To amend the Internal Revenue Code of 1986 to extend expiring provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2017

Mr. Hatch (for himself, Mr. Grassley, Mr. Crapo, Mr. Roberts, Mr. Thune, and Mr. Isakson) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to extend expiring provisions, and for other purposes.

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

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the “Tax Extender Act of 2017”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**TITLE I—TAX RELIEF FOR FAMILIES AND INDIVIDUALS**

**SEC. 101. EXTENSION OF EXCLUSION FROM GROSS INCOME OF DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.**

(a) In General.—Section 108(a)(1)(E) is amended by striking “January 1, 2017” each place it appears and inserting “January 1, 2019”.

(b) Effective Date.—The amendments made by this section shall apply to discharges of indebtedness after December 31, 2016.

**SEC. 102. EXTENSION OF MORTGAGE INSURANCE PREMIUMS TREATED AS QUALIFIED RESIDENCE INTEREST.**

(a) In General.—Subclause (I) of section 163(h)(3)(E)(iv) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or accrued after December 31, 2016.
SEC. 103. EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) In General.—Section 222(e) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2016.

TITLE II—INCENTIVES FOR GROWTH, JOBS, INVESTMENT, AND INNOVATION

SEC. 201. EXTENSION OF INDIAN EMPLOYMENT TAX CREDIT.

(a) In General.—Section 45A(f) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2016.

SEC. 202. EXTENSION OF RAILROAD TRACK MAINTENANCE CREDIT.

(a) In General.—Section 45G(f) is amended by striking “January 1, 2017” and inserting “January 1, 2019”.

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(b) **Effective Date.**—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2016.

SEC. 203. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.

(a) In General.—Section 45N(e) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) **Effective Date.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2016.

SEC. 204. EXTENSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) In General.—Section 54E(c)(1) is amended by striking “and 2016” and inserting “2016, and 2017”.

(b) **Effective Date.**—The amendment made by this section shall apply to obligations issued after December 31, 2016.

SEC. 205. EXTENSION OF CLASSIFICATION OF CERTAIN RACE HORSES AS 3-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(A)(i) is amended—

(1) by striking “January 1, 2017” in subclause (I) and inserting “January 1, 2019”, and
(2) by striking “December 31, 2016” in sub-
clause (II) and inserting “December 31, 2018”.

(b) EFFECTIVE DATE.—The amendments made by
this section shall apply to property placed in service after
December 31, 2016.

SEC. 206. EXTENSION OF 7-YEAR RECOVERY PERIOD FOR
MOTORSPORTS ENTERTAINMENT COM-
PLEXES.

(a) IN GENERAL.—Section 168(i)(15)(D) is amended
by striking “December 31, 2016” and inserting “December
31, 2018”.

(b) EFFECTIVE DATE.—The amendment made by
this section shall apply to property placed in service after
December 31, 2016.

SEC. 207. EXTENSION OF ACCELERATED DEPRECIATION
FOR BUSINESS PROPERTY ON AN INDIAN
RESERVATION.

(a) IN GENERAL.—Section 168(j)(9) is amended by
striking “December 31, 2016” and inserting “December
31, 2018”.

(b) EFFECTIVE DATE.—The amendment made by
this section shall apply to property placed in service after
December 31, 2016.
SEC. 208. EXTENSION OF ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) In General.—Section 179E(g) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2016.

SEC. 209. EXTENSION OF SPECIAL EXPENSING RULES FOR CERTAIN PRODUCTIONS.

(a) In General.—Section 181(g) is amended by striking “December 31, 2016” and inserting “December 31, 2017”.

(b) Effective Date.—The amendment made by this section shall apply to productions commencing after December 31, 2016.

SEC. 210. EXTENSION OF DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) In General.—Section 199(d)(8)(C) is amended—

(1) by striking “first 11 taxable years” and inserting “first 12 taxable years”, and

(2) by striking “January 1, 2017” and inserting “January 1, 2018”.
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SEC. 211. EXTENSION OF SPECIAL RULE RELATING TO QUALIFIED TIMBER GAIN.

(a) In General.—Section 1201(b) is amended by striking “2016” and inserting “2016 or 2017”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2016.

