

110TH CONGRESS
2D SESSION

S. 2642

To establish a national renewable energy standard, to extend and create renewable energy tax incentives, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2008

Ms. KLOBUCHAR (for herself, Ms. SNOWE, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a national renewable energy standard, to extend and create renewable energy tax incentives, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Renewable Energy Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RENEWABLE ENERGY STANDARD

Sec. 101. Renewable portfolio standard.

TITLE II—ENERGY TAX PROVISIONS

Sec. 200. Short title; etc.

Subtitle A—Energy Advancement and Investment

PART I—ADVANCED ELECTRICITY INFRASTRUCTURE

- Sec. 201. Extension and modification of renewable electricity, refined coal, and Indian coal production credit.
- Sec. 202. Extension and modification of credit for clean renewable energy bonds.
- Sec. 203. Extension and modification of energy credit.
- Sec. 204. Energy credit for combined heat and power system property.
- Sec. 205. Special depreciation allowance for certain electric transmission property.
- Sec. 206. Extension of special rule to implement FERC restructuring policy.
- Sec. 207. Extension and modification of credit for residential energy efficient property.
- Sec. 208. Credit for residential wind property.
- Sec. 209. Seven-year applicable recovery period for depreciation of qualified energy management devices.
- Sec. 210. Landowner incentive to encourage electric transmission build-out.
- Sec. 211. Partial exemption from passive activity limitations for qualified wind facilities.
- Sec. 212. Credit for electricity produced from qualified wind facilities allowed against alternative minimum tax.

PART II—DOMESTIC FUEL SECURITY

- Sec. 221. Credit for production of cellulosic biomass alcohol.
- Sec. 222. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
- Sec. 223. Extension of small ethanol producer credit.
- Sec. 224. Credit for producers of fossil free alcohol.
- Sec. 225. Modification of alcohol credit.
- Sec. 226. Extension and modification of credit for biodiesel used as fuel.
- Sec. 227. Extension and modification of alternative fuel credit.
- Sec. 228. Extension of alternative fuel vehicle refueling property credit.
- Sec. 229. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 230. Extension and modification of election to expense certain refineries.
- Sec. 231. Ethanol tariff extension.
- Sec. 232. Elimination and reductions of duty drawback on certain imported ethanol.
- Sec. 233. Certain income and gains relating to alcohol fuel mixtures, biodiesel fuel mixtures, and alternative fuel treated as qualifying income for publicly traded partnerships.
- Sec. 234. Technical amendments.

PART III—ADVANCED TECHNOLOGY VEHICLES

- Sec. 241. Expansion and modification of credit for alternative fuel motor vehicles.
- Sec. 242. Credit for plug-in electric drive motor vehicles.
- Sec. 243. Exclusion from heavy truck tax for idling reduction units and advanced insulation added after purchase.

PART IV—CONSERVATION AND ENERGY EFFICIENCY

- Sec. 251. Extension and modification of nonbusiness energy property credit.
- Sec. 252. Extension and modification of new energy efficient home credit.
- Sec. 253. Extension and modification of energy efficient commercial buildings deduction.
- Sec. 254. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 255. Special depreciation allowance for certain reuse and recycling property.

Subtitle B—Revenue Raising Provisions

- Sec. 261. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, natural gas, or primary products thereof.
- Sec. 262. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
- Sec. 263. Increase and extension of Oil Spill Liability Trust Fund tax.
- Sec. 264. Limitation on drawback claimed for amounts deposited into the Oil Spill Liability Trust Fund.
- Sec. 265. Tax on crude oil and natural gas produced from the outer Continental Shelf in the Gulf of Mexico.
- Sec. 266. Taxation of taxable fuels in foreign trade zones.
- Sec. 267. Clarification of penalty for sale of fuel failing to meet EPA regulations.
- Sec. 268. Clarification of eligibility for certain fuels credits for fuel with insufficient nexus to the United States.
- Sec. 269. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.
- Sec. 270. Calculation of volume of alcohol for fuel credits.
- Sec. 271. Bulk transfer exception not to apply to finished gasoline.
- Sec. 272. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.
- Sec. 273. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 274. Revision of tax rules on expatriation of individuals.

1 **TITLE I—RENEWABLE ENERGY**
 2 **STANDARD**

3 **SEC. 101. RENEWABLE PORTFOLIO STANDARD.**

4 (a) IN GENERAL.—Title VI of the Public Utility Reg-
 5 ulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is
 6 amended by adding at the end the following:

1 **“SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) BASE AMOUNT OF ELECTRICITY.—The
4 term ‘base amount of electricity’ means the total
5 amount of electricity sold by an electric utility to
6 electric consumers in a calendar year, excluding mu-
7 nicipal waste and electricity generated by a hydro-
8 electric facility (including a pumped storage facility,
9 but excluding incremental hydropower).

10 “(2) DISTRIBUTED GENERATION FACILITY.—
11 The term ‘distributed generation facility’ means a
12 facility at a customer site.

13 “(3) EXISTING RENEWABLE ENERGY.—The
14 term ‘existing renewable energy’ means, except as
15 provided in paragraph (7)(B), electric energy gen-
16 erated at a facility (including a distributed genera-
17 tion facility) placed in service prior to January 1,
18 2001, from solar, wind, or geothermal energy, ocean
19 energy, biomass (as defined in section 203(b) of the
20 Energy Policy Act of 2005 (42 U.S.C. 15852(b)), or
21 landfill gas.

22 “(4) GEOTHERMAL ENERGY.—The term ‘geo-
23 thermal energy’ means energy derived from a geo-
24 thermal deposit (within the meaning of section
25 613(e)(2) of the Internal Revenue Code of 1986).

1 “(5) INCREMENTAL GEOTHERMAL PRODUC-
2 TION.—

3 “(A) IN GENERAL.—The term ‘incremental
4 geothermal production’ means for any year the
5 excess of—

6 “(i) the total kilowatt hours of elec-
7 tricity produced from a facility (including a
8 distributed generation facility) using geo-
9 thermal energy; over

10 “(ii) the average annual kilowatt
11 hours produced at such facility for 5 of the
12 previous 7 calendar years before the date
13 of enactment of this section after elimi-
14 nating the highest and the lowest kilowatt
15 hour production years in such 7-year pe-
16 riod.

17 “(B) SPECIAL RULE.—A facility described
18 in subparagraph (A) that was placed in service
19 at least 7 years before the date of enactment of
20 this section shall, commencing with the year in
21 which such date of enactment occurs, reduce
22 the amount calculated under subparagraph
23 (A)(ii) each year, on a cumulative basis, by the
24 average percentage decrease in the annual kilo-
25 watt hour production for the 7-year period de-

1 scribed in subparagraph (A)(ii) with such cu-
2 mulative sum not to exceed 30 percent.

3 “(6) INCREMENTAL HYDROPOWER.—

4 “(A) IN GENERAL.—The term ‘incremental
5 hydropower’ means additional energy generated
6 as a result of efficiency improvements or capac-
7 ity additions made on or after January 1, 2001,
8 or the effective date of an existing applicable
9 State renewable portfolio standard program at
10 a hydroelectric facility that was placed in serv-
11 ice before that date.

12 “(B) EXCLUSION.—The term ‘incremental
13 hydropower’ does not include additional energy
14 generated as a result of operational changes not
15 directly associated with efficiency improvements
16 or capacity additions.

17 “(C) MEASUREMENT.—Efficiency improve-
18 ments and capacity additions shall be measured
19 on the basis of the same water flow information
20 used to determine a historic average annual
21 generation baseline for the hydroelectric facility
22 and certified by the Secretary or the Federal
23 Energy Regulatory Commission.

24 “(7) NEW RENEWABLE ENERGY.—The term
25 ‘new renewable energy’ means—

1 “(A) electric energy generated at a facility
2 (including a distributed generation facility)
3 placed in service on or after January 1, 2001,
4 from—

5 “(i) solar, wind, or geothermal energy
6 or ocean energy;

7 “(ii) biomass (as defined in section
8 203(b) of the Energy Policy Act of 2005
9 (42 U.S.C. 15852(b));

10 “(iii) landfill gas; or

11 “(iv) incremental hydropower; and

12 “(B) for electric energy generated at a fa-
13 cility (including a distributed generation facil-
14 ity) placed in service prior to the date of enact-
15 ment of this section—

16 “(i) the additional energy above the
17 average generation during the 3-year pe-
18 riod ending on the date of enactment of
19 this section at the facility from—

20 “(I) solar or wind energy or
21 ocean energy;

22 “(II) biomass (as defined in sec-
23 tion 203(b) of the Energy Policy Act
24 of 2005 (42 U.S.C. 15852(b));

25 “(III) landfill gas; or

1 “(IV) incremental hydropower;
 2 and
 3 “(ii) incremental geothermal produc-
 4 tion.

5 “(8) OCEAN ENERGY.—The term ‘ocean energy’
 6 includes current, wave, tidal, and thermal energy.

7 “(b) RENEWABLE ENERGY REQUIREMENT.—

8 “(1) IN GENERAL.—Each electric utility that
 9 sells electricity to electric consumers shall obtain a
 10 percentage of the base amount of electricity the elec-
 11 tric utility sells to electric consumers in any calendar
 12 year from new renewable energy or existing renew-
 13 able energy.

14 “(2) MINIMUM ANNUAL PERCENTAGE.—The
 15 percentage obtained in a calendar year shall not be
 16 less than the amount specified in the following table:

“Calendar year:	Minimum annual percentage:
2010	2
2011	4
2012	6
2013	8
2014	10
2015	11
2016	12
2017	13
2018	14
2019	15
2020	16
2021	17
2022	18
2023	19
2024	20.

1 “(3) MEANS OF COMPLIANCE.—An electric util-
2 ity shall meet the requirements of this subsection
3 by—

4 “(A) submitting to the Secretary renewable
5 energy credits issued under subsection (c);

6 “(B) making alternative compliance pay-
7 ments to the Secretary at the rate of 2 cents
8 per kilowatt hour (as adjusted for inflation
9 under subsection (h)); or

10 “(C) conducting a combination of activities
11 described in subparagraphs (A) and (B).

12 “(c) RENEWABLE ENERGY CREDIT TRADING PRO-
13 GRAM.—

14 “(1) IN GENERAL.—Not later than July 1,
15 2009, the Secretary shall establish a renewable en-
16 ergy credit trading program under which each elec-
17 tric utility shall submit to the Secretary renewable
18 energy credits to certify the compliance of the elec-
19 tric utility with respect to obligations under sub-
20 section (b).

21 “(2) ADMINISTRATION.—As part of the pro-
22 gram, the Secretary shall—

23 “(A) issue tradeable renewable energy
24 credits to generators of electric energy from
25 new renewable energy;

1 “(B) issue nontradeable renewable energy
2 credits to generators of electric energy from ex-
3 isting renewable energy;

4 “(C) issue renewable energy credits to elec-
5 tric utilities associated with State renewable
6 portfolio standard compliance mechanisms pur-
7 suant to subsection (i);

8 “(D) ensure that a kilowatt hour, including
9 the associated renewable energy credit, shall be
10 used only once for purposes of compliance with
11 this section;

12 “(E) allow double credits for generation
13 from facilities on Indian land, and triple credits
14 for generation from small renewable distributed
15 generators (meaning those no larger than 1
16 megawatt); and

17 “(F) ensure that, with respect to a pur-
18 chaser that as of the date of enactment of this
19 section has a purchase agreement from a re-
20 newable energy facility placed in service before
21 that date, the credit associated with the genera-
22 tion of renewable energy under the contract is
23 issued to the purchaser of the electric energy.

24 “(3) DURATION.—A credit described in sub-
25 paragraph (A) or (B) of paragraph (2) may only be

1 used for compliance with this section during the 3-
2 year period beginning on the date of issuance of the
3 credit.

4 “(4) TRANSFERS.—An electric utility that holds
5 credits in excess of the quantity of credits needed to
6 comply with subsection (b) may transfer the credits
7 to another electric utility in the same utility holding
8 company system.

9 “(5) DELEGATION OF MARKET FUNCTION.—
10 The Secretary may delegate to an appropriate entity
11 that establishes markets the administration of a na-
12 tional tradeable renewable energy credit market for
13 purposes of creating a transparent national market
14 for the sale or trade of renewable energy credits.

15 “(d) ENFORCEMENT.—

16 “(1) CIVIL PENALTIES.—Any electric utility
17 that fails to meet the compliance requirements of
18 subsection (b) shall be subject to a civil penalty.

19 “(2) AMOUNT OF PENALTY.—Subject to para-
20 graph (3), the amount of the civil penalty shall be
21 equal to the product obtained by multiplying—

22 “(A) the number of kilowatt-hours of elec-
23 tric energy sold to electric consumers in viola-
24 tion of subsection (b); by

25 “(B) the greater of—

1 “(i) 2 cents (adjusted for inflation
2 under subsection (h)); or

3 “(ii) 200 percent of the average mar-
4 ket value of renewable energy credits dur-
5 ing the year in which the violation oc-
6 curred.

7 “(3) MITIGATION OR WAIVER.—

8 “(A) IN GENERAL.—The Secretary may
9 mitigate or waive a civil penalty under this sub-
10 section if the electric utility is unable to comply
11 with subsection (b) for reasons outside of the
12 reasonable control of the utility.

13 “(B) REDUCTION.—The Secretary shall re-
14 duce the amount of any penalty determined
15 under paragraph (2) by an amount paid by the
16 electric utility to a State for failure to comply
17 with the requirement of a State renewable en-
18 ergy program if the State requirement is great-
19 er than the applicable requirement of subsection
20 (b).

21 “(4) PROCEDURE FOR ASSESSING PENALTY.—

22 The Secretary shall assess a civil penalty under this
23 subsection in accordance with the procedures pre-
24 scribed by section 333(d) of the Energy Policy and
25 Conservation Act of 1954 (42 U.S.C. 6303).

1 “(e) STATE RENEWABLE ENERGY ACCOUNT PRO-
2 GRAM.—

3 “(1) IN GENERAL.—Not later than December
4 31, 2008, the Secretary of the Treasury shall estab-
5 lish a State renewable energy account in the Treas-
6 ury.

7 “(2) DEPOSITS.—

8 “(A) IN GENERAL.—All money collected by
9 the Secretary from alternative compliance pay-
10 ments and the assessment of civil penalties
11 under this section shall be deposited into the re-
12 newable energy account established under para-
13 graph (1).

14 “(B) SEPARATE ACCOUNT.—The State re-
15 newable energy account shall be maintained as
16 a separate account in the Treasury and shall
17 not be transferred to the general fund of the
18 Treasury.

19 “(3) USE.—Proceeds deposited in the State re-
20 newable energy account shall be used by the Sec-
21 retary, subject to appropriations, for a program to
22 provide grants to the State agency responsible for
23 developing State energy conservation plans under
24 section 362 of the Energy Policy and Conservation
25 Act (42 U.S.C. 6322) for the purposes of promoting

1 renewable energy production, including programs
2 that promote technologies that reduce the use of
3 electricity at customer sites such as solar water
4 heating.

5 “(4) ADMINISTRATION.—The Secretary may
6 issue guidelines and criteria for grants awarded
7 under this subsection. State energy offices receiving
8 grants under this section shall maintain such
9 records and evidence of compliance as the Secretary
10 may require.

11 “(5) PREFERENCE.—In allocating funds under
12 this program, the Secretary shall give preference—

13 “(A) to States in regions which have a dis-
14 proportionately small share of economically sus-
15 tainable renewable energy generation capacity;
16 and

17 “(B) to State programs to stimulate or en-
18 hance innovative renewable energy technologies.

19 “(f) RULES.—The Secretary shall issue rules imple-
20 menting this section not later than 1 year after the date
21 of enactment of this section.

22 “(g) EXEMPTIONS.—This section shall not apply in
23 any calendar year to an electric utility—

1 “(1) that sold less than 4,000,000 megawatt-
2 hours of electric energy to electric consumers during
3 the preceding calendar year; or

4 “(2) in Hawaii.

5 “(h) INFLATION ADJUSTMENT.—Not later than De-
6 cember 31, 2008, and December 31 of each year there-
7 after, the Secretary shall adjust for United States dollar
8 inflation (as measured by the Consumer Price Index)—

9 “(1) the price of a renewable energy credit
10 under subsection (c)(2); and

11 “(2) the amount of the civil penalty per kilo-
12 watt-hour under subsection (d)(2).

13 “(i) STATE PROGRAMS.—

14 “(1) IN GENERAL.—Nothing in this section di-
15 minishes any authority of a State or political sub-
16 division of a State to adopt or enforce any law or
17 regulation respecting renewable energy, but, except
18 as provided in subsection (d)(3), no such law or reg-
19 ulation shall relieve any person of any requirement
20 otherwise applicable under this section.

21 “(2) COORDINATION.—The Secretary, in con-
22 sultation with States having such renewable energy
23 programs, shall, to the maximum extent practicable,
24 facilitate coordination between the Federal program
25 and State programs.

1 “(3) REGULATIONS.—

2 “(A) IN GENERAL.—The Secretary, in con-
3 sultation with States, shall promulgate regula-
4 tions to ensure that an electric utility subject to
5 the requirements of this section that is also
6 subject to a State renewable energy standard
7 receives renewable energy credits in relation to
8 equivalent quantities of renewable energy asso-
9 ciated with compliance mechanisms, other than
10 the generation or purchase of renewable energy
11 by the electric utility, including the acquisition
12 of certificates or credits and the payment of
13 taxes, fees, surcharges, or other financial com-
14 pliance mechanisms by the electric utility or a
15 customer of the electric utility, directly associ-
16 ated with the generation or purchase of renew-
17 able energy.

18 “(B) PROHIBITION ON DOUBLE COUNT-
19 ING.—The regulations promulgated under this
20 paragraph shall ensure that a kilowatt hour as-
21 sociated with a renewable energy credit issued
22 pursuant to this subsection shall not be used
23 for compliance with this section more than
24 once.

25 “(j) RECOVERY OF COSTS.—

1 “(1) IN GENERAL.—The Commission shall issue
2 and enforce such regulations as are necessary to en-
3 sure that an electric utility recovers all prudently in-
4 curred costs associated with compliance with this
5 section.

6 “(2) APPLICABLE LAW.—A regulation under
7 paragraph (1) shall be enforceable in accordance
8 with the provisions of law applicable to enforcement
9 of regulations under the Federal Power Act (16
10 U.S.C. 791a et seq.).

11 “(k) WIND ENERGY DEVELOPMENT STUDY.—The
12 Secretary, in consultation with appropriate Federal and
13 State agencies, shall conduct, and submit to Congress a
14 report describing the results of, a study on methods to
15 increase transmission line capacity for wind energy devel-
16 opment.

17 “(l) SUNSET.—This section expires on December 31,
18 2040.”.

19 (b) TABLE OF CONTENTS AMENDMENT.—The table
20 of contents of the Public Utility Regulatory Policies Act
21 of 1978 (16 U.S.C. prec. 2601) is amended by adding at
22 the end of the items relating to title VI the following:

“Sec. 609. Rural and remote communities electrification grants.

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

1 **TITLE II—ENERGY TAX**
 2 **PROVISIONS**

3 **SEC. 200. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This title may be cited as the
 5 “Renewable Energy Tax Incentives Act”.

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
 7 wise expressly provided, whenever in this title 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 **Subtitle A—Energy Advancement**
 13 **and Investment**

14 **PART I—ADVANCED ELECTRICITY**
 15 **INFRASTRUCTURE**

16 **SEC. 201. EXTENSION AND MODIFICATION OF RENEWABLE**
 17 **ELECTRICITY, REFINED COAL, AND INDIAN**
 18 **COAL PRODUCTION CREDIT.**

19 (a) **EXTENSION.**—

20 (1) **IN GENERAL.**—Section 45(d) (relating to
 21 qualified facilities) is amended—

22 (A) by striking “January 1, 2009” each
 23 place it appears in paragraphs (1), (2), (3), (4),
 24 (5), (6), (7), (8), and (9) and inserting “Janu-
 25 ary 1, 2014”, and

1 (B) by striking “7-year period” both places
2 it appears in paragraph (10)(A) and inserting
3 “8-year period”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by this subsection shall take effect on the date of the
6 enactment of this Act.

7 (b) CREDIT RATE FOR ELECTRICITY MAINTAINED AT
8 2007 LEVEL.—

9 (1) IN GENERAL.—Section 45(a)(1) (relating to
10 general rule) is amended by striking “1.5 cents” and
11 inserting “2 cents”.

12 (2) NO INFLATION ADJUSTMENT.—Section
13 45(b)(2) (relating to credit and phaseout adjustment
14 based on inflation) is amended by striking “1.5 cent
15 amount in subsection (a), the”.

16 (3) CONFORMING AMENDMENTS.—Section
17 45(b)(4)(A) is amended—

18 (A) by striking “2003” and inserting
19 “2006”, and

20 (B) by striking “the amount in effect” and
21 all that follows and inserting “subsection (a)(1)
22 shall be applied by substituting ‘0.9 cent’ for ‘2
23 cents’.”.

1 (4) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to electricity produced
3 and sold after December 31, 2006.

4 (c) MODIFICATION OF REFINED COAL AS A QUALI-
5 FIED ENERGY RESOURCE.—

6 (1) ELIMINATION OF INCREASED MARKET
7 VALUE TEST.—Section 45(c)(7)(A) (defining refined
8 coal) is amended—

9 (A) by striking clause (iv),

10 (B) by adding “and” at the end of clause
11 (ii), and

12 (C) by striking “, and” at the end of
13 clause (iii) and inserting a period.

