

110TH CONGRESS
2D SESSION

S. 3478

To amend the Internal Revenue Code of 1986 to provide incentives for the production of energy, to provide transportation and domestic fuel security, and to provide incentives for energy conservation and energy efficiency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2008

Mr. BAUCUS (for himself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for the production of energy, to provide transportation and domestic fuel security, and to provide incentives for energy conservation and energy efficiency, 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, ETC.**

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

6 (b) REFERENCE.—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment or repeal is

1 expressed in terms of an amendment to, or repeal of, a
 2 section or other provision, the reference shall be consid-
 3 ered to be made to a section or other provision of the In-
 4 ternal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

- Sec. 101. Renewable energy credit.
- Sec. 102. Production credit for electricity produced from marine renewables.
- Sec. 103. Energy credit.
- Sec. 104. Credit for residential energy efficient property.
- Sec. 105. New clean renewable energy bonds.
- Sec. 106. Energy credit for small wind property.
- Sec. 107. Energy credit for geothermal heat pump systems.

Subtitle B—Carbon Mitigation and Coal Provisions

- Sec. 111. Expansion and modification of advanced coal project investment credit.
- Sec. 112. Expansion and modification of coal gasification investment credit.
- Sec. 113. Temporary increase in coal excise tax; funding of Black Lung Disability Trust Fund.
- Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.
- Sec. 115. Tax credit for carbon dioxide sequestration.
- Sec. 116. Carbon audit of the tax code.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

- Sec. 201. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
- Sec. 202. Credits for biodiesel and renewable diesel.
- Sec. 203. Clarification that credits for fuel are designed to provide an incentive for United States production.
- Sec. 204. Credit for new qualified plug-in electric drive motor vehicles.
- Sec. 205. Extension and modification of alternative motor vehicle credit.
- Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
- Sec. 207. Extension and modification of alternative fuel credit.
- Sec. 208. Alternative fuel vehicle refueling property credit.
- Sec. 209. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.
- Sec. 210. Extension of ethanol production credit.

- Sec. 211. Credit for producers of fossil free alcohol.
- Sec. 212. Extension and modification of election to expense certain refineries.
- Sec. 213. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

- Sec. 301. Qualified energy conservation bonds.
- Sec. 302. Credit for nonbusiness energy property.
- Sec. 303. Energy efficient commercial buildings deduction.
- Sec. 304. New energy efficient home credit.
- Sec. 305. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 306. Accelerated recovery period for depreciation of smart meters and smart grid systems.
- Sec. 307. Qualified green building and sustainable design projects.
- Sec. 308. Special depreciation allowance for certain reuse and recycling property.

TITLE IV—MISCELLANEOUS ENERGY PROVISIONS

- Sec. 401. Special rule to implement FERC and State electric restructuring policy.
- Sec. 402. Modification of credit for production from advanced nuclear power facilities.
- Sec. 403. Income averaging for amounts received in connection with the Exxon Valdez litigation.

TITLE V—REVENUE PROVISIONS

- Sec. 501. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
- Sec. 502. Tax on crude oil and natural gas produced from the outer Continental Shelf in the Gulf of Mexico.
- Sec. 503. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
- Sec. 504. Broker reporting of customer's basis in securities transactions.
- Sec. 505. Increase and extension of Oil Spill Liability Trust Fund tax.

TITLE VI—OTHER PROVISIONS

- Sec. 601. Secure rural schools and community self-determination program.
- Sec. 602. Clarification of uniform definition of child.

1 **TITLE I—ENERGY PRODUCTION**
 2 **INCENTIVES**
 3 **Subtitle A—Renewable Energy**
 4 **Incentives**

5 **SEC. 101. RENEWABLE ENERGY CREDIT.**

6 (a) 3-YEAR EXTENSION.—Each of the following pro-
 7 visions of section 45(d) is amended by striking “January
 8 1, 2009” and inserting “January 1, 2012”:

9 (1) Paragraph (1).

10 (2) Clauses (i) and (ii) of paragraph (2)(A).

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

12 (4) Paragraph (4).

13 (5) Paragraph (5).

14 (6) Paragraph (6).

15 (7) Paragraph (7).

16 (8) Paragraph (8).

17 (9) Subparagraphs (A) and (B) of paragraph
 18 (9).

19 (b) MODIFICATION OF REFINED COAL AS A QUALI-
 20 FIED ENERGY RESOURCE.—

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

24 (A) by striking clause (iv),

1 (B) by adding “and” at the end of clause
2 (ii), and

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

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

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

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

15 (2) by striking “COMBUSTION”.

16 (d) EXPANSION OF BIOMASS FACILITIES.—

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

22 “(B) EXPANSION OF FACILITY.—Such
23 term shall include a new unit placed in service
24 after the date of the enactment of this subpara-
25 graph in connection with a facility described in

1 subparagraph (A), but only to the extent of the
2 increased amount of electricity produced at the
3 facility by reason of such new unit.”.

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

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

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

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

22 “(i) the hydroelectric project installed
23 on the nonhydroelectric dam is licensed by
24 the Federal Energy Regulatory Commis-
25 sion and meets all other applicable environ-

1 mental, licensing, and regulatory require-
2 ments,

3 “(ii) the nonhydroelectric dam was
4 placed in service before the date of the en-
5 actment of this paragraph and operated
6 for flood control, navigation, or water sup-
7 ply purposes and did not produce hydro-
8 electric power on the date of the enactment
9 of this paragraph, and

10 “(iii) the hydroelectric project is oper-
11 ated so that the water surface elevation at
12 any given location and time that would
13 have occurred in the absence of the hydro-
14 electric project is maintained, subject to
15 any license requirements imposed under
16 applicable law that change the water sur-
17 face elevation for the purpose of improving
18 environmental quality of the affected wa-
19 terway.

20 The Secretary, in consultation with the Federal
21 Energy Regulatory Commission, shall certify if
22 a hydroelectric project licensed at a nonhydro-
23 electric dam meets the criteria in clause (iii).
24 Nothing in this section shall affect the stand-
25 ards under which the Federal Energy Regu-

1 latory Commission issues licenses for and regu-
 2 lates hydropower projects under part I of the
 3 Federal Power Act.”.

4 (f) EFFECTIVE DATE.—

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

9 (2) REFINED COAL.—The amendments made by
 10 subsection (b) shall apply to coal produced and sold
 11 after December 31, 2008.

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

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

20 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
 21 **DUCED FROM MARINE RENEWABLES.**

22 (a) IN GENERAL.—Paragraph (1) of section 45(c) is
 23 amended by striking “and” at the end of subparagraph
 24 (G), by striking the period at the end of subparagraph

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

3 “(I) marine and hydrokinetic renewable en-
4 ergy.”.

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

8 “(10) MARINE AND HYDROKINETIC RENEW-
9 ABLE ENERGY.—

10 “(A) IN GENERAL.—The term ‘marine and
11 hydrokinetic renewable energy’ means energy
12 derived from—

13 “(i) waves, tides, and currents in
14 oceans, estuaries, and tidal areas,

15 “(ii) free flowing water in rivers,
16 lakes, and streams,

17 “(iii) free flowing water in an irriga-
18 tion system, canal, or other man-made
19 channel, including projects that utilize non-
20 mechanical structures to accelerate the
21 flow of water for electric power production
22 purposes, or

23 “(iv) differentials in ocean tempera-
24 ture (ocean thermal energy conversion).

1 “(B) EXCEPTIONS.—Such term shall not
 2 include any energy which is derived from any
 3 source which utilizes a dam, diversionary struc-
 4 ture (except as provided in subparagraph
 5 (A)(iii)), or impoundment for electric power
 6 production purposes.”.

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

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

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

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

20 (d) CREDIT RATE.—Subparagraph (A) of section
 21 45(b)(4) is amended by striking “or (9)” and inserting
 22 “(9), or (11)”.

23 (e) COORDINATION WITH SMALL IRRIGATION
 24 POWER.—Paragraph (5) of section 45(d), as amended by
 25 section 101, is amended by striking “January 1, 2012”

1 and inserting “the date of the enactment of paragraph
2 (11)”.

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

7 **SEC. 103. ENERGY CREDIT.**

8 (a) EXTENSION OF CREDIT.—

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

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

16 (3) MICROTURBINE PROPERTY.—Subparagraph
17 (E) of section 48(c)(2) is amended by striking “De-
18 cember 31, 2008” and inserting “December 31,
19 2016”.

20 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
21 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
22 38(c)(4), as amended by the Housing Assistance Tax Act
23 of 2008, is amended by redesignating clauses (v) and (vi)
24 as clauses (vi) and (vii), respectively, and by inserting
25 after clause (iv) the following new clause:

1 “(v) the credit determined under sec-
 2 tion 46 to the extent that such credit is at-
 3 tributable to the energy credit determined
 4 under section 48,”.

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

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

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

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

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

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

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

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

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

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

10 “(ii) which produces—

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

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

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

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

24 “(B) LIMITATION.—

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

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

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

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

3 “(C) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

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

22 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-
23 COUNT.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 48(a) is amended by striking the second sentence
3 thereof.

4 (2) CONFORMING AMENDMENTS.—

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

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

13 (f) EFFECTIVE DATE.—

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

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

24 (3) COMBINED HEAT AND POWER AND FUEL
25 CELL PROPERTY.—The amendments made by sub-

1 sections (c) and (d) shall apply to periods after the
2 date of the enactment of this Act, in taxable years
3 ending after such date, under rules similar to the
4 rules of section 48(m) of the Internal Revenue Code
5 of 1986 (as in effect on the day before the date of
6 the enactment of the Revenue Reconciliation Act of
7 1990).

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

15 **SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
16 **PROPERTY.**

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

20 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
21 erty.—

22 (1) IN GENERAL.—Section 25D(b)(1)(A) is
23 amended by striking “\$2,000” and inserting
24 “\$4,000”.

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

4 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

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

10 “(4) 30 percent of the qualified small wind en-
11 ergy property expenditures made by the taxpayer
12 during such year.”.

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

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

22 (3) QUALIFIED SMALL WIND ENERGY PROP-
23 ERTY EXPENDITURES.—

1 (A) IN GENERAL.—Section 25D(d) is
2 amended by adding at the end the following
3 new paragraph:

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

11 (B) NO DOUBLE BENEFIT.—Section
12 45(d)(1) is amended by adding at the end the
13 following new sentence: “Such term shall not
14 include any facility with respect to which any
15 qualified small wind energy property expendi-
16 ture (as defined in subsection (d)(4) of section
17 25D) is taken into account in determining the
18 credit under such section.”.

19 (4) MAXIMUM EXPENDITURES IN CASE OF
20 JOINT OCCUPANCY.—Section 25D(e)(4)(A) is
21 amended by striking “and” at the end of clause (ii),
22 by striking the period at the end of clause (iii) and
23 inserting “, and”, and by adding at the end the fol-
24 lowing new clause:

1 “(iv) \$1,667 in the case of each half
2 kilowatt of capacity (not to exceed
3 \$13,333) of wind turbines for which quali-
4 fied small wind energy property expendi-
5 tures are made.”.

6 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
7 TEMS.—

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

13 “(5) 30 percent of the qualified geothermal
14 heat pump property expenditures made by the tax-
15 payer during such year.”.

16 (2) LIMITATION.—Section 25D(b)(1), as
17 amended by subsection (c), is amended by striking
18 “and” at the end of subparagraph (C), by striking
19 the period at the end of subparagraph (D) and in-
20 serting “, and”, and by adding at the end the fol-
21 lowing new subparagraph:

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

24 (3) QUALIFIED GEOTHERMAL HEAT PUMP
25 PROPERTY EXPENDITURE.—Section 25D(d), as

1 amended by subsection (c), is amended by adding at
 2 the end the following new paragraph:

3 “(5) QUALIFIED GEOTHERMAL HEAT PUMP
 4 PROPERTY EXPENDITURE.—

5 “(A) IN GENERAL.—The term ‘qualified
 6 geothermal heat pump property expenditure’
 7 means an expenditure for qualified geothermal
 8 heat pump property installed on or in connec-
 9 tion with a dwelling unit located in the United
 10 States and used as a residence by the taxpayer.

11 “(B) QUALIFIED GEOTHERMAL HEAT
 12 PUMP PROPERTY.—The term ‘qualified geo-
 13 thermal heat pump property’ means any equip-
 14 ment which—

15 “(i) uses the ground or ground water
 16 as a thermal energy source to heat the
 17 dwelling unit referred to in subparagraph
 18 (A) or as a thermal energy sink to cool
 19 such dwelling unit, and

20 “(ii) meets the requirements of the
 21 Energy Star program which are in effect
 22 at the time that the expenditure for such
 23 equipment is made.”.

24 (4) MAXIMUM EXPENDITURES IN CASE OF
 25 JOINT OCCUPANCY.—Section 25D(e)(4)(A), as

1 amended by subsection (c), is amended by striking
 2 “and” at the end of clause (iii), by striking the pe-
 3 riod at the end of clause (iv) and inserting “, and”,
 4 and by adding at the end the following new clause:

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

8 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 9 IMUM TAX.—

10 (1) IN GENERAL.—Subsection (c) of section
 11 25D is amended to read as follows:

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

14 “(1) LIMITATION BASED ON AMOUNT OF
 15 TAX.—In the case of a taxable year to which section
 16 26(a)(2) does not apply, the credit allowed under
 17 subsection (a) for the taxable year shall not exceed
 18 the excess of—

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

22 “(B) the sum of the credits allowable
 23 under this subpart (other than this section) and
 24 section 27 for the taxable year.

25 “(2) CARRYFORWARD OF UNUSED CREDIT.—

1 “(A) RULE FOR YEARS IN WHICH ALL
2 PERSONAL CREDITS ALLOWED AGAINST REG-
3 ULAR AND ALTERNATIVE MINIMUM TAX.—In
4 the case of a taxable year to which section
5 26(a)(2) applies, if the credit allowable under
6 subsection (a) exceeds the limitation imposed by
7 section 26(a)(2) for such taxable year reduced
8 by the sum of the credits allowable under this
9 subpart (other than this section), such excess
10 shall be carried to the succeeding taxable year
11 and added to the credit allowable under sub-
12 section (a) for such succeeding taxable year.

13 “(B) RULE FOR OTHER YEARS.—In the
14 case of a taxable year to which section 26(a)(2)
15 does not apply, if the credit allowable under
16 subsection (a) exceeds the limitation imposed by
17 paragraph (1) for such taxable year, such ex-
18 cess shall be carried to the succeeding taxable
19 year and added to the credit allowable under
20 subsection (a) for such succeeding taxable
21 year.”.

22 (2) CONFORMING AMENDMENTS.—

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

1 (B) Section 24(b)(3)(B) is amended by
2 striking “and 25B” and inserting “, 25B, and
3 25D”.

4 (C) Section 25B(g)(2) is amended by strik-
5 ing “section 23” and inserting “sections 23 and
6 25D”.

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

9 (f) EFFECTIVE DATE.—

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

13 (2) APPLICATION OF EGTRRA SUNSET.—The
14 amendments made by subparagraphs (A) and (B) of
15 subsection (e)(2) shall be subject to title IX of the
16 Economic Growth and Tax Relief Reconciliation Act
17 of 2001 in the same manner as the provisions of
18 such Act to which such amendments relate.

19 **SEC. 105. NEW CLEAN RENEWABLE ENERGY BONDS.**

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

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

24 “(a) NEW CLEAN RENEWABLE ENERGY BOND.—For
25 purposes of this subpart, the term ‘new clean renewable

1 energy bond' means any bond issued as part of an issue
2 if—

3 “(1) 100 percent of the available project pro-
4 ceeds of such issue are to be used for capital expend-
5 itures incurred by governmental bodies, public power
6 providers, or cooperative electric companies for one
7 or more qualified renewable energy facilities,

8 “(2) the bond is issued by a qualified issuer,
9 and

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

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

16 “(c) LIMITATION ON AMOUNT OF BONDS DES-
17 IGNATED.—

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

23 “(2) NATIONAL LIMITATION ON AMOUNT OF
24 BONDS DESIGNATED.—There is a national new clean
25 renewable energy bond limitation of \$2,000,000,000

1 which shall be allocated by the Secretary as provided
2 in paragraph (3), except that—

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

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

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

12 “(3) METHOD OF ALLOCATION.—

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

1 “(B) ALLOCATION AMONG GOVERNMENTAL
2 BODIES AND COOPERATIVE ELECTRIC COMPA-
3 NIES.—The Secretary shall make allocations of
4 the amount of the national new clean renewable
5 energy bond limitation described in paragraphs
6 (2)(B) and (2)(C) among qualified projects of
7 governmental bodies and cooperative electric
8 companies, respectively, in such manner as the
9 Secretary determines appropriate.

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

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

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

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

1 “(4) COOPERATIVE ELECTRIC COMPANY.—The
2 term ‘cooperative electric company’ means a mutual
3 or cooperative electric company described in section
4 501(c)(12) or section 1381(a)(2)(C).

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

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

18 (b) CONFORMING AMENDMENTS.—

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

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

23 “(A) a qualified forestry conservation
24 bond, or

25 “(B) a new clean renewable energy bond,

1 which is part of an issue that meets requirements of
2 paragraphs (2), (3), (4), (5), and (6).”.

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

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

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

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

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

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

17 (c) EXTENSION FOR CLEAN RENEWABLE ENERGY
18 BONDS.—Subsection (m) of section 54 is amended by
19 striking “December 31, 2008” and inserting “December
20 31, 2009”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to obligations issued after the date
23 of the enactment of this Act.

1 **SEC. 106. ENERGY CREDIT FOR SMALL WIND PROPERTY.**

2 (a) IN GENERAL.—Section 48(a)(3)(A), as amended
 3 by subsection (c), is amended by striking “or” at the end
 4 of clause (iv), by adding “or” at the end of clause (v),
 5 and by inserting after clause (v) the following new clause:

6 “(vi) qualified small wind energy
 7 property,”.

8 (b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is
 9 amended by striking “and” at the end of subclause (II)
 10 and by inserting after subclause (III) the following new
 11 subclause:

12 “(IV) qualified small wind energy
 13 property, and”.

14 (c) QUALIFIED SMALL WIND ENERGY PROPERTY.—
 15 Section 48(c) is amended by adding at the end the fol-
 16 lowing new paragraph:

17 “(4) QUALIFIED SMALL WIND ENERGY PROP-
 18 ERTY.—

19 “(A) IN GENERAL.—The term ‘qualified
 20 small wind energy property’ means property
 21 which uses a qualifying small wind turbine to
 22 generate electricity.

23 “(B) LIMITATION.—In the case of quali-
 24 fied small wind energy property placed in serv-
 25 ice during the taxable year, the credit otherwise
 26 determined under subsection (a)(1) for such

1 year with respect to such property shall not ex-
2 ceed \$4,000 with respect to any taxpayer.

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

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

8 “(ii) meets the performance standards
9 of the American Wind Energy Association.

10 “(D) TERMINATION.—The term ‘qualified
11 small wind energy property’ shall not include
12 any property for any period after December 31,
13 2016.”.

14 (d) CONFORMING AMENDMENT.—Section 48(a)(1) is
15 amended by striking “paragraphs (1)(B) and (2)(B)” and
16 inserting “paragraphs (1)(B), (2)(B), (3)(B), and
17 (4)(B)”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to periods after the date of the
20 enactment of this Act, in taxable years ending after such
21 date, under rules similar to the rules of section 48(m) of
22 the Internal Revenue Code of 1986 (as in effect on the
23 day before the date of the enactment of the Revenue Rec-
24 onciliation Act of 1990).

1 **SEC. 107. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP**
 2 **SYSTEMS.**

3 (a) IN GENERAL.—Subparagraph (A) of section
 4 48(a)(3), as amended by this Act, is amended by striking
 5 “or” at the end of clause (v), by inserting “or” at the
 6 end of clause (vi), and by adding at the end the following
 7 new clause:

8 “(vii) equipment which uses the
 9 ground or ground water as a thermal en-
 10 ergy source to heat a structure or as a
 11 thermal energy sink to cool a structure,
 12 but only with respect to periods ending be-
 13 fore January 1, 2017.”.

14 (b) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to periods after the date of the
 16 enactment of this Act, in taxable years ending after such
 17 date, under rules similar to the rules of section 48(m) of
 18 the Internal Revenue Code of 1986 (as in effect on the
 19 day before the date of the enactment of the Revenue Rec-
 20 onciliation Act of 1990).