SEC. 212. EXTENSION OF EMPOWERMENT ZONE TAX INCENTIVES.

(a) In General.—

(1) Extension.—Section 1391(d)(1)(A)(i) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(2) Treatment of Certain Termination Dates Specified in Nominations.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation if,
after the date of the enactment of this section, the
entity which made such nomination amends the
nomination to provide for a new termination date in
such manner as the Secretary of the Treasury (or
the Secretary’s designee) may provide.

(b) Effective Date.—The amendment made by
subsection (a)(1) shall apply to taxable years beginning
after December 31, 2016.

SEC. 213. EXTENSION OF TEMPORARY INCREASE IN LIMIT
ON COVER OVER OF RUM EXCISE TAXES TO
PUERTO RICO AND THE VIRGIN ISLANDS.

(a) In General.—Section 7652(f)(1) is amended by
striking “January 1, 2017” and inserting “January 1,
2019”.

(b) Effective Date.—The amendment made by
this section shall apply to distilled spirits brought into the
United States after December 31, 2016.

SEC. 214. EXTENSION OF AMERICAN SAMOA ECONOMIC DE-
VELOPMENT CREDIT.

(a) In General.—Section 119(d) of division A of
the Tax Relief and Health Care Act of 2006 is amended—
(1) by striking “January 1, 2017” each place
it appears and inserting “January 1, 2018”,

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(2) by striking “first 11 taxable years” in paragraph (1) and inserting “first 12 taxable years”, and

(3) by striking “first 5 taxable years” in paragraph (2) and inserting “first 6 taxable years”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2016.

**TITLE III—INCENTIVES FOR ENERGY PRODUCTION AND CONSERVATION**

**SEC. 301. EXTENSION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

(a) In General.—Section 25C(g)(2) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 2016.

**SEC. 302. EXTENSION AND MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY PROPERTY.**

(a) In General.—Section 25D(h) is amended by striking “December 31, 2016” and all that follows and inserting “December 31, 2021.”.

(b) Phaseout.—
(1) IN GENERAL.—Section 25D(a) is amended by striking “the sum of—” and all that follows and inserting “the sum of the applicable percentages of—

“(1) the qualified solar electric property expenditures,

“(2) the qualified solar water heating property expenditures,

“(3) the qualified fuel cell property expenditures,

“(4) the qualified small wind energy property expenditures, and

“(5) the qualified geothermal heat pump property expenditures,

made by the taxpayer during such year.”.

(2) CONFORMING AMENDMENT.—Section 25D(g) is amended by striking “paragraphs (1) and (2) of”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2016.
SEC. 303. EXTENSION OF CREDIT FOR NEW QUALIFIED FUEL CELL MOTOR VEHICLES.

(a) IN GENERAL.—Section 30B(k)(1) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2016.

SEC. 304. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Section 30C(g) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2016.

SEC. 305. EXTENSION OF CREDIT FOR 2-WHEELED PLUG-IN ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30D(g)(3)(E)(ii) is amended by striking “January 1, 2017” and inserting “January 1, 2019”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles acquired after December 31, 2016.
SEC. 306. EXTENSION OF SECOND GENERATION BIOFUEL PRODUCER CREDIT.

(a) In General.—Section 40(b)(6)(J)(i) is amended by striking “January 1, 2017” and inserting “January 1, 2019”.

(b) Effective Date.—The amendment made by this section shall apply to qualified second generation biofuel production after December 31, 2016.

SEC. 307. EXTENSION OF BIODIESEL AND RENEWABLE DIESEL INCENTIVES.

(a) Income Tax Credit.—

(1) In General.—Subsection (g) of section 40A is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(2) Effective Date.—The amendment made by this subsection shall apply to fuel sold or used after December 31, 2016.

(b) Excise Tax Incentives.—

(1) In General.—Section 6426(c)(6) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(2) Payments.—Section 6427(e)(6)(B) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.
(3) **Effective date.**—The amendments made by this subsection shall apply to fuel sold or used after December 31, 2016.

(4) **Special rule for 2017.**—Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the
date of the filing of such claim, the claim shall be
paid with interest from such date determined by
using the overpayment rate and method under sec-
tion 6621 of such Code.

