

110TH CONGRESS
2D SESSION

S. 3349

To increase energy assistance for low-income persons, to extend energy tax incentives, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2008

Ms. COLLINS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To increase energy assistance for low-income persons, to extend 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 “Energy Assistance 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—ENERGY ASSISTANCE

Sec. 101. Weatherization assistance.

Sec. 102. Energy Assistance Fund.

TITLE II—TAX PROVISIONS

Sec. 200. Reference.

Subtitle A—Clean Stoves

Sec. 201. Credit for replacement of wood-burning stoves meeting environmental standards.

Subtitle B—Renewable Energy Incentives

Sec. 211. Renewable energy credit.

Sec. 212. Production credit for electricity produced from marine renewables.

Sec. 213. Energy credit.

Sec. 214. Credit for residential energy efficient property.

Sec. 215. Special rule to implement FERC and State electric restructuring policy.

Sec. 216. New clean renewable energy bonds.

Subtitle C—Carbon Mitigation Provisions

Sec. 221. Expansion and modification of advanced coal project investment credit.

Sec. 222. Expansion and modification of coal gasification investment credit.

Sec. 223. Temporary increase in coal excise tax.

Sec. 224. Special rules for refund of the coal excise tax to certain coal producers and exporters.

Sec. 225. Carbon audit of the tax code.

Subtitle D—Transportation and Domestic Fuel Security Provisions

Sec. 231. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.

Sec. 232. Credits for biodiesel and renewable diesel.

Sec. 233. Clarification that credits for fuel are designed to provide an incentive for United States production.

Sec. 234. Credit for new qualified plug-in electric drive motor vehicles.

Sec. 235. Exclusion from heavy truck tax for idling reduction units and advanced insulation.

Sec. 236. Transportation fringe benefit to bicycle commuters.

Sec. 237. Alternative fuel vehicle refueling property credit.

Subtitle E—Energy Conservation and Efficiency Provisions

Sec. 241. Qualified energy conservation bonds.

Sec. 242. Credit for nonbusiness energy property.

Sec. 243. Energy efficient commercial buildings deduction.

Sec. 244. Modifications of energy efficient appliance credit for appliances produced after 2007.

Sec. 245. Accelerated recovery period for depreciation of smart meters and smart grid systems.

Sec. 246. Qualified green building and sustainable design projects.

1 **TITLE I—ENERGY ASSISTANCE**

2 **SEC. 101. WEATHERIZATION ASSISTANCE.**

3 Section 422 of the Energy Conservation and Produc-
4 tion Act (42 U.S.C. 6872) is amended to read as follows:

5 **“SEC. 422. AUTHORIZATION OF APPROPRIATIONS.**

6 “There are authorized to be appropriated to carry out
7 the weatherization program under this part—

8 “(1) \$1,800,000,000 for fiscal year 2009;

9 “(2) \$2,100,000,000 for fiscal year 2010; and

10 “(3) \$2,400,000,000 for fiscal year 2011.”.

11 **SEC. 102. ENERGY ASSISTANCE FUND.**

12 (a) DEFINITIONS.—In this section:

13 (1) FUND.—The term “Fund” means the En-
14 ergy Assistance Fund established under subsection
15 (b).

16 (2) SECRETARY CONCERNED.—The term “Sec-
17 retary concerned” means, with respect to programs
18 carried out by each Secretary—

19 (A) the Secretary of Agriculture;

20 (B) the Secretary of Energy;

21 (C) the Secretary of Housing and Urban
22 Development;

23 (D) the Secretary of Transportation; and

24 (E) the Administrator of the Small Busi-
25 ness Administration.

1 (b) ESTABLISHMENT.—There is established in the
 2 Treasury of the United States a revolving fund, to be
 3 known as the “Energy Assistance Fund”, consisting of
 4 such amounts as are appropriated to the Fund under sub-
 5 section (h)(1).

6 (c) EXPENDITURES FROM FUND.—

7 (1) IN GENERAL.—Subject to paragraph (2), on
 8 request by the Secretary concerned, the Secretary of
 9 the Treasury shall transfer from the Fund to the
 10 Secretary concerned such amounts as the Secretary
 11 concerned determines are necessary to provide to
 12 carry out 1 or more qualified purposes described in
 13 subsections (d), (e) and (f).

14 (2) ADMINISTRATIVE EXPENSES.—An amount
 15 not exceeding 10 percent of the amounts in the
 16 Fund shall be available for each fiscal year to pay
 17 the administrative expenses necessary to carry out
 18 this section.

19 (d) LOW-INTEREST LOANS FOR PURCHASE AND IN-
 20 STALLATION OF QUALIFYING ENERGY EFFICIENT PROP-
 21 erty.—

22 (1) IN GENERAL.—To the extent that the Sec-
 23 retary concerned has authority under other law to
 24 make loans or grants to persons to purchase and in-
 25 stall qualifying property, the Secretary concerned

1 may make available to eligible United States persons
2 loans under this subsection for the purchase and in-
3 stallation of qualifying property.

4 (2) QUALIFYING PROPERTY.—For the purpose
5 of paragraph (1), qualifying property means—

6 (A) any component which constitutes a
7 qualified energy efficiency improvement (as de-
8 fined in section 25C(c) of the Internal Revenue
9 Code of 1986);

10 (B) property to heat water for use in a
11 dwelling unit located in the United States and
12 used a residence by the person if at least half
13 of the energy used by such property for such
14 purpose is derived from the sun;

15 (C) property which uses solar energy to
16 generate electricity for use in a dwelling unit lo-
17 cated in the United States and used by the per-
18 son (in the case of an individual) as a resi-
19 dence;

20 (D) qualified fuel cell property (as defined
21 in section 48(c)(1) of that Code) installed on or
22 in connection with a dwelling unit located in the
23 United States and used as a principal residence
24 (within the meaning of section 121 of that

1 Code) by the person (in the case of an indi-
 2 vidual); or

3 (E) a compliant stove (as defined in sec-
 4 tion 25E(c)(2) of that Code) which—

5 (i) is installed in a dwelling unit lo-
 6 cated in the United States; and

7 (ii) replaces a noncompliant stove (as
 8 defined in section 25E(c)(3) of that Code)
 9 used in such dwelling unit.

10 (3) ELIGIBILITY.—To be eligible to receive a
 11 loan under this subsection, a person that is an indi-
 12 vidual shall have a household income of not to ex-
 13 ceed 115 percent of the area median household in-
 14 come, as determined by the Secretary concerned.

15 (4) USE OF LOAN.—The recipient of a loan
 16 under this subsection may use the loan only to fund
 17 improvements to property owned by, and for the
 18 benefit of, the recipient.

19 (5) AMOUNT.—The amount of a loan made to
 20 a person under this subsection shall equal the lesser
 21 of—

22 (A) 90 percent of the difference between—

23 (i) the cost incurred by the person for
 24 the purchase and installation of the quali-

1 fying property, as approved by the Sec-
2 retary; and

3 (ii) the amount of any credit allowable
4 to the person with respect to such property
5 under section 25C, 25D, or 25E, of the In-
6 ternal Revenue Code of 1986; or

7 (B) \$30,000.

8 (6) TERM OF LOANS.—A loan under this sub-
9 section shall have a term of not to exceed 15 years.

10 (e) LOW-INTEREST LOANS FOR PURCHASE AND IN-
11 STALLATION OF IDLING REDUCTION AND ADVANCED IN-
12 SULATION FOR HEAVY TRUCKS.—

13 (1) IN GENERAL.—To the extent that the Sec-
14 retary concerned has authority under other law to
15 make loans or grants to persons to purchase and in-
16 stall idling reduction devices described in section
17 4053(9) of the Internal Revenue Code of 1986 or
18 advanced insulation described in section 4053(10) of
19 such Code, the Secretary concerned may make avail-
20 able loans under this subsection to United States
21 persons for the purchase and installation of such
22 idling reduction devices and advanced insulation.

23 (2) USE OF LOAN.—The recipient of a loan
24 under this subsection may use the loan only to fund

1 improvements to property owned by, and for the
2 benefit of, the recipient.

3 (3) AMOUNT.—

4 (A) IN GENERAL.—The amount of a loan
5 made to a person under this subsection shall
6 equal 90 percent of the difference between—

7 (i) the cost incurred by the person for
8 the purchase and installation of the idling
9 reduction devices and advanced insulation
10 described in subsection (a), as approved by
11 the Secretary concerned; and

12 (ii) 12 percent of the amount for
13 which the idling reduction devices or ad-
14 vanced insulation was sold.

15 (B) SPECIAL RULES.—In the case of any
16 property described in paragraphs (2), (3), or
17 (4) of section 4051(a) of the Internal Revenue
18 Code of 1986, the amount determined under
19 subparagraph (A) shall be zero.

20 (C) DETERMINATION OF PRICE.—Rules
21 similar to the rules of section 4052(b) of the
22 Internal Revenue Code of 1986 shall apply for
23 purposes of subparagraph (B).

1 (4) LOAN TERMS.—The Secretary concerned
2 shall establish terms for loans made under this sub-
3 section, as determined by the Secretary concerned.

4 (f) LOW-INTEREST LOANS FOR PURCHASE AND IN-
5 STALLATION OF ALTERNATIVE REFUELING STATIONS.—

6 (1) IN GENERAL.—To the extent that the Sec-
7 retary concerned has authority under other law to
8 make loans or grants to persons for the purchase
9 and installation of any qualified alternative fuel vehi-
10 cle refueling property (as defined in section 30C(c)
11 of the Internal Revenue Code of 1986), the Sec-
12 retary concerned may make available loans under
13 this subsection to United States persons for the pur-
14 chase and installation of any such qualified alter-
15 native fuel vehicle refueling property placed in serv-
16 ice by the person during a taxable year.

17 (2) USE OF LOAN.—The recipient of a loan
18 under this subsection may use the loan only to fund
19 improvements to property owned by, and for the
20 benefit of, the recipient.

21 (3) AMOUNT.—The amount of a loan made to
22 a person under this subsection shall equal 90 per-
23 cent of the difference between—

24 (A) the cost incurred by the person for the
25 purchase and installation of the qualified alter-

1 native fuel vehicle refueling property described
2 in paragraph (1), as approved by the Secretary
3 concerned; and

4 (B) the amount of any credit allowable to
5 the person under section 30C of the Internal
6 Revenue Code of 1986.

7 (4) LOAN TERMS.—The Secretary concerned
8 shall establish terms for loans made under this sub-
9 section, as determined by the Secretary concerned.

10 (g) TRANSFERS OF AMOUNTS.—

11 (1) IN GENERAL.—The amounts required to be
12 transferred to the Fund under this section shall be
13 transferred at least monthly from the general fund
14 of the Treasury to the Fund on the basis of esti-
15 mates made by the Secretary of the Treasury.

