

organizations may hold in corporations and other businesses. The tax is designed to make sure tax-exempt organizations don't shelter oil refineries and yacht clubs from paying taxes.

A handful of organizations argue that these requirements are onerous or that they should be exempt because they were created before 1969. There may be legitimate reasons to look at some of these issues, but this legislation as written is much too broad. Thousands of organizations could be carved out of the payout requirement and business holdings prohibition. The bill would unwind regulations implementing the 2006 reforms before the regulations are even finished. It contains several provisions that need much more study before being enacted. For all of these reasons, the legislation needs more work.

#### PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that T.J. Kim, a fellow of the Environment and Public Works Committee, be granted floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. I ask unanimous consent that Kory Sylvester, a member of Senator DOMENICI's appropriations staff, have floor privileges today.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RENEWABLE ENERGY AND JOB CREATION ACT OF 2008

On Tuesday, September 23, 2008, the Senate passed H.R. 6049, as amended, as follows:

H.R. 6049

*Resolved*, That the bill from the House of Representatives (H.R. 6049) entitled "An Act to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.", do pass with the following amendment:

Strike all after the enacting clause and insert the following:

##### SECTION 1. SHORT TITLE, ETC.

(a) *SHORT TITLE*.—This Act may be cited as the "Energy Improvement and Extension Act of 2008".

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

(c) *TABLE OF CONTENTS*.—The table of contents for 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. Energy credit for small wind property.

Sec. 105. Energy credit for geothermal heat pump systems.

Sec. 106. Credit for residential energy efficient property.

Sec. 107. New clean renewable energy bonds.

Sec. 108. Credit for steel industry fuel.

Sec. 109. Special rule to implement FERC and State electric restructuring policy.

###### 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. Certain income and gains relating to industrial source carbon dioxide treated as qualifying income for publicly traded partnerships.

Sec. 117. 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. Extension and modification of alternative fuel credit.

Sec. 205. Credit for new qualified plug-in electric drive motor vehicles.

Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.

Sec. 207. Alternative fuel vehicle refueling property credit.

Sec. 208. 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. 209. Extension and modification of election to expense certain refineries.

Sec. 210. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

Sec. 211. Transportation fringe benefit to bicycle commuters.

##### 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—REVENUE PROVISIONS

Sec. 401. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 402. 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. 403. Broker reporting of customer's basis in securities transactions.

Sec. 404. 0.2 percent FUTA surtax.

Sec. 405. Increase and extension of Oil Spill Liability Trust Fund tax.

#### TITLE I—ENERGY PRODUCTION INCENTIVES

##### Subtitle A—Renewable Energy Incentives

###### SEC. 101. RENEWABLE ENERGY CREDIT.

(a) *EXTENSION OF CREDIT*.—

(1) *1-YEAR EXTENSION FOR WIND AND REFINED COAL FACILITIES*.—Paragraphs (1) and (8) of section 45(d) are each amended by striking "January 1, 2009" and inserting "January 1, 2010".

(2) *2-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES*.—Each of the following provisions of section 45(d) is amended by striking "January 1, 2009" and inserting "January 1, 2011":

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

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

(C) Paragraph (4).

(D) Paragraph (5).

(E) Paragraph (6).

(F) Paragraph (7).

(G) Subparagraphs (A) and (B) of paragraph (9).

(b) *MODIFICATION OF REFINED COAL AS A QUALIFIED ENERGY RESOURCE*.—

(1) *ELIMINATION OF INCREASED MARKET VALUE TEST*.—Section 45(c)(7)(A)(i) (defining refined coal), as amended by section 108, is amended—

(A) by striking subclause (IV),

(B) by adding "and" at the end of subclause (II), and

(C) by striking "and" at the end of subclause (III) and inserting a period.

(2) *INCREASE IN REQUIRED EMISSION REDUCTION*.—Section 45(c)(7)(B) (defining qualified emission reduction) is amended by inserting "at least 40 percent of the emissions of" after "nitrogen oxide and".

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

(1) by striking "facility which burns" and inserting "facility (other than a facility described in paragraph (6)) which uses", and

(2) by striking "COMBUSTION".

(d) *EXPANSION OF BIOMASS FACILITIES*.—

(1) *OPEN-LOOP BIOMASS FACILITIES*.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) *EXPANSION OF FACILITY*.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit."

(2) *CLOSED-LOOP BIOMASS FACILITIES*.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) *EXPANSION OF FACILITY*.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit."

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

"(C) *NONHYDROELECTRIC DAM*.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

"(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

"(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not

produce hydroelectric power on the date of the enactment of this paragraph, and

“(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.”

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REFINED COAL.—The amendments made by subsection (b) shall apply to coal produced and sold from facilities placed in service after December 31, 2008.

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

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

#### SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

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

“(I) marine and hydrokinetic renewable energy.”

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

“(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

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

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

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

“(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

“(iv) differentials in ocean temperature (ocean thermal energy conversion).

“(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.”

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

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

“(A) which has a nameplate capacity rating of at least 150 kilowatts, and

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

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

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101, is amended by striking “January 1, 2012” and inserting “the date of the enactment of paragraph (11)”.

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

#### SEC. 103. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

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

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

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking “December 31, 2008” and inserting “December 31, 2016”.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (vi) as clause (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

“(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.”

(2) TECHNICAL AMENDMENT.—Clause (vi) of section 38(c)(4)(B), as redesignated by paragraph (1), is amended by striking “section 47 to the extent attributable to” and inserting “section 46 to the extent that such credit is attributable to the rehabilitation credit under section 47, but only with respect to”.

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

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

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

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (c) of section 48 is amended—

(A) by striking “QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY” in the heading and inserting “DEFINITIONS”, and

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

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

“(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term ‘combined heat and power system property’ means property comprising a system—

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

“(ii) which produces—

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

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

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

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

“(B) LIMITATION.—

“(i) IN GENERAL.—In the case of combined heat and power system property with an elec-

trical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

“(ii) APPLICABLE CAPACITY.—For purposes of clause (i), the term ‘applicable capacity’ means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

“(iii) MAXIMUM CAPACITY.—The term ‘combined heat and power system property’ shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

“(C) SPECIAL RULES.—

“(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this paragraph, the energy efficiency percentage of a system is the fraction—

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

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

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

“(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term ‘combined heat and power system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

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

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

“(ii) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this subparagraph) as the energy efficiency percentage of such system bears to 60 percent.”

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

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

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

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

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

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

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after

the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) **PUBLIC UTILITY PROPERTY.**—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

#### SEC. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.

(a) **IN GENERAL.**—Section 48(a)(3)(A), as amended by section 103, is amended by striking “or” at the end of clause (iv), by adding “or” at the end of clause (v), and by inserting after clause (v) the following new clause:

“(vi) qualified small wind energy property.”.

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

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

(c) **QUALIFIED SMALL WIND ENERGY PROPERTY.**—Section 48(c), as amended by section 103, is amended by adding at the end the following new paragraph:

“(4) **QUALIFIED SMALL WIND ENERGY PROPERTY.**—

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

“(B) **LIMITATION.**—In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to all such property of the taxpayer shall not exceed \$4,000.

“(C) **QUALIFYING SMALL WIND TURBINE.**—The term ‘qualifying small wind turbine’ means a wind turbine which has a nameplate capacity of not more than 100 kilowatts.

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

(d) **CONFORMING AMENDMENT.**—Section 48(a)(1), as amended by section 103, is amended by striking “paragraphs (1)(B), (2)(B), and (3)(B)” and inserting “paragraphs (1)(B), (2)(B), (3)(B), and (4)(B)”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

#### SEC. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.

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

“(vii) equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to periods ending before January 1, 2017.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

#### SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

(b) **REMOVAL OF LIMITATION FOR SOLAR ELECTRIC PROPERTY.**—

(1) **IN GENERAL.**—Section 25D(b)(1), as amended by subsections (c) and (d), is amended—

(A) by striking subparagraph (A), and

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) **CONFORMING AMENDMENT.**—Section 25D(e)(4)(A), as amended by subsections (c) and (d), is amended—

(A) by striking clause (i), and

(B) by redesignating clauses (ii) through (v) as clauses (i) and (iv), respectively.

(c) **CREDIT FOR RESIDENTIAL WIND PROPERTY.**—

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

“(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.”.

(2) **LIMITATION.**—Section 25D(b)(1) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

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

(3) **QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.**—

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

“(4) **QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.**—The term ‘qualified small wind energy property expenditure’ means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.”.

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

(4) **MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.**—Section 25D(e)(4)(A) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) \$1,667 in the case of each half kilowatt of capacity (not to exceed \$13,333) of wind turbines for which qualified small wind energy property expenditures are made.”.

(d) **CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.**—

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

“(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.”.

(2) **LIMITATION.**—Section 25D(b)(1), as amended by subsection (c), is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:

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

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

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

“(A) **IN GENERAL.**—The term ‘qualified geothermal heat pump property expenditure’ means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

“(B) **QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.**—The term ‘qualified geothermal heat pump property’ means any equipment which—

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

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

(4) **MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.**—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following new clause:

“(v) \$6,667 in the case of any qualified geothermal heat pump property expenditures.”.

(e) **CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.**—

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

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

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

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

“(2) **CARRYFORWARD OF UNUSED CREDIT.**—

“(A) **RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.**—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(B) **RULE FOR OTHER YEARS.**—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(2) **CONFORMING AMENDMENTS.**—

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

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

(C) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25D”.

(D) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25D”.

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) **SOLAR ELECTRIC PROPERTY LIMITATION.**—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2008.

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

#### **SEC. 107. NEW CLEAN RENEWABLE ENERGY BONDS.**

(a) **IN GENERAL.**—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

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

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

“(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

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

“(3) the issuer designates such bond for purposes of this section.

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

“(c) **LIMITATION ON AMOUNT OF BONDS DESIGNATED.**—

“(1) **IN GENERAL.**—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

“(2) **NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.**—There is a national new clean renewable energy bond limitation of \$800,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

“(A) not more than 33½ percent thereof may be allocated to qualified projects of public power providers,

“(B) not more than 33½ percent thereof may be allocated to qualified projects of governmental bodies, and

“(C) not more than 33½ percent thereof may be allocated to qualified projects of cooperative electric companies.

“(3) **METHOD OF ALLOCATION.**—

“(A) **ALLOCATION AMONG PUBLIC POWER PROVIDERS.**—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

“(B) **ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.**—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

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

“(1) **QUALIFIED RENEWABLE ENERGY FACILITY.**—The term ‘qualified renewable energy facility’ means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

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

“(3) **GOVERNMENTAL BODY.**—The term ‘governmental body’ means any State or Indian tribal government, or any political subdivision thereof.

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

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

“(6) **QUALIFIED ISSUER.**—The term ‘qualified issuer’ means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.”.

(b) **CONFORMING AMENDMENTS.**—

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

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

“(A) a qualified forestry conservation bond, or

“(B) a new clean renewable energy bond,

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

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

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

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

“(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).”.

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

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

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

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

#### **SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.**

(a) **TREATMENT AS REFINED COAL.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 45(c)(7) of the Internal Revenue Code of 1986 (relating to refined coal), as amended by this Act, is amended to read as follows:

“(A) **IN GENERAL.**—The term ‘refined coal’ means a fuel—

“(i) which—

“(I) is a liquid, gaseous, or solid fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock,

“(II) is sold by the taxpayer with the reasonable expectation that it will be used for purpose of producing steam,

“(III) is certified by the taxpayer as resulting (when used in the production of steam) in a qualified emission reduction, and

“(IV) is produced in such a manner as to result in an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal, or

“(ii) which is steel industry fuel.”.

(2) **STEEL INDUSTRY FUEL DEFINED.**—Paragraph (7) of section 45(c) of such Code is amend-

ed by adding at the end the following new subparagraph:

“(C) **STEEL INDUSTRY FUEL.**—

“(i) **IN GENERAL.**—The term ‘steel industry fuel’ means a fuel which—

“(I) is produced through a process of liquifying coal waste sludge and distributing it on coal, and

“(II) is used as a feedstock for the manufacture of coke.

“(ii) **COAL WASTE SLUDGE.**—The term ‘coal waste sludge’ means the tar decanter sludge and related byproducts of the coking process, including such materials that have been stored in ground, in tanks and in lagoons, that have been treated as hazardous wastes under applicable Federal environmental rules absent liquefaction and processing with coal into a feedstock for the manufacture of coke.”.

(b) **CREDIT AMOUNT.**—

(1) **IN GENERAL.**—Paragraph (8) of section 45(e) of the Internal Revenue Code of 1986 (relating to refined coal production facilities) is amended by adding at the end the following new subparagraph:

“(D) **SPECIAL RULE FOR STEEL INDUSTRY FUEL.**—

“(i) **IN GENERAL.**—In the case of a taxpayer who produces steel industry fuel—

“(I) this paragraph shall be applied separately with respect to steel industry fuel and other refined coal, and

“(II) in applying this paragraph to steel industry fuel, the modifications in clause (ii) shall apply.

“(ii) **MODIFICATIONS.**—

“(I) **CREDIT AMOUNT.**—Subparagraph (A) shall be applied by substituting ‘\$2 per barrel-of-oil equivalent’ for ‘\$4.375 per ton’.

“(II) **CREDIT PERIOD.**—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the later of the date such facility was originally placed in service, the date the modifications described in clause (iii) were placed in service, or October 1, 2008, and ending on the later of December 31, 2009, or the date which is 1 year after the date such facility or the modifications described in clause (iii) were placed in service.

“(III) **NO PHASEOUT.**—Subparagraph (B) shall not apply.

“(iii) **MODIFICATIONS.**—The modifications described in this clause are modifications to an existing facility which allow such facility to produce steel industry fuel.

“(iv) **BARREL-OF-OIL EQUIVALENT.**—For purposes of this subparagraph, a barrel-of-oil equivalent is the amount of steel industry fuel that has a Btu content of 5,800,000 Btus.”.

(2) **INFLATION ADJUSTMENT.**—Paragraph (2) of section 45(b) of such Code is amended by inserting “the \$3 amount in subsection (e)(8)(D)(ii)(I),” after “subsection (e)(8)(A),”.

(c) **TERMINATION.**—Paragraph (8) of section 45(d) of the Internal Revenue Code of 1986 (relating to refined coal production facilities), as amended by this Act, is amended to read as follows:

“(8) **REFINED COAL PRODUCTION FACILITY.**—In the case of a facility that produces refined coal, the term ‘refined coal production facility’ means—

“(A) with respect to a facility producing steel industry fuel, any facility (or any modification to a facility) which is placed in service before January 1, 2010, and

“(B) with respect to any other facility producing refined coal, any facility placed in service after the date of the enactment of the American Jobs Creation Act of 2004 and before January 1, 2010.”.

(d) **COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**—

(1) **IN GENERAL.**—Subparagraph (B) of section 45(e)(9) of the Internal Revenue Code of 1986 is amended—

(A) by striking “The term” and inserting the following:

“(i) IN GENERAL.—The term”, and

(B) by adding at the end the following new clause:

“(ii) EXCEPTION FOR STEEL INDUSTRY COAL.—In the case of a facility producing steel industry fuel, clause (i) shall not apply to so much of the refined coal produced at such facility as is steel industry fuel.”.

(2) NO DOUBLE BENEFIT.—Section 45K(g)(2) of such Code is amended by adding at the end the following new subparagraph:

“(E) COORDINATION WITH SECTION 45.—No credit shall be allowed with respect to any qualified fuel which is steel industry fuel (as defined in section 45(c)(7)) if a credit is allowed to the taxpayer for such fuel under section 45.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced and sold after September 30, 2008.

#### SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

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

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

“(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term ‘qualified electric utility’ means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

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

“(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).”.

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

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

“(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term ‘exempt utility property’ shall not include any property which is located outside the United States.”.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

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

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

#### Subtitle B—Carbon Mitigation and Coal Provisions

#### SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

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

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

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

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

“(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

“(i) \$800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

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

“(iii) \$1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).”.

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

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

“(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

“(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.”.

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

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

“(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project’s total carbon dioxide emissions.”.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking “and” at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting “, and”, and by adding at the end the following new subparagraph:

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

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

“(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).”.