SEC. 308. EXTENSION OF PRODUCTION CREDIT FOR INDIAN
COAL FACILITIES.

(a) In General.—Section 45(e)(10)(A) is amended
by striking “11-year period” each place it appears and in-
serting “13-year period”.

(b) Effective Date.—The amendment made by
this section shall apply to coal produced after December
31, 2016.

SEC. 309. EXTENSION OF CREDITS WITH RESPECT TO FA-
CILITIES PRODUCING ENERGY FROM CERT-
AIN RENEWABLE RESOURCES.

(a) In General.—The following provisions of sec-
tion 45(d) are each amended by striking “January 1,
2017” each place it appears and inserting “January 1,
2019”:

(1) Paragraph (2)(A).
(2) Paragraph (3)(A).
(3) Paragraph (4)(B).
(4) Paragraph (6).
(5) Paragraph (7).
(6) Paragraph (9).
(7) Paragraph (11)(B).

(b) Extension of Election To Treat Qualified Facilities as Energy Property.—Section 48(a)(5)(C)(ii) is amended by striking “January 1, 2017” and inserting “January 1, 2019”.

c) Effective Date.—The amendments made by this section shall take effect on January 1, 2017.


(a) In General.—Section 45L(g) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply to homes acquired after December 31, 2016.

SEC. 311. Extension and Phaseout of Energy Credit.

(a) Credit Percentage for Geothermal Energy Property.—Section 48(a)(2)(A)(i)(II) is amended by striking “paragraph (3)(A)(i)” and inserting “clause (i) or (iii) of paragraph (3)(A)”.

(b) Extension of Solar and Thermal Energy Property.—Section 48(a)(3)(A) is amended—

(1) by striking “periods ending before January 1, 2017” in clause (ii) and inserting “property the
construction of which begins before January 1, 2022”, and

(2) by striking “periods ending before January 1, 2017” in clause (vii) and inserting “property the construction of which begins before January 1, 2022”.

(c) Phaseout of 30-Percent Credit Rate for Geothermal Energy Property.—Section 48(a)(6) is amended—

(1) by inserting “AND GEOTHERMAL” after “SOLAR” in the heading,

(2) by striking “paragraph (3)(A)(i)” in subparagraph (A) and inserting “clause (i) or (iii) of paragraph (3)(A)”, and

(3) by striking “property energy property described in paragraph (3)(A)(i)” in subparagraph (B) and inserting “energy property described in clause (i) or (iii) of paragraph (3)(A)”.

(d) Phaseout of 30-Percent Credit Rate for Fiber-Optic Solar, Qualified Fuel Cell, and Qualified Small Wind Energy Property.—

(1) In General.—Section 48(a) is amended by adding at the end the following new paragraph:
“(7) Phaseout for fiber-optic solar, qualified fuel cell, and qualified small wind energy property.—

“(A) In general.—In the case of any qualified fuel cell property, qualified small wind property, or energy property described in paragraph (3)(A)(ii), the energy percentage determined under paragraph (2) shall be equal to—

“(i) in the case of any property the construction of which begins after December 31, 2019, and before January 1, 2021, 26 percent, and

“(ii) in the case of any property the construction of which begins after December 31, 2020, and before January 1, 2022, 22 percent.

“(B) Placed in service deadline.—In the case of any energy property described in subparagraph (A) which is not placed in service before January 1, 2024, the energy percentage determined under paragraph (2) shall be equal to 0 percent.”.

(2) Conforming amendment.—Section 48(a)(2)(A) is amended by striking “paragraph (6)” and inserting “paragraphs (6) and (7)”.}
(3) Clarification relating to phaseout for wind facilities.—Section 48(a)(5)(E) is amended by inserting “which is treated as energy property by reason of this paragraph” after “using wind to produce electricity”.

(e) Extension of qualified fuel cell property.—Section 48(c)(1)(D) is amended by striking “for any period after December 31, 2016” and inserting “the construction of which does not begin before January 1, 2022”.

(f) Extension of qualified microturbine property.—Section 48(c)(2)(D) is amended by striking “for any period after December 31, 2016” and inserting “the construction of which does not begin before January 1, 2022”.