16 (2) ADJUSTMENTS.—Proper adjustment shall
17 be made in amounts subsequently transferred to the
18 extent prior estimates were in excess of or less than
19 the amounts required to be transferred.

20 (h) FUNDING.—

21 (1) MANDATORY FUNDING.—

22 (A) IN GENERAL.—Notwithstanding any
23 other provision of law, on October 1, 2008, out
24 of any funds in the Treasury not otherwise ap-
25 propriated, the Secretary of the Treasury shall

1 transfer to the Fund for the cost of loans to
2 carry out the purposes of the Fund
3 \$1,000,000,000, to remain available until ex-
4 pended.

5 (B) RECEIPT AND ACCEPTANCE.—The
6 Fund shall be entitled to receive, shall accept,
7 and shall use to carry out the purposes of the
8 Fund the funds transferred under subpara-
9 graph (A), without further appropriation.

10 (2) AUTHORIZATION OF APPROPRIATIONS.—

11 (A) IN GENERAL.—In addition to the
12 amount made available under paragraph (1),
13 there are authorized to be appropriated to the
14 Fund such sums as are necessary to carry out
15 the purposes of the Fund.

16 (B) ADDITIONAL FUNDING.—To the extent
17 that a Secretary described in subsection (a) has
18 authority under other law to make loans or
19 grants described in subsection (d)(1), (e)(1), or
20 (f)(1), in addition to any other funds made
21 available to carry out that authority under any
22 other provision of law, there are authorized to
23 be appropriated to the Secretary such sums as
24 are necessary for the Secretary to provide addi-
25 tional loans or grants under that authority.

1 **TITLE II—TAX PROVISIONS**

2 **SEC. 200. REFERENCE.**

3 Except as otherwise expressly provided, whenever in
 4 this title an amendment or repeal is expressed in terms
 5 of an amendment to, or repeal of, a section or other provi-
 6 sion, the reference shall be considered to be made to a
 7 section or other provision of the Internal Revenue Code
 8 of 1986.

9 **Subtitle A—Clean Stoves**

10 **SEC. 201. CREDIT FOR REPLACEMENT OF WOOD-BURNING** 11 **STOVES MEETING ENVIRONMENTAL STAND-** 12 **ARDS.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-
 14 chapter A of chapter 1 (relating to nonrefundable personal
 15 credits) is amended by inserting after section 25D the fol-
 16 lowing new section:

17 **“SEC. 25E. REPLACEMENT OF WOOD-BURNING STOVES.**

18 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 19 dividual, there shall be allowed as a credit against the tax
 20 imposed by this chapter for the taxable year an amount
 21 equal to the qualified stove replacement expenditures paid
 22 or incurred by the taxpayer for the taxable year.

23 “(b) LIMITATION.—The amount of the credit under
 24 subsection (a) with respect to the replacement of each non-
 25 compliant wood stove shall not exceed \$500.

1 “(c) QUALIFIED STOVE REPLACEMENT EXPENDI-
2 TURES.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified stove
4 replacement expenditures’ means expenditures made
5 by the taxpayer for the purchase and installation of
6 a compliant stove which—

7 “(A) is installed in a dwelling unit located
8 in the United States, and

9 “(B) replaces a noncompliant wood stove
10 used in such dwelling unit.

11 Such term includes expenditures for labor costs
12 properly allocable to the onsite preparation, assem-
13 bly, or original installation of the compliant stove.

14 “(2) COMPLIANT STOVE.—The term ‘compliant
15 stove’ means—

16 “(A) a wood-burning stove which meets the
17 requirements set forth in the ‘Standards of Per-
18 formance for New Residential Wood Heaters’
19 issued by the Environmental Protection Agency,
20 and

21 “(B) a pellet or corn-burning stove.

22 “(3) NONCOMPLIANT WOOD STOVE.—The term
23 ‘noncompliant wood stove’ means any wood-burning
24 stove that is not a compliant stove.

1 “(d) JOINT OCCUPANCY, COOPERATIVE HOUSING
2 CORPORATION, AND WHEN EXPENDITURE MADE.—
3 Rules similar to the rules of paragraphs (4), (5), and (8)
4 of section 25D(e) shall apply for purposes of this section.

5 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
6 title, if a credit is allowed under this section for any ex-
7 penditure with respect to any property, the increase in the
8 basis of such property which would (but for this sub-
9 section) result from such expenditure shall be reduced by
10 the amount of the credit so allowed.

11 “(f) TERMINATION.—This section shall not apply to
12 expenditures made after December 31, 2010.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Subsection (a) of section 1016 is amend-
15 ed—

16 (A) by striking “and” at the end of para-
17 graph (36),

18 (B) by striking the period at the end of
19 paragraph (37) and inserting “, and”, and

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

22 “(38) to the extent provided in section 25E(e),
23 in the case of amounts with respect to which a credit
24 has been allowed under section 25E.”.

1 (2) The table of sections for subpart A of part
 2 IV of subchapter A of chapter 1 is amended by in-
 3 serting after the item relating to section 25D the
 4 following new item:

“Sec. 25E. Replacement of wood-burning stoves.”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to expenditures for stoves pur-
 7 chased after the date of the enactment of this Act.

8 **Subtitle B—Renewable Energy** 9 **Incentives**

10 **SEC. 211. RENEWABLE ENERGY CREDIT.**

11 (a) EXTENSION OF CREDIT.—

12 (1) 1-YEAR EXTENSION FOR WIND FACILI-
 13 TIES.—Paragraph (1) of section 45(d) is amended
 14 by striking “January 1, 2009” and inserting “Janu-
 15 ary 1, 2010”.

16 (2) 3-YEAR EXTENSION FOR CERTAIN OTHER
 17 FACILITIES.—Each of the following provisions of
 18 section 45(d) is amended by striking “January 1,
 19 2009” and inserting “January 1, 2012”:

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

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

24 (C) Paragraph (4).

25 (D) Paragraph (5).

1 (E) Paragraph (6).

2 (F) Paragraph (7).

3 (G) Subparagraphs (A) and (B) of para-
4 graph (9).

5 (b) MODIFICATION OF CREDIT PHASEOUT.—

6 (1) REPEAL OF PHASEOUT.—Subsection (b) of
7 section 45 is amended—

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

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

11 (2) LIMITATION BASED ON INVESTMENT IN FA-
12 CILITY.—Subsection (b) of section 45 is amended by
13 inserting before paragraph (2) the following new
14 paragraph:

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

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

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

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

2 “(B) CARRYFORWARD OF UNUSED LIMITA-
3 TION AND EXCESS CREDIT.—

4 “(i) UNUSED LIMITATION.—If the
5 limitation imposed under subparagraph (A)
6 with respect to any facility for any taxable
7 year exceeds the prelimitation credit for
8 such facility for such taxable year, the lim-
9 itation imposed under subparagraph (A)
10 with respect to such facility for the suc-
11 ceeding taxable year shall be increased by
12 the amount of such excess.

13 “(ii) EXCESS CREDIT.—If the
14 prelimitation credit with respect to any fa-
15 cility for any taxable year exceeds the limi-
16 tation imposed under subparagraph (A)
17 with respect to such facility for such tax-
18 able year, the credit determined under sub-
19 section (a) with respect to such facility for
20 the succeeding taxable year (determined
21 before the application of subparagraph (A)
22 for such succeeding taxable year) shall be
23 increased by the amount of such excess.
24 With respect to any facility, no amount
25 may be carried forward under this clause

1 to any taxable year beginning after the 10-
 2 year period described in subsection
 3 (a)(2)(A)(ii) with respect to such facility.

4 “(iii) PRELIMINATION CREDIT.—The
 5 term ‘prelimination credit’ with respect to
 6 any facility for a taxable year means the
 7 credit determined under subsection (a)
 8 with respect to such facility for such tax-
 9 able year, determined without regard to
 10 subparagraph (A) and after taking into ac-
 11 count any increase for such taxable year
 12 under clause (ii).

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

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

21 “(ii) METHOD OF PRESCRIBING AP-
 22 PPLICABLE PERCENTAGES.—The applicable
 23 percentages prescribed by the Secretary for
 24 any month under clause (i) shall be per-
 25 centages which yield over a 10-year period

1 amounts of limitation under subparagraph
2 (A) which have a present value equal to 35
3 percent of the eligible basis of the facility.

4 “(iii) METHOD OF DISCOUNTING.—
5 The present value under clause (ii) shall be
6 determined—

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

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

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

20 “(D) ELIGIBLE BASIS.—For purposes of
21 this paragraph—

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

1 “(I) the basis of such facility de-
 2 termined as of the time that such fa-
 3 cility is originally placed in service,
 4 and

5 “(II) the portion of the basis of
 6 any shared qualified property which is
 7 properly allocable to such facility
 8 under clause (ii).

9 “(ii) RULES FOR ALLOCATION.—For
 10 purposes of subclause (II) of clause (i), the
 11 basis of shared qualified property shall be
 12 allocated among all qualified facilities
 13 which are projected to be placed in service
 14 and which require utilization of such prop-
 15 erty in proportion to projected generation
 16 from such facilities.

17 “(iii) SHARED QUALIFIED PROP-
 18 ERTY.—For purposes of this paragraph,
 19 the term ‘shared qualified property’ means,
 20 with respect to any facility, any property
 21 described in section 168(e)(3)(B)(vi)—

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

1 “(II) which is not a qualified fa-
2 cility.

3 “(iv) SPECIAL RULE RELATING TO
4 GEOTHERMAL FACILITIES.—In the case of
5 any qualified facility using geothermal en-
6 ergy to produce electricity, the basis of
7 such facility for purposes of this paragraph
8 shall be determined as though intangible
9 drilling and development costs described in
10 section 263(c) were capitalized rather than
11 expensed.

12 “(E) SPECIAL RULE FOR FIRST AND LAST
13 YEAR OF CREDIT PERIOD.—In the case of any
14 taxable year any portion of which is not within
15 the 10-year period described in subsection
16 (a)(2)(A)(ii) with respect to any facility, the
17 amount of the limitation under subparagraph
18 (A) with respect to such facility shall be re-
19 duced by an amount which bears the same ratio
20 to the amount of such limitation (determined
21 without regard to this subparagraph) as such
22 portion of the taxable year which is not within
23 such period bears to the entire taxable year.

24 “(F) ELECTION TO TREAT ALL FACILITIES
25 PLACED IN SERVICE IN A YEAR AS 1 FACIL-

1 ITY.—At the election of the taxpayer, all quali-
 2 fied facilities which are part of the same project
 3 and which are placed in service during the same
 4 calendar year shall be treated for purposes of
 5 this section as 1 facility which is placed in serv-
 6 ice at the mid-point of such year or the first
 7 day of the following calendar year.”.

