2) if the aggregate face amount
7 of bonds issued pursuant to such issue for any
8 qualified projects costs (when added to the ag-
9 gregate face amount of bonds previously so
10 issued for such costs) exceeds the amount allo-
11 cated under subparagraph (C).

12 (C) INITIAL ALLOCATION OF LIMITA-
13 TION.—The limitation described in subpara-
14 graph (A) shall be allocated by the Secretary of
15 the Treasury among qualified organizations as
16 follows:

17 (i) 35 percent for qualified project
18 costs with respect to the cost of acquisition
19 by any qualified organization in the Pacific
20 Northwest region.

21 (ii) 30 percent for qualified project
22 costs with respect to the cost of acquisition
23 by any qualified organization in the West-
24 ern region.

1 (iii) 17.5 percent for qualified project
2 costs with respect to the cost of acquisition
3 by any qualified organization in the South-
4 east region.

5 (iv) 17.5 percent for qualified project
6 costs with respect to the cost of acquisition
7 by any qualified organization in the North-
8 east region.

9 (D) SECONDARY ALLOCATION PROCEDURE.—If for the period ending on the last day
10 of the 24th month after the date of the enact-
11 ment of this Act, the limitation amount for any
12 region under subparagraph (C) exceeds the
13 amount of bonds allocated by the Secretary of
14 the Treasury during such period, the Secretary
15 of the Treasury may allocate such excess among
16 qualified organizations in any other region in
17 such manner as the Secretary of the Treasury
18 determines appropriate.
19

20 (E) REGIONS.—For purposes of this para-
21 graph—

22 (i) PACIFIC NORTHWEST REGION.—
23 The term “Pacific Northwest region”
24 means Region 6 as defined by the United
25 States Forest Service of the Department of

1 Agriculture under section 200.2 of title 36,
2 Code of Federal Regulations.

3 (ii) WESTERN REGION.—The term
4 “Western region” means Regions 1, 2, 3,
5 4, 5, and 10 (as so defined).

6 (iii) SOUTHEAST REGION.—The term
7 “Southeast region” means Region 8 (as so
8 defined).

9 (iv) NORTHEAST REGION.—The term
10 “Northeast region” means Region 9 (as so
11 defined).

12 (4) QUALIFIED PROJECT COSTS.—For purposes
13 of this subsection, the term “qualified project costs”
14 means the costs of acquisition by a qualified organi-
15 zation from an unrelated person of forests and forest
16 land which, at the time of acquisition or immediately
17 thereafter, are subject to a conservation restriction
18 described in subsection (c)(2).

19 (5) SPECIAL RULES.—In applying the Internal
20 Revenue Code of 1986 to any qualified forest con-
21 servation bond, the following modifications shall
22 apply:

23 (A) Section 146 of such Code (relating to
24 volume cap) shall not apply.

1 (B) For purposes of section 147(b) of such
2 Code (relating to maturity may not exceed 120
3 percent of economic life), the land and standing
4 timber acquired with proceeds of qualified for-
5 est conservation bonds shall have an economic
6 life of 35 years.

7 (C) Subsections (c) and (d) of section 147
8 of such Code (relating to limitations on acquisi-
9 tion of land and existing property) shall not
10 apply.

11 (6) TREATMENT OF CURRENT REFUNDING
12 BONDS.—Paragraphs (2)(B) and (3) shall not apply
13 to any bond (or series of bonds) issued to refund a
14 qualified forest conservation bond issued before the
15 date which is 36 months after the date of the enact-
16 ment of this Act, if—

17 (A) the average maturity date of the issue
18 of which the refunding bond is a part is not
19 later than the average maturity date of the
20 bonds to be refunded by such issue,

21 (B) the amount of the refunding bond does
22 not exceed the outstanding amount of the re-
23 funded bond, and

24 (C) the net proceeds of the refunding bond
25 are used to redeem the refunded bond not later

1 than 90 days after the date of the issuance of
2 the refunding bond.

3 For purposes of subparagraph (A), average maturity
4 shall be determined in accordance with section
5 147(b)(2)(A) of such Code.

6 (7) EFFECTIVE DATE.—This subsection shall
7 apply to obligations issued on or after the date
8 which is 180 days after the date of the enactment
9 of this Act.

10 (b) ITEMS FROM QUALIFIED HARVESTING ACTIVI-
11 TIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

12 (1) IN GENERAL.—Income, gains, deductions,
13 losses, or credits from a qualified harvesting activity
14 conducted by a qualified organization shall not be
15 subject to tax or taken into account under subtitle
16 A of the Internal Revenue Code of 1986.

17 (2) LIMITATION.—The amount of income ex-
18 cluded from gross income under paragraph (1) for
19 any taxable year shall not exceed the amount used
20 by the qualified organization to make debt service
21 payments during such taxable year for qualified for-
22 est conservation bonds.

23 (3) QUALIFIED HARVESTING ACTIVITY.—For
24 purposes of paragraph (1)—

1 (A) IN GENERAL.—The term “qualified
2 harvesting activity” means the sale, lease, or
3 harvesting, of standing timber—

4 (i) on land owned by a qualified orga-
5 nization which was acquired with proceeds
6 of qualified forest conservation bonds, and

7 (ii) pursuant to a qualified conserva-
8 tion plan adopted by the qualified organi-
9 zation.

10 (B) EXCEPTIONS.—

11 (i) CESSATION AS QUALIFIED ORGANI-
12 ZATION.—The term “qualified harvesting
13 activity” shall not include any sale, lease,
14 or harvesting for any period during which
15 the organization ceases to qualify as a
16 qualified organization.

17 (ii) EXCEEDING LIMITS ON HAR-
18 VESTING.—The term “qualified harvesting
19 activity” shall not include any sale, lease,
20 or harvesting of standing timber on land
21 acquired with proceeds of qualified forest
22 conservation bonds to the extent that—

23 (I) the average annual area of
24 timber harvested from such land ex-

1 ceeds 2.5 percent of the total area of
2 such land, or

3 (II) the quantity of timber re-
4 moved from such land exceeds the
5 quantity which can be removed from
6 such land annually in perpetuity on a
7 sustained-yield basis with respect to
8 such land.

9 The limitations under subclauses (I) and
10 (II) shall not apply to post-fire restoration
11 and rehabilitation or sanitation harvesting
12 of timber stands which are substantially
13 damaged by fire, windthrow, or other ca-
14 strophes, or which are in imminent dan-
15 ger from insect or disease attack.

16 (4) TERMINATION.—This subsection shall not
17 apply to any qualified harvesting activity of a quali-
18 fied organization occurring after the date on
19 which—

20 (A) there is no outstanding qualified forest
21 conservation bond with respect to such qualified
22 organization, or

23 (B) any such bond ceases to be a tax-ex-
24 empt bond.

1 (5) PARTIAL RECAPTURE OF BENEFITS IF HAR-
2 VESTING LIMIT EXCEEDED.—If, as of the date that
3 this subsection ceases to apply under paragraph
4 (4)(B), the average annual area of timber harvested
5 from the land exceeds the requirement of subclause
6 (I) or (II) of paragraph (3)(B)(ii), the tax imposed
7 by chapter 1 of the Internal Revenue Code of 1986
8 shall be increased, under rules prescribed by the
9 Secretary of the Treasury, by the sum of the tax
10 benefits attributable to such excess and interest at
11 the underpayment rate under section 6621 of such
12 Code for the period of the underpayment.

13 (c) DEFINITIONS.—For purposes of this section—

14 (1) QUALIFIED CONSERVATION PLAN.—The
15 term “qualified conservation plan” means a multiple
16 land use program or plan which—

17 (A) is designed and administered primarily
18 for the purposes of protecting and enhancing
19 wildlife and fish, timber, scenic attributes,
20 recreation, and soil and water quality of the
21 forest and forest land,

22 (B) mandates that conservation of forest
23 and forest land is the single-most significant
24 use of the forest and forest land, and

1 (C) requires that timber harvesting be con-
2 sistent with—

3 (i) restoring and maintaining ref-
4 erence conditions for the region's ecotype,

5 (ii) restoring and maintaining a rep-
6 resentative sample of young, mid, and late
7 successional forest age classes,

8 (iii) maintaining or restoring the re-
9 sources' ecological health for purposes of
10 preventing damage from fire, insect, or dis-
11 ease,

12 (iv) maintaining or enhancing wildlife
13 or fish habitat, or

14 (v) enhancing research opportunities
15 in sustainable renewable resource uses.

16 (2) CONSERVATION RESTRICTION.—The con-
17 servation restriction described in this paragraph is a
18 restriction which—

19 (A) is granted in perpetuity to an unre-
20 lated person which is described in section
21 170(h)(3) of such Code and which, in the case
22 of a nongovernmental unit, is organized and op-
23 erated for conservation purposes,

1 (B) meets the requirements of clause (ii)
2 or (iii)(II) of section 170(h)(4)(A) of such
3 Code,

4 (C) obligates the qualified organization to
5 pay the costs incurred by the holder of the con-
6 servation restriction in monitoring compliance
7 with such restriction, and

8 (D) requires an increasing level of con-
9 servation benefits to be provided whenever cir-
10 cumstances allow it.

11 (3) QUALIFIED ORGANIZATION.—The term
12 “qualified organization” means a nonprofit organiza-
13 tion—

14 (A) substantially all the activities of which
15 are charitable, scientific, or educational, includ-
16 ing acquiring, protecting, restoring, managing,
17 and developing forest lands and other renewable
18 resources for the long-term charitable, edu-
19 cational, scientific, and public benefit,

20 (B) which periodically conducts educational
21 programs designed to inform the public of envi-
22 ronmentally sensitive forestry management and
23 conservation techniques,

24 (C) which has at all times a board of direc-
25 tors—

1 (i) at least 20 percent of the members
2 of which are representatives of the con-
3 servation community,

4 (ii) at least 20 percent of the mem-
5 bers of which are public officials, and

6 (iii) not more than one-third of the
7 members of which are individuals who are
8 or were at any time within 5 years before
9 the beginning of a term of membership on
10 the board, an employee of, independent
11 contractor with respect to, officer of, direc-
12 tor of, or held a material financial interest
13 in, a commercial forest products enterprise
14 with which the qualified organization has a
15 contractual or other financial arrangement,

16 (D) the bylaws of which require at least
17 two-thirds of the members of the board of direc-
18 tors to vote affirmatively to approve the quali-
19 fied conservation plan and any change thereto,
20 and

21 (E) upon dissolution, is required to dedi-
22 cate its assets to—

23 (i) an organization described in sec-
24 tion 501(c)(3) of such Code which is orga-

1 nized and operated for conservation pur-
2 poses, or

3 (ii) a governmental unit described in
4 section 170(c)(1) of such Code.

5 (4) UNRELATED PERSON.—The term “unre-
6 lated person” means a person who is not a related
7 person.

8 (5) RELATED PERSON.—A person shall be
9 treated as related to another person if—

10 (A) such person bears a relationship to
11 such other person described in section 267(b)
12 (determined without regard to paragraph (9)
13 thereof), or 707(b)(1), of such Code, deter-
14 mined by substituting “25 percent” for “50
15 percent” each place it appears therein, and

16 (B) in the case such other person is a non-
17 profit organization, if such person controls di-
18 rectly or indirectly more than 25 percent of the
19 governing body of such organization.

20 **SEC. 212. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

21 (a) IN GENERAL.—Part I of subchapter P of chapter
22 1 is amended by adding at the end the following new sec-
23 tion:

1 **“SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

2 “(a) IN GENERAL.—In the case of a taxpayer which
3 elects the application of this section for a taxable year,
4 there shall be allowed a deduction against gross income
5 in an amount equal to 60 percent of the lesser of—

6 “(1) the taxpayer’s qualified timber gain for
7 such year, or

8 “(2) the taxpayer’s net capital gain for such
9 year.

10 “(b) QUALIFIED TIMBER GAIN.—For purposes of
11 this section, the term ‘qualified timber gain’ means, with
12 respect to any taxpayer for any taxable year, the excess
13 (if any) of—

14 “(1) the sum of the taxpayer’s gains described
15 in subsections (a) and (b) of section 631 for such
16 year, over

17 “(2) the sum of the taxpayer’s losses described
18 in such subsections for such year.

19 “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—

20 “(1) In the case of any qualified timber gain of
21 a pass-thru entity (as defined in section 1(h)(10))
22 other than a real estate investment trust, the elec-
23 tion under this section shall be made separately by
24 each taxpayer subject to tax on such gain.

25 “(2) In the case of any qualified timber gain of
26 a real estate investment trust, the election under

1 this section shall be made by the real estate invest-
2 ment trust.

3 “(d) ELECTION.—An election under this section may
4 be made only with respect to the first taxable year begin-
5 ning after the date of the enactment of this section.”.

6 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS
7 RATES.—

8 (1) TAXPAYERS OTHER THAN CORPORA-
9 TIONS.—Paragraph (2) of section 1(h) is amended
10 to read as follows:

11 “(2) REDUCTION OF NET CAPITAL GAIN.—For
12 purposes of this subsection, the net capital gain for
13 any taxable year shall be reduced (but not below
14 zero) by the sum of—

15 “(A) the amount which the taxpayer takes
16 into account as investment income under sec-
17 tion 163(d)(4)(B)(iii), and

18 “(B) in the case of a taxable year with re-
19 spect to which an election is in effect under sec-
20 tion 1203, the lesser of—

21 “(i) the amount described in para-
22 graph (1) of section 1203(a), or

23 “(ii) the amount described in para-
24 graph (2) of such section.”.

1 (2) CORPORATIONS.—Section 1201 is amended
2 by redesignating subsection (b) as subsection (c) and
3 inserting after subsection (a) the following new sub-
4 section:

5 “(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO
6 ACCOUNT.—For purposes of this section, in the case of
7 a corporation with respect to which an election is in effect
8 under section 1203, the net capital gain for any taxable
9 year shall be reduced (but not below zero) by the corpora-
10 tion’s qualified timber gain (as defined in section
11 1203(b)).”.

12 (c) DEDUCTION ALLOWED WHETHER OR NOT INDI-
13 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
14 of section 62 is amended by inserting before the last sen-
15 tence the following new paragraph:

16 “(22) QUALIFIED TIMBER GAINS.—The deduc-
17 tion allowed by section 1203.”.

18 (d) DEDUCTION ALLOWED IN COMPUTING AD-
19 JUSTED CURRENT EARNINGS.—Subparagraph (C) of sec-
20 tion 56(g)(4) is amended by adding at the end the fol-
21 lowing new clause:

22 “(vii) DEDUCTION FOR QUALIFIED
23 TIMBER GAIN.—Clause (i) shall not apply
24 to any deduction allowed under section
25 1203.”.

1 (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE
2 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-
3 paragraph (C) of section 641(c)(2) is amended by insert-
4 ing after clause (iii) the following new clause:

5 “(iv) The deduction allowed under
6 section 1203.”.

7 (f) TREATMENT OF QUALIFIED TIMBER GAIN OF
8 REAL ESTATE INVESTMENT TRUSTS.—Paragraph (3) of
9 section 857(b) is amended by inserting after subparagraph
10 (F) the following new subparagraph:

11 “(G) TREATMENT OF QUALIFIED TIMBER
12 GAIN.—For purposes of this part, in the case of
13 a real estate investment trust with respect to
14 which an election is in effect under section
15 1203—

16 “(i) REDUCTION OF NET CAPITAL
17 GAIN.—The net capital gain of the real es-
18 tate investment trust for any taxable year
19 shall be reduced (but not below zero) by
20 the real estate investment trust’s qualified
21 timber gain (as defined in section
22 1203(b)).

23 “(ii) ADJUSTMENT TO SHARE-
24 HOLDER’S BASIS ATTRIBUTABLE TO DE-

1 D U C T I O N F O R Q U A L I F I E D T I M B E R
2 G A I N S . —

3 “(I) IN GENERAL.—The adjusted
4 basis of shares in the hands of the
5 shareholder shall be increased by the
6 amount of the deduction allowable
7 under section 1203(a) as provided in
8 subclauses (II) and (III).

9 “(II) ALLOCATION OF BASIS IN-
10 C R E A S E F O R D I S T R I B U T I O N S M A D E
11 D U R I N G T A X A B L E Y E A R . — F o r a n y
12 taxable year of a real estate invest-
13 ment trust for which an election is in
14 effect under section 1203, in the case
15 of a distribution made with respect to
16 shares during such taxable year of
17 amounts attributable to the deduction
18 allowable under section 1203(a), the
19 adjusted basis of such shares shall be
20 increased by the amount of such dis-
21 tributions.

22 “(III) ALLOCATION OF EX-
23 C E S S . — I f t h e d e d u c t i o n a l l o w a b l e
24 under section 1203(a) for a taxable
25 year exceeds the amount of distribu-

1 tions described in subclause (II), the
2 excess shall be allocated to every
3 shareholder of the real estate invest-
4 ment trust at the close of the trust's
5 taxable year in the same manner as if
6 a distribution of such excess were
7 made with respect to such shares.

8 “(IV) DESIGNATIONS.—To the
9 extent provided in regulations, a real
10 estate investment trust shall designate
11 the amounts described in subclauses
12 (II) and (III) in a manner similar to
13 the designations provided with respect
14 to capital gains described in subpara-
15 graphs (C) and (D).

16 “(V) DEFINITIONS.—As used in
17 this subparagraph, the terms ‘share’
18 and ‘shareholder’ shall include bene-
19 ficial interests and holders of bene-
20 ficial interests, respectively.

21 “(iii) EARNINGS AND PROFITS DEDUC-
22 TION FOR QUALIFIED TIMBER GAINS.—The
23 deduction allowable under section 1203(a)
24 for a taxable year shall be allowed as a de-
25 duction in computing the earnings and

1 profits of the real estate investment trust
 2 for such taxable year. The earnings and
 3 profits of any such shareholder which is a
 4 corporation shall be appropriately adjusted
 5 in accordance with regulations prescribed
 6 by the Secretary.”.

7 (g) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT
 8 FOR DEDUCTION FOR QUALIFIED TIMBER GAIN OF REAL
 9 ESTATE INVESTMENT TRUSTS.—

10 (1) Section 857(b)(8) is amended by redesignig-
 11 nating subparagraphs (B) and (C) as subparagraphs
 12 (C) and (D), respectively, and by inserting after sub-
 13 paragraph (A) the following new subparagraph:

14 “(B) LOSS ATTRIBUTABLE TO BASIS AD-
 15 JUSTMENT FOR DEDUCTION FOR QUALIFIED
 16 TIMBER GAIN.—If—

17 “(i) a shareholder of a real estate in-
 18 vestment trust receives a basis adjustment
 19 provided under subsection (b)(3)(G)(ii),
 20 and

21 “(ii) the taxpayer has held such share
 22 or interest for 6 months or less,
 23 then any loss on the sale or exchange of such
 24 share or interest shall, to the extent of the
 25 amount described in clause (i), be disallowed.”.