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

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

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

(C) by inserting after clause (ii) the following new clause:

“(iii) applicant participants who have a research partnership with an eligible educational

institution (as defined in section 529(e)(5)), and”.

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

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

“(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.”.

(e) EFFECTIVE DATES.—

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

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

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

#### SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

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

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

“(A) \$350,000,000, plus

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

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

“(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).”.

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

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

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

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

(e) ELIGIBLE PROJECTS INCLUDE TRANSPORTATION GRADE LIQUID FUELS.—Section 48B(c)(7) (defining eligible entity) is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) transportation grade liquid fuels.”.

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

#### SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX; FUNDING OF BLACK LUNG DISABILITY TRUST FUND.

(a) EXTENSION OF TEMPORARY INCREASE.—Paragraph (2) of section 4121(e) is amended—

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

(2) by striking “January 1 after 1981” in subparagraph (B) and inserting “December 31 after 2007”.

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

**(1) DEFINITIONS.—**For purposes of this subsection—

**(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—**The term “market value of the outstanding repayable advances, plus accrued interest” means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest payments are made on September 30 of the applicable fiscal year.

**(B) REFINANCING DATE.—**The term “refinancing date” means the date occurring 2 days after the enactment of this Act.

**(C) REPAYABLE ADVANCE.—**The term “repayable advance” means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

**(D) TREASURY RATE.—**The term “Treasury rate” means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

**(E) TREASURY 1-YEAR RATE.—**The term “Treasury 1-year rate” means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

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

**(A) TRANSFER TO GENERAL FUND.—**On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and conditions, including maturity, as the Secretary of the Treasury shall prescribe.

(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

**(B) REPAYMENT OF OBLIGATIONS.—**In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject

to such other terms and conditions as the Secretary of the Treasury shall prescribe.

**(C) AUTHORITY TO ISSUE OBLIGATIONS.—**The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

**(3) ONE-TIME APPROPRIATION.—**There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

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

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

**(4) PREPAYMENT OF TRUST FUND OBLIGATIONS.—**The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.

**SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.**

**(a) REFUND.—**

**(1) COAL PRODUCERS.—**

**(A) IN GENERAL.—**Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

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

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

**(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—**For purposes of this section—

**(i) IN GENERAL.—**If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

**(ii) AMOUNT OF PAYMENT.—**If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

**(iii) JUDGMENT DESCRIBED.—**A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

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

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

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

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

then the Secretary shall pay to such exporter an amount equal to \$0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

**(b) LIMITATIONS.—**Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term “settlement with the Federal Government” shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

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

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

**(1) COAL PRODUCER.—**The term “coal producer” means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

**(2) EXPORTER.—**The term “exporter” means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper’s export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

**(3) RELATED PARTY.—**The term “a party related to such coal producer” means a person who—

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

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or



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

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Treasury or the Secretary’s designee.

(e) **TIMING OF REFUND.**—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) **INTEREST.**—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) **DENIAL OF DOUBLE BENEFIT.**—The payment under subsection (a) with respect to any coal shall not exceed—

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

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

(h) **APPLICATION OF SECTION.**—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) **STANDING NOT CONFERRED.**—

(1) **EXPORTERS.**—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

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

#### **SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

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

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

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

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

“(A) captured by the taxpayer at a qualified facility, and

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

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

“(A) captured by the taxpayer at a qualified facility, and

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

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

“(1) **IN GENERAL.**—The term ‘qualified carbon dioxide’ means carbon dioxide captured from an industrial source which—

“(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and

“(B) is measured at the source of capture and verified at the point of disposal or injection.

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

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

“(1) which is owned by the taxpayer,

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

“(3) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year.

“(d) **SPECIAL RULES AND OTHER DEFINITIONS.**—For purposes of this section—

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

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

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

“(2) **SECURE GEOLOGICAL STORAGE.**—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seams under such conditions as the Secretary may determine under such regulations.

“(3) **TERTIARY INJECTANT.**—The term ‘tertiary injectant’ has the same meaning as when used within section 193(b)(1).

“(4) **QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.**—The term ‘qualified enhanced oil or natural gas recovery project’ has the meaning given the term ‘qualified enhanced oil recovery project’ by section 43(c)(2), by substituting ‘crude oil or natural gas’ for ‘crude oil’ in subparagraph (A)(i) thereof.

“(5) **CREDIT ATTRIBUTABLE TO TAXPAYER.**—Any credit under this section shall be attributable to the person that captures and physically or contractually ensures the disposal of or the use as a tertiary injectant of the qualified carbon dioxide, except to the extent provided in regulations prescribed by the Secretary.

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

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

“(A) such dollar amount, multiplied by

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

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

(b) **CONFORMING AMENDMENT.**—Section 38(b) (relating to general business credit) is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph

(33) and inserting “, plus”, and by adding at the end of following new paragraph:

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

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

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

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

#### **SEC. 116. CERTAIN INCOME AND GAINS RELATING TO INDUSTRIAL SOURCE CARBON DIOXIDE TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.**

(a) **IN GENERAL.**—Subparagraph (E) of section 7704(d)(1) (defining qualifying income) is amended by inserting “or industrial source carbon dioxide” after “timber”).

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

#### **SEC. 117. CARBON AUDIT OF THE TAX CODE.**

(a) **STUDY.**—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

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

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

#### **TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS**

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

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

“(3) **CELLULOSIC BIOFUEL.**—The term ‘cellulosic biofuel’ means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.”.

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

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

(2) by striking “CELLULOSIC BIOMASS ETHANOL” in the heading of such subsection and inserting “CELLULOSIC BIOFUEL”, and

(3) by striking “CELLULOSIC BIOMASS ETHANOL” in the heading of paragraph (2) thereof and inserting “CELLULOSIC BIOFUEL”.

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

##### **SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.**

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

(b) **INCREASE IN RATE OF CREDIT.**—

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

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

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

## (3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

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

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

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

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

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

(1) by striking “diesel fuel” and inserting “liquid fuel”,

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

(3) by inserting “, or other equivalent standard approved by the Secretary” after “D396”.

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

(1) IN GENERAL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new sentences: “Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term ‘biomass’ has the meaning given such term by section 45K(c)(3).”.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking “(as defined in section 45K(c)(3))”.

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Subsection (f) of section 40A (relating to renewable diesel) is amended by adding at the end the following new paragraph:

“(4) CERTAIN AVIATION FUEL.—

“(A) IN GENERAL.—Except as provided in the last 3 sentences of paragraph (3), the term ‘renewable diesel’ shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.

“(B) APPLICATION OF MIXTURE CREDITS.—In the case of fuel which is treated as renewable diesel solely by reason of subparagraph (A), subsection (b)(1) and section 6426(c) shall be applied with respect to such fuel by treating kerosene as though it were diesel fuel.”.

(f) MODIFICATION RELATING TO DEFINITION OF AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (relating to agri-biodiesel) is amended by striking “and mustard seeds” and inserting “mustard seeds, and camelina”.

(g) EFFECTIVE DATE.—

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

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

#### SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

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

“(7) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term ‘United States’ includes any possession of the United States.”.

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

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

(c) EXCISE TAX CREDIT.—

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

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

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

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

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

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

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

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

#### SEC. 204. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL CREDIT.

(a) EXTENSION.—

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

(2) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) (relating to alternative fuel mixture credit) is amended by striking “September 30, 2009” and inserting “December 31, 2009”.

(3) PAYMENTS.—Subparagraph (C) of section 6427(e)(5) (relating to termination) is amended by striking “September 30, 2009” and inserting “December 31, 2009”.

(b) MODIFICATIONS.—

(1) ALTERNATIVE FUEL TO INCLUDE COMPRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph (2) of section 6426(d) (relating to alternative fuel credit) is amended by striking “and” at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

“(F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and”.

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

(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN FUELS.—

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

“(4) CARBON CAPTURE REQUIREMENT.—

“(A) IN GENERAL.—The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility’s total carbon dioxide emissions.

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

“(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and

“(ii) 75 percent in the case of fuel produced after December 30, 2009.”.

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

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

#### SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

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

#### “SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

“(a) ALLOWANCE OF CREDIT.—

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

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

“(A) \$2,500, plus

“(B) \$417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours.

“(b) LIMITATIONS.—

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

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

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

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

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

“(2) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—

“(A) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

“(B) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2008, is at least 250,000.

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

“(i) 50 percent for the first 2 calendar quarters of the phaseout period,

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

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

“(D) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

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



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

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

“(3) which, in the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

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

“(B) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

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

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

“(6) which is made by a manufacturer.

“(d) APPLICATION WITH OTHER CREDITS.—

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

“(2) PERSONAL CREDIT.—

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

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

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

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

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

“(2) OTHER TERMS.—The terms ‘passenger automobile’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

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

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

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

“(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person

who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

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

“(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

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

“(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

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

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

“(f) REGULATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

“(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

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

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

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

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting “plus”, and by adding at the end the following new paragraph:

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

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 106, is amended by striking “and 25D” and inserting “25D, and 30D”.

(B) Section 25(e)(1)(C)(ii) is amended by inserting “30D,” after “25D.”

(C) Section 25B(g)(2), as amended by section 106, is amended by striking “and 25D” and inserting “, 25D, and 30D”.

(D) Section 26(a)(1), as amended by section 106, is amended by striking “and 25D” and inserting “25D, and 30D”.

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

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

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

(3) Section 6501(m) is amended by inserting “30D(e)(9),” after “30C(e)(5),”.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

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

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

(f) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

#### SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

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

“(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

“(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

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

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

#### SEC. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

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

“(C) Electricity.”

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

#### SEC. 208. 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.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1), as amended by this Act, is amended by striking “or industrial source carbon dioxide” and inserting “, industrial source carbon dioxide, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)” after “timber”.

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

**SEC. 209. EXTENSION AND MODIFICATION OF ELECTION TO EXPENSE CERTAIN REFINERIES.**

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

(1) by striking “January 1, 2012” in subparagraph (B) and inserting “January 1, 2014”, and

(2) by striking “January 1, 2008” each place it appears in subparagraph (F) and inserting “January 1, 2010”.

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

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

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

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

**SEC. 210. EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

Subparagraph (H) of section 613A(c)(6) (relating to oil and gas produced from marginal properties) is amended by striking “for any taxable year” and all that follows and inserting “for any taxable year—

“(i) beginning after December 31, 1997, and before January 1, 2008, or

“(ii) beginning after December 31, 2008, and before January 1, 2010.”.

**SEC. 211. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.**

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

“(D) Any qualified bicycle commuting reimbursement.”.

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

“(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.”.

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

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

“(i) **QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.**—The term ‘qualified bicycle commuting reimbursement’ means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee’s residence and place of employment.

“(ii) **APPLICABLE ANNUAL LIMITATION.**—The term ‘applicable annual limitation’ means, with respect to any employee for any calendar year, the product of \$20 multiplied by the number of qualified bicycle commuting months during such year.

“(iii) **QUALIFIED BICYCLE COMMUTING MONTH.**—The term ‘qualified bicycle commuting month’ means, with respect to any employee, any month during which such employee—

“(I) regularly uses the bicycle for a substantial portion of the travel between the employee’s residence and place of employment, and

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

(d) **CONSTRUCTIVE RECEIPT OF BENEFIT.**—Paragraph (4) of section 132(f) is amended by in-

serting “(other than a qualified bicycle commuting reimbursement)” after “qualified transportation fringe”.

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

**TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS****SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.**

(a) **IN GENERAL.**—Subpart I of part IV of subchapter A of chapter 1, as amended by section 107, is amended by adding at the end the following new section:

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

“(a) **QUALIFIED ENERGY CONSERVATION BOND.**—For purposes of this subchapter, the term ‘qualified energy conservation bond’ means any bond issued as part of an issue if—

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

“(2) the bond is issued by a State or local government, and

“(3) the issuer designates such bond for purposes of this section.

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

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

“(d) **NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.**—There is a national qualified energy conservation bond limitation of \$800,000,000.

“(e) **ALLOCATIONS.**—

“(1) **IN GENERAL.**—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

“(2) **ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.**—

“(A) **IN GENERAL.**—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State’s allocation which bears the same ratio to the State’s allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

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

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

“(3) **ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.**—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

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

“(1) **IN GENERAL.**—The term ‘qualified conservation purpose’ means any of the following:

“(A) Capital expenditures incurred for purposes of—

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

“(ii) implementing green community programs,

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

“(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

“(B) Expenditures with respect to research facilities, and research grants, to support research in—

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

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

“(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

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

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

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

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

“(i) green building technology,

“(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

“(iii) advanced battery manufacturing technologies,

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

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

“(E) Public education campaigns to promote energy efficiency.

“(2) **SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.**—For purposes of this section, in the case of any private activity bond, the term ‘qualified conservation purposes’ shall not include any expenditure which is not a capital expenditure.

“(g) **POPULATION.**—

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

“(2) **SPECIAL RULE FOR COUNTIES.**—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

“(h) **APPLICATION TO INDIAN TRIBAL GOVERNMENTS.**—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

“(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

“(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended to read as follows:

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

“(A) a qualified forestry conservation bond,

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

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

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, is amended to read as follows:

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

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

“(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

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

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

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

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

#### SEC. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

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

“(1) after December 31, 2007, and before January 1, 2009, or

“(2) after December 31, 2009.”.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking “and” at the end of subparagraph (D),

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

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

“(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.”.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

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

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

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

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsections (b) and (c), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

“(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

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

“(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.”.

(e) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

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

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

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

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

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2008.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (e) shall apply to property placed in service after the date of the enactment of this Act.

#### SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

#### SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

#### SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

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

“(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

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

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

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

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

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

“(B) \$125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

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

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

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

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

“(B) \$75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but not more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

“(C) \$100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

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

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

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

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

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

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking “3-calendar year” and inserting “2-calendar year”.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M is amended to read as follows:

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

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

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

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

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

“(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.”.

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

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

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

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

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

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

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

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

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

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

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

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

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

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

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

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

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

**SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.**

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

“(iii) any qualified smart electric meter, and  
“(iv) any qualified smart electric grid system.”

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

“(18) QUALIFIED SMART ELECTRIC METERS.—

“(A) IN GENERAL.—The term ‘qualified smart electric meter’ means any smart electric meter which—

“(i) is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

“(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

“(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term ‘smart electric meter’ means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

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

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

“(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

“(iv) provides net metering.

“(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

“(A) IN GENERAL.—The term ‘qualified smart electric grid system’ means any smart grid property which—

“(i) is used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

“(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

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

“(i) sensing, collecting, and monitoring data of or from all portions of a utility’s electric distribution grid,

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

“(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.”

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking “or” at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

“(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or”.

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

**SEC. 307. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.**

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking “September 30, 2009” and inserting “September 30, 2012”.

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

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

**SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.**

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

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

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

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

“(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

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

“(i) to which this section applies,

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

“(iii) the original use of which commences with the taxpayer after August 31, 2008, and

“(iv) which is—

“(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or

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

“(B) EXCEPTIONS.—

“(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (k).—The term ‘qualified reuse and recycling property’ shall not include any property to which section 168(k) applies.

“(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified reuse and recycling property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

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

“(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.

“(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alter-

native minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) REUSE AND RECYCLING PROPERTY.—

“(i) IN GENERAL.—The term ‘reuse and recycling property’ means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.

“(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.

“(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—

“(i) IN GENERAL.—The term ‘qualified reuse and recyclable materials’ means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.

“(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term ‘electronic scrap’ means—

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

“(II) any central processing unit.

“(C) RECYCLING OR RECYCLE.—The term ‘recycling’ or ‘recycle’ means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.”

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

**TITLE IV—REVENUE PROVISIONS**

**SEC. 401. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

“(A) IN GENERAL.—If a taxpayer has oil related qualified production activities income for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under subsection (a) shall be reduced by 3 percent of the least of—

“(i) the oil related qualified production activities income of the taxpayer for the taxable year,

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

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

“(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this paragraph, the term ‘oil related qualified production activities income’ means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.

“(C) PRIMARY PRODUCT.—For purposes of this paragraph, the term ‘primary product’ has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.”