14 (2) INCREASE IN REQUIRED EMISSION REDUC-
15 TION.—Section 45(c)(7)(B) (defining qualified emis-
16 sion reduction) is amended by inserting “at least 40
17 percent of the emissions of” after “nitrogen oxide
18 and”.

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply to coal produced and
21 sold after December 31, 2007.

22 (d) CREDIT ALLOWED FOR ON-SITE USE OF ELEC-
23 TRICITY PRODUCED FROM BIOMASS.—

1 (1) ON-SITE USE.—Section 45(e) (relating to
2 definitions and special rules) is amended by adding
3 at the end the following new paragraph:

4 “(12) CREDIT ALLOWED FOR ON-SITE USE OF
5 ELECTRICITY PRODUCED FROM BIOMASS.—In the
6 case of electricity produced after December 31,
7 2007, at any facility described in paragraph (2) or
8 (3) which is equipped with net metering to deter-
9 mine electricity consumption or sale (such consump-
10 tion or sale to be verified by a third party as deter-
11 mined by the Secretary), subsection (a)(2) shall be
12 applied without regard to subparagraph (B) there-
13 of.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall take effect on the date of the
16 enactment of this Act.

17 (e) EXPANSION OF RESOURCES TO WAVE, CURRENT,
18 TIDAL, AND OCEAN THERMAL ENERGY.—

19 (1) IN GENERAL.—Section 45(c)(1) (defining
20 qualified energy resources) is amended by striking
21 “and” at the end of subparagraph (G), by striking
22 the period at the end of subparagraph (H) and in-
23 serting “, and”, and by adding at the end the fol-
24 lowing new subparagraph:

1 “(I) wave, current, tidal, and ocean ther-
2 mal energy.”.

3 (2) DEFINITION OF RESOURCES.—Section 45(c)
4 is amended by adding at the end the following new
5 paragraph:

6 “(10) WAVE, CURRENT, TIDAL, AND OCEAN
7 THERMAL ENERGY.—The term ‘wave, current, tidal,
8 and ocean thermal energy’ means electricity pro-
9 duced from any of the following:

10 “(A) Free flowing ocean water derived
11 from tidal currents, ocean currents, waves, or
12 estuary currents.

13 “(B) Ocean thermal energy.”.

14 (3) FACILITIES.—Section 45(d) is amended by
15 adding at the end the following new paragraph:

16 “(11) WAVE, CURRENT, TIDAL, AND OCEAN
17 THERMAL FACILITY.—In the case of a facility using
18 resources described in subparagraph (A), (B), or (C)
19 of subsection (c)(10) to produce electricity, the term
20 ‘qualified facility’ means any facility owned by the
21 taxpayer which is originally placed in service after
22 the date of the enactment of this paragraph and be-
23 fore January 1, 2014, but such term shall not in-
24 clude a facility which includes impoundment struc-
25 tures or a small irrigation power facility.”.

1 (4) CREDIT RATE.—Section 45(b)(4)(A) (relat-
 2 ing to credit rate), as amended by this section, is
 3 amended by striking “or (9)” and inserting “(9), or
 4 (11)”.

5 (5) EFFECTIVE DATE.—The amendments made
 6 by this subsection shall take effect on the date of the
 7 enactment of this Act.

8 (f) TRASH FACILITY CLARIFICATION.—

9 (1) IN GENERAL.—Paragraph (7) of section
 10 45(d) is amended—

11 (A) by striking “facility which burns” and
 12 inserting “facility (other than a facility de-
 13 scribed in paragraph (6)) which uses”, and

14 (B) by striking “COMBUSTION”.

15 (2) EFFECTIVE DATE.—The amendments made
 16 by this subsection shall apply to electricity produced
 17 and sold before, on, or after December 31, 2007.

18 **SEC. 202. EXTENSION AND MODIFICATION OF CREDIT FOR**

19 **CLEAN RENEWABLE ENERGY BONDS.**

20 (a) INCREASE IN AMOUNT OF BONDS DESIGNATED;
 21 4-YEAR EXTENSION.—

22 (1) IN GENERAL.—Section 54(f) (relating to
 23 limitation on amount of bonds designated) is amend-
 24 ed by adding at the end the following new para-
 25 graph:

1 “(3) NATIONAL ANNUAL LIMITATION.—

2 “(A) IN GENERAL.—There is a national
3 clean renewable energy bond annual limitation
4 for each calendar year. Such limitation is
5 \$900,000,000 for 2008, 2009, 2010, and 2011,
6 and, except as provided in subparagraph (C),
7 zero thereafter.

8 “(B) ALLOCATION BY SECRETARY.—The
9 national clean renewable energy bond limitation
10 for a calendar year shall be allocated by the
11 Secretary among qualified projects in such
12 manner as the Secretary determines appro-
13 priate, except that the Secretary may not allo-
14 cate more than \$563,000,000 of such limitation
15 for each calendar year to finance qualified
16 projects of qualified borrowers which are gov-
17 ernmental bodies, of which not less than one-
18 half of such amount shall be allocated with re-
19 spect to qualified projects equaling or exceeding
20 \$10,000,000 in capital expenditures per project.

21 “(C) CARRYOVER OF UNUSED LIMITA-
22 TION.—If for any calendar year, the national
23 clean renewable energy bond annual limitation
24 for such year exceeds the amount of bonds allo-
25 cated during such year, such limitation for the

1 following calendar year shall be increased by
2 the amount of such excess. Any carryforward of
3 a limitation may be carried only to the first
4 year following the unused limitation year. For
5 purposes of the preceding sentence, a limitation
6 shall be treated as used on a first-in first-out
7 basis.”.

8 (2) CONFORMING AMENDMENT.—Section 54 is
9 amended by striking subsection (m).

10 (b) LIMITATION ON TIME FOR ISSUANCE.—Section
11 54(d)(1)(A) (defining clean renewable energy bond) is
12 amended by inserting “, or is issued by the qualified issuer
13 pursuant to an allocation by the Secretary to such issuer
14 of a portion of the national clean renewable energy bond
15 annual limitation under subsection (f)(3) by not later than
16 the end of the calendar year following the year of such
17 allocation” after “subsection (f)(2)”.

18 (c) MODIFICATION OF RATABLE PRINCIPAL AMORTI-
19 ZATION REQUIREMENT.—

20 (1) IN GENERAL.—Paragraph (5) of section
21 54(l) is amended to read as follows:

22 “(5) RATABLE PRINCIPAL AMORTIZATION RE-
23 QUIRED.—A bond shall not be treated as a clean re-
24 newable energy bond unless it is part of an issue
25 which provides for an equal amount of principal to

1 be paid by the qualified issuer during each 12-month
 2 period that the issue is outstanding (other than the
 3 first 12-month period in the case of bonds issued
 4 pursuant to an allocation under subsection (f)(3)).”.

5 (2) CONFORMING AMENDMENT.—The third sen-
 6 tence of section 54(e)(2) is amended by striking
 7 “subsection (l)(6)” and inserting “subsection (l)(5)”.

8 (d) QUALIFIED PROJECT INCLUDES CERTAIN
 9 TRANSMISSION LINES.—Section 54(d)(2)(A) (defining
 10 qualified project) is amended by inserting “and any elec-
 11 tric transmission property capital expenditures (as defined
 12 in section 172(b)(1)(I)(v)(I)) related to such facility” after
 13 “qualified borrower”.

14 (e) EFFECTIVE DATE.—The amendments made by
 15 this section shall take effect on the date of the enactment
 16 of this Act.

17 **SEC. 203. EXTENSION AND MODIFICATION OF ENERGY**
 18 **CREDIT.**

19 (a) EXTENSION.—

20 (1) QUALIFIED FUEL CELL PROPERTY.—Sub-
 21 paragraph (E) of section 48(c)(1) is amended by
 22 striking “December 31, 2008” and inserting “De-
 23 cember 31, 2016”.

24 (2) QUALIFIED MICROTURBINE PROPERTY.—
 25 Subparagraph (E) of section 48(c)(2) is amended by

1 striking “December 31, 2008” and inserting “De-
2 cember 31, 2016”.

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

7 (b) REPEAL OF PUBLIC UTILITY PROPERTY EXCLU-
8 SION.—

9 (1) IN GENERAL.—Paragraph (3) of section
10 48(a), as amended by subsection (a)(3), is amended
11 by striking the first sentence which follows subpara-
12 graph (D).

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 48(c)(1), as amended by sub-
15 section (a)(1), is amended by striking subpara-
16 graph (D) and by redesignating subparagraph
17 (E) as subparagraph (D).

18 (B) Section 48(c)(2), as amended by sub-
19 section (a)(2), is amended by striking subpara-
20 graph (D) and by redesignating subparagraph
21 (E) as subparagraph (D).

22 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION
23 FOR FUEL CELL PROPERTY.—

24 (1) IN GENERAL.—Section 48(c)(1), as amend-
25 ed by subsection (b)(2)(A), is amended by striking

1 subparagraph (B) and by redesignating subpara-
 2 graphs (C) and (D) as subparagraphs (B) and (C),
 3 respectively.

4 (2) CONFORMING AMENDMENT.—Section
 5 48(a)(1) is amended by striking “paragraphs (1)(B)
 6 and (2)(B) of subsection (c)” and inserting “sub-
 7 section (c)(2)(B)”.

8 (d) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
 10 graph (2), the amendments made by section shall
 11 apply to periods after the date of the enactment of
 12 this Act, in taxable years ending after such date,
 13 under rules similar to the rules of section 48(m) of
 14 the Internal Revenue Code of 1986 (as in effect on
 15 the day before the date of the enactment of the Rev-
 16 enue Reconciliation Act of 1990).

17 (2) EXTENSIONS.—The amendments made by
 18 subsection (a) shall take effect on the date of the en-
 19 actment of this Act.

20 **SEC. 204. ENERGY CREDIT FOR COMBINED HEAT AND**
 21 **POWER SYSTEM PROPERTY.**

22 (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-
 23 ergy property) is amended by striking “or” at the end of
 24 clause (iii), by inserting “or” at the end of clause (iv),
 25 and by adding at the end the following new clause:

1 “(v) combined heat and power system
2 property,”.

3 (b) COMBINED HEAT AND POWER SYSTEM PROP-
4 ERTY.—Section 48 (relating to energy credit; reforestation
5 credit) is amended by adding at the end the following new
6 subsection:

7 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
8 ERTY.—For purposes of subsection (a)(3)(A)(v)—

9 “(1) COMBINED HEAT AND POWER SYSTEM
10 PROPERTY.—The term ‘combined heat and power
11 system property’ means property comprising a sys-
12 tem—

13 “(A) which uses the same energy source
14 for the simultaneous or sequential generation of
15 electrical power, mechanical shaft power, or
16 both, in combination with the generation of
17 steam or other forms of useful thermal energy
18 (including heating and cooling applications),

19 “(B) which has an electrical capacity of
20 not more than 15 megawatts or a mechanical
21 energy capacity of not more than 2,000 horse-
22 power or an equivalent combination of electrical
23 and mechanical energy capacities,

24 “(C) which produces—

1 “(i) at least 20 percent of its total
2 useful energy in the form of thermal en-
3 ergy which is not used to produce electrical
4 or mechanical power (or combination
5 thereof), and

6 “(ii) at least 20 percent of its total
7 useful energy in the form of electrical or
8 mechanical power (or combination thereof),

9 “(D) the energy efficiency percentage of
10 which exceeds 60 percent, and

11 “(E) which is placed in service before Jan-
12 uary 1, 2017.

13 “(2) SPECIAL RULES.—

14 “(A) ENERGY EFFICIENCY PERCENT-
15 AGE.—For purposes of this subsection, the en-
16 ergy efficiency percentage of a system is the
17 fraction—

18 “(i) the numerator of which is the
19 total useful electrical, thermal, and me-
20 chanical power produced by the system at
21 normal operating rates, and expected to be
22 consumed in its normal application, and

23 “(ii) the denominator of which is the
24 lower heating value of the fuel sources for
25 the system.

1 “(B) DETERMINATIONS MADE ON BTU
2 BASIS.—The energy efficiency percentage and
3 the percentages under paragraph (1)(C) shall
4 be determined on a Btu basis.

5 “(C) INPUT AND OUTPUT PROPERTY NOT
6 INCLUDED.—The term ‘combined heat and
7 power system property’ does not include prop-
8 erty used to transport the energy source to the
9 facility or to distribute energy produced by the
10 facility.

11 “(3) SYSTEMS USING BIOMASS.—If a system is
12 designed to use biomass (within the meaning of
13 paragraphs (2) and (3) of section 45(e) without re-
14 gard to the last sentence of paragraph (3)(A)) for at
15 least 90 percent of the energy source—

16 “(A) paragraph (1)(D) shall not apply, but

17 “(B) the amount of credit determined
18 under subsection (a) with respect to such sys-
19 tem shall not exceed the amount which bears
20 the same ratio to such amount of credit (deter-
21 mined without regard to this paragraph) as the
22 energy efficiency percentage of such system
23 bears to 60 percent.”.

24 “(c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to periods after the date of the

1 enactment of this Act, in taxable years ending after such
 2 date, under rules similar to the rules of section 48(m) of
 3 the Internal Revenue Code of 1986 (as in effect on the
 4 day before the date of the enactment of the Revenue Rec-
 5 onciliation Act of 1990).

6 **SEC. 205. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**
 7 **TAIN ELECTRIC TRANSMISSION PROPERTY.**

8 (a) IN GENERAL.—Section 168 (relating to acceler-
 9 ated cost recovery system) is amended by adding at the
 10 end the following:

11 “(m) SPECIAL ALLOWANCE FOR CERTAIN ELECTRIC
 12 TRANSMISSION PROPERTY.—

13 “(1) ADDITIONAL ALLOWANCE.—In the case of
 14 any specified electric transmission property—

15 “(A) the depreciation deduction provided
 16 by section 167(a) for the taxable year in which
 17 such property is placed in service shall include
 18 an allowance equal to 50 percent of the ad-
 19 justed basis of such property, and

20 “(B) the adjusted basis of such property
 21 shall be reduced by the amount of such deduc-
 22 tion before computing the amount otherwise al-
 23 lowable as a depreciation deduction under this
 24 chapter for such taxable year and any subse-
 25 quent taxable year.

1 “(2) SPECIFIED ELECTRIC TRANSMISSION
2 PROPERTY.—The term ‘specified electric trans-
3 mission property’ means property of a character
4 subject to the allowance for depreciation—

5 “(A) which is used in the United States as
6 a generator tie to solely transmit electricity
7 from any qualified facility described in section
8 45(d) (without regard to any placed in service
9 date or the last sentence of paragraph (4)
10 thereof) to the grid,

11 “(B) the original use of which commences
12 with the taxpayer after the date of the enact-
13 ment of this subsection,

14 “(C) which is acquired by the taxpayer by
15 purchase (as defined in section 179(d)) after
16 the date of the enactment of this subsection,
17 but only if no written binding contract for the
18 acquisition was in effect on or before the date
19 of the enactment of this subsection, and

20 “(D) which is placed in service by the tax-
21 payer before January 1, 2014.

22 “(3) EXCEPTIONS.—

23 “(A) ALTERNATIVE DEPRECIATION PROP-
24 erty.—Such term shall not include any prop-
25 erty described in section 168(k)(2)(D)(i).

1 “(B) ELECTION OUT.—If a taxpayer
2 makes an election under this subparagraph with
3 respect to any class of property for any taxable
4 year, this subsection shall not apply to all prop-
5 erty in such class placed in service during such
6 taxable year.

7 “(4) SPECIAL RULES.—For purposes of this
8 subsection, rules similar to the rules of subpara-
9 graph (E) of section 168(k)(2) shall apply, except
10 that such subparagraph shall be applied—

11 “(A) by substituting ‘the date of the enact-
12 ment of subsection (l)’ for ‘September 10,
13 2001’ each place it appears therein,

14 “(B) by substituting ‘January 1, 2014’ for
15 ‘January 1, 2005’ in clause (i) thereof, and

16 “(C) by substituting ‘specified electric
17 transmission property’ for ‘qualified property’
18 in clause (iv) thereof.

19 “(5) RECAPTURE.—For purposes of this sub-
20 section, rules similar to the rules under section
21 179(d)(10) shall apply with respect to any specified
22 electric transmission property which ceases to be
23 specified electric transmission property.”.

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

1 the date of the enactment of this Act in taxable years end-
2 ing after such date.

3 **SEC. 206. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
4 **FERC RESTRUCTURING POLICY.**

5 (a) QUALIFYING ELECTRIC TRANSMISSION TRANS-
6 ACTION.—

7 (1) IN GENERAL.—Section 451(i)(3) (defining
8 qualifying electric transmission transaction) is
9 amended by striking “January 1, 2008” and insert-
10 ing “January 1, 2010”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply to transactions after
13 December 31, 2007.

14 (b) INDEPENDENT TRANSMISSION COMPANY.—

15 (1) IN GENERAL.—Section 451(i)(4)(B)(ii) (de-
16 fining independent transmission company) is amend-
17 ed by striking “December 31, 2007” and inserting
18 “the date which is 2 years after the date of such
19 transaction”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this subsection shall take effect as if included in
22 the amendments made by section 909 of the Amer-
23 ican Jobs Creation Act of 2004.

1 **SEC. 207. EXTENSION AND MODIFICATION OF CREDIT FOR**
2 **RESIDENTIAL ENERGY EFFICIENT PROP-**
3 **ERTY.**

4 (a) EXTENSION.—Section 25D(g) (relating to termi-
5 nation) is amended by striking “December 31, 2008” and
6 inserting “December 31, 2014”.

7 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
8 ERTY.—

9 (1) IN GENERAL.—Section 25D(b)(1)(A) (relat-
10 ing to maximum credit) is amended by striking
11 “\$2,000” and inserting “\$4,000”.

12 (2) CONFORMING AMENDMENT.—Section
13 25D(e)(4)(A)(i) is amended by striking “\$6,667”
14 and inserting “\$13,334”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to expenditures made after Decem-
17 ber 31, 2007.

18 **SEC. 208. CREDIT FOR RESIDENTIAL WIND PROPERTY.**

19 (a) IN GENERAL.—Section 25D(a) (relating to allow-
20 ance of credit) is amended by striking “and” at the end
21 of paragraph (2), by striking the period at the end of para-
22 graph (3) and inserting “, and”, and by adding at the
23 end the following new paragraph:

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

1 (b) LIMITATION.—Section 25D(b)(1) (relating to
 2 maximum credit) is amended by striking “and” at the end
 3 of subparagraph (B), by striking the period at the end
 4 of subparagraph (A) and inserting “, and”, and by adding
 5 at the end the following new subparagraph:

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

10 (c) QUALIFIED SMALL WIND ENERGY PROPERTY
 11 EXPENDITURES.—

12 (1) IN GENERAL.—Section 25D(d) (relating to
 13 definitions) is amended by adding at the end the fol-
 14 lowing new paragraph:

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

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

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

5 (d) **MAXIMUM EXPENDITURES IN CASE OF JOINT**
 6 **OCCUPANCY.**—Section 25D(e)(4)(A) (relating to max-
 7 imum expenditures) is amended by striking “and” at the
 8 end of clause (iii), by striking the period at the end of
 9 clause (iv) and inserting “, and”, and by adding at the
 10 end the following new clause:

11 “(v) \$1,667 in the case of each half
 12 kilowatt of capacity of wind turbines for
 13 which qualified small wind energy property
 14 expenditures are made.”.

15 (e) **EFFECTIVE DATE.**—The amendments made by
 16 this section shall apply to expenditures after December 31,
 17 2007.

18 **SEC. 209. SEVEN-YEAR APPLICABLE RECOVERY PERIOD**
 19 **FOR DEPRECIATION OF QUALIFIED ENERGY**
 20 **MANAGEMENT DEVICES.**

21 (a) **IN GENERAL.**—Section 168(e)(3)(C) (defining 7-
 22 year property) is amended by striking “and” at the end
 23 of clause (iv), by redesignating clause (v) as clause (vi),
 24 and by inserting after clause (iv) the following new clause:

1 “(v) any qualified energy management
2 device, and”.

3 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-
4 MENT DEVICE.—Section 168(i) (relating to definitions
5 and special rules) is amended by inserting at the end the
6 following new paragraph:

7 “(18) QUALIFIED ENERGY MANAGEMENT DE-
8 VICE.—

9 “(A) IN GENERAL.—The term ‘qualified
10 energy management device’ means any energy
11 management device which is placed in service
12 before January 1, 2011, by a taxpayer who is
13 a supplier of electric energy or a provider of
14 electric energy services.

15 “(B) ENERGY MANAGEMENT DEVICE.—
16 For purposes of subparagraph (A), the term
17 ‘energy management device’ means any two-way
18 communications network and associated equip-
19 ment, including equipment installed on the
20 premises of a consumer, which is used by the
21 taxpayer—

22 “(i) to measure and record electricity
23 usage data on a time-differentiated basis
24 of at least 60 minutes, and

1 “(ii) to provide such data on demand
2 to both consumers and the taxpayer.”.

