

1 **DIVISION B—ENERGY IMPROVE-**
2 **MENT AND EXTENSION ACT**
3 **OF 2008**

4 **SECTION 1. SHORT TITLE, ETC.**

5 (a) **SHORT TITLE.**—This division may be cited as the
6 “Energy Improvement and Extension Act of 2008”.

7 (b) **REFERENCE.**—Except as otherwise expressly pro-
8 vided, whenever in this division an amendment or repeal
9 is expressed in terms of an amendment to, or repeal of,
10 a section or other provision, the reference shall be consid-
11 ered to be made to a section or other provision of the In-
12 ternal Revenue Code of 1986.

13 (c) **TABLE OF CONTENTS.**—The table of contents for
14 this division 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.

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- 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.

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

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

6 (a) EXTENSION OF CREDIT.—

7 (1) 1-YEAR EXTENSION FOR WIND AND RE-
8 FINED COAL FACILITIES.—Paragraphs (1) and (8)
9 of section 45(d) are each amended by striking “Jan-
10 uary 1, 2009” and inserting “January 1, 2010”.

11 (2) 2-YEAR EXTENSION FOR CERTAIN OTHER
12 FACILITIES.—Each of the following provisions of
13 section 45(d) is amended by striking “January 1,
14 2009” and inserting “January 1, 2011”:

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

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

19 (C) Paragraph (4).

20 (D) Paragraph (5).

21 (E) Paragraph (6).

22 (F) Paragraph (7).

23 (G) Subparagraphs (A) and (B) of para-
24 graph (9).

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

3 (1) ELIMINATION OF INCREASED MARKET
4 VALUE TEST.—Section 45(c)(7)(A)(i) (defining re-
5 fined coal), as amended by section 108, is amend-
6 ed—

7 (A) by striking subclause (IV),

8 (B) by adding “and” at the end of sub-
9 clause (II), and

10 (C) by striking “, and” at the end of sub-
11 clause (III) and inserting a period.

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

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

19 (1) by striking “facility which burns” and in-
20 serting “facility (other than a facility described in
21 paragraph (6)) which uses”, and

22 (2) by striking “COMBUSTION”.

23 (d) EXPANSION OF BIOMASS FACILITIES.—

24 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-
25 graph (3) of section 45(d) is amended by redesignig-

1 nating subparagraph (B) as subparagraph (C) and
2 by inserting after subparagraph (A) the following
3 new subparagraph:

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

11 (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-
12 graph (2) of section 45(d) is amended by redesignig-
13 nating subparagraph (B) as subparagraph (C) and
14 inserting after subparagraph (A) the following new
15 subparagraph:

16 “(B) EXPANSION OF FACILITY.—Such
17 term shall include a new unit placed in service
18 after the date of the enactment of this subpara-
19 graph in connection with a facility described in
20 subparagraph (A)(i), but only to the extent of
21 the increased amount of electricity produced at
22 the facility by reason of such new unit.”.

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

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

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

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

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

1 environmental quality of the affected wa-
2 terway.

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

12 (f) EFFECTIVE DATE.—

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

17 (2) REFINED COAL.—The amendments made by
18 subsection (b) shall apply to coal produced and sold
19 from facilities placed in service after December 31,
20 2008.

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

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

4 (d) CREDIT RATE.—Subparagraph (A) of section
5 45(b)(4) is amended by striking “or (9)” and inserting
6 “(9), or (11)”.

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

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

16 **SEC. 103. ENERGY CREDIT.**

17 (a) EXTENSION OF CREDIT.—

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

22 (2) FUEL CELL PROPERTY.—Subparagraph (E)
23 of section 48(e)(1) is amended by striking “Decem-
24 ber 31, 2008” and inserting “December 31, 2016”.

1 (3) MICROTURBINE PROPERTY.—Subparagraph
2 (E) of section 48(c)(2) is amended by striking “De-
3 cember 31, 2008” and inserting “December 31,
4 2016”.