(g) Extension of combined heat and power system property.—Section 48(c)(3)(A)(iv) is amended by striking “which is placed in service before January 1, 2017” and inserting “the construction of which begins before January 1, 2022”.

(h) Extension of qualified small wind energy property.—Section 48(c)(4)(C) is amended by striking “for any period after December 31, 2016” and inserting “the construction of which does not begin before January 1, 2022”.
(i) **Effective Date.**—The amendments made by this section shall take effect on January 1, 2017.

**SEC. 312. EXTENSION OF SPECIAL ALLOWANCE FOR SECOND GENERATION BIOFUEL PLANT PROPERTY.**

(a) **In General.**—Section 168(l)(2)(D) is amended by striking “January 1, 2017” and inserting “January 1, 2019”.

(b) **Effective Date.**—The amendment made by this section shall apply to property placed in service after December 31, 2016.

**SEC. 313. EXTENSION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

(a) **In General.**—Section 179D(h) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(b) **Effective Date.**—The amendment made by this section shall apply to property placed in service after December 31, 2016.
SEC. 314. EXTENSION OF SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) In General.—Section 451(i)(3) is amended by striking “January 1, 2017” and inserting “January 1, 2019”.

(b) Effective Date.—The amendment made by this section shall apply to dispositions after December 31, 2016.

SEC. 315. EXTENSION OF EXCISE TAX CREDITS RELATING TO ALTERNATIVE FUELS.

(a) Extension of Alternative Fuels Excise Tax Credits.—

(1) In General.—Sections 6426(d)(5) and 6426(e)(3) are each amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(2) Outlay Payments for Alternative Fuels.—Section 6427(e)(6)(C) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.

(3) Effective Date.—The amendments made by this subsection shall apply to fuel sold or used after December 31, 2016.

(b) Special Rule for 2017.—Notwithstanding any other provision of law, in the case of any alternative fuel
credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.
SEC. 316. EXTENSION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.

(a) In General.—Section 4611(f)(2) is amended by striking “December 31, 2017” and inserting “December 31, 2018”.

(b) Effective Date.—The amendment made by this section shall apply on and after January 1, 2018.

TITLE IV—MODIFICATIONS OF ENERGY INCENTIVES

SEC. 401. MODIFICATIONS OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) Treatment of Unutilized Limitation Amounts.—Section 45J(b) is amended—

(1) by inserting “or any amendment to” after “enactment of” in paragraph (4), and

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

“(5) Allocation of Unutilized Limitation.—

“(A) In general.—Any unutilized national megawatt capacity limitation shall be allocated by the Secretary under paragraph (3) as rapidly as is practicable after December 31, 2020—
“(i) first to facilities placed in service on or before such date to the extent that such facilities did not receive an allocation equal to their full nameplate capacity, and

“(ii) then to facilities placed in service after such date in the order in which such facilities are placed in service.

“(B) Unutilized National Megawatt Capacity Limitation.—The term ‘unutilized national megawatt capacity limitation’ means the excess (if any) of—

“(i) 6,000 megawatts, over

“(ii) the aggregate amount of national megawatt capacity limitation allocated by the Secretary before January 1, 2021, reduced by any amount of such limitation which was allocated to a facility which was not placed in service before such date.

“(C) Coordination with Other Provisions.—In the case of any unutilized national megawatt capacity limitation allocated by the Secretary pursuant to this paragraph—

“(i) such allocation shall be treated for purposes of this section in the same
manner as an allocation of national mega-

watt capacity limitation, and

“(ii) subsection (d)(1)(B) shall not

apply to any facility which receives such al-

location.”.

(b) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-

TITIES.—

(1) IN GENERAL.—Section 45J is amended—

(A) by redesignating subsection (e) as sub-

section (f), and

(B) by inserting after subsection (d) the

following new subsection:

“(e) TRANSFER OF CREDIT BY CERTAIN PUBLIC EN-

TITIES.—

“(1) IN GENERAL.—If, with respect to a credit

under subsection (a) for any taxable year—

“(A) a qualified public entity would be the
taxpayer (but for this paragraph), and

“(B) such entity elects the application of

this paragraph for such taxable year with re-
spect to all (or any portion specified in such
election) of such credit,

the eligible project partner specified in such election,

and not the qualified public entity, shall be treated
as the taxpayer for purposes of this title with re-
spect to such credit (or such portion thereof).