21 **Subtitle B—Carbon Mitigation and**
 22 **Coal Provisions**

23 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED**
 24 **COAL PROJECT INVESTMENT CREDIT.**

25 (a) MODIFICATION OF CREDIT AMOUNT.—Section
 26 48A(a) is amended by striking “and” at the end of para-

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

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

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

10 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

11 (1) IN GENERAL.—Subparagraph (B) of section
12 48A(d)(3) is amended to read as follows:

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

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

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

1 “(iii) \$2,000,000,000 for advanced
2 coal-based generation technology projects
3 the application for which is submitted dur-
4 ing the period described in paragraph
5 (2)(A)(ii).”.

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

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

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

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

1 (3) CAPTURE AND SEQUESTRATION OF CARBON
2 DIOXIDE EMISSIONS REQUIREMENT.—

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

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

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

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

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

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

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

16 (A) by striking “and” at the end of clause
17 (ii),

18 (B) by redesignating clause (iii) as clause
19 (iv), and

20 (C) by inserting after clause (ii) the fol-
21 lowing new clause:

22 “(iii) applicant participants who have
23 a research partnership with an eligible edu-
24 cational institution (as defined in section
25 529(e)(5)), and”.

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

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

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

13 (e) EFFECTIVE DATES.—

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

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

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

5 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**
 6 **CATION INVESTMENT CREDIT.**

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

11 (b) EXPANSION OF AGGREGATE CREDITS.—Section
 12 48B(d)(1) is amended by striking “shall not exceed
 13 \$350,000,000” and all that follows and inserting “shall
 14 not exceed—

15 “(A) \$350,000,000, plus

16 “(B) \$500,000,000 for qualifying gasifi-
 17 cation projects that include equipment which
 18 separates and sequesters at least 75 percent of
 19 such project’s total carbon dioxide emissions.”.

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

23 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-
 24 QUESTER.—The Secretary shall provide for recapturing
 25 the benefit of any credit allowable under subsection (a)

1 with respect to any project which fails to attain or main-
2 tain the separation and sequestration requirements for
3 such project under subsection (d)(1).”.

4 (d) SELECTION PRIORITIES.—Section 48B(d) is
5 amended by adding at the end the following new para-
6 graph:

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

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

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

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to credits described in section
19 48B(d)(1)(B) of the Internal Revenue Code of 1986 which
20 are allocated or reallocated after the date of the enactment
21 of this Act.

1 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX;**
2 **FUNDING OF BLACK LUNG DISABILITY TRUST**
3 **FUND.**

4 (a) **EXTENSION OF TEMPORARY INCREASE.**—Para-
5 graph (2) of section 4121(e) is amended—

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

8 (2) by striking “January 1 after 1981” in sub-
9 paragraph (B) and inserting “December 31 after
10 2007”.

11 (b) **RESTRUCTURING OF TRUST FUND DEBT.**—

12 (1) **DEFINITIONS.**—For purposes of this sub-
13 section—

14 (A) **MARKET VALUE OF THE OUTSTANDING**
15 **REPAYABLE ADVANCES, PLUS ACCRUED INTER-**
16 **EST.**—The term “market value of the out-
17 standing repayable advances, plus accrued in-
18 terest” means the present value (determined by
19 the Secretary of the Treasury as of the refi-
20 nancing date and using the Treasury rate as
21 the discount rate) of the stream of principal
22 and interest payments derived assuming that
23 each repayable advance that is outstanding on
24 the refinancing date is due on the 30th anniver-
25 sary of the end of the fiscal year in which the
26 advance was made to the Trust Fund, and that

1 all such principal and interest payments are
2 made on September 30 of the applicable fiscal
3 year.

4 (B) REFINANCING DATE.—The term “refi-
5 nancing date” means the date occurring 2 days
6 after the enactment of this Act.

7 (C) REPAYABLE ADVANCE.—The term “re-
8 payable advance” means an amount that has
9 been appropriated to the Trust Fund in order
10 to make benefit payments and other expendi-
11 tures that are authorized under section 9501 of
12 the Internal Revenue Code of 1986 and are re-
13 quired to be repaid when the Secretary of the
14 Treasury determines that monies are available
15 in the Trust Fund for such purpose.

16 (D) TREASURY RATE.—The term “Treas-
17 ury rate” means a rate determined by the Sec-
18 retary of the Treasury, taking into consider-
19 ation current market yields on outstanding
20 marketable obligations of the United States of
21 comparable maturities.

22 (E) TREASURY 1-YEAR RATE.—The term
23 “Treasury 1-year rate” means a rate deter-
24 mined by the Secretary of the Treasury, taking
25 into consideration current market yields on out-

1 standing marketable obligations of the United
2 States with remaining periods to maturity of
3 approximately 1 year, to have been in effect as
4 of the close of business 1 business day prior to
5 the date on which the Trust Fund issues obliga-
6 tions to the Secretary of the Treasury under
7 paragraph (2)(B).

8 (2) REFINANCING OF OUTSTANDING PRINCIPAL
9 OF REPAYABLE ADVANCES AND UNPAID INTEREST
10 ON SUCH ADVANCES.—

11 (A) TRANSFER TO GENERAL FUND.—On
12 the refinancing date, the Trust Fund shall
13 repay the market value of the outstanding re-
14 payable advances, plus accrued interest, by
15 transferring into the general fund of the Treas-
16 ury the following sums:

17 (i) The proceeds from obligations that
18 the Trust Fund shall issue to the Sec-
19 retary of the Treasury in such amounts as
20 the Secretaries of Labor and the Treasury
21 shall determine and bearing interest at the
22 Treasury rate, and that shall be in such
23 forms and denominations and be subject to
24 such other terms and conditions, including

1 maturity, as the Secretary of the Treasury
2 shall prescribe.

3 (ii) All, or that portion, of the appro-
4 priation made to the Trust Fund pursuant
5 to paragraph (3) that is needed to cover
6 the difference defined in that paragraph.

7 (B) REPAYMENT OF OBLIGATIONS.—In the
8 event that the Trust Fund is unable to repay
9 the obligations that it has issued to the Sec-
10 retary of the Treasury under subparagraph
11 (A)(i) and this subparagraph, or is unable to
12 make benefit payments and other authorized ex-
13 penditures, the Trust Fund shall issue obliga-
14 tions to the Secretary of the Treasury in such
15 amounts as may be necessary to make such re-
16 payments, payments, and expenditures, with a
17 maturity of 1 year, and bearing interest at the
18 Treasury 1-year rate. These obligations shall be
19 in such forms and denominations and be sub-
20 ject to such other terms and conditions as the
21 Secretary of the Treasury shall prescribe.

22 (C) AUTHORITY TO ISSUE OBLIGATIONS.—
23 The Trust Fund is authorized to issue obliga-
24 tions to the Secretary of the Treasury under
25 subparagraphs (A)(i) and (B). The Secretary of

1 the Treasury is authorized to purchase such ob-
2 ligations of the Trust Fund. For the purposes
3 of making such purchases, the Secretary of the
4 Treasury may use as a public debt transaction
5 the proceeds from the sale of any securities
6 issued under chapter 31 of title 31, United
7 States Code, and the purposes for which securi-
8 ties may be issued under such chapter are ex-
9 tended to include any purchase of such Trust
10 Fund obligations under this subparagraph.

11 (3) ONE-TIME APPROPRIATION.—There is here-
12 by appropriated to the Trust Fund an amount suffi-
13 cient to pay to the general fund of the Treasury the
14 difference between—

15 (A) the market value of the outstanding
16 repayable advances, plus accrued interest; and

17 (B) the proceeds from the obligations
18 issued by the Trust Fund to the Secretary of
19 the Treasury under paragraph (2)(A)(i).

20 (4) PREPAYMENT OF TRUST FUND OBLIGA-
21 TIONS.—The Trust Fund is authorized to repay any
22 obligation issued to the Secretary of the Treasury
23 under subparagraphs (A)(i) and (B) of paragraph
24 (2) prior to its maturity date by paying a prepay-
25 ment price that would, if the obligation being pre-

1 shipped, the export or shipment of which
2 was other than through an exporter who
3 meets the requirements of paragraph (2),

4 (ii) such coal producer filed an excise
5 tax return on or after October 1, 1990,
6 and on or before the date of the enactment
7 of this Act, and

8 (iii) such coal producer files a claim
9 for refund with the Secretary not later
10 than the close of the 30-day period begin-
11 ning on the date of the enactment of this
12 Act,

13 then the Secretary shall pay to such coal pro-
14 ducer an amount equal to the tax paid under
15 section 4121 of such Code on such coal ex-
16 ported or shipped by the coal producer or a
17 party related to such coal producer, or caused
18 by the coal producer or a party related to such
19 coal producer to be exported or shipped.

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

22 (i) IN GENERAL.—If a coal producer
23 or a party related to a coal producer has
24 received a judgment described in clause
25 (iii), such coal producer shall be deemed to

1 have established the export of coal to a for-
2 eign country or shipment of coal to a pos-
3 session of the United States under sub-
4 paragraph (A)(i).

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

11 (iii) JUDGMENT DESCRIBED.—A judg-
12 ment is described in this subparagraph if
13 such judgment—

14 (I) is made by a court of com-
15 petent jurisdiction within the United
16 States,

17 (II) relates to the constitu-
18 tionality of any tax paid on exported
19 coal under section 4121 of the Inter-
20 nal Revenue Code of 1986, and

21 (III) is in favor of the coal pro-
22 ducer or the party related to the coal
23 producer.

24 (2) EXPORTERS.—Notwithstanding subsections
25 (a)(1) and (c) of section 6416 and section 6511 of

1 the Internal Revenue Code of 1986, and a judgment
2 described in paragraph (1)(B)(iii) of this subsection,
3 if—

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

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

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

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

21 (b) LIMITATIONS.—Subsection (a) shall not apply
22 with respect to exported coal if a settlement with the Fed-
23 eral Government has been made with and accepted by, the
24 coal producer, a party related to such coal producer, or
25 the exporter, of such coal, as of the date that the claim

1 is filed under this section with respect to such exported
2 coal. For purposes of this subsection, the term “settlement
3 with the Federal Government” shall not include any settle-
4 ment or stipulation entered into as of the date of the en-
5 actment of this Act, the terms of which contemplate a
6 judgment concerning which any party has reserved the
7 right to file an appeal, or has filed an appeal.

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

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

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

24 (2) EXPORTER.—The term “exporter” means a
25 person, other than a coal producer, who does not

1 have a contract, fee arrangement, or any other
2 agreement with a producer or seller of such coal to
3 export or ship such coal to a third party on behalf
4 of the producer or seller of such coal and—

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

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

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

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

17 (B) is related (within the meaning of sec-
18 tion 144(a)(3) of the Internal Revenue Code of
19 1986) to such coal producer, or

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

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of Treasury or the Secretary’s des-
3 ignee.

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

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

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

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

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

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

9 (i) STANDING NOT CONFERRED.—

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

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

1 **SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**
2 **TION.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 (relating to business credits) is
5 amended by adding at the end the following new section:

6 **“SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 the carbon dioxide sequestration credit for any taxable
9 year is an amount equal to the sum of—

10 “(1) \$20 per metric ton of qualified carbon di-
11 oxide which is—

12 “(A) captured by the taxpayer at a quali-
13 fied facility, and

14 “(B) disposed of by the taxpayer in secure
15 geological storage, and

16 “(2) \$10 per metric ton of qualified carbon di-
17 oxide which is—

18 “(A) captured by the taxpayer at a quali-
19 fied facility, and

20 “(B) used by the taxpayer as a tertiary
21 injectant in a qualified enhanced oil or natural
22 gas recovery project.

23 “(b) QUALIFIED CARBON DIOXIDE.—For purposes of
24 this section—

1 “(1) IN GENERAL.—The term ‘qualified carbon
2 dioxide’ means carbon dioxide captured from an in-
3 dustrial source which—

4 “(A) would otherwise be released into the
5 atmosphere as industrial emission of green-
6 house gas, and

7 “(B) is measured at the source of capture
8 and verified at the point of disposal or injec-
9 tion.

10 “(2) RECYCLED CARBON DIOXIDE.—The term
11 ‘qualified carbon dioxide’ includes the initial deposit
12 of captured carbon dioxide used as a tertiary
13 injectant. Such term does not include carbon dioxide
14 that is re-captured, recycled, and re-injected as part
15 of the enhanced oil and natural gas recovery process.

16 “(c) QUALIFIED FACILITY.—For purposes of this
17 section, the term ‘qualified facility’ means any industrial
18 facility—

19 “(1) which is owned by the taxpayer,

20 “(2) at which carbon capture equipment is
21 placed in service, and

22 “(3) which captures not less than 500,000 met-
23 ric tons of carbon dioxide during the taxable year.

24 “(d) SPECIAL RULES AND OTHER DEFINITIONS.—

25 For purposes of this section—

1 “(1) ONLY CARBON DIOXIDE CAPTURED AND
2 DISPOSED OF OR USED WITHIN THE UNITED STATES
3 TAKEN INTO ACCOUNT.—The credit under this sec-
4 tion shall apply only with respect to qualified carbon
5 dioxide the capture and disposal or use of which is
6 within—

7 “(A) the United States (within the mean-
8 ing of section 638(1)), or

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

11 “(2) SECURE GEOLOGICAL STORAGE.—The Sec-
12 retary, in consultation with the Administrator of the
13 Environmental Protection Agency, shall establish
14 regulations for determining adequate security meas-
15 ures for the geological storage of carbon dioxide
16 under subsection (a)(1)(B) such that the carbon di-
17 oxide does not escape into the atmosphere. Such
18 term shall include storage at deep saline formations
19 and unminable coal seams under such conditions as
20 the Secretary may determine under such regulations.

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

24 “(4) QUALIFIED ENHANCED OIL OR NATURAL
25 GAS RECOVERY PROJECT.—The term ‘qualified en-

1 hanced oil or natural gas recovery project’ has the
2 meaning given the term ‘qualified enhanced oil re-
3 covery project’ by section 43(c)(2), by substituting
4 ‘crude oil or natural gas’ for ‘crude oil’ in subpara-
5 graph (A)(i) thereof.

6 “(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—
7 Any credit under this section shall be attributable to
8 the person that captures and physically or contrac-
9 tually ensures the disposal of or the use as a tertiary
10 injectant of the qualified carbon dioxide, except to
11 the extent provided in regulations prescribed by the
12 Secretary.

13 “(6) RECAPTURE.—The Secretary shall, by reg-
14 ulations, provide for recapturing the benefit of any
15 credit allowable under subsection (a) with respect to
16 any qualified carbon dioxide which ceases to be cap-
17 tured, disposed of, or used as a tertiary injectant in
18 a manner consistent with the requirements of this
19 section.

20 “(7) INFLATION ADJUSTMENT.—In the case of
21 any taxable year beginning in a calendar year after
22 2009, there shall be substituted for each dollar
23 amount contained in subsection (a) an amount equal
24 to the product of—

25 “(A) such dollar amount, multiplied by

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

5 “(e) APPLICATION OF SECTION.—The credit under
6 this section shall apply with respect to qualified carbon
7 dioxide before the end of the calendar year in which the
8 Secretary, in consultation with the Administrator of the
9 Environmental Protection Agency, certifies that
10 75,000,000 metric tons of qualified carbon dioxide have
11 been captured and disposed of or used as a tertiary
12 injectant.”.

13 (b) CONFORMING AMENDMENT.—Section 38(b) (re-
14 lating to general business credit) is amended by striking
15 “plus” at the end of paragraph (32), by striking the period
16 at the end of paragraph (33) and inserting “, plus”, and
17 by adding at the end of following new paragraph:

18 “(34) the carbon dioxide sequestration credit
19 determined under section 45Q(a).”.

20 (c) CLERICAL AMENDMENT.—The table of sections
21 for subpart B of part IV of subchapter A of chapter 1
22 (relating to other credits) is amended by adding at the
23 end the following new section:

“Sec. 45Q. Credit for carbon dioxide sequestration.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to carbon dioxide captured after
3 the date of the enactment of this Act.

4 **SEC. 116. CARBON AUDIT OF THE TAX CODE.**

5 (a) STUDY.—The Secretary of the Treasury shall
6 enter into an agreement with the National Academy of
7 Sciences to undertake a comprehensive review of the Inter-
8 nal Revenue Code of 1986 to identify the types of and
9 specific tax provisions that have the largest effects on car-
10 bon and other greenhouse gas emissions and to estimate
11 the magnitude of those effects.

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

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to carry out this section
18 \$1,500,000 for the period of fiscal years 2009 and 2010.

1 **TITLE II—TRANSPORTATION**
2 **AND DOMESTIC FUEL SECUR-**
3 **RITY PROVISIONS**

4 **SEC. 201. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS**
5 **DEPRECIATION FOR BIOMASS ETHANOL**
6 **PLANT PROPERTY.**

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

9 “(3) CELLULOSIC BIOFUEL.—The term ‘cel-
10 lulosic biofuel’ means any liquid fuel which is pro-
11 duced from any lignocellulosic or hemicellulosic mat-
12 ter that is available on a renewable or recurring
13 basis.”.

14 (b) CONFORMING AMENDMENTS.—Subsection (l) of
15 section 168 is amended—

16 (1) by striking “cellulosic biomass ethanol”
17 each place it appears and inserting “cellulosic
18 biofuel”,

19 (2) by striking “CELLULOSIC BIOMASS ETH-
20 ANOL” in the heading of such subsection and insert-
21 ing “CELLULOSIC BIOFUEL”, and

22 (3) by striking “CELLULOSIC BIOMASS ETH-
23 ANOL” in the heading of paragraph (2) thereof and
24 inserting “CELLULOSIC BIOFUEL”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 the date of the enactment of this Act, in taxable years
4 ending after such date.

5 **SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**
6 **SEL.**

7 (a) IN GENERAL.—Sections 40A(g), 6426(e)(6), and
8 6427(e)(5)(B) are each amended by striking “December
9 31, 2008” and inserting “December 31, 2011”.

10 (b) INCREASE IN RATE OF CREDIT.—

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

14 (2) EXCISE TAX CREDIT.—Paragraph (2) of
15 section 6426(e) is amended to read as follows:

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

18 (3) CONFORMING AMENDMENTS.—

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

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

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

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

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

10 (c) UNIFORM TREATMENT OF DIESEL PRODUCED
11 FROM BIOMASS.—Paragraph (3) of section 40A(f) is
12 amended—

13 (1) by striking “diesel fuel” and inserting “liq-
14 uid fuel”,

15 (2) by striking “using a thermal
16 depolymerization process”, and

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

20 (d) ELIGIBILITY OF CERTAIN AVIATION FUEL.—
21 Subsection (f) of section 40A (relating to renewable diesel)
22 is amended by adding at the end the following new para-
23 graph:

24 “(4) CERTAIN AVIATION FUEL.—

1 “(A) IN GENERAL.—Except as provided in
2 the last sentence of paragraph (3), the term ‘re-
3 newable diesel’ shall include fuel derived from
4 biomass which meets the requirements of a De-
5 partment of Defense specification for military
6 jet fuel or an American Society of Testing and
7 Materials specification for aviation turbine fuel.

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

14 (e) MODIFICATION OF CREDIT FOR RENEWABLE
15 DIESEL.—Section 40A(f) (relating to renewable diesel), as
16 amended by subsection (d), is amended by adding at the
17 end the following new paragraph:

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

1 (f) EFFECTIVE DATE.—

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

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

11 **SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE**
12 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
13 **UNITED STATES PRODUCTION.**

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

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

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

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

12 (c) EXCISE TAX CREDIT.—

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

15 “(i) LIMITATION TO FUELS WITH CONNECTION TO
16 THE UNITED STATES.—

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

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

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

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

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

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

16 **SEC. 204. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
17 **DRIVE MOTOR VEHICLES.**

18 (a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE
19 CREDIT.—Subpart B of part IV of subchapter A of chap-
20 ter 1 (relating to other credits) is amended by adding at
21 the end the following new section:

22 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**
23 **MOTOR VEHICLES.**

24 “(a) ALLOWANCE OF CREDIT.—

1 “(1) IN GENERAL.—There shall be allowed as a
2 credit against the tax imposed by this chapter for
3 the taxable year an amount equal to the applicable
4 amount with respect to each new qualified plug-in
5 electric drive motor vehicle placed in service by the
6 taxpayer during the taxable year.

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

9 “(A) \$2,500, plus

10 “(B) \$400 for each kilowatt hour of trac-
11 tion battery capacity in excess of 6 kilowatt
12 hours.