1 (2) Subparagraph (D) of section 857(b)(8), as
2 redesignated by paragraph (1), is amended by strik-
3 ing “subparagraph (A)” and inserting “subpara-
4 graphs (A) and (B)”.

5 (h) CONFORMING AMENDMENTS.—

6 (1) Subparagraph (B) of section 172(d)(2) is
7 amended to read as follows:

8 “(B) the exclusion under section 1202, and
9 the deduction under section 1203, shall not be
10 allowed.”.

11 (2) Paragraph (4) of section 642(c) is amended
12 by striking the first sentence and inserting “To the
13 extent that the amount otherwise allowable as a de-
14 duction under this subsection consists of gain de-
15 scribed in section 1202(a) or qualified timber gain
16 (as defined in section 1203(b)), proper adjustment
17 shall be made for any exclusion allowable to the es-
18 tate or trust under section 1202 and for any deduc-
19 tion allowable to the estate or trust under section
20 1203.”

21 (3) Paragraph (3) of section 643(a) is amended
22 by striking the last sentence and inserting “The ex-
23 clusion under section 1202 and the deduction under
24 section 1203 shall not be taken into account.”.

1 (4) Subparagraph (C) of section 643(a)(6) is
2 amended to read as follows:

3 “(C) Paragraph (3) shall not apply to a
4 foreign trust. In the case of such a trust—

5 “(i) there shall be included gains from
6 the sale or exchange of capital assets, re-
7 duced by losses from such sales or ex-
8 changes to the extent such losses do not
9 exceed gains from such sales or exchanges,
10 and

11 “(ii) the deduction under section 1203
12 shall not be taken into account.”.

13 (5) Paragraph (4) of section 691(c) is amended
14 by inserting “1203,” after “1202,”.

15 (6) Paragraph (2) of section 871(a) is amended
16 by inserting “or 1203,” after “1202,”.

17 (7) The table of sections for part I of sub-
18 chapter P of chapter 1 is amended by adding at the
19 end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

20 (i) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 the date of the enactment of this Act.

1 **SEC. 213. EXCISE TAX NOT APPLICABLE TO SECTION 1203**
2 **DEDUCTION OF REAL ESTATE INVESTMENT**
3 **TRUSTS.**

4 (a) IN GENERAL.—

5 (1) ORDINARY INCOME.—Subparagraph (B) of
6 section 4981(e)(1) is amended to read as follows:

7 “(B) by not taking into account—

8 “(i) any gain or loss from the sale or
9 exchange of capital assets (determined
10 without regard to any reduction that would
11 be applied for purposes of section
12 857(b)(3)(G)(i)), and

13 “(ii) any deduction allowable under
14 section 1203, and”.

15 (2) CAPITAL GAIN NET INCOME.—Section
16 4981(e)(2) is amended by adding at the end the fol-
17 lowing new subparagraph:

18 “(D) QUALIFIED TIMBER GAIN.—The
19 amount determined under subparagraph (A)
20 shall be determined without regard to any re-
21 duction that would be applied for purposes of
22 section 857(b)(3)(G)(i) but shall be reduced for
23 any deduction allowable under section 1203 for
24 such calendar year.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 214. TIMBER REIT MODERNIZATION.**

5 (a) IN GENERAL.—Section 856(c)(5) is amended by
6 adding after subparagraph (G) the following new subpara-
7 graph:

8 “(H) TREATMENT OF TIMBER GAINS.—

9 “(i) IN GENERAL.—Gain from the sale
10 of real property described in paragraph
11 (2)(D) and (3)(C) shall include gain which
12 is—

13 “(I) recognized by an election
14 under section 631(a) from timber
15 owned by the real estate investment
16 trust, the cutting of which is provided
17 by a taxable REIT subsidiary of the
18 real estate investment trust;

19 “(II) recognized under section
20 631(b); or

21 “(III) income which would con-
22 stitute gain under subclause (I) or
23 (II) but for the failure to meet the 1-
24 year holding period requirement.

25 “(ii) SPECIAL RULES.—

1 “(I) For purposes of this subtitle,
2 cut timber, the gain of which is recog-
3 nized by a real estate investment trust
4 pursuant to an election under section
5 631(a) described in clause (i)(I) or so
6 much of clause (i)(III) as relates to
7 clause (i)(I), shall be deemed to be
8 sold to the taxable REIT subsidiary of
9 the real estate investment trust on the
10 first day of the taxable year.

11 “(II) For purposes of this sub-
12 title, income described in this sub-
13 paragraph shall not be treated as gain
14 from the sale of property described in
15 section 1221(a)(1).

16 “(iii) TERMINATION.—This subpara-
17 graph shall not apply to dispositions after
18 the termination date.”.

19 (b) TERMINATION DATE.—Subsection (c) of section
20 856 is amended by adding at the end the following new
21 paragraph:

22 “(8) TERMINATION DATE.—For purposes of
23 this subsection, the term ‘termination date’ means
24 the last day of the first taxable year beginning after
25 the date of the enactment of this paragraph.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to dispositions in taxable years
3 beginning after the date of the enactment of this Act.

4 **SEC. 215. MINERAL ROYALTY INCOME QUALIFYING INCOME**
5 **FOR TIMBER REITS.**

6 (a) IN GENERAL.—Section 856(c)(2) is amended by
7 striking “and” at the end of subparagraph (G), by insert-
8 ing “and” at the end of subparagraph (H), and by adding
9 after subparagraph (H) the following new subparagraph:

10 “(I) mineral royalty income earned in the
11 first taxable year beginning after the date of
12 the enactment of this subparagraph from real
13 property owned by a timber real estate invest-
14 ment trust held, or once held, in connection
15 with the trade or business of producing timber
16 by such real estate investment trust;”.

17 (b) TIMBER REAL ESTATE INVESTMENT TRUST.—
18 Section 856(c)(5), as amended by this Act, is amended
19 by adding after subparagraph (H) the following new sub-
20 paragraph:

21 “(I) TIMBER REAL ESTATE INVESTMENT
22 TRUST.—The term ‘timber real estate invest-
23 ment trust’ means a real estate investment
24 trust in which more than 50 percent in value of
25 its total assets consists of real property held in

1 connection with the trade or business of pro-
 2 ducing timber.”.

3 (c) EFFECTIVE DATE.—The amendments by this sec-
 4 tion shall apply to taxable years beginning after the date
 5 of the enactment of this Act.

6 **SEC. 216. MODIFICATION OF TAXABLE REIT SUBSIDIARY**
 7 **ASSET TEST FOR TIMBER REITS.**

8 (a) IN GENERAL.—Section 856(c)(4)(B)(ii) is
 9 amended by inserting “(in the case of a quarter which
 10 closes on or before the termination date, 25 percent in
 11 the case of a timber real estate investment trust)” after
 12 “not more than 20 percent of the value of its total assets
 13 is represented by securities of one or more taxable REIT
 14 subsidiaries”.

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

18 **SEC. 217. SAFE HARBOR FOR TIMBER PROPERTY.**

19 (a) IN GENERAL.—Section 857(b)(6) (relating to in-
 20 come from prohibited transactions) is amended by adding
 21 at the end the following new subparagraph:

22 “(G) SPECIAL RULES FOR SALES TO
 23 QUALIFIED ORGANIZATIONS.—

24 “(i) IN GENERAL.—In the case of sale
 25 of a real estate asset (as defined in section

1 856(c)(5)(B)) to a qualified organization
2 (as defined in section 170(h)(3)) exclu-
3 sively for conservation purposes (within the
4 meaning of section 170(h)(1)(C)), subpara-
5 graph (D) shall be applied—

6 “(I) by substituting ‘2 years’ for
7 ‘4 years’ in clause (i), and

8 “(II) by substituting ‘2-year pe-
9 riod’ for ‘4-year period’ in clauses (ii)
10 and (iii).

11 “(ii) TERMINATION.—This subpara-
12 graph shall not apply to sales after the ter-
13 mination date.”.

14 (b) PROHIBITED TRANSACTIONS.—Section
15 857(b)(6)(D)(v) is amended by inserting “or, in the case
16 of a sale on or before the termination date, a taxable
17 REIT subsidiary” after “independent contractor (as de-
18 fined in section 856(d)(3)) from whom the trust itself does
19 not derive or receive any income”.

20 (c) SALES THAT ARE NOT PROHIBITED TRANS-
21 ACTIONS.—Section 857(b)(6), as amended by subsection
22 (a), is amended by adding at the end the following new
23 subparagraph:

24 “(H) SALES OF PROPERTY THAT ARE NOT
25 A PROHIBITED TRANSACTION.—In the case of a

1 sale on or before the termination date, the sale
 2 of property which is not a prohibited trans-
 3 action through application of subparagraph (D)
 4 shall be considered property held for investment
 5 or for use in a trade or business and not prop-
 6 erty described in section 1221(a)(1) for all pur-
 7 poses of this subtitle.”.

8 (d) TERMINATION DATE.—Section 857(b)(6), as
 9 amended by subsections (a) and (c), is amended by adding
 10 at the end the following new subparagraph:

11 “(I) TERMINATION DATE.—For purposes
 12 of this paragraph, the term ‘termination date’
 13 means the last day of the first taxable year be-
 14 ginning after the date of the enactment of this
 15 subparagraph.”.

16 (e) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to dispositions in taxable years be-
 18 ginning after the date of the enactment of this Act.

19 **TITLE III—ENERGY PROVISIONS**
 20 **Subtitle A—Electricity Generation**

21 **SEC. 301. CREDIT FOR RESIDENTIAL AND BUSINESS WIND**
 22 **PROPERTY.**

23 (a) RESIDENTIAL WIND PROPERTY.—

24 (1) IN GENERAL.—Section 25D(a) (relating to
 25 allowance of credit) is amended by striking “and” at

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

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

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

13 “(D) \$4,000 with respect to any qualified
14 small wind energy property expenditures.”.

15 (3) QUALIFIED SMALL WIND ENERGY PROP-
16 erty EXPENDITURES.—

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

20 “(4) QUALIFIED SMALL WIND ENERGY PROP-
21 erty EXPENDITURE.—The term ‘qualified small
22 wind energy property expenditure’ means an expend-
23 iture for qualified small wind energy property (as
24 defined in section 48(c)(3)(A)) installed on or in

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

3 (B) NO DOUBLE BENEFIT.—Section
4 45(d)(1) (relating to wind facility) is amended
5 by adding at the end the following new sen-
6 tence: “Such term shall not include any facility
7 with respect to which any qualified small wind
8 energy property expenditure (as defined in sub-
9 section (d)(4) of section 25D) is taken into ac-
10 count in determining the credit under such sec-
11 tion.”.

12 (4) MAXIMUM EXPENDITURES IN CASE OF
13 JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating
14 to maximum expenditures) is amended by striking
15 “and” at the end of clause (ii), by striking the pe-
16 riod at the end of clause (iii) and inserting “, and”,
17 and by adding at the end the following new clause:

18 “(iv) \$1,667 in the case of wind tur-
19 bines for which qualified small wind energy
20 property expenditures are made.”.

21 (b) BUSINESS WIND PROPERTY.—

22 (1) IN GENERAL.—Section 48(a)(3)(A) (defin-
23 ing energy property) is amended by striking “or” at
24 the end of clause (iii), by adding “or” at the end of

1 clause (iv), and by inserting after clause (iv) the fol-
 2 lowing new clause:

3 “(v) qualified small wind energy prop-
 4 erty,”.

5 (2) 30 PERCENT CREDIT.—Section
 6 48(a)(2)(A)(i) is amended by striking “and” at the
 7 end of subclause (II) and by inserting after sub-
 8 clause (III) the following new subclause:

9 “(IV) qualified small wind energy
 10 property, and”.

11 (3) QUALIFIED SMALL WIND ENERGY PROP-
 12 erty.—Section 48(c) is amended—

13 (A) by inserting “; QUALIFIED SMALL
 14 WIND ENERGY PROPERTY” after “QUALIFIED
 15 MICROTURBINE PROPERTY” in the heading,

16 (B) by striking “For purposes of this sub-
 17 section” and inserting “For purposes of this
 18 section”,

19 (C) by striking “paragraph (1)” in para-
 20 graphs (1)(B) and (2)(B) and inserting “sub-
 21 section (a)(1)”, and

22 (D) by adding at the end the following new
 23 paragraph:

24 “(3) QUALIFIED SMALL WIND ENERGY PROP-
 25 erty.—

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

5 “(B) LIMITATION.—In the case of quali-
6 fied small wind energy property placed in serv-
7 ice during the taxable year, the credit otherwise
8 determined under subsection (a)(1) for such
9 year with respect to such property shall not ex-
10 ceed \$4,000 with respect to any taxpayer.

11 “(C) QUALIFYING SMALL WIND TUR-
12 BINE.—The term ‘qualifying small wind tur-
13 bine’ means a wind turbine which—

14 “(i) has a nameplate capacity of not
15 more than 100 kilowatts, and

16 “(ii) meets the performance standards
17 of the American Wind Energy Association.

18 “(D) TERMINATION.—The term ‘qualified
19 small wind energy property’ shall not include
20 any property for any period after December 31,
21 2008.”.

22 (4) CONFORMING AMENDMENT.—Section
23 48(a)(1) is amended by striking “paragraphs (1)(B)
24 and (2)(B)” and inserting “paragraphs (1)(B),
25 (2)(B), and (3)(B)”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to expenditures after December 31,
 3 2007.

4 **SEC. 302. LANDOWNER INCENTIVE TO ENCOURAGE ELEC-**
 5 **TRIC TRANSMISSION BUILD-OUT.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
 7 ter 1 (relating to items specifically excluded from gross
 8 income) is amended by inserting after section 139A the
 9 following new section:

10 **“SEC. 139B. ELECTRIC TRANSMISSION EASEMENT PAY-**
 11 **MENTS.**

12 “(a) IN GENERAL.—Gross income shall not include
 13 any qualified electric transmission easement payment.

14 “(b) QUALIFIED ELECTRIC TRANSMISSION EASE-
 15 MENT PAYMENT.—For purposes of this section, the term
 16 ‘qualified electric transmission payment’ means any pay-
 17 ment which is made—

18 “(1) by an electric utility or electric trans-
 19 mission entity pursuant to an easement or other
 20 agreement granted by the payee (or any predecessor
 21 of such payee), and

22 “(2) for the right of such entity (or any succes-
 23 sors of such entity) to locate on such payee’s prop-
 24 erty transmission lines and equipment used to trans-
 25 mit electricity at 230 or more kilovolts, primarily

1 from qualified facilities described in section 45(d)
2 (without regard to any placed in service date or the
3 last sentence of paragraph (4) thereof) or energy
4 property (as defined in section 48(a)(3)) placed in
5 service after the date of the enactment of this sec-
6 tion.

7 “(c) NO INCREASE IN BASIS.—Notwithstanding any
8 other provision of this subtitle, no increase in the basis
9 or adjusted basis of any property shall result from any
10 amount excluded under this subsection with respect to
11 such property.

12 “(d) DENIAL OF DOUBLE BENEFIT.—Notwith-
13 standing any other provision of this subtitle, no deduction
14 or credit shall be allowed (to the person for whose benefit
15 a qualified electric transmission easement payment is
16 made) for, or by reason of, any expenditure to the extent
17 of the amount excluded under this section with respect to
18 such expenditure.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for such part III is amended by inserting after the item
21 relating to section 139A the following new item:

“Sec. 139B. Electric transmission easement payments.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to payments received after the date
24 of the enactment of this Act.

1 **SEC. 303. EXCEPTION TO REDUCTION OF RENEWABLE**
 2 **ELECTRICITY CREDIT.**

3 (a) IN GENERAL.—Section 45(b)(3) (relating to cred-
 4 it reduced for grants, tax-exempt bonds, subsidized energy
 5 financing, and other credits) is amended by adding after
 6 the last sentence the following: “This paragraph shall not
 7 apply with respect to any loans, loan guarantees, or grants
 8 issued by the Secretary of Agriculture under authority
 9 granted by section 9006 of the Farm Security and Rural
 10 Investment Act of 2002.”

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall apply to facilities placed in service after
 13 the date of the enactment of this Act.

14 **Subtitle B—Alcohol Fuel**

15 **SEC. 311. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**
 16 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**
 17 **PROPERTY.**

18 (a) IN GENERAL.—Paragraph (3) of section 168(l)
 19 (relating to special allowance for cellulosic biomass ethanol
 20 plant property) is amended to read as follows:

21 “(3) CELLULOSIC BIOMASS ALCOHOL.—For
 22 purposes of this subsection, the term ‘cellulosic bio-
 23 mass alcohol’ means any alcohol produced from any
 24 lignocellulosic or hemicellulosic matter that is avail-
 25 able on a renewable or recurring basis.”.

26 (b) CONFORMING AMENDMENTS.—

1 (1) IN GENERAL.—Subsection (b) of section 40
2 is amended by adding at the end the following new
3 paragraph:

4 “(6) SMALL CELLULOSIC ALCOHOL PRODUCER
5 CREDIT.—

6 “(A) IN GENERAL.—In addition to any
7 other credit allowed under this section, there
8 shall be allowed as a credit against the tax im-
9 posed by this chapter for the taxable year an
10 amount equal to the applicable amount for each
11 gallon of not more than 60,000,000 gallons of
12 qualified cellulosic alcohol production.

13 “(B) APPLICABLE AMOUNT.—For purposes
14 of subparagraph (A), the applicable amount
15 means the excess of—

16 “(i) \$1.28, over

17 “(ii) the sum of—

18 “(I) the amount of the credit in
19 effect for alcohol which is ethanol
20 under subsection (b)(1) (without re-
21 gard to subsection (b)(3)) at the time
22 of the qualified cellulosic alcohol pro-
23 duction, plus

1 “(II) the amount of the credit in
2 effect under subsection (b)(4) at the
3 time of such production.

4 “(C) QUALIFIED CELLULOSIC ALCOHOL
5 PRODUCTION.—For purposes of this section,
6 the term ‘qualified cellulosic alcohol production’
7 means any cellulosic biomass alcohol which is
8 produced by an eligible small cellulosic alcohol
9 producer and which during the taxable year—

10 “(i) is sold by the taxpayer to another
11 person—

12 “(I) for use by such other person
13 in the production of a qualified alco-
14 hol mixture in such other person’s
15 trade or business (other than casual
16 off-farm production),

17 “(II) for use by such other per-
18 son as a fuel in a trade or business,
19 or

20 “(III) who sells such cellulosic
21 biomass alcohol at retail to another
22 person and places such cellulosic bio-
23 mass alcohol in the fuel tank of such
24 other person, or

1 “(ii) is used or sold by the taxpayer
2 for any purpose described in clause (i).

3 “(D) ADDITIONAL DISTILLATION EX-
4 CLUDED.—The qualified cellulosic alcohol pro-
5 duction of any taxpayer for any taxable year
6 shall not include any alcohol which is purchased
7 by the taxpayer and with respect to which such
8 producer increases the proof of the alcohol by
9 additional distillation.

10 “(E) APPLICATION OF PARAGRAPH.—This
11 paragraph shall apply with respect to qualified
12 cellulosic alcohol production after December 31,
13 2007, and before April 1, 2015.”.