“(2) DEFINITIONS.—For purposes of this sub-
section—

“(A) QUALIFIED PUBLIC ENTITY.—The
term ‘qualified public entity’ means—

“(i) a Federal, State, or local govern-
ment entity, or any political subdivision,
agency, or instrumentality thereof,

“(ii) a mutual or cooperative electric
company described in section 501(c)(12) or
1381(a)(2), or

“(iii) a not-for-profit electric utility
which had or has received a loan or loan
guarantee under the Rural Electrification
Act of 1936.

“(B) ELIGIBLE PROJECT PARTNER.—The
term ‘eligible project partner’ means any person
who—

“(i) is responsible for, or participates
in, the design or construction of the ad-
vanced nuclear power facility to which the
credit under subsection (a) relates,
“(ii) participates in the provision of the nuclear steam supply system to such facility,

“(iii) participates in the provision of nuclear fuel to such facility,

“(iv) is a financial institution providing financing for the construction or operation of such facility, or

“(v) has an ownership interest in such facility.

“(3) Special rules.—

“(A) Application to partnerships.—In the case of a credit under subsection (a) which is determined at the partnership level—

“(i) for purposes of paragraph (1)(A), a qualified public entity shall be treated as the taxpayer with respect to such entity’s distributive share of such credit, and

“(ii) the term ‘eligible project partner’ shall include any partner of the partnership.

“(B) Taxable year in which credit taken into account.—In the case of any credit (or portion thereof) with respect to which an election is made under paragraph (1), such
credit shall be taken into account in the first taxable year of the eligible project partner ending with, or after, the qualified public entity’s taxable year with respect to which the credit was determined.

“(C) TREATMENT OF TRANSFER UNDER PRIVATE USE RULES.—For purposes of section 141(b)(1), any benefit derived by an eligible project partner in connection with an election under this subsection shall not be taken into account as a private business use.”.

(2) SPECIAL RULE FOR PROCEEDS OF TRANSFERS FOR MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—Section 501(c)(12) is amended by adding at the end the following new subparagraph:

“(I) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2), income received or accrued in connection with an election under section 45J(e)(1) shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.”.

(c) EFFECTIVE DATES.—
(1) Treatment of Unutilized Limitation

Amounts.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Transfer of Credit by Certain Public Entities.—The amendments made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 402. ENHANCEMENT OF CARBON DIOXIDE SEQUESTRATION CREDIT.

(a) In General.—Section 45Q is amended to read as follows:

“SEC. 45Q. CREDIT FOR CARBON OXIDE SEQUESTRATION.

“(a) General Rule.—For purposes of section 38, the carbon oxide sequestration credit for any taxable year is an amount equal to the sum of—

“(1) $20 per metric ton of qualified carbon oxide which is—

“(A) captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility before the date of the enactment of the Tax Extender Act of 2017, and
“(B) disposed of by the taxpayer in secure geological storage and not used by the taxpayer as described in paragraph (2)(B),

“(2) $10 per metric ton of qualified carbon oxide which is—

“(A) captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility before the date of the enactment of the Tax Extender Act of 2017, and

“(B)(i) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and disposed of by the taxpayer in secure geological storage, or

“(ii) utilized by the taxpayer in a manner described in subsection (f)(5),

“(3) the applicable dollar amount per metric ton of qualified carbon oxide which is—

“(A) captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility on or after the date of the enactment of the Tax Extender Act of 2017, during the 12-year period beginning on the date the equipment was originally placed in service, and
“(B) disposed of by the taxpayer in secure geological storage and not used by the taxpayer as described in paragraph (4)(B), and
“(4) the applicable dollar amount per metric ton of qualified carbon oxide which is—
“(A) captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility on or after the date of the enactment of the Tax Ex- tender Act of 2017, during the 12-year period beginning on the date the equipment was originally placed in service, and
“(B)(i) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and disposed of by the taxpayer in secure geological storage, or
“(ii) utilized by the taxpayer in a manner described in subsection (f)(5).
“(b) APPLICABLE DOLLAR AMOUNT; ADDITIONAL EQUIPMENT; ELECTION.—
“(1) APPLICABLE DOLLAR AMOUNT.—
“(A) IN GENERAL.—For purposes of this section, the applicable dollar amount shall be an amount equal to—
“(i) for any taxable year beginning in a calendar year after 2016 and ending before 2027—