5 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
6 TERNATIVE MINIMUM TAX.—

7 (1) IN GENERAL.—Subparagraph (B) of section
8 38(c)(4), as amended by the Housing Assistance
9 Tax Act of 2008, is amended by redesignating clause
10 (vi) as clause (vi) and (vii), respectively, and by in-
11 serting after clause (iv) the following new clause:

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

16 (2) TECHNICAL AMENDMENT.—Clause (vi) of
17 section 38(c)(4)(B), as redesignated by paragraph
18 (1), is amended by striking “section 47 to the extent
19 attributable to” and inserting “section 46 to the ex-
20 tent that such credit is attributable to the rehabilita-
21 tion credit under section 47, but only with respect
22 to”.

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

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

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

7 (2) COMBINED HEAT AND POWER SYSTEM
8 PROPERTY.—Subsection (c) of section 48 is amend-
9 ed—

10 (A) by striking “QUALIFIED FUEL CELL
11 PROPERTY; QUALIFIED MICROTURBINE PROP-
12 ERTY” in the heading and inserting “DEFINI-
13 TIONS”, and

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

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

18 “(A) COMBINED HEAT AND POWER SYS-
19 TEM PROPERTY.—The term ‘combined heat and
20 power system property’ means property com-
21 prising a system—

22 “(i) which uses the same energy
23 source for the simultaneous or sequential
24 generation of electrical power, mechanical
25 shaft power, or both, in combination with

1 the generation of steam or other forms of
2 useful thermal energy (including heating
3 and cooling applications),

4 “(ii) which produces—

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

10 “(II) at least 20 percent of its
11 total useful energy in the form of elec-
12 trical or mechanical power (or com-
13 bination thereof),

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

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

18 “(B) LIMITATION.—

19 “(i) IN GENERAL.—In the case of
20 combined heat and power system property
21 with an electrical capacity in excess of the
22 applicable capacity placed in service during
23 the taxable year, the credit under sub-
24 section (a)(1) (determined without regard
25 to this paragraph) for such year shall be

1 equal to the amount which bears the same
2 ratio to such credit as the applicable ca-
3 pacity bears to the capacity of such prop-
4 erty.

5 “(ii) APPLICABLE CAPACITY.—For
6 purposes of clause (i), the term ‘applicable
7 capacity’ means 15 megawatts or a me-
8 chanical energy capacity of more than
9 20,000 horsepower or an equivalent com-
10 bination of electrical and mechanical en-
11 ergy capacities.

12 “(iii) MAXIMUM CAPACITY.—The term
13 ‘combined heat and power system property’
14 shall not include any property comprising a
15 system if such system has a capacity in ex-
16 cess of 50 megawatts or a mechanical en-
17 ergy capacity in excess of 67,000 horse-
18 power or an equivalent combination of elec-
19 trical and mechanical energy capacities.

20 “(C) SPECIAL RULES.—

21 “(i) ENERGY EFFICIENCY PERCENT-
22 AGE.—For purposes of this paragraph, the
23 energy efficiency percentage of a system is
24 the fraction—

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

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

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

14 “(iii) INPUT AND OUTPUT PROPERTY
15 NOT INCLUDED.—The term ‘combined heat
16 and power system property’ does not in-
17 clude property used to transport the en-
18 ergy source to the facility or to distribute
19 energy produced by the facility.

20 “(D) SYSTEMS USING BIOMASS.—If a sys-
21 tem is designed to use biomass (within the
22 meaning of paragraphs (2) and (3) of section
23 45(c) without regard to the last sentence of
24 paragraph (3)(A)) for at least 90 percent of the
25 energy source—

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

3 “(ii) the amount of credit determined
4 under subsection (a) with respect to such
5 system shall not exceed the amount which
6 bears the same ratio to such amount of
7 credit (determined without regard to this
8 subparagraph) as the energy efficiency per-
9 centage of such system bears to 60 per-
10 cent.”.

11 (3) CONFORMING AMENDMENT.—Section
12 48(a)(1) is amended by striking “paragraphs (1)(B)
13 and (2)(B)” and inserting “paragraphs (1)(B),
14 (2)(B), and (3)(B)”.

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

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

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

23 (2) CONFORMING AMENDMENTS.—

24 (A) Paragraph (1) of section 48(c) is
25 amended by striking subparagraph (D) and re-

1 designating subparagraph (E) as subparagraph
2 (D).