14 (2) TERMINATION DATE NOT TO APPLY.—Sub-
15 section (e) of section 40 (relating to termination) is
16 amended—

17 (A) by inserting “or subsection (b)(6)(E)”
18 after “by reason of paragraph (1)” in para-
19 graph (2), and

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

22 “(3) EXCEPTION FOR SMALL CELLULOSIC AL-
23 COHOL PRODUCER CREDIT.—Paragraph (1) shall
24 not apply to the portion of the credit allowed under
25 this section by reason of subsection (a)(4).”.

1 (c) ELIGIBLE SMALL CELLULOSIC ALCOHOL PRO-
2 DUCER.—Section 40 is amended by adding at the end the
3 following new subsection:

4 “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL
5 CELLULOSIC ALCOHOL PRODUCER.—For purposes of this
6 section—

7 “(1) IN GENERAL.—The term ‘eligible small
8 cellulosic alcohol producer’ means a person, who at
9 all times during the taxable year, has a productive
10 capacity for cellulosic biomass alcohol not in excess
11 of 60,000,000 gallons.

12 “(2) CELLULOSIC BIOMASS ALCOHOL.—

13 “(A) IN GENERAL.—The term ‘cellulosic
14 biomass alcohol’ has the meaning given such
15 term under section 168(l)(3), but does not in-
16 clude any alcohol with a proof of less than 150.

17 “(B) DETERMINATION OF PROOF.—The
18 determination of the proof of any alcohol shall
19 be made without regard to any added dena-
20 turants.

21 “(3) AGGREGATION RULE.—For purposes of
22 the 60,000,000 gallon limitation under paragraph
23 (1) and subsection (b)(6)(A), all members of the
24 same controlled group of corporations (within the
25 meaning of section 267(f)) and all persons under

1 common control (within the meaning of section
2 52(b) but determined by treating an interest of more
3 than 50 percent as a controlling interest) shall be
4 treated as 1 person.

5 “(4) PARTNERSHIP, S CORPORATIONS, AND
6 OTHER PASS-THRU ENTITIES.—In the case of a
7 partnership, trust, S corporation, or other pass-thru
8 entity, the limitation contained in paragraph (1)
9 shall be applied at the entity level and at the partner
10 or similar level.

11 “(5) ALLOCATION.—For purposes of this sub-
12 section, in the case of a facility in which more than
13 1 person has an interest, productive capacity shall
14 be allocated among such persons in such manner as
15 the Secretary may prescribe.

16 “(6) REGULATIONS.—The Secretary may pre-
17 scribe such regulations as may be necessary to pre-
18 vent the credit provided for in subsection (a)(4)
19 from directly or indirectly benefitting any person
20 with a direct or indirect productive capacity of more
21 than 60,000,000 gallons of cellulosic biomass alcohol
22 during the taxable year.

23 “(7) ALLOCATION OF SMALL CELLULOSIC PRO-
24 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

1 Rules similar to the rules under subsection (g)(6)
2 shall apply for purposes of this subsection.”.

3 (d) ALCOHOL NOT USED AS A FUEL, ETC.—

4 (1) IN GENERAL.—Paragraph (3) of section
5 40(d) is amended by redesignating subparagraph
6 (D) as subparagraph (E) and by inserting after sub-
7 paragraph (C) the following new subparagraph:

8 “(D) SMALL CELLULOSIC ALCOHOL PRO-
9 DUCER CREDIT.—If—

10 “(i) any credit is allowed under sub-
11 section (a)(4), and

12 “(ii) any person does not use such
13 fuel for a purpose described in subsection
14 (b)(6)(C),

15 then there is hereby imposed on such person a
16 tax equal to the applicable amount for each gal-
17 lon of such cellulosic biomass alcohol.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Subparagraph (C) of section 40(d)(3)
20 is amended by striking “PRODUCER” in the
21 heading and inserting “SMALL ETHANOL PRO-
22 DUCER”.

23 (B) Subparagraph (E) of section 40(d)(3),
24 as redesignated by paragraph (1), is amended

1 by striking “or (C)” and inserting “(C), or
2 (D)”.

3 (e) ALCOHOL PRODUCED IN THE UNITED STATES.—
4 Section 40(d), as amended by this section, is amended by
5 adding at the end the following new paragraph:

6 “(6) SPECIAL RULE FOR SMALL CELLULOSIC
7 ALCOHOL PRODUCERS.—No small cellulosic alcohol
8 producer credit shall be determined under subsection
9 (a) with respect to any alcohol unless such alcohol
10 is produced in the United States.”.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to fuel produced after December
13 31, 2007.

14 **SEC. 313. EXTENSION OF SMALL ETHANOL PRODUCER**
15 **CREDIT.**

16 Paragraph (1) of section 40(e) (relating to termi-
17 nation) is amended—

18 (1) in subparagraph (A), by inserting “(Decem-
19 ber 31, 2012, in the case of the credit allowed by
20 reason of subsection (a)(3))” after “December 31,
21 2010”, and

22 (2) in subparagraph (B), by inserting “(Janu-
23 ary 1, 2013, in the case of the credit allowed by rea-
24 son of subsection (a)(3))” after “January 1, 2011”.

1 **SEC. 314. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**
 2 **HOL.**

3 (a) **IN GENERAL.**—Subsection (a) of section 40 (re-
 4 lating to alcohol used as fuel), as amended by this Act,
 5 is amended by striking “plus” at the end of paragraph
 6 (3), by striking the period at the end of paragraph (4)
 7 and inserting “, plus”, and by adding at the end the fol-
 8 lowing new paragraph:

9 “(5) the small fossil free alcohol producer cred-
 10 it.”.

11 (b) **SMALL FOSSIL FREE ALCOHOL PRODUCER**
 12 **CREDIT.**—Subsection (b) of section 40, as amended by
 13 this Act, is amended by adding at the end the following
 14 new paragraph:

15 “(7) **SMALL FOSSIL FREE ALCOHOL PRODUCER**
 16 **CREDIT.**—

17 “(A) **IN GENERAL.**—In addition to any
 18 other credit allowed under this section, there
 19 shall be allowed as a credit against the tax im-
 20 posed by this chapter for the taxable year an
 21 amount equal to 25 cents for each gallon of not
 22 more than 60,000,000 gallons of qualified fossil
 23 free alcohol production.

24 “(B) **QUALIFIED FOSSIL FREE ALCOHOL**
 25 **PRODUCTION.**—For purposes of this section,
 26 the term ‘qualified fossil free alcohol produc-

1 tion’ means alcohol which is produced by an eli-
2 gible small fossil free alcohol producer at a fos-
3 sil free alcohol production facility and which
4 during the taxable year—

5 “(i) is sold by the taxpayer to another
6 person—

7 “(I) for use by such other person
8 in the production of a qualified alco-
9 hol mixture in such other person’s
10 trade or business (other than casual
11 off-farm production),

12 “(II) for use by such other per-
13 son as a fuel in a trade or business,
14 or

15 “(III) who sells such alcohol at
16 retail to another person and places
17 such alcohol in the fuel tank of such
18 other person, or

19 “(ii) is used or sold by the taxpayer
20 for any purpose described in clause (i).

21 “(C) ADDITIONAL DISTILLATION EX-
22 CLUDED.—The qualified fossil free alcohol pro-
23 duction of any taxpayer for any taxable year
24 shall not include any alcohol which is purchased
25 by the taxpayer and with respect to which such

1 producer increases the proof of the alcohol by
2 additional distillation.”.

3 (c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRO-
4 DUCER.—Section 40, as amended by this Act, is amended
5 by adding at the end the following new subsection:

6 “(j) DEFINITIONS AND SPECIAL RULES FOR SMALL
7 FOSSIL FREE ALCOHOL PRODUCER.—For purposes of
8 this section—

9 “(1) IN GENERAL.—The term ‘eligible small
10 fossil free alcohol producer’ means a person, who at
11 all times during the taxable year, has a productive
12 capacity for alcohol from all fossil free alcohol pro-
13 duction facilities of the taxpayer which is not in ex-
14 cess of 60,000,000 gallons.

15 “(2) FOSSIL FREE ALCOHOL PRODUCTION FA-
16 CILITY.—The term ‘fossil free alcohol production fa-
17 cility’ means any facility at which 90 percent of the
18 energy used in the production of alcohol is produced
19 from biomass (as defined in section 45K(c)(3)).

20 “(3) AGGREGATION RULE.—For purposes of
21 the 60,000,000 gallon limitation under paragraph
22 (1) and subsection (b)(7)(A), all members of the
23 same controlled group of corporations (within the
24 meaning of section 267(f)) and all persons under
25 common control (within the meaning of section

1 52(b) but determined by treating an interest of more
2 than 50 percent as a controlling interest) shall be
3 treated as 1 person.

4 “(4) PARTNERSHIP, S CORPORATIONS, AND
5 OTHER PASS-THRU ENTITIES.—In the case of a
6 partnership, trust, S corporation, or other pass-thru
7 entity, the limitation contained in paragraph (1)
8 shall be applied at the entity level and at the partner
9 or similar level.

10 “(5) ALLOCATION.—For purposes of this sub-
11 section, in the case of a facility in which more than
12 1 person has an interest, productive capacity shall
13 be allocated among such persons in such manner as
14 the Secretary may prescribe.

15 “(6) REGULATIONS.—The Secretary may pre-
16 scribe such regulations as may be necessary to pre-
17 vent the credit provided for in subsection (a)(5)
18 from directly or indirectly benefitting any person
19 with a direct or indirect productive capacity of more
20 than 60,000,000 gallons of alcohol from fossil free
21 alcohol production facilities during the taxable year.

22 “(7) ALLOCATION OF SMALL FOSSIL FREE AL-
23 COHOL PRODUCER CREDIT TO PATRONS OF COOPER-
24 ATIVE.—Rules similar to the rules under subsection
25 (g)(6) shall apply for purposes of this subsection.”.

1 (d) ALCOHOL NOT USED AS A FUEL, ETC.—

2 (1) IN GENERAL.—Paragraph (3) of section
3 40(d), as amended by this Act, is amended by redesi-
4 gnating subparagraph (E) as subparagraph (F) and
5 by inserting after subparagraph (D) the following
6 new subparagraph:

7 “(E) SMALL FOSSIL FREE ALCOHOL PRO-
8 DUCER CREDIT.—If—

9 “(i) any credit is allowed under sub-
10 section (a)(5), and

11 “(ii) any person does not use such
12 fuel for a purpose described in subsection
13 (b)(7)(B),

14 then there is hereby imposed on such person a
15 tax equal to 25 cents for each gallon of such al-
16 cohol.”.

17 (2) CONFORMING AMENDMENT.—Subparagraph
18 (F) of section 40(d)(3), as redesignated by para-
19 graph (1) and amended by this Act, is amended by
20 striking “or (D)” and inserting “(D), or (E)”.

21 (e) ALCOHOL PRODUCED IN THE UNITED STATES.—
22 Section 40(d)(6), as added by section 312 of this Act, is
23 amended—

1 (1) by inserting “or small fossil free alcohol
2 producer credit” after “cellulosic alcohol producer
3 credit”, and

4 (2) by inserting “**AND FOSSIL FREE**” after
5 “**CELLULOSIC**” in the heading.

6 (f) **TERMINATION.**—Paragraph (1) of section 40(e),
7 as amended by this Act, is amended—

8 (1) in subparagraph (A), by striking “(Decem-
9 ber 31, 2012, in the case of the credit allowed by
10 reason of subsection (a)(3))” and inserting “(De-
11 cember 31, 2012, in the case of the credits allowed
12 by reason of paragraphs (3) and (5) of subsection
13 (a))”, and

14 (2) in subparagraph (B), by striking “(January
15 1, 2013, in the case of the credit allowed by reason
16 of subsection (a)(3))” and inserting “(January 1,
17 2013, in the case of the credits allowed by reason of
18 paragraphs (3) and (5) of subsection (a))”.

19 (g) **EFFECTIVE DATE.**—The amendments made by
20 this section shall apply to fuel produced after December
21 31, 2007.

22 **SEC. 315. MODIFICATION OF ALCOHOL CREDIT.**

23 (a) **INCOME TAX CREDIT.**—Subsection (h) of section
24 40 (relating to reduced credit for ethanol blenders) is

1 amended by adding at the end the following new para-
2 graph:

3 “(3) REDUCED AMOUNT AFTER SALE OF
4 7,500,000,000 GALLONS.—

5 “(A) IN GENERAL.—In the case of any cal-
6 endar year beginning after the date described in
7 subparagraph (B), the last row in the table in
8 paragraph (2) shall be applied by substituting
9 ‘46 cents’ for ‘51 cents’.

10 “(B) DATE DESCRIBED.—The date de-
11 scribed in this subparagraph is the first date on
12 which 7,500,000,000 gallons of ethanol (includ-
13 ing cellulosic ethanol) have been produced in or
14 imported into the United States after the date
15 of the enactment of this paragraph, as certified
16 by the Secretary, in consultation with the Ad-
17 ministrator of the Environmental Protection
18 Agency.”.

19 (b) EXCISE TAX CREDIT.—

20 (1) IN GENERAL.—Paragraph (2) of section
21 6426(b) (relating to alcohol fuel mixture credit) is
22 amended by adding at the end the following new
23 subparagraph:

24 “(C) REDUCED AMOUNT AFTER SALE OF
25 7,500,000,000 GALLONS.—In the case of any alco-

1 hol fuel mixture produced in a calendar year be-
2 ginning after the date described in section
3 40(h)(3)(B), subparagraph (A) shall be applied
4 by substituting ‘46 cents’ for ‘51 cents.’.”.

5 (2) CONFORMING AMENDMENT.—Subparagraph
6 (A) of section 6426(b)(2) is amended by striking
7 “subparagraph (B)” and inserting “subparagraphs
8 (B) and (C)”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 316. CALCULATION OF VOLUME OF ALCOHOL FOR**
13 **FUEL CREDITS.**

14 (a) IN GENERAL.—Paragraph (4) of section 40(d)
15 (relating to volume of alcohol) is amended by striking “the
16 volume of alcohol” and all that follows and inserting “the
17 volume of alcohol shall not include any denaturant added
18 to such alcohol.”.

19 (b) CONFORMING AMENDMENT FOR EXCISE TAX
20 CREDIT.—Section 6426(b) (relating to alcohol fuel mix-
21 ture credit) is amended by redesignating paragraph (5)
22 as paragraph (6) and by inserting after paragraph (4) the
23 following new paragraph:

24 “(5) VOLUME OF ALCOHOL.—For purposes of
25 determining under subsection (a) the number of gal-

1 (b) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-
2 BACKS.—Section 313 of the Tariff Act of 1930 (19 U.S.C.
3 1313) is amended by adding at the end the following new
4 subsection:

5 “(z) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-
6 BACKS.—

7 “(1) LIMITATIONS.—

8 “(A) IN GENERAL.—Ethyl alcohol or mix-
9 ture containing ethyl alcohol described in sub-
10 paragraph (B) may be treated as being of the
11 same kind and quality under subsection (b) of
12 this section or may be treated as being commer-
13 cially interchangeable with any other ethyl alco-
14 hol or mixture containing ethyl alcohol under
15 subsection (j)(2) of this section, only if the
16 other ethyl alcohol or mixture—

17 “(i) if imported, is subject to the addi-
18 tional duty under subheading 9901.00.50
19 of the Harmonized Tariff Schedule of the
20 United States; or

21 “(ii) if domestic, is subject to Federal
22 excise tax under section 4041 or 4081 of
23 the Internal Revenue Code of 1986 in an
24 amount equal to or greater than the
25 amount of drawback claimed.

1 “(B) ETHYL ALCOHOL OR MIXTURE CON-
2 TAINING ETHYL ALCOHOL DESCRIBED.—Ethyl
3 alcohol or mixture containing ethyl alcohol de-
4 scribed in this subparagraph means—

5 “(i) ethyl alcohol classifiable under
6 subheading 2207.10.60 or 2207.20.00 of
7 the Harmonized Tariff Schedule of the
8 United States, or

9 “(ii) a mixture containing ethyl alco-
10 hol classifiable under heading 2710 or
11 3824 of the Harmonized Tariff Schedule of
12 the United States,

13 which, if imported would be subject to addi-
14 tional duty under subheading 9901.00.50 of
15 such Schedule.

16 “(2) REDUCTION OF DRAWBACK.—For pur-
17 poses of subsections (b), (j)(2), and (p) of this sec-
18 tion, the amount of the refund as drawback under
19 this section shall be reduced by an amount equal to
20 any Federal tax credit or refund of any Federal tax
21 paid on the merchandise with respect to which the
22 drawback is claimed.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section apply to articles exported on or after the date

1 that is 15 days after the date of the enactment of this
2 Act.

3 **Subtitle C—Biodiesel and** 4 **Renewable Diesel Fuel**

5 **SEC. 321. EXTENSION AND MODIFICATION OF CREDIT FOR** 6 **BIODIESEL AND RENEWABLE DIESEL USED** 7 **AS FUEL.**

8 (a) EXTENSION.—

9 (1) INCOME TAX CREDITS FOR BIODIESEL AND
10 RENEWABLE DIESEL AND SMALL AGRI-BIODIESEL
11 PRODUCER CREDIT.—Section 40A(g) (relating to
12 termination) is amended by striking “December 31,
13 2008” and inserting “December 31, 2010 (Decem-
14 ber 31, 2012, in the case of the credit allowed by
15 reason of subsection (a)(3))”.

16 (2) EXCISE TAX CREDIT.—Section 6426(e)(6)
17 (relating to termination) is amended by striking
18 “2008” and inserting “2010”.

19 (3) FUELS NOT USED FOR TAXABLE PUR-
20 POSES.—Section 6427(e)(5)(B) (relating to termi-
21 nation) is amended by striking “2008” and inserting
22 “2010”.

23 (b) MODIFICATION OF CREDIT FOR RENEWABLE
24 DIESEL.—Section 40A(f) (relating to renewable diesel) is

1 (A) by striking “and” at the end of sub-
2 paragraph (A),

3 (B) by redesignating subparagraph (B) as
4 subparagraph (C), and

5 (C) by inserting after subparagraph (A)
6 the following new subparagraph:

7 “(B) includes any qualified mixture (as de-
8 fined in section 40(b)(1)(B)), and”.

9 (2) QUALIFIED BIODIESEL FUEL MIXTURES.—

10 Subparagraph (A) of section 4083(a)(3) (relating to
11 diesel fuel) is amended by striking “and” at the end
12 of clause (ii), by redesignating clause (iii) as clause
13 (iv), and inserting after clause (ii) the following new
14 clause:

15 “(iii) any qualified biodiesel mixture
16 (as defined in section 40A(b)(1)(B)), and”.

17 (b) MODIFICATION OF BIODIESEL CERTIFICATION
18 REQUIREMENT.—Paragraph (4) of section 40A(b) is
19 amended by striking “which identifies” and all that fol-
20 lows and inserting “which—

21 “(A) identifies the product produced and
22 the percentage of biodiesel and agri-biodiesel in
23 the product, and

1 “(B) documents that the biodiesel was
2 independently tested and meets the require-
3 ments of ASTM D6751.”.