“(I) for purposes of paragraph (3) of subsection (a), the dollar amount established by linear interpolation between $22.66 and $50 for each calendar year during such period, and

“(II) for purposes of paragraph (4) of such subsection, the dollar amount established by linear interpolation between $12.83 and $35 for each calendar year during such period, and

“(ii) for any taxable year beginning in a calendar year after 2026—

“(I) for purposes of paragraph (3) of subsection (a), an amount equal to the product of $50 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting ‘2025’ for ‘1990’, and
“(II) for purposes of paragraph (4) of such subsection, an amount equal to the product of $35 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting ‘2025’ for ‘1990’.

“(B) ROUNDING.—The applicable dollar amount determined under subparagraph (A) shall be rounded to the nearest cent.

“(2) INSTALLATION OF ADDITIONAL CARBON CAPTURE EQUIPMENT ON EXISTING QUALIFIED FACILITY.—In the case of a qualified facility placed in service before the date of the enactment of the Tax Extender Act of 2017, for which additional carbon capture equipment is placed in service on or after the date of the enactment of such Act, the amount of qualified carbon oxide which is captured by the taxpayer shall be equal to—

“(A) for purposes of paragraphs (1)(A) and (2)(A) of subsection (a), the lesser of—

“(i) the total amount of qualified carbon oxide captured at such facility for the taxable year, or
“(ii) the total amount of the carbon dioxide capture capacity of the carbon capture equipment in service at such facility on the day before the date of the enactment of the Tax Extender Act of 2017, and

“(B) for purposes of paragraphs (3)(A) and (4)(A) of such subsection, an amount (not less than zero) equal to the excess of—

“(i) the amount described in clause (i) of subparagraph (A), over

“(ii) the amount described in clause (ii) of such subparagraph.

“(3) ELECTION.—For purposes of determining the carbon oxide sequestration credit under this section, a taxpayer may elect to have the dollar amounts applicable under paragraph (1) or (2) of subsection (a) apply in lieu of the dollar amounts applicable under paragraph (3) or (4) of such subsection for each metric ton of qualified carbon oxide which is captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility on or after the date of the enactment of the Tax Extender Act of 2017.
“(c) QUALIFIED CARBON OXIDE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified carbon oxide’ means—

“(A) any carbon dioxide which—

“(i) is captured from an industrial source by carbon capture equipment which is originally placed in service before the date of the enactment of the Tax Extender Act of 2017,

“(ii) would otherwise be released into the atmosphere as industrial emission of greenhouse gas or lead to such release, and

“(iii) is measured at the source of capture and verified at the point of disposal, injection, or utilization,

“(B) any carbon dioxide or other carbon oxide which—

“(i) is captured from an industrial source by carbon capture equipment which is originally placed in service on or after the date of the enactment of the Tax Extender Act of 2017,
“(ii) would otherwise be released into the atmosphere as industrial emission of greenhouse gas or lead to such release, and
“(iii) is measured at the source of capture and verified at the point of disposal, injection, or utilization, or
“(C) in the case of a direct air capture facility, any carbon dioxide which—
“(i) is captured directly from the ambient air, and
“(ii) is measured at the source of capture and verified at the point of disposal, injection, or utilization.
“(2) RECYCLED CARBON OXIDE.—The term ‘qualified carbon oxide’ includes the initial deposit of captured carbon oxide used as a tertiary injectant. Such term does not include carbon oxide that is recaptured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.
“(d) QUALIFIED FACILITY.—For purposes of this section, the term ‘qualified facility’ means any industrial facility or direct air capture facility—
“(1) the construction of which begins before January 1, 2024, and—
“(A) construction of carbon capture equipment begins before such date, or

“(B) the original planning and design for such facility includes installation of carbon capture equipment, and

“(2) which captures—

“(A) in the case of a facility which emits not more than 500,000 metric tons of carbon oxide into the atmosphere during the taxable year, not less than 25,000 metric tons of qualified carbon oxide during the taxable year which is utilized in a manner described in subsection (f)(5),

“(B) in the case of an electricity generating facility which is not described in subparagraph (A), not less than 500,000 metric tons of qualified carbon oxide during the taxable year, or

“(C) in the case of a direct air capture facility or any facility not described in subparagraph (A) or (B), not less than 100,000 metric tons of qualified carbon oxide during the taxable year.