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

6 **SEC. 210. LANDOWNER INCENTIVE TO ENCOURAGE ELEC-**
7 **TRIC TRANSMISSION BUILD-OUT.**

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

12 **“SEC. 139B. ELECTRIC TRANSMISSION EASEMENT PAY-**
13 **MENTS.**

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

16 “(b) QUALIFIED ELECTRIC TRANSMISSION EASE-
17 MENT PAYMENT.—For purposes of this section, the term
18 ‘qualified electric transmission payment’ means any pay-
19 ment by an electric utility or electric transmission entity
20 pursuant to an easement or other agreement granted by
21 the payee (or any predecessor of such payee) for the right
22 of such entity (or any successors of such entity) to locate
23 on such payee’s property transmission lines and equip-
24 ment used to transmit electricity at 230 or more kilovolts
25 primarily from qualified facilities described in section

1 45(d) (without regard to any placed in service date or the
2 last sentence of paragraph (4) thereof) or energy property
3 (as defined in section 48(a)(3)) placed in service after the
4 date of the enactment of this section.

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

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

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

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

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

1 **SEC. 211. PARTIAL EXEMPTION FROM PASSIVE ACTIVITY**
2 **LIMITATIONS FOR QUALIFIED WIND FACILI-**
3 **TIES.**

4 (a) IN GENERAL.—Section 469 (relating to passive
5 activity losses and credits limited) is amended by redesi-
6 gnating subsections (l) and (m) as subsections (m) and (n),
7 respectively, and by inserting after subsection (k) the fol-
8 lowing new subsection:

9 “(1) \$40,000 OFFSET FOR QUALIFIED WIND FACILI-
10 TIES.—

11 “(1) IN GENERAL.—In the case of any natural
12 person, subsection (a) shall not apply to that portion
13 of the passive activity loss or the deduction equiva-
14 lent (within the meaning of subsection (j)(5)) of the
15 passive activity credit for any taxable year which is
16 attributable to any interest of such person in a facil-
17 ity described in section 45(d)(1) (relating to wind fa-
18 cility).

19 “(2) DOLLAR LIMITATION.—The aggregate
20 amount to which paragraph (1) applies for any tax-
21 able year shall not exceed \$40,000.

22 “(3) SPECIAL RULE FOR ESTATES.—

23 “(A) IN GENERAL.—In the case of taxable
24 years of an estate ending less than 2 years after
25 the date of the death of the decedent, this sub-
26 section shall apply to any interest in a facility

1 described in section 45(d)(1) (relating to wind
2 facility) held by the decedent on the date of his
3 death.

4 “(B) REDUCTION FOR SURVIVING
5 SPOUSE’S EXEMPTION.—For purposes of sub-
6 paragraph (A), the \$40,000 amount under
7 paragraph (2) shall be reduced by the amount
8 of the exemption under paragraph (1) allowable
9 to the surviving spouse of the decedent for the
10 taxable year ending with or within the taxable
11 year of the estate.

12 “(4) MARRIED INDIVIDUALS FILING SEPA-
13 RATELY.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), in the case of any married
16 individual filing a separate return, this sub-
17 section shall be applied by substituting
18 ‘\$20,000’ for ‘\$40,000’ each place it appears.

19 “(B) TAXPAYERS NOT LIVING APART.—
20 This subsection shall not apply to a taxpayer
21 who—

22 “(i) is a married individual filing a
23 separate return for any taxable year, and

1 “(ii) does not live apart from his
2 spouse at all times during such taxable
3 year.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to losses and credits taken into
6 account in taxable years beginning after the date of the
7 enactment of this Act.

8 **SEC. 212. CREDIT FOR ELECTRICITY PRODUCED FROM**
9 **QUALIFIED WIND FACILITIES ALLOWED**
10 **AGAINST ALTERNATIVE MINIMUM TAX.**

11 (a) IN GENERAL.—Subparagraph (B) of section
12 38(c)(4) (relating to specified credits) is amended—

13 (1) by striking “and” at the end of clause (i),

14 (2) by inserting “(other than a facility de-
15 scribed in clause (iii))” after “facility” in clause
16 (ii)(I),

17 (3) by striking the period at the end of clause
18 (ii) and inserting “, and”, and

19 (4) by adding at the end the following new
20 clause:

21 “(iii) the credit determined under sec-
22 tion 45 to the extent that such credit is at-
23 tributable to electricity produced at a facil-
24 ity described in section 45(d)(1) (relating
25 to wind facility).”.

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 **PART II—DOMESTIC FUEL SECURITY**

5 **SEC. 221. CREDIT FOR PRODUCTION OF CELLULOSIC BIO-**
 6 **MASS ALCOHOL.**

7 (a) IN GENERAL.—Subsection (a) of section 40 (re-
 8 lating to alcohol used as fuel) is amended by striking
 9 “plus” at the end of paragraph (2), by striking the period
 10 at the end of paragraph (3) and inserting “, plus”, and
 11 by adding at the end the following new paragraph:

12 “(4) the small cellulosic alcohol producer cred-
 13 it.”.

14 (b) SMALL CELLULOSIC ALCOHOL PRODUCER CRED-
 15 IT.—

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

19 “(6) SMALL CELLULOSIC ALCOHOL PRODUCER
 20 CREDIT.—

21 “(A) IN GENERAL.—In addition to any
 22 other credit allowed under this section, there
 23 shall be allowed as a credit against the tax im-
 24 posed by this chapter for the taxable year an

1 amount equal to the applicable amount for each
2 gallon of qualified cellulosic alcohol production.

3 “(B) APPLICABLE AMOUNT.—For purposes
4 of subparagraph (A), the applicable amount
5 means the excess of—

6 “(i) \$1.11, over

7 “(ii) the sum of—

8 “(I) the amount of the credit al-
9 lowable for alcohol which is ethanol
10 under subsection (b)(1) (without re-
11 gard to subsection (b)(3)) at the time
12 of the qualified cellulosic alcohol pro-
13 duction, plus

14 “(II) the amount of the credit al-
15 lowable under subsection (b)(4) at the
16 time of such production.

17 “(C) QUALIFIED CELLULOSIC ALCOHOL
18 PRODUCTION.—For purposes of this section,
19 the term ‘qualified cellulosic alcohol production’
20 means any cellulosic biomass alcohol which is
21 produced by an eligible small cellulosic alcohol
22 producer and which during the taxable year—

23 “(i) is sold by the taxpayer to another
24 person—

1 “(I) for use by such other person
2 in the production of a qualified alco-
3 hol mixture in such other person’s
4 trade or business (other than casual
5 off-farm production),

6 “(II) for use by such other per-
7 son as a fuel in a trade or business,
8 or

9 “(III) who sells such cellulosic
10 biomass alcohol at retail to another
11 person and places such cellulosic bio-
12 mass alcohol in the fuel tank of such
13 other person, or

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

16 “(D) ADDITIONAL DISTILLATION EX-
17 CLUDED.—The qualified cellulosic alcohol pro-
18 duction of any taxpayer for any taxable year
19 shall not include any alcohol which is purchased
20 by the taxpayer and with respect to which such
21 producer increases the proof of the alcohol by
22 additional distillation.

23 “(E) APPLICATION OF PARAGRAPH.—This
24 paragraph shall apply with respect to qualified
25 cellulosic alcohol production—

1 “(i) after December 31, 2007, and
 2 “(ii) before the end of the later of—
 3 “(I) December 31, 2012, or
 4 “(II) the calendar year in which
 5 the Secretary, in consultation with the
 6 Administrator of the Environmental
 7 Protection Agency, certifies that
 8 1,000,000,000 gallons of cellulosic
 9 biomass alcohol (as so defined) have
 10 been produced in or imported into the
 11 United States after such date.”.

12 (2) TERMINATION DATE NOT TO APPLY.—Sub-
 13 section (e) of section 40 (relating to termination) is
 14 amended by adding at the end the following new
 15 paragraph:

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

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

23 “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL
 24 CELLULOSIC ALCOHOL PRODUCER.—For purposes of this
 25 section—

1 “(1) IN GENERAL.—The term ‘eligible small
2 cellulose alcohol producer’ means a person, who at
3 all times during the taxable year, has a productive
4 capacity for cellulose biomass alcohol not in excess
5 of 60,000,000 gallons.

6 “(2) CELLULOSIC BIOMASS ALCOHOL.—

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

11 “(B) DETERMINATION OF PROOF.—The
12 determination of the proof of any alcohol shall
13 be made without regard to any added dena-
14 turants.

15 “(3) AGGREGATION RULE.—For purposes of
16 the 60,000,000 gallon limitation under paragraph
17 (1), all members of the same controlled group of cor-
18 porations (within the meaning of section 267(f)) and
19 all persons under common control (within the mean-
20 ing of section 52(b) but determined by treating an
21 interest of more than 50 percent as a controlling in-
22 terest) shall be treated as 1 person.

23 “(4) PARTNERSHIP, S CORPORATIONS, AND
24 OTHER PASS-THRU ENTITIES.—In the case of a
25 partnership, trust, S corporation, or other pass-thru

1 entity, the limitation contained in paragraph (1)
2 shall be applied at the entity level and at the partner
3 or similar level.

4 “(5) ALLOCATION.—For purposes of this sub-
5 section, in the case of a facility in which more than
6 1 person has an interest, productive capacity shall
7 be allocated among such persons in such manner as
8 the Secretary may prescribe.

9 “(6) REGULATIONS.—The Secretary may pre-
10 scribe such regulations as may be necessary to pre-
11 vent the credit provided for in subsection (a)(4)
12 from directly or indirectly benefitting any person
13 with a direct or indirect productive capacity of more
14 than 60,000,000 gallons of cellulosic biomass alcohol
15 during the taxable year.

16 “(7) ALLOCATION OF SMALL CELLULOSIC PRO-
17 DUCER CREDIT TO PATRONS OF COOPERATIVE.—
18 Rules similar to the rules under subsection (g)(6)
19 shall apply for purposes of this subsection.”.

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

21 (1) IN GENERAL.—Paragraph (3) of section
22 40(d) is amended by redesignating subparagraph
23 (D) as subparagraph (E) and by inserting after sub-
24 paragraph (C) the following new subparagraph:

1 “(D) SMALL CELLULOSIC ALCOHOL PRO-
2 DUCER CREDIT.—If—

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

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

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

11 (2) CONFORMING AMENDMENTS.—

12 (A) Subparagraph (C) of section 40(d)(3)
13 is amended by striking “PRODUCER” in the
14 heading and inserting “SMALL ETHANOL PRO-
15 DUCER”.

16 (B) Subparagraph (E) of section 40(d)(3),
17 as redesignated by paragraph (1), is amended
18 by striking “or (C)” and inserting “(C), or
19 (D)”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to fuel produced after December
22 31, 2007.

1 **SEC. 222. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**
2 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**
3 **PROPERTY.**

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

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

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (l) of section 168 is amended by
14 striking “cellulosic biomass ethanol” each place it
15 appears and inserting “cellulosic biomass alcohol”.

16 (2) The heading of section 168(l) is amended
17 by striking “CELLULOSIC BIOMASS ETHANOL” and
18 inserting “CELLULOSIC BIOMASS ALCOHOL”.

19 (3) The heading of paragraph (2) of section
20 168(l) is amended by striking “CELLULOSIC BIO-
21 MASS ETHANOL” and inserting “CELLULOSIC BIO-
22 MASS ALCOHOL”.

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

1 **SEC. 223. EXTENSION OF SMALL ETHANOL PRODUCER**
 2 **CREDIT.**

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

5 (1) in subparagraph (A), by inserting “(Decem-
 6 ber 31, 2012, in the case of the credit allowed by
 7 reason of subsection (a)(3))” after “December 31,
 8 2010”, and

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

12 **SEC. 224. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**
 13 **HOL.**

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

20 “(5) the small fossil free alcohol producer cred-
 21 it.”.

22 (b) **SMALL FOSSIL FREE ALCOHOL PRODUCER**
 23 **CREDIT.**—Subsection (b) of section 40, as amended by
 24 this Act, is amended by adding at the end the following
 25 new paragraph:

1 “(7) SMALL FOSSIL FREE ALCOHOL PRODUCER
2 CREDIT.—

3 “(A) IN GENERAL.—In addition to any
4 other credit allowed under this section, there
5 shall be allowed as a credit against the tax im-
6 posed by this chapter for the taxable year an
7 amount equal to 25 cents for each gallon of
8 qualified fossil free alcohol production.

9 “(B) QUALIFIED FOSSIL FREE ALCOHOL
10 PRODUCTION.—For purposes of this section,
11 the term ‘qualified fossil free alcohol produc-
12 tion’ means alcohol which is produced by an eli-
13 gible small fossil free alcohol producer at a fos-
14 sil free alcohol production facility and which
15 during the taxable year—

16 “(i) is sold by the taxpayer to another
17 person—

18 “(I) for use by such other person
19 in the production of a qualified alco-
20 hol mixture in such other person’s
21 trade or business (other than casual
22 off-farm production),

23 “(II) for use by such other per-
24 son as a fuel in a trade or business,
25 or

1 “(III) who sells such alcohol at
 2 retail to another person and places
 3 such alcohol in the fuel tank of such
 4 other person, or

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

7 “(C) ADDITIONAL DISTILLATION EX-
 8 CLUDED.—The qualified fossil free alcohol pro-
 9 duction of any taxpayer for any taxable year
 10 shall not include any alcohol which is purchased
 11 by the taxpayer and with respect to which such
 12 producer increases the proof of the alcohol by
 13 additional distillation.”.

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

17 “(j) DEFINITIONS AND SPECIAL RULES FOR SMALL
 18 FOSSIL FREE ALCOHOL PRODUCER.—For purposes of
 19 this section—

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

1 “(2) FOSSIL FREE ALCOHOL PRODUCTION FA-
2 CILITY.—The term ‘fossil free alcohol production fa-
3 cility’ means any facility at which 90 percent of the
4 fuel used in the production of alcohol is from bio-
5 mass (as defined in section 45K(c)(3)).

6 “(3) AGGREGATION RULE.—For purposes of
7 the 60,000,000 gallon limitation under paragraph
8 (1), all members of the same controlled group of cor-
9 porations (within the meaning of section 267(f)) and
10 all persons under common control (within the mean-
11 ing of section 52(b) but determined by treating an
12 interest of more than 50 percent as a controlling in-
13 terest) shall be treated as 1 person.

14 “(4) PARTNERSHIP, S CORPORATIONS, AND
15 OTHER PASS-THRU ENTITIES.—In the case of a
16 partnership, trust, S corporation, or other pass-thru
17 entity, the limitation contained in paragraph (1)
18 shall be applied at the entity level and at the partner
19 or similar level.

20 “(5) ALLOCATION.—For purposes of this sub-
21 section, in the case of a facility in which more than
22 1 person has an interest, productive capacity shall
23 be allocated among such persons in such manner as
24 the Secretary may prescribe.

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

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

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

13 (1) IN GENERAL.—Paragraph (3) of section
 14 40(d), as amended by this Act, is amended by redesi-
 15 gnating subparagraph (E) as subparagraph (F) and
 16 by inserting after subparagraph (D) the following
 17 new subparagraph:

18 “(E) SMALL FOSSIL FREE ALCOHOL PRO-
 19 DUCER CREDIT.—If—

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

22 “(ii) any person does not use such
 23 fuel for a purpose described in subsection
 24 (b)(7)(B),

1 then there is hereby imposed on such person a
2 tax equal to 25 cents for each gallon of such al-
3 cohol.”.

4 (2) CONFORMING AMENDMENT.—Subparagraph
5 (E) of section 40(d)(3), as redesignated by para-
6 graph (1) and amended by this Act, is amended by
7 striking “or (D)” and inserting “(C), or (E)”.

8 (e) TERMINATION.—Paragraph (1) of section 40(e),
9 as amended by this Act, is amended—

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

16 (2) in subparagraph (B), by striking “(January
17 1, 2013, in the case of the credit allowed by reason
18 of subsection (a)(3))” and inserting “(January 1,
19 2013, in the case of the credits allowed by reason of
20 paragraphs (3) and (5) of subsection (a))”.

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to fuel produced after December
23 31, 2007.

1 **SEC. 225. MODIFICATION OF ALCOHOL CREDIT.**

2 (a) **INCOME TAX CREDIT.**—Subsection (h) of section
3 40 (relating to reduced credit for ethanol blenders) is
4 amended by adding at the end the following new para-
5 graph:

6 “(3) **REDUCED AMOUNT AFTER SALE OF**
7 **7,500,000,000 GALLONS.**—

8 “(A) **IN GENERAL.**—In the case of any cal-
9 endar year beginning after the date described in
10 subparagraph (B), the last row in the table in
11 paragraph (2) shall be applied by substituting
12 ‘46 cents’ for ‘51 cents’.

13 “(B) **DATE DESCRIBED.**—The date de-
14 scribed in this subparagraph is the first date on
15 which 7,500,000,000 gallons of ethanol (includ-
16 ing cellulosic ethanol) have been produced in or
17 imported into the United States after the date
18 of the enactment of this paragraph, as certified
19 by the Secretary, in consultation with the Ad-
20 ministrator of the Environmental Protection
21 Agency.”.

22 (b) **EXCISE TAX CREDIT.**—

23 (1) **IN GENERAL.**—Paragraph (2) of section
24 6426(b) (relating to alcohol fuel mixture credit) is
25 amended by adding at the end the following new
26 subparagraph:

1 “(C) REDUCED AMOUNT AFTER SALE OF
 2 7,500,000,000 GALLONS.—In the case of any alco-
 3 hol fuel mixture produced in a calendar year be-
 4 ginning after the date described in section
 5 40(h)(3)(B), subparagraph (A) shall be applied
 6 by substituting ‘46 cents’ for ‘51 cents’.”.

7 (2) CONFORMING AMENDMENT.—Subparagraph
 8 (A) of section 6426(b)(2) is amended by striking
 9 “subparagraph (B)” and inserting “subparagraphs
 10 (B) and (C)”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect on the date of the enactment
 13 of this Act.

14 **SEC. 226. EXTENSION AND MODIFICATION OF CREDIT FOR**
 15 **BIODIESEL USED AS FUEL.**

16 (a) EXTENSION.—

17 (1) INCOME TAX CREDITS FOR BIODIESEL AND
 18 RENEWABLE DIESEL AND SMALL AGRI-BIODIESEL
 19 PRODUCER CREDIT.—Section 40A(g) (relating to
 20 termination) is amended by striking “December 31,
 21 2008” and inserting “December 31, 2010 (Decem-
 22 ber 31, 2012, in the case of the credit allowed by
 23 reason of subsection (a)(3))”.

1 (2) EXCISE TAX CREDIT.—Section 6426(e)(6)
2 (relating to termination) is amended by striking
3 “2008” and inserting “2010”.

4 (3) FUELS NOT USED FOR TAXABLE PUR-
5 POSES.—Section 6427(e)(5)(B) (relating to termi-
6 nation) is amended by striking “2008” and inserting
7 “2010”.

8 (b) MODIFICATION OF CREDIT FOR RENEWABLE
9 DIESEL.—

10 (1) IN GENERAL.—Section 40A(f) (relating to
11 renewable diesel) is amended by adding at the end
12 the following new paragraph:

13 “(4) SPECIAL RULE FOR CO-PROCESSED RE-
14 NEWABLE DIESEL.—In the case of a taxpayer which
15 produces renewable diesel through the co-processing
16 of biomass and petroleum at any facility, this sub-
17 section shall not apply to so much of the renewable
18 diesel produced at such facility and sold or used dur-
19 ing the taxable year in a qualified biodiesel mixture
20 as exceeds 60,000,000 gallons.”.

21 (c) MODIFICATION RELATING TO DEFINITION OF
22 AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (re-
23 lating to agri-biodiesel) is amended by striking “and mus-
24 tard seeds” and inserting “mustard seeds, and camelina”.

1 (d) EFFECTIVE DATES.—The amendments made by
2 this section shall apply to fuel sold or used after the date
3 of the enactment of this Act.

4 **SEC. 227. EXTENSION AND MODIFICATION OF ALTER-**
5 **NATIVE FUEL CREDIT.**

6 (a) EXTENSION.—

7 (1) ALTERNATIVE FUEL CREDIT.—Paragraph
8 (4) of section 6426(d) (relating to alternative fuel
9 credit) is amended by striking “September 30,
10 2009” and inserting “December 31, 2012”.

11 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—
12 Paragraph (3) of section 6426(e) (relating to alter-
13 native fuel mixture credit) is amended by striking
14 “September 30, 2009” and inserting “December 31,
15 2012”.

16 (3) PAYMENTS.—Subparagraph (C) of section
17 6427(e)(5) (relating to termination) is amended by
18 striking “September 30, 2009” and inserting “De-
19 cember 31, 2012”.

20 (b) MODIFICATIONS.—

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

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

3 “(F) compressed or liquified biomass gas,
4 and”.

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

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

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

16 “(4) CARBON CAPTURE REQUIREMENT.—The
17 requirements of this paragraph are met if the fuel
18 is certified, under such procedures as required by
19 the Secretary, as having been produced at a facility
20 which separates and sequesters not less than 75 per-
21 cent of such facility’s total carbon dioxide emis-
22 sions.”.

23 (2) CONFORMING AMENDMENT.—Subparagraph
24 (E) of section 6426(d)(2) is amended by inserting

1 “which meets the requirements of paragraph (4) and
2 which is” after “any liquid fuel”.

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to fuel sold or used after the date of the
7 enactment of this Act.

8 (2) CARBON CAPTURE REQUIREMENTS.—The
9 amendments made by subsection (c) shall apply to
10 fuel sold or used after December 31, 2007.