4 (c) INFORMATION REPORTING REQUIREMENT FOR
5 PRODUCERS OF QUALIFIED MIXTURES.—Section 4101(d)
6 (relating to information reporting) is amended to read as
7 follows:

8 “(d) INFORMATION REPORTING.—The Secretary—

9 “(1) may require—

10 “(A) information reporting by any person
11 registered under this section, and

12 “(B) information reporting by such other
13 persons as the Secretary deems necessary to
14 carry out this part, and

15 “(2) shall require information reporting by any
16 person registered under this section and producing
17 any qualified mixture (as defined in section
18 40(b)(1)(B)) or any qualified biodiesel mixture (as
19 defined in section 40A(b)(1)(B)).

20 Any person who is required to report under this subsection
21 and who has 25 or more reportable transactions in a
22 month shall file such report in electronic format.”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to fuels removed, entered, or sold
25 after December 31, 2007.

1 **Subtitle D—Alternative Fuel**

2 **SEC. 331. EXTENSION AND MODIFICATION OF ALTER-** 3 **NATIVE FUEL CREDIT.**

4 (a) EXTENSION.—

5 (1) ALTERNATIVE FUEL CREDIT.—Paragraph
6 (4) of section 6426(d) (relating to alternative fuel
7 credit) is amended by striking “September 30,
8 2009” and inserting “December 31, 2010”.

9 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—
10 Paragraph (3) of section 6426(e) (relating to alter-
11 native fuel mixture credit) is amended by striking
12 “September 30, 2009” and inserting “December 31,
13 2010”.

14 (3) PAYMENTS.—Subparagraph (C) of section
15 6427(e)(5) (relating to termination) is amended by
16 striking “September 30, 2009” and inserting “De-
17 cember 31, 2010”.

18 (b) MODIFICATIONS.—

19 (1) ALTERNATIVE FUEL TO INCLUDE COM-
20 PRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph
21 (2) of section 6426(d) (relating to alternative fuel
22 credit) is amended by striking “and” at the end of
23 subparagraph (E), by redesignating subparagraph
24 (F) as subparagraph (G), and by inserting after sub-
25 paragraph (E) the following new subparagraph:

1 “(F) compressed or liquefied biomass gas,
2 and”.

3 (2) CREDIT ALLOWED FOR AVIATION USE OF
4 FUEL.—Paragraph (1) of section 6426(d) is amend-
5 ed by inserting “sold by the taxpayer for use as a
6 fuel in aviation,” after “motorboat,”.

7 (c) CARBON CAPTURE REQUIREMENT FOR CERTAIN
8 FUELS.—

9 (1) IN GENERAL.—Subsection (d) of section
10 6426, as amended by subsection (a), is amended by
11 redesignating paragraph (4) as paragraph (5) and
12 by inserting after paragraph (3) the following new
13 paragraph:

14 “(4) CARBON CAPTURE REQUIREMENT.—

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

23 “(B) APPLICABLE PERCENTAGE.—For
24 purposes of subparagraph (A), the applicable
25 percentage is—

1 “(i) 50 percent in the case of fuel pro-
2 duced after the date of the enactment of
3 this paragraph and on or before the earlier
4 of—

5 “(I) the date the Secretary
6 makes a determination under sub-
7 paragraph (C), or

8 “(II) December 30, 2010, and

9 “(ii) 75 percent in the case of fuel
10 produced after the date on which the appli-
11 cable percentage under clause (i) ceases to
12 apply.

13 “(C) DETERMINATION TO INCREASE AP-
14 PLICABLE PERCENTAGE BEFORE DECEMBER 31,
15 2010.—If the Secretary, after considering the
16 recommendations of the Carbon Sequestration
17 Capability Panel, finds that the applicable per-
18 centage under subparagraph (B) should be 75
19 percent for fuel produced before December 31,
20 2010, the Secretary shall make a determination
21 under this subparagraph. Any determination
22 made under this subparagraph shall be made
23 not later than 30 days after the Secretary re-
24 ceives from the Carbon Sequestration Panel the
25 report required under section 331(c)(3)(D) of

1 the Heartland, Habitat, Harvest, and Horti-
2 culture Act of 2007.”.

3 (2) CONFORMING AMENDMENT.—Subparagraph
4 (E) of section 6426(d)(2) is amended by inserting
5 “which meets the requirements of paragraph (4) and
6 which is” after “any liquid fuel”.

7 (3) CARBON SEQUESTRATION CAPABILITY
8 PANEL.—

9 (A) ESTABLISHMENT OF PANEL.—There is
10 established a panel to be known as the “Carbon
11 Sequestration Capability Panel” (hereafter in
12 this paragraph referred to as the “Panel”).

13 (B) MEMBERSHIP.—The Panel shall be
14 composed of—

15 (i) 1 individual appointed by the Na-
16 tional Academy of Sciences,

17 (ii) 1 individual appointed by the
18 Chairman of the Committee on Finance of
19 the Senate, in consultation with the Rank-
20 ing Member of the Committee, and

21 (iii) 1 individual appointed jointly by
22 the individuals appointed under clauses (i)
23 and (ii).

24 (C) STUDY.—The Panel shall study the
25 appropriate percentage of carbon dioxide for

1 separation and sequestration under section
2 6426(d)(4) of the Internal Revenue Code of
3 1986 consistent with the purposes of such sec-
4 tion. The panel shall consider—

5 (i) whether it is feasible to separate
6 and sequester 75 percent of the carbon di-
7 oxide emissions of a facility, and

8 (ii) costs and other factors associated
9 with separating and sequestering such per-
10 centage of carbon dioxide emissions.

11 (D) REPORT.—Not later than 6 months
12 after the date of the enactment of this Act, the
13 Panel shall report to the Secretary of Treasury,
14 the Committee on Finance of the Senate, and
15 the Committee on Ways and Means of the
16 House of Representatives on the study under
17 subparagraph (C) .

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to fuel sold or used after the date
20 of the enactment of this Act.

21 **SEC. 332. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**
22 **FUELING PROPERTY CREDIT.**

23 Paragraph (2) of section 30C(g) (relating to termi-
24 nation) is amended by striking “December 31, 2009” and
25 inserting “December 31, 2010”.

1 **TITLE IV—AGRICULTURAL**
2 **PROVISIONS**

3 **SEC. 401. INCREASE IN LOAN LIMITS ON AGRICULTURAL**
4 **BONDS.**

5 (a) **IN GENERAL.**—Subparagraph (A) of section
6 147(c)(2) (relating to exception for first-time farmers) is
7 amended by striking “\$250,000” and inserting
8 “\$450,000”.

9 (b) **INFLATION ADJUSTMENT.**—Section 147(c)(2) is
10 amended by adding at the end the following new subpara-
11 graph:

12 “(H) **ADJUSTMENTS FOR INFLATION.**—In
13 the case of any calendar year after 2008, the
14 dollar amount in subparagraph (A) shall be in-
15 creased by an amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-
18 termined under section 1(f)(3) for the cal-
19 endar year, determined by substituting
20 ‘calendar year 2007’ for ‘calendar year
21 1992’ in subparagraph (B) thereof.

22 If any amount as increased under the preceding
23 sentence is not a multiple of \$100, such amount
24 shall be rounded to the nearest multiple of
25 \$100.”.

1 (c) MODIFICATION OF SUBSTANTIAL FARMLAND
 2 DEFINITION.—Section 147(c)(2)(E) (defining substantial
 3 farmland) is amended by striking “unless” and all that
 4 follows through the period and inserting “unless such par-
 5 cel is smaller than 30 percent of the median size of a farm
 6 in the county in which such parcel is located.”.

7 (d) CONFORMING AMENDMENT.—Section
 8 147(c)(2)(C)(i)(II) is amended by striking “\$250,000”
 9 and inserting “the amount in effect under subparagraph
 10 (A)”.

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

14 **SEC. 402. MODIFICATION OF INSTALLMENT SALE RULES**
 15 **FOR CERTAIN FARM PROPERTY.**

16 (a) IN GENERAL.—Section 453(i) (relating to rec-
 17 ognition of recapture income in year of disposition) is
 18 amended by adding at the end the following new para-
 19 graph:

20 “(3) EXCEPTION FOR CERTAIN FARM PROP-
 21 erty.—Paragraph (1) shall not apply to any install-
 22 ment sale of any single purpose agricultural or horti-
 23 cultural structure or any tree or vine bearing fruit
 24 or nuts eligible for classification as 10-year property
 25 under section 168(e)(3)(D).”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to installment sales occurring after
 3 the date of the enactment of this Act.

4 **SEC. 403. ALLOWANCE OF SECTION 1031 TREATMENT FOR**
 5 **EXCHANGES INVOLVING CERTAIN MUTUAL**
 6 **DITCH, RESERVOIR, OR IRRIGATION COM-**
 7 **PANY STOCK.**

8 (a) IN GENERAL.—Section 1031 (relating to ex-
 9 change of property held for productive use or investment)
 10 is amended by adding at the end the following new sub-
 11 section:

12 “(i) SPECIAL RULES FOR MUTUAL DITCH, RES-
 13 ERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes
 14 of subsection (a)(2)(B), the term ‘stocks’ shall not include
 15 shares in a mutual ditch, reservoir, or irrigation company
 16 if at the time of the exchange—

17 “(1) the mutual ditch, reservoir, or irrigation
 18 company is an organization described in section
 19 501(c)(12)(A) (determined without regard to the
 20 percentage of its income that is collected from its
 21 members for the purpose of meeting losses and ex-
 22 penses), and

23 “(2) the shares in such company have been rec-
 24 ognized by the highest court of the State in which
 25 such company was organized or by applicable State

1 statute as constituting or representing real property
2 or an interest in real property.”.

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

6 **SEC. 404. CREDIT TO HOLDERS OF RURAL RENAISSANCE**
7 **BONDS.**

8 (a) IN GENERAL.—Subpart H of part IV of sub-
9 chapter A of chapter 1 (relating to credits against tax)
10 is amended by adding at the end the following new section:

11 **“SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE**
12 **BONDS.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
14 payer who holds a rural renaissance bond on 1 or more
15 credit allowance dates of the bond occurring during any
16 taxable year, there shall be allowed as a credit against the
17 tax imposed by this chapter for the taxable year an
18 amount equal to the sum of the credits determined under
19 subsection (b) with respect to such dates.

20 “(b) AMOUNT OF CREDIT.—

21 “(1) IN GENERAL.—The amount of the credit
22 determined under this subsection with respect to any
23 credit allowance date for a rural renaissance bond is
24 25 percent of the annual credit determined with re-
25 spect to such bond.

1 “(2) ANNUAL CREDIT.—The annual credit de-
2 termined with respect to any rural renaissance bond
3 is the product of—

4 “(A) the credit rate determined by the Sec-
5 retary under paragraph (3) for the day on
6 which such bond was sold, multiplied by

7 “(B) the outstanding face amount of the
8 bond.

9 “(3) DETERMINATION.—For purposes of para-
10 graph (2), with respect to any rural renaissance
11 bond, the Secretary shall determine daily or caused
12 to be determined daily a credit rate which shall
13 apply to the first day on which there is a binding,
14 written contract for the sale or exchange of the
15 bond. The credit rate for any day is the credit rate
16 which the Secretary or the Secretary’s designee esti-
17 mates will permit the issuance of rural renaissance
18 bonds with a specified maturity or redemption date
19 without discount and without interest cost to the
20 qualified issuer.

21 “(4) CREDIT ALLOWANCE DATE.—For purposes
22 of this section, the term ‘credit allowance date’
23 means—

24 “(A) March 15,

25 “(B) June 15,

1 “(C) September 15, and

2 “(D) December 15.

3 Such term also includes the last day on which the
4 bond is outstanding.

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

15 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
16 credit allowed under subsection (a) for any taxable year
17 shall not exceed the excess of—

18 “(1) the sum of the regular tax liability (as de-
19 fined in section 26(b)) plus the tax imposed by sec-
20 tion 55, over

21 “(2) the sum of the credits allowable under this
22 part (other than subpart C, section 1400N(l), and
23 this section).

24 “(d) RURAL RENAISSANCE BOND.—For purposes of
25 this section—

1 “(1) IN GENERAL.—The term ‘rural renaiss-
2 sance bond’ means any bond issued as part of an
3 issue if—

4 “(A) the bond is issued by a qualified
5 issuer pursuant to an allocation by the Sec-
6 retary to such issuer of a portion of the na-
7 tional rural renaissance bond limitation under
8 subsection (f)(2),

9 “(B) 95 percent or more of the proceeds
10 from the sale of such issue are to be used for
11 capital expenditures incurred by qualified bor-
12 rowers for 1 or more qualified projects,

13 “(C) the qualified issuer designates such
14 bond for purposes of this section and the bond
15 is in registered form,

16 “(D) the issue meets the requirements of
17 subsection (h), and

18 “(E) such bond is not a federally guaran-
19 teed bond (within the meaning of section
20 149(b)(2)).

21 “(2) QUALIFIED PROJECT; SPECIAL USE
22 RULES.—

23 “(A) IN GENERAL.—The term ‘qualified
24 project’ means 1 or more projects described in
25 subparagraph (B) located in a rural area.

1 “(B) PROJECTS DESCRIBED.—A project
2 described in this subparagraph is a project eli-
3 gible for assistance under—

4 “(i) the utilities programs described in
5 section 381E(d)(2) of the Consolidated
6 Farm and Rural Development Act (7
7 U.S.C. 2009d(d)(2)),

8 “(ii) the distance learning or telemedi-
9 cine programs authorized pursuant to
10 chapter 1 of subtitle D of title XXIII of
11 the Food, Agriculture, Conservation, and
12 Trade Act of 1990 (7 U.S.C. 950aaa et
13 seq.),

14 “(iii) the rural electric programs au-
15 thorized pursuant to the Rural Electrifica-
16 tion Act of 1936 (7 U.S.C. 901 et seq.),

17 “(iv) the rural telephone programs au-
18 thorized pursuant to the Rural Electrifica-
19 tion Act of 1936 (7 U.S.C. 901 et seq.),

20 “(v) the broadband access programs
21 authorized pursuant to title VI of the
22 Rural Electrification Act of 1936 (7
23 U.S.C. 950bb et seq.), and

24 “(vi) the rural community facility pro-
25 grams as described in section 381E(d)(1)

1 of the Consolidated Farm and Rural De-
2 velopment Act (7 U.S.C. 2009d(d)(1)).

3 “(C) REFINANCING RULES.—For purposes
4 of paragraph (1)(B), a qualified project may be
5 refinanced with proceeds of a rural renaissance
6 bond only if the indebtedness being refinanced
7 (including any obligation directly or indirectly
8 refinanced by such indebtedness) was originally
9 incurred by a qualified borrower after the date
10 of the enactment of this section.

11 “(D) REIMBURSEMENT.—For purposes of
12 paragraph (1)(B), a rural renaissance bond
13 may be issued to reimburse a qualified borrower
14 for amounts paid after the date of the enact-
15 ment of this section with respect to a qualified
16 project, but only if—

17 “(i) prior to the payment of the origi-
18 nal expenditure, the qualified borrower de-
19 clared its intent to reimburse such expendi-
20 ture with the proceeds of a rural renais-
21 sance bond,

22 “(ii) not later than 60 days after pay-
23 ment of the original expenditure, the quali-
24 fied issuer adopts an official intent to re-

1 imburse the original expenditure with such
2 proceeds, and

3 “(iii) the reimbursement is made not
4 later than 18 months after the date the
5 original expenditure is paid.

6 “(E) TREATMENT OF CHANGES IN USE.—

7 For purposes of paragraph (1)(B), the proceeds
8 of an issue shall not be treated as used for a
9 qualified project to the extent that a qualified
10 borrower or qualified issuer takes any action
11 within its control which causes such proceeds
12 not to be used for a qualified project. The Sec-
13 retary shall prescribe regulations specifying re-
14 medial actions that may be taken (including
15 conditions to taking such remedial actions) to
16 prevent an action described in the preceding
17 sentence from causing a bond to fail to be a
18 rural renaissance bond.

19 “(F) TREATMENT OF OTHER SUBSIDIES.—

20 For purposes of subparagraph (B), a qualified
21 project does not include any portion of a project
22 financed by grants or subsidized financing pro-
23 vided (directly or indirectly) under a Federal
24 program, including any State or local obligation
25 used to provide financing for such portion the

1 interest on which is exempt from tax under sec-
2 tion 103.

3 “(e) MATURITY LIMITATIONS.—

4 “(1) DURATION OF TERM.—A bond shall not be
5 treated as a rural renaissance bond if the maturity
6 of such bond exceeds the maximum term determined
7 by the Secretary under paragraph (2) with respect
8 to such bond.

9 “(2) MAXIMUM TERM.—During each calendar
10 month, the Secretary shall determine the maximum
11 term permitted under this paragraph for bonds
12 issued during the following calendar month. Such
13 maximum term shall be the term which the Sec-
14 retary estimates will result in the present value of
15 the obligation to repay the principal on the bond
16 being equal to 50 percent of the face amount of such
17 bond. Such present value shall be determined with-
18 out regard to the requirements of paragraph (3) and
19 using as a discount rate the average annual interest
20 rate of tax-exempt obligations having a term of 10
21 years or more which are issued during the month. If
22 the term as so determined is not a multiple of a
23 whole year, such term shall be rounded to the next
24 highest whole year.

1 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
2 QUIRED.—A bond shall not be treated as a rural
3 renaissance bond unless it is part of an issue which
4 provides for an equal amount of principal to be paid
5 by the qualified issuer during each calendar year
6 that the issue is outstanding.

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

9 “(1) NATIONAL LIMITATION.—There is a na-
10 tional rural renaissance bond limitation of
11 \$400,000,000.

12 “(2) ALLOCATION BY SECRETARY.—

13 “(A) IN GENERAL.—In accordance with
14 subparagraph (B), the Secretary shall allocate
15 the amount described in paragraph (1) among
16 at least 20 qualified projects, or such lesser
17 number of qualified projects with proper appli-
18 cations filed after 12 months after the adoption
19 of the selection process under subparagraph
20 (B).

21 “(B) SELECTION PROCESS.—In consulta-
22 tion with the Secretary of Agriculture, the Sec-
23 retary shall adopt a process to select projects
24 described in subparagraph (A). Under such
25 process, the Secretary shall not allocate more

1 than 15 percent of the allocation under sub-
2 paragraph (A) to qualified projects within a sin-
3 gle State.

4 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
5 income includes the amount of the credit allowed to the
6 taxpayer under this section (determined without regard to
7 subsection (c)) and the amount so included shall be treat-
8 ed as interest income.