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

10 (1) by striking “facility which burns” and in-
 11 serting “facility (other than a facility described in
 12 paragraph (6)) which uses”, and

13 (2) by striking “COMBUSTION”.

14 (d) EXPANSION OF BIOMASS FACILITIES.—

15 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-
 16 graph (3) of section 45(d) is amended by redesign-
 17 nating subparagraph (B) as subparagraph (C) and
 18 by inserting after subparagraph (A) the following
 19 new subparagraph:

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

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

3 (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-
 4 graph (2) of section 45(d) is amended by redesign-
 5 ating subparagraph (B) as subparagraph (C) and
 6 inserting after subparagraph (A) the following new
 7 subparagraph:

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

15 (e) SALES OF NET ELECTRICITY TO REGULATED
 16 PUBLIC UTILITIES TREATED AS SALES TO UNRELATED
 17 PERSONS.—Paragraph (4) of section 45(e) is amended by
 18 adding at the end the following new sentence: “The net
 19 amount of electricity sold by any taxpayer to a regulated
 20 public utility (as defined in section 7701(a)(33)) shall be
 21 treated as sold to an unrelated person.”.

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

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

4 “(i) the hydroelectric project installed
5 on the nonhydroelectric dam is licensed by
6 the Federal Energy Regulatory Commis-
7 sion and meets all other applicable environ-
8 mental, licensing, and regulatory require-
9 ments,

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

17 “(iii) the hydroelectric project is oper-
18 ated so that the water surface elevation at
19 any given location and time that would
20 have occurred in the absence of the hydro-
21 electric project is maintained, subject to
22 any license requirements imposed under
23 applicable law that change the water sur-
24 face elevation for the purpose of improving

1 environmental quality of the affected wa-
2 terway.

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

12 (g) EFFECTIVE DATE.—

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

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

20 (3) LIMITATION BASED ON INVESTMENT IN FA-
21 CILITY.—The amendment made by subsection (b)(2)
22 shall apply to property originally placed in service
23 after December 31, 2009.

24 (4) TRASH FACILITY CLARIFICATION; SALES TO
25 RELATED REGULATED PUBLIC UTILITIES.—The

1 amendments made by subsections (c) and (e) shall
 2 apply to electricity produced and sold after the date
 3 of the enactment of this Act.

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

8 **SEC. 212. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
 9 **DUCTION FROM MARINE RENEWABLES.**

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

15 “(I) marine and hydrokinetic renewable en-
 16 ergy.”.

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

20 “(10) MARINE AND HYDROKINETIC RENEW-
 21 ABLE ENERGY.—

22 “(A) IN GENERAL.—The term ‘marine and
 23 hydrokinetic renewable energy’ means energy
 24 derived from—

1 “(i) waves, tides, and currents in
2 oceans, estuaries, and tidal areas,

3 “(ii) free flowing water in rivers,
4 lakes, and streams,

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

11 “(iv) differentials in ocean tempera-
12 ture (ocean thermal energy conversion).

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

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

22 “(11) MARINE AND HYDROKINETIC RENEW-
23 ABLE ENERGY FACILITIES.—In the case of a facility
24 producing electricity from marine and hydrokinetic

1 renewable energy, the term ‘qualified facility’ means
 2 any facility owned by the taxpayer—

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

5 “(B) which is originally placed in service
 6 on or after the date of the enactment of this
 7 paragraph and before January 1, 2012.”.

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

11 (e) COORDINATION WITH SMALL IRRIGATION
 12 POWER.—Paragraph (5) of section 45(d), as amended by
 13 section 211, is amended by striking “January 1, 2012”
 14 and inserting “the date of the enactment of paragraph
 15 (11)”.

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

20 **SEC. 213. ENERGY CREDIT.**

21 (a) EXTENSION OF CREDIT.—

22 (1) SOLAR ENERGY PROPERTY.—Paragraphs
 23 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each
 24 amended by striking “January 1, 2009” and insert-
 25 ing “January 1, 2015”.

1 (2) FUEL CELL PROPERTY.—Subparagraph (E)
 2 of section 48(c)(1) is amended by striking “Decem-
 3 ber 31, 2008” and inserting “December 31, 2014”.

4 (3) MICROTURBINE PROPERTY.—Subparagraph
 5 (E) of section 48(c)(2) is amended by striking “De-
 6 cember 31, 2008” and inserting “December 31,
 7 2014”.

8 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
 9 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
 10 38(c)(4) is amended by striking “and” at the end of clause
 11 (iii), by redesignating clause (iv) as clause (v), and by in-
 12 serting after clause (iii) the following new clause:

13 “(iv) the credit determined under sec-
 14 tion 46 to the extent that such credit is at-
 15 tributable to the energy credit determined
 16 under section 48, and”.

17 (c) ENERGY CREDIT FOR COMBINED HEAT AND
 18 POWER SYSTEM PROPERTY.—

19 (1) IN GENERAL.—Section 48(a)(3)(A) (defin-
 20 ing energy property) is amended by striking “or” at
 21 the end of clause (iii), by inserting “or” at the end
 22 of clause (iv), and by adding at the end the following
 23 new clause:

24 “(v) combined heat and power system
 25 property,”.

1 (2) COMBINED HEAT AND POWER SYSTEM
 2 PROPERTY.—Section 48 is amended by adding at
 3 the end the following new subsection:

4 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
 5 PERTY.—For purposes of subsection (a)(3)(A)(v)—

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

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

16 “(B) which produces—

17 “(i) at least 20 percent of its total
 18 useful energy in the form of thermal en-
 19 ergy which is not used to produce electrical
 20 or mechanical power (or combination
 21 thereof), and

22 “(ii) at least 20 percent of its total
 23 useful energy in the form of electrical or
 24 mechanical power (or combination thereof),

1 “(C) the energy efficiency percentage of
2 which exceeds 60 percent, and

3 “(D) which is placed in service before Jan-
4 uary 1, 2015.

5 “(2) LIMITATION.—

6 “(A) IN GENERAL.—In the case of com-
7 bined heat and power system property with an
8 electrical capacity in excess of the applicable ca-
9 pacity placed in service during the taxable year,
10 the credit under subsection (a)(1) (determined
11 without regard to this paragraph) for such year
12 shall be equal to the amount which bears the
13 same ratio to such credit as the applicable ca-
14 pacity bears to the capacity of such property.

15 “(B) APPLICABLE CAPACITY.—For pur-
16 poses of subparagraph (A), the term ‘applicable
17 capacity’ means 15 megawatts or a mechanical
18 energy capacity of more than 20,000 horse-
19 power or an equivalent combination of electrical
20 and mechanical energy capacities.

21 “(C) MAXIMUM CAPACITY.—The term
22 ‘combined heat and power system property’
23 shall not include any property comprising a sys-
24 tem if such system has a capacity in excess of
25 50 megawatts or a mechanical energy capacity

1 in excess of 67,000 horsepower or an equivalent
2 combination of electrical and mechanical energy
3 capacities.

4 “(3) SPECIAL RULES.—

5 “(A) ENERGY EFFICIENCY PERCENT-
6 AGE.—For purposes of this subsection, the en-
7 ergy efficiency percentage of a system is the
8 fraction—

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

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

17 “(B) DETERMINATIONS MADE ON BTU
18 BASIS.—The energy efficiency percentage and
19 the percentages under paragraph (1)(B) shall
20 be determined on a Btu basis.

21 “(C) INPUT AND OUTPUT PROPERTY NOT
22 INCLUDED.—The term ‘combined heat and
23 power system property’ does not include prop-
24 erty used to transport the energy source to the

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

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

8 “(A) paragraph (1)(C) shall not apply, but

9 “(B) the amount of credit determined
10 under subsection (a) with respect to such sys-
11 tem shall not exceed the amount which bears
12 the same ratio to such amount of credit (deter-
13 mined without regard to this paragraph) as the
14 energy efficiency percentage of such system
15 bears to 60 percent.”.

16 (d) INCREASE OF CREDIT LIMITATION FOR FUEL
17 CELL PROPERTY.—Subparagraph (B) of section 48(e)(1)
18 is amended by striking “\$500” and inserting “\$1,500”.

19 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-
20 COUNT.—

21 (1) IN GENERAL.—Paragraph (3) of section
22 48(a) is amended by striking the second sentence
23 thereof.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Paragraph (1) of section 48(c) is
 2 amended by striking subparagraph (D) and re-
 3 designating subparagraph (E) as subparagraph
 4 (D).

5 (B) Paragraph (2) of section 48(c) is
 6 amended by striking subparagraph (D) and re-
 7 designating subparagraph (E) as subparagraph
 8 (D).

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-
 11 vided in this subsection, the amendments made by
 12 this section shall take effect on the date of the en-
 13 actment of this Act.

14 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
 15 IMUM TAX.—The amendments made by subsection
 16 (b) shall apply to credits determined under section
 17 46 of the Internal Revenue Code of 1986 in taxable
 18 years beginning after the date of the enactment of
 19 this Act and to carrybacks of such credits.

20 (3) COMBINED HEAT AND POWER AND FUEL
 21 CELL PROPERTY.—The amendments made by sub-
 22 sections (c) and (d) shall apply to periods after the
 23 date of the enactment of this Act, in taxable years
 24 ending after such date, under rules similar to the
 25 rules of section 48(m) of the Internal Revenue Code

1 of 1986 (as in effect on the day before the date of
 2 the enactment of the Revenue Reconciliation Act of
 3 1990).

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

11 **SEC. 214. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
 12 **PROPERTY.**

13 (a) EXTENSION.—Section 25D(g) is amended by
 14 striking “December 31, 2008” and inserting “December
 15 31, 2014”.

16 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
 17 ERTY.—

18 (1) IN GENERAL.—Section 25D(b)(1)(A) is
 19 amended by striking “\$2,000” and inserting
 20 “\$4,000”.

21 (2) CONFORMING AMENDMENT.—Section
 22 25D(e)(4)(A)(i) is amended by striking “\$6,667”
 23 and inserting “\$13,333”.

24 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

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

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

9 (2) LIMITATION.—Section 25D(b)(1) is amend-
 10 ed by striking “and” at the end of subparagraph
 11 (B), by striking the period at the end of subpara-
 12 graph (C) and inserting “, and”, and by adding at
 13 the end the following new subparagraph:

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

18 (3) QUALIFIED SMALL WIND ENERGY PROP-
 19 ERTY EXPENDITURES.—

20 (A) IN GENERAL.—Section 25D(d) is
 21 amended by adding at the end the following
 22 new paragraph:

23 “(4) QUALIFIED SMALL WIND ENERGY PROP-
 24 ERTY EXPENDITURE.—The term ‘qualified small
 25 wind energy property expenditure’ means an expend-

1 iture for property which uses a wind turbine to gen-
 2 erate electricity for use in connection with a dwelling
 3 unit located in the United States and used as a resi-
 4 dence by the taxpayer.”.