11 **SEC. 228. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**
12 **FUELING PROPERTY CREDIT.**

13 Paragraph (2) of section 30C(g) (relating to termi-
14 nation) is amended by striking “December 31, 2009” and
15 inserting “December 31, 2012”.

16 **SEC. 229. EXTENSION OF SUSPENSION OF TAXABLE IN-**
17 **COME LIMIT ON PERCENTAGE DEPLETION**
18 **FOR OIL AND NATURAL GAS PRODUCED**
19 **FROM MARGINAL PROPERTIES.**

20 Subparagraph (H) of section 613A(c)(6) (relating to
21 oil and gas produced from marginal properties) is amend-
22 ed by striking “January 1, 2008” and inserting “January
23 1, 2010”.

1 **SEC. 230. EXTENSION AND MODIFICATION OF ELECTION TO**
2 **EXPENSE CERTAIN REFINERIES.**

3 (a) EXTENSION.—Paragraph (1) of section 179C(c)
4 (relating to qualified refinery property) is amended—

5 (1) by striking “January 1, 2012” in subpara-
6 graph (B) and inserting “January 1, 2014”, and

7 (2) by striking “January 1, 2008” each place
8 it appears in subparagraph (F) and inserting “Janu-
9 ary 1, 2010”.

10 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND
11 TAR SANDS.—

12 (1) IN GENERAL.—Subsection (d) of section
13 179C is amended by inserting “, or directly from
14 shale or tar sands” after “(as defined in section
15 45K(c))”.

16 (2) CONFORMING AMENDMENT.—Paragraph (2)
17 of section 179C(e) is amended by inserting “shale,
18 tar sands, or” before “qualified fuels”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 the date of the enactment of this Act.

22 **SEC. 231. ETHANOL TARIFF EXTENSION.**

23 Headings 9901.00.50 and 9901.00.52 of the Har-
24 monized Tariff Schedule of the United States are each
25 amended in the effective period column by striking “1/1/
26 2009” and inserting “1/1/2011”.

1 **SEC. 232. ELIMINATION AND REDUCTIONS OF DUTY DRAW-**
 2 **BACK ON CERTAIN IMPORTED ETHANOL.**

3 (a) IN GENERAL.—Section 313(p)(3)(A)(i)(I) of the
 4 Tariff Act of 1930 (19 U.S.C. 1313(p)(3)(A)(i)(I)) is
 5 amended by striking “or” and inserting the following:

6 “other than an article that contains either—

7 “(aa) imported ethyl alcohol
 8 (provided for in subheading
 9 2207.10.60 or 2207.20.00 of
 10 such Schedule), or

11 “(bb) any imported mixture
 12 (provided for in heading 2710 or
 13 3824 of such Schedule) that con-
 14 tains ethyl alcohol, or”.

15 (b) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-
 16 BACKS.—Section 313 of the Tariff Act of 1930 (19 U.S.C.
 17 1313) is amended by adding at the end the following new
 18 subsection:

19 “(z) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-
 20 BACKS.—

21 “(1) LIMITATIONS.—

22 “(A) IN GENERAL.—Ethyl alcohol or mix-
 23 ture containing ethyl alcohol described in sub-
 24 paragraph (B) may be treated as being of the
 25 same kind and quality under subsection (b) of
 26 this section or may be treated as being commer-

1 cially interchangeable with any other ethyl alco-
2 hol or mixture containing ethyl alcohol under
3 subsection (j)(2) of this section, only if the
4 other ethyl alcohol or mixture—

5 “(i) if imported, is subject to the addi-
6 tional duty under subheading 9901.00.50
7 of the Harmonized Tariff Schedule of the
8 United States; or

9 “(ii) if domestic, is subject to Federal
10 excise tax under section 4041 or 4081 of
11 the Internal Revenue Code of 1986 in an
12 amount equal to or greater than the
13 amount of drawback claimed.

14 “(B) ETHYL ALCOHOL OR MIXTURE CON-
15 TAINING ETHYL ALCOHOL DESCRIBED.—Ethyl
16 alcohol or mixture containing ethyl alcohol de-
17 scribed in this subparagraph means—

18 “(i) ethyl alcohol classifiable under
19 subheading 2207.10.60 or 2207.20.00 of
20 the Harmonized Tariff Schedule of the
21 United States, or

22 “(ii) a mixture containing ethyl alco-
23 hol classifiable under heading 2710 or
24 3824 of the Harmonized Tariff Schedule of
25 the United States,

1 which, if imported would be subject to addi-
2 tional duty under subheading 9901.00.50 of
3 such Schedule.

4 “(2) REDUCTION OF DRAWBACK.—For pur-
5 poses of subsections (b), (j)(2), and (p) of this sec-
6 tion, the amount of the refund as drawback under
7 this section shall be reduced by an amount equal to
8 any Federal tax credit or refund of any Federal tax
9 paid on the merchandise with respect to which the
10 drawback is claimed.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section apply to articles exported on or after the date
13 that is 15 days after the date of the enactment of this
14 Act.

15 **SEC. 233. CERTAIN INCOME AND GAINS RELATING TO AL-**
16 **COHOL FUEL MIXTURES, BIODIESEL FUEL**
17 **MIXTURES, AND ALTERNATIVE FUEL TREAT-**
18 **ED AS QUALIFYING INCOME FOR PUBLICLY**
19 **TRADED PARTNERSHIPS.**

20 (a) IN GENERAL.—Subparagraph (E) of section
21 7704(d)(1) (defining qualifying income) is amended by in-
22 serting “, or the transportation or storage of any fuel de-
23 scribed in subsection (b), (c), or (d) of section 6426” after
24 “timber”).

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

4 **SEC. 234. TECHNICAL AMENDMENTS.**

5 (a) AMENDMENTS RELATED TO SECTION 11113 OF
6 THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT
7 TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.—

8 (1) Paragraph (3) of section 6427(i) is amend-
9 ed—

10 (A) by inserting “or under subsection
11 (e)(2) by any person with respect to an alter-
12 native fuel (as defined in section 6426(d)(2))”
13 after “section 6426” in subparagraph (A),

14 (B) by inserting “or (e)(2)” after “sub-
15 section (e)(1)” in subparagraphs (A)(i) and
16 (B), and

17 (C) by inserting “AND ALTERNATIVE FUEL
18 CREDIT” after “MIXTURE CREDIT” in the head-
19 ing thereof.

20 (2)(A) Subparagraph (G) of section 6426(d)(2),
21 as redesignated by section 227, is amended by strik-
22 ing “hydrocarbons” and inserting “fuel”.

23 (B) Section 6426 is amended by adding at the
24 end the following new subsection:

1 “(h) DENIAL OF DOUBLE BENEFIT.—No credit shall
2 be determined under subsection (d) or (e) with respect to
3 any fuel which is described in subsection (b) or (c) or sec-
4 tion 40 or 40A.”.

5 (3) The amendments made by this subsection
6 shall take effect as if included in section 11113 of
7 the SAFETEA-LU.

8 (b) AMENDMENTS RELATED TO THE ENERGY POL-
9 ICY ACT OF 2005.—

10 (1) AMENDMENT RELATED TO SECTION 1342 OF
11 THE ACT.—

12 (A) So much of subsection (b) of section
13 30C as precedes paragraph (1) thereof is
14 amended to read as follows:

15 “(b) LIMITATION.—The credit allowed under sub-
16 section (a) with respect to all alternative fuel vehicle re-
17 fueling property placed in service by the taxpayer during
18 the taxable year at a location shall not exceed—”.

19 (B) Subsection (c) of section 30C is
20 amended to read as follows:

21 “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-
22 FUELING PROPERTY.—For purposes of this section, the
23 term ‘qualified alternative fuel vehicle refueling property’
24 has the same meaning as the term ‘qualified clean-fuel ve-

1 hicle refueling property' would have under section 179A
2 if—

3 “(1) paragraph (1) of section 179A(d) did not
4 apply to property installed on property which is used
5 as the principal residence (within the meaning of
6 section 121) of the taxpayer, and

7 “(2) only the following were treated as clean
8 burning fuels for purposes of section 179A(d):

9 “(A) Any fuel at least 85 percent of the
10 volume of which consists of one or more of the
11 following: ethanol, natural gas, compressed nat-
12 ural gas, liquified natural gas, liquefied petro-
13 leum gas, or hydrogen.

14 “(B) Biodiesel (as defined in section
15 40A(d)(1)).

16 “(C) Any mixture—

17 “(i) which consists of two or more of
18 the following: biodiesel (as so defined), die-
19 sel fuel (as defined in section 4083(a)(3)),
20 or kerosene, and

21 “(ii) at least 20 percent of the volume
22 of which consists of biodiesel (as so de-
23 fined) determined without regard to any
24 kerosene in such mixture.”.

1 (2) AMENDMENTS RELATED TO SECTION 1362
2 OF THE ACT.—

3 (A)(i) Paragraph (1) of section 4041(d) is
4 amended by adding at the end the following
5 new sentence: “No tax shall be imposed under
6 the preceding sentence on the sale or use of any
7 liquid if tax was imposed with respect to such
8 liquid under section 4081 at the Leaking Un-
9 derground Storage Tank Trust Fund financing
10 rate.”.

11 (ii) Paragraph (3) of section 4042(b) is
12 amended to read as follows:

13 “(3) EXCEPTION FOR FUEL ON WHICH LEAK-
14 ING UNDERGROUND STORAGE TANK TRUST FUND FI-
15 NANCING RATE SEPARATELY IMPOSED.—The Leak-
16 ing Underground Storage Tank Trust Fund financ-
17 ing rate under paragraph (2)(B) shall not apply to
18 the use of any fuel if tax was imposed with respect
19 to such fuel under section 4041(d) or 4081 at the
20 Leaking Underground Storage Tank Trust Fund fi-
21 nancing rate.”.

22 (iii) Notwithstanding section 6430 of the
23 Internal Revenue Code of 1986, a refund, cred-
24 it, or payment may be made under subchapter
25 B of chapter 65 of such Code for taxes imposed

1 with respect to any liquid after September 30,
2 2005, and before the date of the enactment of
3 this Act under section 4041(d)(1) or 4042 of
4 such Code at the Leaking Underground Storage
5 Tank Trust Fund financing rate to the extent
6 that tax was imposed with respect to such liq-
7 uid under section 4081 at the Leaking Under-
8 ground Storage Tank Trust Fund financing
9 rate.

10 (B)(i) Paragraph (5) of section 4041(d) is
11 amended—

12 (I) by striking “(other than with re-
13 spect to any sale for export under para-
14 graph (3) thereof)”, and

15 (II) by adding at the end the fol-
16 lowing new sentence: “The preceding sen-
17 tence shall not apply with respect to sub-
18 section (g)(3) and so much of subsection
19 (g)(1) as relates to vessels (within the
20 meaning of section 4221(d)(3)) employed
21 in foreign trade or trade between the
22 United States and any of its possessions.”

23 (ii) Section 4082 is amended—

24 (I) by striking “(other than such tax
25 at the Leaking Underground Storage Tank

1 Trust Fund financing rate imposed in all
2 cases other than for export)” in subsection
3 (a), and

4 (II) by redesignating subsections (f)
5 and (g) as subsections (g) and (h) and by
6 inserting after subsection (e) the following
7 new subsection:

8 “(f) EXCEPTION FOR LEAKING UNDERGROUND
9 STORAGE TANK TRUST FUND FINANCING RATE.—

10 “(1) IN GENERAL.—Subsection (a) shall not
11 apply to the tax imposed under section 4081 at the
12 Leaking Underground Storage Tank Trust Fund fi-
13 nancing rate.

14 “(2) EXCEPTION FOR EXPORT, ETC.—Para-
15 graph (1) shall not apply with respect to any fuel if
16 the Secretary determines that such fuel is destined
17 for export or for use by the purchaser as supplies for
18 vessels (within the meaning of section 4221(d)(3))
19 employed in foreign trade or trade between the
20 United States and any of its possessions.”.

21 (iii) Subsection (e) of section 4082 is
22 amended—

23 (I) by striking “an aircraft, the rate
24 of tax under section 4081(a)(2)(A)(iii)
25 shall be zero.” and inserting “an aircraft—

1 “(1) the rate of tax under section
2 4081(a)(2)(A)(iii) shall be zero, and

3 “(2) if such aircraft is employed in foreign
4 trade or trade between the United States and any of
5 its possessions, the increase in such rate under sec-
6 tion 4081(a)(2)(B) shall be zero.”; and

7 (II) by moving the last sentence flush
8 with the margin of such subsection (fol-
9 lowing the paragraph (2) added by clause
10 (i)).

11 (iv) Section 6430 is amended to read as
12 follows:

13 **“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UN-**
14 **DERGROUND STORAGE TANK TRUST FUND**
15 **FINANCING RATE.**

16 “‘No refunds, credits, or payments shall be made
17 under this subchapter for any tax imposed at the Leaking
18 Underground Storage Tank Trust Fund financing rate,
19 except in the case of fuels—

20 “(1) which are exempt from tax under section
21 4081(a) by reason of section 4081(f)(2),

22 “(2) which are exempt from tax under section
23 4041(d) by reason of the last sentence of paragraph
24 (5) thereof, or

1 “(3) with respect to which the rate increase
2 under section 4081(a)(2)(B) is zero by reason of
3 section 4082(e)(2).”.

4 (C) Paragraph (5) of section 4041(d) is
5 amended by inserting “(b)(1)(A)” after “sub-
6 sections”.

7 (3) EFFECTIVE DATE.—

8 (A) IN GENERAL.—Except as otherwise
9 provided in this paragraph, the amendments
10 made by this subsection shall take effect as if
11 included in the provisions of the Energy Policy
12 Act of 2005 to which they relate.

13 (B) NONAPPLICATION OF EXEMPTION FOR
14 OFF-HIGHWAY BUSINESS USE.—The amend-
15 ment made by paragraph (2)(C) shall apply to
16 fuel sold for use or used after the date of the
17 enactment of this Act.

18 (C) AMENDMENT MADE BY THE SAFETEA-
19 LU.—The amendment made by paragraph
20 (2)(B)(iii)(II) shall take effect as if included in
21 section 11161 of the SAFETEA-LU.

22 (c) AMENDMENTS RELATED TO SECTION 339 OF
23 THE AMERICAN JOBS CREATION ACT OF 2004.—

1 (1)(A) Section 45H is amended by striking sub-
2 section (d) and by redesignating subsections (e), (f),
3 and (g) as subsections (d), (e), and (f), respectively.

4 (B) Subsection (d) of section 280C is amended
5 to read as follows:

6 “(d) CREDIT FOR LOW SULFUR DIESEL FUEL PRO-
7 DUCTION.—The deductions otherwise allowed under this
8 chapter for the taxable year shall be reduced by the
9 amount of the credit determined for the taxable year
10 under section 45H(a).”.

11 (C) Subsection (a) of section 1016 is amended
12 by striking paragraph (31) and by redesignating
13 paragraphs (32) through (37) as paragraphs (31)
14 through (36), respectively.

15 (2)(A) Section 45H, as amended by paragraph
16 (1), is amended by adding at the end the following
17 new subsection:

18 “(g) ELECTION TO NOT TAKE CREDIT.—No credit
19 shall be determined under subsection (a) for the taxable
20 year if the taxpayer elects not to have subsection (a) apply
21 to such taxable year.”.

22 (B) Subsection (m) of section 6501 is amended
23 by inserting “45H(g),” after “45C(d)(4),”.

24 (3)(A) Subsections (b)(1)(A), (c)(2), (e)(1), and
25 (e)(2) of section 45H (as amended by paragraph

1 (1)) and section 179B(a) are each amended by strik-
2 ing “qualified capital costs” and inserting “qualified
3 costs”.

4 (B) The heading of paragraph (2) of section
5 45H(c) is amended by striking “CAPITAL”.

6 (C) Subsection (a) of section 179B is amended
7 by inserting “and which are properly chargeable to
8 capital account” before the period at the end.

9 (4) The amendments made by this subsection
10 shall take effect as if included in section 339 of the
11 American Jobs Creation Act of 2004.

12 **PART III—ADVANCED TECHNOLOGY VEHICLES**

13 **SEC. 241. EXPANSION AND MODIFICATION OF CREDIT FOR**
14 **ALTERNATIVE FUEL MOTOR VEHICLES.**

15 (a) EXTENSION.—Section 30B(j) (relating to termi-
16 nation) is amended—

17 (1) by striking “December 31, 2014” in para-
18 graph (1) and inserting “December 31, 2016”,

19 (2) by striking “December 31, 2010” in para-
20 graph (2) and inserting “December 31, 2012”,

21 (3) by striking “December 31, 2009” in para-
22 graph (3) and inserting “December 31, 2012”, and

23 (4) by striking “December 31, 2010” in para-
24 graph (4) and inserting “December 31, 2012”.

1 (b) MODIFICATION RELATING TO NEW QUALIFIED
 2 ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—The last
 3 sentence of section 30B(e)(2) is amended to read as fol-
 4 lows: “A new qualified alternative fuel motor vehicle which
 5 weighs more than 14,000 pounds gross vehicle weight rat-
 6 ing shall be deemed to satisfy the preceding sentence if
 7 it is certified as exceeding the most stringent standard ap-
 8 plicable to the model year in which such motor vehicle was
 9 produced.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date of the enactment
 12 of this Act.

13 **SEC. 242. CREDIT FOR PLUG-IN ELECTRIC DRIVE MOTOR**
 14 **VEHICLES.**

15 (a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE
 16 CREDIT.—

17 (1) IN GENERAL.—Subpart B of part IV of
 18 subchapter A of chapter 1 (relating to other credits)
 19 is amended by adding at the end the following new
 20 section:

21 **“SEC. 30D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE**
 22 **CREDIT.**

23 **“(a) ALLOWANCE OF CREDIT.—**

24 **“(1) IN GENERAL.—**There shall be allowed as a
 25 credit against the tax imposed by this chapter for

1 the taxable year an amount equal to the applicable
2 amount with respect to each new qualified plug-in
3 electric drive motor vehicle placed in service by the
4 taxpayer during the taxable year.

5 “(2) APPLICABLE AMOUNT.—For purposes of
6 paragraph (1), the applicable amount is sum of—

7 “(A) \$2,500, plus

8 “(B) \$400 for each kilowatt hour of trac-
9 tion battery capacity of at least 5 kilowatt
10 hours, plus

11 “(C) \$400 for each kilowatt hour of trac-
12 tion battery capacity in excess of 5 kilowatt
13 hours.

14 “(b) LIMITATIONS.—

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

18 “(A) \$7,500, in the case of any new quali-
19 fied plug-in electric drive motor vehicle with a
20 gross vehicle weight rating of not more than
21 10,000 pounds,

22 “(B) \$10,000, in the case of any new
23 qualified plug-in electric drive motor vehicle
24 with a gross vehicle weight rating of more than

1 10,000 pounds but not more than 14,000
2 pounds,

3 “(C) \$12,500, in the case of any new
4 qualified plug-in electric drive motor vehicle
5 with a gross vehicle weight rating of more than
6 14,000 pounds but not more than 26,000
7 pounds, and

8 “(D) \$15,000, in the case of any new
9 qualified plug-in electric drive motor vehicle
10 with a gross vehicle weight rating of more than
11 26,000 pounds.

12 “(2) LIMITATION ON NUMBER OF PASSENGER
13 VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CRED-
14 IT.—No credit shall be allowed under subsection (a)
15 for any new qualified plug-in electric drive motor ve-
16 hicle which is a passenger vehicle or light truck in
17 any calendar year following the calendar year which
18 includes the first date on which the total number of
19 such new qualified plug-in electric drive motor vehi-
20 cles sold for use in the United States after Decem-
21 ber 31, 2007, is at least 250,000.

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

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

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

5 “(3) which, in the case of a passenger vehicle
6 or light truck which has a gross vehicle weight rat-
7 ing of not more than 8,500 pounds, has received a
8 certificate of conformity under the Clean Air Act
9 and meets or exceeds the equivalent qualifying Cali-
10 fornia low emission vehicle standard under section
11 243(e)(2) of the Clean Air Act for that make and
12 model year, and

13 “(A) in the case of a vehicle having a gross
14 vehicle weight rating of 6,000 pounds or less,
15 the Bin 5 Tier II emission standard established
16 in regulations prescribed by the Administrator
17 of the Environmental Protection Agency under
18 section 202(i) of the Clean Air Act for that
19 make and model year vehicle, and

20 “(B) in the case of a vehicle having a gross
21 vehicle weight rating of more than 6,000
22 pounds but not more than 8,500 pounds, the
23 Bin 8 Tier II emission standard which is so es-
24 tablished,

1 “(4) the original use of which commences with
2 the taxpayer,

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

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

6 “(d) APPLICATION WITH OTHER CREDITS.—

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

15 “(2) PERSONAL CREDIT.—The credit allowed
16 under subsection (a) (after the application of para-
17 graph (1)) for any taxable year shall not exceed the
18 excess (if any) of—

19 “(A) the regular tax liability (as defined in
20 section 26(b)) reduced by the sum of the credits
21 allowable under subpart A and sections 27, 30,
22 30B, and 30C, over

23 “(B) the tentative minimum tax for the
24 taxable year.

1 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) MOTOR VEHICLE.—The term ‘motor vehi-
4 cle’ has the meaning given such term by section
5 30(c)(2).

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

13 “(3) TRACTION BATTERY CAPACITY.—Traction
14 battery capacity shall be measured in kilowatt hours
15 from a 100 percent state of charge to a zero percent
16 state of charge.