9 “(h) SPECIAL RULES RELATING TO EXPENDI-
10 TURES.—

11 “(1) IN GENERAL.—An issue shall be treated as
12 meeting the requirements of this subsection if, as of
13 the date of issuance, the qualified issuer reasonably
14 expects—

15 “(A) at least 95 percent of the proceeds
16 from the sale of the issue are to be spent for
17 1 or more qualified projects within the 5-year
18 period beginning on the date of issuance of the
19 rural renaissance bond,

20 “(B) a binding commitment with a third
21 party to spend at least 10 percent of the pro-
22 ceeds from the sale of the issue will be incurred
23 within the 6-month period beginning on the
24 date of issuance of the rural renaissance bond
25 or, in the case of a rural renaissance bond the

1 proceeds of which are to be loaned to 2 or more
2 qualified borrowers, such binding commitment
3 will be incurred within the 6-month period be-
4 ginning on the date of the loan of such proceeds
5 to a qualified borrower, and

6 “(C) such projects will be completed with
7 due diligence and the proceeds from the sale of
8 the issue will be spent with due diligence.

9 “(2) EXTENSION OF PERIOD.—Upon submis-
10 sion of a request prior to the expiration of the period
11 described in paragraph (1)(A), the Secretary may
12 extend such period if the qualified issuer establishes
13 that the failure to satisfy the 5-year requirement is
14 due to reasonable cause and the related projects will
15 continue to proceed with due diligence.

16 “(3) FAILURE TO SPEND REQUIRED AMOUNT
17 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
18 tent that less than 95 percent of the proceeds of
19 such issue are expended by the close of the 5-year
20 period beginning on the date of issuance (or if an
21 extension has been obtained under paragraph (2), by
22 the close of the extended period), the qualified issuer
23 shall redeem all of the nonqualified bonds within 90
24 days after the end of such period. For purposes of
25 this paragraph, the amount of the nonqualified

1 bonds required to be redeemed shall be determined
2 in the same manner as under section 142.

3 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
4 bond which is part of an issue shall not be treated as a
5 rural renaissance bond unless, with respect to the issue
6 of which the bond is a part, the qualified issuer satisfies
7 the arbitrage requirements of section 148 with respect to
8 proceeds of the issue.

9 “(j) DEFINITIONS AND SPECIAL RULES RELATING
10 TO ISSUERS AND BORROWERS.—For purposes of this sec-
11 tion—

12 “(1) QUALIFIED ISSUER.—The term ‘qualified
13 issuer’ means—

14 “(A) a rural renaissance bond lender,

15 “(B) a cooperative electric company, or

16 “(C) a governmental body.

17 “(2) QUALIFIED BORROWER.—The term ‘quali-
18 fied borrower’ means—

19 “(A) a mutual or cooperative electric com-
20 pany described in section 501(c)(12) or
21 1381(a)(2)(C), or

22 “(B) a governmental body.

23 “(3) RURAL RENAISSANCE BOND LENDER.—
24 The term ‘rural renaissance bond lender’ means a
25 lender which is a cooperative which is owned by, or

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

5 “(4) COOPERATIVE ELECTRIC COMPANY.—The
6 term ‘cooperative electric company’ means a mutual
7 or cooperative electric company described in section
8 501(c)(12) or section 1381(a)(2)(C), or a not-for-
9 profit electric utility which has received a loan or
10 loan guarantee under the Rural Electrification Act.

11 “(5) GOVERNMENTAL BODY.—The term ‘gov-
12 ernmental body’ means any State, territory, posses-
13 sion of the United States, the District of Columbia,
14 Indian tribal government, and any political subdivi-
15 sion thereof.

16 “(k) SPECIAL RULES RELATING TO POOL BONDS.—
17 No portion of a pooled financing bond may be allocable
18 to loan unless the borrower has entered into a written loan
19 commitment for such portion prior to the issue date of
20 such issue.

21 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—
22 For purposes of this section—

23 “(1) BOND.—The term ‘bond’ includes any ob-
24 ligation.

1 “(2) POOLED FINANCING BOND.—The term
2 ‘pooled financing bond’ shall have the meaning given
3 such term by section 149(f)(4)(A).

4 “(3) RURAL AREA.—The term ‘rural area’ shall
5 have the meaning given such term by section
6 1393(a)(2).

7 “(4) PARTNERSHIP; S CORPORATION; AND
8 OTHER PASS-THRU ENTITIES.—

9 “(A) IN GENERAL.—Under regulations
10 prescribed by the Secretary, in the case of a
11 partnership, trust, S corporation, or other pass-
12 thru entity, rules similar to the rules of section
13 41(g) shall apply with respect to the credit al-
14 lowable under subsection (a).

15 “(B) NO BASIS ADJUSTMENT.—In the case
16 of a bond held by a partnership or an S cor-
17 poration, rules similar to the rules under sec-
18 tion 1397E(i) shall apply.

19 “(5) BONDS HELD BY REGULATED INVEST-
20 MENT COMPANIES.—If any rural renaissance bond is
21 held by a regulated investment company, the credit
22 determined under subsection (a) shall be allowed to
23 shareholders of such company under procedures pre-
24 scribed by the Secretary.

1 “(6) REPORTING.—Issuers of rural renaissance
2 bonds shall submit reports similar to the reports re-
3 quired under section 149(e).

4 “(7) TERMINATION.—This section shall not
5 apply with respect to any bond issued after Decem-
6 ber 31, 2008.”.

7 (b) REPORTING.—Subsection (d) of section 6049 (re-
8 lating to returns regarding payments of interest) is
9 amended by adding at the end the following new para-
10 graph:

11 “(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

12 “(A) IN GENERAL.—For purposes of sub-
13 section (a), the term ‘interest’ includes amounts
14 includible in gross income under section 54A(g)
15 and such amounts shall be treated as paid on
16 the credit allowance date (as defined in section
17 54A(b)(4)).

18 “(B) REPORTING TO CORPORATIONS,
19 ETC.—Except as otherwise provided in regula-
20 tions, in the case of any interest described in
21 subparagraph (A), subsection (b)(4) shall be
22 applied without regard to subparagraphs (A),
23 (H), (I), (J), (K), and (L)(i) of such subsection.
24

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

7 (c) CONFORMING AMENDMENTS.—

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

 “Sec. 54A. Credit to holders of rural renaissance bonds.”.

11 (2) Section 54(c)(2) is amended by inserting
12 “section 54A,” after “subpart C,”.

13 (d) ISSUANCE OF REGULATIONS.—The Secretary of
14 Treasury shall issue regulations required under section
15 54A (as added by this section) not later than 120 days
16 after the date of the enactment of this Act.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to bonds issued after the date of
19 the enactment of this Act.

20 **SEC. 405. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

21 (a) IN GENERAL.—Subpart D of part IV of sub-
22 chapter A of chapter 1 (relating to business related cred-
23 its) is amended by adding at the end the following new
24 section:

1 **“SEC. 450. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 38, in
3 the case of an eligible agricultural business, the agricul-
4 tural chemicals security credit determined under this sec-
5 tion for the taxable year is 30 percent of the qualified se-
6 curity expenditures for the taxable year.

7 “(b) FACILITY LIMITATION.—The amount of the
8 credit determined under subsection (a) with respect to any
9 facility for any taxable year shall not exceed—

10 “(1) \$100,000, reduced by

11 “(2) the aggregate amount of credits deter-
12 mined under subsection (a) with respect to such fa-
13 cility for the 5 prior taxable years.

14 “(c) ANNUAL LIMITATION.—The amount of the cred-
15 it determined under subsection (a) with respect to any tax-
16 payer for any taxable year shall not exceed \$2,000,000.

17 “(d) QUALIFIED CHEMICAL SECURITY EXPENDI-
18 TURE.—For purposes of this section, the term ‘qualified
19 chemical security expenditure’ means, with respect to any
20 eligible agricultural business for any taxable year, any
21 amount paid or incurred by such business during such tax-
22 able year for—

23 “(1) employee security training and background
24 checks,

1 “(2) limitation and prevention of access to con-
2 trols of specified agricultural chemicals stored at the
3 facility,

4 “(3) tagging, locking tank valves, and chemical
5 additives to prevent the theft of specified agricul-
6 tural chemicals or to render such chemicals unfit for
7 illegal use,

8 “(4) protection of the perimeter of specified ag-
9 ricultural chemicals,

10 “(5) installation of security lighting, cameras,
11 recording equipment, and intrusion detection sen-
12 sors,

13 “(6) implementation of measures to increase
14 computer or computer network security,

15 “(7) conducting a security vulnerability assess-
16 ment,

17 “(8) implementing a site security plan, and

18 “(9) such other measures for the protection of
19 specified agricultural chemicals as the Secretary may
20 identify in regulation.

21 Amounts described in the preceding sentence shall be
22 taken into account only to the extent that such amounts
23 are paid or incurred for the purpose of protecting specified
24 agricultural chemicals.

1 “(e) ELIGIBLE AGRICULTURAL BUSINESS.—For pur-
2 poses of this section, the term ‘eligible agricultural busi-
3 ness’ means any person in the trade or business of—

4 “(1) selling agricultural products, including
5 specified agricultural chemicals, at retail predomi-
6 nantly to farmers and ranchers, or

7 “(2) manufacturing, formulating, distributing,
8 or aerially applying specified agricultural chemicals.

9 “(f) SPECIFIED AGRICULTURAL CHEMICAL.—For
10 purposes of this section, the term ‘specified agricultural
11 chemical’ means—

12 “(1) any fertilizer commonly used in agricul-
13 tural operations which is listed under—

14 “(A) section 302(a)(2) of the Emergency
15 Planning and Community Right-to-Know Act of
16 1986,

17 “(B) section 101 of part 172 of title 49,
18 Code of Federal Regulations, or

19 “(C) part 126, 127, or 154 of title 33,
20 Code of Federal Regulations, and

21 “(2) any pesticide (as defined in section 2(u) of
22 the Federal Insecticide, Fungicide, and Rodenticide
23 Act), including all active and inert ingredients there-
24 of, which is customarily used on crops grown for
25 food, feed, or fiber.

1 “(g) CONTROLLED GROUPS.—Rules similar to the
2 rules of paragraphs (1) and (2) of section 41(f) shall apply
3 for purposes of this section.

4 “(h) REGULATIONS.—The Secretary may prescribe
5 such regulations as may be necessary or appropriate to
6 carry out the purposes of this section, including regula-
7 tions which—

8 “(1) provide for the proper treatment of
9 amounts which are paid or incurred for purpose of
10 protecting any specified agricultural chemical and
11 for other purposes, and

12 “(2) provide for the treatment of related prop-
13 erties as one facility for purposes of subsection (b).

14 “(i) TERMINATION.—This section shall not apply to
15 any amount paid or incurred after December 31, 2012.”.

16 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
17 NESS CREDIT.—Section 38(b) is amended by striking
18 “plus” at the end of paragraph (30), by striking the period
19 at the end of paragraph (31) and inserting “, plus”, and
20 by adding at the end the following new paragraph:

21 “(32) in the case of an eligible agricultural
22 business (as defined in section 45O(e)), the agricul-
23 tural chemicals security credit determined under sec-
24 tion 45O(a).”.

1 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C is
2 amended by adding at the end the following new sub-
3 section:

4 “(f) CREDIT FOR SECURITY OF AGRICULTURAL
5 CHEMICALS.—No deduction shall be allowed for that por-
6 tion of the expenses otherwise allowable as a deduction
7 taken into account in determining the credit under section
8 450 for the taxable year which is equal to the amount
9 of the credit determined for such taxable year under sec-
10 tion 450(a).”.

11 (d) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 is amended by adding at the end the following new item:

“Sec. 450. Agricultural chemicals security credit.”.

14 (e) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to amounts paid or incurred after
16 the date of the enactment of this Act.

17 **SEC. 406. CREDIT FOR DRUG SAFETY AND EFFECTIVENESS**
18 **TESTING FOR MINOR ANIMAL SPECIES.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
20 chapter A of chapter 1 (relating to business related cred-
21 its), as amended by this Act, is amended by adding at
22 the end the following new section:

1 **“SEC. 45P. DRUG SAFETY AND EFFECTIVENESS TESTING**
2 **FOR MINOR ANIMAL SPECIES.**

3 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
4 tion 38, in the case of an eligible taxpayer, the drug safety
5 and effectiveness testing for minor animal species credit
6 determined under this section for the taxable year shall
7 be an amount equal to 50 percent of the qualified safety
8 and effectiveness testing expenses paid or incurred by the
9 taxpayer during the taxable year.

10 “(b) ELIGIBLE TAXPAYER.—For purposes of this
11 section, the term ‘eligible taxpayer’ any taxpayer—

12 “(1) which—

13 “(A) applies for the designation of a new
14 animal drug for use on a minor animal species
15 under section 573 of the Federal Food, Drug,
16 and Cosmetic Act, or

17 “(B) owns animals which are the subject
18 of safety and effectiveness testing, and

19 “(2) which elects the application of this section
20 for the taxable year.

21 “(c) QUALIFIED SAFETY AND EFFECTIVENESS
22 TESTING EXPENSES.—For purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified safety
24 and effectiveness testing expenses’ means the sum of
25 the following amounts which are paid or incurred by

1 the eligible taxpayer during the taxable year in car-
2 rying on any trade or business of such taxpayer:

3 “(A) In-house safety and effectiveness test-
4 ing expenses.

5 “(B) Contract safety and effectiveness
6 testing expenses.

7 Such term does not include any amount to the ex-
8 tent such amount is funded by any grant, contract,
9 or otherwise by another person (or any governmental
10 entity).

11 “(2) IN-HOUSE SAFETY AND EFFECTIVENESS
12 TESTING EXPENSES.—

13 “(A) IN GENERAL.—The term ‘in-house
14 safety and effectiveness testing expenses’
15 means—

16 “(i) any wages paid or incurred to an
17 employee for qualified services performed
18 by such employee,

19 “(ii) any amount paid or incurred for
20 supplies used in the conduct of safety and
21 effectiveness testing, and

22 “(iii) under regulations prescribed by
23 the Secretary, any amount paid or in-
24 curred to another person for the right to

1 use computers in the conduct of safety and
2 effectiveness testing.

3 Clause (iii) shall not apply to any amount to
4 the extent that the taxpayer (or any person
5 with whom the taxpayer must aggregate ex-
6 penditures under rules specified under sub-
7 section (f)(2)) receives or accrues any amount
8 from any other person for the right to use sub-
9 stantially identical personal property.

10 “(B) QUALIFIED SERVICES.—The term
11 ‘qualified services’ means services consisting
12 of—

13 “(i) engaging in safety and effective-
14 ness testing, or

15 “(ii) engaging in the direct super-
16 vision or direct support of such testing.

17 If substantially all of the services performed by
18 an individual for the taxpayer during the tax-
19 able year consists of services meeting the re-
20 quirements of clause (i) or (ii), the term ‘quali-
21 fied services’ means all of the services per-
22 formed by such individual for the taxpayer dur-
23 ing the taxable year.

1 “(C) WAGES AND SUPPLIES.—The terms
2 ‘wages’ and ‘supplies’ have the meanings given
3 such terms by section 41(b).

4 “(3) CONTRACT SAFETY AND EFFECTIVENESS
5 TESTING EXPENSES.—

6 “(A) IN GENERAL.—The term ‘contract
7 safety and effectiveness testing expenses’ means
8 any amount paid or incurred by the taxpayer to
9 any person (other than an employee of the tax-
10 payer) for safety and effectiveness testing.

11 “(B) PREPAID AMOUNTS.—If any contract
12 safety and effectiveness testing expenses paid or
13 incurred during any taxable year are attrib-
14 utable to safety and effectiveness testing to be
15 conducted after the close of such taxable year,
16 such amount shall be treated as paid or in-
17 curred during the period during which the safe-
18 ty and effectiveness testing is conducted.

19 “(d) SAFETY AND EFFECTIVENESS TESTING.—For
20 purposes of this section—

21 “(1) IN GENERAL.—The term ‘safety and effec-
22 tiveness testing’ means any testing which—

23 “(A) is related to the use of a new animal
24 drug for use on a minor animal species for

1 which it was designated under section 573 of
2 the Federal Food, Drug, and Cosmetic Act,

3 “(B) is carried out under an exemption for
4 such new animal drug under section 512(j) of
5 such Act (or regulations issued under such sec-
6 tion),

7 “(C) occurs—

8 “(i) after the date on which the appli-
9 cation for designation of such new animal
10 drug under section 573 of such Act is
11 filed, and

12 “(ii) before the date on which such
13 application is approved under section
14 512(e) of such Act, and

15 “(D) which is conducted by or on behalf of
16 an eligible taxpayer.

17 “(2) MINOR ANIMAL SPECIES.—

18 “(A) IN GENERAL.—The term ‘minor ani-
19 mal species’ means animals, other than hu-
20 mans, which are not major animal species.

21 “(B) MAJOR ANIMAL SPECIES.—The term
22 ‘major animal species’ means cattle, horses,
23 swine, chickens, turkeys, dogs, cats, and any
24 other species as determined by the Secretary,

1 after consultation with the Secretary of Agri-
2 culture.

3 “(e) TREATMENT OF QUALIFIED SAFETY AND EF-
4 FECTIVENESS TESTING EXPENSES.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), any qualified safety and effectiveness
7 testing expenses for a taxable year to which an elec-
8 tion under this section applies shall not be taken
9 into account for purposes of determining the credit
10 allowable under section 41 for such taxable year.

11 “(2) TREATED AS BASE PERIOD RESEARCH EX-
12 PENSES.—Any qualified safe and effectiveness test-
13 ing expenses for any taxable year which are qualified
14 research expenses (within the meaning of section
15 41(b)) shall be taken into account in determining
16 base period research expenses for purposes of apply-
17 ing section 41 to subsequent taxable years.

18 “(f) SPECIAL RULES.—

19 “(1) LIMITATION.—No credit shall be allowed
20 under this section with respect to any safety and ef-
21 fectiveness testing conducted by a corporation to
22 which an election under section 936 applies.

23 “(2) AGGREGATION OF EXPENDITURES AND AL-
24 LOCATIONS OF CREDIT.—Rules similar to the rules

1 of paragraphs (1) and (2) of section 41(f) and sec-
2 tion 41(g) shall apply for purposes of this section.”.

3 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
4 NESS CREDIT.—Section 38(b), as amended by this Act,
5 is amended by striking “plus” at the end of paragraph
6 (31), by striking the period at the end of paragraph (32)
7 and inserting “, plus”, and by adding at the end the fol-
8 lowing new paragraph:

9 “(33) the drug safety and effectiveness testing
10 for minor animal species credit determined under
11 section 45P(a).”.

12 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C,
13 as amended by this Act, is amended by adding at the end
14 the following new subsection:

15 “(g) DRUG SAFETY AND EFFECTIVENESS TESTING
16 FOR MINOR ANIMAL SPECIES CREDIT.—

17 “(1) IN GENERAL.—No deduction shall be al-
18 lowed for that portion of the qualified safety and ef-
19 fectiveness testing expenses (as defined in section
20 45P(e)(1)) otherwise allowable as a deduction for
21 the taxable year which is equal to the amount of the
22 credit determined for such taxable year under sec-
23 tion 45P(a).