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

7 (f) EFFECTIVE DATE.—

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

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

18 (3) COMBINED HEAT AND POWER AND FUEL
19 CELL PROPERTY.—The amendments made by sub-
20 sections (c) and (d) shall apply to periods after the
21 date of the enactment of this Act, in taxable years
22 ending after such date, under rules similar to the
23 rules of section 48(m) of the Internal Revenue Code
24 of 1986 (as in effect on the day before the date of

1 the enactment of the Revenue Reconciliation Act of
2 1990).

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

10 **SEC. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.**

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

15 “(vi) qualified small wind energy
16 property,”.

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

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

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

1 “(4) QUALIFIED SMALL WIND ENERGY PROP-
2 ERTY.—

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

7 “(B) LIMITATION.—In the case of quali-
8 fied small wind energy property placed in serv-
9 ice during the taxable year, the credit otherwise
10 determined under subsection (a)(1) for such
11 year with respect to all such property of the
12 taxpayer shall not exceed \$4,000.

13 “(C) QUALIFYING SMALL WIND TUR-
14 BINE.—The term ‘qualifying small wind tur-
15 bine’ means a wind turbine which has a name-
16 plate capacity of not more than 100 kilowatts.

17 “(D) TERMINATION.—The term ‘qualified
18 small wind energy property’ shall not include
19 any property for any period after December 31,
20 2016.”.

21 (d) CONFORMING AMENDMENT.—Section 48(a)(1),
22 as amended by section 103, is amended by striking “para-
23 graphs (1)(B), (2)(B), and (3)(B)” and inserting “para-
24 graphs (1)(B), (2)(B), (3)(B), and (4)(B)”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to periods after the date of the
3 enactment of this Act, in taxable years ending after such
4 date, under rules similar to the rules of section 48(m) of
5 the Internal Revenue Code of 1986 (as in effect on the
6 day before the date of the enactment of the Revenue Rec-
7 onciliation Act of 1990).

8 **SEC. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP**
9 **SYSTEMS.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 48(a)(3), as amended by this Act, is amended by striking
12 “or” at the end of clause (v), by inserting “or” at the
13 end of clause (vi), and by adding at the end the following
14 new clause:

15 “(vii) equipment which uses the
16 ground or ground water as a thermal en-
17 ergy source to heat a structure or as a
18 thermal energy sink to cool a structure,
19 but only with respect to periods ending be-
20 fore January 1, 2017.”.

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

1 day before the date of the enactment of the Revenue Rec-
2 onciliation Act of 1990).

3 **SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
4 **PROPERTY.**

5 (a) EXTENSION.—Section 25D(g) is amended by
6 striking “December 31, 2008” and inserting “December
7 31, 2016”.

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

10 (1) IN GENERAL.—Section 25D(b)(1), as
11 amended by subsections (c) and (d), is amended—
12 (A) by striking subparagraph (A), and
13 (B) by redesignating subparagraphs (B)
14 through (E) as subparagraphs (A) through and
15 (D), respectively.

16 (2) CONFORMING AMENDMENT.—Section
17 25D(e)(4)(A), as amended by subsections (c) and
18 (d), is amended—

19 (A) by striking clause (i), and
20 (B) by redesignating clauses (ii) through
21 (v) as clauses (i) and (iv), respectively.

22 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

23 (1) IN GENERAL.—Section 25D(a) is amended
24 by striking “and” at the end of paragraph (2), by
25 striking the period at the end of paragraph (3) and

1 inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(4) 30 percent of the qualified small wind en-
4 ergy property expenditures made by the taxpayer
5 during such year.”.

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

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

15 (3) QUALIFIED SMALL WIND ENERGY PROP-
16 erty EXPENDITURES.—

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

20 “(4) QUALIFIED SMALL WIND ENERGY PROP-
21 erty EXPENDITURE.—The term ‘qualified small
22 wind energy property expenditure’ means an expend-
23 iture for property which uses a wind turbine to gen-
24 erate electricity for use in connection with a dwelling

1 unit located in the United States and used as a resi-
2 dence by the taxpayer.”.