13 “(b) LIMITATIONS.—

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

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

21 “(B) \$10,000, in the case of any new
22 qualified plug-in electric drive motor vehicle
23 with a gross vehicle weight rating of more than
24 10,000 pounds but not more than 14,000
25 pounds,

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

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

10 “(2) LIMITATION ON NUMBER OF PASSENGER
11 VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CRED-
12 IT.—

13 “(A) IN GENERAL.—In the case of a new
14 qualified plug-in electric drive motor vehicle
15 sold during the phaseout period, only the appli-
16 cable percentage of the credit otherwise allow-
17 able under subsection (a) shall be allowed.

18 “(B) PHASEOUT PERIOD.—For purposes
19 of this subsection, the phaseout period is the
20 period beginning with the second calendar quar-
21 ter following the calendar quarter which in-
22 cludes the first date on which the total number
23 of such new qualified plug-in electric drive
24 motor vehicles sold for use in the United States
25 after December 31, 2007, is at least 250,000.

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

4 “(i) 50 percent for the first 2 cal-
5 endar quarters of the phaseout period,

6 “(ii) 25 percent for the 3d and 4th
7 calendar quarters of the phaseout period,
8 and

9 “(iii) 0 percent for each calendar
10 quarter thereafter.

11 “(D) CONTROLLED GROUPS.—Rules simi-
12 lar to the rules of section 30B(f)(4) shall apply
13 for purposes of this subsection.

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

18 “(1) which draws propulsion primarily using a
19 traction battery with at least 6 kilowatt hours of ca-
20 pacity,

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

23 “(3) which, in the case of a passenger vehicle
24 or light truck which has a gross vehicle weight rat-
25 ing of not more than 8,500 pounds, has received a

1 certificate of conformity under the Clean Air Act
2 and meets or exceeds the equivalent qualifying Cali-
3 fornia low emission vehicle standard under section
4 243(e)(2) of the Clean Air Act for that make and
5 model year, and

6 “(A) in the case of a vehicle having a gross
7 vehicle weight rating of 6,000 pounds or less,
8 the Bin 5 Tier II emission standard established
9 in regulations prescribed by the Administrator
10 of the Environmental Protection Agency under
11 section 202(i) of the Clean Air Act for that
12 make and model year vehicle, and

13 “(B) in the case of a vehicle having a gross
14 vehicle weight rating of more than 6,000
15 pounds but not more than 8,500 pounds, the
16 Bin 8 Tier II emission standard which is so es-
17 tablished,

18 “(4) the original use of which commences with
19 the taxpayer,

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

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

23 “(d) APPLICATION WITH OTHER CREDITS.—

24 “(1) BUSINESS CREDIT TREATED AS PART OF
25 GENERAL BUSINESS CREDIT.—So much of the credit

1 which would be allowed under subsection (a) for any
2 taxable year (determined without regard to this sub-
3 section) that is attributable to property of a char-
4 acter subject to an allowance for depreciation shall
5 be treated as a credit listed in section 38(b) for such
6 taxable year (and not allowed under subsection (a)).

7 “(2) PERSONAL CREDIT.—

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

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

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

23 “(ii) the sum of the credits allowable
24 under subpart A (other than this section

1 and sections 23 and 25D) and section 27
2 for the taxable year.

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

4 For purposes of this section—

5 “(1) MOTOR VEHICLE.—The term ‘motor vehi-
6 cle’ has the meaning given such term by section
7 30(c)(2).

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

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

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

23 “(5) NO DOUBLE BENEFIT.—The amount of
24 any deduction or other credit allowable under this
25 chapter for a new qualified plug-in electric drive

1 motor vehicle shall be reduced by the amount of
2 credit allowed under subsection (a) for such vehicle
3 for the taxable year.

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

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

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

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

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

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

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

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

21 “(f) REGULATIONS.—

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

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

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

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

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

19 (c) CREDIT MADE PART OF GENERAL BUSINESS
20 CREDIT.—Section 38(b) is amended by striking “plus” at
21 the end of paragraph (33), by striking the period at the
22 end of paragraph (34) and inserting “plus”, and by add-
23 ing at the end the following new paragraph:

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

4 (d) CONFORMING AMENDMENTS.—

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

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

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

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

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

18 (2) Section 1016(a) is amended by striking
19 “and” at the end of paragraph (35), by striking the
20 period at the end of paragraph (36) and inserting “,
21 and”, and by adding at the end the following new
22 paragraph:

23 “(37) to the extent provided in section
24 30D(e)(4).”.

1 “(A) a new qualified hybrid motor vehicle
2 (as described in subsection (d)(2)(A)), Decem-
3 ber 31, 2010, and

4 “(B) a new qualified hybrid motor vehicle
5 (as described in subsection (d)(2)(B)), Decem-
6 ber 31, 2011, and”.

7 (2) NEW QUALIFIED ALTERNATIVE FUEL VEHI-
8 CLES.—Paragraph (4) of section 30B(j) is amended
9 by striking “December 31, 2010” and inserting
10 “December 31, 2011”.

11 (b) INCREASED CREDIT FOR CERTAIN NEW QUALI-
12 FIED FUEL CELL MOTOR VEHICLES.—Subparagraph (A)
13 of section 30B(b)(1) is amended by striking “\$4,000” and
14 inserting “\$7,500”.

15 (c) PERSONAL CREDIT ALLOWED AGAINST ALTER-
16 NATIVE MINIMUM TAX.—

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

19 “(2) PERSONAL CREDIT.—

20 “(A) IN GENERAL.—For purposes of this
21 title, the credit allowed under subsection (a) for
22 any taxable year (determined after application
23 of paragraph (1)) shall be treated as a credit
24 allowable under subpart A for such taxable
25 year.

1 “(B) LIMITATION BASED ON AMOUNT OF
2 TAX.—In the case of a taxable year to which
3 section 26(a)(2) does not apply, the credit al-
4 lowed under subsection (a) (after the applica-
5 tion of paragraph (1)) for any taxable year
6 shall not exceed the excess (if any) of—

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

10 “(ii) the sum of the credits allowable
11 under subpart A (other than this section
12 and sections 23, 25D, and 30D) and sec-
13 tion 27 for the taxable year.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A)(i) Section 24(b)(3)(B), as amended by
16 this Act, is amended by striking “and 30D”
17 and inserting “30B, and 30D”.

18 (ii) Section 25(e)(1)(C)(ii), as amended by
19 this Act, is amended by inserting “30B,” after
20 “25D,”.

21 (iii) Section 25B(g)(2), as amended by this
22 Act, is amended by striking “and 30D” and in-
23 serting “, 30B, and 30D”.

1 (iv) Section 26(a)(1), as amended by this
2 Act, is amended by striking “and 30D” and in-
3 serting “30B, and 30D”.

4 (v) Section 1400C(d)(2), as amended by
5 this Act, is amended by striking “and 30D”
6 and inserting “30B, and 30D”.

7 (B) Subparagraph (A) of section
8 30C(d)(2) is amended by striking “sections 27,
9 30, and 30B” and inserting “sections 27 and
10 30”.

11 (C) Section 55(c)(3) is amended by strik-
12 ing “30B(g)(2),”.

13 (d) EFFECTIVE DATE.—Except as otherwise pro-
14 vided in this subsection, the amendments made by this
15 section shall apply to taxable years beginning after De-
16 cember 31, 2008.

17 (e) APPLICATION OF EGTRRA SUNSET.—The
18 amendment made by subsection (c)(2)(A)(i) shall be sub-
19 ject to title IX of the Economic Growth and Tax Relief
20 Reconciliation Act of 2001 in the same manner as the pro-
21 vision of such Act to which such amendment relates.

1 **SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
2 **REDUCTION UNITS AND ADVANCED INSULA-**
3 **TION.**

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

6 “(9) **IDLING REDUCTION DEVICE.**—Any device
7 or system of devices which—

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

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

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

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

1 **SEC. 207. EXTENSION AND MODIFICATION OF ALTER-**
2 **NATIVE FUEL CREDIT.**

3 (a) **EXTENSION.**—

4 (1) **ALTERNATIVE FUEL CREDIT.**—Paragraph
5 (4) of section 6426(d) (relating to alternative fuel
6 credit) is amended by striking “September 30,
7 2009” and inserting “December 31, 2011”.

8 (2) **ALTERNATIVE FUEL MIXTURE CREDIT.**—
9 Paragraph (3) of section 6426(e) (relating to alter-
10 native fuel mixture credit) is amended by striking
11 “September 30, 2009” and inserting “December 31,
12 2011”.

13 (3) **PAYMENTS.**—Subparagraph (C) of section
14 6427(e)(5) (relating to termination) is amended by
15 striking “September 30, 2009” and inserting “De-
16 cember 31, 2011”.

17 (b) **MODIFICATIONS.**—

18 (1) **ALTERNATIVE FUEL TO INCLUDE COM-**
19 **PRESSED OR LIQUIFIED BIOMASS GAS.**—Paragraph
20 (2) of section 6426(d) (relating to alternative fuel
21 credit) is amended by striking “and” at the end of
22 subparagraph (E), by redesignating subparagraph
23 (F) as subparagraph (G), and by inserting after sub-
24 paragraph (E) the following new subparagraph:

25 “(F) compressed or liquefied biomass gas,
26 and”.

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

5 (c) CARBON CAPTURE REQUIREMENT FOR CERTAIN
6 FUELS.—

7 (1) IN GENERAL.—Subsection (d) of section
8 6426, as amended by subsection (a), is amended by
9 redesignating paragraph (4) as paragraph (5) and
10 by inserting after paragraph (3) the following new
11 paragraph:

12 “(4) CARBON CAPTURE REQUIREMENT.—

13 “(A) IN GENERAL.—The requirements of
14 this paragraph are met if the fuel is certified,
15 under such procedures as required by the Sec-
16 retary, as having been derived from coal pro-
17 duced at a gasification facility which separates
18 and sequesters not less than the applicable per-
19 centage of such facility’s total carbon dioxide
20 emissions.

21 “(B) APPLICABLE PERCENTAGE.—For
22 purposes of subparagraph (A), the applicable
23 percentage is—

24 “(i) 50 percent in the case of fuel pro-
25 duced after the date of the enactment of

1 this paragraph and on or before the earlier
2 of—

3 “(I) the date the Secretary
4 makes a determination under sub-
5 paragraph (C), or

6 “(II) December 30, 2011, and

7 “(ii) 75 percent in the case of fuel
8 produced after the date on which the appli-
9 cable percentage under clause (i) ceases to
10 apply.

11 “(C) DETERMINATION TO INCREASE AP-
12 PLICABLE PERCENTAGE BEFORE DECEMBER 31,
13 2011.—If the Secretary, after considering the
14 recommendations of the Carbon Sequestration
15 Capability Panel, finds that the applicable per-
16 centage under subparagraph (B) should be 75
17 percent for fuel produced before December 31,
18 2011, the Secretary shall make a determination
19 under this subparagraph. Any determination
20 made under this subparagraph shall be made
21 not later than 30 days after the Secretary re-
22 ceives from the Carbon Sequestration Panel the
23 report required under section 331(c)(3)(D) of
24 the Energy Independence and Investment Act
25 of 2008.”.

1 (2) CONFORMING AMENDMENT.—Subparagraph
2 (E) of section 6426(d)(2) is amended by inserting
3 “which meets the requirements of paragraph (4) and
4 which is” after “any liquid fuel”.

5 (3) CARBON SEQUESTRATION CAPABILITY
6 PANEL.—

7 (A) ESTABLISHMENT OF PANEL.—There is
8 established a panel to be known as the “Carbon
9 Sequestration Capability Panel” (hereafter in
10 this paragraph referred to as the “Panel”).

11 (B) MEMBERSHIP.—The Panel shall be
12 composed of—

13 (i) 1 representative from the National
14 Academy of Sciences,

15 (ii) 1 representative from the Univer-
16 sity of Kentucky Center for Applied En-
17 ergy Research, and

18 (iii) 1 individual appointed jointly by
19 the representatives under clauses (i) and
20 (ii).

21 (C) STUDY.—The Panel shall study the
22 appropriate percentage of carbon dioxide for
23 separation and sequestration under section
24 6426(d)(4) of the Internal Revenue Code of
25 1986 consistent with the purposes of such sec-

1 tion. The panel shall consider whether it is fea-
2 sible to separate and sequester 75 percent of
3 the carbon dioxide emissions of a facility, in-
4 cluding costs and other factors associated with
5 separating and sequestering such percentage of
6 carbon dioxide emissions.

7 (D) REPORT.—Not later than 6 months
8 after the date of the enactment of this Act, the
9 Panel shall report to the Secretary of Treasury,
10 the Committee on Finance of the Senate, and
11 the Committee on Ways and Means of the
12 House of Representatives on the study under
13 subparagraph (C).

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to fuel sold or used after the date
16 of the enactment of this Act.

17 **SEC. 208. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
18 **ERTY CREDIT.**

19 (a) EXTENSION OF CREDIT.—Paragraph (2) of sec-
20 tion 30C(g) is amended by striking “December 31, 2009”
21 and inserting “December 31, 2012”.

22 (b) INCLUSION OF ELECTRICITY AS A CLEAN-BURN-
23 ING FUEL.—Section 30C(c)(2) is amended by adding at
24 the end the following new subparagraph:

25 “(C) Electricity.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to property placed in service after
 3 the date of the enactment of this Act, in taxable years
 4 ending after such date.

5 **SEC. 209. CERTAIN INCOME AND GAINS RELATING TO AL-**
 6 **COHOL FUELS AND MIXTURES, BIODIESEL**
 7 **FUELS AND MIXTURES, AND ALTERNATIVE**
 8 **FUELS AND MIXTURES TREATED AS QUALI-**
 9 **FYING INCOME FOR PUBLICLY TRADED**
 10 **PARTNERSHIPS.**

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

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

20 **SEC. 210. EXTENSION OF ETHANOL PRODUCTION CREDIT.**

21 (a) CREDIT FOR ALCOHOL USED AS FUEL.—Section
 22 40 is amended—

23 (1) by striking “2010” each place it appears in
 24 subsections (e)(1)(A) and (h) and inserting “2011”,
 25 and

1 (2) by striking “January 1, 2011” in subsection
2 (e)(1)(B) and inserting “January 1, 2012”.

3 (b) **EXCISE TAX CREDITS.**—Paragraph (6) of section
4 6426(b) is amended by striking “2010” and inserting
5 “2011”.

6 (c) **PAYMENTS.**—Subparagraph (A) of section
7 6427(e)(5) is amended by striking “2010” and inserting
8 “2011”.

9 **SEC. 211. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**
10 **HOL.**

11 (a) **IN GENERAL.**—Subsection (a) of section 40 (re-
12 lating to alcohol used as fuel) is amended by striking
13 “plus” at the end of paragraph (3), by striking the period
14 at the end of paragraph (4) and inserting “, plus”, and
15 by adding at the end the following new paragraph:

16 “(5) the small fossil free alcohol producer cred-
17 it.”.

18 (b) **SMALL FOSSIL FREE ALCOHOL PRODUCER**
19 **CREDIT.**—Subsection (b) of section 40 is amended by add-
20 ing at the end the following new paragraph:

21 “(7) **SMALL FOSSIL FREE ALCOHOL PRODUCER**
22 **CREDIT.**—

23 “(A) **IN GENERAL.**—In addition to any
24 other credit allowed under this section, there
25 shall be allowed as a credit against the tax im-

1 posed by this chapter for the taxable year an
2 amount equal to 10 cents for each gallon of not
3 more than 60,000,000 gallons of qualified fossil
4 free alcohol production.

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

12 “(i) is sold by the taxpayer to another
13 person—

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

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

22 “(III) who sells such alcohol at
23 retail to another person and places
24 such alcohol in the fuel tank of such
25 other person, or

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

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

10 (c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRO-
11 DUCER.—Section 40 is amended by adding at the end the
12 following new subsection:

13 “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL
14 FOSSIL FREE ALCOHOL PRODUCER.—For purposes of
15 this section—

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

22 “(2) FOSSIL FREE ALCOHOL PRODUCTION FA-
23 CILITY.—The term ‘fossil free alcohol production fa-
24 cility’ means any facility at which 90 percent of the

1 energy used in the production of alcohol is produced
2 from biomass (as defined in section 45K(c)(3)).

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

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

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

23 “(6) REGULATIONS.—The Secretary may pre-
24 scribe such regulations as may be necessary to pre-
25 vent the credit provided for in subsection (a)(5)

1 from directly or indirectly benefitting any person
 2 with a direct or indirect productive capacity of more
 3 than 60,000,000 gallons of alcohol from fossil free
 4 alcohol production facilities during the taxable year.

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

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

10 (1) IN GENERAL.—Paragraph (3) of section
 11 40(d) is amended by redesignating subparagraph
 12 (E) as subparagraph (F) and by inserting after sub-
 13 paragraph (D) the following new subparagraph:

14 “(E) SMALL FOSSIL FREE ALCOHOL PRO-
 15 DUCER CREDIT.—If—

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

18 “(ii) any person does not use such
 19 fuel for a purpose described in subsection
 20 (b)(7)(B),

21 then there is hereby imposed on such person a
 22 tax equal to 10 cents for each gallon of such al-
 23 cohol.”.

24 (2) CONFORMING AMENDMENT.—Subparagraph
 25 (F) of section 40(d)(3), as redesignated by para-

1 graph (1) and amended by this Act, is amended by
2 striking “or (D)” and inserting “(D), or (E)”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to fuel produced after December
5 31, 2008.

6 **SEC. 212. EXTENSION AND MODIFICATION OF ELECTION TO**
7 **EXPENSE CERTAIN REFINERIES.**

8 (a) EXTENSION.—Paragraph (1) of section 179C(e)
9 (relating to qualified refinery property) is amended—

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

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

15 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND
16 TAR SANDS.—

17 (1) IN GENERAL.—Subsection (d) of section
18 179C is amended by inserting “, or directly from
19 shale or tar sands” after “(as defined in section
20 45K(c))”.

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

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

4 **SEC. 213. EXTENSION OF SUSPENSION OF TAXABLE IN-**
 5 **COME LIMIT ON PERCENTAGE DEPLETION**
 6 **FOR OIL AND NATURAL GAS PRODUCED**
 7 **FROM MARGINAL PROPERTIES.**

8 Subparagraph (H) of section 613A(c)(6) (relating to
 9 oil and gas produced from marginal properties) is amend-
 10 ed by striking “January 1, 2008” and inserting “January
 11 1, 2011”.

12 **TITLE III—ENERGY CONSERVA-**
 13 **TION AND EFFICIENCY PRO-**
 14 **VISIONS**

15 **SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.**

16 (a) IN GENERAL.—Subpart I of part IV of sub-
 17 chapter A of chapter 1, as amended by section 106, is
 18 amended by adding at the end the following new section:

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

20 “(a) QUALIFIED ENERGY CONSERVATION BOND.—
 21 For purposes of this subchapter, the term ‘qualified en-
 22 ergy conservation bond’ means any bond issued as part
 23 of an issue if—

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

4 “(2) the bond is issued by a State or local gov-
5 ernment, 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
10 qualified energy conservation bond shall be 70 percent of
11 the amount so determined without regard to this sub-
12 section.

13 “(c) LIMITATION ON AMOUNT OF BONDS DES-
14 IGNATED.—The maximum aggregate face amount of
15 bonds which may be designated under subsection (a) by
16 any issuer shall not exceed the limitation amount allocated
17 to such issuer under subsection (e).

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

21 “(e) ALLOCATIONS.—

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

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

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

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

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

22 “(3) ALLOCATION TO ISSUERS; RESTRICTION
23 ON PRIVATE ACTIVITY BONDS.—Any allocation
24 under this subsection to a State or large local gov-
25 ernment shall be allocated by such State or large

1 local government to issuers within the State in a
2 manner that results in not less than 70 percent of
3 the allocation to such State or large local govern-
4 ment being used to designate bonds which are not
5 private activity bonds.

6 “(f) QUALIFIED CONSERVATION PURPOSE.—For
7 purposes of this section—

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

10 “(A) Capital expenditures incurred for
11 purposes of—

12 “(i) reducing energy consumption in
13 publicly-owned buildings by at least 20
14 percent,

15 “(ii) implementing green community
16 programs,

17 “(iii) rural development involving the
18 production of electricity from renewable
19 energy resources, or

20 “(iv) any qualified facility (as deter-
21 mined under section 45(d) without regard
22 to paragraphs (8) and (10) thereof and
23 without regard to any placed in service
24 date).