24 “(2) SIMILAR RULE WHERE TAXPAYER CAP-
25 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

1 (vi)(III) and inserting “, and”, and by inserting after
2 clause (vi) the following new clause:

3 “(vii) any machinery or equipment
4 (other than any grain bin, cotton ginning
5 asset, fence, or other land improvement)
6 which is used in a farming business (as de-
7 fined in section 263A(e)(4)), the original
8 use of which commences with the taxpayer
9 after the date of the enactment of this
10 clause, and which is placed in service be-
11 fore January 1, 2010.”.

12 (b) ALTERNATIVE SYSTEM.—The table contained in
13 section 168(g)(3)(B) (relating to special rule for certain
14 property assigned to classes) is amended by inserting after
15 the item relating to subparagraph (B)(iii) the following:

“*(B)(vii)* 10”.

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

19 **SEC. 408. EXPENSING OF BROADBAND INTERNET ACCESS**
20 **EXPENDITURES.**

21 (a) IN GENERAL.—Part VI of subchapter B of chap-
22 ter 1 (relating to itemized deductions for individuals and

1 corporations) is amended by inserting after section 190
2 the following new section:

3 **“SEC. 191. BROADBAND EXPENDITURES.**

4 “(a) TREATMENT OF EXPENDITURES.—

5 “(1) IN GENERAL.—A taxpayer may elect to
6 treat any qualified broadband expenditure which is
7 paid or incurred by the taxpayer as an expense
8 which is not chargeable to a capital account. Any ex-
9 penditure which is so treated shall be allowed as a
10 deduction.

11 “(2) ELECTION.—An election under paragraph
12 (1) shall be made at such time and in such manner
13 as the Secretary may prescribe by regulation.

14 “(b) QUALIFIED BROADBAND EXPENDITURES.—For
15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified
17 broadband expenditure’ means, with respect to any
18 taxable year, any direct or indirect costs incurred
19 after the date of the enactment of this section, and
20 on or before the first December 31 which is 3 years
21 after such date, and properly taken into account
22 with respect to—

23 “(A) the purchase or installation of quali-
24 fied equipment (including any upgrades there-
25 to), and

1 “(B) the connection of such qualified
2 equipment to any qualified subscriber.

3 “(2) CERTAIN SATELLITE EXPENDITURES EX-
4 CLUDED.—Such term shall not include any costs in-
5 curred with respect to the launching of any satellite
6 equipment.

7 “(3) LEASED EQUIPMENT.—Such term shall in-
8 clude so much of the purchase price paid by the les-
9 sor of qualified equipment subject to a lease de-
10 scribed in subsection (c)(2)(B) as is attributable to
11 expenditures incurred by the lessee which would oth-
12 erwise be described in paragraph (1).

13 “(4) LIMITATION WITH REGARD TO CURRENT
14 GENERATION BROADBAND SERVICES.—Only 50 per-
15 cent of the amounts taken into account under para-
16 graph (1) with respect to qualified equipment
17 through which current generation broadband serv-
18 ices are provided shall be treated as qualified
19 broadband expenditures.

20 “(c) WHEN EXPENDITURES TAKEN INTO AC-
21 COUNT.—For purposes of this section—

22 “(1) IN GENERAL.—Qualified broadband ex-
23 penditures with respect to qualified equipment shall
24 be taken into account with respect to the first tax-
25 able year in which—

1 “(A) current generation broadband services
2 are provided through such equipment to quali-
3 fied subscribers, or

4 “(B) next generation broadband services
5 are provided through such equipment to quali-
6 fied subscribers.

7 “(2) LIMITATION.—

8 “(A) IN GENERAL.—Qualified expenditures
9 shall be taken into account under paragraph (1)
10 only with respect to qualified equipment—

11 “(i) the original use of which com-
12 mences with the taxpayer, and

13 “(ii) which is placed in service after
14 the date of the enactment of this Act.

15 “(B) SALE-LEASEBACKS.—For purposes of
16 subparagraph (A), if property—

17 “(i) is originally placed in service
18 after the date of the enactment of this Act
19 by any person, and

20 “(ii) sold and leased back by such per-
21 son within 3 months after the date such
22 property was originally placed in service,
23 such property shall be treated as originally
24 placed in service not earlier than the date on

1 which such property is used under the leaseback
2 referred to in clause (ii).

3 “(d) SPECIAL ALLOCATION RULES.—

4 “(1) CURRENT GENERATION BROADBAND SERV-
5 ICES.—For purposes of determining the amount of
6 qualified broadband expenditures under subsection
7 (a)(1) with respect to qualified equipment through
8 which current generation broadband services are
9 provided, if the qualified equipment is capable of
10 serving both qualified subscribers and other sub-
11 scribers, the qualified broadband expenditures shall
12 be multiplied by a fraction—

13 “(A) the numerator of which is the sum of
14 the number of potential qualified subscribers
15 within the rural areas and the underserved
16 areas which the equipment is capable of serving
17 with current generation broadband services, and

18 “(B) the denominator of which is the total
19 potential subscriber population of the area
20 which the equipment is capable of serving with
21 current generation broadband services.

22 “(2) NEXT GENERATION BROADBAND SERV-
23 ICES.—For purposes of determining the amount of
24 qualified broadband expenditures under subsection
25 (a)(1) with respect to qualified equipment through

1 which next generation broadband services are pro-
2 vided, if the qualified equipment is capable of serv-
3 ing both qualified subscribers and other subscribers,
4 the qualified broadband expenditures shall be multi-
5 plied by a fraction—

6 “(A) the numerator of which is the sum
7 of—

8 “(i) the number of potential qualified
9 subscribers within the rural areas and un-
10 derserved areas, plus

11 “(ii) the number of potential qualified
12 subscribers within the area consisting only
13 of residential subscribers not described in
14 clause (i),

15 which the equipment is capable of serving with
16 next generation broadband services, and

17 “(B) the denominator of which is the total
18 potential subscriber population of the area
19 which the equipment is capable of serving with
20 next generation broadband services.

21 “(e) DEFINITIONS.—For purposes of this section—

22 “(1) ANTENNA.—The term ‘antenna’ means
23 any device used to transmit or receive signals
24 through the electromagnetic spectrum, including sat-
25 ellite equipment.

1 “(2) CABLE OPERATOR.—The term ‘cable oper-
2 ator’ has the meaning given such term by section
3 602(5) of the Communications Act of 1934 (47
4 U.S.C. 522(5)).

5 “(3) COMMERCIAL MOBILE SERVICE CAR-
6 RIER.—The term ‘commercial mobile service carrier’
7 means any person authorized to provide commercial
8 mobile radio service as defined in section 20.3 of
9 title 47, Code of Federal Regulations.

10 “(4) CURRENT GENERATION BROADBAND SERV-
11 ICE.—The term ‘current generation broadband serv-
12 ice’ means the transmission of signals at a rate of
13 at least 5,000,000 bits per second to the subscriber
14 and at least 1,000,000 bits per second from the sub-
15 scriber.

16 “(5) MULTIPLEXING OR DEMULTIPLEXING.—
17 The term ‘multiplexing’ means the transmission of 2
18 or more signals over a single channel, and the term
19 ‘demultiplexing’ means the separation of 2 or more
20 signals previously combined by compatible multi-
21 plexing equipment.

22 “(6) NEXT GENERATION BROADBAND SERV-
23 ICE.—The term ‘next generation broadband service’
24 means the transmission of signals at a rate of at
25 least 100,000,000 bits per second to the subscriber

1 and at least 20,000,000 bits per second from the
2 subscriber.

3 “(7) NONRESIDENTIAL SUBSCRIBER.—The
4 term ‘nonresidential subscriber’ means any person
5 who purchases broadband services which are deliv-
6 ered to the permanent place of business of such per-
7 son.

8 “(8) OPEN VIDEO SYSTEM OPERATOR.—The
9 term ‘open video system operator’ means any person
10 authorized to provide service under section 653 of
11 the Communications Act of 1934 (47 U.S.C. 573).

12 “(9) OTHER WIRELESS CARRIER.—The term
13 ‘other wireless carrier’ means any person (other than
14 a telecommunications carrier, commercial mobile
15 service carrier, cable operator, open video system op-
16 erator, or satellite carrier) providing current genera-
17 tion broadband services or next generation
18 broadband service to subscribers through the radio
19 transmission of energy.

20 “(10) PACKET SWITCHING.—The term ‘packet
21 switching’ means controlling or routing the path of
22 any digitized transmission signal which is assembled
23 into packets or cells.

24 “(11) PROVIDER.—The term ‘provider’ means,
25 with respect to any qualified equipment—

- 1 “(A) a cable operator,
2 “(B) a commercial mobile service carrier,
3 “(C) an open video system operator,
4 “(D) a satellite carrier,
5 “(E) a telecommunications carrier, or
6 “(F) any other wireless carrier,

7 providing current generation broadband services or
8 next generation broadband services to subscribers
9 through such qualified equipment.

10 “(12) PROVISION OF SERVICES.—A provider
11 shall be treated as providing services to 1 or more
12 subscribers if—

13 “(A) such a subscriber has been passed by
14 the provider’s equipment and can be connected
15 to such equipment for a standard connection
16 fee,

17 “(B) the provider is physically able to de-
18 liver current generation broadband services or
19 next generation broadband services, as applica-
20 ble, to such a subscriber without making more
21 than an insignificant investment with respect to
22 such subscriber,

23 “(C) the provider has made reasonable ef-
24 forts to make such subscribers aware of the
25 availability of such services,

1 “(D) such services have been purchased by
2 1 or more such subscribers, and

3 “(E) such services are made available to
4 such subscribers at average prices comparable
5 to those at which the provider makes available
6 similar services in any areas in which the pro-
7 vider makes available such services.

8 “(13) QUALIFIED EQUIPMENT.—

9 “(A) IN GENERAL.—The term ‘qualified
10 equipment’ means equipment which provides
11 current generation broadband services or next
12 generation broadband services—

13 “(i) at least a majority of the time
14 during periods of maximum demand to
15 each subscriber who is utilizing such serv-
16 ices, and

17 “(ii) in a manner substantially the
18 same as such services are provided by the
19 provider to subscribers through equipment
20 with respect to which no deduction is al-
21 lowed under subsection (a)(1).

22 “(B) ONLY CERTAIN INVESTMENT TAKEN
23 INTO ACCOUNT.—Except as provided in sub-
24 paragraph (C) or (D), equipment shall be taken

1 into account under subparagraph (A) only to
2 the extent it—

3 “(i) extends from the last point of
4 switching to the outside of the unit, build-
5 ing, dwelling, or office owned or leased by
6 a subscriber in the case of a telecommuni-
7 cations carrier or broadband-over-powerline
8 operator,

9 “(ii) extends from the customer side
10 of the mobile telephone switching office to
11 a transmission/receive antenna (including
12 such antenna) owned or leased by a sub-
13 scriber in the case of a commercial mobile
14 service carrier,

15 “(iii) extends from the customer side
16 of the headend to the outside of the unit,
17 building, dwelling, or office owned or
18 leased by a subscriber in the case of a
19 cable operator or open video system oper-
20 ator, or

21 “(iv) extends from a transmission/re-
22 ceive antenna (including such antenna)
23 which transmits and receives signals to or
24 from multiple subscribers, to a trans-
25 mission/receive antenna (including such

1 antenna) on the outside of the unit, build-
2 ing, dwelling, or office owned or leased by
3 a subscriber in the case of a satellite car-
4 rier or other wireless carrier, unless such
5 other wireless carrier is also a tele-
6 communications carrier.

7 “(C) PACKET SWITCHING EQUIPMENT.—
8 Packet switching equipment, regardless of loca-
9 tion, shall be taken into account under subpara-
10 graph (A) only if it is deployed in connection
11 with equipment described in subparagraph (B)
12 and is uniquely designed to perform the func-
13 tion of packet switching for current generation
14 broadband services or next generation
15 broadband services, but only if such packet
16 switching is the last in a series of such func-
17 tions performed in the transmission of a signal
18 to a subscriber or the first in a series of such
19 functions performed in the transmission of a
20 signal from a subscriber.

21 “(D) MULTIPLEXING AND
22 DEMULTIPLEXING EQUIPMENT.—Multiplexing
23 and demultiplexing equipment shall be taken
24 into account under subparagraph (A) only to
25 the extent it is deployed in connection with

1 equipment described in subparagraph (B) and
2 is uniquely designed to perform the function of
3 multiplexing and demultiplexing packets or cells
4 of data and making associated application
5 adaptations, but only if such multiplexing or
6 demultiplexing equipment is located between
7 packet switching equipment described in sub-
8 paragraph (C) and the subscriber's premises.

9 “(14) QUALIFIED SUBSCRIBER.—The term
10 ‘qualified subscriber’ means—

11 “(A) with respect to the provision of cur-
12 rent generation broadband services—

13 “(i) any nonresidential subscriber
14 maintaining a permanent place of business
15 in a rural area or underserved area, or

16 “(ii) any residential subscriber resid-
17 ing in a dwelling located in a rural area or
18 underserved area which is not a saturated
19 market, and

20 “(B) with respect to the provision of next
21 generation broadband services—

22 “(i) any nonresidential subscriber
23 maintaining a permanent place of business
24 in a rural area or underserved area, or

25 “(ii) any residential subscriber.

1 “(15) RESIDENTIAL SUBSCRIBER.—The term
2 ‘residential subscriber’ means any individual who
3 purchases broadband services which are delivered to
4 such individual’s dwelling.

5 “(16) RURAL AREA.—The term ‘rural area’
6 means any census tract which—

7 “(A) is not within 10 miles of any incor-
8 porated or census designated place containing
9 more than 25,000 people, and

10 “(B) is not within a county or county
11 equivalent which has an overall population den-
12 sity of more than 500 people per square mile of
13 land.

14 “(17) RURAL SUBSCRIBER.—The term ‘rural
15 subscriber’ means any residential subscriber residing
16 in a dwelling located in a rural area or nonresiden-
17 tial subscriber maintaining a permanent place of
18 business located in a rural area.

19 “(18) SATELLITE CARRIER.—The term ‘sat-
20 ellite carrier’ means any person using the facilities
21 of a satellite or satellite service licensed by the Fed-
22 eral Communications Commission and operating in
23 the Fixed-Satellite Service under part 25 of title 47
24 of the Code of Federal Regulations or the Direct
25 Broadcast Satellite Service under part 100 of title

1 47 of such Code to establish and operate a channel
2 of communications for distribution of signals, and
3 owning or leasing a capacity or service on a satellite
4 in order to provide such point-to-multipoint distribu-
5 tion.

6 “(19) SATURATED MARKET.—The term ‘satu-
7 rated market’ means any census tract in which, as
8 of the date of the enactment of this section—

9 “(A) current generation broadband services
10 have been provided by a single provider to 85
11 percent or more of the total number of potential
12 residential subscribers residing in dwellings lo-
13 cated within such census tract, and

14 “(B) such services can be utilized—

15 “(i) at least a majority of the time
16 during periods of maximum demand by
17 each such subscriber who is utilizing such
18 services, and

19 “(ii) in a manner substantially the
20 same as such services are provided by the
21 provider to subscribers through equipment
22 with respect to which no deduction is al-
23 lowed under subsection (a)(1).

24 “(20) SUBSCRIBER.—The term ‘subscriber’
25 means any person who purchases current generation

1 broadband services or next generation broadband
2 services.

3 “(21) TELECOMMUNICATIONS CARRIER.—The
4 term ‘telecommunications carrier’ has the meaning
5 given such term by section 3(44) of the Communica-
6 tions Act of 1934 (47 U.S.C. 153(44)), but—

7 “(A) includes all members of an affiliated
8 group of which a telecommunications carrier is
9 a member, and

10 “(B) does not include a commercial mobile
11 service carrier.

12 “(22) TOTAL POTENTIAL SUBSCRIBER POPU-
13 LATION.—The term ‘total potential subscriber popu-
14 lation’ means, with respect to any area and based on
15 the most recent census data, the total number of po-
16 tential residential subscribers residing in dwellings
17 located in such area and potential nonresidential
18 subscribers maintaining permanent places of busi-
19 ness located in such area.

20 “(23) UNDERSERVED AREA.—The term ‘under-
21 served area’ means—

22 “(A) any census tract which is located in—

23 “(i) an empowerment zone or enter-
24 prise community designated under section
25 1391, or

1 “(ii) the District of Columbia Enter-
2 prise Zone established under section 1400,
3 or

4 “(B) any census tract—

5 “(i) the poverty level of which is at
6 least 30 percent (based on the most recent
7 census data), and

8 “(ii) the median family income of
9 which does not exceed—

10 “(I) in the case of a census tract
11 located in a metropolitan statistical
12 area, 70 percent of the greater of the
13 metropolitan area median family in-
14 come or the statewide median family
15 income, and

16 “(II) in the case of a census tract
17 located in a nonmetropolitan statis-
18 tical area, 70 percent of the non-
19 metropolitan statewide median family
20 income.

21 “(24) UNDERSERVED SUBSCRIBER.—The term
22 ‘underserved subscriber’ means any residential sub-
23 scriber residing in a dwelling located in an under-
24 served area or nonresidential subscriber maintaining

1 a permanent place of business located in an under-
2 served area.

3 “(f) SPECIAL RULES.—

4 “(1) PROPERTY USED OUTSIDE THE UNITED
5 STATES, ETC., NOT QUALIFIED.—No expenditures
6 shall be taken into account under subsection (a)(1)
7 with respect to the portion of the cost of any prop-
8 erty referred to in section 50(b) or with respect to
9 the portion of the cost of any property specified in
10 an election under section 179.

11 “(2) BASIS REDUCTION.—

12 “(A) IN GENERAL.—For purposes of this
13 title, the basis of any property shall be reduced
14 by the portion of the cost of such property
15 taken into account under subsection (a)(1).

16 “(B) ORDINARY INCOME RECAPTURE.—

17 For purposes of section 1245, the amount of
18 the deduction allowable under subsection (a)(1)
19 with respect to any property which is of a char-
20 acter subject to the allowance for depreciation
21 shall be treated as a deduction allowed for de-
22 preciation under section 167.

23 “(3) COORDINATION WITH SECTION 38.—No
24 credit shall be allowed under section 38 with respect

1 to any amount for which a deduction is allowed
2 under subsection (a)(1).”.

3 (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
4 TELEPHONE COMPANIES.—Section 512(b) (relating to
5 modifications) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(20) SPECIAL RULE FOR MUTUAL OR COOPER-
8 ATIVE TELEPHONE COMPANIES.—A mutual or coop-
9 erative telephone company which for the taxable year
10 satisfies the requirements of section 501(c)(12)(A)
11 may elect to reduce its unrelated business taxable in-
12 come for such year, if any, by an amount that does
13 not exceed the qualified broadband expenditures
14 which would be taken into account under section
15 191 for such year by such company if such company
16 was not exempt from taxation. Any amount which is
17 allowed as a deduction under this paragraph shall
18 not be allowed as a deduction under section 191 and
19 the basis of any property to which this paragraph
20 applies shall be reduced under section
21 1016(a)(40).”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 263(a)(1) (relating to capital ex-
24 penditures) is amended by striking “or” at the end
25 of subparagraph (J), by striking the period at the

1 end of subparagraph (K) and inserting “, or”, and
2 by adding at the end the following new subpara-
3 graph:

4 “(L) expenditures for which a deduction is
5 allowed under section 191.”.