(b) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking “subsection (a)(1)(B)” and inserting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

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

**SEC. 402. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.**

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

“(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

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

“(2) multiplied by—

“(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

“(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

“(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

“(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term ‘combined foreign oil and gas income’ means, with respect to any taxable year, the sum of—

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

“(B) foreign oil related income.

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

“(A) oil and gas extraction taxes, and

“(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.”.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

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

“(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

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

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

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

“(B) REDUCTION FOR PRE-2009 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

“(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

“(ii) the excess of—

“(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2009, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Improvement and Extension Act of 2008) for preceding taxable years beginning after December 31, 1982.

“(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

“(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

“(ii) the excess of—

“(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

“(D) FOREIGN OIL AND GAS LOSS DEFINED.—

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

“(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

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

“(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

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

“(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

“(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft, to the extent such loss is not compensated for by insurance or otherwise.

“(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Improvement and Extension Act of 2008.”.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

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

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

“(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

“(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

“(i) by substituting ‘oil and gas extraction taxes’ for ‘foreign oil and gas taxes’ each place it appears in paragraphs (1), (2), and (3), and

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

“(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Energy Improvement and Extension Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.”.

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

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

**SEC. 403. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.**

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 is amended by adding at the end the following new subsection:

“(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS, ETC.—

“(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

“(2) ADDITIONAL INFORMATION REQUIRED.—

“(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

“(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The customer's adjusted basis shall be determined—

“(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

“(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

“(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

“(3) COVERED SECURITY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘covered security’ means any specified security acquired on or after the applicable date if such security—

“(i) was acquired through a transaction in the account in which such security is held, or

“(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

“(B) SPECIFIED SECURITY.—The term ‘specified security’ means—

“(i) any share of stock in a corporation,

“(ii) any note, bond, debenture, or other evidence of indebtedness,

“(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

“(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

“(C) APPLICABLE DATE.—The term ‘applicable date’ means—

“(i) January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

“(ii) January 1, 2012, in the case of any stock for which an average basis method is permissible under section 1012, and

“(iii) January 1, 2013, or such later date determined by the Secretary in the case of any other specified security.

“(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

“(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.”.

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

“(h) APPLICATION TO OPTIONS ON SECURITIES.—

“(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

“(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

“(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2013.

“(4) DEFINITIONS.—For purposes of this subsection, the terms ‘covered security’ and ‘specified security’ shall have the meanings given such terms in subsection (g)(3).”.

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking “January 31” and inserting “February 15”.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking “at such time and”, and

(ii) by inserting after “other item.” the following new sentence: “The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.”.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: “In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.”.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 is amended—

(1) by striking “The basis of property” and inserting the following:

“(a) IN GENERAL.—The basis of property”,

(2) by striking “The cost of real property” and inserting the following:

“(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property”, and

(3) by adding at the end the following new subsections:

“(c) DETERMINATIONS BY ACCOUNT.—

“(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this sec-

tion shall be applied on an account by account basis.

“(2) APPLICATION TO CERTAIN FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any stock for which an average basis method is permissible under section 1012 which is acquired before January 1, 2012, shall be treated as a separate account from any such stock acquired on or after such date.

“(B) ELECTION FUND FOR TREATMENT AS SINGLE ACCOUNT.—If a fund described in subparagraph (A) elects to have this subparagraph apply with respect to one or more of its stockholders—

“(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

“(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding such stock as a nominee.

“(3) DEFINITIONS.—For purposes of this section, the terms ‘specified security’ and ‘applicable date’ shall have the meaning given such terms in section 6045(g).

“(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

“(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

“(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

“(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

“(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘dividend reinvestment plan’ means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

“(B) INITIAL STOCK ACQUISITION TREATED AS ACQUIRED IN CONNECTION WITH PLAN.—Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.”.

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

**“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.**

“(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

“(b) APPLICABLE PERSON.—For purposes of subsection (a), the term ‘applicable person’ means—

“(1) any broker (as defined in section 6045(c)(1)), and

“(2) any other person as provided by the Secretary in regulations.

“(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.”.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating subparagraphs (I) through (DD) as subparagraphs (J) through (EE), respectively, and by inserting after subparagraph (H) the following new subparagraph:

“(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered securities to brokers.”.

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

**“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.**

“(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

“(1) a description of any organizational action which affects the basis of such specified security of such issuer,

“(2) the quantitative effect on the basis of such specified security resulting from such action, and

“(3) such other information as the Secretary may prescribe.

“(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

“(1) 45 days after the date of the action described in subsection (a), or

“(2) January 15 of the year following the calendar year during which such action occurred.

“(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return,

“(2) the information required to be shown on such return with respect to such security, and

“(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

“(d) SPECIFIED SECURITY.—For purposes of this section, the term ‘specified security’ has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

“(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make



the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

“(1) the name, address, phone number, and email address of the information contact of such person, and

“(2) the information described in paragraphs (1), (2), and (3) of subsection (a).”.

(2) **ASSESSABLE PENALTIES.**—

(A) Subparagraph (B) of section 6724(d)(1), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xiii), respectively, and by inserting after clause (iii) the following new clause:

“(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),”.

(B) Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008 and by subsection (c)(2), is amended by redesignating subparagraphs (J) through (EE) as subparagraphs (K) through (FF), respectively, and by inserting after subparagraph (I) the following new subparagraph:

“(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),”.

(3) **CLERICAL AMENDMENT.**—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securities.”.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2011.

(2) **EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.**—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

**SEC. 404. 0.2 PERCENT FUTA SURTAX.**

(a) **IN GENERAL.**—Section 3301 (relating to rate of tax) is amended—

(1) by striking “through 2008” in paragraph (1) and inserting “through 2009”, and

(2) by striking “calendar year 2009” in paragraph (2) and inserting “calendar year 2010”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to wages paid after December 31, 2008.

**SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABILITY TRUST FUND TAX.**

(a) **INCREASE IN RATE.**—

(1) **IN GENERAL.**—Section 4611(c)(2)(B) (relating to rates) is amended by striking “is 5 cents a barrel.” and inserting “is—

“(i) in the case of crude oil received or petroleum products entered before January 1, 2017, 8 cents a barrel, and

“(ii) in the case of crude oil received or petroleum products entered after December 31, 2016, 9 cents a barrel.”.

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

(b) **EXTENSION.**—

(1) **IN GENERAL.**—Section 4611(f) (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (2) and (3) and inserting the following new paragraph:

“(2) **TERMINATION.**—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2017.”.

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

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

**DIVISION B—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF**

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This division may be cited as the “Tax Extenders and Alternative Minimum Tax Relief Act of 2008”.

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

(c) **TABLE OF CONTENTS.**—The table of contents of this division is as follows:

**DIVISION B—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF**

Sec. 1. Short title; amendment of 1986 Code; table of contents.

**TITLE I—ALTERNATIVE MINIMUM TAX RELIEF**

Sec. 101. Extension of alternative minimum tax relief for nonrefundable personal credits.

Sec. 102. Extension of increased alternative minimum tax exemption amount.

Sec. 103. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

**TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS**

Sec. 201. Deduction for State and local sales taxes.

Sec. 202. Deduction of qualified tuition and related expenses.

Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.

Sec. 204. Additional standard deduction for real property taxes for nonitemizers.

Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.

Sec. 206. Treatment of certain dividends of regulated investment companies.

Sec. 207. Stock in RIC for purposes of determining estates of nonresidents not citizens.

Sec. 208. Qualified investment entities.

**TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS**

Sec. 301. Extension and modification of research credit.

Sec. 302. New markets tax credit.

Sec. 303. Subpart F exception for active financing income.

Sec. 304. Extension of look-thru rule for related controlled foreign corporations.

Sec. 305. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.

Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations.

Sec. 307. Basis adjustment to stock of S corporations making charitable contributions of property.

Sec. 308. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.

Sec. 309. Extension of economic development credit for American Samoa.

Sec. 310. Extension of mine rescue team training credit.

Sec. 311. Extension of election to expense advanced mine safety equipment.

Sec. 312. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.

Sec. 313. Qualified zone academy bonds.

Sec. 314. Indian employment credit.

Sec. 315. Accelerated depreciation for business property on Indian reservations.

Sec. 316. Railroad track maintenance.

Sec. 317. Seven-year cost recovery period for motorsports racing track facility.

Sec. 318. Expensing of environmental remediation costs.

Sec. 319. Extension of work opportunity tax credit for Hurricane Katrina employees.

Sec. 320. Extension of increased rehabilitation credit for structures in the Gulf Opportunity Zone.

Sec. 321. Enhanced deduction for qualified computer contributions.

Sec. 322. Tax incentives for investment in the District of Columbia.

Sec. 323. Enhanced charitable deductions for contributions of food inventory.

Sec. 324. Extension of enhanced charitable deduction for contributions of book inventory.

Sec. 325. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.

**TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS**

Sec. 401. Permanent authority for undercover operations.

Sec. 402. Permanent authority for disclosure of information relating to terrorist activities.

**TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS**

**Subtitle A—General Provisions**

Sec. 501. \$8,500 income threshold used to calculate refundable portion of child tax credit.

Sec. 502. Provisions related to film and television productions.

Sec. 503. Exemption from excise tax for certain wooden arrows designed for use by children.

Sec. 504. Income averaging for amounts received in connection with the Exxon Valdez litigation.

Sec. 505. Certain farming business machinery and equipment treated as 5-year property.

Sec. 506. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

**Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008**

Sec. 511. Short title.

Sec. 512. Mental health parity.

**TITLE VI—OTHER PROVISIONS**

Sec. 601. Secure rural schools and community self-determination program.

Sec. 602. Transfer to abandoned mine reclamation fund.

**TITLE VII—DISASTER RELIEF**

**Subtitle A—Heartland and Hurricane Ike Disaster Relief**

Sec. 701. Short title.

Sec. 702. Temporary tax relief for areas damaged by 2008 Midwestern severe storms, tornadoes, and flooding.

Sec. 703. Reporting requirements relating to disaster relief contributions.

Sec. 704. Temporary tax-exempt bond financing and low-income housing tax relief for areas damaged by Hurricane Ike.

**Subtitle B—National Disaster Relief**

Sec. 706. Losses attributable to federally declared disasters.

Sec. 707. Expensing of Qualified Disaster Expenses.

Sec. 708. Net operating losses attributable to federally declared disasters.

Sec. 709. Waiver of certain mortgage revenue bond requirements following federally declared disasters.

Sec. 710. Special depreciation allowance for qualified disaster property.

Sec. 711. Increased expensing for qualified disaster assistance property.

Sec. 712. Coordination with Heartland disaster relief.

**TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY**

Sec. 801. Nonqualified deferred compensation from certain tax indifferent parties.

**TITLE I—ALTERNATIVE MINIMUM TAX RELIEF**

**SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2007) is amended—

(1) by striking “or 2007” and inserting “2007, or 2008”, and

(2) by striking “2007” in the heading thereof and inserting “2008”.

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

**SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.**

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking “(\$66,250 in the case of taxable years beginning in 2007)” in subparagraph (A) and inserting “(\$69,950 in the case of taxable years beginning in 2008)”, and

(2) by striking “(\$44,350 in the case of taxable years beginning in 2007)” in subparagraph (B) and inserting “(\$46,200 in the case of taxable years beginning in 2008)”.

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

**SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS FOR PRIOR YEAR MINIMUM TAX LIABILITY, ETC.**

(a) IN GENERAL.—Paragraph (2) of section 53(e) is amended to read as follows:

“(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1), the term ‘AMT refundable credit amount’ means, with respect to any taxable year, the amount (not in excess of the long-term unused minimum tax credit for such taxable year) equal to the greater of—

“(A) 50 percent of the long-term unused minimum tax credit for such taxable year, or

“(B) the amount (if any) of the AMT refundable credit amount determined under this paragraph for the taxpayer’s preceding taxable year (determined without regard to subsection (f)(2)).”.

(b) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 53 is amended by adding at the end the following new subsection:

“(f) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—

“(1) ABATEMENT.—Any underpayment of tax outstanding on the date of the enactment of this subsection which is attributable to the application of section 56(b)(3) for any taxable year ending before January 1, 2008, and any interest or penalty with respect to such underpayment which is outstanding on such date of enactment, is hereby abated. The amount determined under subsection (b)(1) shall not include any tax abated under the preceding sentence.

“(2) INCREASE IN CREDIT FOR CERTAIN INTEREST AND PENALTIES ALREADY PAID.—The AMT

refundable credit amount, and the minimum tax credit determined under subsection (b), for the taxpayer’s first 2 taxable years beginning after December 31, 2007, shall each be increased by 50 percent of the aggregate amount of the interest and penalties which were paid by the taxpayer before the date of the enactment of this subsection and which would (but for such payment) have been abated under paragraph (1).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) ABATEMENT.—Section 53(f)(1), as added by subsection (b), shall take effect on the date of the enactment of this Act.

**TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS**

**SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES TAXES.**

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking “January 1, 2008” and inserting “January 1, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RELATED EXPENSES.**

(a) IN GENERAL.—Subsection (e) of section 222 (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain expenses of elementary and secondary school teachers) is amended by striking “or 2007” and inserting “2007, 2008, or 2009”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

**SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.**

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1), as added by the Housing Assistance Tax Act of 2008, is amended by inserting “or 2009” after “2008”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2007.

**SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.**

(a) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) (defining interest-related dividend) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) (defining short-term capital gain dividend) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2007.

**SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING ESTATES OF NON-RESIDENTS NOT CITIZENS.**

(a) IN GENERAL.—Paragraph (3) of section 2105(d) (relating to stock in a RIC) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to decedents dying after December 31, 2007.

**SEC. 208. QUALIFIED INVESTMENT ENTITIES.**

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008.

**TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS**

**SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009” in paragraph (1)(B).

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) (relating to special rule) is amended by striking “after December 31, 2007” and inserting “after December 31, 2009”.

(b) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—Section 41(h) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

“(2) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—No election under subsection (c)(4) shall apply to taxable years beginning after December 31, 2008.”.

(c) MODIFICATION OF ALTERNATIVE SIMPLIFIED CREDIT.—Paragraph (5)(A) of section 41(c) (relating to election of alternative simplified credit) is amended by striking “12 percent” and inserting “14 percent (12 percent in the case of taxable years ending before January 1, 2009)”.

(d) TECHNICAL CORRECTION.—Paragraph (3) of section 41(h) is amended to read as follows:

“(2) COMPUTATION FOR TAXABLE YEAR IN WHICH CREDIT TERMINATES.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year—

“(A) the amount determined under subsection (c)(1)(B) with respect to such taxable year shall be the amount which bears the same ratio to such amount (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year, and

“(B) for purposes of subsection (c)(5), the average qualified research expenses for the preceding 3 taxable years shall be the amount which bears the same ratio to such average qualified research expenses (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) EXTENSION.—The amendments made by subsection (a) shall apply to amounts paid or incurred after December 31, 2007.

**SEC. 302. NEW MARKETS TAX CREDIT.**

Subparagraph (D) of section 45D(f)(1) (relating to national limitation on amount of investments designated) is amended by striking “and 2008” and inserting “2008, and 2009”.

**SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.**

(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(1) by striking “January 1, 2009” and inserting “January 1, 2010”, and

(2) by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking “January 1, 2009” and inserting “January 1, 2010”.

**SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.**

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) (relating to application) is amended by striking “January 1, 2009” and inserting “January 1, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

**SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.**

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking “January 1, 2008” and inserting “January 1, 2010”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2007.

(b) TREATMENT TO INCLUDE NEW CONSTRUCTION.—

(1) IN GENERAL.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

“(7) QUALIFIED RESTAURANT PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified restaurant property’ means any section 1250 property which is—

“(i) a building, if such building is placed in service after December 31, 2008, and before January 1, 2010, or

“(ii) an improvement to a building, if more than 50 percent of the building’s square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

“(B) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2008.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking “and” at the end of clause (vii), by striking the period at the end of clause (viii) and inserting “, and”, and by adding at the end the following new clause:

“(ix) any qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2010.”.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

“(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified retail improvement property’ means any improvement to an interior portion of a building which is nonresidential real property if—

“(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

“(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

“(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

“(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefitting a common area, or

“(iv) the internal structural framework of the building.

“(D) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).