1 “(B) Expenditures with respect to research
2 facilities, and research grants, to support re-
3 search in—

4 “(i) development of cellulosic ethanol
5 or other nonfossil fuels,

6 “(ii) technologies for the capture and
7 sequestration of carbon dioxide produced
8 through the use of fossil fuels,

9 “(iii) increasing the efficiency of exist-
10 ing technologies for producing nonfossil
11 fuels,

12 “(iv) automobile battery technologies
13 and other technologies to reduce fossil fuel
14 consumption in transportation, or

15 “(v) technologies to reduce energy use
16 in buildings.

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

21 “(D) Demonstration projects designed to
22 promote the commercialization of—

23 “(i) green building technology,

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

4 “(iii) advanced battery manufacturing
5 technologies,

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

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

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

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

19 “(g) POPULATION.—

20 “(1) IN GENERAL.—The population of any
21 State or local government shall be determined for
22 purposes of this section as provided in section 146(j)
23 for the calendar year which includes the date of the
24 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 this Act, 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 this Act, is amended to read as follows:

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

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

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

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

24 (3) The table of sections for subpart I of part
25 IV of subchapter A of chapter 1, as amended by this

1 Act, is amended by adding at the end the following
2 new item:

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

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

6 **SEC. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

7 (a) EXTENSION OF CREDIT.—Section 25C(g) is
8 amended by striking “placed in service after December 31,
9 2007” and inserting “placed in service—

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

12 “(2) after December 31, 2011.”.

13 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

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

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

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

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

22 “(F) a stove which uses the burning of bio-
23 mass fuel to heat a dwelling unit located in the
24 United States and used as a residence by the
25 taxpayer, or to heat water for use in such a

1 dwelling unit, and which has a thermal effi-
2 ciency rating of at least 75 percent.”.

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

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

12 (c) MODIFICATION OF WATER HEATER REQUIRE-
13 MENTS.—Section 25C(d)(3)(E) is amended by inserting
14 “or a thermal efficiency of at least 90 percent” after
15 “0.80”.

16 (d) COORDINATION WITH CREDIT FOR QUALIFIED
17 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

18 (1) IN GENERAL.—Paragraph (3) of section
19 25C(d), as amended by subsections (b) and (c), is
20 amended by striking subparagraph (C) and by redesi-
21 gnating subparagraphs (D), (E), and (F) as sub-
22 paragraphs (C), (D), and (E), respectively.

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

1 “(C) REQUIREMENTS AND STANDARDS
2 FOR AIR CONDITIONERS AND HEAT PUMPS.—
3 The standards and requirements prescribed by
4 the Secretary under subparagraph (B) with re-
5 spect to the energy efficiency ratio (EER) for
6 central air conditioners and electric heat
7 pumps—

8 “(i) shall require measurements to be
9 based on published data which is tested by
10 manufacturers at 95 degrees Fahrenheit,
11 and

12 “(ii) may be based on the certified
13 data of the Air Conditioning and Refrig-
14 eration Institute that are prepared in part-
15 nership with the Consortium for Energy
16 Efficiency.”.

17 (e) MODIFICATION OF QUALIFIED ENERGY EFFI-
18 CIENCY IMPROVEMENTS.—

19 (1) IN GENERAL.—Paragraph (1) of section
20 25C(e) is amended by inserting “, or an asphalt roof
21 with appropriate cooling granules,” before “which
22 meet the Energy Star program requirements”.

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

1 (A) by inserting “or asphalt roof” after
2 “metal roof”, and

3 (B) by inserting “or cooling granules”
4 after “pigmented coatings”.

5 (f) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made this section shall
8 apply to expenditures made after December 31,
9 2008.

10 (2) MODIFICATION OF QUALIFIED ENERGY EF-
11 FICIENCY IMPROVEMENTS.—The amendments made
12 by subsection (e) shall apply to property placed in
13 service after the date of the enactment of this Act.

14 **SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
15 **DUCTION.**

16 Subsection (h) of section 179D is amended by strik-
17 ing “December 31, 2008” and inserting “December 31,
18 2013”.

19 **SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.**

20 Subsection (g) of section 45L (relating to termi-
21 nation) is amended by striking “December 31, 2008” and
22 inserting “December 31, 2011”.

1 **SEC. 305. 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 is amended to read as fol-
11 lows:

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-

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

5 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
6 AND CLOTHES WASHERS.—Paragraph (2) of section
7 45M(e) is amended to read as follows:

8 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-
9 ERATORS AND CLOTHES WASHERS.—Refrigerators
10 described in subsection (b)(3)(D) and clothes wash-
11 ers described in subsection (b)(2)(D) shall not be
12 taken into account under paragraph (1).”.

13 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

14 (1) IN GENERAL.—Paragraph (1) of section
15 45M(f) is amended to read as follows:

16 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
17 ANCE.—The term ‘qualified energy efficient appli-
18 ance’ means—

19 “(A) any dishwasher described in sub-
20 section (b)(1),

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

23 “(C) any refrigerator described in sub-
24 section (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 ating 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. 306. ACCELERATED RECOVERY PERIOD FOR DEPREE-**
16 **CIATION OF SMART METERS AND SMART**
17 **GRID SYSTEMS.**

18 (a) IN GENERAL.—Section 168(e)(3)(C) is amended
19 by striking “and” at the end of clause (iv), by redesi-
20 gnating clause (v) as clause (vii), and by inserting after
21 clause (iv) the following new clauses:

22 “(v) any qualified smart electric
23 meter,

24 “(vi) any qualified smart electric grid
25 system, and”.

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. 307. 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,”.

5 **SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**
 6 **TAIN REUSE AND RECYCLING PROPERTY.**

7 (a) IN GENERAL.—Section 168 is amended by adding
 8 at the end the following new subsection:

9 “(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE
 10 AND RECYCLING PROPERTY.—

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

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

19 “(B) the adjusted basis of the qualified
 20 reuse and recycling property shall be reduced by
 21 the amount of such deduction before computing
 22 the amount otherwise allowable as a deprecia-
 23 tion deduction under this chapter for such tax-
 24 able year and any subsequent taxable year.

1 “(2) QUALIFIED REUSE AND RECYCLING PROP-
2 ERTY.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 reuse and recycling property’ means any reuse
5 and recycling property—

6 “(i) to which this section applies,

7 “(ii) which has a useful life of at least
8 5 years,

9 “(iii) the original use of which com-
10 mences with the taxpayer after August 31,
11 2008, and

12 “(iv) which is—

13 “(I) acquired by purchase (as de-
14 fined in section 179(d)(2)) by the tax-
15 payer after August 31, 2008, but only
16 if no written binding contract for the
17 acquisition was in effect before Sep-
18 tember 1, 2008, or

19 “(II) acquired by the taxpayer
20 pursuant to a written binding contract
21 which was entered into after August
22 31, 2008.

23 “(B) EXCEPTIONS.—

24 “(i) BONUS DEPRECIATION PROPERTY
25 UNDER SUBSECTION (k).—The term ‘quali-

1 fied reuse and recycling property’ shall not
2 include any property to which section
3 168(k) applies.

4 “(ii) ALTERNATIVE DEPRECIATION
5 PROPERTY.—The term ‘qualified reuse and
6 recycling property’ shall not include any
7 property to which the alternative deprecia-
8 tion system under subsection (g) applies,
9 determined without regard to paragraph
10 (7) of subsection (g) (relating to election to
11 have system apply).

12 “(iii) ELECTION OUT.—If a taxpayer
13 makes an election under this clause with
14 respect to any class of property for any
15 taxable year, this subsection shall not
16 apply to all property in such class placed
17 in service during such taxable year.

18 “(C) SPECIAL RULE FOR SELF-CON-
19 STRUCTED PROPERTY.—In the case of a tax-
20 payer manufacturing, constructing, or pro-
21 ducing property for the taxpayer’s own use, the
22 requirements of clause (iv) of subparagraph (A)
23 shall be treated as met if the taxpayer begins
24 manufacturing, constructing, or producing the
25 property after August 31, 2008.

1 “(D) DEDUCTION ALLOWED IN COM-
2 PUTING MINIMUM TAX.—For purposes of deter-
3 mining alternative minimum taxable income
4 under section 55, the deduction under sub-
5 section (a) for qualified reuse and recycling
6 property shall be determined under this section
7 without regard to any adjustment under section
8 56.

9 “(3) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(A) REUSE AND RECYCLING PROPERTY.—

12 “(i) IN GENERAL.—The term ‘reuse
13 and recycling property’ means any machin-
14 ery and equipment (not including buildings
15 or real estate), along with all appur-
16 tenances thereto, including software nec-
17 essary to operate such equipment, which is
18 used exclusively to collect, distribute, or re-
19 cycle qualified reuse and recyclable mate-
20 rials.

21 “(ii) EXCLUSION.—Such term does
22 not include rolling stock or other equip-
23 ment used to transport reuse and recycla-
24 ble materials.

1 “(B) QUALIFIED REUSE AND RECYCLABLE
2 MATERIALS.—

3 “(i) IN GENERAL.—The term ‘quali-
4 fied reuse and recyclable materials’ means
5 scrap plastic, scrap glass, scrap textiles,
6 scrap rubber, scrap packaging, recovered
7 fiber, scrap ferrous and nonferrous metals,
8 or electronic scrap generated by an indi-
9 vidual or business.

10 “(ii) ELECTRONIC SCRAP.—For pur-
11 poses of clause (i), the term ‘electronic
12 scrap’ means—

13 “(I) any cathode ray tube, flat
14 panel screen, or similar video display
15 device with a screen size greater than
16 4 inches measured diagonally, or

17 “(II) any central processing unit.

18 “(C) RECYCLING OR RECYCLE.—The term
19 ‘recycling’ or ‘recycle’ means that process (in-
20 cluding sorting) by which worn or superfluous
21 materials are manufactured or processed into
22 specification grade commodities that are suit-
23 able for use as a replacement or substitute for
24 virgin materials in manufacturing tangible con-

1 sumer and commercial products, including
2 packaging.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to property placed in service after
5 August 31, 2008.

6 **TITLE IV—MISCELLANEOUS**
7 **ENERGY PROVISIONS**

8 **SEC. 401. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
9 **ELECTRIC RESTRUCTURING POLICY.**

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

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

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

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

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

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

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

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

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

24 (d) EFFECTIVE DATES.—

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

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

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

12 **SEC. 402. MODIFICATION OF CREDIT FOR PRODUCTION**
13 **FROM ADVANCED NUCLEAR POWER FACILI-**
14 **TIES.**

15 (a) IN GENERAL.—Paragraph (2) of section 45J(b)
16 (relating to national limitation) is amended by striking
17 “6,000 megawatts” and inserting “8,000 megawatts”.

18 (b) ALLOCATION OF CREDIT TO PRIVATE PARTNERS
19 OF TAX-EXEMPT ENTITIES.—

20 (1) IN GENERAL.—Section 45J (relating to
21 credit for production from advanced nuclear power
22 facilities) is amended—

23 (A) by redesignating subsection (e) as sub-
24 section (f), and

1 (B) by inserting after subsection (d) the
2 following new subsection:

3 “(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNER-
4 SHIPS.—

5 “(1) IN GENERAL.—In the case of an advanced
6 nuclear power facility which is owned by a public-
7 private partnership, any qualified public entity which
8 is a member of such partnership may transfer such
9 entity’s allocation of the credit under subsection (a)
10 to any non-public entity which is a member of such
11 partnership, except that the aggregate allocations of
12 such credit claimed by such non-public entity shall
13 be subject to the limitations under subsections (b)
14 and (c) and section 38(c).

15 “(2) QUALIFIED PUBLIC ENTITY.—For pur-
16 poses of this subsection, the term ‘qualified public
17 entity’ means a Federal, State, or local government
18 entity, or any political subdivision thereof, or a coop-
19 erative organization described in section 1381(a).

20 “(3) VERIFICATION OF TRANSFER OF ALLOCA-
21 TION.—A qualified public entity that makes a trans-
22 fer under paragraph (1), and a non-public entity
23 that receives an allocation under such a transfer,
24 shall provide verification of such transfer in such

1 manner and at such time as the Secretary shall pre-
2 scribe.”.

3 (2) COORDINATION WITH GENERAL BUSINESS
4 CREDIT.—Subsection (c) of section 38 (relating to
5 limitation based on amount of tax) is amended by
6 adding at the end the following new paragraph:

7 “(6) SPECIAL RULE FOR CREDIT FOR PRODUC-
8 TION FROM ADVANCED NUCLEAR POWER FACILI-
9 TIES.—

10 “(A) IN GENERAL.—In the case of the
11 credit for production from advanced nuclear
12 power facilities determined under section
13 45J(a), paragraph (1) shall not apply with re-
14 spect to any qualified public entity (as defined
15 in section 45J(e)(2)) which transfers the enti-
16 ty’s allocation of such credit to a non-public
17 partner as provided in section 45J(e)(1).

18 “(B) VERIFICATION OF TRANSFER.—Sub-
19 paragraph (A) shall not apply to any qualified
20 public entity unless such entity provides
21 verification of a transfer of credit allocation as
22 required under section 45J(e)(3).”.

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendment made by
25 subsection (a) shall apply to electricity produced in

1 taxable years beginning after the date of the enact-
2 ment of this Act.

3 (2) ALLOCATION OF CREDIT.—The amend-
4 ments made by subsection (b) shall apply to taxable
5 years beginning after the date of the enactment of
6 this Act.

7 **SEC. 403. INCOME AVERAGING FOR AMOUNTS RECEIVED IN**
8 **CONNECTION WITH THE EXXON VALDEZ LITI-**
9 **GATION.**

10 (a) INCOME AVERAGING OF AMOUNTS RECEIVED
11 FROM THE EXXON VALDEZ LITIGATION.—For purposes
12 of section 1301 of the Internal Revenue Code of 1986—

13 (1) any qualified taxpayer who receives any
14 qualified settlement income in any taxable year shall
15 be treated as engaged in a fishing business (deter-
16 mined without regard to the commercial nature of
17 the business), and

18 (2) such qualified settlement income shall be
19 treated as income attributable to such a fishing busi-
20 ness for such taxable year.

21 (b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RE-
22 TIREMENT ACCOUNTS.—

23 (1) IN GENERAL.—Any qualified taxpayer who
24 receives qualified settlement income during the tax-
25 able year may, at any time before the end of the tax-

1 able year in which such income was received, make
2 one or more contributions to an eligible retirement
3 plan of which such qualified taxpayer is a bene-
4 ficiary in an aggregate amount not to exceed the
5 lesser of—

6 (A) \$100,000 (reduced by the amount of
7 qualified settlement income contributed to an
8 eligible retirement plan in prior taxable years
9 pursuant to this subsection), or

10 (B) the amount of qualified settlement in-
11 come received by the individual during the tax-
12 able year.

13 (2) TIME WHEN CONTRIBUTIONS DEEMED
14 MADE.—For purposes of paragraph (1), a qualified
15 taxpayer shall be deemed to have made a contribu-
16 tion to an eligible retirement plan on the last day of
17 the taxable year in which such income is received if
18 the contribution is made on account of such taxable
19 year and is made not later than the time prescribed
20 by law for filing the return for such taxable year
21 (not including extensions thereof).

22 (3) TREATMENT OF CONTRIBUTIONS TO ELIGI-
23 BLE RETIREMENT PLANS.—For purposes of the In-
24 ternal Revenue Code of 1986, if a contribution is

1 made pursuant to paragraph (1) with respect to
2 qualified settlement income, then—

3 (A) except as provided in paragraph (4)—

4 (i) to the extent of such contribution,
5 the qualified settlement income shall not
6 be included in taxable income, and

7 (ii) for purposes of section 72 of such
8 Code, such contribution shall not be con-
9 sidered to be investment in the contract,

10 (B) the qualified taxpayer shall, to the ex-
11 tent of the amount of the contribution, be treat-
12 ed—

13 (i) as having received the qualified
14 settlement income—

15 (I) in the case of a contribution
16 to an individual retirement plan (as
17 defined under section 7701(a)(37) of
18 such Code), in a distribution described
19 in section 408(d)(3) of such Code,
20 and

21 (II) in the case of any other eligi-
22 ble retirement plan, in an eligible roll-
23 over distribution (as defined under
24 section 402(f)(2) of such Code), and

1 (ii) as having transferred the amount
2 to the eligible retirement plan in a direct
3 trustee to trustee transfer within 60 days
4 of the distribution,

5 (C) section 408(d)(3)(B) of the Internal
6 Revenue Code of 1986 shall not apply with re-
7 spect to amounts treated as a rollover under
8 this paragraph, and

9 (D) section 408A(c)(3)(B) of the Internal
10 Revenue Code of 1986 shall not apply with re-
11 spect to amounts contributed to a Roth IRA (as
12 defined under section 408A(b) of such Code) or
13 a designated Roth contribution to an applicable
14 retirement plan (within the meaning of section
15 402A of such Code) under this paragraph.

16 (4) SPECIAL RULE FOR ROTH IRAS AND ROTH
17 401(k)s.—For purposes of the Internal Revenue
18 Code of 1986, if a contribution is made pursuant to
19 paragraph (1) with respect to qualified settlement
20 income to a Roth IRA (as defined under section
21 408A(b) of such Code) or as a designated Roth con-
22 tribution to an applicable retirement plan (within
23 the meaning of section 402A of such Code), then—

24 (A) the qualified settlement income shall
25 be includible in taxable income, and

1 (B) for purposes of section 72 of such
2 Code, such contribution shall be considered to
3 be investment in the contract.

4 (5) ELIGIBLE RETIREMENT PLAN.—For pur-
5 pose of this subsection, the term “eligible retirement
6 plan” has the meaning given such term under sec-
7 tion 402(c)(8)(B) of the Internal Revenue Code of
8 1986.

9 (c) TREATMENT OF QUALIFIED SETTLEMENT IN-
10 COME UNDER EMPLOYMENT TAXES.—

11 (1) SECA.—For purposes of chapter 2 of the
12 Internal Revenue Code of 1986 and section 211 of
13 the Social Security Act, no portion of qualified set-
14 tlement income received by a qualified taxpayer shall
15 be treated as self-employment income.

16 (2) FICA.—For purposes of chapter 21 of the
17 Internal Revenue Code of 1986 and section 209 of
18 the Social Security Act, no portion of qualified set-
19 tlement income received by a qualified taxpayer shall
20 be treated as wages.

21 (d) QUALIFIED TAXPAYER.—For purposes of this
22 section, the term “qualified taxpayer” means—

23 (1) any individual who is a plaintiff in the civil
24 action *In re Exxon Valdez*, No. 89–095–CV (HRH)
25 (Consolidated) (D. Alaska); or

1 (2) any individual who is a beneficiary of the
2 estate of such a plaintiff who—

3 (A) acquired the right to receive qualified
4 settlement income from that plaintiff; and

5 (B) was the spouse or an immediate rel-
6 ative of that plaintiff.

7 (e) QUALIFIED SETTLEMENT INCOME.—For pur-
8 poses of this section, the term “qualified settlement in-
9 come” means any interest and punitive damage awards
10 which are—

11 (1) otherwise includible in taxable income, and

12 (2) received (whether as lump sums or periodic
13 payments) in connection with the civil action *In re*
14 *Exxon Valdez*, No. 89–095–CV (HRH) (Consoli-
15 dated) (D. Alaska) (whether pre- or post-judgment
16 and whether related to a settlement or judgment).

17 **TITLE V—REVENUE PROVISIONS**

18 **SEC. 501. LIMITATION OF DEDUCTION FOR INCOME AT-** 19 **TRIBUTABLE TO DOMESTIC PRODUCTION OF** 20 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

21 (a) DENIAL OF DEDUCTION FOR MAJOR INTE-
22 GRATED OIL COMPANIES AND STATE-OWNED OIL COMPA-
23 NIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRO-
24 DUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THERE-
25 OF.—

1 (1) IN GENERAL.—Subparagraph (B) of section
2 199(c)(4) of the Internal Revenue Code of 1986 (re-
3 lating to exceptions) is amended by striking “or” at
4 the end of clause (ii), by striking the period at the
5 end of clause (iii) and inserting “, or”, and by in-
6 serting after clause (iii) the following new clause:

7 “(iv) in the case of any disqualified oil
8 company, the production, refining, proc-
9 essing, transportation, or distribution of
10 oil, gas, or any primary product thereof.”.