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

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

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

22 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
23 TEMS.—

24 (1) IN GENERAL.—Section 25D(a), as amended
25 by subsection (c), is amended by striking “and” at

1 the end of paragraph (3), by striking the period at
2 the end of paragraph (4) and inserting “, and”, and
3 by adding at the end the following new paragraph:

4 “(5) 30 percent of the qualified geothermal
5 heat pump property expenditures made by the tax-
6 payer during such year.”.

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

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

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

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

21 “(A) IN GENERAL.—The term ‘qualified
22 geothermal heat pump property expenditure’
23 means an expenditure for qualified geothermal
24 heat pump property installed on or in connec-

1 tion with a dwelling unit located in the United
2 States and used as a residence by the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

18 “(2) CARRYFORWARD OF UNUSED CREDIT.—

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

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

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

15 (2) CONFORMING AMENDMENTS.—

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

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

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

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

1 (f) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to taxable years beginning after Decem-
5 ber 31, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(3) METHOD OF ALLOCATION.—

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

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

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

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

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

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

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

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

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

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

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

16 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) TREATMENT AS REFINED COAL.—

24 (1) IN GENERAL.—Subparagraph (A) of section
25 45(c)(7) of the Internal Revenue Code of 1986 (re-

1 lating to refined coal), as amended by this Act, is
2 amended to read as follows:

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

5 “(i) which—

6 “(I) is a liquid, gaseous, or solid
7 fuel produced from coal (including lig-
8 nite) or high carbon fly ash, including
9 such fuel used as a feedstock,

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

14 “(III) is certified by the taxpayer
15 as resulting (when used in the produc-
16 tion of steam) in a qualified emission
17 reduction, and

18 “(IV) is produced in such a man-
19 ner as to result in an increase of at
20 least 50 percent in the market value
21 of the refined coal (excluding any in-
22 crease caused by materials combined
23 or added during the production proc-
24 ess), as compared to the value of the
25 feedstock coal, or

1 “(ii) which is steel industry fuel.”.

2 (2) STEEL INDUSTRY FUEL DEFINED.—Para-
3 graph (7) of section 45(c) of such Code is amended
4 by adding at the end the following new subpara-
5 graph:

6 “(C) STEEL INDUSTRY FUEL.—

7 “(i) IN GENERAL.—The term ‘steel in-
8 dustry fuel’ means a fuel which—

9 “(I) is produced through a proc-
10 ess of liquifying coal waste sludge and
11 distributing it on coal, and

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

14 “(ii) COAL WASTE SLUDGE.—The
15 term ‘coal waste sludge’ means the tar de-
16 canter sludge and related byproducts of
17 the coking process, including such mate-
18 rials that have been stored in ground, in
19 tanks and in lagoons, that have been treat-
20 ed as hazardous wastes under applicable
21 Federal environmental rules absent lique-
22 faction and processing with coal into a
23 feedstock for the manufacture of coke.”.

24 (b) CREDIT AMOUNT.—

1 (1) IN GENERAL.—Paragraph (8) of section
2 45(e) of the Internal Revenue Code of 1986 (relat-
3 ing to refined coal production facilities) is amended
4 by adding at the end the following new subpara-
5 graph

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

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

11 “(I) this paragraph shall be ap-
12 plied separately with respect to steel
13 industry fuel and other refined coal,
14 and

15 “(II) in applying this paragraph
16 to steel industry fuel, the modifica-
17 tions in clause (ii) shall apply.

18 “(ii) MODIFICATIONS.—

19 “(I) CREDIT AMOUNT.—Subpara-
20 graph (A) shall be applied by sub-
21 stituting ‘\$2 per barrel-of-oil equiva-
22 lent’ for ‘\$4.375 per ton’.

23 “(II) CREDIT PERIOD.—In lieu
24 of the 10-year period referred to in
25 clauses (i) and (ii)(II) of subpara-

1 graph (A), the credit period shall be
2 the period beginning on the later of
3 the date such facility was originally
4 placed in service, the date the modi-
5 fications described in clause (iii) were
6 placed in service, or October 1, 2008,
7 and ending on the later of December
8 31, 2009, or the date which is 1 year
9 after the date such facility or the
10 modifications described in clause (iii)
11 were placed in service.

12 “(III) NO PHASEOUT.—Subpara-
13 graph (B) shall not apply.