“(E) TERMINATION.—Such term shall not include any improvement placed in service after December 31, 2009.”.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

“(1) Qualified retail improvement property described in subsection (e)(8).”.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

“(E)(ix) ..... 39”.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2008.

**SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2007.

**SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.**

(a) IN GENERAL.—The last sentence of section 1367(a)(2) (relating to decreases in basis) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

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

**SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAX TO PUERTO RICO AND THE VIRGIN ISLANDS.**

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2008” and inserting “January 1, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2007.

**SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CREDIT FOR AMERICAN SAMOA.**

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking “first two taxable years” and inserting “first 4 taxable years”, and

(2) by striking “January 1, 2008” and inserting “January 1, 2010”.

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

**SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.**

Section 45N(e) (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

**SEC. 311. EXTENSION OF ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.**

Section 179E(g) (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

**SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.**

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) (relating to termination) is amended—

(1) by striking “first 2 taxable years” and inserting “first 4 taxable years”, and

(2) by striking “January 1, 2008” and inserting “January 1, 2010”.

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

**SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

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

**“SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.**

“(a) QUALIFIED ZONE ACADEMY BONDS.—For purposes of this subchapter, the term ‘qualified zone academy bond’ means any bond issued as part of an issue if—

“(1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

“(2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and

“(3) the issuer—

“(A) designates such bond for purposes of this section,

“(B) certifies that it has written assurances that the private business contribution requirement of subsection (b) will be met with respect to such academy, and

“(C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

“(b) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—For purposes of subsection (a), the private business contribution requirement of this subsection is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

“(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is \$400,000,000 for 2008 and 2009, and, except as provided in paragraph (4), zero thereafter.

“(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

“(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

“(4) CARRYOVER OF UNUSED LIMITATION.—

“(A) IN GENERAL.—If for any calendar year—

“(i) the limitation amount for any State, exceeds

“(ii) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

“(B) **LIMITATION ON CARRYOVER.**—Any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.

“(C) **COORDINATION WITH SECTION 1397E.**—Any carryover determined under section 1397E(e)(4) (relating to carryover of unused limitation) with respect to any State to calendar year 2008 or 2009 shall be treated for purposes of this section as a carryover with respect to such State for such calendar year under subparagraph (A), and the limitation of subparagraph (B) shall apply to such carryover taking into account the calendar years to which such carryover relates.

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

“(1) **QUALIFIED ZONE ACADEMY.**—The term ‘qualified zone academy’ means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

“(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

“(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

“(C) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

“(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

“(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

“(2) **ELIGIBLE LOCAL EDUCATION AGENCY.**—For purposes of this section, the term ‘eligible local education agency’ means any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

“(3) **QUALIFIED PURPOSE.**—The term ‘qualified purpose’ means, with respect to any qualified zone academy—

“(A) rehabilitating or repairing the public school facility in which the academy is established,

“(B) providing equipment for use at such academy,

“(C) developing course materials for education to be provided at such academy, and

“(D) training teachers and other school personnel in such academy.

“(4) **QUALIFIED CONTRIBUTIONS.**—The term ‘qualified contribution’ means any contribution (of a type and quality acceptable to the eligible local education agency) of—

“(A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

“(B) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

“(C) services of employees as volunteer mentors,

“(D) internships, field trips, or other educational opportunities outside the academy for students, or

“(E) any other property or service specified by the eligible local education agency.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended by striking “or” at the end of subparagraph (B), by inserting “or” at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

“(D) a qualified zone academy bond.”.

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1).”.

(3) Section 1397E is amended by adding at the end the following new subsection:

“(m) **TERMINATION.**—This section shall not apply to any obligation issued after the date of the enactment of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.”.

(4) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 54E. Qualified zone academy bonds.”.

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

#### SEC. 314. INDIAN EMPLOYMENT CREDIT.

(a) **IN GENERAL.**—Subsection (f) of section 45A (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

#### SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS.

(a) **IN GENERAL.**—Paragraph (8) of section 168(j) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

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

#### SEC. 316. RAILROAD TRACK MAINTENANCE.

(a) **IN GENERAL.**—Subsection (f) of section 45G (relating to application of section) is amended by striking “January 1, 2008” and inserting “January 1, 2010”.

(b) **CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.**—Subparagraph (B) of section 38(c)(4), as amended by this Act, is amended—

(1) by redesignating clauses (v), (vi), and (vii) as clauses (vi), (vii), and (viii), respectively, and

(2) by inserting after clause (iv) the following new clause:

“(v) the credit determined under section 45G.”.

(c) **EFFECTIVE DATES.**—

(1) The amendment made by subsection (a) shall apply to expenditures paid or incurred during taxable years beginning after December 31, 2007.

(2) The amendments made by subsection (b) shall apply to credits determined under section 45G of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2007, and to carrybacks of such credits.

#### SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MOTORSPORTS RACING TRACK FACILITY.

(a) **IN GENERAL.**—Subparagraph (D) of section 168(i)(15) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

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

#### SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) **IN GENERAL.**—Subsection (h) of section 198 (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2007.

#### SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.

(a) **IN GENERAL.**—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking “2-year” and inserting “4-year”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2007.

#### SEC. 320. EXTENSION OF INCREASED REHABILITATION CREDIT FOR STRUCTURES IN THE GULF OPPORTUNITY ZONE.

(a) **IN GENERAL.**—Subsection (h) of section 1400N is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act.

#### SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COMPUTER CONTRIBUTIONS.

(a) **IN GENERAL.**—Subparagraph (G) of section 170(e)(6) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made during taxable years beginning after December 31, 2007.

#### SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) **DESIGNATION OF ZONE.**—

(1) **IN GENERAL.**—Subsection (f) of section 1400 is amended by striking “2007” both places it appears and inserting “2009”.

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to periods beginning after December 31, 2007.

(b) **TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.**—

(1) **IN GENERAL.**—Subsection (b) of section 1400A is amended by striking “2007” and inserting “2009”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to bonds issued after December 31, 2007.

(c) **ZERO PERCENT CAPITAL GAINS RATE.**—

(1) **IN GENERAL.**—Subsection (b) of section 1400B is amended by striking “2008” each place it appears and inserting “2010”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 1400B(e)(2) is amended—

(i) by striking “2012” and inserting “2014”, and

(ii) by striking “2012” in the heading thereof and inserting “2014”.

(B) Section 1400B(g)(2) is amended by striking “2012” and inserting “2014”.

(C) Section 1400F(d) is amended by striking “2012” and inserting “2014”.

(3) **EFFECTIVE DATES.**—

(A) **EXTENSION.**—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2007.

(B) **CONFORMING AMENDMENTS.**—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) **FIRST-TIME HOMEBUYER CREDIT.**—

(1) **IN GENERAL.**—Subsection (i) of section 1400C is amended by striking “2008” and inserting “2010”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to property purchased after December 31, 2007.

#### SEC. 323. ENHANCED CHARITABLE DEDUCTIONS FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) **INCREASED AMOUNT OF DEDUCTION.**—

(1) **IN GENERAL.**—Clause (iv) of section 170(e)(3)(C) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to contributions made after December 31, 2007.

(b) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 170(b) is amended by adding at the end the following new paragraph: “(3) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—In the case of a qualified farmer or rancher (as defined in paragraph (1)(E)(v)), any charitable contribution of food—

“(A) to which subsection (e)(3)(C) applies (without regard to clause (ii) thereof), and

“(B) which is made during the period beginning on the date of the enactment of this paragraph and before January 1, 2009,

shall be treated for purposes of paragraph (1)(E) or (2)(B), whichever is applicable, as if it were a qualified conservation contribution which is made by a qualified farmer or rancher and which otherwise meets the requirements of such paragraph.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

#### SEC. 324. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) EXTENSION.—Clause (iv) of section 170(e)(3)(D) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) (relating to certification by donee) is amended by inserting “of books” after “to any contribution”.

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

#### SEC. 325. EXTENSION AND MODIFICATION OF DUTY SUSPENSION ON WOOL PRODUCTS; WOOL RESEARCH FUND; WOOL DUTY REFUNDS.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective period column and inserting “12/31/2014”:

(1) Heading 9902.51.11 (relating to fabrics of worsted wool).

(2) Heading 9902.51.13 (relating to yarn of combed wool).

(3) Heading 9902.51.14 (relating to wool fiber, waste, garnetted stock, combed wool, or wool top).

(4) Heading 9902.51.15 (relating to fabrics of combed wool).

(5) Heading 9902.51.16 (relating to fabrics of combed wool).

(b) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—Section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108-429; 118 Stat. 2603) is amended—

(A) in paragraph (3)(C), by striking “2010” and inserting “2015”; and

(B) in paragraph (6)(A), by striking “through 2009” and inserting “through 2014”.

(2) SUNSET.—Section 506(f) of the Trade and Development Act of 2000 (Public 106-200; 114 Stat. 303 (7 U.S.C. 7101 note)) is amended by striking “2010” and inserting “2015”.

#### TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

##### SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Section 7608(c) (relating to rules relating to undercover operations) is amended by striking paragraph (6).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to operations conducted after the date of the enactment of this Act.

##### SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF INFORMATION RELATING TO TERRORIST ACTIVITIES.

(a) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF TERRORIST

ACTIVITIES.—Subparagraph (C) of section 6103(i)(3) is amended by striking clause (iv).

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES.—Paragraph (7) of section 6103(i) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures after the date of the enactment of this Act.

#### TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

##### Subtitle A—General Provisions

##### SEC. 501. \$8,500 INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(d) is amended by adding at the end the following new paragraph:

“(4) SPECIAL RULE FOR 2008.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2008, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be \$8,500.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

##### SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION PRODUCTIONS.

(a) EXTENSION OF EXPENSING RULES FOR QUALIFIED FILM AND TELEVISION PRODUCTIONS.—Section 181(f) (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) MODIFICATION OF LIMITATION ON EXPENSING.—Subparagraph (A) of section 181(a)(2) is amended to read as follows:

“(A) IN GENERAL.—Paragraph (1) shall not apply to so much of the aggregate cost of any qualified film or television production as exceeds \$15,000,000.”.

(c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC ACTIVITIES.—

(1) DETERMINATION OF W-2 WAGES.—Paragraph (2) of section 199(b) is amended by adding at the end the following new subparagraph:

“(D) SPECIAL RULE FOR QUALIFIED FILM.—In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.”.

(2) DEFINITION OF QUALIFIED FILM.—Paragraph (6) of section 199(c) is amended by adding at the end the following: “A qualified film shall include any copyrights, trademarks, or other intangibles with respect to such film. The methods and means of distributing a qualified film shall not affect the availability of the deduction under this section.”.

(3) PARTNERSHIPS.—Subparagraph (A) of section 199(d)(1) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of each partner of a partnership, or shareholder of an S corporation, who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or of the stock of such S corporation—

“(I) such partner or shareholder shall be treated as having engaged directly in any film produced by such partnership or S corporation, and

“(II) such partnership or S corporation shall be treated as having engaged directly in any film produced by such partner or shareholder.”.

(d) CONFORMING AMENDMENT.—Section 181(d)(3)(A) is amended by striking “actors” and all that follows and inserting “actors, production personnel, directors, and producers.”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to qualified film and television productions commencing after December 31, 2007.

(2) DEDUCTION.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2007.

##### SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN WOODEN ARROWS DESIGNED FOR USE BY CHILDREN.

(a) IN GENERAL.—Paragraph (2) of section 4161(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) EXEMPTION FOR CERTAIN WOODEN ARROW SHAFTS.—Subparagraph (A) shall not apply to any shaft consisting of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—

“(i) measures  $\frac{5}{16}$  of an inch or less in diameter, and

“(ii) is not suitable for use with a bow described in paragraph (1)(A).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to shafts first sold after the date of enactment of this Act.

##### SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

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

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

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

(B) the amount of qualified settlement income received by the individual during the taxable year.

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

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

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

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

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

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

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

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

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

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

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term “eligible retirement plan” has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

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

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

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

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

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

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

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term “qualified settlement income” means any interest and punitive damage awards which are—

(1) otherwise includible in taxable income, and

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

#### SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND EQUIPMENT TREATED AS 5-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(B) (defining 5-year property) is amended by striking “and” at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting “, and”, and by inserting after clause (vi) the following new clause:

“(vii) any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business (as defined in section 263A(e)(4)), the original use of which commences with the taxpayer after December 31, 2008, and which is placed in service before January 1, 2010.”.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special

rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (B)(iii) the following:

(B)(vii) ..... 10”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

#### SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY TAX RETURN PREPARER.

(a) IN GENERAL.—Subsection (a) of section 6694 is amended to read as follows:

“(a) UNDERSTATEMENT DUE TO UNREASONABLE POSITIONS.—

“(1) IN GENERAL.—If a tax return preparer—

“(A) prepares any return or claim of refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2), and

“(B) knew (or reasonably should have known) of the position,

such tax return preparer shall pay a penalty with respect to each such return or claim in an amount equal to the greater of \$1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

“(2) UNREASONABLE POSITION.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, a position is described in this paragraph unless there is or was substantial authority for the position.

“(B) DISCLOSED POSITIONS.—If the position was disclosed as provided in section 6662(d)(2)(B)(i)(I) and is not a position to which subparagraph (C) applies, the position is described in this paragraph unless there is a reasonable basis for the position.

“(C) TAX SHELTERS AND REPORTABLE TRANSACTIONS.—If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is described in this paragraph unless it is reasonable to believe that the position would more likely than not be sustained on its merits.

“(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply—

(1) in the case of a position other than a position described in subparagraph (C) of section 6694(a)(2) of the Internal Revenue Code of 1986 (as amended by this section), to returns prepared after May 25, 2007, and

(2) in the case of a position described in such subparagraph (C), to returns prepared for taxable years ending after the date of the enactment of this Act.

#### Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

##### SEC. 511. SHORT TITLE.

This subtitle may be cited as the “Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008”.

##### SEC. 512. MENTAL HEALTH PARITY.

(a) AMENDMENTS TO ERISA.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended—

(1) in subsection (a), by adding at the end the following:

“(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

“(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

“(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the pre-

dominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

“(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

“(B) DEFINITIONS.—In this paragraph:

“(i) FINANCIAL REQUIREMENT.—The term ‘financial requirement’ includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),

“(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

“(iii) TREATMENT LIMITATION.—The term ‘treatment limitation’ includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

“(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

“(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.”;

(2) in subsection (b), by amending paragraph (2) to read as follows:

“(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).”;

(3) in subsection (c)—

(A) in paragraph (1)(B)—

(i) by inserting “(or 1 in the case of an employer residing in a State that permits small groups to include a single individual)” after “at least 2” the first place that such appears; and

(ii) by striking “and who employs at least 2 employees on the first day of the plan year”;

and

(B) by striking paragraph (2) and inserting the following:

“(2) COST EXEMPTION.—

“(A) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year



involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

“(B) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be—

“(i) 2 percent in the case of the first plan year in which this section is applied; and

“(ii) 1 percent in the case of each subsequent plan year.

“(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E).

“(D) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

“(E) NOTIFICATION.—

“(i) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

“(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

“(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

“(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

“(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

“(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

“(I) a breakdown of States by the size and type of employers submitting such notification; and

“(II) a summary of the data received under clause (ii).

“(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer re-

lating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.”;

(4) in subsection (e), by striking paragraph (4) and inserting the following:

“(4) MENTAL HEALTH BENEFITS.—The term ‘mental health benefits’ means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

“(5) SUBSTANCE USE DISORDER BENEFITS.—The term ‘substance use disorder benefits’ means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.”;

(5) by striking subsection (f);

(6) by inserting after subsection (e) the following:

“(f) SECRETARY REPORT.—The Secretary shall, by January 1, 2012, and every two years thereafter, submit to the appropriate committees of Congress a report on compliance of group health plans (and health insurance coverage offered in connection with such plans) with the requirements of this section. Such report shall include the results of any surveys or audits on compliance of group health plans (and health insurance coverage offered in connection with such plans) with such requirements and an analysis of the reasons for any failures to comply.