5 (B) NO DOUBLE BENEFIT.—Section
 6 45(d)(1) is amended by adding at the end the
 7 following new sentence: “Such term shall not
 8 include any facility with respect to which any
 9 qualified small wind energy property expendi-
 10 ture (as defined in subsection (d)(4) of section
 11 25D) is taken into account in determining the
 12 credit under such section.”.

13 (4) MAXIMUM EXPENDITURES IN CASE OF
 14 JOINT OCCUPANCY.—Section 25D(e)(4)(A) is
 15 amended by striking “and” at the end of clause (ii),
 16 by striking the period at the end of clause (iii) and
 17 inserting “, and”, and by adding at the end the fol-
 18 lowing new clause:

19 “(iv) \$1,667 in the case of each half
 20 kilowatt of capacity (not to exceed
 21 \$13,333) of wind turbines for which quali-
 22 fied small wind energy property expendi-
 23 tures are made.”.

24 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
 25 TEMS.—

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

6 “(5) 30 percent of the qualified geothermal
 7 heat pump property expenditures made by the tax-
 8 payer during such year.”.

9 (2) LIMITATION.—Section 25D(b)(1), as
 10 amended by subsection (c), is amended by striking
 11 “and” at the end of subparagraph (C), by striking
 12 the period at the end of subparagraph (D) and in-
 13 serting “, and”, and by adding at the end the fol-
 14 lowing new subparagraph:

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

17 (3) QUALIFIED GEOTHERMAL HEAT PUMP
 18 PROPERTY EXPENDITURE.—Section 25D(d), as
 19 amended by subsection (c), is amended by adding at
 20 the end the following new paragraph:

21 “(5) QUALIFIED GEOTHERMAL HEAT PUMP
 22 PROPERTY EXPENDITURE.—

23 “(A) IN GENERAL.—The term ‘qualified
 24 geothermal heat pump property expenditure’
 25 means an expenditure for qualified geothermal

1 heat pump property installed on or in connec-
 2 tion with a dwelling unit located in the United
 3 States and used as a residence by the taxpayer.

4 “(B) QUALIFIED GEOTHERMAL HEAT
 5 PUMP PROPERTY.—The term ‘qualified geo-
 6 thermal heat pump property’ means any equip-
 7 ment which—

8 “(i) uses the ground or ground water
 9 as a thermal energy source to heat the
 10 dwelling unit referred to in subparagraph
 11 (A) or as a thermal energy sink to cool
 12 such dwelling unit, and

13 “(ii) meets the requirements of the
 14 Energy Star program which are in effect
 15 at the time that the expenditure for such
 16 equipment is made.”.

17 (4) MAXIMUM EXPENDITURES IN CASE OF
 18 JOINT OCCUPANCY.—Section 25D(e)(4)(A), as
 19 amended by subsection (c), is amended by striking
 20 “and” at the end of clause (iii), by striking the pe-
 21 riod at the end of clause (iv) and inserting “, and”,
 22 and by adding at the end the following new clause:

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

1 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 2 IMUM TAX.—

3 (1) IN GENERAL.—Subsection (c) of section
 4 25D is amended to read as follows:

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

7 “(1) LIMITATION BASED ON AMOUNT OF
 8 TAX.—In the case of a taxable year to which section
 9 26(a)(2) does not apply, the credit allowed under
 10 subsection (a) for the taxable year shall not exceed
 11 the excess of—

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

15 “(B) the sum of the credits allowable
 16 under this subpart (other than this section) and
 17 section 27 for the taxable year.

18 “(2) CARRYFORWARD OF UNUSED CREDIT.—

19 “(A) RULE FOR YEARS IN WHICH ALL
 20 PERSONAL CREDITS ALLOWED AGAINST REG-
 21 ULAR AND ALTERNATIVE MINIMUM TAX.—In
 22 the case of a taxable year to which section
 23 26(a)(2) applies, if the credit allowable under
 24 subsection (a) exceeds the limitation imposed by
 25 section 26(a)(2) for such taxable year reduced

1 by the sum of the credits allowable under this
 2 subpart (other than this section), such excess
 3 shall be carried to the succeeding taxable year
 4 and added to the credit allowable under sub-
 5 section (a) for such succeeding taxable year.

6 “(B) RULE FOR OTHER YEARS.—In the
 7 case of a taxable year to which section 26(a)(2)
 8 does not apply, if the credit allowable under
 9 subsection (a) exceeds the limitation imposed by
 10 paragraph (1) for such taxable year, such ex-
 11 cess shall be carried to the succeeding taxable
 12 year and added to the credit allowable under
 13 subsection (a) for such succeeding taxable
 14 year.”.

15 (2) CONFORMING AMENDMENTS.—

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

18 (B) Section 24(b)(3)(B) is amended by
 19 striking “and 25B” and inserting “, 25B, and
 20 25D”.

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

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

1 (f) EFFECTIVE DATE.—

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

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

11 **SEC. 215. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
12 **ELECTRIC RESTRUCTURING POLICY.**

13 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
14 TIES.—

15 (1) IN GENERAL.—Paragraph (3) of section
16 451(i) is amended by inserting “(before January 1,
17 2010, in the case of a qualified electric utility)”
18 after “January 1, 2008”.

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

24 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-
25 poses of this subsection, the term ‘qualified electric

1 utility’ means a person that, as of the date of the
 2 qualifying electric transmission transaction, is
 3 vertically integrated, in that it is both—

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

9 “(B) an electric utility (as defined in sec-
 10 tion 3(22) of the Federal Power Act (16 U.S.C.
 11 796(22))).”.

12 (b) EXTENSION OF PERIOD FOR TRANSFER OF
 13 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
 14 Clause (ii) of section 451(i)(4)(B) is amended by striking
 15 “December 31, 2007” and inserting “the date which is
 16 4 years after the close of the taxable year in which the
 17 transaction occurs”.

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

22 “(C) EXCEPTION FOR PROPERTY LOCATED
 23 OUTSIDE THE UNITED STATES.—The term ‘ex-
 24 empt utility property’ shall not include any

1 property which is located outside the United
2 States.”.

3 (d) EFFECTIVE DATES.—

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

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

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

15 **SEC. 216. NEW CLEAN RENEWABLE ENERGY BONDS.**

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

19 **“SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.**

20 “(a) NEW CLEAN RENEWABLE ENERGY BOND.—For
21 purposes of this subpart, the term ‘new clean renewable
22 energy bond’ means any bond issued as part of an issue
23 if—

24 “(1) 100 percent of the available project pro-
25 ceeds of such issue are to be used for capital expend-

1 itures incurred by governmental bodies, public power
2 providers, or cooperative electric companies for one
3 or more qualified renewable energy facilities,

4 “(2) the bond is issued by a qualified issuer,
5 and

6 “(3) the issuer designates such bond for pur-
7 poses of this section.

8 “(b) REDUCED CREDIT AMOUNT.—The annual credit
9 determined under section 54A(b) with respect to any new
10 clean renewable energy bond shall be 70 percent of the
11 amount so determined without regard to this subsection.

12 “(c) LIMITATION ON AMOUNT OF BONDS DES-
13 IGNATED.—

14 “(1) IN GENERAL.—The maximum aggregate
15 face amount of bonds which may be designated
16 under subsection (a) by any issuer shall not exceed
17 the limitation amount allocated under this sub-
18 section to such issuer.

19 “(2) NATIONAL LIMITATION ON AMOUNT OF
20 BONDS DESIGNATED.—There is a national new clean
21 renewable energy bond limitation of \$2,000,000,000
22 which shall be allocated by the Secretary as provided
23 in paragraph (3), except that—

1 “(A) not more than $33\frac{1}{3}$ percent thereof
 2 may be allocated to qualified projects of public
 3 power providers,

4 “(B) not more than $33\frac{1}{3}$ percent thereof
 5 may be allocated to qualified projects of govern-
 6 mental bodies, and

7 “(C) not more than $33\frac{1}{3}$ percent thereof
 8 may be allocated to qualified projects of cooper-
 9 ative electric companies.

10 “(3) METHOD OF ALLOCATION.—

11 “(A) ALLOCATION AMONG PUBLIC POWER
 12 PROVIDERS.—After the Secretary determines
 13 the qualified projects of public power providers
 14 which are appropriate for receiving an alloca-
 15 tion of the national new clean renewable energy
 16 bond limitation, the Secretary shall, to the max-
 17 imum extent practicable, make allocations
 18 among such projects in such manner that the
 19 amount allocated to each such project bears the
 20 same ratio to the cost of such project as the
 21 limitation under paragraph (2)(A) bears to the
 22 cost of all such projects.

23 “(B) ALLOCATION AMONG GOVERNMENTAL
 24 BODIES AND COOPERATIVE ELECTRIC COMPA-
 25 NIES.—The Secretary shall make allocations of

1 the amount of the national new clean renewable
 2 energy bond limitation described in paragraphs
 3 (2)(B) and (2)(C) among qualified projects of
 4 governmental bodies and cooperative electric
 5 companies, respectively, in such manner as the
 6 Secretary determines appropriate.

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

8 “(1) QUALIFIED RENEWABLE ENERGY FACIL-
 9 ITY.—The term ‘qualified renewable energy facility’
 10 means a qualified facility (as determined under sec-
 11 tion 45(d) without regard to paragraphs (8) and
 12 (10) thereof and to any placed in service date)
 13 owned by a public power provider, a governmental
 14 body, or a cooperative electric company.

15 “(2) PUBLIC POWER PROVIDER.—The term
 16 ‘public power provider’ means a State utility with a
 17 service obligation, as such terms are defined in sec-
 18 tion 217 of the Federal Power Act (as in effect on
 19 the date of the enactment of this paragraph).

20 “(3) GOVERNMENTAL BODY.—The term ‘gov-
 21 ernmental body’ means any State or Indian tribal
 22 government, or any political subdivision thereof.

23 “(4) COOPERATIVE ELECTRIC COMPANY.—The
 24 term ‘cooperative electric company’ means a mutual

1 or cooperative electric company described in section
2 501(c)(12) or section 1381(a)(2)(C).

3 “(5) CLEAN RENEWABLE ENERGY BOND LEND-
4 ER.—The term ‘clean renewable energy bond lender’
5 means a lender which is a cooperative which is
6 owned by, or has outstanding loans to, 100 or more
7 cooperative electric companies and is in existence on
8 February 1, 2002, and shall include any affiliated
9 entity which is controlled by such lender.

10 “(6) QUALIFIED ISSUER.—The term ‘qualified
11 issuer’ means a public power provider, a cooperative
12 electric company, a governmental body, a clean re-
13 newable energy bond lender, or a not-for-profit elec-
14 tric utility which has received a loan or loan guar-
15 antee under the Rural Electrification Act.”.