14 “(iii) MODIFICATIONS.—The modifica-
15 tions described in this clause are modifica-
16 tions to an existing facility which allow
17 such facility to produce steel industry fuel.

18 “(iv) BARREL-OF-OIL EQUIVALENT.—
19 For purposes of this subparagraph, a bar-
20 rel-of-oil equivalent is the amount of steel
21 industry fuel that has a Btu content of
22 5,800,000 Btus.”.

23 (2) INFLATION ADJUSTMENT.—Paragraph (2)
24 of section 45(b) of such Code is amended by insert-

1 ing “the \$3 amount in subsection (e)(8)(D)(ii)(I),”
2 after “subsection (e)(8)(A),”.

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

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

10 “(A) with respect to a facility producing
11 steel industry fuel, any facility (or any modi-
12 fication to a facility) which is placed in service
13 before January 1, 2010, and

14 “(B) with respect to any other facility pro-
15 ducing refined coal, any facility placed in serv-
16 ice after the date of the enactment of the Amer-
17 ican Jobs Creation Act of 2004 and before Jan-
18 uary 1, 2010.”.

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

21 (1) IN GENERAL.—Subparagraph (B) of section
22 45(e)(9) of the Internal Revenue Code of 1986 is
23 amended—

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

1 “(i) IN GENERAL.—The term”, and
2 (B) by adding at the end the following new
3 clause:

4 “(ii) EXCEPTION FOR STEEL INDUS-
5 TRY COAL.—In the case of a facility pro-
6 ducing steel industry fuel, clause (i) shall
7 not apply to so much of the refined coal
8 produced at such facility as is steel indus-
9 try fuel.”.

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

13 “(E) COORDINATION WITH SECTION 45.—
14 No credit shall be allowed with respect to any
15 qualified fuel which is steel industry fuel (as de-
16 fined in section 45(c)(7)) if a credit is allowed
17 to the taxpayer for such fuel under section
18 45.”.

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

22 **SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
23 **ELECTRIC RESTRUCTURING POLICY.**

24 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
25 TIES.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 451(i) is amended by inserting “(before January 1,
3 2010, in the case of a qualified electric utility)”
4 after “January 1, 2008”.

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

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

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

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

23 (b) EXTENSION OF PERIOD FOR TRANSFER OF
24 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
25 Clause (ii) of section 451(i)(4)(B) is amended by striking

1 “December 31, 2007” and inserting “the date which is
2 4 years after the close of the taxable year in which the
3 transaction occurs”.

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

8 “(C) EXCEPTION FOR PROPERTY LOCATED
9 OUTSIDE THE UNITED STATES.—The term ‘ex-
10 empt utility property’ shall not include any
11 property which is located outside the United
12 States.”.

13 (d) EFFECTIVE DATES.—

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

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

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

1 **Subtitle B—Carbon Mitigation and**
2 **Coal Provisions**

3 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED**
4 **COAL PROJECT INVESTMENT CREDIT.**

5 (a) **MODIFICATION OF CREDIT AMOUNT.**—Section
6 48A(a) is amended by striking “and” at the end of para-
7 graph (1), by striking the period at the end of paragraph
8 (2) and inserting “, and”, and by adding at the end the
9 following new paragraph:

10 “(3) 30 percent of the qualified investment for
11 such taxable year in the case of projects described
12 in clause (iii) of subsection (d)(3)(B).”.

13 (b) **EXPANSION OF AGGREGATE CREDITS.**—Section
14 48A(d)(3)(A) is amended by striking “\$1,300,000,000”
15 and inserting “\$2,550,000,000”.