“(g) NOTICE AND ASSISTANCE.—The Secretary, in cooperation with the Secretaries of Health and Human Services and Treasury, as appropriate, shall publish and widely disseminate guidance and information for group health plans, participants and beneficiaries, applicable State and local regulatory bodies, and the National Association of Insurance Commissioners concerning the requirements of this section and shall provide assistance concerning such requirements and the continued operation of applicable State law. Such guidance and information shall inform participants and beneficiaries of how they may obtain assistance under this section, including, where appropriate, assistance from State consumer and insurance agencies.”;

(7) by striking “mental health benefits” and inserting “mental health and substance use disorder benefits” each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(8) by striking “mental health benefits” and inserting “mental health or substance use disorder benefits” each place it appears (other than in any provision amended by the previous paragraph).

(b) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg–5) is amended—

(1) in subsection (a), by adding at the end the following:

“(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

“(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

“(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

“(ii) the treatment limitations applicable to such mental health or substance use disorder

benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

“(B) DEFINITIONS.—In this paragraph:

“(i) FINANCIAL REQUIREMENT.—The term ‘financial requirement’ includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2).

“(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

“(iii) TREATMENT LIMITATION.—The term ‘treatment limitation’ includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

“(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

“(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.”;

(2) in subsection (b), by amending paragraph (2) to read as follows:

“(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).”;

(3) in subsection (c)—

(A) in paragraph (1), by inserting before the period the following: “(as defined in section 2791(e)(4), except that for purposes of this paragraph such term shall include employers with 1 employee in the case of an employer residing in a State that permits small groups to include a single individual)”;

(B) by striking paragraph (2) and inserting the following:

“(2) COST EXEMPTION.—

“(A) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall

apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

“(B) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be—

“(i) 2 percent in the case of the first plan year in which this section is applied; and

“(ii) 1 percent in the case of each subsequent plan year.

“(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E).

“(D) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

“(E) NOTIFICATION.—

“(i) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

“(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

“(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

“(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

“(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

“(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

“(I) a breakdown of States by the size and type of employers submitting such notification; and

“(II) a summary of the data received under clause (ii).

“(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.”;

(4) in subsection (e), by striking paragraph (4) and inserting the following:

“(4) MENTAL HEALTH BENEFITS.—The term ‘mental health benefits’ means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

“(5) SUBSTANCE USE DISORDER BENEFITS.—The term ‘substance use disorder benefits’ means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.”;

(5) by striking subsection (f);

(6) by striking “mental health benefits” and inserting “mental health and substance use disorder benefits” each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(7) by striking “mental health benefits” and inserting “mental health or substance use disorder benefits” each place it appears (other than in any provision amended by the previous paragraph).

(c) AMENDMENTS TO INTERNAL REVENUE CODE.—Section 9812 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (a), by adding at the end the following:

“(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

“(A) IN GENERAL.—In the case of a group health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that—

“(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan, and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

“(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

“(B) DEFINITIONS.—In this paragraph:

“(i) FINANCIAL REQUIREMENT.—The term ‘financial requirement’ includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),

“(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

“(iii) TREATMENT LIMITATION.—The term ‘treatment limitation’ includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

“(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits shall be made available by the plan administrator in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator to the participant or beneficiary in accordance with regulations.

“(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan provides cov-

erage for medical or surgical benefits provided by out-of-network providers, the plan shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.”;

(2) in subsection (b), by amending paragraph (2) to read as follows:

“(2) in the case of a group health plan that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan relating to such benefits under the plan, except as provided in subsection (a).”;

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

“(1) SMALL EMPLOYER EXEMPTION.—

“(A) IN GENERAL.—This section shall not apply to any group health plan for any plan year of a small employer.

“(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term ‘small employer’ means, with respect to a calendar year and a plan year, an employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year. For purposes of the preceding sentence, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer and rules similar to rules of subparagraphs (B) and (C) of section 4980D(d)(2) shall apply.”; and

(B) by striking paragraph (2) and inserting the following:

“(2) COST EXEMPTION.—

“(A) IN GENERAL.—With respect to a group health plan, if the application of this section to such plan results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan during the following plan year, and such exemption shall apply to the plan for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan involved regardless of any increase in total costs.

“(B) APPLICABLE PERCENTAGE.—With respect to a plan, the applicable percentage described in this subparagraph shall be—

“(i) 2 percent in the case of the first plan year in which this section is applied; and

“(ii) 1 percent in the case of each subsequent plan year.

“(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan for a period of 6 years following the notification made under subparagraph (E).

“(D) 6-MONTH DETERMINATIONS.—If a group health plan seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan has complied with this section for the first 6 months of the plan year involved.

“(E) NOTIFICATION.—

“(i) IN GENERAL.—A group health plan that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

“(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

“(I) a description of the number of covered lives under the plan involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan;

“(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

“(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

“(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

“(I) a breakdown of States by the size and type of employers submitting such notification; and

“(II) a summary of the data received under clause (ii).

“(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.”;

(4) in subsection (e), by striking paragraph (4) and inserting the following:

“(4) MENTAL HEALTH BENEFITS.—The term ‘mental health benefits’ means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

“(5) SUBSTANCE USE DISORDER BENEFITS.—The term ‘substance use disorder benefits’ means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.”;

(5) by striking subsection (f);

(6) by striking “mental health benefits” and inserting “mental health and substance use disorder benefits” each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(7) by striking “mental health benefits” and inserting “mental health or substance use disorder benefits” each place it appears (other than in any provision amended by the previous paragraph).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretaries of Labor, Health and Human Services, and the Treasury shall issue regulations to carry out the amendments made by subsections (a), (b), and (c), respectively.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act, regardless of whether regulations have been issued to carry out such amendments by such effective date, except that the amendments made by subsections (a)(5), (b)(5), and (c)(5), relating to striking of certain sunset provisions, shall take effect on January 1, 2009.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not

apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 2009.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(f) ASSURING COORDINATION.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may ensure, through the execution or revision of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this section (and the amendments made by this section) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(g) CONFORMING CLERICAL AMENDMENTS.—

(1) ERISA HEADING.—

(A) IN GENERAL.—The heading of section 712 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

“SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.”.

(B) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 712 and inserting the following new item:

“Sec. 712. Parity in mental health and substance use disorder benefits.”.

(2) PHSA HEADING.—The heading of section 2705 of the Public Health Service Act is amended to read as follows:

“SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.”.

(3) IRC HEADING.—

(A) IN GENERAL.—The heading of section 9812 of the Internal Revenue Code of 1986 is amended to read as follows:

“SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.”.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100 of such Code is amended by striking the item relating to section 9812 and inserting the following new item:

“Sec. 9812. Parity in mental health and substance use disorder benefits.”.

(h) GAO STUDY ON COVERAGE AND EXCLUSION OF MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAGNOSES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study that analyzes the specific rates, patterns, and trends in coverage and exclusion of specific mental health and substance use disorder diagnoses by health plans and health insurance. The study shall include an analysis of—

(A) specific coverage rates for all mental health conditions and substance use disorders;

(B) which diagnoses are most commonly covered or excluded;

(C) whether implementation of this Act has affected trends in coverage or exclusion of such diagnoses; and

(D) the impact of covering or excluding specific diagnoses on participants’ and enrollees’ health, their health care coverage, and the costs of delivering health care.

(2) REPORTS.—Not later than 3 years after the date of the enactment of this Act, and 2 years after the date of submission the first report under this paragraph, the Comptroller General shall submit to Congress a report on the results of the study conducted under paragraph (1).

## TITLE VI—OTHER PROVISIONS

### SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following:

#### “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Secure Rural Schools and Community Self-Determination Act of 2000’.

#### “SEC. 2. PURPOSES.

“The purposes of this Act are—

“(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

“(2) to make additional investments in, and create additional employment opportunities through, projects that—

“(A)(i) improve the maintenance of existing infrastructure;

“(ii) implement stewardship objectives that enhance forest ecosystems; and

“(iii) restore and improve land health and water quality;

“(B) enjoy broad-based support; and

“(C) have objectives that may include—

“(i) road, trail, and infrastructure maintenance or obliteration;

“(ii) soil productivity improvement;

“(iii) improvements in forest ecosystem health;

“(iv) watershed restoration and maintenance;

“(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

“(vi) the control of noxious and exotic weeds; and

“(vii) the reestablishment of native species; and

“(3) to improve cooperative relationships among—

“(A) the people that use and care for Federal land; and

“(B) the agencies that manage the Federal land.

#### “SEC. 3. DEFINITIONS.

“In this Act:

“(1) ADJUSTED SHARE.—The term ‘adjusted share’ means the number equal to the quotient obtained by dividing—

“(A) the number equal to the quotient obtained by dividing—

“(i) the base share for the eligible county; by

“(ii) the income adjustment for the eligible county; by

“(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

“(2) BASE SHARE.—The term ‘base share’ means the number equal to the average of—

“(A) the quotient obtained by dividing—

“(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

“(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

“(B) the quotient obtained by dividing—

“(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

“(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

“(3) COUNTY PAYMENT.—The term ‘county payment’ means the payment for an eligible county calculated under section 101(b).

“(4) **ELIGIBLE COUNTY.**—The term ‘eligible county’ means any county that—

“(A) contains Federal land (as defined in paragraph (7)); and

“(B) elects to receive a share of the State payment or the county payment under section 102(b).

“(5) **ELIGIBILITY PERIOD.**—The term ‘eligibility period’ means fiscal year 1986 through fiscal year 1999.

“(6) **ELIGIBLE STATE.**—The term ‘eligible State’ means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

“(7) **FEDERAL LAND.**—The term ‘Federal land’ means—

“(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

“(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

“(8) **50-PERCENT ADJUSTED SHARE.**—The term ‘50-percent adjusted share’ means the number equal to the quotient obtained by dividing—

“(A) the number equal to the quotient obtained by dividing—

“(i) the 50-percent base share for the eligible county; by

“(ii) the income adjustment for the eligible county; by

“(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

“(9) **50-PERCENT BASE SHARE.**—The term ‘50-percent base share’ means the number equal to the average of—

“(A) the quotient obtained by dividing—

“(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

“(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

“(B) the quotient obtained by dividing—

“(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

“(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

“(10) **50-PERCENT PAYMENT.**—The term ‘50-percent payment’ means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

“(11) **FULL FUNDING AMOUNT.**—The term ‘full funding amount’ means—

“(A) \$500,000,000 for fiscal year 2008; and

“(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

“(12) **INCOME ADJUSTMENT.**—The term ‘income adjustment’ means the square of the quotient obtained by dividing—

“(A) the per capita personal income for each eligible county; by

“(B) the median per capita personal income of all eligible counties.

“(13) **PER CAPITA PERSONAL INCOME.**—The term ‘per capita personal income’ means the

most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

“(14) **SAFETY NET PAYMENTS.**—The term ‘safety net payments’ means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

“(15) **SECRETARY CONCERNED.**—The term ‘Secretary concerned’ means—

“(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

“(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

“(16) **STATE PAYMENT.**—The term ‘State payment’ means the payment for an eligible State calculated under section 101(a).

“(17) **25-PERCENT PAYMENT.**—The term ‘25-percent payment’ means the payment to States required by the sixth paragraph under the heading of ‘FOREST SERVICE’ in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

## **“TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND**

### **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.**

“(a) **STATE PAYMENT.**—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

“(1) the adjusted share for each eligible county within the eligible State; by

“(2) the full funding amount for the fiscal year.

“(b) **COUNTY PAYMENT.**—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

“(1) the 50-percent adjusted share for the eligible county; by

“(2) the full funding amount for the fiscal year.

### **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

“(a) **PAYMENT AMOUNTS.**—Except as provided in section 103, the Secretary of the Treasury shall pay to—

“(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

“(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

“(B) the share of the State payment of the eligible county; and

“(2) a county an amount equal to the amount elected under subsection (b) by each county for—

“(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

“(B) the county payment for the eligible county.

“(b) **ELECTION TO RECEIVE PAYMENT AMOUNT.**—

“(1) **ELECTION; SUBMISSION OF RESULTS.**—

“(A) **IN GENERAL.**—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and August 1 of each second fiscal year thereafter, in accordance

with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

“(B) **FAILURE TO TRANSMIT.**—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

“(2) **DURATION OF ELECTION.**—

“(A) **IN GENERAL.**—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

“(B) **FULL FUNDING AMOUNT.**—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

“(3) **SOURCE OF PAYMENT AMOUNTS.**—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

“(A) any amounts that are appropriated to carry out this Act;

“(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

“(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

“(c) **DISTRIBUTION AND EXPENDITURE OF PAYMENTS.**—

“(1) **DISTRIBUTION METHOD.**—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

“(A) the Act of May 23, 1908 (16 U.S.C. 500); and

“(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

“(2) **EXPENDITURE PURPOSES.**—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

“(d) **EXPENDITURE RULES FOR ELIGIBLE COUNTIES.**—

“(1) **ALLOCATIONS.**—

“(A) **USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.**—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

“(B) **ELECTION AS TO USE OF BALANCE.**—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

“(i) Reserve any portion of the balance for projects in accordance with title II.

“(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

“(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

“(C) **COUNTIES WITH MODEST DISTRIBUTIONS.**—In the case of each eligible county to which more than \$100,000, but less than \$350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to

the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

- “(i) reserve any portion of the balance for—
- “(I) carrying out projects under title II;
- “(II) carrying out projects under title III; or
- “(III) a combination of the purposes described in subclauses (I) and (II); or
- “(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

**“(2) DISTRIBUTION OF FUNDS.—**

“(A) **IN GENERAL.**—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

“(B) **AVAILABILITY.**—Amounts deposited under subparagraph (A) shall—

“(i) be available for expenditure by the Secretary concerned, without further appropriation; and

“(ii) remain available until expended in accordance with title II.

**“(3) ELECTION.—**

**“(A) NOTIFICATION.—**

“(i) **IN GENERAL.**—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year.

“(ii) **FAILURE TO ELECT.**—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

“(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

“(II) return the balance to the Treasury of the United States.

“(B) **COUNTIES WITH MINOR DISTRIBUTIONS.**—In the case of each eligible county to which less than \$100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

“(e) **TIME FOR PAYMENT.**—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

**“SEC. 103. TRANSITION PAYMENTS TO STATES.**

“(a) **DEFINITIONS.**—In this section:

“(1) **ADJUSTED AMOUNT.**—The term ‘adjusted amount’ means, with respect to a covered State—

“(A) for fiscal year 2008, 90 percent of—

“(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

“(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

“(B) for fiscal year 2009, 81 percent of—

“(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

“(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and

“(C) for fiscal year 2010, 73 percent of—

“(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

“(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

“(2) **COVERED STATE.**—The term ‘covered State’ means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

“(b) **TRANSITION PAYMENTS.**—For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

“(c) **DISTRIBUTION OF ADJUSTED AMOUNT.**—Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

“(d) **DISTRIBUTION OF PAYMENTS IN CALIFORNIA.**—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

“(1) Payments to the State of California under subsection (b).

“(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

“(e) **TREATMENT OF PAYMENTS.**—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

**“TITLE II—SPECIAL PROJECTS ON FEDERAL LAND**

**“SEC. 201. DEFINITIONS.**

“In this title:

“(1) **PARTICIPATING COUNTY.**—The term ‘participating county’ means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

“(2) **PROJECT FUNDS.**—The term ‘project funds’ means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

“(3) **RESOURCE ADVISORY COMMITTEE.**—The term ‘resource advisory committee’ means—

“(A) an advisory committee established by the Secretary concerned under section 205; or

“(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

“(4) **RESOURCE MANAGEMENT PLAN.**—The term ‘resource management plan’ means—

“(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

“(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

**“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.**

“(a) **LIMITATION.**—Project funds shall be expended solely on projects that meet the requirements of this title.

“(b) **AUTHORIZED USES.**—Project funds may be used by the Secretary concerned for the purpose

of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

**“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

“(a) **SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.**—

“(1) **PROJECTS FUNDED USING PROJECT FUNDS.**—Not later than September 30 for fiscal year 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

“(2) **PROJECTS FUNDED USING OTHER FUNDS.**—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

“(3) **JOINT PROJECTS.**—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

“(b) **REQUIRED DESCRIPTION OF PROJECTS.**—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

“(1) The purpose of the project and a description of how the project will meet the purposes of this title.

“(2) The anticipated duration of the project.

“(3) The anticipated cost of the project.

“(4) The proposed source of funding for the project, whether project funds or other funds.