17 “(4) REDUCTION IN BASIS.—For purposes of
18 this subtitle, the basis of any property for which a
19 credit is allowable under subsection (a) shall be re-
20 duced by the amount of such credit so allowed.

21 “(5) NO DOUBLE BENEFIT.—The amount of
22 any deduction or other credit allowable under this
23 chapter for a new qualified plug-in electric drive
24 motor vehicle shall be reduced by the amount of

1 credit allowed under subsection (a) for such vehicle
2 for the taxable year.

3 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-
4 TY.—In the case of a vehicle the use of which is de-
5 scribed in paragraph (3) or (4) of section 50(b) and
6 which is not subject to a lease, the person who sold
7 such vehicle to the person or entity using such vehi-
8 cle shall be treated as the taxpayer that placed such
9 vehicle in service, but only if such person clearly dis-
10 closes to such person or entity in a document the
11 amount of any credit allowable under subsection (a)
12 with respect to such vehicle (determined without re-
13 gard to subsection (b)(2)).

14 “(7) PROPERTY USED OUTSIDE UNITED
15 STATES, ETC., NOT QUALIFIED.—No credit shall be
16 allowable under subsection (a) with respect to any
17 property referred to in section 50(b)(1) or with re-
18 spect to the portion of the cost of any property
19 taken into account under section 179.

20 “(8) RECAPTURE.—The Secretary shall, by reg-
21 ulations, provide for recapturing the benefit of any
22 credit allowable under subsection (a) with respect to
23 any property which ceases to be property eligible for
24 such credit (including recapture in the case of a

1 lease period of less than the economic life of a vehi-
2 cle).

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

7 “(10) INTERACTION WITH AIR QUALITY AND
8 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
9 erwise provided in this section, a motor vehicle shall
10 not be considered eligible for a credit under this sec-
11 tion unless such vehicle is in compliance with—

12 “(A) the applicable provisions of the Clean
13 Air Act for the applicable make and model year
14 of the vehicle (or applicable air quality provi-
15 sions of State law in the case of a State which
16 has adopted such provision under a waiver
17 under section 209(b) of the Clean Air Act), and

18 “(B) the motor vehicle safety provisions of
19 sections 30101 through 30169 of title 49,
20 United States Code.

21 “(f) REGULATIONS.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), the Secretary shall promulgate such regu-
24 lations as necessary to carry out the provisions of
25 this section.

1 “(2) COORDINATION IN PRESCRIPTION OF CER-
2 TAIN REGULATIONS.—The Secretary of the Treas-
3 ury, in coordination with the Secretary of Transpor-
4 tation and the Administrator of the Environmental
5 Protection Agency, shall prescribe such regulations
6 as necessary to determine whether a motor vehicle
7 meets the requirements to be eligible for a credit
8 under this section.

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

11 (2) COORDINATION WITH OTHER MOTOR VEHI-
12 CLE CREDITS.—

13 (A) NEW QUALIFIED FUEL CELL MOTOR
14 VEHICLES.—Paragraph (3) of section 30B(b) is
15 amended by adding at the end the following
16 new flush sentence:

17 “Such term shall not include any motor vehicle
18 which is a new qualified plug-in electric drive motor
19 vehicle (as defined by section 30D(c)).”.

20 (B) NEW QUALIFIED HYBRID MOTOR VEHI-
21 CLES.—Paragraph (3) of section 30B(d) is
22 amended by adding at the end the following
23 new flush sentence:

1 “Such term shall not include any motor vehicle
2 which is a new qualified plug-in electric drive motor
3 vehicle (as defined by section 30D(e)).”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Section 38(b) is amended by striking
6 “plus” at the end of paragraph (30), by strik-
7 ing the period at the end of paragraph (31) and
8 inserting “plus”, and by adding at the end the
9 following new paragraph:

10 “(32) the portion of the new qualified plug-in
11 electric drive motor vehicle credit to which section
12 30D(d)(1) applies.”.

13 (B) Section 55(e)(3) is amended by insert-
14 ing “30D(d)(2),” after “30C(d)(2),”.

15 (C) Section 1016(a), as amended by this
16 Act, is amended by striking “and” at the end
17 of paragraph (35), by striking the period at the
18 end of paragraph (36) and inserting “, and”,
19 and by adding at the end the following new
20 paragraph:

21 “(37) to the extent provided in section
22 30D(e)(4).”.

23 (D) Section 6501(m) is amended by insert-
24 ing “30D(e)(9)” after “30C(e)(5)”.

1 (E) The table of sections for subpart B of
 2 part IV of subchapter A of chapter 1 is amend-
 3 ed by adding at the end the following new item:

“Sec. 30D. Plug-in electric drive motor vehicle credit.”.

4 (b) CONVERSION KITS.—

5 (1) IN GENERAL.—Section 30B (relating to al-
 6 ternative motor vehicle credit) is amended by reded-
 7 ignating subsections (i) and (j) as subsections (j)
 8 and (k), respectively, and by inserting after sub-
 9 section (h) the following new subsection:

10 “(i) PLUG-IN CONVERSION CREDIT.—

11 “(1) IN GENERAL.—For purposes of subsection
 12 (a), the plug-in conversion credit determined under
 13 this subsection with respect to any motor vehicle
 14 which is converted to a qualified plug-in electric
 15 drive motor vehicle is an amount equal to 10 percent
 16 of the cost of the plug-in traction battery module in-
 17 stalled in such vehicle as part of such conversion.

18 “(2) LIMITATIONS.—The amount of the credit
 19 allowed under this subsection shall not exceed
 20 \$2,500 with respect to the conversion of any motor
 21 vehicle.

22 “(3) DEFINITIONS AND SPECIAL RULES.—For
 23 purposes of this subsection—

24 “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE
 25 MOTOR VEHICLE.—The term ‘qualified plug-in

1 electric drive motor vehicle’ means any new
2 qualified plug-in electric drive motor vehicle (as
3 defined in section 30D(c), determined without
4 regard to paragraphs (4) and (6) thereof).

5 “(B) PLUG-IN TRACTION BATTERY MOD-
6 ULE.—The term ‘plug-in traction battery mod-
7 ule’ means an electro-chemical energy storage
8 device which—

9 “(i) has a traction battery capacity of
10 not less than 2.5 kilowatt hours,

11 “(ii) is equipped with an electrical
12 plug by means of which it can be energized
13 and recharged when plugged into an exter-
14 nal source of electric power,

15 “(iii) consists of a standardized con-
16 figuration and is mass produced,

17 “(iv) has been tested and approved by
18 the National Highway Transportation
19 Safety Administration as compliant with
20 applicable motor vehicle and motor vehicle
21 equipment safety standards when installed
22 by a mechanic with standardized training
23 in protocols established by the battery
24 manufacturer as part of a nationwide dis-
25 tribution program, and

1 “(v) is certified by a battery manufac-
2 turer as meeting the requirements of
3 clauses (i) through (iv).

4 “(C) CREDIT ALLOWED TO LESSOR OF
5 BATTERY MODULE.—In the case of a plug-in
6 traction battery module which is leased to the
7 taxpayer, the credit allowed under this sub-
8 section shall be allowed to the lessor of the
9 plug-in traction battery module.

10 “(D) CREDIT ALLOWED IN ADDITION TO
11 OTHER CREDITS.—The credit allowed under
12 this subsection shall be allowed with respect to
13 a motor vehicle notwithstanding whether a cred-
14 it has been allowed with respect to such motor
15 vehicle under this section (other than this sub-
16 section) in any preceding taxable year.

17 “(4) TERMINATION.—This subsection shall not
18 apply to conversions made after December 31,
19 2009.”.

20 (2) CREDIT TREATED AS PART OF ALTER-
21 NATIVE MOTOR VEHICLE CREDIT.—Section 30B(a)
22 is amended by striking “and” at the end of para-
23 graph (3), by striking the period at the end of para-
24 graph (4) and inserting “, and”, and by adding at
25 the end the following new paragraph:

1 “(5) the plug-in conversion credit determined
2 under subsection (i).”.

3 (3) NO RECAPTURE FOR VEHICLES CONVERTED
4 TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VE-
5 HICLES.—Paragraph (8) of section 30B(h) is
6 amended by adding at the end the following: “, ex-
7 cept that no benefit shall be recaptured if such prop-
8 erty ceases to be eligible for such credit by reason
9 of conversion to a qualified plug-in electric drive
10 motor vehicle.”

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to property placed in service after
13 December 31, 2007, in taxable years beginning after such
14 date.

15 **SEC. 243. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
16 **REDUCTION UNITS AND ADVANCED INSULA-**
17 **TION ADDED AFTER PURCHASE.**

18 (a) IN GENERAL.—Section 4053 (relating to exemp-
19 tions) is amended by adding at the end the following new
20 paragraphs:

21 “(7) IDLING REDUCTION DEVICE.—Any device
22 or system of devices which—

23 “(A) is designed to provide to a vehicle
24 those services (such as heat, air conditioning, or
25 electricity) that would otherwise require the op-

1 eration of the main drive engine while the vehi-
2 cle is temporarily parked or remains stationary
3 using either—

4 “(i) an all electric unit, such as a bat-
5 tery powered unit or from grid-supplied
6 electricity, or

7 “(ii) a dual fuel unit powered by die-
8 sel or other fuels, and capable of providing
9 such services from grid-supplied electricity
10 or on-truck batteries alone, and

11 “(B) is certified by the Secretary of En-
12 ergy, in consultation with the Administrator of
13 the Environmental Protection Agency and the
14 Secretary of Transportation, to reduce long-du-
15 ration idling of such vehicle at a motor vehicle
16 rest stop or other location where such vehicles
17 are temporarily parked or remain stationary.

18 For purposes of subparagraph (B), the term ‘long-
19 duration idling’ means the operation of a main drive
20 engine, for a period greater than 15 consecutive
21 minutes, where the main drive engine is not engaged
22 in gear. Such term does not apply to routine stop-
23 pages associated with traffic movement or conges-
24 tion.

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

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to sales or installations after De-
5 cember 31, 2007.

6 **PART IV—CONSERVATION AND ENERGY**

7 **EFFICIENCY**

8 **SEC. 251. EXTENSION AND MODIFICATION OF NONBUSI-**
9 **NESS ENERGY PROPERTY CREDIT.**

10 (a) **EXTENSION OF CREDIT.**—Section 25C(g) (relat-
11 ing to termination) is amended by striking “December 31,
12 2007” and inserting “December 31, 2009”.

13 (b) **NATURAL GAS FIRED HEAT PUMPS.**—Section
14 25C(d)(3) (relating to energy-efficient building property)
15 is amended—

16 (1) by striking “and” at the end of subpara-
17 graph (D),

18 (2) by striking the period at the end of sub-
19 paragraph (E) and inserting “, and”, and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(F) a natural gas fired heat pump with a
23 heating coefficient of performance (COP) of at
24 least 1.1.”.

1 (c) MODIFICATIONS OF STANDARDS FOR ENERGY-
2 EFFICIENT BUILDING PROPERTY.—

3 (1) INCREASED LIMITATION FOR OIL FURNACES
4 AND NATURAL GAS, PROPANE, AND OIL HOT WATER
5 BOILERS.—

6 (A) IN GENERAL.—Subparagraphs (B) and
7 (C) of section 25C(b)(3) are amended to read
8 as follows:

9 “(B) \$150 for any qualified natural gas
10 furnace or qualified propane furnace, and

11 “(C) \$300 for—

12 “(i) any item of energy-efficient build-
13 ing property, and

14 “(ii) any qualified oil furnace, quali-
15 fied natural gas hot water boiler, qualified
16 propane hot water boiler, or qualified oil
17 hot water boiler.”.

18 (B) CONFORMING AMENDMENT.—Clause
19 (ii) of section 25C(d)(2)(A) is amended to read
20 as follows:

21 “(ii) any qualified natural gas fur-
22 nace, qualified propane furnace, qualified
23 oil furnace, qualified natural gas hot water
24 boiler, qualified propane hot water boiler,
25 or qualified oil hot water boiler, or”.

1 (2) ELECTRIC HEAT PUMPS.—Subparagraph
2 (B) of section 25C(d)(3) is amended to read as fol-
3 lows:

4 “(B) an electric heat pump which achieves
5 the highest efficiency tier established by the
6 Consortium for Energy Efficiency, as in effect
7 on January 1, 2008.”.

8 (3) WATER HEATERS.—Subparagraph (E) of
9 section 25C(d)(3) is amended to read as follows:

10 “(E) a natural gas, propane, or oil water
11 heater which has either an energy factor of at
12 least 0.80 or a thermal efficiency of at least 90
13 percent.”.

14 (4) OIL FURNACES AND HOT WATER BOIL-
15 ERS.—Paragraph (4) of section 25C(d) is amended
16 to read as follows:

17 “(4) QUALIFIED NATURAL GAS, PROPANE, AND
18 OIL FURNACES AND HOT WATER BOILERS.—

19 “(A) QUALIFIED NATURAL GAS FUR-
20 NACE.—The term ‘qualified natural gas fur-
21 nace’ means any natural gas furnace which
22 achieves an annual fuel utilization efficiency
23 rate of not less than 95.

24 “(B) QUALIFIED NATURAL GAS HOT
25 WATER BOILER.—The term ‘qualified natural

1 gas hot water boiler’ means any natural gas hot
2 water boiler which achieves an annual fuel utili-
3 zation efficiency rate of not less than 90.

4 “(C) QUALIFIED PROPANE FURNACE.—
5 The term ‘qualified propane furnace’ means any
6 propane furnace which achieves an annual fuel
7 utilization efficiency rate of not less than 95.

8 “(D) QUALIFIED PROPANE HOT WATER
9 BOILER.—The term ‘qualified propane hot
10 water boiler’ means any propane hot water boil-
11 er which achieves an annual fuel utilization effi-
12 ciency rate of not less than 90.

13 “(E) QUALIFIED OIL FURNACES.—The
14 term ‘qualified oil furnace’ means any oil fur-
15 nace which achieves an annual fuel utilization
16 efficiency rate of not less than 90.

17 “(F) QUALIFIED OIL HOT WATER BOIL-
18 ER.—The term ‘qualified oil hot water boiler’
19 means any oil hot water boiler which achieves
20 an annual fuel utilization efficiency rate of not
21 less than 90.”.

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

1 **SEC. 252. EXTENSION AND MODIFICATION OF NEW ENERGY**
2 **EFFICIENT HOME CREDIT.**

3 (a) EXTENSION OF CREDIT.—Subsection (g) of sec-
4 tion 45L (relating to termination) is amended by striking
5 “December 31, 2008” and inserting “December 31,
6 2011”.

7 (b) MODIFICATION.—

8 (1) IN GENERAL.—Subparagraph (B) of section
9 45L(a)(1) is amended to read as follows:

10 “(B)(i) acquired by a person from such eli-
11 gible contractor and used by any person as a
12 residence during the taxable year, or

13 “(ii) used by such eligible contractor as a
14 residence during the taxable year.”.

15 (2) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to homes purchased
17 after December 31, 2008.

18 **SEC. 253. EXTENSION AND MODIFICATION OF ENERGY EF-**
19 **FICIENT COMMERCIAL BUILDINGS DEDUC-**
20 **TION.**

21 (a) EXTENSION.—Section 179D(h) (relating to ter-
22 mination) is amended by striking “December 31, 2008”
23 and inserting “December 31, 2013”.

24 (b) ADJUSTMENT OF MAXIMUM DEDUCTION
25 AMOUNT.—

1 (1) IN GENERAL.—Subparagraph (A) of section
 2 179D(b)(1) (relating to maximum amount of deduc-
 3 tion) is amended by striking “\$1.80” and inserting
 4 “\$2.25”.

5 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
 6 section 179D(d) is amended—

7 (A) by striking “\$.60” and inserting
 8 “\$0.75”, and

9 (B) by striking “\$1.80” and inserting
 10 “\$2.25”.

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

14 **SEC. 254. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
 15 **ANCE CREDIT FOR APPLIANCES PRODUCED**
 16 **AFTER 2007.**

17 (a) IN GENERAL.—Section 45M of the Internal Rev-
 18 enue Code of 1986 is amended to read as follows:

19 **“SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.**

20 “(a) GENERAL RULE.—

21 “(1) IN GENERAL.—For purposes of section 38,
 22 the energy efficient appliance credit determined
 23 under this section for any taxable year is an amount
 24 equal to the sum of the credit amounts determined
 25 under paragraph (2) for each type of qualified en-

1 energy efficient appliance produced by the taxpayer
2 during the calendar year ending with or within the
3 taxable year.

4 “(2) CREDIT AMOUNTS.—The credit amount
5 determined for any type of qualified energy efficient
6 appliance is—

7 “(A) the applicable amount determined
8 under subsection (b) with respect to such type,
9 multiplied by

10 “(B) the eligible production for such type.

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-
12 section (a)—

13 “(1) DISHWASHERS.—The applicable amount is
14 \$75 in the case of a residential model dishwasher
15 which—

16 “(A) is manufactured in calendar year
17 2008, 2009, or 2010, and

18 “(B) uses not more than 307 kilowatt
19 hours per year and 5.0 gallons per cycle (5.5
20 gallons for dishwashers designed for greater
21 than 12 place settings).

22 “(2) CLOTHES WASHERS.—The applicable
23 amount is—

24 “(A) \$125 in the case of a residential
25 model top-loading clothes washer which—

1 “(i) is manufactured in calendar year
2 2008 or 2009, and

3 “(ii) meets or exceeds a 1.8 MEF and
4 does not exceed a 7.5 water consumption
5 factor,

6 “(B) \$150 in the case of a residential or
7 commercial model clothes washer which—

8 “(i) is manufactured in calendar year
9 2008, 2009, or 2010, and

10 “(ii) meets or exceeds a 2.0 MEF and
11 does not exceed a 6.0 water consumption
12 factor, and

13 “(C) \$250 in the case of a residential or
14 commercial model clothes washer which—

15 “(i) is manufactured in calendar year
16 2008, 2009, or 2010, and

17 “(ii) meets or exceeds a 2.2 MEF and
18 does not exceed a 4.5 water consumption
19 factor.

20 “(3) REFRIGERATORS.—The applicable amount
21 is—

22 “(A) \$75 in the case of a residential model
23 refrigerator which—

24 “(i) is manufactured in calendar year
25 2008 or 2009, and

1 “(ii) consumes at least 23 percent,
2 but not more than 24.9 percent, fewer kilo-
3 watt hours per year than the 2001 energy
4 conservation standards,

5 “(B) \$100 in the case of a residential
6 model refrigerator which—

7 “(i) is manufactured in calendar year
8 2008, 2009, or 2010, and

9 “(ii) consumes at least 25 percent,
10 but not more than 29.9 percent, fewer kilo-
11 watt hours per year than the 2001 energy
12 conservation standards, and

13 “(C) \$200 in the case of a residential
14 model refrigerator which—

15 “(i) is manufactured in calendar year
16 2008, 2009, or 2010, and

17 “(ii) consumes at least 30 percent
18 fewer kilowatt hours per year than the
19 2001 energy conservation standards.

20 “(c) ELIGIBLE PRODUCTION.—The eligible produc-
21 tion in a calendar year with respect to each type of quali-
22 fied energy efficient appliance is the excess of—

23 “(1) the number of appliances of such type
24 which are produced in the United States by the tax-
25 payer during such calendar year, over

1 “(2) the average number of appliances of such
2 type which were produced in the United States by
3 the taxpayer (or any predecessor) during the pre-
4 ceding 2-calendar year period.

5 “(d) TYPES OF QUALIFIED ENERGY EFFICIENT AP-
6 PLIANCES.—For purposes of this section, the types of
7 qualified energy efficient appliances are—

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

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

11 “(3) refrigerators described in subsection
12 (b)(3).

13 “(e) LIMITATIONS.—

14 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

15 Except as provided in paragraph (2), the aggregate
16 amount of credit allowed under subsection (a) with
17 respect to a taxpayer for any taxable year shall not
18 exceed \$75,000,000 reduced by the amount of the
19 credit allowed under subsection (a) to the taxpayer
20 (or any predecessor) for all prior taxable years be-
21 ginning after December 31, 2007.

22 “(2) LIMITATION BASED ON GROSS RE-
23 CEIPTS.—The credit allowed under subsection (a)
24 with respect to a taxpayer for the taxable year shall
25 not exceed an amount equal to 2 percent of the aver-

1 age annual gross receipts of the taxpayer for the 3
2 taxable years preceding the taxable year in which
3 the credit is determined beginning after December
4 31, 2007.

5 “(3) GROSS RECEIPTS.—For purposes of this
6 subsection, the rules of paragraphs (2) and (3) of
7 section 448(c) shall apply.

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

9 “(1) DISHWASHER.—The term ‘dishwasher’
10 means a dishwasher subject to the energy conserva-
11 tion standards established by the Department of En-
12 ergy.

13 “(2) CLOTHES WASHER.—The term ‘clothes
14 washer’ includes a clothes washer subject to the en-
15 ergy conservation standards established by the De-
16 partment of Energy.

17 “(3) TOP-LOADING CLOTHES WASHER.—The
18 term ‘top-loading clothes washer’ means a clothes
19 washer with the clothes container compartment ac-
20 cess located on the top of the machine.

21 “(4) REFRIGERATOR.—The term ‘refrigerator’
22 means an automatic defrost refrigerator-freezer
23 which has an internal volume of at least 16.5 cubic
24 feet.