16 (c) **AUTHORIZATION OF ADDITIONAL PROJECTS.**—

17 (1) **IN GENERAL.**—Subparagraph (B) of section
18 48A(d)(3) is amended to read as follows:

19 “(B) **PARTICULAR PROJECTS.**—Of the dol-
20 lar amount in subparagraph (A), the Secretary
21 is authorized to certify—

22 “(i) \$800,000,000 for integrated gas-
23 ification combined cycle projects the appli-
24 cation for which is submitted during the
25 period described in paragraph (2)(A)(i),

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

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

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

14 “(A) APPLICATION PERIOD.—Each appli-
15 cant for certification under this paragraph shall
16 submit an application meeting the requirements
17 of subparagraph (B). An applicant may only
18 submit an application—

19 “(i) for an allocation from the dollar
20 amount specified in clause (i) or (ii) of
21 paragraph (3)(B) during the 3-year period
22 beginning on the date the Secretary estab-
23 lishes the program under paragraph (1),
24 and

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

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

9 (A) IN GENERAL.—Section 48A(e)(1) is
10 amended by striking “and” at the end of sub-
11 paragraph (E), by striking the period at the
12 end of subparagraph (F) and inserting “; and”,
13 and by adding at the end the following new sub-
14 paragraph:

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

23 (B) HIGHEST PRIORITY FOR PROJECTS
24 WHICH SEQUESTER CARBON DIOXIDE EMIS-
25 SIONS.—Section 48A(e)(3) is amended by strik-

1 ing “and” at the end of subparagraph (A)(iii),
2 by striking the period at the end of subpara-
3 graph (B)(iii) and inserting “, and”, and by
4 adding at the end the following new subpara-
5 graph:

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

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

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

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

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

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

1 (C) by inserting after clause (ii) the fol-
2 lowing new clause:

3 “(iii) applicant participants who have
4 a research partnership with an eligible edu-
5 cational institution (as defined in section
6 529(e)(5)), and”.

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

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

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

19 (e) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the amendments made by
22 this section shall apply to credits the application for
23 which is submitted during the period described in
24 section 48A(d)(2)(A)(ii) of the Internal Revenue

1 Code of 1986 and which are allocated or reallocated
2 after the date of the enactment of this Act.

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

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

11 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**
12 **CATION INVESTMENT CREDIT.**

13 (a) MODIFICATION OF CREDIT AMOUNT.—Section
14 48B(a) is amended by inserting “(30 percent in the case
15 of credits allocated under subsection (d)(1)(B))” after “20
16 percent”.

17 (b) EXPANSION OF AGGREGATE CREDITS.—Section
18 48B(d)(1) is amended by striking “shall not exceed
19 \$350,000,000” and all that follows and inserting “shall
20 not exceed—

21 “(A) \$350,000,000, plus

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

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

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

10 (d) SELECTION PRIORITIES.—Section 48B(d) is
11 amended by adding at the end the following new para-
12 graph:

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

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

19 “(B) give high priority to applicant partici-
20 pants who have a research partnership with an
21 eligible educational institution (as defined in
22 section 529(e)(5)).”.

23 (e) ELIGIBLE PROJECTS INCLUDE TRANSPORTATION
24 GRADE LIQUID FUELS.—Section 48B(c)(7) (defining eli-
25 gible entity) is amended by striking “and” at the end of

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

4 “(H) transportation grade liquid fuels.”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to credits described in section
7 48B(d)(1)(B) of the Internal Revenue Code of 1986 which
8 are allocated or reallocated after the date of the enactment
9 of this Act.

10 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX;**

11 **FUNDING OF BLACK LUNG DISABILITY TRUST**

12 **FUND.**

13 (a) EXTENSION OF TEMPORARY INCREASE.—Para-
14 graph (2) of section 4121(e) is amended—

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

17 (2) by striking “January 1 after 1981” in sub-
18 paragraph (B) and inserting “December 31 after
19 2007”.

20 (b) RESTRUCTURING OF TRUST FUND DEBT.—

21 (1) DEFINITIONS.—For purposes of this sub-
22 section—

23 (A) MARKET VALUE OF THE OUTSTANDING
24 REPAYABLE ADVANCES, PLUS ACCRUED INTER-
25 EST.—The term “market value of the out-

1 standing repayable advances, plus accrued in-
2 terest” means the present value (determined by
3 the Secretary of the Treasury as of the refi-
4 nancing date and using the Treasury rate as
5 the discount rate) of the stream of principal
6 and interest payments derived assuming that
7 each repayable advance that is outstanding on
8 the refinancing date is due on the 30th anniver-
9 sary of the end of the fiscal year in which the
10 advance was made to the Trust Fund, and that
11 all such principal and interest payments are
12 made on September 30 of the applicable fiscal
13 year.