“(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

“(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

“(6) A detailed monitoring plan, including funding needs and sources, that—

“(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

“(B) includes an assessment of the following:

“(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

“(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

“(7) An assessment that the project is to be in the public interest.

“(c) **AUTHORIZED PROJECTS.**—Projects proposed under subsection (a) shall be consistent with section 2.

**“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.**

“(a) **CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.**—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

“(1) The project complies with all applicable Federal laws (including regulations).  
 “(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.  
 “(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.  
 “(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.  
 “(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.  
 “(b) ENVIRONMENTAL REVIEWS.—  
 “(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.  
 “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).  
 “(3) EFFECT OF REFUSAL TO PAY.—  
 “(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.  
 “(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).  
 “(c) DECISIONS OF SECRETARY CONCERNED.—  
 “(1) REJECTION OF PROJECTS.—  
 “(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.  
 “(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.  
 “(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.  
 “(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.  
 “(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.  
 “(e) IMPLEMENTATION OF APPROVED PROJECTS.—  
 “(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.  
 “(2) BEST VALUE CONTRACTING.—  
 “(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.  
 “(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—  
 “(i) the technical demands and complexity of the work to be done;  
 “(ii) (I) the ecological objectives of the project; and  
 “(II) the sensitivity of the resources being treated;  
 “(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and  
 “(iv) the commitment of the contractor to hiring highly qualified workers and local residents.  
 “(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—  
 “(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—  
 “(i) the harvesting or collection of merchantable timber; and  
 “(ii) the sale of the timber.  
 “(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:  
 “(i) For fiscal year 2008, 35 percent.  
 “(ii) For fiscal year 2009, 45 percent.  
 “(iii) For each of fiscal years 2010 and 2011, 50 percent.  
 “(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.  
 “(D) ASSISTANCE.—  
 “(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.  
 “(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed \$1,000,000 for any fiscal year during which the pilot program is in effect.  
 “(E) REVIEW AND REPORT.—  
 “(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.  
 “(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.  
 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—  
 “(1) to road maintenance, decommissioning, or obliteration; or  
 “(2) to restoration of streams and watersheds.  
**“SEC. 205. RESOURCE ADVISORY COMMITTEES.**  
 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—  
 “(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).  
 “(2) PURPOSE.—The purpose of a resource advisory committee shall be—  
 “(A) to improve collaborative relationships; and  
 “(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.  
 “(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.  
 “(4) EXISTING ADVISORY COMMITTEES.—  
 “(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.  
 “(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.  
 “(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.  
 “(b) DUTIES.—A resource advisory committee shall—  
 “(1) review projects proposed under this title by participating counties and other persons;  
 “(2) propose projects and funding to the Secretary concerned under section 203;  
 “(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;  
 “(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;  
 “(5) (A) monitor projects that have been approved under section 204; and  
 “(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and  
 “(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.  
 “(c) APPOINTMENT BY THE SECRETARY.—  
 “(1) APPOINTMENT AND TERM.—  
 “(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.  
 “(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.  
 “(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).  
 “(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.  
 “(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.  
 “(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.  
 “(d) COMPOSITION OF ADVISORY COMMITTEE.—  
 “(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.  
 “(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:



“(A) 5 persons that—

“(i) represent organized labor or non-timber forest product harvester groups;

“(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

“(iii) represent—

“(I) energy and mineral development interests; or

“(II) commercial or recreational fishing interests;

“(iv) represent the commercial timber industry; or

“(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

“(B) 5 persons that represent—

“(i) nationally recognized environmental organizations;

“(ii) regionally or locally recognized environmental organizations;

“(iii) dispersed recreational activities;

“(iv) archaeological and historical interests; or

“(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

“(C) 5 persons that—

“(i) hold State elected office (or a designee);

“(ii) hold county or local elected office;

“(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

“(iv) are school officials or teachers; or

“(v) represent the affected public at large.

“(3) **BALANCED REPRESENTATION.**—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

“(4) **GEOGRAPHIC DISTRIBUTION.**—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

“(5) **CHAIRPERSON.**—A majority on each resource advisory committee shall select the chairperson of the committee.

“(e) **APPROVAL PROCEDURES.**—

“(1) **IN GENERAL.**—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

“(2) **QUORUM.**—A quorum must be present to constitute an official meeting of the committee.

“(3) **APPROVAL BY MAJORITY OF MEMBERS.**—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

“(f) **OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.**—

“(1) **STAFF ASSISTANCE.**—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

“(2) **MEETINGS.**—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

“(3) **RECORDS.**—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

**“SEC. 206. USE OF PROJECT FUNDS.**

“(a) **AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.**—

“(1) **AGREEMENT BETWEEN PARTIES.**—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as

practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

“(A) The schedule for completing the project.

“(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

“(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

“(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

“(2) **LIMITED USE OF FEDERAL FUNDS.**—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

“(b) **TRANSFER OF PROJECT FUNDS.**—

“(1) **INITIAL TRANSFER REQUIRED.**—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

“(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

“(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

“(2) **CONDITION ON PROJECT COMMENCEMENT.**—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

“(3) **SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.**—

“(A) **IN GENERAL.**—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

“(B) **SUSPENSION OF WORK.**—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

**“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

“(a) **SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.**—By September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

“(b) **USE OR TRANSFER OF UNOBLIGATED FUNDS.**—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

“(c) **EFFECT OF REJECTION OF PROJECTS.**—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

“(d) **EFFECT OF COURT ORDERS.**—

“(1) **IN GENERAL.**—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

“(2) **EXPENDITURE OF FUNDS.**—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

**“SEC. 208. TERMINATION OF AUTHORITY.**

“(a) **IN GENERAL.**—The authority to initiate projects under this title shall terminate on September 30, 2011.

“(b) **DEPOSITS IN TREASURY.**—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

### “TITLE III—COUNTY FUNDS

**“SEC. 301. DEFINITIONS.**

“In this title:

“(1) **COUNTY FUNDS.**—The term ‘county funds’ means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

“(2) **PARTICIPATING COUNTY.**—The term ‘participating county’ means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

**“SEC. 302. USE.**

“(a) **AUTHORIZED USES.**—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

“(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

“(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

“(A) performed on Federal land after the date on which the use was approved under subsection (b);

“(B) paid for by the participating county; and

“(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

“(b) **PROPOSALS.**—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

“(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

“(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

**“SEC. 303. CERTIFICATION.**

“(a) **IN GENERAL.**—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

“(b) **REVIEW.**—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

**“SEC. 304. TERMINATION OF AUTHORITY.**

“(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

“(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

**“TITLE IV—MISCELLANEOUS PROVISIONS****“SEC. 401. REGULATIONS.**

“The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

**“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

**“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

“(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

“(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.”.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading “FOREST SERVICE” in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking “twenty-five percentum” and all that follows through “shall be paid” and inserting the following: “an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid”.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 500) is amended in the first sentence by striking “twenty-five percentum” and all that follows through “shall be paid” and inserting the following: “an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid”.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

**“§6906. Funding**

“For each of fiscal years 2008 through 2012—  
“(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

“(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

“6906. Funding.”.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the section in this title regarding Payments in Lieu of Taxes shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002), and by the Chairmen of the House and Senate Budget Committees, as appropriate, for purposes of budget enforcement in the House and Senate, and under the Congressional Budget Act of 1974 as if Payment in Lieu of Taxes (14–1114–0–1–806) were an account designated as Appropriated Entitlements and Mandatories for

Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217.

(B) EFFECTIVE DATE.—This paragraph shall remain in effect for the fiscal years to which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

**SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION FUND.**

Subparagraph (C) of section 402(i)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(1)) is amended by striking “and \$9,000,000 on October 1, 2009” and inserting “\$9,000,000 on October 1, 2009, and \$9,000,000 on October 1, 2010”.

**TITLE VII—DISASTER RELIEF****Subtitle A—Heartland and Hurricane Ike Disaster Relief****SEC. 701. SHORT TITLE.**

This subtitle may be cited as the “Heartland Disaster Tax Relief Act of 2008”.

**SEC. 702. TEMPORARY TAX RELIEF FOR AREAS DAMAGED BY 2008 MIDWESTERN SEVERE STORMS, TORNADOS, AND FLOODING.**

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to any Midwestern disaster area in addition to the areas to which such provisions otherwise apply:

(1) GO ZONE BENEFITS.—

(A) Section 1400N (relating to tax benefits) other than subsections (b), (d), (e), (i), (j), (m), and (o) thereof.

(B) Section 1400O (relating to education tax benefits).

(C) Section 1400P (relating to housing tax benefits).

(D) Section 1400Q (relating to special rules for use of retirement funds).

(E) Section 1400R(a) (relating to employee retention credit for employers).

(F) Section 1400S (relating to additional tax relief) other than subsection (d) thereof.

(G) Section 1400T (relating to special rules for mortgage revenue bonds).

(2) OTHER BENEFITS INCLUDED IN KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—Sections 302, 303, 304, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(b) MIDWESTERN DISASTER AREA.—

(1) IN GENERAL.—For purposes of this section and for applying the substitutions described in subsections (d) and (e), the term “Midwestern disaster area” means an area—

(A) with respect to which a major disaster has been declared by the President on or after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, and

(B) determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such severe storms, tornados, or flooding.

(2) CERTAIN BENEFITS AVAILABLE TO AREAS ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For purposes of applying this section to benefits under the following provisions, paragraph (1) shall be applied without regard to subparagraph (B):

(A) Sections 1400Q, 1400S(b), and 1400S(d) of the Internal Revenue Code of 1986.

(B) Sections 302, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(c) REFERENCES.—

(1) AREA.—Any reference in such provisions to the Hurricane Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to any Midwestern disaster area and any reference to the Hurricane Katrina disaster area or the Gulf Opportunity Zone within a State shall

be treated as a reference to all Midwestern disaster areas within the State.

(2) ITEMS ATTRIBUTABLE TO DISASTER.—Any reference in such provisions to any loss, damage, or other item attributable to Hurricane Katrina shall be treated as a reference to any loss, damage, or other item attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(3) APPLICABLE DISASTER DATE.—For purposes of applying the substitutions described in subsections (d) and (e), the term “applicable disaster date” means, with respect to any Midwestern disaster area, the date on which the severe storms, tornados, or flooding giving rise to the Presidential declaration described in subsection (b)(1)(A) occurred.

(d) MODIFICATIONS TO 1986 CODE.—The following provisions of the Internal Revenue Code of 1986 shall be applied with the following modifications:

(1) TAX-EXEMPT BOND FINANCING.—Section 1400N(a)—

(A) by substituting “qualified Midwestern disaster area bond” for “qualified Gulf Opportunity Zone Bond” each place it appears, except that in determining whether a bond is a qualified Midwestern disaster area bond—

(i) paragraph (2)(A)(i) shall be applied by only treating costs as qualified project costs if—

(I) in the case of a project involving a private business use (as defined in section 141(b)(6)), either the person using the property suffered a loss in a trade or business attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A) or is a person designated for purposes of this section by the Governor of the State in which the project is located as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, and

(II) in the case of a project relating to public utility property, the project involves repair or reconstruction of public utility property damaged by such severe storms, tornados, or flooding, and

(ii) paragraph (2)(A)(ii) shall be applied by treating an issue as a qualified mortgage issue only if 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to such severe storms, tornados, or flooding.

(B) by substituting “any State in which a Midwestern disaster area is located” for “the State of Alabama, Louisiana, or Mississippi” in paragraph (2)(B).

(C) by substituting “designated for purposes of this section (on the basis of providing assistance to areas in the order in which such assistance is most needed)” for “designated for purposes of this section” in paragraph (2)(C).

(D) by substituting “January 1, 2013” for “January 1, 2011” in paragraph (2)(D).

(E) in paragraph (3)(A)—

(i) by substituting “\$1,000” for “\$2,500”, and

(ii) by substituting “before the earliest applicable disaster date for Midwestern disaster areas within the State” for “before August 28, 2005”.

(F) by substituting “qualified Midwestern disaster area repair or construction” for “qualified GO Zone repair or construction” each place it appears,

(G) by substituting “after the date of the enactment of the Heartland Disaster Tax Relief Act of 2008 and before January 1, 2013” for “after the date of the enactment of this paragraph and before January 1, 2011” in paragraph (7)(C), and

(H) by disregarding paragraph (8) thereof.

(2) LOW-INCOME HOUSING CREDIT.—Section 1400N(c)—

(A) only with respect to calendar years 2008, 2009, and 2010,

(B) by substituting “Disaster Recovery Assistance housing amount” for “Gulf Opportunity housing amount” each place it appears,

(C) in paragraph (1)(B)—  
 (i) by substituting “\$8.00” for “\$18.00”, and  
 (ii) by substituting “before the earliest applicable disaster date for Midwestern disaster areas within the State” for “before August 28, 2005”, and

(D) determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f)—

(A) by substituting “qualified Disaster Recovery Assistance clean-up cost” for “qualified Gulf Opportunity Zone clean-up cost” each place it appears,

(B) by substituting “beginning on the applicable disaster date and ending on December 31, 2010” for “beginning on August 28, 2005, and ending on December 31, 2007” in paragraph (2), and

(C) by treating costs as qualified Disaster Recovery Assistance clean-up costs only if the removal of debris or demolition of any structure was necessary due to damage attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(4) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—Section 1400N(g)—

(A) by substituting “the applicable disaster date” for “August 28, 2005” each place it appears,

(B) by substituting “January 1, 2011” for “January 1, 2008” in paragraph (1),

(C) by substituting “December 31, 2010” for “December 31, 2007” in paragraph (1), and

(D) by treating a site as a qualified contaminated site only if the release (or threat of release) or disposal of a hazardous substance at the site was attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(5) INCREASE IN REHABILITATION CREDIT.—Section 1400N(h), as amended by this Act—

(A) by substituting “the applicable disaster date” for “August 28, 2005”,

(B) by substituting “December 31, 2011” for “December 31, 2009” in paragraph (1), and

(C) by only applying such subsection to qualified rehabilitation expenditures with respect to any building or structure which was damaged or destroyed as a result of the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(6) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO DISASTER LOSSES.—Section 1400N(k)—

(A) by substituting “qualified Disaster Recovery Assistance loss” for “qualified Gulf Opportunity Zone loss” each place it appears,

(B) by substituting “after the day before the applicable disaster date, and before January 1, 2011” for “after August 27, 2005, and before January 1, 2008” each place it appears,

(C) by substituting “the applicable disaster date” for “August 28, 2005” in paragraph (2)(B)(ii)(I),

(D) by substituting “qualified Disaster Recovery Assistance property” for “qualified Gulf Opportunity Zone property” in paragraph (2)(B)(iv), and

(E) by substituting “qualified Disaster Recovery Assistance casualty loss” for “qualified Gulf Opportunity Zone casualty loss” each place it appears.

(7) CREDIT TO HOLDERS OF TAX CREDIT BONDS.—Section 1400N(l)—

(A) by substituting “Midwestern tax credit bond” for “Gulf tax credit bond” each place it appears,

(B) by substituting “any State in which a Midwestern disaster area is located or any instrumentality of the State” for “the State of Alabama, Louisiana, or Mississippi” in paragraph (4)(A)(i),

(C) by substituting “after December 31, 2008 and before January 1, 2010” for “after December 31, 2005, and before January 1, 2007”,

(D) by substituting “shall not exceed \$100,000,000 for any State with an aggregate population located in all Midwestern disaster areas within the State of at least 2,000,000, \$50,000,000 for any State with an aggregate population located in all Midwestern disaster areas within the State of at least 1,000,000 but less than 2,000,000, and zero for any other State. The population of a State within any area shall be determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before the earliest applicable disaster date for Midwestern disaster areas within the State.” for “shall not exceed” and all that follows in paragraph (4)(C), and

(E) by substituting “the earliest applicable disaster date for Midwestern disaster areas within the State” for “August 28, 2005” in paragraph (5)(A).

(8) EDUCATION TAX BENEFITS.—Section 1400O, by substituting “2008 or 2009” for “2005 or 2006”.

(9) HOUSING TAX BENEFITS.—Section 1400P, by substituting “the applicable disaster date” for “August 28, 2005” in subsection (c)(1).