11 (2) DISQUALIFIED OIL COMPANY.—Section
12 199(c) of such Code is amended by adding at the
13 end the following new paragraph:

14 “(8) DISQUALIFIED OIL COMPANY.—

15 “(A) IN GENERAL.—The term ‘disqualified
16 oil company’ means—

17 “(i) any major integrated oil company
18 (as defined in section 167(h)(5)(B)) during
19 any taxable year described in section
20 167(h)(5)(B), or

21 “(ii) any controlled commercial entity
22 (as defined in section 892(a)(2)(B)) the
23 commercial activities of which during the
24 taxable year includes the production, refin-
25 ing, processing, transportation, or distribu-

1 tion of oil, gas, or any primary product
2 thereof.

3 “(B) PRIMARY PRODUCT.—The term ‘pri-
4 mary product’ has the same meaning as when
5 used in section 927(a)(2)(C), as in effect before
6 its repeal.”.

7 (b) LIMITATION ON OIL RELATED QUALIFIED PRO-
8 DUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER
9 THAN MAJOR INTEGRATED OIL COMPANIES AND STATE-
10 OWNED OIL COMPANIES.—

11 (1) IN GENERAL.—Section 199(d) of the Inter-
12 nal Revenue Code of 1986 is amended by redesignig-
13 nating paragraph (9) as paragraph (10) and by in-
14 serting after paragraph (8) the following new para-
15 graph:

16 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL
17 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-
18 COME.—

19 “(A) IN GENERAL.—If a taxpayer (other
20 than a disqualified oil company) has oil related
21 qualified production activities income for any
22 taxable year beginning after 2009, the amount
23 otherwise allowable as a deduction under sub-
24 section (a) shall be reduced by 3 percent of the
25 least of—

1 “(i) the oil related qualified produc-
2 tion activities income of the taxpayer for
3 the taxable year,

4 “(ii) the qualified production activities
5 income of the taxpayer for the taxable
6 year, or

7 “(iii) taxable income (determined
8 without regard to this section).

9 “(B) OIL RELATED QUALIFIED PRODUC-
10 TION ACTIVITIES INCOME.—The term ‘oil re-
11 lated qualified production activities income’
12 means for any taxable year the qualified pro-
13 duction activities income which is attributable
14 to the production, refining, processing, trans-
15 portation, or distribution of oil, gas, or any pri-
16 mary product thereof during such taxable
17 year.”.

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

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

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

6 “(c) TAX PAID BY PRODUCER.—The tax imposed by
7 this section shall be paid by the producer of the taxable
8 crude oil or natural gas.

9 **“SEC. 5897. TAXABLE CRUDE OIL OR NATURAL GAS AND RE-**
10 **MOVAL PRICE.**

11 “(a) TAXABLE CRUDE OIL OR NATURAL GAS.—For
12 purposes of this chapter, the term ‘taxable crude oil or
13 natural gas’ means crude oil or natural gas which is pro-
14 duced from Federal submerged lands on the outer Conti-
15 nental Shelf in the Gulf of Mexico pursuant to a lease
16 entered into with the United States which authorizes the
17 production.

18 “(b) REMOVAL PRICE.—For purposes of this chap-
19 ter—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the term ‘removal price’
22 means—

23 “(A) in the case of taxable crude oil, the
24 amount for which a barrel of such crude oil is
25 sold, and

1 “(B) in the case of taxable natural gas, the
2 amount per 1,000 cubic feet for which such
3 natural gas is sold.

4 “(2) SALES BETWEEN RELATED PERSONS.—In
5 the case of a sale between related persons, the re-
6 moval price shall not be less than the constructive
7 sales price for purposes of determining gross income
8 from the property under section 613.

9 “(3) OIL OR GAS REMOVED FROM PROPERTY
10 BEFORE SALE.—If crude oil or natural gas is re-
11 moved from the property before it is sold, the re-
12 moval price shall be the constructive sales price for
13 purposes of determining gross income from the prop-
14 erty under section 613.

15 “(4) REFINING BEGUN ON PROPERTY.—If the
16 manufacture or conversion of crude oil into refined
17 products begins before such oil is removed from the
18 property—

19 “(A) such oil shall be treated as removed
20 on the day such manufacture or conversion be-
21 gins, and

22 “(B) the removal price shall be the con-
23 structive sales price for purposes of determining
24 gross income from the property under section
25 613.

1 “(5) PROPERTY.—The term ‘property’ has the
2 meaning given such term by section 614.

3 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

4 “(a) ADMINISTRATIVE REQUIREMENTS.—

5 “(1) WITHHOLDING AND DEPOSIT OF TAX.—
6 The Secretary shall provide for the withholding and
7 deposit of the tax imposed under section 5896 on a
8 quarterly basis.

9 “(2) RECORDS AND INFORMATION.—Each tax-
10 payer liable for tax under section 5896 shall keep
11 such records, make such returns, and furnish such
12 information (to the Secretary and to other persons
13 having an interest in the taxable crude oil or natural
14 gas) with respect to such oil as the Secretary may
15 by regulations prescribe.

16 “(3) TAXABLE PERIODS; RETURN OF TAX.—

17 “(A) TAXABLE PERIOD.—Except as pro-
18 vided by the Secretary, each calendar year shall
19 constitute a taxable period.

20 “(B) RETURNS.—The Secretary shall pro-
21 vide for the filing, and the time for filing, of the
22 return of the tax imposed under section 5896.

23 “(b) DEFINITIONS.—For purposes of this chapter—

1 “(1) PRODUCER.—The term ‘producer’ means
2 the holder of the economic interest with respect to
3 the crude oil or natural gas.

4 “(2) CRUDE OIL.—The term ‘crude oil’ includes
5 crude oil condensates and natural gasoline.

6 “(3) PREMISES AND CRUDE OIL PRODUCT.—
7 The terms ‘premises’ and ‘crude oil product’ have
8 the same meanings as when used for purposes of de-
9 termining gross income from the property under sec-
10 tion 613.

11 “(c) ADJUSTMENT OF REMOVAL PRICE.—In deter-
12 mining the removal price of oil or natural gas from a prop-
13 erty in the case of any transaction, the Secretary may ad-
14 just the removal price to reflect clearly the fair market
15 value of oil or natural gas removed.

16 “(d) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be necessary or appropriate to
18 carry out the purposes of this chapter.”.

19 (b) DEDUCTIBILITY OF TAX.—The first sentence of
20 section 164(a) (relating to deduction for taxes) is amended
21 by inserting after paragraph (5) the following new para-
22 graph:

23 “(6) The tax imposed by section 5896(a) (after
24 application of section 5896(b)) on the severance of

1 crude oil or natural gas from the outer Continental
2 Shelf in the Gulf of Mexico.”.

3 (c) CLERICAL AMENDMENT.—The table of chapters
4 for subtitle E is amended by adding at the end the fol-
5 lowing new item:

“CHAPTER 56. Tax on severance of crude oil and natural gas
from the outer Continental Shelf in the Gulf of
Mexico.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to crude oil or natural gas removed
8 after December 31, 2008.

9 **SEC. 503. ELIMINATION OF THE DIFFERENT TREATMENT**
10 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
11 **COME AND FOREIGN OIL RELATED INCOME**
12 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
13 **IT.**

14 (a) IN GENERAL.—Subsections (a) and (b) of section
15 907 (relating to special rules in case of foreign oil and
16 gas income) are amended to read as follows:

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

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

3 “(2) multiplied by—

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

7 “(B) in the case of an individual, a frac-
8 tion the numerator of which is the tax against
9 which the credit under section 901(a) is taken
10 and the denominator of which is the taxpayer’s
11 entire taxable income.

12 “(b) COMBINED FOREIGN OIL AND GAS INCOME;
13 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-
14 tion—

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

19 “(A) foreign oil and gas extraction income,
20 and

21 “(B) foreign oil related income.

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

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

1 “(B) any income, war profits, and excess
2 profits taxes paid or accrued (or deemed to
3 have been paid or accrued under section 902 or
4 960) during the taxable year with respect to
5 foreign oil related income (determined without
6 regard to subsection (c)(4)) or loss which would
7 be taken into account for purposes of section
8 901 without regard to this section.”.

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

14 “(4) RECAPTURE OF FOREIGN OIL AND GAS
15 LOSSES BY RECHARACTERIZING LATER COMBINED
16 FOREIGN OIL AND GAS INCOME.—

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

21 “(i) first by the amount determined
22 under subparagraph (B), and

23 “(ii) then by the amount determined
24 under subparagraph (C).

1 The aggregate amount of such reductions shall
2 be treated as income (from sources without the
3 United States) which is not combined foreign
4 oil and gas income.

5 “(B) REDUCTION FOR PRE-2009 FOREIGN
6 OIL EXTRACTION LOSSES.—The reduction
7 under this paragraph shall be equal to the less-
8 er of—

9 “(i) the foreign oil and gas extraction
10 income of the taxpayer for the taxable year
11 (determined without regard to this para-
12 graph), or

13 “(ii) the excess of—

14 “(I) the aggregate amount of for-
15 eign oil extraction losses for preceding
16 taxable years beginning after Decem-
17 ber 31, 1982, and before January 1,
18 2009, over

19 “(II) so much of such aggregate
20 amount as was recharacterized under
21 this paragraph (as in effect before
22 and after the date of the enactment of
23 the Energy Independence and Invest-
24 ment Act of 2008) for preceding tax-

1 able years beginning after December
2 31, 1982.

3 “(C) REDUCTION FOR POST-2008 FOREIGN
4 OIL AND GAS LOSSES.—The reduction under
5 this paragraph shall be equal to the lesser of—

6 “(i) the combined foreign oil and gas
7 income of the taxpayer for the taxable year
8 (determined without regard to this para-
9 graph), reduced by an amount equal to the
10 reduction under subparagraph (A) for the
11 taxable year, or

12 “(ii) the excess of—

13 “(I) the aggregate amount of for-
14 eign oil and gas losses for preceding
15 taxable years beginning after Decem-
16 ber 31, 2008, over

17 “(II) so much of such aggregate
18 amount as was recharacterized under
19 this paragraph for preceding taxable
20 years beginning after December 31,
21 2008.

22 “(D) FOREIGN OIL AND GAS LOSS DE-
23 FINED.—

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

4 “(I) the gross income for the tax-
5 able year from sources without the
6 United States and its possessions
7 (whether or not the taxpayer chooses
8 the benefits of this subpart for such
9 taxable year) taken into account in
10 determining the combined foreign oil
11 and gas income for such year, is ex-
12 ceeded by

13 “(II) the sum of the deductions
14 properly apportioned or allocated
15 thereto.

16 “(ii) NET OPERATING LOSS DEDUC-
17 TION NOT TAKEN INTO ACCOUNT.—For
18 purposes of clause (i), the net operating
19 loss deduction allowable for the taxable
20 year under section 172(a) shall not be
21 taken into account.

22 “(iii) EXPROPRIATION AND CASUALTY
23 LOSSES NOT TAKEN INTO ACCOUNT.—For
24 purposes of clause (i), there shall not be
25 taken into account—

1 “(I) any foreign expropriation
2 loss (as defined in section 172(h) (as
3 in effect on the day before the date of
4 the enactment of the Revenue Rec-
5 onciliation Act of 1990)) for the tax-
6 able year, or

7 “(II) any loss for the taxable
8 year which arises from fire, storm,
9 shipwreck, or other casualty, or from
10 theft,

11 to the extent such loss is not compensated
12 for by insurance or otherwise.

13 “(iv) FOREIGN OIL EXTRACTION
14 LOSS.—For purposes of subparagraph
15 (B)(ii)(I), foreign oil extraction losses shall
16 be determined under this paragraph as in
17 effect on the day before the date of the en-
18 actment of the Energy Independence and
19 Investment Act of 2008.”.

20 (c) CARRYBACK AND CARRYOVER OF DISALLOWED
21 CREDITS.—Section 907(f) (relating to carryback and car-
22 ryover of disallowed credits) is amended—

23 (1) by striking “oil and gas extraction taxes”
24 each place it appears and inserting “foreign oil and
25 gas taxes”, and

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

3 “(4) TRANSITION RULES FOR PRE-2009 AND
4 2009 DISALLOWED CREDITS.—

5 “(A) PRE-2009 CREDITS.—In the case of
6 any unused credit year beginning before Janu-
7 ary 1, 2009, this subsection shall be applied to
8 any unused oil and gas extraction taxes carried
9 from such unused credit year to a year begin-
10 ning after December 31, 2008—

11 “(i) by substituting ‘oil and gas ex-
12 traction taxes’ for ‘foreign oil and gas
13 taxes’ each place it appears in paragraphs
14 (1), (2), and (3), and

15 “(ii) by computing, for purposes of
16 paragraph (2)(A), the limitation under
17 subparagraph (A) for the year to which
18 such taxes are carried by substituting ‘for-
19 eign oil and gas extraction income’ for ‘for-
20 eign oil and gas income’ in subsection (a).

21 “(B) 2009 CREDITS.—In the case of any
22 unused credit year beginning in 2009, the
23 amendments made to this subsection by the En-
24 ergy Independence and Investment Act of 2008
25 shall be treated as being in effect for any pre-

1 “(A) IN GENERAL.—The information re-
2 quired under paragraph (1) to be shown on a
3 return with respect to a covered security of a
4 customer shall include the customer’s adjusted
5 basis in such security and whether any gain or
6 loss with respect to such security is long-term
7 or short-term (within the meaning of section
8 1222).

9 “(B) DETERMINATION OF ADJUSTED
10 BASIS.—For purposes of subparagraph (A)—

11 “(i) IN GENERAL.—The customer’s
12 adjusted basis shall be determined—

13 “(I) in the case of any security
14 (other than any stock for which an av-
15 erage basis method is permissible
16 under section 1012), in accordance
17 with the first-in first-out method un-
18 less the customer notifies the broker
19 by means of making an adequate
20 identification of the stock sold or
21 transferred, and

22 “(II) in the case of any stock for
23 which an average basis method is per-
24 missible under section 1012, in ac-
25 cordance with the broker’s default

1 method unless the customer notifies
2 the broker that he elects another ac-
3 ceptable method under section 1012
4 with respect to the account in which
5 such stock is held.

6 “(ii) EXCEPTION FOR WASH SALES.—
7 Except as otherwise provided by the Sec-
8 retary, the customer’s adjusted basis shall
9 be determined without regard to section
10 1091 (relating to loss from wash sales of
11 stock or securities) unless the transactions
12 occur in the same account with respect to
13 identical securities.

14 “(3) COVERED SECURITY.—For purposes of
15 this subsection—

16 “(A) IN GENERAL.—The term ‘covered se-
17 curity’ means any specified security acquired on
18 or after the applicable date if such security—

19 “(i) was acquired through a trans-
20 action in the account in which such secu-
21 rity is held, or

22 “(ii) was transferred to such account
23 from an account in which such security
24 was a covered security, but only if the

1 broker received a statement under section
2 6045A with respect to the transfer.

3 “(B) SPECIFIED SECURITY.—The term
4 ‘specified security’ means—

5 “(i) any share of stock in a corpora-
6 tion,

7 “(ii) any note, bond, debenture, or
8 other evidence of indebtedness,

9 “(iii) any commodity, or contract or
10 derivative with respect to such commodity,
11 if the Secretary determines that adjusted
12 basis reporting is appropriate for purposes
13 of this subsection, and

14 “(iv) any other financial instrument
15 with respect to which the Secretary deter-
16 mines that adjusted basis reporting is ap-
17 propriate for purposes of this subsection.

18 “(C) APPLICABLE DATE.—The term ‘appli-
19 cable date’ means—

20 “(i) January 1, 2010, in the case of
21 any specified security which is stock in a
22 corporation (other than any stock de-
23 scribed in clause (ii)),

1 “(ii) January 1, 2011, in the case of
2 any stock for which an average basis meth-
3 od is permissible under section 1012, and

4 “(iii) January 1, 2012, or such later
5 date determined by the Secretary in the
6 case of any other specified security.

7 “(4) TREATMENT OF S CORPORATIONS.—In the
8 case of the sale of a covered security acquired by an
9 S corporation (other than a financial institution)
10 after December 31, 2011, such S corporation shall
11 be treated in the same manner as a partnership for
12 purposes of this section.

13 “(5) SPECIAL RULES FOR SHORT SALES.—In
14 the case of a short sale, reporting under this section
15 shall be made for the year in which such sale is
16 closed.”.

17 (2) BROKER INFORMATION REQUIRED WITH RE-
18 SPECT TO OPTIONS.—Section 6045, as amended by
19 subsection (a), is amended by adding at the end the
20 following new subsection:

21 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

22 “(1) EXERCISE OF OPTION.—For purposes of
23 this section, if a covered security is acquired or dis-
24 posed of pursuant to the exercise of an option that
25 was granted or acquired in the same account as the

1 covered security, the amount received with respect to
2 the grant or paid with respect to the acquisition of
3 such option shall be treated as an adjustment to
4 gross proceeds or as an adjustment to basis, as the
5 case may be.

6 “(2) LAPSE OR CLOSING TRANSACTION.—In the
7 case of the lapse (or closing transaction (as defined
8 in section 1234(b)(2)(A))) of an option on a speci-
9 fied security or the exercise of a cash-settled option
10 on a specified security, reporting under subsections
11 (a) and (g) with respect to such option shall be
12 made for the calendar year which includes the date
13 of such lapse, closing transaction, or exercise.

14 “(3) PROSPECTIVE APPLICATION.—Paragraphs
15 (1) and (2) shall not apply to any option which is
16 granted or acquired before January 1, 2012.

17 “(4) DEFINITIONS.—For purposes of this sub-
18 section, the terms ‘covered security’ and ‘specified
19 security’ shall have the meanings given such terms
20 in subsection (g)(3).”.

21 (3) EXTENSION OF PERIOD FOR STATEMENTS
22 SENT TO CUSTOMERS.—

23 (A) IN GENERAL.—Subsection (b) of sec-
24 tion 6045 is amended by striking “January 31”
25 and inserting “February 15”.

1 (B) STATEMENTS RELATED TO SUB-
2 STITUTE PAYMENTS.—Subsection (d) of section
3 6045 is amended—

4 (i) by striking “at such time and”,
5 and

6 (ii) by inserting after “other item.”
7 the following new sentence: “The written
8 statement required under the preceding
9 sentence shall be furnished on or before
10 February 15 of the year following the cal-
11 endar year in which the payment was
12 made.”.

13 (C) OTHER STATEMENTS.—Subsection (b)
14 of section 6045 is amended by adding at the
15 end the following: “In the case of a consolidated
16 reporting statement (as defined in regulations)
17 with respect to any account, any statement
18 which would otherwise be required to be fur-
19 nished on or before January 31 of a calendar
20 year with respect to any item reportable to the
21 taxpayer shall instead be required to be fur-
22 nished on or before February 15 of such cal-
23 endar year if furnished with such consolidated
24 reporting statement.”.

1 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-
2 TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS
3 METHOD.—Section 1012 is amended—

4 (1) by striking “The basis of property” and in-
5 serting the following:

6 “(a) IN GENERAL.—The basis of property”,

7 (2) by striking “The cost of real property” and
8 inserting the following:

9 “(b) SPECIAL RULE FOR APPORTIONED REAL ES-
10 TATE TAXES.—The cost of real property”, and

11 (3) by adding at the end the following new sub-
12 sections:

13 “(c) DETERMINATIONS BY ACCOUNT.—

14 “(1) IN GENERAL.—In the case of the sale, ex-
15 change, or other disposition of a specified security
16 on or after the applicable date, the conventions pre-
17 scribed by regulations under this section shall be ap-
18 plied on an account by account basis.

19 “(2) APPLICATION TO OPEN-END FUNDS.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), any stock in an open-end
22 fund acquired before January 1, 2011, shall be
23 treated as a separate account from any such
24 stock acquired on or after such date.

1 “(B) ELECTION BY OPEN-END FUND FOR
2 TREATMENT AS SINGLE ACCOUNT.—If an open-
3 end fund elects to have this subparagraph apply
4 with respect to one or more of its stock-
5 holders—

6 “(i) subparagraph (A) shall not apply
7 with respect to any stock in such fund held
8 by such stockholders, and

9 “(ii) all stock in such fund which is
10 held by such stockholders shall be treated
11 as covered securities described in section
12 6045(g)(3) without regard to the date of
13 the acquisition of such stock.