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

5 “(6) MEF.—The term ‘MEF’ means the modi-
6 fied energy factor established by the Department of
7 Energy for compliance with the Federal energy con-
8 servation standard.

9 “(7) WATER CONSUMPTION FACTOR.—The
10 term ‘water consumption factor’ means the quotient
11 of the total weighted per-cycle water consumption di-
12 vided by the cubic foot capacity of the clothes wash-
13 er.

14 “(8) 2001 ENERGY CONSERVATION STAND-
15 ARD.—The term ‘2001 energy conservation stand-
16 ard’ means the energy conservation standards pro-
17 mulgated by the Department of Energy and effective
18 July 1, 2001.

19 “(g) SPECIAL RULES.—For purposes of this section:

20 “(1) IN GENERAL.—Rules similar to the rules
21 of subsections (c), (d), and (e) of section 52 shall
22 apply.

23 “(2) CONTROLLED GROUP.—

24 “(A) IN GENERAL.—All persons treated as
25 a single employer under subsection (a) or (b) of

1 section 52 or subsection (m) or (o) of section
2 414 shall be treated as a single producer.

3 “(B) INCLUSION OF FOREIGN CORPORA-
4 TIONS.—For purposes of subparagraph (A), in
5 applying subsections (a) and (b) of section 52
6 to this section, section 1563 shall be applied
7 without regard to subsection (b)(2)(C) thereof.

8 “(3) VERIFICATION.—No amount shall be al-
9 lowed as a credit under subsection (a) with respect
10 to which the taxpayer has not submitted such infor-
11 mation or certification as the Secretary, in consulta-
12 tion with the Secretary of Energy, determines nec-
13 essary.”.

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

17 **SEC. 255. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**
18 **TAIN REUSE AND RECYCLING PROPERTY.**

19 (a) IN GENERAL.—Section 168 of the Internal Rev-
20 enue Code of 1986 (relating to accelerated cost recovery
21 system) (as amended by section 205) is amended by add-
22 ing at the end the following new subsection:

23 “(n) SPECIAL ALLOWANCE FOR CERTAIN REUSE
24 AND RECYCLING PROPERTY.—

1 “(1) IN GENERAL.—In the case of any qualified
2 reuse and recycling property—

3 “(A) the depreciation deduction provided
4 by section 167(a) for the taxable year in which
5 such property is placed in service shall include
6 an allowance equal to 50 percent of the ad-
7 justed basis of the qualified reuse and recycling
8 property, and

9 “(B) the adjusted basis of the qualified
10 reuse and recycling property shall be reduced by
11 the amount of such deduction before computing
12 the amount otherwise allowable as a deprecia-
13 tion deduction under this chapter for such tax-
14 able year and any subsequent taxable year.

15 “(2) QUALIFIED REUSE AND RECYCLING PROP-
16 erty.—For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘qualified
18 reuse and recycling property’ means any reuse
19 and recycling property—

20 “(i) to which this section applies,

21 “(ii) which has a useful life of at least
22 5 years,

23 “(iii) the original use of which com-
24 mences with the taxpayer after December
25 31, 2006, and

1 “(iv) which is—

2 “(I) acquired by purchase (as de-
3 fined in section 179(d)(2)) by the tax-
4 payer after December 31, 2006, but
5 only if no written binding contract for
6 the acquisition was in effect before
7 January 1, 2007, or

8 “(II) acquired by the taxpayer
9 pursuant to a written binding contract
10 which was entered into after Decem-
11 ber 31, 2006.

12 “(B) EXCEPTIONS.—

13 “(i) ALTERNATIVE DEPRECIATION
14 PROPERTY.—The term ‘qualified reuse and
15 recycling property’ shall not include any
16 property to which the alternative deprecia-
17 tion system under subsection (g) applies,
18 determined without regard to paragraph
19 (7) of subsection (g) (relating to election to
20 have system apply).

21 “(ii) ELECTION OUT.—If a taxpayer
22 makes an election under this clause with
23 respect to any class of property for any
24 taxable year, this subsection shall not

1 apply to all property in such class placed
2 in service during such taxable year.

3 “(C) SPECIAL RULE FOR SELF-CON-
4 STRUCTED PROPERTY.—In the case of a tax-
5 payer manufacturing, constructing, or pro-
6 ducing property for the taxpayer’s own use, the
7 requirements of clause (iv) of subparagraph (A)
8 shall be treated as met if the taxpayer begins
9 manufacturing, constructing, or producing the
10 property after December 31, 2006.

11 “(D) DEDUCTION ALLOWED IN COM-
12 PUTING MINIMUM TAX.—For purposes of deter-
13 mining alternative minimum taxable income
14 under section 55, the deduction under sub-
15 section (a) for qualified reuse and recycling
16 property shall be determined under this section
17 without regard to any adjustment under section
18 56.

19 “(3) DEFINITIONS.—For purposes of this sub-
20 section—

21 “(A) REUSE AND RECYCLING PROPERTY.—

22 “(i) IN GENERAL.—The term ‘reuse
23 and recycling property’ means any machin-
24 ery and equipment (not including buildings
25 or real estate), along with all appur-

1 tenances thereto, including software nec-
2 essary to operate such equipment, which is
3 used exclusively to recycle qualified mate-
4 rials.

5 “(ii) EXCLUSION.—Such term does
6 not include—

7 “(I) rolling stock or other equip-
8 ment used to transport qualified ma-
9 terials, and

10 “(II) equipment used to produce
11 new products or commodities from re-
12 cycled products.

13 “(B) QUALIFIED MATERIALS.—

14 “(i) IN GENERAL.—The term ‘quali-
15 fied materials’ means scrap plastic, scrap
16 glass, scrap textiles, scrap rubber (includ-
17 ing used tires), scrap packaging, recovered
18 fiber, scrap ferrous and nonferrous metals,
19 or electronic scrap generated by an indi-
20 vidual or business.

21 “(ii) ELECTRONIC SCRAP.—For pur-
22 poses of clause (i), the term ‘electronic
23 scrap’ means—

24 “(I) any cathode ray tube, flat
25 panel screen, or similar video display

1 device with a screen size greater than
2 4 inches measured diagonally, or

3 “(II) any central processing unit.

4 “(C) RECYCLING OR RECYCLE.—The term
5 ‘recycling’ or ‘recycle’ means that process (in-
6 cluding sorting and collecting) by which worn or
7 superfluous materials are manufactured or
8 processed into specification grade commodities
9 that are suitable for use as a replacement or
10 substitute for virgin materials in manufacturing
11 tangible consumer and commercial products, in-
12 cluding packaging.”.

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

16 **Subtitle B—Revenue Raising** 17 **Provisions**

18 **SEC. 261. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED** 19 **OIL COMPANIES FOR INCOME ATTRIBUTABLE** 20 **TO DOMESTIC PRODUCTION OF OIL, NAT-** 21 **URAL GAS, OR PRIMARY PRODUCTS THERE-** 22 **OF.**

23 (a) IN GENERAL.—Subparagraph (B) of section
24 199(c)(4) of the Internal Revenue Code of 1986 (relating
25 to exceptions) is amended by striking “or” at the end of

1 clause (ii), by striking the period at the end of clause (iii)
2 and inserting “, or”, and by inserting after clause (iii) the
3 following new clause:

4 “(iv) in the case of any major inte-
5 grated oil company (as defined in section
6 167(h)(5)(B)), the production, refining,
7 processing, transportation, or distribution
8 of oil, natural gas, or any primary product
9 thereof during any taxable year described
10 in section 167(h)(5)(B).”.

11 (b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of
12 such Code is amended by adding at the end the following
13 flush sentence:

14 “For purposes of clause (iv), the term ‘primary
15 product’ has the same meaning as when used in
16 section 927(a)(2)(C), as in effect before its re-
17 peal.”.

18 (c) CONFORMING AMENDMENTS.—Section 199(c)(4)
19 of such Code is amended—

20 (1) in subparagraph (A)(i)(III) by striking
21 “electricity, natural gas,” and inserting “electricity”,
22 and

23 (2) in subparagraph (B)(ii) by striking “elec-
24 tricity, natural gas,” and inserting “electricity”.

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

4 **SEC. 262. ELIMINATION OF THE DIFFERENT TREATMENT**
 5 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
 6 **COME AND FOREIGN OIL RELATED INCOME**
 7 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
 8 **IT.**

9 (a) IN GENERAL.—Subsections (a) and (b) of section
 10 907 (relating to special rules in case of foreign oil and
 11 gas income) are amended to read as follows:

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

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

22 “(2) multiplied by—

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

1 “(B) in the case of an individual, a frac-
2 tion the numerator of which is the tax against
3 which the credit under section 901(a) is taken
4 and the denominator of which is the taxpayer’s
5 entire taxable income.

6 “(b) COMBINED FOREIGN OIL AND GAS INCOME;
7 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-
8 tion—

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

13 “(A) foreign oil and gas extraction income,
14 and

15 “(B) foreign oil related income.

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

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

20 “(B) any income, war profits, and excess
21 profits taxes paid or accrued (or deemed to
22 have been paid or accrued under section 902 or
23 960) during the taxable year with respect to
24 foreign oil related income (determined without
25 regard to subsection (c)(4)) or loss which would

1 be taken into account for purposes of section
2 901 without regard to this section.”.

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

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

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

15 “(i) first by the amount determined
16 under subparagraph (B), and

17 “(ii) then by the amount determined
18 under subparagraph (C).

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

23 “(B) REDUCTION FOR PRE-2008 FOREIGN
24 OIL EXTRACTION LOSSES.—The reduction

1 under this paragraph shall be equal to the less-
2 er of—

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

7 “(ii) the excess of—

8 “(I) the aggregate amount of for-
9 eign oil extraction losses for preceding
10 taxable years beginning after Decem-
11 ber 31, 1982, and before January 1,
12 2008, over

13 “(II) so much of such aggregate
14 amount as was recharacterized under
15 this paragraph (as in effect before
16 and after the date of the enactment of
17 the Energy Advancement and Invest-
18 ment Act of 2007) for preceding tax-
19 able years beginning after December
20 31, 1982.

21 “(C) REDUCTION FOR POST-2007 FOREIGN
22 OIL AND GAS LOSSES.—The reduction under
23 this paragraph shall be equal to the lesser of—

24 “(i) the combined foreign oil and gas
25 income of the taxpayer for the taxable year

1 (determined without regard to this para-
2 graph), reduced by an amount equal to the
3 reduction under subparagraph (A) for the
4 taxable year, or

5 “(ii) the excess of—

6 “(I) the aggregate amount of for-
7 eign oil and gas losses for preceding
8 taxable years beginning after Decem-
9 ber 31, 2007, over

10 “(II) so much of such aggregate
11 amount as was recharacterized under
12 this paragraph for preceding taxable
13 years beginning after December 31,
14 2007.

15 “(D) FOREIGN OIL AND GAS LOSS DE-
16 FINED.—

17 “(i) IN GENERAL.—For purposes of
18 this paragraph, the term ‘foreign oil and
19 gas loss’ means the amount by which—

20 “(I) the gross income for the tax-
21 able year from sources without the
22 United States and its possessions
23 (whether or not the taxpayer chooses
24 the benefits of this subpart for such
25 taxable year) taken into account in

1 determining the combined foreign oil
2 and gas income for such year, is ex-
3 ceeded by

4 “(II) the sum of the deductions
5 properly apportioned or allocated
6 thereto.

7 “(ii) NET OPERATING LOSS DEDUC-
8 TION NOT TAKEN INTO ACCOUNT.—For
9 purposes of clause (i), the net operating
10 loss deduction allowable for the taxable
11 year under section 172(a) shall not be
12 taken into account.

13 “(iii) EXPROPRIATION AND CASUALTY
14 LOSSES NOT TAKEN INTO ACCOUNT.—For
15 purposes of clause (i), there shall not be
16 taken into account—

17 “(I) any foreign expropriation
18 loss (as defined in section 172(h) (as
19 in effect on the day before the date of
20 the enactment of the Revenue Rec-
21 onciliation Act of 1990)) for the tax-
22 able year, or

23 “(II) any loss for the taxable
24 year which arises from fire, storm,

1 shipwreck, or other casualty, or from
2 theft,
3 to the extent such loss is not compensated
4 for by insurance or otherwise.

5 “(iv) FOREIGN OIL EXTRACTION
6 LOSS.—For purposes of subparagraph
7 (B)(ii)(I), foreign oil extraction losses shall
8 be determined under this paragraph as in
9 effect on the day before the date of the en-
10 actment of the Energy Advancement and
11 Investment Act of 2007.”.

12 (c) CARRYBACK AND CARRYOVER OF DISALLOWED
13 CREDITS.—Section 907(f) (relating to carryback and car-
14 rryover of disallowed credits) is amended—

15 (1) by striking “oil and gas extraction taxes”
16 each place it appears and inserting “foreign oil and
17 gas taxes”, and

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

20 “(4) TRANSITION RULES FOR PRE-2008 AND
21 2008 DISALLOWED CREDITS.—

22 “(A) PRE-2008 CREDITS.—In the case of
23 any unused credit year beginning before Janu-
24 ary 1, 2008, this subsection shall be applied to
25 any unused oil and gas extraction taxes carried

1 from such unused credit year to a year begin-
2 ning after December 31, 2007—

3 “(i) by substituting ‘oil and gas ex-
4 traction taxes’ for ‘foreign oil and gas
5 taxes’ each place it appears in paragraphs
6 (1), (2), and (3), and

7 “(ii) by computing, for purposes of
8 paragraph (2)(A), the limitation under
9 subparagraph (A) for the year to which
10 such taxes are carried by substituting ‘for-
11 eign oil and gas extraction income’ for ‘for-
12 eign oil and gas income’ in subsection (a).

13 “(B) 2008 CREDITS.—In the case of any
14 unused credit year beginning in 2008, the
15 amendments made to this subsection by the En-
16 ergy Advancement and Investment Act of 2007
17 shall be treated as being in effect for any pre-
18 ceding year beginning before January 1, 2008,
19 solely for purposes of determining how much of
20 the unused foreign oil and gas taxes for such
21 unused credit year may be deemed paid or ac-
22 crued in such preceding year.”.

23 (d) CONFORMING AMENDMENT.—Section 6501(i) is
24 amended by striking “oil and gas extraction taxes” and
25 inserting “foreign oil and gas taxes”.

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

4 **SEC. 263. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**
5 **ITY TRUST FUND TAX.**

6 (a) INCREASE IN RATE.—

7 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-
8 lating to rates) is amended by striking “5 cents”
9 and inserting “10 cents”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by this subsection shall apply on and after the first
12 day of the first calendar quarter beginning more
13 than 60 days after the date of the enactment of this
14 Act.

15 (b) EXTENSION.—

16 (1) IN GENERAL.—Section 4611(f) (relating to
17 application of Oil Spill Liability Trust Fund financ-
18 ing rate) is amended by striking paragraphs (2) and
19 (3) and inserting the following new paragraph:

20 “(2) TERMINATION.—The Oil Spill Liability
21 Trust Fund financing rate shall not apply after De-
22 cember 31, 2017.”.

23 (2) CONFORMING AMENDMENT.—Section
24 4611(f)(1) is amended by striking “paragraphs (2)
25 and (3)” and inserting “paragraph (2)”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on the date of the
3 enactment of this Act.

4 **SEC. 264. LIMITATION ON DRAWBACK CLAIMED FOR**
5 **AMOUNTS DEPOSITED INTO THE OIL SPILL**
6 **LIABILITY TRUST FUND.**

7 Section 313(j) of the Tariff Act of 1930 (19 U.S.
8 C. 1313(j)) is amended by adding at the end the following
9 new paragraph:

10 “(5) LIMITATION ON CERTAIN DRAWBACKS.—
11 Any tax or fee imposed under section 4611 of the
12 Internal Revenue Code of 1986 for deposit in the Oil
13 Spill Liability Trust Fund pursuant to section 9509
14 of such Code shall not be eligible for refund as draw-
15 back under this section.”.

16 **SEC. 265. TAX ON CRUDE OIL AND NATURAL GAS PRO-**
17 **DUCED FROM THE OUTER CONTINENTAL**
18 **SHELF IN THE GULF OF MEXICO.**

19 (a) IN GENERAL.—Subtitle E (relating to alcohol, to-
20 bacco, and certain other excise taxes) is amended by add-
21 ing at the end the following new chapter:

1 **“CHAPTER 56—TAX ON SEVERANCE OF**
2 **CRUDE OIL AND NATURAL GAS FROM**
3 **THE OUTER CONTINENTAL SHELF IN**
4 **THE GULF OF MEXICO**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Taxable crude oil or natural gas and removal price.

“Sec. 5898. Special rules and definitions.

5 **“SEC. 5896. IMPOSITION OF TAX.**

6 “(a) IN GENERAL.—In addition to any other tax im-
7 posed under this title, there is hereby imposed a tax equal
8 to 13 percent of the removal price of any taxable crude
9 oil or natural gas removed from the premises during any
10 taxable period.

11 “(b) CREDIT FOR FEDERAL ROYALTIES PAID.—

12 “(1) IN GENERAL.—There shall be allowed as a
13 credit against the tax imposed by subsection (a) with
14 respect to the production of any taxable crude oil or
15 natural gas an amount equal to the aggregate
16 amount of royalties paid under Federal law with re-
17 spect to such production.

18 “(2) LIMITATION.—The aggregate amount of
19 credits allowed under paragraph (1) to any taxpayer
20 for any taxable period shall not exceed the amount
21 of tax imposed by subsection (a) for such taxable pe-
22 riod.

1 “(c) TAX PAID BY PRODUCER.—The tax imposed by
2 this section shall be paid by the producer of the taxable
3 crude oil or natural gas.

4 **“SEC. 5897. TAXABLE CRUDE OIL OR NATURAL GAS AND RE-**
5 **MOVAL PRICE.**

6 “(a) TAXABLE CRUDE OIL OR NATURAL GAS.—For
7 purposes of this chapter, the term ‘taxable crude oil or
8 natural gas’ means crude oil or natural gas which is pro-
9 duced from Federal submerged lands on the outer Conti-
10 nental Shelf in the Gulf of Mexico pursuant to a lease
11 entered into with the United States which authorizes the
12 production.

13 “(b) REMOVAL PRICE.—For purposes of this chap-
14 ter—

15 “(1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the term ‘removal price’
17 means—

18 “(A) in the case of taxable crude oil, the
19 amount for which a barrel of such crude oil is
20 sold, and

21 “(B) in the case of taxable natural gas, the
22 amount per 1,000 cubic feet for which such
23 natural gas is sold.

24 “(2) SALES BETWEEN RELATED PERSONS.—In
25 the case of a sale between related persons, the re-

1 removal price shall not be less than the constructive
2 sales price for purposes of determining gross income
3 from the property under section 613.

4 “(3) OIL OR GAS REMOVED FROM PROPERTY
5 BEFORE SALE.—If crude oil or natural gas is re-
6 moved from the property before it is sold, the re-
7 moval price shall be the constructive sales price for
8 purposes of determining gross income from the prop-
9 erty under section 613.

10 “(4) REFINING BEGUN ON PROPERTY.—If the
11 manufacture or conversion of crude oil into refined
12 products begins before such oil is removed from the
13 property—

14 “(A) such oil shall be treated as removed
15 on the day such manufacture or conversion be-
16 gins, and

17 “(B) the removal price shall be the con-
18 structive sales price for purposes of determining
19 gross income from the property under section
20 613.

21 “(5) PROPERTY.—The term ‘property’ has the
22 meaning given such term by section 614.

23 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

24 “(a) ADMINISTRATIVE REQUIREMENTS.—

1 “(1) WITHHOLDING AND DEPOSIT OF TAX.—
2 The Secretary shall provide for the withholding and
3 deposit of the tax imposed under section 5896 on a
4 quarterly basis.

5 “(2) RECORDS AND INFORMATION.—Each tax-
6 payer liable for tax under section 5896 shall keep
7 such records, make such returns, and furnish such
8 information (to the Secretary and to other persons
9 having an interest in the taxable crude oil or natural
10 gas) with respect to such oil as the Secretary may
11 by regulations prescribe.

12 “(3) TAXABLE PERIODS; RETURN OF TAX.—

13 “(A) TAXABLE PERIOD.—Except as pro-
14 vided by the Secretary, each calendar year shall
15 constitute a taxable period.

16 “(B) RETURNS.—The Secretary shall pro-
17 vide for the filing, and the time for filing, of the
18 return of the tax imposed under section 5896.

19 “(b) DEFINITIONS.—For purposes of this chapter—

20 “(1) PRODUCER.—The term ‘producer’ means
21 the holder of the economic interest with respect to
22 the crude oil or natural gas.

23 “(2) CRUDE OIL.—The term ‘crude oil’ includes
24 crude oil condensates and natural gasoline.

1 “(3) PREMISES AND CRUDE OIL PRODUCT.—

2 The terms ‘premises’ and ‘crude oil product’ have
3 the same meanings as when used for purposes of de-
4 termining gross income from the property under sec-
5 tion 613.

6 “(c) ADJUSTMENT OF REMOVAL PRICE.—In deter-
7 mining the removal price of oil or natural gas from a prop-
8 erty in the case of any transaction, the Secretary may ad-
9 just the removal price to reflect clearly the fair market
10 value of oil or natural gas removed.

11 “(d) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this chapter.”.