(10) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q—

(A) by substituting “qualified Disaster Recovery Assistance distribution” for “qualified hurricane distribution” each place it appears,

(B) by substituting “on or after the applicable disaster date and before January 1, 2010” for “on or after August 25, 2005, and before January 1, 2007” in subsection (a)(4)(A)(i),

(C) by substituting “the applicable disaster date” for “August 28, 2005” in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) by disregarding clauses (ii) and (iii) of subsection (a)(4)(A) thereof,

(E) by substituting “qualified storm damage distribution” for “qualified Katrina distribution” each place it appears,

(F) by substituting “after the date which is 6 months before the applicable disaster date and before the date which is the day after the applicable disaster date” for “after February 28, 2005, and before August 29, 2005” in subsection (b)(2)(B)(ii),

(G) by substituting “the Midwestern disaster area, but not so purchased or constructed on account of severe storms, tornados, or flooding giving rise to the designation of the area as a disaster area” for “the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina” in subsection (b)(2)(B)(iii),

(H) by substituting “beginning on the applicable disaster date and ending on the date which is 5 months after the date of the enactment of the Heartland Disaster Tax Relief Act of 2008” for “beginning on August 25, 2005, and ending on February 28, 2006” in subsection (b)(3)(A),

(I) by substituting “qualified storm damage individual” for “qualified Hurricane Katrina individual” each place it appears,

(J) by substituting “December 31, 2009” for “December 31, 2006” in subsection (c)(2)(A),

(K) by disregarding subparagraphs (C) and (D) of subsection (c)(3) thereof,

(L) by substituting “beginning on the date of the enactment of the Heartland Disaster Tax Relief Act of 2008 and ending on December 31, 2009” for “beginning on September 24, 2005, and ending on December 31, 2006” in subsection (c)(4)(A)(i),

(M) by substituting “the applicable disaster date” for “August 25, 2005” in subsection (c)(4)(A)(ii), and

(N) by substituting “January 1, 2010” for “January 1, 2007” in subsection (d)(2)(A)(ii).

(11) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY SEVERE STORMS, TORNADOS, AND FLOODING.—Section 1400R(a)—

(A) by substituting “the applicable disaster date” for “August 28, 2005” each place it appears,

(B) by substituting “January 1, 2009” for “January 1, 2006” both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before the applicable disaster date.

(12) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Section 1400S(a), by substituting the following paragraph for paragraph (4) thereof:

“(4) QUALIFIED CONTRIBUTIONS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified contribution’ means any charitable contribution (as defined in section 170(c)) if—

“(i) such contribution—

“(I) is paid during the period beginning on the earliest applicable disaster date for all States and ending on December 31, 2008, in cash to an organization described in section 170(b)(1)(A), and

“(II) is made for relief efforts in 1 or more Midwestern disaster areas,

“(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8)) that such contribution was used (or is to be used) for relief efforts in 1 or more Midwestern disaster areas, and

“(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

“(B) EXCEPTION.—Such term shall not include a contribution by a donor if the contribution is—

“(i) to an organization described in section 509(a)(3), or

“(ii) for establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2)).

“(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.”.

(13) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1), by substituting “the applicable disaster date” for “August 25, 2005”.

(14) SPECIAL RULE FOR DETERMINING EARNED INCOME.—Section 1400S(d)—

(A) by treating an individual as a qualified individual if such individual’s principal place of abode on the applicable disaster date was located in a Midwestern disaster area,

(B) by treating the applicable disaster date with respect to any such individual as the applicable date for purposes of such subsection, and

(C) by treating an area as described in paragraph (2)(B)(ii) thereof if the area is a Midwestern disaster area only by reason of subsection (b)(2) of this section (relating to areas eligible only for public assistance).

(15) ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.—Section 1400S(e), by substituting “2008 or 2009” for “2005 or 2006”.

(e) MODIFICATIONS TO KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—The following provisions of the Katrina Emergency Tax Relief Act of 2005 shall be applied with the following modifications:

(1) ADDITIONAL EXEMPTION FOR HOUSING DISPLACED INDIVIDUAL.—Section 302—

(A) by substituting “2008 or 2009” for “2005 or 2006” in subsection (a) thereof,

(B) by substituting “Midwestern displaced individual” for “Hurricane Katrina displaced individual” each place it appears, and

(C) by treating an area as a core disaster area for purposes of applying subsection (c) thereof if the area is a Midwestern disaster area without regard to subsection (b)(2) of this section (relating to areas eligible only for public assistance).

(2) INCREASE IN STANDARD MILEAGE RATE.—Section 303, by substituting “beginning on the applicable disaster date and ending on December 31, 2008” for “beginning on August 25, 2005, and ending on December 31, 2006”.

(3) MILEAGE REIMBURSEMENTS FOR CHARITABLE VOLUNTEERS.—Section 304—

(A) by substituting “beginning on the applicable disaster date and ending on December 31, 2008” for “beginning on August 25, 2005, and ending on December 31, 2006” in subsection (a), and

(B) by substituting “the applicable disaster date” for “August 25, 2005” in subsection (a).

(4) **EXCLUSION OF CERTAIN CANCELLATION OF INDEBTEDNESS INCOME.**—Section 401—

(A) by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area (determined without regard to subsection (b)(2) of this section) as an individual described in subsection (b)(1) thereof, and by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area solely by reason of subsection (b)(2) of this section as an individual described in subsection (b)(2) thereof,

(B) by substituting “the applicable disaster date” for “August 28, 2005” both places it appears, and

(C) by substituting “January 1, 2010” for “January 1, 2007” in subsection (e).

(5) **EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.**—Section 405, by substituting “on or after the applicable disaster date” for “on or after August 25, 2005”.

**SEC. 703. REPORTING REQUIREMENTS RELATING TO DISASTER RELIEF CONTRIBUTIONS.**

(a) **IN GENERAL.**—Section 6033(b) (relating to returns of certain organizations described in section 501(c)(3)) is amended by striking “and” at the end of paragraph (13), by redesignating paragraph (14) as paragraph (15), and by adding after paragraph (13) the following new paragraph:

“(14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies, and”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to returns the due date for which (determined without regard to any extension) occurs after December 31, 2008.

**SEC. 704. TEMPORARY TAX-EXEMPT BOND FINANCING AND LOW-INCOME HOUSING TAX RELIEF FOR AREAS DAMAGED BY HURRICANE IKE.**

(a) **TAX-EXEMPT BOND FINANCING.**—Section 1400N(a) of the Internal Revenue Code of 1986 shall apply to any Hurricane Ike disaster area in addition to any other area referenced in such section, but with the following modifications:

(1) By substituting “qualified Hurricane Ike disaster area bond” for “qualified Gulf Opportunity Zone Bond” each place it appears, except that in determining whether a bond is a qualified Hurricane Ike disaster area bond—

(A) paragraph (2)(A)(i) shall be applied by only treating costs as qualified project costs if—

(i) in the case of a project involving a private business use (as defined in section 141(b)(6)), either the person using the property suffered a loss in a trade or business attributable to Hurricane Ike or is a person designated for purposes of this section by the Governor of the State in which the project is located as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, and

(ii) in the case of a project relating to public utility property, the project involves repair or reconstruction of public utility property damaged by Hurricane Ike, and

(B) paragraph (2)(A)(ii) shall be applied by treating an issue as a qualified mortgage issue only if 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to Hurricane Ike.

(2) By substituting “any State in which any Hurricane Ike disaster area is located” for “the State of Alabama, Louisiana, or Mississippi” in paragraph (2)(B).

(3) By substituting “designated for purposes of this section (on the basis of providing assistance to areas in the order in which such assistance is most needed)” for “designated for purposes of this section” in paragraph (2)(C).

(4) By substituting “January 1, 2013” for “January 1, 2011” in paragraph (2)(D).

(5) By substituting the following for subparagraph (A) of paragraph (3):

“(A) **AGGREGATE AMOUNT DESIGNATED.**—The maximum aggregate face amount of bonds which may be designated under this subsection with respect to any State shall not exceed the product of \$2,000 multiplied by the portion of the State population which is in—

“(i) in the case of Texas, the counties of Brazoria, Chambers, Galveston, Jefferson, and Orange, and

“(ii) in the case of Louisiana, the parishes of Calcasieu and Cameron,

(as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before September 13, 2008).”.

(6) By substituting “qualified Hurricane Ike disaster area repair or construction” for “qualified GO Zone repair or construction” each place it appears.

(7) By substituting “after the date of the enactment of the Heartland Disaster Tax Relief Act of 2008 and before January 1, 2013” for “after the date of the enactment of this paragraph and before January 1, 2011” in paragraph (7)(C).

(8) By disregarding paragraph (8) thereof.

(9) By substituting “any Hurricane Ike disaster area” for “the Gulf Opportunity Zone” each place it appears.

(b) **LOW-INCOME HOUSING CREDIT.**—Section 1400N(c) of the Internal Revenue Code of 1986 shall apply to any Hurricane Ike disaster area in addition to any other area referenced in such section, but with the following modifications:

(1) Only with respect to calendar years 2008, 2009, and 2010.

(2) By substituting “any Hurricane Ike disaster area” for “the Gulf Opportunity Zone” each place it appears.

(3) By substituting “Hurricane Ike Recovery Assistance housing amount” for “Gulf Opportunity housing amount” each place it appears.

(4) By substituting the following for subparagraph (B) of paragraph (1):

“(B) **HURRICANE IKE HOUSING AMOUNT.**—For purposes of subparagraph (A), the term ‘Hurricane Ike housing amount’ means, for any calendar year, the amount equal to the product of \$16.00 multiplied by the portion of the State population which is in—

“(i) in the case of Texas, the counties of Brazoria, Chambers, Galveston, Jefferson, and Orange, and

“(ii) in the case of Louisiana, the parishes of Calcasieu and Cameron,

(as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before September 13, 2008).”.

(5) Determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(c) **HURRICANE IKE DISASTER AREA.**—For purposes of this section and for applying the substitutions described in subsections (a) and (b), the term “Hurricane Ike disaster area” means an area in the State of Texas or Louisiana—

(1) with respect to which a major disaster has been declared by the President on September 13, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Ike, and

(2) determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to Hurricane Ike.

**Subtitle B—National Disaster Relief**

**SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.**

(a) **WAIVER OF ADJUSTED GROSS INCOME LIMITATION.**—

(1) **IN GENERAL.**—Subsection (h) of section 165 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) **SPECIAL RULE FOR LOSSES IN FEDERALLY DECLARED DISASTERS.**—

“(A) **IN GENERAL.**—If an individual has a net disaster loss for any taxable year, the amount determined under paragraph (2)(A)(ii) shall be the sum of—

“(i) such net disaster loss, and

“(ii) so much of the excess referred to in the matter preceding clause (i) of paragraph (2)(A) (reduced by the amount in clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual.

“(B) **NET DISASTER LOSS.**—For purposes of subparagraph (A), the term ‘net disaster loss’ means the excess of—

“(i) the personal casualty losses—

“(I) attributable to a federally declared disaster occurring before January 1, 2010, and

“(II) occurring in a disaster area, over

“(ii) personal casualty gains.

“(C) **FEDERALLY DECLARED DISASTER.**—For purposes of this paragraph—

“(i) **FEDERALLY DECLARED DISASTER.**—The term ‘federally declared disaster’ means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

“(ii) **DISASTER AREA.**—The term ‘disaster area’ means the area so determined to warrant such assistance.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 165(h)(4)(B) (as so redesignated) is amended by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”.

(B) Section 165(i)(1) is amended by striking “loss” and all that follows through “Act” and inserting “loss occurring in a disaster area (as defined by clause (ii) of subsection (h)(3)(C)) and attributable to a federally declared disaster (as defined by clause (i) of such subsection)”.

(C) Section 165(i)(4) is amended by striking “Presidentially declared disaster (as defined by section 1033(h)(3))” and inserting “federally declared disaster (as defined by subsection (h)(3)(C)(i))”.

(D)(i) So much of subsection (h) of section 1033 as precedes subparagraph (A) of paragraph (1) thereof is amended to read as follows:

“(h) **SPECIAL RULES FOR PROPERTY DAMAGED BY FEDERALLY DECLARED DISASTERS.**—

“(1) **PRINCIPAL RESIDENCES.**—If the taxpayer’s principal residence or any of its contents is located in a disaster area and is compulsorily or involuntarily converted as a result of a federally declared disaster—”.

(ii) Paragraph (2) of section 1033(h) is amended by striking “investment” and all that follows through “disaster” and inserting “investment located in a disaster area and compulsorily or involuntarily converted as a result of a federally declared disaster”.

(iii) Paragraph (3) of section 1033(h) is amended to read as follows:

“(3) **FEDERALLY DECLARED DISASTER; DISASTER AREA.**—The terms “federally declared disaster” and “disaster area” shall have the respective meaning given such terms by section 165(h)(3)(C).”.

(iv) Section 139(c)(2) is amended to read as follows:

“(2) federally declared disaster (as defined by section 165(h)(3)(C)(i)).”.

(v) Subclause (II) of section 172(b)(1)(F)(ii) is amended by striking “Presidentially declared disasters (as defined in section 1033(h)(3))” and inserting “federally declared disasters (as defined by subsection (h)(3)(C)(i))”.

(vi) Subclause (III) of section 172(b)(1)(F)(ii) is amended by striking “Presidentially declared disasters” and inserting “federally declared disasters”.

(vii) Subsection (a) of section 7508A is amended by striking “Presidentially declared disaster (as defined in section 1033(h)(3))” and inserting “federally declared disaster (as defined by section 165(h)(3)(C)(i))”.

(b) INCREASE IN STANDARD DEDUCTION BY DISASTER CASUALTY LOSS.—

(1) IN GENERAL.—Paragraph (1) of section 63(c), as amended by the Housing Assistance Tax Act of 2008, is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) the disaster loss deduction.”.

(2) DISASTER LOSS DEDUCTION.—Subsection (c) of section 63, as amended by the Housing Assistance Tax Act of 2008, is amended by adding at the end the following new paragraph:

“(8) DISASTER LOSS DEDUCTION.—For the purposes of paragraph (1), the term ‘disaster loss deduction’ means the net disaster loss (as defined in section 165(h)(3)(B)).”.

(3) ALLOWANCE IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.—Subparagraph (E) of section 56(b)(1) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to so much of the standard deduction as is determined under section 63(c)(1)(D).”.

(c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—Paragraph (1) of section 165(h) is amended by striking “\$100” and inserting “\$500 (\$100 for taxable years beginning after December 31, 2009)”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to disasters declared in taxable years beginning after December 31, 2007.

(2) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2008.

#### SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 198 the following new section:

##### “SEC. 198A. EXPENSING OF QUALIFIED DISASTER EXPENSES.

“(a) IN GENERAL.—A taxpayer may elect to treat any qualified disaster expenses which are paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expense which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

“(b) QUALIFIED DISASTER EXPENSE.—For purposes of this section, the term ‘qualified disaster expense’ means any expenditure—

“(1) which is paid or incurred in connection with a trade or business or with business-related property,

“(2) which is—

“(A) for the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010,

“(B) for the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster occurring before such date, or

“(C) for the repair of business-related property damaged as a result of a federally declared disaster occurring before such date, and

“(3) which is otherwise chargeable to capital account.

“(c) OTHER DEFINITIONS.—For purposes of this section—

“(1) BUSINESS-RELATED PROPERTY.—The term ‘business-related property’ means property—

“(A) held by the taxpayer for use in a trade or business or for the production of income, or

“(B) described in section 1221(a)(1) in the hands of the taxpayer.

“(2) FEDERALLY DECLARED DISASTER.—The term ‘federally declared disaster’ has the meaning given such term by section 165(h)(3)(C)(i).

“(d) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified disaster expense would have been capitalized but for this section—

“(1) the deduction allowed by this section for such expense shall be treated as a deduction for depreciation, and

“(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

“(e) COORDINATION WITH OTHER PROVISIONS.—Sections 198, 280B, and 468 shall not apply to amounts which are treated as expenses under this section.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 198 the following new item:

“Sec. 198A. Expensing of Qualified Disaster Expenses.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007 in connection with disaster declared after such date.