14 A rule similar to the rule of the preceding sen-
15 tence shall apply with respect to a broker hold-
16 ing stock in an open-end fund as a nominee.

17 “(3) DEFINITIONS.—For purposes of this sec-
18 tion—

19 “(A) OPEN-END FUND.—The term ‘open-
20 end fund’ means a regulated investment com-
21 pany (as defined in section 851) which is offer-
22 ing for sale or has outstanding any redeemable
23 security of which it is the issuer. Any stock
24 which is traded on an established securities ex-

1 change shall not be treated as stock in an open-
2 end fund.

3 “(B) SPECIFIED SECURITY; APPLICABLE
4 DATE.—The terms ‘specified security’ and ‘ap-
5 plicable date’ shall have the meaning given such
6 terms in section 6045(g).

7 “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-
8 ANT TO A DIVIDEND REINVESTMENT PLAN.—

9 “(1) IN GENERAL.—In the case of any stock ac-
10 quired after December 31, 2010, in connection with
11 a dividend reinvestment plan, the basis of such stock
12 while held as part of such plan shall be determined
13 using one of the methods which may be used for de-
14 termining the basis of stock in an open-end fund.

15 “(2) TREATMENT AFTER TRANSFER.—In the
16 case of the transfer to another account of stock to
17 which paragraph (1) applies, such stock shall have
18 a cost basis in such other account equal to its basis
19 in the dividend reinvestment plan immediately before
20 such transfer (properly adjusted for any fees or
21 other charges taken into account in connection with
22 such transfer).

23 “(3) SEPARATE ACCOUNTS; ELECTION FOR
24 TREATMENT AS SINGLE ACCOUNT.—Rules similar to

1 the rules of subsection (c)(2) shall apply for pur-
2 poses of this subsection.

3 “(4) DIVIDEND REINVESTMENT PLAN.—For
4 purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘dividend re-
6 investment plan’ means any arrangement under
7 which dividends on any stock are reinvested in
8 stock identical to the stock with respect to
9 which the dividends are paid.

10 “(B) INITIAL STOCK ACQUISITION TREAT-
11 ED AS ACQUIRED IN CONNECTION WITH
12 PLAN.—Stock shall be treated as acquired in
13 connection with a dividend reinvestment plan if
14 such stock is acquired pursuant to such plan or
15 if the dividends paid on such stock are subject
16 to such plan.”.

17 (c) INFORMATION BY TRANSFERORS TO AID BRO-
18 KERS.—

19 (1) IN GENERAL.—Subpart B of part III of
20 subchapter A of chapter 61 is amended by inserting
21 after section 6045 the following new section:

1 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**
2 **WITH TRANSFERS OF COVERED SECURITIES**
3 **TO BROKERS.**

4 “(a) FURNISHING OF INFORMATION.—Every applica-
5 ble person which transfers to a broker (as defined in sec-
6 tion 6045(c)(1)) a security which is a covered security (as
7 defined in section 6045(g)(3)) in the hands of such appli-
8 cable person shall furnish to such broker a written state-
9 ment in such manner and setting forth such information
10 as the Secretary may by regulations prescribe for purposes
11 of enabling such broker to meet the requirements of sec-
12 tion 6045(g).

13 “(b) APPLICABLE PERSON.—For purposes of sub-
14 section (a), the term ‘applicable person’ means—

15 “(1) any broker (as defined in section
16 6045(c)(1)), and

17 “(2) any other person as provided by the Sec-
18 retary in regulations.

19 “(c) TIME FOR FURNISHING STATEMENT.—Except
20 as otherwise provided by the Secretary, any statement re-
21 quired by subsection (a) shall be furnished not later than
22 15 days after the date of the transfer described in such
23 subsection.”.

24 (2) ASSESSABLE PENALTIES.—Paragraph (2)
25 of section 6724(d), as amended by the Housing As-
26 sistance Tax Act of 2008, is amended by redesignig-

1 nating subparagraphs (I) through (DD) as subpara-
 2 graphs (J) through (EE), respectively, and by in-
 3 serting after subparagraph (H) the following new
 4 subparagraph:

5 “(I) section 6045A (relating to information
 6 required in connection with transfers of covered
 7 securities to brokers),”.

8 (3) CLERICAL AMENDMENT.—The table of sec-
 9 tions for subpart B of part III of subchapter A of
 10 chapter 61 is amended by inserting after the item
 11 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-
 curities to brokers.”.

12 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-
 13 KERS.—

14 (1) IN GENERAL.—Subpart B of part III of
 15 subchapter A of chapter 61, as amended by sub-
 16 section (b), is amended by inserting after section
 17 6045A the following new section:

18 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**
 19 **BASIS OF SPECIFIED SECURITIES.**

20 “(a) IN GENERAL.—According to the forms or regu-
 21 lations prescribed by the Secretary, any issuer of a speci-
 22 fied security shall make a return setting forth—

1 “(1) a description of any organizational action
2 which affects the basis of such specified security of
3 such issuer,

4 “(2) the quantitative effect on the basis of such
5 specified security resulting from such action, and

6 “(3) such other information as the Secretary
7 may prescribe.

8 “(b) TIME FOR FILING RETURN.—Any return re-
9 quired by subsection (a) shall be filed not later than the
10 earlier of—

11 “(1) 45 days after the date of the action de-
12 scribed in subsection (a), or

13 “(2) January 15 of the year following the cal-
14 endar year during which such action occurred.

15 “(c) STATEMENTS TO BE FURNISHED TO HOLDERS
16 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-
17 cording to the forms or regulations prescribed by the Sec-
18 retary, every person required to make a return under sub-
19 section (a) with respect to a specified security shall furnish
20 to the nominee with respect to the specified security (or
21 certificate holder if there is no nominee) a written state-
22 ment showing—

23 “(1) the name, address, and phone number of
24 the information contact of the person required to
25 make such return,

1 “(2) the information required to be shown on
2 such return with respect to such security, and

3 “(3) such other information as the Secretary
4 may prescribe.

5 The written statement required under the preceding sen-
6 tence shall be furnished to the holder on or before January
7 15 of the year following the calendar year during which
8 the action described in subsection (a) occurred.

9 “(d) SPECIFIED SECURITY.—For purposes of this
10 section, the term ‘specified security’ has the meaning given
11 such term by section 6045(g)(3)(B). No return shall be
12 required under this section with respect to actions de-
13 scribed in subsection (a) with respect to a specified secu-
14 rity which occur before the applicable date (as defined in
15 section 6045(g)(3)(C)) with respect to such security.

16 “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The
17 Secretary may waive the requirements under subsections
18 (a) and (c) with respect to a specified security, if the per-
19 son required to make the return under subsection (a)
20 makes publicly available, in such form and manner as the
21 Secretary determines necessary to carry out the purposes
22 of this section—

23 “(1) the name, address, phone number, and
24 email address of the information contact of such
25 person, and

1 “(2) the information described in paragraphs
2 (1), (2), and (3) of subsection (a).”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Subparagraph (B) of section
5 6724(d)(1), as amended by the Housing Assist-
6 ance Tax Act of 2008, is amended by redesignig-
7 nating clause (iv) and each of the clauses which
8 follow as clauses (v) through (xxiii), respec-
9 tively, and by inserting after clause (iii) the fol-
10 lowing new clause:

11 “(iv) section 6045B(a) (relating to re-
12 turns relating to actions affecting basis of
13 specified securities),”.

14 (B) Paragraph (2) of section 6724(d), as
15 amended by the Housing Assistance Tax Act of
16 2008 and by subsection (c)(2), is amended by
17 redesignating subparagraphs (J) through (EE)
18 as subparagraphs (K) through (FF), respec-
19 tively, and by inserting after subparagraph (I)
20 the following new subparagraph:

21 “(J) subsections (c) and (e) of section
22 6045B (relating to returns relating to actions
23 affecting basis of specified securities),”.

24 (3) CLERICAL AMENDMENT.—The table of sec-
25 tions for subpart B of part III of subchapter A of

1 chapter 61, as amended by subsection (b)(3), is
 2 amended by inserting after the item relating to sec-
 3 tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securi-
 ties.”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
 6 vided in this subsection, the amendments made by
 7 this section shall take effect on January 1, 2010.

8 (2) EXTENSION OF PERIOD FOR STATEMENTS
 9 SENT TO CUSTOMERS.—The amendments made by
 10 subsection (a)(3) shall apply to statements required
 11 to be furnished after December 31, 2008.

12 **SEC. 505. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**
 13 **ITY TRUST FUND TAX.**

14 (a) INCREASE IN RATE.—

15 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-
 16 lating to rates) is amended by striking “5 cents”
 17 and inserting “12 cents”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by this subsection shall apply on and after the first
 20 day of the first calendar quarter beginning more
 21 than 60 days after the date of the enactment of this
 22 Act.

23 (b) EXTENSION.—

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

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

8 (2) CONFORMING AMENDMENT.—Section
9 4611(f)(1) is amended by striking “paragraphs (2)
10 and (3)” and inserting “paragraph (2)”.

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

14 **TITLE VI—OTHER PROVISIONS**

15 **SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-** 16 **DETERMINATION PROGRAM.**

17 (a) REAUTHORIZATION OF THE SECURE RURAL
18 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT
19 OF 2000.—The Secure Rural Schools and Community
20 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-
21 lic Law 106–393) is amended by striking sections 1
22 through 403 and inserting the following:

23 **“SECTION 1. SHORT TITLE.**

24 “‘This Act may be cited as the ‘Secure Rural Schools
25 and Community Self-Determination Act of 2000’.

1 **“SEC. 2. PURPOSES.**

2 “The purposes of this Act are—

3 “(1) to stabilize and transition payments to
4 counties to provide funding for schools and roads
5 that supplements other available funds;6 “(2) to make additional investments in, and
7 create additional employment opportunities through,
8 projects that—9 “(A)(i) improve the maintenance of exist-
10 ing infrastructure;11 “(ii) implement stewardship objectives that
12 enhance forest ecosystems; and13 “(iii) restore and improve land health and
14 water quality;

15 “(B) enjoy broad-based support; and

16 “(C) have objectives that may include—

17 “(i) road, trail, and infrastructure
18 maintenance or obliteration;

19 “(ii) soil productivity improvement;

20 “(iii) improvements in forest eco-
21 system health;22 “(iv) watershed restoration and main-
23 tenance;24 “(v) the restoration, maintenance, and
25 improvement of wildlife and fish habitat;

1 “(vi) the control of noxious and exotic
2 weeds; and

3 “(vii) the reestablishment of native
4 species; and

5 “(3) to improve cooperative relationships
6 among—

7 “(A) the people that use and care for Fed-
8 eral land; and

9 “(B) the agencies that manage the Federal
10 land.

11 **“SEC. 3. DEFINITIONS.**

12 “In this Act:

13 “(1) ADJUSTED SHARE.—The term ‘adjusted
14 share’ means the number equal to the quotient ob-
15 tained by dividing—

16 “(A) the number equal to the quotient ob-
17 tained by dividing—

18 “(i) the base share for the eligible
19 county; by

20 “(ii) the income adjustment for the el-
21 igible county; by

22 “(B) the number equal to the sum of the
23 quotients obtained under subparagraph (A) and
24 paragraph (8)(A) for all eligible counties.

1 “(2) BASE SHARE.—The term ‘base share’
2 means the number equal to the average of—

3 “(A) the quotient obtained by dividing—

4 “(i) the number of acres of Federal
5 land described in paragraph (7)(A) in each
6 eligible county; by

7 “(ii) the total number acres of Fed-
8 eral land in all eligible counties in all eligi-
9 ble States; and

10 “(B) the quotient obtained by dividing—

11 “(i) the amount equal to the average
12 of the 3 highest 25-percent payments and
13 safety net payments made to each eligible
14 State for each eligible county during the
15 eligibility period; by

16 “(ii) the amount equal to the sum of
17 the amounts calculated under clause (i)
18 and paragraph (9)(B)(i) for all eligible
19 counties in all eligible States during the
20 eligibility period.

21 “(3) COUNTY PAYMENT.—The term ‘county
22 payment’ means the payment for an eligible county
23 calculated under section 101(b).

24 “(4) ELIGIBLE COUNTY.—The term ‘eligible
25 county’ means any county that—

1 “(A) contains Federal land (as defined in
2 paragraph (7)); and

3 “(B) elects to receive a share of the State
4 payment or the county payment under section
5 102(b).

6 “(5) ELIGIBILITY PERIOD.—The term ‘eligi-
7 bility period’ means fiscal year 1986 through fiscal
8 year 1999.

9 “(6) ELIGIBLE STATE.—The term ‘eligible
10 State’ means a State or territory of the United
11 States that received a 25-percent payment for 1 or
12 more fiscal years of the eligibility period.

13 “(7) FEDERAL LAND.—The term ‘Federal land’
14 means—

15 “(A) land within the National Forest Sys-
16 tem, as defined in section 11(a) of the Forest
17 and Rangeland Renewable Resources Planning
18 Act of 1974 (16 U.S.C. 1609(a)) exclusive of
19 the National Grasslands and land utilization
20 projects designated as National Grasslands ad-
21 ministered pursuant to the Act of July 22,
22 1937 (7 U.S.C. 1010–1012); and

23 “(B) such portions of the revested Oregon
24 and California Railroad and reconveyed Coos
25 Bay Wagon Road grant land as are or may

1 hereafter come under the jurisdiction of the De-
2 partment of the Interior, which have heretofore
3 or may hereafter be classified as timberlands,
4 and power-site land valuable for timber, that
5 shall be managed, except as provided in the
6 former section 3 of the Act of August 28, 1937
7 (50 Stat. 875; 43 U.S.C. 1181c), for permanent
8 forest production.

9 “(8) 50-PERCENT ADJUSTED SHARE.—The
10 term ‘50-percent adjusted share’ means the number
11 equal to the quotient obtained by dividing—

12 “(A) the number equal to the quotient ob-
13 tained by dividing—

14 “(i) the 50-percent base share for the
15 eligible county; by

16 “(ii) the income adjustment for the el-
17 igible county; by

18 “(B) the number equal to the sum of the
19 quotients obtained under subparagraph (A) and
20 paragraph (1)(A) for all eligible counties.

21 “(9) 50-PERCENT BASE SHARE.—The term ‘50-
22 percent base share’ means the number equal to the
23 average of—

24 “(A) the quotient obtained by dividing—

1 “(i) the number of acres of Federal
2 land described in paragraph (7)(B) in each
3 eligible county; by

4 “(ii) the total number acres of Fed-
5 eral land in all eligible counties in all eligi-
6 ble States; and

7 “(B) the quotient obtained by dividing—

8 “(i) the amount equal to the average
9 of the 3 highest 50-percent payments made
10 to each eligible county during the eligibility
11 period; by

12 “(ii) the amount equal to the sum of
13 the amounts calculated under clause (i)
14 and paragraph (2)(B)(i) for all eligible
15 counties in all eligible States during the
16 eligibility period.

17 “(10) 50-PERCENT PAYMENT.—The term ‘50-
18 percent payment’ means the payment that is the
19 sum of the 50-percent share otherwise paid to a
20 county pursuant to title II of the Act of August 28,
21 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),
22 and the payment made to a county pursuant to the
23 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43
24 U.S.C. 1181f–1 et seq.).

1 “(11) FULL FUNDING AMOUNT.—The term ‘full
2 funding amount’ means—

3 “(A) \$500,000,000 for fiscal year 2008;

4 and

5 “(B) for fiscal year 2009 and each fiscal
6 year thereafter, the amount that is equal to 90
7 percent of the full funding amount for the pre-
8 ceding fiscal year.

9 “(12) INCOME ADJUSTMENT.—The term ‘in-
10 come adjustment’ means the square of the quotient
11 obtained by dividing—

12 “(A) the per capita personal income for
13 each eligible county; by

14 “(B) the median per capita personal in-
15 come of all eligible counties.

16 “(13) PER CAPITA PERSONAL INCOME.—The
17 term ‘per capita personal income’ means the most
18 recent per capita personal income data, as deter-
19 mined by the Bureau of Economic Analysis.

20 “(14) SAFETY NET PAYMENTS.—The term
21 ‘safety net payments’ means the special payment
22 amounts paid to States and counties required by
23 section 13982 or 13983 of the Omnibus Budget
24 Reconciliation Act of 1993 (Public Law 103–66; 16
25 U.S.C. 500 note; 43 U.S.C. 1181f note).

1 “(15) SECRETARY CONCERNED.—The term
2 ‘Secretary concerned’ means—

3 “(A) the Secretary of Agriculture or the
4 designee of the Secretary of Agriculture with
5 respect to the Federal land described in para-
6 graph (7)(A); and

7 “(B) the Secretary of the Interior or the
8 designee of the Secretary of the Interior with
9 respect to the Federal land described in para-
10 graph (7)(B).

11 “(16) STATE PAYMENT.—The term ‘State pay-
12 ment’ means the payment for an eligible State cal-
13 culated under section 101(a).

14 “(17) 25-PERCENT PAYMENT.—The term ‘25-
15 percent payment’ means the payment to States re-
16 quired by the sixth paragraph under the heading of
17 ‘FOREST SERVICE’ in the Act of May 23, 1908
18 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the
19 Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.
20 500).

1 **“TITLE I—SECURE PAYMENTS**
2 **FOR STATES AND COUNTIES**
3 **CONTAINING FEDERAL LAND**

4 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
5 **FEDERAL LAND.**

6 “(a) STATE PAYMENT.—For each of fiscal years
7 2008 through 2011, the Secretary of Agriculture shall cal-
8 culate for each eligible State an amount equal to the sum
9 of the products obtained by multiplying—

10 “(1) the adjusted share for each eligible county
11 within the eligible State; by

12 “(2) the full funding amount for the fiscal year.

13 “(b) COUNTY PAYMENT.—For each of fiscal years
14 2008 through 2011, the Secretary of the Interior shall cal-
15 culate for each eligible county that received a 50-percent
16 payment during the eligibility period an amount equal to
17 the product obtained by multiplying—

18 “(1) the 50-percent adjusted share for the eligi-
19 ble county; by

20 “(2) the full funding amount for the fiscal year.

21 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

22 “(a) PAYMENT AMOUNTS.—Except as provided in
23 section 103, the Secretary of the Treasury shall pay to—

24 “(1) a State or territory of the United States
25 an amount equal to the sum of the amounts elected

1 under subsection (b) by each county within the State
2 or territory for—

3 “(A) if the county is eligible for the 25-
4 percent payment, the share of the 25-percent
5 payment; or

6 “(B) the share of the State payment of the
7 eligible county; and

8 “(2) a county an amount equal to the amount
9 elected under subsection (b) by each county for—

10 “(A) if the county is eligible for the 50-
11 percent payment, the 50-percent payment; or

12 “(B) the county payment for the eligible
13 county.

14 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

15 “(1) ELECTION; SUBMISSION OF RESULTS.—

16 “(A) IN GENERAL.—The election to receive
17 a share of the State payment, the county pay-
18 ment, a share of the State payment and the
19 county payment, a share of the 25-percent pay-
20 ment, the 50-percent payment, or a share of the
21 25-percent payment and the 50-percent pay-
22 ment, as applicable, shall be made at the discre-
23 tion of each affected county by August 1, 2008
24 (or as soon thereafter as the Secretary con-
25 cerned determines is practicable), and August 1

1 of each second fiscal year thereafter, in accord-
2 ance with paragraph (2), and transmitted to
3 the Secretary concerned by the Governor of
4 each eligible State.

5 “(B) FAILURE TO TRANSMIT.—If an elec-
6 tion for an affected county is not transmitted to
7 the Secretary concerned by the date specified
8 under subparagraph (A), the affected county
9 shall be considered to have elected to receive a
10 share of the State payment, the county pay-
11 ment, or a share of the State payment and the
12 county payment, as applicable.

13 “(2) DURATION OF ELECTION.—

14 “(A) IN GENERAL.—A county election to
15 receive a share of the 25-percent payment or
16 50-percent payment, as applicable, shall be ef-
17 fective for 2 fiscal years.

18 “(B) FULL FUNDING AMOUNT.—If a coun-
19 ty elects to receive a share of the State payment
20 or the county payment, the election shall be ef-
21 fective for all subsequent fiscal years through
22 fiscal year 2011.