“(e) Definitions.—For purposes of this section—

“(1) Direct air capture facility.—
“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘direct air capture facility’
means any facility which uses carbon capture
equipment to capture carbon dioxide directly
from the ambient air.

“(B) EXCEPTION.—The term ‘direct air
capture facility’ shall not include any facility
which captures carbon dioxide—

“(i) which is deliberately released
from naturally occurring subsurface
springs, or

“(ii) using natural photosynthesis.

“(2) QUALIFIED ENHANCED OIL OR NATURAL
GAS RECOVERY PROJECT.—The term ‘qualified en-
hanced oil or natural gas recovery project’ has the
meaning given the term ‘qualified enhanced oil re-
covery project’ by section 43(c)(2), determined—

“(A) by substituting ‘crude oil or natural
gas’ for ‘crude oil’ in subparagraph (A)(i)
thereof, and

“(B) without regard to subparagraph
(A)(iii) thereof.

“(3) TERTIARY INJECTANT.—The term ‘ter-
tiary injectant’ has the same meaning as when used
within section 193(b)(1).
“(f) **Special Rules.**—

“(1) **Only qualified carbon oxide captured and disposed of or used within the United States taken into account.**—The credit under this section shall apply only with respect to qualified carbon oxide the capture and disposal, use, or utilization of which is within—

“(A) the United States (within the meaning of section 638(1)), or

“(B) a possession of the United States (within the meaning of section 638(2)).

“(2) **Secure geological storage.**—

“(A) **In general.**—Not later than December 31, 2018, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Secretary of the Interior, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations, oil and gas reservoirs, and unmineable coal seams under such conditions as
the Secretary may determine under such regu-
lations.

“(B) REQUIREMENTS.—The regulations
established pursuant to subparagraph (A) shall
provide that—

“(i) for purposes of paragraph (1)(B)
or (3)(B) of subsection (a), carbon dioxide
shall be considered disposed of in secure
geological storage if such carbon dioxide is
stored in compliance with rules promul-
gated by the Environmental Protection
Agency under subpart RR of part 98 of
title 40, Code of Federal Regulations (as
in effect on the date of the enactment of
this paragraph), under the Clean Air Act
(42 U.S.C. 7401 et seq.) and rules under
the Safe Drinking Water Act (42 U.S.C.
300f et seq.) which are applicable to car-
bon dioxide disposed of in secure geological
storage and not used as a tertiary
injectant in a qualified enhanced oil or nat-
ural gas recovery project, and

“(ii) for purposes of paragraph
(2)(B)(i) or (4)(B)(i) of subsection (a),
carbon dioxide shall be considered disposed
of in secure geological storage if such carbon dioxide is stored in compliance with rules promulgated by the Environmental Protection Agency which are applicable to carbon dioxide used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project under—

“(I) subpart UU of part 98 of title 40, Code of Federal Regulations (as in effect on the date of the enactment of this paragraph), under the Clean Air Act, and

“(II) subpart C of part 146 of title 40, Code of Federal Regulations (as in effect on the date of the enactment of this paragraph), under the Safe Drinking Water Act, to the extent such rules are applicable to Class II wells.

“(3) CREDIT ATTRIBUTABLE TO TAXPAYER.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or in any regulations prescribed by the Secretary, any credit under this section shall be attributable to—
“(i) in the case of qualified carbon oxide captured using carbon capture equipment which is originally placed in service at a qualified facility before the date of the enactment of the Tax Extender Act of 2017, the person that captures and physically or contractually ensures the disposal, utilization, or use as a tertiary injectant of such qualified carbon oxide, and

“(ii) in the case of qualified carbon oxide captured using carbon capture equipment which is originally placed in service at a qualified facility on or after the date of the enactment of the Tax Extender Act of 2017, the person that owns the carbon capture equipment and physically or contractually ensures the capture and disposal, utilization, or use as a tertiary injectant of such qualified carbon oxide.