#### SEC. 708. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

“(J) CERTAIN LOSSES ATTRIBUTABLE FEDERALLY DECLARED DISASTERS.—In the case of a taxpayer who has a qualified disaster loss (as defined in subsection (j)), such loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.”.

(b) QUALIFIED DISASTER LOSS.—Section 172 is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

“(j) RULES RELATING TO QUALIFIED DISASTER LOSSES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified disaster loss’ means the lesser of—

“(A) the sum of—

“(i) the losses allowable under section 165 for the taxable year—

“(I) attributable to a federally declared disaster (as defined in section 165(h)(3)(C)(i)) occurring before January 1, 2010, and

“(II) occurring in a disaster area (as defined in section 165(h)(3)(C)(ii)), and

“(ii) the deduction for the taxable year for qualified disaster expenses which is allowable under section 198A(a) or which would be so allowable if not otherwise treated as an expense, or

“(B) the net operating loss for such taxable year.

“(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a qualified disaster loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

“(3) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(J) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(J). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

“(4) EXCLUSION.—The term ‘qualified disaster loss’ shall not include any loss with respect to any property described in section 1400N(p)(3).”.

(c) LOSS DEDUCTION ALLOWED IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d) of section 56 is amended by adding at the end the following new paragraph:

“(3) NET OPERATING LOSS ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.—In the case of a taxpayer which has a qualified disaster loss (as defined by section 172(b)(1)(J)) for the taxable year, paragraph (1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of such loss.”.

(d) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 172(b)(1)(F) is amended by inserting “or qualified disaster loss (as defined in subsection (j))” before the period at the end of the last sentence.

(2) Paragraph (1) of section 172(i) is amended by adding at the end the following new flush sentence:

“Such term shall not include any qualified disaster loss (as defined in subsection (j)).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to losses arising in taxable years beginning after December 31, 2007, in connection with disasters declared after such date.

#### SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS FOLLOWING FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subsection (k) of section 143 is amended by adding at the end the following new paragraph:

“(12) SPECIAL RULES FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—

“(A) PRINCIPAL RESIDENCE DESTROYED.—At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer is—

“(i) rendered unsafe for use as a residence by reason of a federally declared disaster occurring before January 1, 2010, or

“(ii) demolished or relocated by reason of an order of the government of a State or political subdivision thereof on account of a federally declared disaster occurring before such date,

then, for the 2-year period beginning on the date of the disaster declaration, subsection (d)(1) shall not apply with respect to such taxpayer and subsection (e) shall be applied by substituting ‘110’ for ‘90’ in paragraph (1) thereof.

“(B) PRINCIPAL RESIDENCE DAMAGED.—

“(i) IN GENERAL.—At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer was damaged as the result of a federally declared disaster occurring before January 1, 2010, any owner-financing provided in connection with the repair or reconstruction of such residence shall be treated as a qualified rehabilitation loan.

“(ii) LIMITATION.—The aggregate owner-financing to which clause (i) applies shall not exceed the lesser of—

“(1) the cost of such repair or reconstruction, or

“(II) \$150,000.

“(C) FEDERALLY DECLARED DISASTER.—For purposes of this paragraph, the term ‘federally declared disaster’ has the meaning given such term by section 165(h)(3)(C)(i).

“(D) ELECTION; DENIAL OF DOUBLE BENEFIT.—

“(i) ELECTION.—An election under this paragraph may not be revoked except with the consent of the Secretary.

“(ii) DENIAL OF DOUBLE BENEFIT.—If a taxpayer elects the application of this paragraph, paragraph (11) shall not apply with respect to the purchase or financing of any residence by such taxpayer.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disasters occurring after December 31, 2007.

**SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.**

(a) *IN GENERAL.*—Section 168, as amended by this Act, is amended by adding at the end the following new subsection:

“(n) *SPECIAL ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.*—

“(1) *IN GENERAL.*—In the case of any qualified disaster assistance property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified disaster assistance property, and

“(B) the adjusted basis of the qualified disaster assistance property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) *QUALIFIED DISASTER ASSISTANCE PROPERTY.*—For purposes of this subsection—

“(A) *IN GENERAL.*—The term ‘qualified disaster assistance property’ means any property—

“(i) (I) which is described in subsection (k)(2)(A)(i), or

“(II) which is nonresidential real property or residential rental property,

“(ii) substantially all of the use of which is—

“(I) in a disaster area with respect to a federally declared disaster occurring before January 1, 2010, and

“(II) in the active conduct of a trade or business by the taxpayer in such disaster area,

“(iii) which—

“(A) rehabilitates property damaged, or replaces property destroyed or condemned, as a result of such federally declared disaster, except that, for purposes of this clause, property shall be treated as replacing property destroyed or condemned if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes real property destroyed or condemned, and

“(II) is similar in nature to, and located in the same county as, the property being rehabilitated or replaced,

“(iv) the original use of which in such disaster area commences with an eligible taxpayer on or after the applicable disaster date,

“(v) which is acquired by such eligible taxpayer by purchase (as defined in section 179(d)) on or after the applicable disaster date, but only if no written binding contract for the acquisition was in effect before such date, and

“(vi) which is placed in service by such eligible taxpayer on or before the date which is the last day of the third calendar year following the applicable disaster date (the fourth calendar year in the case of nonresidential real property and residential rental property).

“(B) *EXCEPTIONS.*—

“(i) *OTHER BONUS DEPRECIATION PROPERTY.*—The term ‘qualified disaster assistance property’ shall not include—

“(I) any property to which subsection (k) (determined without regard to paragraph (4)), (l), or (m) applies,

“(II) any property to which section 1400N(d) applies, and

“(III) any property described in section 1400N(p)(3).

“(ii) *ALTERNATIVE DEPRECIATION PROPERTY.*—The term ‘qualified disaster assistance property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

“(iii) *TAX-EXEMPT BOND FINANCED PROPERTY.*—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

“(iv) *QUALIFIED REVITALIZATION BUILDINGS.*—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

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

“(C) *SPECIAL RULES.*—For purposes of this subsection, rules similar to the rules of subparagraph (E) of subsection (k)(2) shall apply, except that such subparagraph shall be applied—

“(i) by substituting ‘the applicable disaster date’ for ‘December 31, 2007’ each place it appears therein,

“(ii) without regard to ‘and before January 1, 2009’ in clause (i) thereof, and

“(iii) by substituting ‘qualified disaster assistance property’ for ‘qualified property’ in clause (iv) thereof.

“(D) *ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.*—For purposes of this subsection, rules similar to the rules of subsection (k)(2)(G) shall apply.

“(3) *OTHER DEFINITIONS.*—For purposes of this subsection—

“(A) *APPLICABLE DISASTER DATE.*—The term ‘applicable disaster date’ means, with respect to any federally declared disaster, the date on which such federally declared disaster occurs.

“(B) *FEDERALLY DECLARED DISASTER.*—The term ‘federally declared disaster’ has the meaning given such term under section 165(h)(3)(C)(i).

“(C) *DISASTER AREA.*—The term ‘disaster area’ has the meaning given such term under section 165(h)(3)(C)(ii).

“(D) *ELIGIBLE TAXPAYER.*—The term ‘eligible taxpayer’ means a taxpayer who has suffered an economic loss attributable to a federally declared disaster.

“(4) *RECAPTURE.*—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified disaster assistance property which ceases to be qualified disaster assistance property.”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to property placed in service after December 31, 2007, with respect to disasters declared after such date.

**SEC. 711. INCREASED EXPENSING FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.**

(a) *IN GENERAL.*—Section 179 is amended by adding at the end the following new subsection:

“(e) *SPECIAL RULES FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.*—

“(1) *IN GENERAL.*—For purposes of this section—

“(A) the dollar amount in effect under subsection (b)(1) for the taxable year shall be increased by the lesser of—

“(i) \$100,000, or

“(ii) the cost of qualified section 179 disaster assistance property placed in service during the taxable year, and

“(B) the dollar amount in effect under subsection (b)(2) for the taxable year shall be increased by the lesser of—

“(i) \$600,000, or

“(ii) the cost of qualified section 179 disaster assistance property placed in service during the taxable year.

“(2) *QUALIFIED SECTION 179 DISASTER ASSISTANCE PROPERTY.*—For purposes of this subsection, the term ‘qualified section 179 disaster assistance property’ means section 179 property (as defined in subsection (d)) which is qualified disaster assistance property (as defined in section 168(n)(2)).

“(3) *COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.*—For purposes of sections 1397A and 1400J, qualified section 179 disaster assistance property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 disaster assistance property into account for purposes of this subsection.

“(4) *RECAPTURE.*—For purposes of this subsection, rules similar to the rules under subsection (d)(10) shall apply with respect to any qualified section 179 disaster assistance property which ceases to be qualified section 179 disaster assistance property.”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to property placed in service after December 31, 2007, with respect to disasters declared after such date.

**SEC. 712. COORDINATION WITH HEARTLAND DISASTER RELIEF.**

The amendments made by this subtitle, other than the amendments made by sections 706(a)(2), 710, and 711, shall not apply to any disaster described in section 702(c)(1)(A), or to any expenditure or loss resulting from such disaster.

**TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY****SEC. 801. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.**

(a) *IN GENERAL.*—Subpart B of part II of subchapter E of chapter 1 is amended by inserting after section 457 the following new section:

**“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.**

“(a) *IN GENERAL.*—Any compensation which is deferred under a nonqualified deferred compensation plan of a nonqualified entity shall be includible in gross income when there is no substantial risk of forfeiture of the rights to such compensation.

“(b) *NONQUALIFIED ENTITY.*—For purposes of this section, the term ‘nonqualified entity’ means—

“(1) any foreign corporation unless substantially all of its income is—

“(A) effectively connected with the conduct of a trade or business in the United States, or

“(B) subject to a comprehensive foreign income tax, and

“(2) any partnership unless substantially all of its income is allocated to persons other than—

“(A) foreign persons with respect to whom such income is not subject to a comprehensive foreign income tax, and

“(B) organizations which are exempt from tax under this title.

“(c) *DETERMINABILITY OF AMOUNTS OF COMPENSATION.*—

“(1) *IN GENERAL.*—If the amount of any compensation is not determinable at the time that such compensation is otherwise includible in gross income under subsection (a)—

“(A) such amount shall be so includible in gross income when determinable, and

“(B) the tax imposed under this chapter for the taxable year in which such compensation is includible in gross income shall be increased by the sum of—

“(i) the amount of interest determined under paragraph (2), and

“(ii) an amount equal to 20 percent of the amount of such compensation.

“(2) *INTEREST.*—For purposes of paragraph (1)(B)(i), the interest determined under this paragraph for any taxable year is the amount of interest at the underpayment rate under section 6621 plus 1 percentage point on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

“(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—For purposes of this section—

“(1) *SUBSTANTIAL RISK OF FORFEITURE.*—

“(A) *IN GENERAL.*—The rights of a person to compensation shall be treated as subject to a substantial risk of forfeiture only if such person’s rights to such compensation are conditioned upon the future performance of substantial services by any individual.



“(B) EXCEPTION FOR COMPENSATION BASED ON GAIN RECOGNIZED ON AN INVESTMENT ASSET.—

“(i) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, if compensation is determined solely by reference to the amount of gain recognized on the disposition of an investment asset, such compensation shall be treated as subject to a substantial risk of forfeiture until the date of such disposition.

“(ii) INVESTMENT ASSET.—For purposes of clause (i), the term ‘investment asset’ means any single asset (other than an investment fund or similar entity)—

“(I) acquired directly by an investment fund or similar entity,

“(II) with respect to which such entity does not (nor does any person related to such entity) participate in the active management of such asset (or if such asset is an interest in an entity, in the active management of the activities of such entity), and

“(III) substantially all of any gain on the disposition of which (other than such deferred compensation) is allocated to investors in such entity.

“(iii) COORDINATION WITH SPECIAL RULE.—Paragraph (3)(B) shall not apply to any compensation to which clause (i) applies.

“(2) COMPREHENSIVE FOREIGN INCOME TAX.—The term ‘comprehensive foreign income tax’ means, with respect to any foreign person, the income tax of a foreign country if—

“(A) such person is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

“(B) such person demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

“(3) NONQUALIFIED DEFERRED COMPENSATION PLAN.—

“(A) IN GENERAL.—The term ‘nonqualified deferred compensation plan’ has the meaning given such term under section 409A(d), except that such term shall include any plan that provides a right to compensation based on the appreciation in value of a specified number of equity units of the service recipient.

“(B) EXCEPTION.—Compensation shall not be treated as deferred for purposes of this section if the service provider receives payment of such compensation not later than 12 months after the end of the taxable year of the service recipient during which the right to the payment of such compensation is no longer subject to a substantial risk of forfeiture.

“(4) EXCEPTION FOR CERTAIN COMPENSATION WITH RESPECT TO EFFECTIVELY CONNECTED INCOME.—In the case a foreign corporation with income which is taxable under section 882, this section shall not apply to compensation which, had such compensation had been paid in cash on the date that such compensation ceased to be subject to a substantial risk of forfeiture, would have been deductible by such foreign corporation against such income.

“(5) APPLICATION OF RULES.—Rules similar to the rules of paragraphs (5) and (6) of section 409A(d) shall apply.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations disregarding a

substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.”.

(b) CONFORMING AMENDMENT.—Section 26(b)(2), as amended by the Housing Assistance Tax Act of 2008, is amended by striking “and” at the end of subparagraph (V), by striking the period at the end of subparagraph (W) and inserting “, and”, and by adding at the end the following new subparagraph:

“(X) section 457A(c)(1)(B) (relating to determinability of amounts of compensation).”.

(c) CLERICAL AMENDMENT.—The table of sections of subpart B of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent parties.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts deferred which are attributable to services performed after December 31, 2008.

(2) APPLICATION TO EXISTING DEFERRALS.—In the case of any amount deferred to which the amendments made by this section do not apply solely by reason of the fact that the amount is attributable to services performed before January 1, 2009, to the extent such amount is not includible in gross income in a taxable year beginning before 2018, such amounts shall be includible in gross income in the later of—

(A) the last taxable year beginning before 2018, or

(B) the taxable year in which there is no substantial risk of forfeiture of the rights to such compensation (determined in the same manner as determined for purposes of section 457A of the Internal Revenue Code of 1986, as added by this section).

(3) ACCELERATED PAYMENTS.—No later than 120 days after the date of the enactment of this Act, the Secretary shall issue guidance providing a limited period of time during which a nonqualified deferred compensation arrangement attributable to services performed on or before December 31, 2008, may, without violating the requirements of section 409A(a) of the Internal Revenue Code of 1986, be amended to conform the date of distribution to the date the amounts are required to be included in income.

(4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—If the taxpayer is also a service recipient and maintains one or more nonqualified deferred compensation arrangements for its service providers under which any amount is attributable to services performed on or before December 31, 2008, the guidance issued under paragraph (4) shall permit such arrangements to be amended to conform the dates of distribution under such arrangement to the date amounts are required to be included in the income of such taxpayer under this subsection.

(5) ACCELERATED PAYMENT NOT TREATED AS MATERIAL MODIFICATION.—Any amendment to a nonqualified deferred compensation arrangement made pursuant to paragraph (4) or (5) shall not be treated as a material modification of the arrangement for purposes of section 409A of the Internal Revenue Code of 1986.

ORDERS FOR TUESDAY,  
SEPTEMBER 30, 2008

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Tuesday, September 30; that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2095.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. WHITEHOUSE. Madam President, tomorrow the Senate will resume consideration of the rail safety/Amtrak legislation postcloture. There will be no rollcall votes during Tuesday's session.

## RECESS UNTIL 10 A.M. TOMORROW

Mr. WHITEHOUSE. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 5:06 p.m., recessed until Tuesday, September 30, 2008, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### ENVIRONMENTAL PROTECTION AGENCY

G. DAVID BANKS, OF MISSOURI, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE JUDITH ELIZABETH AYRES, RESIGNED.

### DEPARTMENT OF TRANSPORTATION

DAVID KELLY, OF NEW YORK, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, VICE NICOLE R. NASON, RESIGNED.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### To be lieutenant general

MAJ. GEN. JOHN C. KOZIOL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be major general

BRIG. GEN. STEPHEN L. HOOGE