14 (b) DEDUCTIBILITY OF TAX.—The first sentence of
15 section 164(a) (relating to deduction for taxes) is amended
16 by inserting after paragraph (5) the following new para-
17 graph:

18 “(6) The tax imposed by section 5896(a) (after
19 application of section 5896(b)) on the severance of
20 crude oil or natural gas from the outer Continental
21 Shelf in the Gulf of Mexico.”.

22 (c) CLERICAL AMENDMENT.—The table of chapters
23 for subtitle E is amended by adding at the end the fol-
24 lowing new item:

 “CHAPTER 56. Tax on severance of crude oil and natural gas
 from the outer Continental Shelf in the Gulf of
 Mexico.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to crude oil or natural gas removed
3 after the date of the enactment of this Act.

4 **SEC. 266. TAXATION OF TAXABLE FUELS IN FOREIGN**
5 **TRADE ZONES.**

6 (a) TAX IMPOSED ON REMOVALS AND ENTRIES IN
7 FOREIGN TRADE ZONES.—

8 (1) IN GENERAL.—Subsection (a) of section
9 4083 (relating to definitions) is amended by adding
10 at the end the following new paragraph:

11 “(4) UNITED STATES.—The term ‘United
12 States’ includes any foreign trade zone or bonded
13 warehouse located in the United States.”.

14 (2) CONFORMING AMENDMENT.—Section
15 4081(a)(1)(A) (relating to imposition of tax) is
16 amended—

17 (A) in clause (i), by inserting “in the
18 United States” after “refinery”; and

19 (B) in clause (ii), by inserting “in the
20 United States” after “terminal”.

21 (b) TREATMENT OF TAXABLE FUEL IN FOREIGN
22 TRADE ZONES.—Paragraph (2) of section 81c(a) of title
23 19, United States Code, is amended by inserting “(other
24 than the provisions relating to taxable fuel (as defined

1 under section 4083(a) of the Internal Revenue Code of
2 1986))” after “thereunder”.

3 (c) EFFECTIVE DATES.—

4 (1) SUBSECTION (a).—The amendments made
5 by subsection (a) shall apply to removals and entries
6 after December 31, 2007.

7 (2) SUBSECTION (b).—The amendment made
8 by subsection (b) shall take effect on January 1,
9 2008.

10 **SEC. 267. CLARIFICATION OF PENALTY FOR SALE OF FUEL**
11 **FAILING TO MEET EPA REGULATIONS.**

12 (a) IN GENERAL.—Subsection (a) of section 6720A
13 (relating to penalty with respect to certain adulterated
14 fuels) is amended by striking “applicable EPA regulations
15 (as defined in section 45H(c)(3))” and inserting “the re-
16 quirements for diesel fuel under section 211 of the Clean
17 Air Act, as determined by the Secretary,”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any transfer, sale, or holding
20 out for sale or resale occurring after the date of the enact-
21 ment of this Act.

22 **SEC. 268. CLARIFICATION OF ELIGIBILITY FOR CERTAIN**
23 **FUELS CREDITS FOR FUEL WITH INSUFFI-**
24 **CIENT NEXUS TO THE UNITED STATES.**

25 (a) IN GENERAL.—

1 (1) ALCOHOL CREDIT.—Subsection (d) of sec-
2 tion 40 is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(6) LIMITATION TO ALCOHOL WITH CONNEC-
5 TION TO THE UNITED STATES.—

6 “(A) ALCOHOL CREDIT.—No alcohol credit
7 shall be determined under this section with re-
8 spect to any alcohol unless such alcohol is pro-
9 duced in the United States for consumption in
10 the United States or entered into the United
11 States for consumption in the United States.

12 “(B) ALCOHOL MIXTURE CREDIT.—No al-
13 cohol mixture credit shall be determined under
14 this section with respect to any mixture unless
15 such mixture is produced in the United States
16 for consumption in the United States or entered
17 into the United States for consumption in the
18 United States.

19 “(C) NO CREDITS FOR ALCOHOL DES-
20 TINED FOR EXPORT.—No credit (other than the
21 small ethanol producer credit) shall be deter-
22 mined under this section with respect to any
23 mixture or alcohol if such mixture or alcohol is
24 destined for export from the United States (as
25 determined by the Secretary).

1 “(D) SPECIAL RULE FOR SMALL PRO-
2 DUCER CREDITS.—No small ethanol producer
3 credit, small cellulosic alcohol producer credit,
4 or small fossil free alcohol producer credit shall
5 be determined under this section with respect to
6 any alcohol unless such alcohol is produced in
7 the United States.”.

8 (2) BIODIESEL CREDIT.—Subsection (d) of sec-
9 tion 40A is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
12 TION TO THE UNITED STATES.—

13 “(A) BIODIESEL CREDIT.—No biodiesel
14 credit shall be determined under this section
15 with respect to any biodiesel unless such bio-
16 diesel is produced in the United States for con-
17 sumption in the United States or is entered into
18 the United States for consumption in the
19 United States.

20 “(B) BIODIESEL MIXTURE CREDIT.—No
21 biodiesel mixture credit shall be determined
22 under this section with respect to any mixture
23 unless such mixture is produced in the United
24 States for consumption in the United States or

1 is entered into the United States for consump-
2 tion in the United States.

3 “(C) NO CREDITS FOR BIODIESEL DES-
4 TINED FOR EXPORT.—No credit (other than the
5 small agri-biodiesel producer credit) shall be de-
6 termined under this section with respect to any
7 mixture or biodiesel if such mixture or biodiesel
8 is destined for export from the United States
9 (as determined by the Secretary).

10 “(D) SPECIAL RULE FOR SMALL AGRI-BIO-
11 DIESEL PRODUCER CREDIT.—No small agri-bio-
12 diesel producer credit shall be determined under
13 this section with respect to any agri-biodiesel
14 unless such agri-biodiesel is produced in the
15 United States.”.

16 (3) EXCISE TAX CREDITS.—Section 6426, as
17 amended by section 233, is amended by adding at
18 the end the following new subsection:

19 “(i) LIMITATION TO FUELS WITH CONNECTION TO
20 THE UNITED STATES.—

21 “(1) MIXTURE CREDITS.—No credit shall be
22 determined under this section with respect to any
23 mixture unless such mixture is produced in the
24 United States for consumption in the United States

1 or is entered into the United States for consumption
2 in the United States.

3 “(2) ALTERNATIVE FUEL CREDIT.—No alter-
4 native fuel credit shall be determined under this sec-
5 tion with respect to any alternative fuel unless such
6 alternative fuel is produced in the United States for
7 consumption in the United States or is entered into
8 the United States for consumption in the United
9 States.

10 “(3) NO CREDITS FOR FUELS DESTINED FOR
11 EXPORT.—No credit shall be determined under this
12 section with respect to any mixture or alternative
13 fuel if such mixture or alternative fuel is destined
14 for export from the United States (as determined by
15 the Secretary).”.

16 (4) PAYMENTS.—Subsection (e) of section 6427
17 is amended by redesignating paragraph (5), as
18 amended by this Act, as paragraph (6) and by in-
19 sserting after paragraph (4) the following new para-
20 graph:

21 “(5) LIMITATION TO FUELS WITH CONNECTION
22 TO THE UNITED STATES.—No amount shall be pay-
23 able under paragraph (1) or (2) with respect to any
24 mixture or alternative fuel if credit is not allowed

1 with respect to such mixture or alternative fuel by
 2 reason of section 6426(i).”.

3 (b) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to fuel sold or used after the date
 5 of the enactment of this Act.

6 **SEC. 269. TREATMENT OF QUALIFIED ALCOHOL FUEL MIX-**
 7 **TURES AND QUALIFIED BIODIESEL FUEL MIX-**
 8 **TURES AS TAXABLE FUELS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
 10 4083(a)(3) (relating to diesel fuel) is amended by striking
 11 “and” at the end of clause (ii), by redesignating clause
 12 (iii) as clause (v), and inserting after clause (ii) the fol-
 13 lowing new clauses:

14 “(iii) any qualified mixture (as de-
 15 fined in section 40(b)(1)(B)) which is a
 16 mixture of alcohol and special fuel,

17 “(iv) any qualified biodiesel mixture
 18 (as defined in section 40A(b)(1)(B)), and”.

19 (b) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to fuels removed, entered, or sold
 21 after December 31, 2007.

22 **SEC. 270. CALCULATION OF VOLUME OF ALCOHOL FOR**
 23 **FUEL CREDITS.**

24 (a) IN GENERAL.—Paragraph (4) of section 40(d)
 25 (relating to volume of alcohol) is amended by striking “the

1 volume of alcohol” and all that follows and inserting “the
2 volume of alcohol shall not include any denaturant added
3 to such alcohol.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to fuel sold or used after December
6 31, 2007.

7 **SEC. 271. BULK TRANSFER EXCEPTION NOT TO APPLY TO**
8 **FINISHED GASOLINE.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 4081(a)(1) (relating to tax on removal, entry, or sale) is
11 amended by adding at the end the following new clause:

12 “(iii) EXCEPTION FOR FINISHED GAS-
13 OLINE.—Clause (i) shall not apply to any
14 gasoline which meets the requirements for
15 gasoline under section 211 of the Clean
16 Air Act.”.

17 (b) EXCEPTION TO TAX ON FINISHED GASOLINE FOR
18 PRIOR TAXABLE REMOVALS.—Paragraph (1) of section
19 4081(a) is amended by adding at the end the following
20 new subparagraph:

21 “(C) EXEMPTION FOR PREVIOUSLY TAXED
22 FINISHED GASOLINE.—The tax imposed by this
23 paragraph shall not apply to the removal of
24 gasoline described in subparagraph (B)(iii)
25 from any terminal if there was a prior taxable

1 removal or entry of such fuel under clause (i),
 2 (ii), or (iii) of subparagraph (A). The preceding
 3 sentence shall not apply to the volume of any
 4 product added to such gasoline at the terminal
 5 unless there was a prior taxable removal or
 6 entry of such product under clause (i), (ii), or
 7 (iii) of subparagraph (A).”.

8 (c) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to fuel removed, entered, or sold
 10 after December 31, 2007.

11 **SEC. 272. APPLICATION OF RULES TREATING INVERTED**
 12 **CORPORATIONS AS DOMESTIC CORPORA-**
 13 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
 14 **RING AFTER MARCH 20, 2002.**

15 (a) IN GENERAL.—Section 7874(b) (relating to in-
 16 verted corporations treated as domestic corporations) is
 17 amended to read as follows:

18 “(b) INVERTED CORPORATIONS TREATED AS DO-
 19 MESTIC CORPORATIONS.—

20 “(1) IN GENERAL.—Notwithstanding section
 21 7701(a)(4), a foreign corporation shall be treated for
 22 purposes of this title as a domestic corporation if
 23 such corporation would be a surrogate foreign cor-
 24 poration if subsection (a)(2) were applied by sub-
 25 stituting ‘80 percent’ for ‘60 percent’.

1 “(2) SPECIAL RULE FOR CERTAIN TRANS-
2 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

3 “(A) IN GENERAL.—If—

4 “(i) paragraph (1) does not apply to
5 a foreign corporation, but

6 “(ii) paragraph (1) would apply to
7 such corporation if, in addition to the sub-
8 stitution under paragraph (1), subsection
9 (a)(2) were applied by substituting ‘March
10 20, 2002’ for ‘March 4, 2003’ each place
11 it appears,

12 then paragraph (1) shall apply to such corpora-
13 tion but only with respect to taxable years of
14 such corporation beginning after December 31,
15 2006.

16 “(B) SPECIAL RULES.—Subject to such
17 rules as the Secretary may prescribe, in the
18 case of a corporation to which paragraph (1)
19 applies by reason of this paragraph—

20 “(i) the corporation shall be treated,
21 as of the close of its last taxable year be-
22 ginning before January 1, 2007, as having
23 transferred all of its assets, liabilities, and
24 earnings and profits to a domestic corpora-

1 tion in a transaction with respect to which
2 no tax is imposed under this title,

3 “(ii) the bases of the assets trans-
4 ferred in the transaction to the domestic
5 corporation shall be the same as the bases
6 of the assets in the hands of the foreign
7 corporation, subject to any adjustments
8 under this title for built-in losses,

9 “(iii) the basis of the stock of any
10 shareholder in the domestic corporation
11 shall be the same as the basis of the stock
12 of the shareholder in the foreign corpora-
13 tion for which it is treated as exchanged,
14 and

15 “(iv) the transfer of any earnings and
16 profits by reason of clause (i) shall be dis-
17 regarded in determining any deemed divi-
18 dend or foreign tax creditable to the do-
19 mestic corporation with respect to such
20 transfer.

21 “(C) REGULATIONS.—The Secretary may
22 prescribe such regulations as may be necessary
23 or appropriate to carry out this paragraph, in-
24 cluding regulations to prevent the avoidance of
25 the purposes of this paragraph.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2006.

4 **SEC. 273. MODIFICATION OF EFFECTIVE DATE OF LEASING**
5 **PROVISIONS OF THE AMERICAN JOBS CRE-**
6 **ATION ACT OF 2004.**

7 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)
8 of the American Jobs Creation Act of 2004 is amended
9 by adding at the end the following new paragraph:

10 “(5) LEASES TO FOREIGN ENTITIES.—In the
11 case of tax-exempt use property leased to a tax-ex-
12 empt entity which is a foreign person or entity, the
13 amendments made by this part shall apply to taxable
14 years beginning after December 31, 2006, with re-
15 spect to leases entered into on or before March 12,
16 2004.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect as if included in the enact-
19 ment of the American Jobs Creation Act of 2004.

20 **SEC. 274. REVISION OF TAX RULES ON EXPATRIATION OF**
21 **INDIVIDUALS.**

22 (a) IN GENERAL.—Subpart A of part II of sub-
23 chapter N of chapter 1 is amended by inserting after sec-
24 tion 877 the following new section:

1 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

2 “(a) GENERAL RULES.—For purposes of this sub-
3 title—

4 “(1) MARK TO MARKET.—Except as provided in
5 subsections (d) and (f), all property of a covered ex-
6 patriate to whom this section applies shall be treated
7 as sold on the day before the expatriation date for
8 its fair market value.

9 “(2) RECOGNITION OF GAIN OR LOSS.—In the
10 case of any sale under paragraph (1)—

11 “(A) notwithstanding any other provision
12 of this title, any gain arising from such sale
13 shall be taken into account for the taxable year
14 of the sale, and

15 “(B) any loss arising from such sale shall
16 be taken into account for the taxable year of
17 the sale to the extent otherwise provided by this
18 title, except that section 1091 shall not apply to
19 any such loss.

20 Proper adjustment shall be made in the amount of
21 any gain or loss subsequently realized for gain or
22 loss taken into account under the preceding sen-
23 tence.

24 “(3) EXCLUSION FOR CERTAIN GAIN.—

25 “(A) IN GENERAL.—The amount which,
26 but for this paragraph, would be includible in

1 the gross income of any individual by reason of
2 this section shall be reduced (but not below
3 zero) by \$600,000. For purposes of this para-
4 graph, allocable expatriation gain taken into ac-
5 count under subsection (f)(2) shall be treated in
6 the same manner as an amount required to be
7 includible in gross income.

8 “(B) COST-OF-LIVING ADJUSTMENT.—

9 “(i) IN GENERAL.—In the case of an
10 expatriation date occurring in any calendar
11 year after 2007, the \$600,000 amount
12 under subparagraph (A) shall be increased
13 by an amount equal to—

14 “(I) such dollar amount, multi-
15 plied by

16 “(II) the cost-of-living adjust-
17 ment determined under section 1(f)(3)
18 for such calendar year, determined by
19 substituting ‘calendar year 2006’ for
20 ‘calendar year 1992’ in subparagraph
21 (B) thereof.

22 “(ii) ROUNDING RULES.—If any
23 amount after adjustment under clause (i)
24 is not a multiple of \$1,000, such amount

1 shall be rounded to the next lower multiple
2 of \$1,000.

3 “(4) ELECTION TO CONTINUE TO BE TAXED AS
4 UNITED STATES CITIZEN.—

5 “(A) IN GENERAL.—If a covered expatriate
6 elects the application of this paragraph—

7 “(i) this section (other than this para-
8 graph and subsection (i)) shall not apply to
9 the expatriate, but

10 “(ii) in the case of property to which
11 this section would apply but for such elec-
12 tion, the expatriate shall be subject to tax
13 under this title in the same manner as if
14 the individual were a United States citizen.

15 “(B) REQUIREMENTS.—Subparagraph (A)
16 shall not apply to an individual unless the indi-
17 vidual—

18 “(i) provides security for payment of
19 tax in such form and manner, and in such
20 amount, as the Secretary may require,

21 “(ii) consents to the waiver of any
22 right of the individual under any treaty of
23 the United States which would preclude as-
24 sessment or collection of any tax which

1 may be imposed by reason of this para-
2 graph, and

3 “(iii) complies with such other re-
4 quirements as the Secretary may prescribe.

5 “(C) ELECTION.—An election under sub-
6 paragraph (A) shall apply to all property to
7 which this section would apply but for the elec-
8 tion and, once made, shall be irrevocable. Such
9 election shall also apply to property the basis of
10 which is determined in whole or in part by ref-
11 erence to the property with respect to which the
12 election was made.

13 “(b) ELECTION TO DEFER TAX.—

14 “(1) IN GENERAL.—If the taxpayer elects the
15 application of this subsection with respect to any
16 property treated as sold by reason of subsection (a),
17 the payment of the additional tax attributable to
18 such property shall be postponed until the due date
19 of the return for the taxable year in which such
20 property is disposed of (or, in the case of property
21 disposed of in a transaction in which gain is not rec-
22 ognized in whole or in part, until such other date as
23 the Secretary may prescribe).

24 “(2) DETERMINATION OF TAX WITH RESPECT
25 TO PROPERTY.—For purposes of paragraph (1), the

1 additional tax attributable to any property is an
2 amount which bears the same ratio to the additional
3 tax imposed by this chapter for the taxable year
4 solely by reason of subsection (a) as the gain taken
5 into account under subsection (a) with respect to
6 such property bears to the total gain taken into ac-
7 count under subsection (a) with respect to all prop-
8 erty to which subsection (a) applies.

9 “(3) TERMINATION OF POSTPONEMENT.—No
10 tax may be postponed under this subsection later
11 than the due date for the return of tax imposed by
12 this chapter for the taxable year which includes the
13 date of death of the expatriate (or, if earlier, the
14 time that the security provided with respect to the
15 property fails to meet the requirements of paragraph
16 (4), unless the taxpayer corrects such failure within
17 the time specified by the Secretary).

18 “(4) SECURITY.—

19 “(A) IN GENERAL.—No election may be
20 made under paragraph (1) with respect to any
21 property unless adequate security is provided to
22 the Secretary with respect to such property.

23 “(B) ADEQUATE SECURITY.—For purposes
24 of subparagraph (A), security with respect to

1 any property shall be treated as adequate secu-
2 rity if—

3 “(i) it is a bond in an amount equal
4 to the deferred tax amount under para-
5 graph (2) for the property, or

6 “(ii) the taxpayer otherwise estab-
7 lishes to the satisfaction of the Secretary
8 that the security is adequate.

9 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
10 tion may be made under paragraph (1) unless the
11 taxpayer consents to the waiver of any right under
12 any treaty of the United States which would pre-
13 clude assessment or collection of any tax imposed by
14 reason of this section.

15 “(6) ELECTIONS.—An election under paragraph
16 (1) shall only apply to property described in the elec-
17 tion and, once made, is irrevocable. An election may
18 be made under paragraph (1) with respect to an in-
19 terest in a trust with respect to which gain is re-
20 quired to be recognized under subsection (f)(1).

21 “(7) INTEREST.—For purposes of section
22 6601—

23 “(A) the last date for the payment of tax
24 shall be determined without regard to the elec-
25 tion under this subsection, and

1 “(B) section 6621(a)(2) shall be applied by
2 substituting ‘5 percentage points’ for ‘3 per-
3 centage points’ in subparagraph (B) thereof.

4 “(c) COVERED EXPATRIATE.—For purposes of this
5 section—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), the term ‘covered expatriate’ means an
8 expatriate.

9 “(2) EXCEPTIONS.—An individual shall not be
10 treated as a covered expatriate if—

11 “(A) the individual—

12 “(i) became at birth a citizen of the
13 United States and a citizen of another
14 country and, as of the expatriation date,
15 continues to be a citizen of, and is taxed
16 as a resident of, such other country, and

17 “(ii) has not been a resident of the
18 United States (as defined in section
19 7701(b)(1)(A)(ii)) during the 5 taxable
20 years ending with the taxable year during
21 which the expatriation date occurs, or

22 “(B)(i) the individual’s relinquishment of
23 United States citizenship occurs before such in-
24 dividual attains age 18½, and

1 “(ii) the individual has been a resident of
2 the United States (as so defined) for not more
3 than 5 taxable years before the date of relin-
4 quishment.

5 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
6 SION PLANS.—

7 “(1) EXEMPT PROPERTY.—This section shall
8 not apply to the following:

9 “(A) UNITED STATES REAL PROPERTY IN-
10 TERESTS.—Any United States real property in-
11 terest (as defined in section 897(c)(1)), other
12 than stock of a United States real property
13 holding corporation which does not, on the day
14 before the expatriation date, meet the require-
15 ments of section 897(c)(2).

16 “(B) SPECIFIED PROPERTY.—Any prop-
17 erty or interest in property not described in
18 subparagraph (A) which the Secretary specifies
19 in regulations.