23 “(3) SOURCE OF PAYMENT AMOUNTS.—The
24 payment to an eligible State or eligible county under
25 this section for a fiscal year shall be derived from—

1 “(A) any amounts that are appropriated to
2 carry out this Act;

3 “(B) any revenues, fees, penalties, or mis-
4 cellaneous receipts, exclusive of deposits to any
5 relevant trust fund, special account, or perma-
6 nent operating funds, received by the Federal
7 Government from activities by the Bureau of
8 Land Management or the Forest Service on the
9 applicable Federal land; and

10 “(C) to the extent of any shortfall, out of
11 any amounts in the Treasury of the United
12 States not otherwise appropriated.

13 “(c) DISTRIBUTION AND EXPENDITURE OF PAY-
14 MENTS.—

15 “(1) DISTRIBUTION METHOD.—A State that re-
16 ceives a payment under subsection (a) for Federal
17 land described in section 3(7)(A) shall distribute the
18 appropriate payment amount among the appropriate
19 counties in the State in accordance with—

20 “(A) the Act of May 23, 1908 (16 U.S.C.
21 500); and

22 “(B) section 13 of the Act of March 1,
23 1911 (36 Stat. 963; 16 U.S.C. 500).

24 “(2) EXPENDITURE PURPOSES.—Subject to
25 subsection (d), payments received by a State under

1 subsection (a) and distributed to counties in accord-
2 ance with paragraph (1) shall be expended as re-
3 quired by the laws referred to in paragraph (1).

4 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-
5 TIES.—

6 “(1) ALLOCATIONS.—

7 “(A) USE OF PORTION IN SAME MANNER
8 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-
9 MENT, AS APPLICABLE.—Except as provided in
10 paragraph (3)(B), if an eligible county elects to
11 receive its share of the State payment or the
12 county payment, not less than 80 percent, but
13 not more than 85 percent, of the funds shall be
14 expended in the same manner in which the 25-
15 percent payments or 50-percent payment, as
16 applicable, are required to be expended.

17 “(B) ELECTION AS TO USE OF BAL-
18 ANCE.—Except as provided in subparagraph
19 (C), an eligible county shall elect to do 1 or
20 more of the following with the balance of any
21 funds not expended pursuant to subparagraph
22 (A):

23 “(i) Reserve any portion of the bal-
24 ance for projects in accordance with title
25 II.

1 “(ii) return the portion of the balance
2 not reserved under clause (i) to the Treas-
3 ury of the United States.

4 “(2) DISTRIBUTION OF FUNDS.—

5 “(A) IN GENERAL.—Funds reserved by an
6 eligible county under subparagraph (B)(i) or
7 (C)(i) of paragraph (1) for carrying out
8 projects under title II shall be deposited in a
9 special account in the Treasury of the United
10 States.

11 “(B) AVAILABILITY.—Amounts deposited
12 under subparagraph (A) shall—

13 “(i) be available for expenditure by
14 the Secretary concerned, without further
15 appropriation; and

16 “(ii) remain available until expended
17 in accordance with title II.

18 “(3) ELECTION.—

19 “(A) NOTIFICATION.—

20 “(i) IN GENERAL.—An eligible county
21 shall notify the Secretary concerned of an
22 election by the eligible county under this
23 subsection not later than September 30,
24 2008 (or as soon thereafter as the Sec-
25 retary concerned determines is prac-

1 ticable), and September 30 of each fiscal
2 year thereafter.

3 “(ii) FAILURE TO ELECT.—Except as
4 provided in subparagraph (B), if the eligi-
5 ble county fails to make an election by the
6 date specified in clause (i), the eligible
7 county shall—

8 “(I) be considered to have elected
9 to expend 85 percent of the funds in
10 accordance with paragraph (1)(A);
11 and

12 “(II) return the balance to the
13 Treasury of the United States.

14 “(B) COUNTIES WITH MINOR DISTRIBUTI-
15 ONS.—In the case of each eligible county to
16 which less than \$100,000 is distributed for any
17 fiscal year pursuant to either or both of para-
18 graphs (1)(B) and (2)(B) of subsection (a), the
19 eligible county may elect to expend all the funds
20 in the same manner in which the 25-percent
21 payments or 50-percent payments, as applica-
22 ble, are required to be expended.

23 “(e) TIME FOR PAYMENT.—The payments required
24 under this section for a fiscal year shall be made as soon
25 as practicable after the end of that fiscal year.

1 **“SEC. 103. TRANSITION PAYMENTS TO STATES.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADJUSTED AMOUNT.—The term ‘adjusted
4 amount’ means, with respect to a covered State—

5 “(A) for fiscal year 2008, 90 percent of—

6 “(i) the sum of the amounts paid for
7 fiscal year 2006 under section 102(a)(2)
8 (as in effect on September 29, 2006) for
9 the eligible counties in the covered State
10 that have elected under section 102(b) to
11 receive a share of the State payment for
12 fiscal year 2008; and

13 “(ii) the sum of the amounts paid for
14 fiscal year 2006 under section 103(a)(2)
15 (as in effect on September 29, 2006) for
16 the eligible counties in the State of Oregon
17 that have elected under section 102(b) to
18 receive the county payment for fiscal year
19 2008;

20 “(B) for fiscal year 2009, 76 percent of—

21 “(i) the sum of the amounts paid for
22 fiscal year 2006 under section 102(a)(2)
23 (as in effect on September 29, 2006) for
24 the eligible counties in the covered State
25 that have elected under section 102(b) to

1 receive a share of the State payment for
2 fiscal year 2009; and

3 “(ii) the sum of the amounts paid for
4 fiscal year 2006 under section 103(a)(2)
5 (as in effect on September 29, 2006) for
6 the eligible counties in the State of Oregon
7 that have elected under section 102(b) to
8 receive the county payment for fiscal year
9 2009; and

10 “(C) for fiscal year 2010, 65 percent of—

11 “(i) the sum of the amounts paid for
12 fiscal year 2006 under section 102(a)(2)
13 (as in effect on September 29, 2006) for
14 the eligible counties in the covered State
15 that have elected under section 102(b) to
16 receive a share of the State payment for
17 fiscal year 2010; and

18 “(ii) the sum of the amounts paid for
19 fiscal year 2006 under section 103(a)(2)
20 (as in effect on September 29, 2006) for
21 the eligible counties in the State of Oregon
22 that have elected under section 102(b) to
23 receive the county payment for fiscal year
24 2010.

1 “(2) COVERED STATE.—The term ‘covered
2 State’ means each of the States of California, Lou-
3 isiana, Oregon, Pennsylvania, South Carolina, South
4 Dakota, Texas, and Washington.

5 “(b) TRANSITION PAYMENTS.—For each of fiscal
6 years 2008 through 2010, in lieu of the payment amounts
7 that otherwise would have been made under paragraphs
8 (1)(B) and (2)(B) of section 102(a), the Secretary of the
9 Treasury shall pay the adjusted amount to each covered
10 State and the eligible counties within the covered State,
11 as applicable.

12 “(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Ex-
13 cept as provided in subsection (d), it is the intent of Con-
14 gress that the method of distributing the payments under
15 subsection (b) among the counties in the covered States
16 for each of fiscal years 2008 through 2010 be in the same
17 proportion that the payments were distributed to the eligi-
18 ble counties in fiscal year 2006.

19 “(d) DISTRIBUTION OF PAYMENTS IN CALI-
20 FORNIA.—The following payments shall be distributed
21 among the eligible counties in the State of California in
22 the same proportion that payments under section
23 102(a)(2) (as in effect on September 29, 2006) were dis-
24 tributed to the eligible counties for fiscal year 2006:

1 “(1) Payments to the State of California under
2 subsection (b).

3 “(2) The shares of the eligible counties of the
4 State payment for California under section 102 for
5 fiscal year 2011.

6 “(e) TREATMENT OF PAYMENTS.—For purposes of
7 this Act, any payment made under subsection (b) shall be
8 considered to be a payment made under section 102(a).

9 **“TITLE II—SPECIAL PROJECTS**
10 **ON FEDERAL LAND**

11 **“SEC. 201. DEFINITIONS.**

12 “In this title:

13 “(1) PARTICIPATING COUNTY.—The term ‘par-
14 ticipating county’ means an eligible county that
15 elects under section 102(d) to expend a portion of
16 the Federal funds received under section 102 in ac-
17 cordance with this title.

18 “(2) PROJECT FUNDS.—The term ‘project
19 funds’ means all funds an eligible county elects
20 under section 102(d) to reserve for expenditure in
21 accordance with this title.

22 “(3) RESOURCE ADVISORY COMMITTEE.—The
23 term ‘resource advisory committee’ means—

24 “(A) an advisory committee established by
25 the Secretary concerned under section 205; or

1 “(B) an advisory committee determined by
2 the Secretary concerned to meet the require-
3 ments of section 205.

4 “(4) RESOURCE MANAGEMENT PLAN.—The
5 term ‘resource management plan’ means—

6 “(A) a land use plan prepared by the Bu-
7 reau of Land Management for units of the Fed-
8 eral land described in section 3(7)(B) pursuant
9 to section 202 of the Federal Land Policy and
10 Management Act of 1976 (43 U.S.C. 1712); or

11 “(B) a land and resource management
12 plan prepared by the Forest Service for units of
13 the National Forest System pursuant to section
14 6 of the Forest and Rangeland Renewable Re-
15 sources Planning Act of 1974 (16 U.S.C.
16 1604).

17 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**
18 **FUNDS.**

19 “(a) LIMITATION.—Project funds shall be expended
20 solely on projects that meet the requirements of this title.

21 “(b) AUTHORIZED USES.—Project funds may be
22 used by the Secretary concerned for the purpose of enter-
23 ing into and implementing cooperative agreements with
24 willing Federal agencies, State and local governments, pri-
25 vate and nonprofit entities, and landowners for protection,

1 restoration, and enhancement of fish and wildlife habitat,
2 and other resource objectives consistent with the purposes
3 of this Act on Federal land and on non-Federal land where
4 projects would benefit the resources on Federal land.

5 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

6 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-
7 RETARY CONCERNED.—

8 “(1) PROJECTS FUNDED USING PROJECT
9 FUNDS.—Not later than September 30 for fiscal
10 year 2008 (or as soon thereafter as the Secretary
11 concerned determines is practicable), and each Sep-
12 tember 30 thereafter for each succeeding fiscal year
13 through fiscal year 2011, each resource advisory
14 committee shall submit to the Secretary concerned a
15 description of any projects that the resource advi-
16 sory committee proposes the Secretary undertake
17 using any project funds reserved by eligible counties
18 in the area in which the resource advisory committee
19 has geographic jurisdiction.

20 “(2) PROJECTS FUNDED USING OTHER
21 FUNDS.—A resource advisory committee may submit
22 to the Secretary concerned a description of any
23 projects that the committee proposes the Secretary
24 undertake using funds from State or local govern-
25 ments, or from the private sector, other than project

1 funds and funds appropriated and otherwise avail-
2 able to do similar work.

3 “(3) JOINT PROJECTS.—Participating counties
4 or other persons may propose to pool project funds
5 or other funds, described in paragraph (2), and
6 jointly propose a project or group of projects to a re-
7 source advisory committee established under section
8 205.

9 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In
10 submitting proposed projects to the Secretary concerned
11 under subsection (a), a resource advisory committee shall
12 include in the description of each proposed project the fol-
13 lowing information:

14 “(1) The purpose of the project and a descrip-
15 tion of how the project will meet the purposes of this
16 title.

17 “(2) The anticipated duration of the project.

18 “(3) The anticipated cost of the project.

19 “(4) The proposed source of funding for the
20 project, whether project funds or other funds.

21 “(5)(A) Expected outcomes, including how the
22 project will meet or exceed desired ecological condi-
23 tions, maintenance objectives, or stewardship objec-
24 tives.

1 “(B) An estimate of the amount of any timber,
2 forage, and other commodities and other economic
3 activity, including jobs generated, if any, anticipated
4 as part of the project.

5 “(6) A detailed monitoring plan, including
6 funding needs and sources, that—

7 “(A) tracks and identifies the positive or
8 negative impacts of the project, implementation,
9 and provides for validation monitoring; and

10 “(B) includes an assessment of the fol-
11 lowing:

12 “(i) Whether or not the project met or
13 exceeded desired ecological conditions; cre-
14 ated local employment or training opportu-
15 nities, including summer youth jobs pro-
16 grams such as the Youth Conservation
17 Corps where appropriate.

18 “(ii) Whether the project improved
19 the use of, or added value to, any products
20 removed from land consistent with the pur-
21 poses of this title.

22 “(7) An assessment that the project is to be in
23 the public interest.

24 “(c) AUTHORIZED PROJECTS.—Projects proposed
25 under subsection (a) shall be consistent with section 2.

1 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**
2 **SECRETARY CONCERNED.**

3 “(a) **CONDITIONS FOR APPROVAL OF PROPOSED**
4 **PROJECT.**—The Secretary concerned may make a decision
5 to approve a project submitted by a resource advisory com-
6 mittee under section 203 only if the proposed project satis-
7 fies each of the following conditions:

8 “(1) The project complies with all applicable
9 Federal laws (including regulations).

10 “(2) The project is consistent with the applica-
11 ble resource management plan and with any water-
12 shed or subsequent plan developed pursuant to the
13 resource management plan and approved by the Sec-
14 retary concerned.

15 “(3) The project has been approved by the re-
16 source advisory committee in accordance with sec-
17 tion 205, including the procedures issued under sub-
18 section (e) of that section.

19 “(4) A project description has been submitted
20 by the resource advisory committee to the Secretary
21 concerned in accordance with section 203.

22 “(5) The project will improve the maintenance
23 of existing infrastructure, implement stewardship ob-
24 jectives that enhance forest ecosystems, and restore
25 and improve land health and water quality.

26 “(b) **ENVIRONMENTAL REVIEWS.**—

1 “(1) REQUEST FOR PAYMENT BY COUNTY.—

2 The Secretary concerned may request the resource
3 advisory committee submitting a proposed project to
4 agree to the use of project funds to pay for any envi-
5 ronmental review, consultation, or compliance with
6 applicable environmental laws required in connection
7 with the project.

8 “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—

9 If a payment is requested under paragraph (1) and
10 the resource advisory committee agrees to the ex-
11 penditure of funds for this purpose, the Secretary
12 concerned shall conduct environmental review, con-
13 sultation, or other compliance responsibilities in ac-
14 cordance with Federal laws (including regulations).

15 “(3) EFFECT OF REFUSAL TO PAY.—

16 “(A) IN GENERAL.—If a resource advisory
17 committee does not agree to the expenditure of
18 funds under paragraph (1), the project shall be
19 deemed withdrawn from further consideration
20 by the Secretary concerned pursuant to this
21 title.

22 “(B) EFFECT OF WITHDRAWAL.—A with-
23 drawal under subparagraph (A) shall be deemed
24 to be a rejection of the project for purposes of
25 section 207(c).

1 “(c) DECISIONS OF SECRETARY CONCERNED.—

2 “(1) REJECTION OF PROJECTS.—

3 “(A) IN GENERAL.—A decision by the Sec-
4 retary concerned to reject a proposed project
5 shall be at the sole discretion of the Secretary
6 concerned.

7 “(B) NO ADMINISTRATIVE APPEAL OR JU-
8 DICIAL REVIEW.—Notwithstanding any other
9 provision of law, a decision by the Secretary
10 concerned to reject a proposed project shall not
11 be subject to administrative appeal or judicial
12 review.

13 “(C) NOTICE OF REJECTION.—Not later
14 than 30 days after the date on which the Sec-
15 retary concerned makes the rejection decision,
16 the Secretary concerned shall notify in writing
17 the resource advisory committee that submitted
18 the proposed project of the rejection and the
19 reasons for rejection.

20 “(2) NOTICE OF PROJECT APPROVAL.—The
21 Secretary concerned shall publish in the Federal
22 Register notice of each project approved under sub-
23 section (a) if the notice would be required had the
24 project originated with the Secretary.

1 “(d) SOURCE AND CONDUCT OF PROJECT.—Once the
2 Secretary concerned accepts a project for review under
3 section 203, the acceptance shall be deemed a Federal ac-
4 tion for all purposes.

5 “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

6 “(1) COOPERATION.—Notwithstanding chapter
7 63 of title 31, United States Code, using project
8 funds the Secretary concerned may enter into con-
9 tracts, grants, and cooperative agreements with
10 States and local governments, private and nonprofit
11 entities, and landowners and other persons to assist
12 the Secretary in carrying out an approved project.

13 “(2) BEST VALUE CONTRACTING.—

14 “(A) IN GENERAL.—For any project in-
15 volving a contract authorized by paragraph (1)
16 the Secretary concerned may elect a source for
17 performance of the contract on a best value
18 basis.

19 “(B) FACTORS.—The Secretary concerned
20 shall determine best value based on such factors
21 as—

22 “(i) the technical demands and com-
23 plexity of the work to be done;

24 “(ii)(I) the ecological objectives of the
25 project; and

1 “(II) the sensitivity of the resources
2 being treated;

3 “(iii) the past experience by the con-
4 tractor with the type of work being done,
5 using the type of equipment proposed for
6 the project, and meeting or exceeding de-
7 sired ecological conditions; and

8 “(iv) the commitment of the con-
9 tractor to hiring highly qualified workers
10 and local residents.

11 “(3) MERCHANTABLE TIMBER CONTRACTING
12 PILOT PROGRAM.—

13 “(A) ESTABLISHMENT.—The Secretary
14 concerned shall establish a pilot program to im-
15 plement a certain percentage of approved
16 projects involving the sale of merchantable tim-
17 ber using separate contracts for—

18 “(i) the harvesting or collection of
19 merchantable timber; and

20 “(ii) the sale of the timber.

21 “(B) ANNUAL PERCENTAGES.—Under the
22 pilot program, the Secretary concerned shall en-
23 sure that, on a nationwide basis, not less than
24 the following percentage of all approved projects

1 involving the sale of merchantable timber are
2 implemented using separate contracts:

3 “(i) For fiscal year 2008, 35 percent.

4 “(ii) For fiscal year 2009, 45 percent.

5 “(iii) For each of fiscal years 2010
6 and 2011, 50 percent.

7 “(C) INCLUSION IN PILOT PROGRAM.—The
8 decision whether to use separate contracts to
9 implement a project involving the sale of mer-
10 chantable timber shall be made by the Sec-
11 retary concerned after the approval of the
12 project under this title.

13 “(D) ASSISTANCE.—

14 “(i) IN GENERAL.—The Secretary
15 concerned may use funds from any appro-
16 priated account available to the Secretary
17 for the Federal land to assist in the ad-
18 ministration of projects conducted under
19 the pilot program.

20 “(ii) MAXIMUM AMOUNT OF ASSIST-
21 ANCE.—The total amount obligated under
22 this subparagraph may not exceed
23 \$1,000,000 for any fiscal year during
24 which the pilot program is in effect.

25 “(E) REVIEW AND REPORT.—

1 “(i) INITIAL REPORT.—Not later than
2 September 30, 2010, the Comptroller Gen-
3 eral shall submit to the Committees on Ag-
4 riculture, Nutrition, and Forestry and En-
5 ergy and Natural Resources of the Senate
6 and the Committees on Agriculture and
7 Natural Resources of the House of Rep-
8 resentatives a report assessing the pilot
9 program.

10 “(ii) ANNUAL REPORT.—The Sec-
11 retary concerned shall submit to the Com-
12 mittees on Agriculture, Nutrition, and For-
13 estry and Energy and Natural Resources
14 of the Senate and the Committees on Agri-
15 culture and Natural Resources of the
16 House of Representatives an annual report
17 describing the results of the pilot program.

18 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The
19 Secretary shall ensure that at least 50 percent of all
20 project funds be used for projects that are primarily dedi-
21 cated—

22 “(1) to road maintenance, decommissioning, or
23 obliteration; or

24 “(2) to restoration of streams and watersheds.

1 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

2 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE
3 ADVISORY COMMITTEES.—

4 “(1) ESTABLISHMENT.—The Secretary con-
5 cerned shall establish and maintain resource advi-
6 sory committees to perform the duties in subsection
7 (b), except as provided in paragraph (4).

8 “(2) PURPOSE.—The purpose of a resource ad-
9 visory committee shall be—

10 “(A) to improve collaborative relationships;
11 and

12 “(B) to provide advice and recommenda-
13 tions to the land management agencies con-
14 sistent with the purposes of this title.

15 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-
16 TEES.—To ensure that each unit of Federal land
17 has access to a resource advisory committee, and
18 that there is sufficient interest in participation on a
19 committee to ensure that membership can be bal-
20 anced in terms of the points of view represented and
21 the functions to be performed, the Secretary con-
22 cerned may, establish resource advisory committees
23 for part of, or 1 or more, units of Federal land.