6 (2) Section 1016(a), as amended by this Act, is
7 amended by striking “and” at the end of paragraph
8 (38), by striking the period at the end of paragraph
9 (39) and inserting “, and”, and by adding at the
10 end the following new paragraph:

11 “(40) to the extent provided in section
12 191(f)(2).”.

13 (3) The table of sections for part VI of sub-
14 chapter A of chapter 1 is amended by inserting after
15 the item relating to section 190 the following new
16 item:

“Sec. 191. Broadband expenditures.”.

17 (d) DESIGNATION OF CENSUS TRACTS.—

18 (1) IN GENERAL.—The Secretary of the Treas-
19 ury shall, not later than 90 days after the date of
20 the enactment of this Act, designate and publish
21 those census tracts meeting the criteria described in
22 paragraphs (16), (22), and (23) of section 191(e) of
23 the Internal Revenue Code of 1986 (as added by
24 this section). In making such designations, the Sec-
25 retary of the Treasury shall consult with such other

1 departments and agencies as the Secretary deter-
2 mines appropriate.

3 (2) SATURATED MARKET.—

4 (A) IN GENERAL.—For purposes of desig-
5 nating and publishing those census tracts meet-
6 ing the criteria described in subsection (e)(19)
7 of such section 191—

8 (i) the Secretary of the Treasury shall
9 prescribe not later than 30 days after the
10 date of the enactment of this Act the form
11 upon which any provider which takes the
12 position that it meets such criteria with re-
13 spect to any census tract shall submit a
14 list of such census tracts (and any other
15 information required by the Secretary) not
16 later than 60 days after the date of the
17 publication of such form, and

18 (ii) the Secretary of the Treasury
19 shall publish an aggregate list of such cen-
20 sus tracts and the applicable providers not
21 later than 30 days after the last date such
22 submissions are allowed under clause (i).

23 (B) NO SUBSEQUENT LISTS REQUIRED.—

24 The Secretary of the Treasury shall not be re-
25 quired to publish any list of census tracts meet-

1 ing such criteria subsequent to the list de-
2 scribed in subparagraph (A)(ii).

3 (e) OTHER REGULATORY MATTERS.—

4 (1) PROHIBITION.—No Federal or State agency
5 or instrumentality shall adopt regulations or rate-
6 making procedures that would have the effect of
7 eliminating or reducing any deduction or portion
8 thereof allowed under section 191 of the Internal
9 Revenue Code of 1986 (as added by this section) or
10 otherwise subverting the purpose of this section.

11 (2) TREASURY REGULATORY AUTHORITY.—It is
12 the intent of Congress in providing the election to
13 deduct qualified broadband expenditures under sec-
14 tion 191 of the Internal Revenue Code of 1986 (as
15 added by this section) to provide incentives for the
16 purchase, installation, and connection of equipment
17 and facilities offering expanded broadband access to
18 the Internet for users in certain low income and
19 rural areas of the United States, as well as to resi-
20 dential users nationwide, in a manner that main-
21 tains competitive neutrality among the various class-
22 es of providers of broadband services. Accordingly,
23 the Secretary of the Treasury shall prescribe such
24 regulations as may be necessary or appropriate to

1 carry out the purposes of section 191 of such Code,
2 including—

3 (A) regulations to determine how and when
4 a taxpayer that incurs qualified broadband ex-
5 penditures satisfies the requirements of section
6 191 of such Code to provide broadband serv-
7 ices, and

8 (B) regulations describing the information,
9 records, and data taxpayers are required to pro-
10 vide the Secretary to substantiate compliance
11 with the requirements of section 191 of such
12 Code.

13 **SEC. 409. CREDIT FOR ENERGY EFFICIENT MOTORS.**

14 (a) IN GENERAL.—Subpart D of part IV of sub-
15 chapter A of chapter 1 (relating to business related cred-
16 its), as amended by this Act, is amended by inserting at
17 the end the following new section:

18 **“SEC. 45Q. CREDIT FOR ENERGY EFFICIENT MOTORS.**

19 “(a) IN GENERAL.—For purposes of section 38, the
20 energy efficient motors credit determined under this sec-
21 tion for any taxable year is an amount equal to the lesser
22 of —

23 “(1) \$15 per horsepower generated by qualified
24 energy efficient motors the original use of which be-
25 gins with the taxpayer during such taxable year, or

1 “(2) \$1,250,000.

2 “(b) QUALIFIED ENERGY EFFICIENT MOTOR.—The
3 term ‘qualified energy efficient motor’ means a general-
4 or definite-purpose electric motor of 500 horsepower or
5 less which meets or exceeds the efficiency levels specified
6 in Tables 12–12 or 12–13 of the National Electrical Man-
7 ufacturers Association MG–1 (2006).

8 “(c) SPECIAL RULES.—

9 “(1) BASIS REDUCTION.—The basis of any
10 property for which a credit is allowable under sub-
11 section (a) shall be reduced by the amount of such
12 credit.

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

18 “(3) PROPERTY USED OUTSIDE UNITED
19 STATES, ETC., CERTAIN DEPRECIABLE PROPERTY
20 NOT QUALIFIED.—No credit shall be allowed under
21 subsection (a) with respect to any property referred
22 to in section 50(b) or with respect to the portion of
23 the cost of any property taken into account under
24 section 179.

1 “(d) TERMINATION.—This section shall not apply to
2 any property placed in service after the date which is 3
3 years after the date of the enactment of this section.”.

4 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
5 NESS CREDIT.—Section 38(b), as amended by this Act,
6 is amended by striking “plus” at the end of paragraph
7 (32), by striking the period at the end of paragraph (33)
8 and inserting “, plus”, and by adding at the end the fol-
9 lowing new paragraph:

10 “(34) the credit for energy efficient motors de-
11 termined under section 45Q(a).”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 1016(a), as amended by this Act, is
14 amended by striking “and” at the end of paragraph
15 (39), by striking the period at the end of paragraph
16 (40) and inserting “, and”, and by adding at the
17 end the following new paragraph:

18 “(41) to the extent provided in section
19 45Q(c)(1).”.

20 (2) The table of sections for subpart D of part
21 IV of subchapter A of chapter 1, as amended by this
22 Act, is amended by adding at the end the following
23 new item:

“Sec. 45Q. Credit for energy efficient motors.”.

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

4 **TITLE V—REVENUE RAISING**
5 **PROVISIONS**
6 **Subtitle A—Miscellaneous Revenue**
7 **Provisions**

8 **SEC. 501. LIMITATION ON FARMING LOSSES OF CERTAIN**
9 **TAXPAYERS.**

10 (a) IN GENERAL.—Section 461 (relating to general
11 rule for taxable year of deduction) is amended by adding
12 at the end the following new subsection:

13 “(j) LIMITATION ON FARMING LOSSES OF CERTAIN
14 TAXPAYERS.—

15 “(1) IN GENERAL.—If an applicable taxpayer
16 has a farming loss for the taxable year, such loss
17 shall be allowed for such taxable year only to the ex-
18 tent such loss does not exceed \$200,000.

19 “(2) FARMING LOSS.—For purposes of this
20 subsection, the term ‘farming loss’ means the excess
21 of the deductions of the taxpayer for the taxable
22 year which are attributable to farming businesses
23 (as defined in section 263A(e)(4)) of such taxpayer
24 over income or gain of such taxpayer for the taxable
25 year which is attributable to such deductions.

1 “(3) DISALLOWED LOSS CARRIED TO NEXT
2 YEAR.—Any loss which is disallowed under para-
3 graph (1) shall be treated as a deduction of the tax-
4 payer attributable to farming businesses in the next
5 taxable year.

6 “(4) APPLICABLE TAXPAYER.—For purposes of
7 this subsection, the term ‘applicable taxpayer’
8 means, with respect to any taxable year, any indi-
9 vidual, partnership, estate, or trust which receives
10 agriculture program payments or Commodity Credit
11 Corporation loans in such taxable year.”.

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

15 **SEC. 502. MODIFICATION TO OPTIONAL METHOD OF COM-**
16 **PUTING NET EARNINGS FROM SELF-EMPLOY-**
17 **MENT.**

18 (a) AMENDMENTS TO THE INTERNAL REVENUE
19 CODE OF 1986.—

20 (1) IN GENERAL.—The matter following para-
21 graph (17) of section 1402(a) is amended—

22 (A) by striking “\$2,400” each place it ap-
23 pears and inserting “the upper limit”, and

24 (B) by striking “\$1,600” each place it ap-
25 pears and inserting “the lower limit”.

1 (2) DEFINITIONS.—Section 1402 is amended by
2 adding at the end the following new subsection:

3 “(1) UPPER AND LOWER LIMITS.—For purposes of
4 subsection (a)—

5 “(1) LOWER LIMIT.—The lower limit for any
6 taxable year is the sum of the amounts required
7 under section 213(d) of the Social Security Act for
8 a quarter of coverage in effect with respect to each
9 calendar quarter ending with or within such taxable
10 year.

11 “(2) UPPER LIMIT.—The upper limit for any
12 taxable year is the amount equal to 150 percent of
13 the lower limit for such taxable year.”.

14 (b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

15 (1) IN GENERAL.—The matter following para-
16 graph (16) of section 211(a) of the Social Security
17 Act is amended—

18 (A) by striking “\$2,400” each place it ap-
19 pears and inserting “the upper limit”, and

20 (B) by striking “\$1,600” each place it ap-
21 pears and inserting “the lower limit”.

22 (2) DEFINITIONS.—Section 211 of such Act is
23 amended by adding at the end the following new
24 subsection:

1 “Upper and Lower Limits

2 “(k) For purposes of subsection (a)—

3 “(1) The lower limit for any taxable year is the
4 sum of the amounts required under section 213(d)
5 for a quarter of coverage in effect with respect to
6 each calendar quarter ending with or within such
7 taxable year.

8 “(2) The upper limit for any taxable year is the
9 amount equal to 150 percent of the lower limit for
10 such taxable year.”.

11 (3) CONFORMING AMENDMENT.—Section 212
12 of such Act is amended—

13 (A) in subsection (b), by striking “For”
14 and inserting “Except as provided in subsection
15 (c), for”; and

16 (B) by adding at the end the following new
17 subsection:

18 “(c) For the purpose of determining average indexed
19 monthly earnings, average monthly wage, and quarters of
20 coverage in the case of any individual who elects the option
21 described in clause (ii) or (iv) in the matter following sec-
22 tion 211(a)(16) for any taxable year that does not begin
23 with or during a particular calendar year and end with
24 or during such year, the self-employment income of such
25 individual deemed to be derived during such taxable year

1 shall be allocated to the two calendar years, portions of
2 which are included within such taxable year, in the same
3 proportion to the total of such deemed self-employment
4 income as the sum of the amounts applicable under section
5 213(d) for the calendar quarters ending with or within
6 each such calendar year bears to the lower limit for such
7 taxable year specified in section 211(k)(1).”.

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

11 **SEC. 503. INFORMATION REPORTING FOR COMMODITY**
12 **CREDIT CORPORATION TRANSACTIONS.**

13 (a) IN GENERAL.—Subpart A of part III of sub-
14 chapter A of chapter 61 (relating to information con-
15 cerning persons subject to special provisions) is amended
16 by inserting after section 6039I the following new section:

17 **“SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO**
18 **COMMODITY CREDIT CORPORATION TRANS-**
19 **ACTIONS.**

20 “(a) REQUIREMENT OF REPORTING.—The Com-
21 modity Credit Corporation, through the Secretary of Agri-
22 culture, shall make a return, according to the forms and
23 regulations prescribed by the Secretary of the Treasury,
24 setting forth any market gain realized by a taxpayer dur-
25 ing the taxable year in relation to the repayment of a loan

1 issued by the Commodity Credit Corporation, without re-
2 gard to the manner in which such loan was repaid.

3 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
4 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
5 The Secretary of Agriculture shall furnish to each person
6 whose name is required to be set forth in a return required
7 under subsection (a) a written statement showing the
8 amount of market gain reported in such return.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for subpart A of part III of subchapter A of chapter 61
11 is amended by inserting after the item relating to section
12 6039I the following new item:

“Sec. 6039J. Information reporting with respect to Commodity Credit Corpora-
tion transactions.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to loans repaid on or after January
15 1, 2007.

16 **SEC. 504. MODIFICATION OF SECTION 1031 TREATMENT**
17 **FOR CERTAIN REAL ESTATE.**

18 (a) IN GENERAL.—Section 1031 (relating to ex-
19 change of property held for productive use or investment),
20 as amended by this Act, is amended by adding at the end
21 the following new subsection:

22 “(j) SPECIAL RULE FOR AGRICULTURAL REAL
23 PROPERTY.—

1 “(1) IN GENERAL.—Unimproved agricultural
2 real property and improved real property are not
3 property of a like kind.

4 “(2) UNIMPROVED AGRICULTURAL REAL PROP-
5 erty.—For purposes of this subsection, the term
6 ‘unimproved agricultural real property’ means real
7 property—

8 “(A) which is unimproved;

9 “(B) which is used for farming purposes
10 (within the meaning of section 2032A(e)(5));
11 and

12 “(C) with respect to which a taxpayer re-
13 ceives, in the taxable year in which an exchange
14 of such property is made, any agriculture pro-
15 gram payments or Commodity Credit Corpora-
16 tion loans.

17 “(3) EXCEPTION.—Paragraph (1) shall not
18 apply with respect to any unimproved agricultural
19 real property which, not later than the date of the
20 exchange, is permanently retired from any program
21 under which any payment, loan, or benefit described
22 in paragraph (2)(C) is made.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to exchanges completed after the
25 date of the enactment of this Act.

1 **SEC. 505. MODIFICATION OF EFFECTIVE DATE OF LEASING**
2 **PROVISIONS OF THE AMERICAN JOBS CRE-**
3 **ATION ACT OF 2004.**

4 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)
5 of the American Jobs Creation Act of 2004 is amended
6 by adding at the end the following new paragraph:

7 “(5) LEASES TO FOREIGN ENTITIES.—In the
8 case of tax-exempt use property leased to a tax-ex-
9 empt entity which is a foreign person or entity, the
10 amendments made by this part shall apply to taxable
11 years beginning after December 31, 2006, with re-
12 spect to leases entered into on or before March 12,
13 2004.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect as if included in the enact-
16 ment of the American Jobs Creation Act of 2004.

17 **SEC. 506. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
18 **TAXES.**

19 The percentage under subparagraph (B) of section
20 401(1) of the Tax Increase Prevention and Reconciliation
21 Act of 2005 in effect on the date of the enactment of this
22 Act is increased by 7.00 percentage points.

23 **SEC. 507. INELIGIBILITY OF COLLECTIBLES FOR NON-**
24 **TAXABLE LIKE KIND EXCHANGE TREATMENT.**

25 (a) IN GENERAL.—Section 1031(a)(2) (relating to
26 exception) is amended by striking “or” at the end of sub-

1 paragraph (E), by striking the period at the end of sub-
2 paragraph (F) and inserting “, or”, and by inserting after
3 subparagraph (F) the following new subparagraph:

4 “(G) collectibles (as defined in section
5 408(m)(2)).”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to exchanges completed after the
8 date of the enactment of this Act.

9 **SEC. 508. DENIAL OF DEDUCTION FOR CERTAIN FINES,**
10 **PENALTIES, AND OTHER AMOUNTS.**

11 (a) IN GENERAL.—Subsection (f) of section 162 (re-
12 lating to trade or business expenses) is amended to read
13 as follows:

14 “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), no deduction otherwise allowable shall be
17 allowed under this chapter for any amount paid or
18 incurred (whether by suit, agreement, or otherwise)
19 to, or at the direction of, a government or entity de-
20 scribed in paragraph (4) in relation to—

21 “(A) the violation of any law, or

22 “(B) an investigation or inquiry into the
23 potential violation of any law which is initiated
24 by such government or entity.

1 “(2) EXCEPTION FOR AMOUNTS CONSTITUTING
2 RESTITUTION OR PAID TO COME INTO COMPLIANCE
3 WITH LAW.—Paragraph (1) shall not apply to any
4 amount which—

5 “(A) the taxpayer establishes—

6 “(i) constitutes restitution (or remedi-
7 ation of property) for damage or harm
8 caused by, or which may be caused by, the
9 violation of any law or the potential viola-
10 tion of any law, or

11 “(ii) is paid to come into compliance
12 with any law which was violated or in-
13 volved in the investigation or inquiry, and

14 “(B) is identified as an amount described
15 in clause (i) or (ii) of subparagraph (A), as the
16 case may be, in the court order or settlement
17 agreement, except that the requirement of this
18 subparagraph shall not apply in the case of any
19 settlement agreement which requires the tax-
20 payer to pay or incur an amount not greater
21 than \$1,000,000.

22 A taxpayer shall not meet the requirements of sub-
23 paragraph (A) solely by reason of an identification
24 under subparagraph (B). This paragraph shall not
25 apply to any amount paid or incurred as reimburse-

1 ment to the government or entity for the costs of
2 any investigation or litigation unless such amount is
3 paid or incurred for a cost or fee regularly charged
4 for any routine audit or other customary review per-
5 formed by the government or entity.

6 “(3) EXCEPTION FOR AMOUNTS PAID OR IN-
7 CURRED AS THE RESULT OF CERTAIN COURT OR-
8 DERS.—Paragraph (1) shall not apply to any
9 amount paid or incurred by order of a court in a
10 suit in which no government or entity described in
11 paragraph (4) is a party.

12 “(4) CERTAIN NONGOVERNMENTAL REGU-
13 LATORY ENTITIES.—An entity is described in this
14 paragraph if it is—

15 “(A) a nongovernmental entity which exer-
16 cises self-regulatory powers (including imposing
17 sanctions) in connection with a qualified board
18 or exchange (as defined in section 1256(g)(7)),
19 or

20 “(B) to the extent provided in regulations,
21 a nongovernmental entity which exercises self-
22 regulatory powers (including imposing sanc-
23 tions) as part of performing an essential gov-
24 ernmental function.

1 “(5) EXCEPTION FOR TAXES DUE.—Paragraph
2 (1) shall not apply to any amount paid or incurred
3 as taxes due.”.