“(B) Election.—If the person described in subparagraph (A) makes an election under this subparagraph in such time and manner as the Secretary may prescribe by regulations, the credit under this section—
“(i) shall be allowable to the person that disposes of the qualified carbon oxide, utilizes the qualified carbon oxide, or uses the qualified carbon oxide as a tertiary injectant, and

“(ii) shall not be allowable to the person described in subparagraph (A).

“(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon oxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

“(5) UTILIZATION OF QUALIFIED CARBON OXIDE.—

“(A) IN GENERAL.—For purposes of this section, utilization of qualified carbon oxide means—

“(i) the fixation of such qualified carbon oxide through photosynthesis or chemosynthesis, such as through the growing of algae or bacteria,

“(ii) the chemical conversion of such qualified carbon oxide to a material or
chemical compound in which such qualified carbon oxide is securely stored, or

“(iii) the use of such qualified carbon oxide for any other purpose for which a commercial market exists (with the exception of use as a tertiary injectant in a qualified enhanced oil or natural gas recovery project), as determined by the Secretary.

“(B) MEASUREMENT.—

“(i) IN GENERAL.—For purposes of determining the amount of qualified carbon oxide utilized by the taxpayer under paragraph (2)(B)(ii) or (4)(B)(ii) of subsection (a), such amount shall be equal to the metric tons of qualified carbon oxide which the taxpayer demonstrates, based upon an analysis of lifecycle greenhouse gas emissions and subject to such requirements as the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines appropriate, were—

“(I) captured and permanently isolated from the atmosphere, or
“(II) displaced from being emitted into the atmosphere, through use of a process described in subparagraph (A).

“(ii) LIFECYCLE GREENHOUSE GAS EMISSIONS.—For purposes of clause (i), the term ‘lifecycle greenhouse gas emissions’ has the same meaning given such term under subparagraph (H) of section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of the enactment of the Tax Extender Act of 2017, except that ‘product’ shall be substituted for ‘fuel’ each place it appears in such subparagraph.

“(6) ELECTION FOR APPLICABLE FACILITIES.—

“(A) IN GENERAL.—For purposes of this section, in the case of an applicable facility, for any taxable year in which such facility captures not less than 500,000 metric tons of qualified carbon oxide during the taxable year, the person described in paragraph (3)(A)(ii) may elect to have such facility, and any carbon capture equipment placed in service at such facility, deemed as having been placed in service on the
date of the enactment of the Tax Extender Act of 2017.

“(B) Applicable Facility.—For purposes of this paragraph, the term ‘applicable facility’ means a qualified facility—

“(i) which was placed in service before the date of the enactment of the Tax Extender Act of 2017, and

“(ii) for which no taxpayer claimed a credit under this section in regards to such facility for any taxable year ending before the date of the enactment of such Act.

“(7) Inflation Adjustment.—In the case of any taxable year beginning in a calendar year after 2009, there shall be substituted for each dollar amount contained in paragraphs (1) and (2) of subsection (a) an amount equal to the product of—

“(A) such dollar amount, multiplied by

“(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting ‘2008’ for ‘1990’.

“(g) Application of Section for Certain Carbon Capture Equipment.—In the case of any carbon capture equipment placed in service before the date of the
enactment of the Tax Extender Act of 2017, the credit under this section shall apply with respect to qualified carbon oxide captured using such equipment before the end of the calendar year in which the Secretary, in consultation with the Administrator of the Environmental Protection Agency, certifies that, during the period beginning after October 3, 2008, a total of 75,000,000 metric tons of qualified carbon oxide have been taken into account in accordance with—

“(1) subsection (a) of this section, as in effect on the day before the date of the enactment of the Tax Extender Act of 2017, and

“(2) paragraphs (1) and (2) of subsection (a) of this section.

“(h) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section, including regulations or other guidance to—

“(1) ensure proper allocation under subsection (a) for qualified carbon oxide captured by a taxpayer during the taxable year ending after the date of the enactment of the Tax Extender Act of 2017, and

“(2) determine whether a facility satisfies the requirements under subsection (d)(1) during such taxable year.”.
(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.