24 “(4) EXISTING ADVISORY COMMITTEES.—

25 “(A) IN GENERAL.—An advisory com-
26 mittee that meets the requirements of this sec-

1 tion, a resource advisory committee established
2 before September 29, 2006, or an advisory com-
3 mittee determined by the Secretary concerned
4 before September 29, 2006, to meet the re-
5 quirements of this section may be deemed by
6 the Secretary concerned to be a resource advi-
7 sory committee for the purposes of this title.

8 “(B) CHARTER.—A charter for a com-
9 mittee described in subparagraph (A) that was
10 filed on or before September 29, 2006, shall be
11 considered to be filed for purposes of this Act.

12 “(C) BUREAU OF LAND MANAGEMENT AD-
13 VISORY COMMITTEES.—The Secretary of the In-
14 terior may deem a resource advisory committee
15 meeting the requirements of subpart 1784 of
16 part 1780 of title 43, Code of Federal Regula-
17 tions, as a resource advisory committee for the
18 purposes of this title.

19 “(b) DUTIES.—A resource advisory committee
20 shall—

21 “(1) review projects proposed under this title by
22 participating counties and other persons;

23 “(2) propose projects and funding to the Sec-
24 retary concerned under section 203;

1 “(3) provide early and continuous coordination
2 with appropriate land management agency officials
3 in recommending projects consistent with purposes
4 of this Act under this title;

5 “(4) provide frequent opportunities for citizens,
6 organizations, tribes, land management agencies,
7 and other interested parties to participate openly
8 and meaningfully, beginning at the early stages of
9 the project development process under this title;

10 “(5)(A) monitor projects that have been ap-
11 proved under section 204; and

12 “(B) advise the designated Federal official on
13 the progress of the monitoring efforts under sub-
14 paragraph (A); and

15 “(6) make recommendations to the Secretary
16 concerned for any appropriate changes or adjust-
17 ments to the projects being monitored by the re-
18 source advisory committee.

19 “(c) APPOINTMENT BY THE SECRETARY.—

20 “(1) APPOINTMENT AND TERM.—

21 “(A) IN GENERAL.—The Secretary con-
22 cerned, shall appoint the members of resource
23 advisory committees for a term of 4 years be-
24 ginning on the date of appointment.

1 “(B) REAPPOINTMENT.—The Secretary
2 concerned may reappoint members to subse-
3 quent 4-year terms.

4 “(2) BASIC REQUIREMENTS.—The Secretary
5 concerned shall ensure that each resource advisory
6 committee established meets the requirements of
7 subsection (d).

8 “(3) INITIAL APPOINTMENT.—Not later than
9 180 days after the date of the enactment of this Act,
10 the Secretary concerned shall make initial appoint-
11 ments to the resource advisory committees.

12 “(4) VACANCIES.—The Secretary concerned
13 shall make appointments to fill vacancies on any re-
14 source advisory committee as soon as practicable
15 after the vacancy has occurred.

16 “(5) COMPENSATION.—Members of the re-
17 source advisory committees shall not receive any
18 compensation.

19 “(d) COMPOSITION OF ADVISORY COMMITTEE.—

20 “(1) NUMBER.—Each resource advisory com-
21 mittee shall be comprised of 15 members.

22 “(2) COMMUNITY INTERESTS REPRESENTED.—
23 Committee members shall be representative of the
24 interests of the following 3 categories:

25 “(A) 5 persons that—

1 “(i) represent organized labor or non-
2 timber forest product harvester groups;

3 “(ii) represent developed outdoor
4 recreation, off highway vehicle users, or
5 commercial recreation activities;

6 “(iii) represent—

7 “(I) energy and mineral develop-
8 ment interests; or

9 “(II) commercial or recreational
10 fishing interests;

11 “(iv) represent the commercial timber
12 industry; or

13 “(v) hold Federal grazing or other
14 land use permits, or represent nonindus-
15 trial private forest land owners, within the
16 area for which the committee is organized.

17 “(B) 5 persons that represent—

18 “(i) nationally recognized environ-
19 mental organizations;

20 “(ii) regionally or locally recognized
21 environmental organizations;

22 “(iii) dispersed recreational activities;

23 “(iv) archaeological and historical in-
24 terests; or

1 “(v) nationally or regionally recog-
2 nized wild horse and burro interest groups,
3 wildlife or hunting organizations, or water-
4 shed associations.

5 “(C) 5 persons that—

6 “(i) hold State elected office (or a
7 designee);

8 “(ii) hold county or local elected of-
9 fice;

10 “(iii) represent American Indian
11 tribes within or adjacent to the area for
12 which the committee is organized;

13 “(iv) are school officials or teachers;
14 or

15 “(v) represent the affected public at
16 large.

17 “(3) BALANCED REPRESENTATION.—In ap-
18 pointing committee members from the 3 categories
19 in paragraph (2), the Secretary concerned shall pro-
20 vide for balanced and broad representation from
21 within each category.

22 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
23 bers of a resource advisory committee shall reside
24 within the State in which the committee has juris-
25 diction and, to extent practicable, the Secretary con-

1 cerned shall ensure local representation in each cat-
2 egory in paragraph (2).

3 “(5) CHAIRPERSON.—A majority on each re-
4 source advisory committee shall select the chair-
5 person of the committee.

6 “(e) APPROVAL PROCEDURES.—

7 “(1) IN GENERAL.—Subject to paragraph (3),
8 each resource advisory committee shall establish pro-
9 cedures for proposing projects to the Secretary con-
10 cerned under this title.

11 “(2) QUORUM.—A quorum must be present to
12 constitute an official meeting of the committee.

13 “(3) APPROVAL BY MAJORITY OF MEMBERS.—
14 A project may be proposed by a resource advisory
15 committee to the Secretary concerned under section
16 203(a), if the project has been approved by a major-
17 ity of members of the committee from each of the
18 3 categories in subsection (d)(2).

19 “(f) OTHER COMMITTEE AUTHORITIES AND RE-
20 QUIREMENTS.—

21 “(1) STAFF ASSISTANCE.—A resource advisory
22 committee may submit to the Secretary concerned a
23 request for periodic staff assistance from Federal
24 employees under the jurisdiction of the Secretary.

1 “(2) MEETINGS.—All meetings of a resource
2 advisory committee shall be announced at least 1
3 week in advance in a local newspaper of record and
4 shall be open to the public.

5 “(3) RECORDS.—A resource advisory committee
6 shall maintain records of the meetings of the com-
7 mittee and make the records available for public in-
8 spection.

9 **“SEC. 206. USE OF PROJECT FUNDS.**

10 “(a) AGREEMENT REGARDING SCHEDULE AND COST
11 OF PROJECT.—

12 “(1) AGREEMENT BETWEEN PARTIES.—The
13 Secretary concerned may carry out a project sub-
14 mitted by a resource advisory committee under sec-
15 tion 203(a) using project funds or other funds de-
16 scribed in section 203(a)(2), if, as soon as prac-
17 ticable after the issuance of a decision document for
18 the project and the exhaustion of all administrative
19 appeals and judicial review of the project decision,
20 the Secretary concerned and the resource advisory
21 committee enter into an agreement addressing, at a
22 minimum, the following:

23 “(A) The schedule for completing the
24 project.

1 “(B) The total cost of the project, includ-
2 ing the level of agency overhead to be assessed
3 against the project.

4 “(C) For a multiyear project, the esti-
5 mated cost of the project for each of the fiscal
6 years in which it will be carried out.

7 “(D) The remedies for failure of the Sec-
8 retary concerned to comply with the terms of
9 the agreement consistent with current Federal
10 law.

11 “(2) LIMITED USE OF FEDERAL FUNDS.—The
12 Secretary concerned may decide, at the sole discre-
13 tion of the Secretary concerned, to cover the costs
14 of a portion of an approved project using Federal
15 funds appropriated or otherwise available to the Sec-
16 retary for the same purposes as the project.

17 “(b) TRANSFER OF PROJECT FUNDS.—

18 “(1) INITIAL TRANSFER REQUIRED.—As soon
19 as practicable after the agreement is reached under
20 subsection (a) with regard to a project to be funded
21 in whole or in part using project funds, or other
22 funds described in section 203(a)(2), the Secretary
23 concerned shall transfer to the applicable unit of Na-
24 tional Forest System land or Bureau of Land Man-

1 agement District an amount of project funds equal
2 to—

3 “(A) in the case of a project to be com-
4 pleted in a single fiscal year, the total amount
5 specified in the agreement to be paid using
6 project funds, or other funds described in sec-
7 tion 203(a)(2); or

8 “(B) in the case of a multiyear project, the
9 amount specified in the agreement to be paid
10 using project funds, or other funds described in
11 section 203(a)(2) for the first fiscal year.

12 “(2) CONDITION ON PROJECT COMMENCE-
13 MENT.—The unit of National Forest System land or
14 Bureau of Land Management District concerned,
15 shall not commence a project until the project funds,
16 or other funds described in section 203(a)(2) re-
17 quired to be transferred under paragraph (1) for the
18 project, have been made available by the Secretary
19 concerned.

20 “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR
21 PROJECTS.—

22 “(A) IN GENERAL.—For the second and
23 subsequent fiscal years of a multiyear project to
24 be funded in whole or in part using project
25 funds, the unit of National Forest System land

1 or Bureau of Land Management District con-
2 cerned shall use the amount of project funds re-
3 quired to continue the project in that fiscal year
4 according to the agreement entered into under
5 subsection (a).

6 “(B) SUSPENSION OF WORK.—The Sec-
7 retary concerned shall suspend work on the
8 project if the project funds required by the
9 agreement in the second and subsequent fiscal
10 years are not available.

11 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

12 “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-
13 GATE FUNDS.—By September 30, 2008 (or as soon there-
14 after as the Secretary concerned determines is prac-
15 ticable), and each September 30 thereafter for each suc-
16 ceeding fiscal year through fiscal year 2011, a resource
17 advisory committee shall submit to the Secretary con-
18 cerned pursuant to section 203(a)(1) a sufficient number
19 of project proposals that, if approved, would result in the
20 obligation of at least the full amount of the project funds
21 reserved by the participating county in the preceding fiscal
22 year.

23 “(b) USE OR TRANSFER OF UNOBLIGATED
24 FUNDS.—Subject to section 208, if a resource advisory
25 committee fails to comply with subsection (a) for a fiscal

1 year, any project funds reserved by the participating coun-
2 ty in the preceding fiscal year and remaining unobligated
3 shall be available for use as part of the project submissions
4 in the next fiscal year.

5 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject
6 to section 208, any project funds reserved by a partici-
7 pating county in the preceding fiscal year that are unobli-
8 gated at the end of a fiscal year because the Secretary
9 concerned has rejected one or more proposed projects shall
10 be available for use as part of the project submissions in
11 the next fiscal year.

12 “(d) EFFECT OF COURT ORDERS.—

13 “(1) IN GENERAL.—If an approved project
14 under this Act is enjoined or prohibited by a Federal
15 court, the Secretary concerned shall return the un-
16 obligated project funds related to the project to the
17 participating county or counties that reserved the
18 funds.

19 “(2) EXPENDITURE OF FUNDS.—The returned
20 funds shall be available for the county to expend in
21 the same manner as the funds reserved by the coun-
22 ty under subparagraph (B) or (C)(i) of section
23 102(d)(1).

1 **“SEC. 208. TERMINATION OF AUTHORITY.**

2 “(a) IN GENERAL.—The authority to initiate projects
3 under this title shall terminate on September 30, 2011.

4 “(b) DEPOSITS IN TREASURY.—Any project funds
5 not obligated by September 30, 2012, shall be deposited
6 in the Treasury of the United States.

7 **“TITLE III—COUNTY FUNDS**

8 **“SEC. 301. DEFINITIONS.**

9 “In this title:

10 “(1) COUNTY FUNDS.—The term ‘county funds’
11 means all funds an eligible county elects under sec-
12 tion 102(d) to reserve for expenditure in accordance
13 with this title.

14 “(2) PARTICIPATING COUNTY.—The term ‘par-
15 ticipating county’ means an eligible county that
16 elects under section 102(d) to expend a portion of
17 the Federal funds received under section 102 in ac-
18 cordance with this title.

19 **“SEC. 302. USE.**

20 “(a) AUTHORIZED USES.—A participating county,
21 including any applicable agencies of the participating
22 county, shall use county funds, in accordance with this
23 title, only—

24 “(1) to carry out activities under the Firewise
25 Communities program to provide to homeowners in
26 fire-sensitive ecosystems education on, and assist-

1 ance with implementing, techniques in home siting,
2 home construction, and home landscaping that can
3 increase the protection of people and property from
4 wildfires;

5 “(2) to reimburse the participating county for
6 search and rescue and other emergency services, in-
7 cluding firefighting, that are—

8 “(A) performed on Federal land after the
9 date on which the use was approved under sub-
10 section (b);

11 “(B) paid for by the participating county;

12 and

13 “(3) to develop community wildfire protection
14 plans in coordination with the appropriate Secretary
15 concerned.

16 “(b) PROPOSALS.—A participating county shall use
17 county funds for a use described in subsection (a) only
18 after a 45-day public comment period, at the beginning
19 of which the participating county shall—

20 “(1) publish in any publications of local record
21 a proposal that describes the proposed use of the
22 county funds; and

23 “(2) submit the proposal to any resource advi-
24 sory committee established under section 205 for the
25 participating county.

1 **“SEC. 303. CERTIFICATION.**

2 “(a) IN GENERAL.—Not later than February 1 of the
3 year after the year in which any county funds were ex-
4 pended by a participating county, the appropriate official
5 of the participating county shall submit to the Secretary
6 concerned a certification that the county funds expended
7 in the applicable year have been used for the uses author-
8 ized under section 302(a), including a description of the
9 amounts expended and the uses for which the amounts
10 were expended.

11 “(b) REVIEW.—The Secretary concerned shall review
12 the certifications submitted under subsection (a) as the
13 Secretary concerned determines to be appropriate.

14 **“SEC. 304. TERMINATION OF AUTHORITY.**

15 “(a) IN GENERAL.—The authority to initiate projects
16 under this title terminates on September 30, 2011.

17 “(b) AVAILABILITY.—Any county funds not obligated
18 by September 30, 2012, shall be returned to the Treasury
19 of the United States.

20 **“TITLE IV—MISCELLANEOUS**
21 **PROVISIONS**

22 **“SEC. 401. REGULATIONS.**

23 “The Secretary of Agriculture and the Secretary of
24 the Interior shall issue regulations to carry out the pur-
25 poses of this Act.

1 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such sums
3 as are necessary to carry out this Act for each of fiscal
4 years 2008 through 2011.

5 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

6 “(a) RELATION TO OTHER APPROPRIATIONS.—
7 Funds made available under section 402 and funds made
8 available to a Secretary concerned under section 206 shall
9 be in addition to any other annual appropriations for the
10 Forest Service and the Bureau of Land Management.

11 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—
12 All revenues generated from projects pursuant to title II,
13 including any interest accrued from the revenues, shall be
14 deposited in the Treasury of the United States.”.

15 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE
16 STATES AND COUNTIES.—

17 (1) ACT OF MAY 23, 1908.—The sixth paragraph
18 under the heading “FOREST SERVICE” in the Act
19 of May 23, 1908 (16 U.S.C. 500) is amended in the
20 first sentence by striking “twenty-five percentum”
21 and all that follows through “shall be paid” and in-
22 serting the following: “an amount equal to the an-
23 nual average of 25 percent of all amounts received
24 for the applicable fiscal year and each of the pre-
25 ceding 6 fiscal years from each national forest shall
26 be paid”.

1 (2) WEEKS LAW.—Section 13 of the Act of
 2 March 1, 1911 (commonly known as the “Weeks
 3 Law”) (16 U.S.C. 500) is amended in the first sen-
 4 tence by striking “twenty-five percentum” and all
 5 that follows through “shall be paid” and inserting
 6 the following: “an amount equal to the annual aver-
 7 age of 25 percent of all amounts received for the ap-
 8 plicable fiscal year and each of the preceding 6 fiscal
 9 years from each national forest shall be paid”.

10 (c) PAYMENTS IN LIEU OF TAXES.—

11 (1) IN GENERAL.—Section 6906 of title 31,
 12 United States Code, is amended to read as follows:

13 **“§ 6906. Funding**

14 “For each of fiscal years 2008 through 2012—

15 “(1) each county or other eligible unit of local
 16 government shall be entitled to payment under this
 17 chapter; and

18 “(2) sums shall be made available to the Sec-
 19 retary of the Interior for obligation or expenditure in
 20 accordance with this chapter.”.

21 (2) CONFORMING AMENDMENT.—The table of
 22 sections for chapter 69 of title 31, United States
 23 Code, is amended by striking the item relating to
 24 section 6906 and inserting the following:

“6906. Funding.”.

25 (3) BUDGET SCOREKEEPING.—

1 (A) IN GENERAL.—Notwithstanding the
2 Budget Scorekeeping Guidelines and the accom-
3 panying list of programs and accounts set forth
4 in the joint explanatory statement of the com-
5 mittee of conference accompanying Conference
6 Report 105–217, the section in this title re-
7 garding Payments in Lieu of Taxes shall be
8 treated in the baseline for purposes of section
9 257 of the Balanced Budget and Emergency
10 Deficit Control Act of 1985 (as in effect prior
11 to September 30, 2002), and by the Chairmen
12 of the House and Senate Budget Committees,
13 as appropriate, for purposes of budget enforce-
14 ment in the House and Senate, and under the
15 Congressional Budget Act of 1974 as if Pay-
16 ment in Lieu of Taxes (14–1114–0–1–806)
17 were an account designated as Appropriated
18 Entitlements and Mandatories for Fiscal Year
19 1997 in the joint explanatory statement of the
20 committee of conference accompanying Con-
21 ference Report 105–217.

22 (B) EFFECTIVE DATE.—This paragraph
23 shall remain in effect for the fiscal years to
24 which the entitlement in section 6906 of title

1 31, United States Code (as amended by para-
2 graph (1)), applies.

3 **SEC. 602. CLARIFICATION OF UNIFORM DEFINITION OF**
4 **CHILD.**

5 (a) **CHILD MUST BE YOUNGER THAN CLAIMANT.**—
6 Section 152(c)(3)(A) is amended by inserting “is younger
7 than the taxpayer claiming such individual as a qualifying
8 child and” after “such individual”.

9 (b) **CHILD MUST BE UNMARRIED.**—Section
10 152(c)(1) is amended by striking “and” at the end of sub-
11 paragraph (C), by striking the period at the end of sub-
12 paragraph (D) and inserting “, and”, and by adding at
13 the end the following new subparagraph:

14 “(E) who has not filed a joint return
15 (other than only for a claim of refund) with the
16 individual’s spouse under section 6013 for the
17 taxable year beginning in the calendar year in
18 which the taxable year of the taxpayer begins.”.

19 (c) **RESTRICT QUALIFYING CHILD TAX BENEFITS TO**
20 **CHILD’S PARENT.**—

21 (1) **CHILD TAX CREDIT.**—Subsection (a) of sec-
22 tion 24 is amended by inserting “for which the tax-
23 payer is allowed a deduction under section 151”
24 after “of the taxpayer”.

1 (2) PERSONS OTHER THAN PARENTS CLAIMING
2 QUALIFYING CHILD.—

3 (A) IN GENERAL.—Paragraph (4) of sec-
4 tion 152(c) is amended by adding at the end
5 the following new subparagraph:

6 “(C) NO PARENT CLAIMING QUALIFYING
7 CHILD.—If the parents of an individual may
8 claim such individual as a qualifying child but
9 no parent so claims the individual, such indi-
10 vidual may be claimed as the qualifying child of
11 another taxpayer but only if the adjusted gross
12 income of such taxpayer is higher than the
13 highest adjusted gross income of any parent of
14 the individual.”.

15 (B) CONFORMING AMENDMENTS.—

16 (i) Subparagraph (A) of section
17 152(c)(4) is amended by striking “Except”
18 through “2 or more taxpayers” and insert-
19 ing “Except as provided in subparagraphs
20 (B) and (C), if (but for this paragraph) an
21 individual may be claimed as a qualifying
22 child by 2 or more taxpayers”.

23 (ii) The heading for paragraph (4) of
24 section 152(c) is amended by striking

1 “CLAIMING” and inserting “WHO CAN
2 CLAIM THE SAME”.

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

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