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

17 (C) REPAYABLE ADVANCE.—The term “re-
18 payable advance” means an amount that has
19 been appropriated to the Trust Fund in order
20 to make benefit payments and other expendi-
21 tures that are authorized under section 9501 of
22 the Internal Revenue Code of 1986 and are re-
23 quired to be repaid when the Secretary of the
24 Treasury determines that monies are available
25 in the Trust Fund for such purpose.

1 (D) TREASURY RATE.—The term “Treas-
2 ury rate” means a rate determined by the Sec-
3 retary of the Treasury, taking into consider-
4 ation current market yields on outstanding
5 marketable obligations of the United States of
6 comparable maturities.

7 (E) TREASURY 1-YEAR RATE.—The term
8 “Treasury 1-year rate” means a rate deter-
9 mined by the Secretary of the Treasury, taking
10 into consideration current market yields on out-
11 standing marketable obligations of the United
12 States with remaining periods to maturity of
13 approximately 1 year, to have been in effect as
14 of the close of business 1 business day prior to
15 the date on which the Trust Fund issues obliga-
16 tions to the Secretary of the Treasury under
17 paragraph (2)(B).

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

21 (A) TRANSFER TO GENERAL FUND.—On
22 the refinancing date, the Trust Fund shall
23 repay the market value of the outstanding re-
24 payable advances, plus accrued interest, by

1 transferring into the general fund of the Treas-
2 ury the following sums:

3 (i) The proceeds from obligations that
4 the Trust Fund shall issue to the Sec-
5 retary of the Treasury in such amounts as
6 the Secretaries of Labor and the Treasury
7 shall determine and bearing interest at the
8 Treasury rate, and that shall be in such
9 forms and denominations and be subject to
10 such other terms and conditions, including
11 maturity, as the Secretary of the Treasury
12 shall prescribe.

13 (ii) All, or that portion, of the appro-
14 priation made to the Trust Fund pursuant
15 to paragraph (3) that is needed to cover
16 the difference defined in that paragraph.

17 (B) REPAYMENT OF OBLIGATIONS.—In the
18 event that the Trust Fund is unable to repay
19 the obligations that it has issued to the Sec-
20 retary of the Treasury under subparagraph
21 (A)(i) and this subparagraph, or is unable to
22 make benefit payments and other authorized ex-
23 penditures, the Trust Fund shall issue obliga-
24 tions to the Secretary of the Treasury in such
25 amounts as may be necessary to make such re-

1 payments, payments, and expenditures, with a
2 maturity of 1 year, and bearing interest at the
3 Treasury 1-year rate. These obligations shall be
4 in such forms and denominations and be sub-
5 ject to such other terms and conditions as the
6 Secretary of the Treasury shall prescribe.

7 (C) AUTHORITY TO ISSUE OBLIGATIONS.—
8 The Trust Fund is authorized to issue obliga-
9 tions to the Secretary of the Treasury under
10 subparagraphs (A)(i) and (B). The Secretary of
11 the Treasury is authorized to purchase such ob-
12 ligations of the Trust Fund. For the purposes
13 of making such purchases, the Secretary of the
14 Treasury may use as a public debt transaction
15 the proceeds from the sale of any securities
16 issued under chapter 31 of title 31, United
17 States Code, and the purposes for which securi-
18 ties may be issued under such chapter are ex-
19 tended to include any purchase of such Trust
20 Fund obligations under this subparagraph.

21 (3) ONE-TIME APPROPRIATION.—There is here-
22 by appropriated to the Trust Fund an amount suffi-
23 cient to pay to the general fund of the Treasury the
24 difference between—

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

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

6 (4) PREPAYMENT OF TRUST FUND OBLIGA-
7 TIONS.—The Trust Fund is authorized to repay any
8 obligation issued to the Secretary of the Treasury
9 under subparagraphs (A)(i) and (B) of paragraph
10 (2) prior to its maturity date by paying a prepay-
11 ment price that would, if the obligation being pre-
12 paid (including all unpaid interest accrued thereon
13 through the date of prepayment) were purchased by
14 a third party and held to the maturity date of such
15 obligation, produce a yield to the third-party pur-
16 chaser for the period from the date of purchase to
17 the maturity date of such obligation substantially
18 equal to the Treasury yield on outstanding market-
19 able obligations of the United States having a com-
20 parable maturity to this period.