16 (b) CONFORMING AMENDMENTS.—

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

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

21 “(A) a qualified forestry conservation
22 bond, or

23 “(B) a new clean renewable energy bond,
24 which is part of an issue that meets requirements of
25 paragraphs (2), (3), (4), (5), and (6).”.

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

3 “(C) QUALIFIED PURPOSE.—For purposes
4 of this paragraph, the term ‘qualified purpose’
5 means—

6 “(i) in the case of a qualified forestry
7 conservation bond, a purpose specified in
8 section 54B(e), and

9 “(ii) in the case of a new clean renew-
10 able energy bond, a purpose specified in
11 section 54C(a)(1).”.

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

 “Sec. 54C. Qualified clean renewable energy bonds.”.

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

18 **Subtitle C—Carbon Mitigation** 19 **Provisions**

20 **SEC. 221. EXPANSION AND MODIFICATION OF ADVANCED** 21 **COAL PROJECT INVESTMENT CREDIT.**

22 (a) MODIFICATION OF CREDIT AMOUNT.—Section
23 48A(a) is amended by striking “and” at the end of para-
24 graph (1), by striking the period at the end of paragraph

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

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

6 (b) EXPANSION OF AGGREGATE CREDITS.—Section
 7 48A(d)(3)(A) is amended by striking “\$1,300,000,000”
 8 and inserting “\$2,550,000,000”.

9 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

10 (1) IN GENERAL.—Subparagraph (B) of section
 11 48A(d)(3) is amended to read as follows:

12 “(B) PARTICULAR PROJECTS.—Of the dol-
 13 lar amount in subparagraph (A), the Secretary
 14 is authorized to certify—

15 “(i) \$800,000,000 for integrated gas-
 16 ification combined cycle projects the appli-
 17 cation for which is submitted during the
 18 period described in paragraph (2)(A)(i),

19 “(ii) \$500,000,000 for projects which
 20 use other advanced coal-based generation
 21 technologies the application for which is
 22 submitted during the period described in
 23 paragraph (2)(A)(i), and

24 “(iii) \$1,250,000,000 for advanced
 25 coal-based generation technology projects

1 the application for which is submitted dur-
 2 ing the period described in paragraph
 3 (2)(A)(ii).”.

4 (2) APPLICATION PERIOD FOR ADDITIONAL
 5 PROJECTS.—Subparagraph (A) of section 48A(d)(2)
 6 is amended to read as follows:

7 “(A) APPLICATION PERIOD.—Each appli-
 8 cant for certification under this paragraph shall
 9 submit an application meeting the requirements
 10 of subparagraph (B). An applicant may only
 11 submit an application—

12 “(i) for an allocation from the dollar
 13 amount specified in clause (i) or (ii) of
 14 paragraph (3)(B) during the 3-year period
 15 beginning on the date the Secretary estab-
 16 lishes the program under paragraph (1),
 17 and

18 “(ii) for an allocation from the dollar
 19 amount specified in paragraph (3)(B)(iii)
 20 during the 3-year period beginning at the
 21 earlier of the termination of the period de-
 22 scribed in clause (i) or the date prescribed
 23 by the Secretary.”.

24 (3) CAPTURE AND SEQUESTRATION OF CARBON
 25 DIOXIDE EMISSIONS REQUIREMENT.—

1 (A) IN GENERAL.—Section 48A(e)(1) is
2 amended by striking “and” at the end of sub-
3 paragraph (E), by striking the period at the
4 end of subparagraph (F) and inserting “; and”,
5 and by adding at the end the following new sub-
6 paragraph:

7 “(G) in the case of any project the applica-
8 tion for which is submitted during the period
9 described in subsection (d)(2)(A)(ii), the project
10 includes equipment which separates and seques-
11 ters at least 65 percent (70 percent in the case
12 of an application for reallocated credits under
13 subsection (d)(4)) of such project’s total carbon
14 dioxide emissions.”.

15 (B) HIGHEST PRIORITY FOR PROJECTS
16 WHICH SEQUESTER CARBON DIOXIDE EMIS-
17 SIONS.—Section 48A(e)(3) is amended by strik-
18 ing “and” at the end of subparagraph (A)(iii),
19 by striking the period at the end of subpara-
20 graph (B)(iii) and inserting “, and”, and by
21 adding at the end the following new subpara-
22 graph:

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

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

4 “(i) RECAPTURE OF CREDIT FOR FAILURE TO SE-
 5 QUESTER.—The Secretary shall provide for recapturing
 6 the benefit of any credit allowable under subsection (a)
 7 with respect to any project which fails to attain or main-
 8 tain the separation and sequestration requirements of sub-
 9 section (e)(1)(G).”.

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

13 (A) by striking “and” at the end of clause
 14 (ii),

15 (B) by redesignating clause (iii) as clause
 16 (iv), and

17 (C) by inserting after clause (ii) the fol-
 18 lowing new clause:

19 “(iii) applicant participants who have
 20 a research partnership with an eligible edu-
 21 cational institution (as defined in section
 22 529(e)(5)), and”.

23 (5) CLERICAL AMENDMENT.—Section 48A(e)(3)
 24 is amended by striking “INTEGRATED GASIFICATION

1 COMBINED CYCLE” in the heading and inserting
 2 “CERTAIN”.

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

6 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
 7 retary shall, upon making a certification under this
 8 subsection or section 48B(d), publicly disclose the
 9 identity of the applicant and the amount of the cred-
 10 it certified with respect to such applicant.”.

11 (e) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as otherwise pro-
 13 vided in this subsection, the amendments made by
 14 this section shall apply to credits the application for
 15 which is submitted during the period described in
 16 section 48A(d)(2)(A)(ii) of the Internal Revenue
 17 Code of 1986 and which are allocated or reallocated
 18 after the date of the enactment of this Act.

19 (2) DISCLOSURE OF ALLOCATIONS.—The
 20 amendment made by subsection (d) shall apply to
 21 certifications made after the date of the enactment
 22 of this Act.

23 (3) CLERICAL AMENDMENT.—The amendment
 24 made by subsection (c)(5) shall take effect as if in-

1 cluded in the amendment made by section 1307(b)
 2 of the Energy Tax Incentives Act of 2005.

3 **SEC. 222. EXPANSION AND MODIFICATION OF COAL GASIFI-**
 4 **CATION INVESTMENT CREDIT.**

5 (a) MODIFICATION OF CREDIT AMOUNT.—Section
 6 48B(a) is amended by inserting “(30 percent in the case
 7 of credits allocated under subsection (d)(1)(B))” after “20
 8 percent”.

9 (b) EXPANSION OF AGGREGATE CREDITS.—Section
 10 48B(d)(1) is amended by striking “shall not exceed
 11 \$350,000,000” and all that follows and inserting “shall
 12 not exceed—

13 “(A) \$350,000,000, plus

14 “(B) \$250,000,000 for qualifying gasifi-
 15 cation projects that include equipment which
 16 separates and sequesters at least 75 percent of
 17 such project’s total carbon dioxide emissions.”.

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

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

tain the separation and sequestration requirements for such project under subsection (d)(1).”.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

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

“(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

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

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

SEC. 223. TEMPORARY INCREASE IN COAL EXCISE TAX.

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

(1) by striking “January 1, 2014” in subparagraph (A) and inserting “December 31, 2018”, and

1 (2) by striking “January 1 after 1981” in sub-
 2 paragraph (B) and inserting “December 31 after
 3 2007”.

4 **SEC. 224. SPECIAL RULES FOR REFUND OF THE COAL EX-**
 5 **CISE TAX TO CERTAIN COAL PRODUCERS**
 6 **AND EXPORTERS.**

7 (a) REFUND.—

8 (1) COAL PRODUCERS.—

9 (A) IN GENERAL.—Notwithstanding sub-
 10 sections (a)(1) and (c) of section 6416 and sec-
 11 tion 6511 of the Internal Revenue Code of
 12 1986, if—

13 (i) a coal producer establishes that
 14 such coal producer, or a party related to
 15 such coal producer, exported coal produced
 16 by such coal producer to a foreign country
 17 or shipped coal produced by such coal pro-
 18 ducer to a possession of the United States,
 19 or caused such coal to be exported or
 20 shipped, the export or shipment of which
 21 was other than through an exporter who
 22 meets the requirements of paragraph (2),

23 (ii) such coal producer filed an excise
 24 tax return on or after October 1, 1990,

1 and on or before the date of the enactment
2 of this Act, and

3 (iii) such coal producer files a claim
4 for refund with the Secretary not later
5 than the close of the 30-day period begin-
6 ning on the date of the enactment of this
7 Act,

8 then the Secretary shall pay to such coal pro-
9 ducer an amount equal to the tax paid under
10 section 4121 of such Code on such coal ex-
11 ported or shipped by the coal producer or a
12 party related to such coal producer, or caused
13 by the coal producer or a party related to such
14 coal producer to be exported or shipped.

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

17 (i) IN GENERAL.—If a coal producer
18 or a party related to a coal producer has
19 received a judgment described in clause
20 (iii), such coal producer shall be deemed to
21 have established the export of coal to a for-
22 eign country or shipment of coal to a pos-
23 session of the United States under sub-
24 paragraph (A)(i).

1 (ii) AMOUNT OF PAYMENT.—If a tax-
 2 payer described in clause (i) is entitled to
 3 a payment under subparagraph (A), the
 4 amount of such payment shall be reduced
 5 by any amount paid pursuant to the judg-
 6 ment described in clause (iii).

7 (iii) JUDGMENT DESCRIBED.—A judg-
 8 ment is described in this subparagraph if
 9 such judgment—

10 (I) is made by a court of com-
 11 petent jurisdiction within the United
 12 States,

13 (II) relates to the constitu-
 14 tionality of any tax paid on exported
 15 coal under section 4121 of the Inter-
 16 nal Revenue Code of 1986, and

17 (III) is in favor of the coal pro-
 18 ducer or the party related to the coal
 19 producer.

20 (2) EXPORTERS.—Notwithstanding subsections
 21 (a)(1) and (c) of section 6416 and section 6511 of
 22 the Internal Revenue Code of 1986, and a judgment
 23 described in paragraph (1)(B)(iii) of this subsection,
 24 if—

1 (A) an exporter establishes that such ex-
2 porter exported coal to a foreign country or
3 shipped coal to a possession of the United
4 States, or caused such coal to be so exported or
5 shipped,

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

9 (C) such exporter files a claim for refund
10 with the Secretary not later than the close of
11 the 30-day period beginning on the date of the
12 enactment of this Act,

13 then the Secretary shall pay to such exporter an
14 amount equal to \$0.825 per ton of such coal ex-
15 ported by the exporter or caused to be exported or
16 shipped, or caused to be exported or shipped, by the
17 exporter.