20 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
21 MENT PLANS.—

22 “(A) IN GENERAL.—If a covered expatriate
23 holds on the day before the expatriation date
24 any interest in a retirement plan to which this
25 paragraph applies—

1 “(i) such interest shall not be treated
2 as sold for purposes of subsection (a)(1),
3 but

4 “(ii) an amount equal to the present
5 value of the expatriate’s nonforfeitable ac-
6 crued benefit shall be treated as having
7 been received by such individual on such
8 date as a distribution under the plan.

9 “(B) TREATMENT OF SUBSEQUENT DIS-
10 TRIBUTIONS.—In the case of any distribution
11 on or after the expatriation date to or on behalf
12 of the covered expatriate from a plan from
13 which the expatriate was treated as receiving a
14 distribution under subparagraph (A), the
15 amount otherwise includible in gross income by
16 reason of the subsequent distribution shall be
17 reduced by the excess of the amount includible
18 in gross income under subparagraph (A) over
19 any portion of such amount to which this sub-
20 paragraph previously applied.

21 “(C) TREATMENT OF SUBSEQUENT DIS-
22 TRIBUTIONS BY PLAN.—For purposes of this
23 title, a retirement plan to which this paragraph
24 applies, and any person acting on the plan’s be-
25 half, shall treat any subsequent distribution de-

1 scribed in subparagraph (B) in the same man-
2 ner as such distribution would be treated with-
3 out regard to this paragraph.

4 “(D) APPLICABLE PLANS.—This para-
5 graph shall apply to—

6 “(i) any qualified retirement plan (as
7 defined in section 4974(e)),

8 “(ii) an eligible deferred compensation
9 plan (as defined in section 457(b)) of an
10 eligible employer described in section
11 457(e)(1)(A), and

12 “(iii) to the extent provided in regula-
13 tions, any foreign pension plan or similar
14 retirement arrangements or programs.

15 “(e) DEFINITIONS.—For purposes of this section—

16 “(1) EXPATRIATE.—The term ‘expatriate’
17 means—

18 “(A) any United States citizen who relin-
19 quishes citizenship, and

20 “(B) any long-term resident of the United
21 States who—

22 “(i) ceases to be a lawful permanent
23 resident of the United States (within the
24 meaning of section 7701(b)(6)), or

1 “(ii) commences to be treated as a
2 resident of a foreign country under the
3 provisions of a tax treaty between the
4 United States and the foreign country and
5 who does not waive the benefits of such
6 treaty applicable to residents of the foreign
7 country.

8 “(2) EXPATRIATION DATE.—The term ‘expa-
9 triation date’ means—

10 “(A) the date an individual relinquishes
11 United States citizenship, or

12 “(B) in the case of a long-term resident of
13 the United States, the date of the event de-
14 scribed in clause (i) or (ii) of paragraph (1)(B).

15 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
16 citizen shall be treated as relinquishing United
17 States citizenship on the earliest of—

18 “(A) the date the individual renounces
19 such individual’s United States nationality be-
20 fore a diplomatic or consular officer of the
21 United States pursuant to paragraph (5) of sec-
22 tion 349(a) of the Immigration and Nationality
23 Act (8 U.S.C. 1481(a)(5)),

24 “(B) the date the individual furnishes to
25 the United States Department of State a signed

1 statement of voluntary relinquishment of
2 United States nationality confirming the per-
3 formance of an act of expatriation specified in
4 paragraph (1), (2), (3), or (4) of section 349(a)
5 of the Immigration and Nationality Act (8
6 U.S.C. 1481(a)(1)–(4)),

7 “(C) the date the United States Depart-
8 ment of State issues to the individual a certifi-
9 cate of loss of nationality, or

10 “(D) the date a court of the United States
11 cancels a naturalized citizen’s certificate of nat-
12 uralization.

13 Subparagraph (A) or (B) shall not apply to any indi-
14 vidual unless the renunciation or voluntary relin-
15 quishment is subsequently approved by the issuance
16 to the individual of a certificate of loss of nationality
17 by the United States Department of State.

18 “(4) LONG-TERM RESIDENT.—The term ‘long-
19 term resident’ has the meaning given to such term
20 by section 877(e)(2).

21 “(f) SPECIAL RULES APPLICABLE TO BENE-
22 FICIARIES’ INTERESTS IN TRUST.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), if an individual is determined under para-

1 graph (3) to hold an interest in a trust on the day
2 before the expatriation date—

3 “(A) the individual shall not be treated as
4 having sold such interest,

5 “(B) such interest shall be treated as a
6 separate share in the trust, and

7 “(C)(i) such separate share shall be treat-
8 ed as a separate trust consisting of the assets
9 allocable to such share,

10 “(ii) the separate trust shall be treated as
11 having sold its assets on the day before the ex-
12 patriation date for their fair market value and
13 as having distributed all of its assets to the in-
14 dividual as of such time, and

15 “(iii) the individual shall be treated as hav-
16 ing recontributed the assets to the separate
17 trust.

18 Subsection (a)(2) shall apply to any income, gain, or
19 loss of the individual arising from a distribution de-
20 scribed in subparagraph (C)(ii). In determining the
21 amount of such distribution, proper adjustments
22 shall be made for liabilities of the trust allocable to
23 an individual’s share in the trust.

24 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
25 FIED TRUSTS.—

1 “(A) IN GENERAL.—If the trust interest
2 described in paragraph (1) is an interest in a
3 qualified trust—

4 “(i) paragraph (1) and subsection (a)
5 shall not apply, and

6 “(ii) in addition to any other tax im-
7 posed by this title, there is hereby imposed
8 on each distribution with respect to such
9 interest a tax in the amount determined
10 under subparagraph (B).

11 “(B) AMOUNT OF TAX.—The amount of
12 tax under subparagraph (A)(ii) shall be equal to
13 the lesser of—

14 “(i) the highest rate of tax imposed by
15 section 1(e) for the taxable year which in-
16 cludes the day before the expatriation date,
17 multiplied by the amount of the distribu-
18 tion, or

19 “(ii) the balance in the deferred tax
20 account immediately before the distribution
21 determined without regard to any increases
22 under subparagraph (C)(ii) after the 30th
23 day preceding the distribution.

24 “(C) DEFERRED TAX ACCOUNT.—For pur-
25 poses of subparagraph (B)(ii)—

1 “(i) OPENING BALANCE.—The open-
2 ing balance in a deferred tax account with
3 respect to any trust interest is an amount
4 equal to the tax which would have been im-
5 posed on the allocable expatriation gain
6 with respect to the trust interest if such
7 gain had been included in gross income
8 under subsection (a).

9 “(ii) INCREASE FOR INTEREST.—The
10 balance in the deferred tax account shall
11 be increased by the amount of interest de-
12 termined (on the balance in the account at
13 the time the interest accrues), for periods
14 after the 90th day after the expatriation
15 date, by using the rates and method appli-
16 cable under section 6621 for underpay-
17 ments of tax for such periods, except that
18 section 6621(a)(2) shall be applied by sub-
19 stituting ‘5 percentage points’ for ‘3 per-
20 centage points’ in subparagraph (B) there-
21 of.

22 “(iii) DECREASE FOR TAXES PRE-
23 VIOUSLY PAID.—The balance in the tax de-
24 ferred account shall be reduced—

1 “(I) by the amount of taxes im-
2 posed by subparagraph (A) on any
3 distribution to the person holding the
4 trust interest, and

5 “(II) in the case of a person
6 holding a nonvested interest, to the
7 extent provided in regulations, by the
8 amount of taxes imposed by subpara-
9 graph (A) on distributions from the
10 trust with respect to nonvested inter-
11 ests not held by such person.

12 “(D) **ALLOCABLE EXPATRIATION GAIN.**—
13 For purposes of this paragraph, the allocable
14 expatriation gain with respect to any bene-
15 ficiary’s interest in a trust is the amount of
16 gain which would be allocable to such bene-
17 ficiary’s vested and nonvested interests in the
18 trust if the beneficiary held directly all assets
19 allocable to such interests.

20 “(E) **TAX DEDUCTED AND WITHHELD.**—

21 “(i) **IN GENERAL.**—The tax imposed
22 by subparagraph (A)(ii) shall be deducted
23 and withheld by the trustees from the dis-
24 tribution to which it relates.

1 “(ii) EXCEPTION WHERE FAILURE TO
2 WAIVE TREATY RIGHTS.—If an amount
3 may not be deducted and withheld under
4 clause (i) by reason of the distributee fail-
5 ing to waive any treaty right with respect
6 to such distribution—

7 “(I) the tax imposed by subpara-
8 graph (A)(ii) shall be imposed on the
9 trust and each trustee shall be person-
10 ally liable for the amount of such tax,
11 and

12 “(II) any other beneficiary of the
13 trust shall be entitled to recover from
14 the distributee the amount of such tax
15 imposed on the other beneficiary.

16 “(F) DISPOSITION.—If a trust ceases to be
17 a qualified trust at any time, a covered expa-
18 triate disposes of an interest in a qualified
19 trust, or a covered expatriate holding an inter-
20 est in a qualified trust dies, then, in lieu of the
21 tax imposed by subparagraph (A)(ii), there is
22 hereby imposed a tax equal to the lesser of—

23 “(i) the tax determined under para-
24 graph (1) as if the day before the expatria-
25 tion date were the date of such cessation,

1 disposition, or death, whichever is applica-
2 ble, or

3 “(ii) the balance in the tax deferred
4 account immediately before such date.

5 Such tax shall be imposed on the trust and
6 each trustee shall be personally liable for the
7 amount of such tax and any other beneficiary
8 of the trust shall be entitled to recover from the
9 covered expatriate or the estate the amount of
10 such tax imposed on the other beneficiary.

11 “(G) DEFINITIONS AND SPECIAL RULES.—
12 For purposes of this paragraph—

13 “(i) QUALIFIED TRUST.—The term
14 ‘qualified trust’ means a trust which is de-
15 scribed in section 7701(a)(30)(E).

16 “(ii) VESTED INTEREST.—The term
17 ‘vested interest’ means any interest which,
18 as of the day before the expatriation date,
19 is vested in the beneficiary.

20 “(iii) NONVESTED INTEREST.—The
21 term ‘nonvested interest’ means, with re-
22 spect to any beneficiary, any interest in a
23 trust which is not a vested interest. Such
24 interest shall be determined by assuming
25 the maximum exercise of discretion in

1 favor of the beneficiary and the occurrence
2 of all contingencies in favor of the bene-
3 ficiary.

4 “(iv) ADJUSTMENTS.—The Secretary
5 may provide for such adjustments to the
6 bases of assets in a trust or a deferred tax
7 account, and the timing of such adjust-
8 ments, in order to ensure that gain is
9 taxed only once.

10 “(v) COORDINATION WITH RETIRE-
11 MENT PLAN RULES.—This subsection shall
12 not apply to an interest in a trust which
13 is part of a retirement plan to which sub-
14 section (d)(2) applies.

15 “(3) DETERMINATION OF BENEFICIARIES’ IN-
16 TEREST IN TRUST.—

17 “(A) DETERMINATIONS UNDER PARA-
18 GRAPH (1).—For purposes of paragraph (1), a
19 beneficiary’s interest in a trust shall be based
20 upon all relevant facts and circumstances, in-
21 cluding the terms of the trust instrument and
22 any letter of wishes or similar document, histor-
23 ical patterns of trust distributions, and the ex-
24 istence of and functions performed by a trust
25 protector or any similar adviser.

1 “(B) OTHER DETERMINATIONS.—For pur-
2 poses of this section—

3 “(i) CONSTRUCTIVE OWNERSHIP.—If
4 a beneficiary of a trust is a corporation,
5 partnership, trust, or estate, the share-
6 holders, partners, or beneficiaries shall be
7 deemed to be the trust beneficiaries for
8 purposes of this section.

9 “(ii) TAXPAYER RETURN POSITION.—
10 A taxpayer shall clearly indicate on its in-
11 come tax return—

12 “(I) the methodology used to de-
13 termine that taxpayer’s trust interest
14 under this section, and

15 “(II) if the taxpayer knows (or
16 has reason to know) that any other
17 beneficiary of such trust is using a
18 different methodology to determine
19 such beneficiary’s trust interest under
20 this section.

21 “(g) TERMINATION OF DEFERRALS, ETC.—In the
22 case of any covered expatriate, notwithstanding any other
23 provision of this title—

1 “(1) any period during which recognition of in-
2 come or gain is deferred shall terminate on the day
3 before the expatriation date, and

4 “(2) any extension of time for payment of tax
5 shall cease to apply on the day before the expatria-
6 tion date and the unpaid portion of such tax shall
7 be due and payable at the time and in the manner
8 prescribed by the Secretary.

9 “(h) IMPOSITION OF TENTATIVE TAX.—

10 “(1) IN GENERAL.—If an individual is required
11 to include any amount in gross income under sub-
12 section (a) for any taxable year, there is hereby im-
13 posed, immediately before the expatriation date, a
14 tax in an amount equal to the amount of tax which
15 would be imposed if the taxable year were a short
16 taxable year ending on the expatriation date.

17 “(2) DUE DATE.—The due date for any tax im-
18 posed by paragraph (1) shall be the 90th day after
19 the expatriation date.

20 “(3) TREATMENT OF TAX.—Any tax paid under
21 paragraph (1) shall be treated as a payment of the
22 tax imposed by this chapter for the taxable year to
23 which subsection (a) applies.

24 “(4) DEFERRAL OF TAX.—The provisions of
25 subsection (b) shall apply to the tax imposed by this

1 subsection to the extent attributable to gain includ-
2 ible in gross income by reason of this section.

3 “(i) SPECIAL LIENS FOR DEFERRED TAX
4 AMOUNTS.—

5 “(1) IMPOSITION OF LIEN.—

6 “(A) IN GENERAL.—If a covered expatriate
7 makes an election under subsection (a)(4) or
8 (b) which results in the deferral of any tax im-
9 posed by reason of subsection (a), the deferred
10 amount (including any interest, additional
11 amount, addition to tax, assessable penalty, and
12 costs attributable to the deferred amount) shall
13 be a lien in favor of the United States on all
14 property of the expatriate located in the United
15 States (without regard to whether this section
16 applies to the property).

17 “(B) DEFERRED AMOUNT.—For purposes
18 of this subsection, the deferred amount is the
19 amount of the increase in the covered expatri-
20 ate’s income tax which, but for the election
21 under subsection (a)(4) or (b), would have oc-
22 curred by reason of this section for the taxable
23 year including the expatriation date.

1 “(2) PERIOD OF LIEN.—The lien imposed by
2 this subsection shall arise on the expatriation date
3 and continue until—

4 “(A) the liability for tax by reason of this
5 section is satisfied or has become unenforceable
6 by reason of lapse of time, or

7 “(B) it is established to the satisfaction of
8 the Secretary that no further tax liability may
9 arise by reason of this section.

10 “(3) CERTAIN RULES APPLY.—The rules set
11 forth in paragraphs (1), (3), and (4) of section
12 6324A(d) shall apply with respect to the lien im-
13 posed by this subsection as if it were a lien imposed
14 by section 6324A.

15 “(j) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate to
17 carry out the purposes of this section.”.

18 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
19 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
20 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
21 not included in gross income) is amended by adding at
22 the end the following new subsection:

23 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
24 PATRIATES.—

1 “(1) TREATMENT OF GIFTS AND INHERIT-
2 ANCES.—

3 “(A) IN GENERAL.—Subsection (a) shall
4 not exclude from gross income the value of any
5 property acquired by gift, bequest, devise, or in-
6 heritance from a covered expatriate after the
7 expatriation date.

8 “(B) DETERMINATION OF BASIS.—Not-
9 withstanding sections 1015 or 1022, the basis
10 of any property described in subparagraph (A)
11 in the hands of the donee or the person acquir-
12 ing such property from the decedent shall be
13 equal to the fair market value of the property
14 at the time of the gift, bequest, devise, or inher-
15 itance.

16 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
17 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)
18 shall not apply to any property if either—

19 “(A) the gift, bequest, devise, or inherit-
20 ance is—

21 “(i) shown on a timely filed return of
22 tax imposed by chapter 12 as a taxable gift
23 by the covered expatriate, or

24 “(ii) included in the gross estate of
25 the covered expatriate for purposes of

1 chapter 11 and shown on a timely filed re-
2 turn of tax imposed by chapter 11 of the
3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but
5 no such return would have been required to be
6 filed even if the covered expatriate were a cit-
7 izen or long-term resident of the United States.

8 “(3) DEFINITIONS.—For purposes of this sub-
9 section, any term used in this subsection which is
10 also used in section 877A shall have the same mean-
11 ing as when used in section 877A.”.

12 (c) DEFINITION OF TERMINATION OF UNITED
13 STATES CITIZENSHIP.—Section 7701(a) is amended by
14 adding at the end the following new paragraph:

15 “(50) TERMINATION OF UNITED STATES CITI-
16 ZENSHIP.—

17 “(A) IN GENERAL.—An individual shall
18 not cease to be treated as a United States cit-
19 izen before the date on which the individual’s
20 citizenship is treated as relinquished under sec-
21 tion 877A(e)(3).

22 “(B) DUAL CITIZENS.—Under regulations
23 prescribed by the Secretary, subparagraph (A)
24 shall not apply to an individual who became at

1 birth a citizen of the United States and a cit-
2 izen of another country.”.

3 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
4 UNITED STATES.—

5 (1) IN GENERAL.—Section 212(a)(10)(E) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1182(a)(10)(E)) is amended to read as follows:

8 “(E) FORMER CITIZENS NOT IN COMPLI-
9 ANCE WITH EXPATRIATION REVENUE PROVI-
10 SIONS.—Any alien who is a former citizen of
11 the United States who relinquishes United
12 States citizenship (within the meaning of sec-
13 tion 877A(e)(3) of the Internal Revenue Code
14 of 1986) and who is not in compliance with sec-
15 tion 877A of such Code (relating to expatria-
16 tion) is inadmissible.”.

17 (2) AVAILABILITY OF INFORMATION.—

18 (A) IN GENERAL.—Section 6103(l) (relat-
19 ing to disclosure of returns and return informa-
20 tion for purposes other than tax administration)
21 is amended by adding at the end the following
22 new paragraph:

23 “(21) DISCLOSURE TO DENY VISA OR ADMIS-
24 SION TO CERTAIN EXPATRIATES.—Upon written re-
25 quest of the Attorney General or the Attorney Gen-

1 eral’s delegate, the Secretary shall disclose whether
2 an individual is in compliance with section 877A
3 (and if not in compliance, any items of noncompli-
4 ance) to officers and employees of the Federal agen-
5 cy responsible for administering section
6 212(a)(10)(E) of the Immigration and Nationality
7 Act solely for the purpose of, and to the extent nec-
8 essary in, administering such section
9 212(a)(10)(E).”.

10 (B) SAFEGUARDS.—Section 6103(p)(4)
11 (relating to safeguards) is amended by striking
12 “or (20)” each place it appears and inserting
13 “(20), or (21)”.

14 (3) EFFECTIVE DATES.—The amendments
15 made by this subsection shall apply to individuals
16 who relinquish United States citizenship on or after
17 the date of the enactment of this Act.

18 (e) CONFORMING AMENDMENTS.—

19 (1) Section 877 is amended by adding at the
20 end the following new subsection:

21 “(h) APPLICATION.—This section shall not apply to
22 an expatriate (as defined in section 877A(e)) whose expa-
23 triation date (as so defined) occurs on or after the date
24 of the enactment of this subsection.”.

1 (2) Section 2107 is amended by adding at the
2 end the following new subsection:

3 “(f) APPLICATION.—This section shall not apply to
4 any expatriate subject to section 877A.”.

5 (3) Section 2501(a)(3) is amended by adding at
6 the end the following new subparagraph:

7 “(C) APPLICATION.—This paragraph shall
8 not apply to any expatriate subject to section
9 877A.”.

10 (4) Section 6039G(a) is amended by inserting
11 “or 877A” after “section 877(b)”.

12 (5) The second sentence of section 6039G(d) is
13 amended by inserting “or who relinquishes United
14 States citizenship (within the meaning of section
15 877A(e)(3))” after “section 877(a)”.

16 (6) Section 7701(n) is amended by adding at
17 the end the following new paragraph:

18 “(3) APPLICATION.—This subsection shall not
19 apply to any expatriate subject to section 877A.”.

20 (f) CLERICAL AMENDMENT.—The table of sections
21 for subpart A of part II of subchapter N of chapter 1
22 is amended by inserting after the item relating to section
23 877 the following new item:

 “Sec. 877A. Tax responsibilities of expatriation.”.

24 (g) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in this
2 subsection, the amendments made by this section
3 shall apply to expatriates (within the meaning of
4 section 877A(e) of the Internal Revenue Code of
5 1986, as added by this section) whose expatriation
6 date (as so defined) occurs on or after the date of
7 the enactment of this Act.

8 (2) GIFTS AND BEQUESTS.—Section 102(d) of
9 the Internal Revenue Code of 1986 (as added by
10 subsection (b)) shall apply to gifts and bequests re-
11 ceived on or after the date of the enactment of this
12 Act, from an individual or the estate of an individual
13 whose expatriation date (as so defined) occurs after
14 such date.

15 (3) DUE DATE FOR TENTATIVE TAX.—The due
16 date under section 877A(h)(2) of the Internal Rev-
17 enue Code of 1986, as added by this section, shall
18 in no event occur before the 90th day after the date
19 of the enactment of this Act.

○