4 (b) REPORTING OF DEDUCTIBLE AMOUNTS.—

5 (1) IN GENERAL.—Subpart B of part III of
6 subchapter A of chapter 61 is amended by inserting
7 after section 6050V the following new section:

8 **“SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN**
9 **FINES, PENALTIES, AND OTHER AMOUNTS.**

10 “(a) REQUIREMENT OF REPORTING.—

11 “(1) IN GENERAL.—The appropriate official of
12 any government or entity which is described in sec-
13 tion 162(f)(4) which is involved in a suit or agree-
14 ment described in paragraph (2) shall make a return
15 in such form as determined by the Secretary setting
16 forth—

17 “(A) the amount required to be paid as a
18 result of the suit or agreement to which para-
19 graph (1) of section 162(f) applies,

20 “(B) any amount required to be paid as a
21 result of the suit or agreement which con-
22 stitutes restitution or remediation of property,
23 and

24 “(C) any amount required to be paid as a
25 result of the suit or agreement for the purpose

1 of coming into compliance with any law which
2 was violated or involved in the investigation or
3 inquiry.

4 “(2) SUIT OR AGREEMENT DESCRIBED.—

5 “(A) IN GENERAL.—A suit or agreement is
6 described in this paragraph if—

7 “(i) it is—

8 “(I) a suit with respect to a vio-
9 lation of any law over which the gov-
10 ernment or entity has authority and
11 with respect to which there has been
12 a court order, or

13 “(II) an agreement which is en-
14 tered into with respect to a violation
15 of any law over which the government
16 or entity has authority, or with re-
17 spect to an investigation or inquiry by
18 the government or entity into the po-
19 tential violation of any law over which
20 such government or entity has author-
21 ity, and

22 “(ii) the aggregate amount involved in
23 all court orders and agreements with re-
24 spect to the violation, investigation, or in-
25 quiry is \$600 or more.

1 “(B) ADJUSTMENT OF REPORTING
2 THRESHOLD.—The Secretary may adjust the
3 \$600 amount in subparagraph (A)(ii) as nec-
4 essary in order to ensure the efficient adminis-
5 tration of the internal revenue laws.

6 “(3) TIME OF FILING.—The return required
7 under this subsection shall be filed not later than—

8 “(A) 30 days after the date on which a
9 court order is issued with respect to the suit or
10 the date the agreement is entered into, as the
11 case may be, or

12 “(B) the date specified by the Secretary.

13 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
14 UALS INVOLVED IN THE SETTLEMENT.—Every person re-
15 quired to make a return under subsection (a) shall furnish
16 to each person who is a party to the suit or agreement
17 a written statement showing—

18 “(1) the name of the government or entity, and

19 “(2) the information supplied to the Secretary
20 under subsection (a)(1).

21 The written statement required under the preceding sen-
22 tence shall be furnished to the person at the same time
23 the government or entity provides the Secretary with the
24 information required under subsection (a).

1 “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-
 2 poses of this section, the term ‘appropriate official’ means
 3 the officer or employee having control of the suit, inves-
 4 tigation, or inquiry or the person appropriately designated
 5 for purposes of this section.”.

6 (2) CONFORMING AMENDMENT.—The table of
 7 sections for subpart B of part III of subchapter A
 8 of chapter 61 is amended by inserting after the item
 9 relating to section 6050V the following new item:

“Sec. 6050W. Information with respect to certain fines, penalties, and other
 amounts.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to amounts paid or incurred on
 12 or after the date of the enactment of this Act, except that
 13 such amendments shall not apply to amounts paid or in-
 14 curred under any binding order or agreement entered into
 15 before such date. Such exception shall not apply to an
 16 order or agreement requiring court approval unless the ap-
 17 proval was obtained before such date.

18 **SEC. 509. INCREASE IN INFORMATION RETURN PENALTIES.**

19 (a) FAILURE TO FILE CORRECT INFORMATION RE-
 20 TURNS.—

21 (1) IN GENERAL.—Section 6721(a)(1) is
 22 amended—

23 (A) by striking “\$50” and inserting
 24 “\$250”, and

1 (B) by striking “\$250,000” and inserting
2 “\$3,000,000”.

3 (2) REDUCTION WHERE CORRECTION IN SPECI-
4 FIED PERIOD.—

5 (A) CORRECTION WITHIN 30 DAYS.—Sec-
6 tion 6721(b)(1) is amended—

7 (i) by striking “\$15” and inserting
8 “\$50”,

9 (ii) by striking “\$50” and inserting
10 “\$250”, and

11 (iii) by striking “\$75,000” and insert-
12 ing “\$500,000”.

13 (B) FAILURES CORRECTED ON OR BEFORE
14 AUGUST 1.—Section 6721(b)(2) is amended—

15 (i) by striking “\$30” and inserting
16 “\$100”,

17 (ii) by striking “\$50” and inserting
18 “\$250”, and

19 (iii) by striking “\$150,000” and in-
20 serting “\$1,500,000”.

21 (3) LOWER LIMITATION FOR PERSONS WITH
22 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—
23 Section 6721(d)(1) is amended—

24 (A) in subparagraph (A)—

1 (i) by striking “\$100,000” and insert-
2 ing “\$1,000,000”, and

3 (ii) by striking “\$250,000” and in-
4 sserting “\$3,000,000”,

5 (B) in subparagraph (B)—

6 (i) by striking “\$25,000” and insert-
7 ing “\$175,000”, and

8 (ii) by striking “\$75,000” and insert-
9 ing “\$500,000”, and

10 (C) in subparagraph (C)—

11 (i) by striking “\$50,000” and insert-
12 ing “\$500,000”, and

13 (ii) by striking “\$150,000” and in-
14 sserting “\$1,500,000”.

15 (4) PENALTY IN CASE OF INTENTIONAL DIS-
16 REGARD.—Section 6721(e) is amended—

17 (A) by striking “\$100” in paragraph (2)
18 and inserting “\$500”, and

19 (B) by striking “\$250,000” in paragraph
20 (3)(A) and inserting “\$3,000,000”.

21 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-
22 MENTS.—

23 (1) IN GENERAL.—Section 6722(a) is amend-
24 ed—

1 (A) by striking “\$50” and inserting
2 “\$250”, and

3 (B) by striking “\$100,000” and inserting
4 “\$1,000,000”.

5 (2) PENALTY IN CASE OF INTENTIONAL DIS-
6 REGARD.—Section 6722(c) is amended—

7 (A) by striking “\$100” in paragraph (1)
8 and inserting “\$500”, and

9 (B) by striking “\$100,000” in paragraph
10 (2)(A) and inserting “\$1,000,000”.

11 (c) FAILURE TO COMPLY WITH OTHER INFORMA-
12 TION REPORTING REQUIREMENTS.—Section 6723 is
13 amended—

14 (1) by striking “\$50” and inserting “\$250”,
15 and

16 (2) by striking “\$100,000” and inserting
17 “\$1,000,000”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to information returns
20 required to be filed on or after January 1, 2008.

1 **Subtitle B—Economic Substance**
 2 **Doctrine**

3 **SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
 4 **TRINE.**

5 (a) IN GENERAL.—Section 7701 is amended by re-
 6 designating subsection (p) as subsection (q) and by insert-
 7 ing after subsection (o) the following new subsection:

8 “(p) CLARIFICATION OF ECONOMIC SUBSTANCE
 9 DOCTRINE; ETC.—

10 “(1) GENERAL RULES.—

11 “(A) IN GENERAL.—In any case in which
 12 a court determines that the economic substance
 13 doctrine is relevant for purposes of this title to
 14 a transaction (or series of transactions), such
 15 transaction (or series of transactions) shall have
 16 economic substance only if the requirements of
 17 this paragraph are met.

18 “(B) DEFINITION OF ECONOMIC SUB-
 19 STANCE.—For purposes of subparagraph (A)—

20 “(i) IN GENERAL.—A transaction has
 21 economic substance only if—

22 “(I) the transaction changes in a
 23 meaningful way (apart from Federal
 24 tax effects) the taxpayer’s economic
 25 position, and

1 “(II) subject to clause (iii), the
2 taxpayer has a substantial purpose
3 (other than a Federal tax purpose) for
4 entering into such transaction.

5 “(ii) SPECIAL RULE WHERE TAX-
6 PAYER RELIES ON PROFIT POTENTIAL.—A
7 transaction shall not be treated as having
8 economic substance solely by reason of
9 having a potential for profit unless the
10 present value of the reasonably expected
11 pre-Federal tax profit from the transaction
12 is substantial in relation to the present
13 value of the expected net Federal tax bene-
14 fits that would be allowed if the trans-
15 action were respected. In determining pre-
16 Federal tax profit, there shall be taken
17 into account fees and other transaction ex-
18 penses and to the extent provided by the
19 Secretary, foreign taxes.

20 “(iii) SPECIAL RULES FOR DETER-
21 MINING WHETHER NON-FEDERAL TAX
22 PURPOSE.—For purposes of clause
23 (i)(II)—

24 “(I) a purpose of achieving a fi-
25 nancial accounting benefit shall not be

1 taken into account in determining
2 whether a transaction has a substan-
3 tial purpose (other than a Federal tax
4 purpose) if the origin of such financial
5 accounting benefit is a reduction of
6 Federal tax, and

7 “(II) the taxpayer shall not be
8 treated as having a substantial pur-
9 pose (other than a Federal tax pur-
10 pose) with respect to a transaction if
11 the only such purpose is the reduction
12 of non-Federal taxes and the trans-
13 action will result in a reduction of
14 Federal taxes substantially equal to,
15 or greater than, the reduction in non-
16 Federal taxes because of similarities
17 between the laws imposing the taxes.

18 “(2) DEFINITIONS AND SPECIAL RULES.—For
19 purposes of this subsection—

20 “(A) ECONOMIC SUBSTANCE DOCTRINE.—

21 The term ‘economic substance doctrine’ means
22 the common law doctrine under which tax bene-
23 fits under subtitle A with respect to a trans-
24 action are not allowable if the transaction does

1 not have economic substance or lacks a business
2 purpose.

3 “(B) EXCEPTION FOR PERSONAL TRANS-
4 ACTIONS OF INDIVIDUALS.—In the case of an
5 individual, this subsection shall apply only to
6 transactions entered into in connection with a
7 trade or business or an activity engaged in for
8 the production of income.

9 “(3) OTHER PROVISIONS NOT AFFECTED.—Ex-
10 cept as specifically provided in this subsection, the
11 provisions of this subsection shall not be construed
12 as altering or supplanting any other rule of law or
13 provision of this title, and the requirements of this
14 subsection shall be construed as being in addition to
15 any such other rule of law or provision of this title.

16 “(4) REGULATIONS.—The Secretary shall pre-
17 scribe such regulations as may be necessary or ap-
18 propriate to carry out the purposes of this sub-
19 section. Such regulations may include exemptions
20 from the application of this subsection.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to transactions entered into after
23 the date of the enactment of this Act.

1 **SEC. 512. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 2 **UTABLE TO TRANSACTIONS LACKING ECO-**
 3 **NOMIC SUBSTANCE, ETC.**

4 (a) IN GENERAL.—Subchapter A of chapter 68 is
 5 amended by inserting after section 6662A the following
 6 new section:

7 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 8 **UTABLE TO TRANSACTIONS LACKING ECO-**
 9 **NOMIC SUBSTANCE, ETC.**

10 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
 11 noneconomic substance transaction understatement for
 12 any taxable year, there shall be added to the tax an
 13 amount equal to 30 percent of the amount of such under-
 14 statement.

15 “(b) REDUCTION OF PENALTY FOR DISCLOSED
 16 TRANSACTIONS.—Subsection (a) shall be applied by sub-
 17 stituting ‘20 percent’ for ‘30 percent’ with respect to the
 18 portion of any noneconomic substance transaction under-
 19 statement with respect to which the relevant facts affect-
 20 ing the tax treatment of the item are adequately disclosed
 21 in the return or a statement attached to the return.

22 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
 23 DERSTATEMENT.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘noneconomic
 25 substance transaction understatement’ means any
 26 amount which would be an understatement under

1 section 6662A(b)(1) if section 6662A were applied
2 by taking into account items attributable to non-
3 economic substance transactions rather than items
4 to which section 6662A would apply without regard
5 to this paragraph.

6 “(2) NONECONOMIC SUBSTANCE TRANS-
7 ACTION.—The term ‘noneconomic substance trans-
8 action’ means any transaction if there is a lack of
9 economic substance (within the meaning of section
10 7701(p)(1)(B)) for the transaction giving rise to the
11 claimed benefit.

12 “(d) RULES APPLICABLE TO ASSERTION, COM-
13 PROMISE, AND COLLECTION OF PENALTY.—

14 “(1) IN GENERAL.—Only the Chief Counsel for
15 the Internal Revenue Service may assert a penalty
16 imposed under this section or may compromise all or
17 any portion of such penalty. The Chief Counsel may
18 delegate the authority under this paragraph only to
19 an individual holding the position of chief of a
20 branch within the Office of the Chief Counsel for the
21 Internal Revenue Service.

22 “(2) SPECIFIC REQUIREMENTS.—

23 “(A) ASSERTION OF PENALTY.—The Chief
24 Counsel for the Internal Revenue Service (or
25 the Chief Counsel’s delegate under paragraph

1 (1)) shall not assert a penalty imposed under
2 this section unless, before the assertion of the
3 penalty, the taxpayer is provided—

4 “(i) a notice of intent to assert the
5 penalty, and

6 “(ii) an opportunity to provide to the
7 Commissioner (or the Chief Counsel’s dele-
8 gate under paragraph (1)) a written re-
9 sponse to the proposed penalty within a
10 reasonable period of time after such notice.

11 “(B) COMPROMISE OF PENALTY.—A com-
12 promise shall not result in a reduction in the
13 penalty imposed by this section in an amount
14 greater than the amount which bears the same
15 ratio to the amount of the penalty determined
16 without regard to the compromise as—

17 “(i) the reduction under the com-
18 promise in the noneconomic substance
19 transaction understatement to which the
20 penalty relates, bears to

21 “(ii) the amount of the noneconomic
22 substance transaction understatement de-
23 termined without regard to the com-
24 promise.

1 “(3) RULES RELATING TO RELEVANCY RE-
2 QUIREMENT.—

3 “(A) DETERMINATION OF RELEVANCE BY
4 CHIEF COUNSEL.—The Chief Counsel for the
5 Internal Revenue Service (or the Chief Coun-
6 sel’s delegate under paragraph (1)) may assert,
7 compromise, or collect a penalty imposed by
8 this section with respect to a noneconomic sub-
9 stance transaction even if there has not been a
10 court determination that the economic sub-
11 stance doctrine was relevant for purposes of
12 this title to the transaction if the Chief Counsel
13 (or delegate) determines that either was so rel-
14 evant.

15 “(B) FINAL ORDER OF COURT.—If there is
16 a final order of a court that determines that the
17 economic substance doctrine was not relevant
18 for purposes of this title to a transaction (or se-
19 ries of transactions), any penalty imposed under
20 this section with respect to the transaction (or
21 series of transactions) shall be rescinded.

22 “(4) APPLICABLE RULES.—The rules of para-
23 graphs (2) and (3) of section 6707A(d) shall apply
24 to a compromise under paragraph (1).

1 “(e) COORDINATION WITH OTHER PENALTIES.—EX-
 2 cept as otherwise provided in this part, the penalty im-
 3 posed by this section shall be in addition to any other pen-
 4 alty imposed by this title.

5 “(f) CROSS REFERENCES.—

 “(1) For coordination of penalty with understatements
 under section 6662 and other special rules, see section
 6662A(e).

 “(2) For reporting of penalty imposed under this section
 to the Securities and Exchange Commission, see section
 6707A(e).”.

6 (b) COORDINATION WITH OTHER UNDERSTATE-
 7 MENTS AND PENALTIES.—

8 (1) The second sentence of section
 9 6662(d)(2)(A) is amended by inserting “and without
 10 regard to items with respect to which a penalty is
 11 imposed by section 6662B” before the period at the
 12 end.

13 (2) Subsection (e) of section 6662A is amend-
 14 ed—

15 (A) in paragraph (1), by inserting “and
 16 noneconomic substance transaction understate-
 17 ments” after “reportable transaction under-
 18 statements” both places it appears,

19 (B) in paragraph (2)(A)—

20 (i) by inserting “6662B or” before
 21 “6663” in the text, and

1 (ii) by striking “PENALTY” in the
2 heading and inserting “AND ECONOMIC
3 SUBSTANCE PENALTIES”,

4 (C) in paragraph (2)(B)—

5 (i) by inserting “and section 6662B”
6 after “This section”, and

7 (ii) by striking “PENALTY” in the
8 heading and inserting “AND ECONOMIC
9 SUBSTANCE PENALTIES”,

10 (D) in paragraph (3), by inserting “or
11 noneconomic substance transaction understate-
12 ment” after “reportable transaction understate-
13 ment”, and

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

16 “(4) NONECONOMIC SUBSTANCE TRANSACTION
17 UNDERSTATEMENT.—For purposes of this sub-
18 section, the term ‘noneconomic substance trans-
19 action understatement’ has the meaning given such
20 term by section 6662B(c).”.

21 (3) Subsection (e) of section 6707A is amend-
22 ed—

23 (A) by striking “or” at the end of subpara-
24 graph (B), and

1 (B) by striking subparagraph (C) and in-
 2 serting the following new subparagraphs:

3 “(C) is required to pay a penalty under
 4 section 6662B with respect to any noneconomic
 5 substance transaction, or

6 “(D) is required to pay a penalty under
 7 section 6662(h) with respect to any transaction
 8 and would (but for section 6662A(e)(2)(B))
 9 have been subject to penalty under section
 10 6662A at a rate prescribed under section
 11 6662A(c) or to penalty under section 6662B.”.

12 (c) CLERICAL AMENDMENT.—The table of sections
 13 for part II of subchapter A of chapter 68 is amended by
 14 inserting after the item relating to section 6662A the fol-
 15 lowing new item:

“Sec. 6662B. Penalty for understatements attributable to transactions lacking
 economic substance, etc.”.

16 (d) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to transactions entered into after
 18 the date of the enactment of this Act.

19 **SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
 20 **DERPAYMENTS ATTRIBUTABLE TO NON-**
 21 **ECONOMIC SUBSTANCE TRANSACTIONS.**

22 (a) IN GENERAL.—Section 163(m) (relating to inter-
 23 est on unpaid taxes attributable to nondisclosed reportable
 24 transactions) is amended—

1 (1) by striking “attributable” and all that fol-
2 lows and inserting the following: “attributable to—

3 “(1) the portion of any reportable transaction
4 understatement (as defined in section 6662A(b))
5 with respect to which the requirement of section
6 6664(d)(2)(A) is not met, or

7 “(2) any noneconomic substance transaction
8 understatement (as defined in section 6662B(c)).”,
9 and

10 (2) by inserting “AND NONECONOMIC SUB-
11 STANCE TRANSACTIONS” in the heading thereof
12 after “TRANSACTIONS”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to transactions after the date of
15 the enactment of this Act in taxable years ending after
16 such date.

Calendar No. 446

110TH CONGRESS
1ST Session

S. 2242

[Report No. 110-206]

A BILL

To amend the Trade Act of 1974 to establish supplemental agricultural disaster assistance and to amend the Internal Revenue Code of 1986 to provide tax incentives for conservation and alternative energy sources and to provide tax relief for farmers, and for other purposes.

OCTOBER 25, 2007

Read twice and placed on the calendar