18 (b) LIMITATIONS.—Subsection (a) shall not apply
19 with respect to exported coal if a settlement with the Fed-
20 eral Government has been made with and accepted by, the
21 coal producer, a party related to such coal producer, or
22 the exporter, of such coal, as of the date that the claim
23 is filed under this section with respect to such exported
24 coal. For purposes of this subsection, the term “settlement
25 with the Federal Government” shall not include any settle-

1 ment or stipulation entered into as of the date of the en-
2 actment of this Act, the terms of which contemplate a
3 judgment concerning which any party has reserved the
4 right to file an appeal, or has filed an appeal.

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

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

10 (1) COAL PRODUCER.—The term “coal pro-
11 ducer” means the person in whom is vested owner-
12 ship of the coal immediately after the coal is severed
13 from the ground, without regard to the existence of
14 any contractual arrangement for the sale or other
15 disposition of the coal or the payment of any roy-
16 alties between the producer and third parties. The
17 term includes any person who extracts coal from
18 coal waste refuse piles or from the silt waste product
19 which results from the wet washing (or similar proc-
20 essing) of coal.

21 (2) EXPORTER.—The term “exporter” means a
22 person, other than a coal producer, who does not
23 have a contract, fee arrangement, or any other
24 agreement with a producer or seller of such coal to

1 export or ship such coal to a third party on behalf
2 of the producer or seller of such coal and—

3 (A) is indicated in the shipper's export
4 declaration or other documentation as the ex-
5 porter of record, or

6 (B) actually exported such coal to a for-
7 eign country or shipped such coal to a posses-
8 sion of the United States, or caused such coal
9 to be so exported or shipped.

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

12 (A) is related to such coal producer
13 through any degree of common management,
14 stock ownership, or voting control,

15 (B) is related (within the meaning of sec-
16 tion 144(a)(3) of the Internal Revenue Code of
17 1986) to such coal producer, or

18 (C) has a contract, fee arrangement, or
19 any other agreement with such coal producer to
20 sell such coal to a third party on behalf of such
21 coal producer.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of Treasury or the Secretary's des-
24 ignee.

1 (e) TIMING OF REFUND.—With respect to any claim
2 for refund filed pursuant to this section, the Secretary
3 shall determine whether the requirements of this section
4 are met not later than 180 days after such claim is filed.
5 If the Secretary determines that the requirements of this
6 section are met, the claim for refund shall be paid not
7 later than 180 days after the Secretary makes such deter-
8 mination.

9 (f) INTEREST.—Any refund paid pursuant to this
10 section shall be paid by the Secretary with interest from
11 the date of overpayment determined by using the overpay-
12 ment rate and method under section 6621 of the Internal
13 Revenue Code of 1986.

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

17 (1) in the case of a payment to a coal producer,
18 the amount of tax paid under section 4121 of the
19 Internal Revenue Code of 1986 with respect to such
20 coal by such coal producer or a party related to such
21 coal producer, and

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

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

5 (i) STANDING NOT CONFERRED.—

6 (1) EXPORTERS.—With respect to exporters,
7 this section shall not confer standing upon an ex-
8 porter to commence, or intervene in, any judicial or
9 administrative proceeding concerning a claim for re-
10 fund by a coal producer of any Federal or State tax,
11 fee, or royalty paid by the coal producer.

12 (2) COAL PRODUCERS.—With respect to coal
13 producers, this section shall not confer standing
14 upon a coal producer to commence, or intervene in,
15 any judicial or administrative proceeding concerning
16 a claim for refund by an exporter of any Federal or
17 State tax, fee, or royalty paid by the producer and
18 alleged to have been passed on to an exporter.

19 **SEC. 225. CARBON AUDIT OF THE TAX CODE.**

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

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

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

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$1,500,000 for the period of fiscal years 2008 and 2009.

10 **Subtitle D—Transportation and** 11 **Domestic Fuel Security Provisions**

12 **SEC. 231. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS** 13 **DEPRECIATION FOR BIOMASS ETHANOL** 14 **PLANT PROPERTY.**

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

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

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

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

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

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

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

14 **SEC. 232. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**
 15 **SEL.**

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

19 (b) INCREASE IN RATE OF CREDIT.—

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

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

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

3 (3) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

17 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—
 18 Paragraph (3) of section 40A(f) (defining renewable die-
 19 sel) is amended by adding at the end the following: “The
 20 term ‘renewable diesel’ also means fuel derived from bio-
 21 mass which meets the requirements of a Department of
 22 Defense specification for military jet fuel or an American
 23 Society of Testing and Materials specification for aviation
 24 turbine fuel.”.

25 (f) EFFECTIVE DATE.—

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

5 (2) COPRODUCTION OF RENEWABLE DIESEL
 6 WITH PETROLEUM FEEDSTOCK.—The amendments
 7 made by subsection (d) shall apply to fuel produced,
 8 and sold or used, after the date of the enactment of
 9 this Act.

10 **SEC. 233. CLARIFICATION THAT CREDITS FOR FUEL ARE**
 11 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
 12 **UNITED STATES PRODUCTION.**

13 (a) ALCOHOL FUELS CREDIT.—Paragraph (6) of sec-
 14 tion 40(d) is amended to read as follows:

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

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

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

9 (c) EXCISE TAX CREDIT.—

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

12 “(i) LIMITATION TO FUELS WITH CONNECTION TO
 13 THE UNITED STATES.—

14 “(1) ALCOHOL.—No credit shall be determined
 15 under this section with respect to any alcohol which
 16 is produced outside the United States for use as a
 17 fuel outside the United States.

18 “(2) BIODIESEL AND ALTERNATIVE FUELS.—
 19 No credit shall be determined under this section
 20 with respect to any biodiesel or alternative fuel
 21 which is produced outside the United States for use
 22 as a fuel outside the United States.

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

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

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

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

14 **SEC. 234. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
 15 **DRIVE MOTOR VEHICLES.**

16 (a) IN GENERAL.—Subpart B of part IV of sub-
 17 chapter A of chapter 1 is amended by adding at the end
 18 the following new section:

19 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**
 20 **MOTOR VEHICLES.**

21 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 22 lowed as a credit against the tax imposed by this chapter
 23 for the taxable year an amount equal to the sum of the
 24 credit amounts determined under subsection (b) with re-
 25 spect to each new qualified plug-in electric drive motor ve-

1 hicle placed in service by the taxpayer during the taxable
2 year.

3 “(b) PER VEHICLE DOLLAR LIMITATION.—

4 “(1) IN GENERAL.—The amount determined
5 under this subsection with respect to any new quali-
6 fied plug-in electric drive motor vehicle is the sum
7 of the amounts determined under paragraphs (2)
8 and (3) with respect to such vehicle.

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

11 “(3) BATTERY CAPACITY.—In the case of a ve-
12 hicle which draws propulsion energy from a battery
13 with not less than 5 kilowatt hours of capacity, the
14 amount determined under this paragraph is \$200,
15 plus \$200 for each kilowatt hour of capacity in ex-
16 cess of 5 kilowatt hours. The amount determined
17 under this paragraph shall not exceed \$2,000.

18 “(c) APPLICATION WITH OTHER CREDITS.—

19 “(1) BUSINESS CREDIT TREATED AS PART OF
20 GENERAL BUSINESS CREDIT.—So much of the credit
21 which would be allowed under subsection (a) for any
22 taxable year (determined without regard to this sub-
23 section) that is attributable to property of a char-
24 acter subject to an allowance for depreciation shall

1 be treated as a credit listed in section 38(b) for such
 2 taxable year (and not allowed under subsection (a)).

3 “(2) PERSONAL CREDIT.—

4 “(A) IN GENERAL.—For purposes of this
 5 title, the credit allowed under subsection (a) for
 6 any taxable year (determined after application
 7 of paragraph (1)) shall be treated as a credit
 8 allowable under subpart A for such taxable
 9 year.

10 “(B) LIMITATION BASED ON AMOUNT OF
 11 TAX.—In the case of a taxable year to which
 12 section 26(a)(2) does not apply, the credit al-
 13 lowed under subsection (a) for any taxable year
 14 (determined after application of paragraph (1))
 15 shall not exceed the excess of—

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

19 “(ii) the sum of the credits allowable
 20 under subpart A (other than this section
 21 and sections 23 and 25D) and section 27
 22 for the taxable year.

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

1 “(1) IN GENERAL.—The term ‘new qualified
2 plug-in electric drive motor vehicle’ means a motor
3 vehicle (as defined in section 30(c)(2))—

4 “(A) the original use of which commences
5 with the taxpayer,

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

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

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

11 “(E) which has received a certificate of
12 conformity under the Clean Air Act and meets
13 or exceeds the Bin 5 Tier II emission standard
14 established in regulations prescribed by the Ad-
15 ministrator of the Environmental Protection
16 Agency under section 202(i) of the Clean Air
17 Act for that make and model year vehicle, and

18 “(F) which is propelled to a significant ex-
19 tent by an electric motor which draws electricity
20 from a battery which—

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

23 “(ii) is capable of being recharged
24 from an external source of electricity.

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

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

19 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED
20 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE
21 FOR CREDIT.—

22 “(1) IN GENERAL.—In the case of a new quali-
23 fied plug-in electric drive motor vehicle sold during
24 the phaseout period, only the applicable percentage

1 of the credit otherwise allowable under subsection
 2 (a) shall be allowed.

3 “(2) PHASEOUT PERIOD.—For purposes of this
 4 subsection, the phaseout period is the period begin-
 5 ning with the second calendar quarter following the
 6 calendar quarter which includes the first date on
 7 which the number of new qualified plug-in electric
 8 drive motor vehicles manufactured by the manufac-
 9 turer of the vehicle referred to in paragraph (1) sold
 10 for use in the United States after the date of the en-
 11 actment of this section, is at least 60,000.

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

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

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

18 “(C) 0 percent for each calendar quarter
 19 thereafter.

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

23 “(f) SPECIAL RULES.—

24 “(1) BASIS REDUCTION.—The basis of any
 25 property for which a credit is allowable under sub-

1 section (a) shall be reduced by the amount of such
 2 credit (determined without regard to subsection (c)).

3 “(2) RECAPTURE.—The Secretary shall, by reg-
 4 ulations, provide for recapturing the benefit of any
 5 credit allowable under subsection (a) with respect to
 6 any property which ceases to be property eligible for
 7 such credit.

8 “(3) PROPERTY USED OUTSIDE UNITED
 9 STATES, ETC., NOT QUALIFIED.—No credit shall be
 10 allowed under subsection (a) with respect to any
 11 property referred to in section 50(b)(1) or with re-
 12 spect to the portion of the cost of any property
 13 taken into account under section 179.

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

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

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

1 “(D) EXCLUSION OF PLUG-IN VEHICLES.—

2 Any vehicle with respect to which a credit is al-
 3 lowable under section 30D (determined without
 4 regard to subsection (c) thereof) shall not be
 5 taken into account under this section.”.

6 (c) CREDIT MADE PART OF GENERAL BUSINESS
 7 CREDIT.—Section 38(b) is amended by striking “plus” at
 8 the end of paragraph (32), by striking the period at the
 9 end of paragraph (33) and inserting “plus”, and by add-
 10 ing at the end the following new paragraph:

11 “(34) the portion of the new qualified plug-in
 12 electric drive motor vehicle credit to which section
 13 30D(c)(1) applies.”.

14 (d) CONFORMING AMENDMENTS.—

15 (1)(A) Section 24(b)(3)(B), as amended by sec-
 16 tion 214, is amended by striking “and 25D” and in-
 17 serting “25D, and 30D”.

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

20 (C) Section 25B(g)(2), as amended by section
 21 214, is amended by striking “and 25D” and insert-
 22 ing “, 25D, and 30D”.

23 (D) Section 26(a)(1), as amended by section
 24 214, is amended by striking “and 25D” and insert-
 25 ing “25D, and 30D”.

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

3 (2) Section 1016(a) is amended by striking
 4 “and” at the end of paragraph (35), by striking the
 5 period at the end of paragraph (36) and inserting “,
 6 and”, and by adding at the end the following new
 7 paragraph:

8 “(37) to the extent provided in section
 9 30D(f)(1).”.

10 (3) Section 6501(m) is amended by inserting
 11 “30D(f)(4),” after “30C(e)(5),”.

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

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

15 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE
 16 CREDIT AS A PERSONAL CREDIT.—

17 (1) IN GENERAL.—Paragraph (2) of section
 18 30B(g) is amended to read as follows:

19 “(2) PERSONAL CREDIT.—The credit allowed
 20 under subsection (a) for any taxable year (after ap-
 21 plication of paragraph (1)) shall be treated as a
 22 credit allowable under subpart A for such taxable
 23 year.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Subparagraph (A) of section 30C(d)(2)
 2 is amended by striking “sections 27, 30, and
 3 30B” and inserting “sections 27 and 30”.

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

6 (f) EFFECTIVE DATE.—

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

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

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

20 **SEC. 235. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
 21 **REDUCTION UNITS AND ADVANCED INSULA-**
 22 **TION.**

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

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

3 “(A) is designed to provide to a vehicle
4 those services (such as heat, air conditioning, or
5 electricity) that would otherwise require the op-
6 eration of the main drive engine while the vehi-
7 cle is temporarily parked or remains stationary
8 using one or more devices affixed to a tractor,
9 and

10 “(B) is determined by the Administrator of
11 the Environmental Protection Agency, in con-
12 sultation with the Secretary of Energy and the
13 Secretary of Transportation, to reduce idling of
14 such vehicle at a motor vehicle rest stop or
15 other location where such vehicles are tempo-
16 rarily parked or remain stationary.

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

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to sales or installations after the
21 date of the enactment of this Act.

22 **SEC. 236. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**
23 **COMMUTERS.**

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

1 “(D) Any qualified bicycle commuting re-
2 imbursement.”.

3 (b) LIMITATION ON EXCLUSION.—Paragraph (2) of
4 section 132(f) is amended by striking “and” at the end
5 of subparagraph (A), by striking the period at the end
6 of subparagraph (B) and inserting “, and”, and by adding
7 at the end the following new subparagraph:

8 “(C) the applicable annual limitation in
9 the case of any qualified bicycle commuting re-
10 imbursement.”.

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

13 “(F) DEFINITIONS RELATED TO BICYCLE
14 COMMUTING REIMBURSEMENT.—

15 “(i) QUALIFIED BICYCLE COMMUTING
16 REIMBURSEMENT.—The term ‘qualified bi-
17 cycle commuting reimbursement’ means,
18 with respect to any calendar year, any em-
19 ployer reimbursement during the 15-month
20 period beginning with the first day of such
21 calendar year for reasonable expenses in-
22 curred by the employee during such cal-
23 endar year for the purchase of a bicycle
24 and bicycle improvements, repair, and stor-
25 age, if such bicycle is regularly used for

1 travel between the employee's residence
2 and place of employment.

3 “(ii) APPLICABLE ANNUAL LIMITA-
4 TION.—The term ‘applicable annual limita-
5 tion’ means, with respect to any employee
6 for any calendar year, the product of \$20
7 multiplied by the number of qualified bicy-
8 cle commuting months during such year.

9 “(iii) QUALIFIED BICYCLE COM-
10 MUTING MONTH.—The term ‘qualified bi-
11 cycle commuting month’ means, with re-
12 spect to any employee, any month during
13 which such employee—

14 “(I) regularly uses the bicycle for
15 a substantial portion of the travel be-
16 tween the employee's residence and
17 place of employment, and

18 “(II) does not receive any benefit
19 described in subparagraph (A), (B),
20 or (C) of paragraph (1).”.

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

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

4 **SEC. 237. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
 5 **ERTY CREDIT.**

6 (a) INCREASE IN CREDIT AMOUNT.—Section 30C is
 7 amended—

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

10 (2) by striking “\$30,000” in subsection (b)(1)
 11 and inserting “\$50,000”.

12 (b) EXTENSION OF CREDIT.—Paragraph (2) of sec-
 13 tion 30C(g) is amended by striking “December 31, 2009”
 14 and inserting “December 31, 2010”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to property placed in service after
 17 the date of the enactment of this Act, in taxable years
 18 ending after such date.

19 **Subtitle E—Energy Conservation**
 20 **and Efficiency Provisions**

21 **SEC. 241. QUALIFIED ENERGY CONSERVATION BONDS.**

22 (a) IN GENERAL.—Subpart I of part IV of sub-
 23 chapter A of chapter 1, as amended by section 216, is
 24 amended by adding at the end the following new section:

1 **“SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.**

2 **“(a) QUALIFIED ENERGY CONSERVATION BOND.—**

3 For purposes of this subchapter, the term ‘qualified en-
4 ergy conservation bond’ means any bond issued as part
5 of an issue if—

6 “(1) 100 percent of the available project pro-
7 ceeds of such issue are to be used for one or more
8 qualified conservation purposes,

9 “(2) the bond is issued by a State or local gov-
10 ernment, and

11 “(3) the issuer designates such bond for pur-
12 poses of this section.

13 **“(b) REDUCED CREDIT AMOUNT.—**The annual credit
14 determined under section 54A(b) with respect to any
15 qualified energy conservation bond shall be 70 percent of
16 the amount so determined without regard to this sub-
17 section.

18 **“(c) LIMITATION ON AMOUNT OF BONDS DES-**
19 **IGNATED.—**The maximum aggregate face amount of
20 bonds which may be designated under subsection (a) by
21 any issuer shall not exceed the limitation amount allocated
22 to such issuer under subsection (e).

23 **“(d) NATIONAL LIMITATION ON AMOUNT OF BONDS**
24 **DESIGNATED.—**There is a national qualified energy con-
25 servation bond limitation of \$3,000,000,000.

26 **“(e) ALLOCATIONS.—**

1 “(1) IN GENERAL.—The limitation applicable
2 under subsection (d) shall be allocated by the Sec-
3 retary among the States in proportion to the popu-
4 lation of the States.

5 “(2) ALLOCATIONS TO LARGEST LOCAL GOV-
6 ERNMENTS.—

7 “(A) IN GENERAL.—In the case of any
8 State in which there is a large local govern-
9 ment, each such local government shall be allo-
10 cated a portion of such State’s allocation which
11 bears the same ratio to the State’s allocation
12 (determined without regard to this subpara-
13 graph) as the population of such large local
14 government bears to the population of such
15 State.

16 “(B) ALLOCATION OF UNUSED LIMITATION
17 TO STATE.—The amount allocated under this
18 subsection to a large local government may be
19 reallocated by such local government to the
20 State in which such local government is located.

21 “(C) LARGE LOCAL GOVERNMENT.—For
22 purposes of this section, the term ‘large local
23 government’ means any municipality or county
24 if such municipality or county has a population
25 of 100,000 or more.

1 “(3) ALLOCATION TO ISSUERS; RESTRICTION
 2 ON PRIVATE ACTIVITY BONDS.—Any allocation
 3 under this subsection to a State or large local gov-
 4 ernment shall be allocated by such State or large
 5 local government to issuers within the State in a
 6 manner that results in not less than 70 percent of
 7 the allocation to such State or large local govern-
 8 ment being used to designate bonds which are not
 9 private activity bonds.

10 “(f) QUALIFIED CONSERVATION PURPOSE.—For
 11 purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified con-
 13 servation purpose’ means any of the following:

14 “(A) Capital expenditures incurred for
 15 purposes of—

16 “(i) reducing energy consumption in
 17 publicly-owned buildings by at least 20
 18 percent,

19 “(ii) implementing green community
 20 programs,

21 “(iii) rural development involving the
 22 production of electricity from renewable
 23 energy resources, or

24 “(iv) any qualified facility (as deter-
 25 mined under section 45(d) without regard

1 to paragraphs (8) and (10) thereof and
2 without regard to any placed in service
3 date).

4 “(B) Expenditures with respect to research
5 facilities, and research grants, to support re-
6 search in—

7 “(i) development of cellulosic ethanol
8 or other nonfossil fuels,

9 “(ii) technologies for the capture and
10 sequestration of carbon dioxide produced
11 through the use of fossil fuels,

12 “(iii) increasing the efficiency of exist-
13 ing technologies for producing nonfossil
14 fuels,

15 “(iv) automobile battery technologies
16 and other technologies to reduce fossil fuel
17 consumption in transportation, or

18 “(v) technologies to reduce energy use
19 in buildings.

20 “(C) Mass commuting facilities and related
21 facilities that reduce the consumption of energy,
22 including expenditures to reduce pollution from
23 vehicles used for mass commuting.

24 “(D) Demonstration projects designed to
25 promote the commercialization of—

1 “(i) green building technology,

2 “(ii) conversion of agricultural waste
3 for use in the production of fuel or other-
4 wise,

5 “(iii) advanced battery manufacturing
6 technologies,

7 “(iv) technologies to reduce peak use
8 of electricity, or

9 “(v) technologies for the capture and
10 sequestration of carbon dioxide emitted
11 from combusting fossil fuels in order to
12 produce electricity.

13 “(E) Public education campaigns to pro-
14 mote energy efficiency.

15 “(2) SPECIAL RULES FOR PRIVATE ACTIVITY
16 BONDS.—For purposes of this section, in the case of
17 any private activity bond, the term ‘qualified con-
18 servation purposes’ shall not include any expenditure
19 which is not a capital expenditure.

20 “(g) POPULATION.—

21 “(1) IN GENERAL.—The population of any
22 State or local government shall be determined for
23 purposes of this section as provided in section 146(j)
24 for the calendar year which includes the date of the
25 enactment of this section.

1 “(2) SPECIAL RULE FOR COUNTIES.—In deter-
 2 mining the population of any county for purposes of
 3 this section, any population of such county which is
 4 taken into account in determining the population of
 5 any municipality which is a large local government
 6 shall not be taken into account in determining the
 7 population of such county.

8 “(h) APPLICATION TO INDIAN TRIBAL GOVERN-
 9 MENTS.—An Indian tribal government shall be treated for
 10 purposes of this section in the same manner as a large
 11 local government, except that—

12 “(1) an Indian tribal government shall be treat-
 13 ed for purposes of subsection (e) as located within
 14 a State to the extent of so much of the population
 15 of such government as resides within such State,
 16 and

17 “(2) any bond issued by an Indian tribal gov-
 18 ernment shall be treated as a qualified energy con-
 19 servation bond only if issued as part of an issue the
 20 available project proceeds of which are used for pur-
 21 poses for which such Indian tribal government could
 22 issue bonds to which section 103(a) applies.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Paragraph (1) of section 54A(d), as amend-
 25 ed by section 216, is amended to read as follows:

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

3 “(A) a qualified forestry conservation
4 bond,

5 “(B) a new clean renewable energy bond,
6 or

7 “(C) a qualified energy conservation bond,
8 which is part of an issue that meets requirements of
9 paragraphs (2), (3), (4), (5), and (6).”.

10 (2) Subparagraph (C) of section 54A(d)(2), as
11 amended by section 216, is amended to read as fol-
12 lows:

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

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

19 “(ii) in the case of a new clean renew-
20 able energy bond, a purpose specified in
21 section 54C(a)(1), and

22 “(iii) in the case of a qualified energy
23 conservation bond, a purpose specified in
24 section 54D(a)(1).”.

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

“Sec. 54D. Qualified energy conservation bonds.”.

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

7 **SEC. 242. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

8 (a) EXTENSION OF CREDIT.—Section 25C(g) is
 9 amended by striking “December 31, 2007” and inserting
 10 “December 31, 2008”.

11 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

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

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

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

18 (C) by adding at the end the following new
 19 subparagraph:

20 “(F) a stove—

21 “(i) which uses the burning of bio-
 22 mass fuel—

23 “(I) to heat a dwelling unit lo-
 24 cated in the United States and used
 25 as a residence by the taxpayer, or

1 “(II) to heat water for use in
2 such a dwelling unit, and

3 “(ii) which—

4 “(I) has a thermal efficiency rat-
5 ing of at least 75 percent, or

6 “(II) is a wood stove which meets
7 the standards of performance for new
8 residential wood heaters under sub-
9 part AAA of part 60 of subchapter C
10 of chapter I of title 40, Code of Fed-
11 eral Regulations (or a successor regu-
12 lation).”.

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

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

22 (c) COORDINATION WITH CREDIT FOR QUALIFIED
23 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

24 (1) IN GENERAL.—Paragraph (3) of section
25 25C(d), as amended by subsection (b), is amended

1 by striking subparagraph (C) and by redesignating
 2 subparagraphs (D), (E), and (F) as subparagraphs
 3 (C), (D), and (E), respectively.

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

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

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

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

23 (d) MODIFICATION OF QUALIFIED ENERGY EFFI-
 24 CIENCY IMPROVEMENTS.—

1 (1) IN GENERAL.—Paragraph (1) of section
 2 25C(e) is amended by inserting “, or an asphalt roof
 3 with appropriate cooling granules,” before “which
 4 meet the Energy Star program requirements”.

5 (2) BUILDING ENVELOPE COMPONENT.—Sub-
 6 paragraph (D) of section 25C(e)(2) is amended—

7 (A) by inserting “or asphalt roof” after
 8 “metal roof”, and

9 (B) by inserting “or cooling granules”
 10 after “pigmented coatings”.

11 (e) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-
 13 graph (2), the amendments made this section shall
 14 apply to expenditures made after December 31,
 15 2007.

16 (2) MODIFICATION OF QUALIFIED ENERGY EF-
 17 FICIENCY IMPROVEMENTS.—The amendments made
 18 by subsection (d) shall apply to property placed in
 19 service after the date of the enactment of this Act.

20 **SEC. 243. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
 21 **DUCTION.**

22 Subsection (h) of section 179D is amended by strik-
 23 ing “December 31, 2008” and inserting “December 31,
 24 2013”.

1 **SEC. 244. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
 2 **ANCE CREDIT FOR APPLIANCES PRODUCED**
 3 **AFTER 2007.**

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

6 “(b) APPLICABLE AMOUNT.—For purposes of sub-
 7 section (a)—

8 “(1) DISHWASHERS.—The applicable amount
 9 is—

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

14 “(B) \$75 in the case of a dishwasher
 15 which is manufactured in calendar year 2008,
 16 2009, or 2010 and which uses no more than
 17 307 kilowatt hours per year and 5.0 gallons per
 18 cycle (5.5 gallons per cycle for dishwashers de-
 19 signed for greater than 12 place settings).

20 “(2) CLOTHES WASHERS.—The applicable
 21 amount is—

22 “(A) \$75 in the case of a residential top-
 23 loading clothes washer manufactured in cal-
 24 endar year 2008 which meets or exceeds a 1.72
 25 modified energy factor and does not exceed a
 26 8.0 water consumption factor,

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

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

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

16 “(3) REFRIGERATORS.—The applicable amount
 17 is—

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

23 “(B) \$75 in the case of a refrigerator
 24 which is manufactured in calendar year 2008 or
 25 2009, and consumes at least 23 percent but no

1 more than 24.9 percent less kilowatt hours per
 2 year than the 2001 energy conservation stand-
 3 ards,

4 “(C) \$100 in the case of a refrigerator
 5 which is manufactured in calendar year 2008,
 6 2009, or 2010, and consumes at least 25 per-
 7 cent but not more than 29.9 percent less kilo-
 8 watt hours per year than the 2001 energy con-
 9 servation standards, and

10 “(D) \$200 in the case of a refrigerator
 11 manufactured in calendar year 2008, 2009, or
 12 2010 and which consumes at least 30 percent
 13 less energy than the 2001 energy conservation
 14 standards.”.

15 (b) ELIGIBLE PRODUCTION.—

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

19 (A) by striking paragraph (2),

20 (B) by striking “(1) IN GENERAL” and all
 21 that follows through “the eligible” and inserting
 22 “The eligible”,

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

1 (D) by redesignating subparagraphs (A)
 2 and (B) as paragraphs (1) and (2), respectively,
 3 and by moving such paragraphs 2 ems to the
 4 left.

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

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

12 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
 13 For purposes of this section, the types of energy efficient
 14 appliances are—

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

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

18 “(3) refrigerators described in subsection
 19 (b)(3).”.

20 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

23 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

24 The aggregate amount of credit allowed under sub-
 25 section (a) with respect to a taxpayer for any tax-

able year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.”.

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

“(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).”.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

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

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) any dishwasher described in subsection (b)(1),

“(B) any clothes washer described in subsection (b)(2), and

“(C) any refrigerator described in subsection (b)(3).”.

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

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

10 “(4) TOP-LOADING CLOTHES WASHER.—The
 11 term ‘top-loading clothes washer’ means a clothes
 12 washer which has the clothes container compartment
 13 access located on the top of the machine and which
 14 operates on a vertical axis.”.

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

18 “(6) MODIFIED ENERGY FACTOR.—The term
 19 ‘modified energy factor’ means the modified energy
 20 factor established by the Department of Energy for
 21 compliance with the Federal energy conservation
 22 standard.”.

23 (5) GALLONS PER CYCLE; WATER CONSUMP-
 24 TION FACTOR.—Section 45M(f), as amended by

1 paragraph (3), is amended by adding at the end the
 2 following:

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

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

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

15 **SEC. 245. ACCELERATED RECOVERY PERIOD FOR DEPRE-**
 16 **CIATION OF SMART METERS AND SMART**
 17 **GRID SYSTEMS.**

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

22 “(iii) any qualified smart electric
 23 meter, and

24 “(iv) any qualified smart electric grid
 25 system.”.

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

3 “(18) QUALIFIED SMART ELECTRIC METERS.—

4 “(A) IN GENERAL.—The term ‘qualified
 5 smart electric meter’ means any smart electric
 6 meter which is placed in service by a taxpayer
 7 who is a supplier of electric energy or a pro-
 8 vider of electric energy services.

9 “(B) SMART ELECTRIC METER.—For pur-
 10 poses of subparagraph (A), the term ‘smart
 11 electric meter’ means any time-based meter and
 12 related communication equipment which is ca-
 13 pable of being used by the taxpayer as part of
 14 a system that—

15 “(i) measures and records electricity
 16 usage data on a time-differentiated basis
 17 in at least 24 separate time segments per
 18 day,

19 “(ii) provides for the exchange of in-
 20 formation between supplier or provider and
 21 the customer’s electric meter in support of
 22 time-based rates or other forms of demand
 23 response,

24 “(iii) provides data to such supplier or
 25 provider so that the supplier or provider

1 can provide energy usage information to
 2 customers electronically, and

3 “(iv) provides net metering.

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

6 “(A) IN GENERAL.—The term ‘qualified
 7 smart electric grid system’ means any smart
 8 grid property used as part of a system for elec-
 9 tric distribution grid communications, moni-
 10 toring, and management placed in service by a
 11 taxpayer who is a supplier of electric energy or
 12 a provider of electric energy services.

13 “(B) SMART GRID PROPERTY.—For the
 14 purposes of subparagraph (A), the term ‘smart
 15 grid property’ means electronics and related
 16 equipment that is capable of—

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

20 “(ii) providing real-time, two-way
 21 communications to monitor or manage
 22 such grid, and

23 “(iii) providing real time analysis of
 24 and event prediction based upon collected
 25 data that can be used to improve electric

1 distribution system reliability, quality, and
2 performance.”.

3 (c) CONTINUED APPLICATION OF 150 PERCENT DE-
4 CLINING BALANCE METHOD.—Paragraph (2) of section
5 168(b) is amended by striking “or” at the end of subpara-
6 graph (B), by redesignating subparagraph (C) as subpara-
7 graph (D), and by inserting after subparagraph (B) the
8 following new subparagraph:

9 “(C) any property (other than property de-
10 scribed in paragraph (3)) which is a qualified
11 smart electric meter or qualified smart electric
12 grid system, or”.

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

16 **SEC. 246. QUALIFIED GREEN BUILDING AND SUSTAINABLE**
17 **DESIGN PROJECTS.**

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

21 (b) TREATMENT OF CURRENT REFUNDING
22 BONDS.—Paragraph (9) of section 142(l) is amended by
23 striking “October 1, 2009” and inserting “October 1,
24 2012”.

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

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