21 **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**
22 **CISE TAX TO CERTAIN COAL PRODUCERS**
23 **AND EXPORTERS.**

24 (a) REFUND.—

25 (1) COAL PRODUCERS.—

1 (A) IN GENERAL.—Notwithstanding sub-
2 sections (a)(1) and (c) of section 6416 and sec-
3 tion 6511 of the Internal Revenue Code of
4 1986, if—

5 (i) a coal producer establishes that
6 such coal producer, or a party related to
7 such coal producer, exported coal produced
8 by such coal producer to a foreign country
9 or shipped coal produced by such coal pro-
10 ducer to a possession of the United States,
11 or caused such coal to be exported or
12 shipped, the export or shipment of which
13 was other than through an exporter who
14 meets the requirements of paragraph (2),

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

19 (iii) such coal producer files a claim
20 for refund with the Secretary not later
21 than the close of the 30-day period begin-
22 ning on the date of the enactment of this
23 Act,

24 then the Secretary shall pay to such coal pro-
25 ducer an amount equal to the tax paid under

1 section 4121 of such Code on such coal ex-
2 ported or shipped by the coal producer or a
3 party related to such coal producer, or caused
4 by the coal producer or a party related to such
5 coal producer to be exported or shipped.

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

8 (i) IN GENERAL.—If a coal producer
9 or a party related to a coal producer has
10 received a judgment described in clause
11 (iii), such coal producer shall be deemed to
12 have established the export of coal to a for-
13 eign country or shipment of coal to a pos-
14 session of the United States under sub-
15 paragraph (A)(i).

16 (ii) AMOUNT OF PAYMENT.—If a tax-
17 payer described in clause (i) is entitled to
18 a payment under subparagraph (A), the
19 amount of such payment shall be reduced
20 by any amount paid pursuant to the judg-
21 ment described in clause (iii).

22 (iii) JUDGMENT DESCRIBED.—A judg-
23 ment is described in this subparagraph if
24 such judgment—

1 (I) is made by a court of com-
2 petent jurisdiction within the United
3 States,

4 (II) relates to the constitu-
5 tionality of any tax paid on exported
6 coal under section 4121 of the Inter-
7 nal Revenue Code of 1986, and

8 (III) is in favor of the coal pro-
9 ducer or the party related to the coal
10 producer.

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

16 (A) an exporter establishes that such ex-
17 porter exported coal to a foreign country or
18 shipped coal to a possession of the United
19 States, or caused such coal to be so exported or
20 shipped,

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

24 (C) such exporter files a claim for refund
25 with the Secretary not later than the close of

1 the 30-day period beginning on the date of the
2 enactment of this Act,
3 then the Secretary shall pay to such exporter an
4 amount equal to \$0.825 per ton of such coal ex-
5 ported by the exporter or caused to be exported or
6 shipped, or caused to be exported or shipped, by the
7 exporter.

8 (b) LIMITATIONS.—Subsection (a) shall not apply
9 with respect to exported coal if a settlement with the Fed-
10 eral Government has been made with and accepted by, the
11 coal producer, a party related to such coal producer, or
12 the exporter, of such coal, as of the date that the claim
13 is filed under this section with respect to such exported
14 coal. For purposes of this subsection, the term “settlement
15 with the Federal Government” shall not include any settle-
16 ment or stipulation entered into as of the date of the en-
17 actment of this Act, the terms of which contemplate a
18 judgment concerning which any party has reserved the
19 right to file an appeal, or has filed an appeal.

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

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

1 (1) COAL PRODUCER.—The term “coal pro-
2 ducer” means the person in whom is vested owner-
3 ship of the coal immediately after the coal is severed
4 from the ground, without regard to the existence of
5 any contractual arrangement for the sale or other
6 disposition of the coal or the payment of any royalti-
7 ties between the producer and third parties. The
8 term includes any person who extracts coal from
9 coal waste refuse piles or from the silt waste product
10 which results from the wet washing (or similar proc-
11 essing) of coal.

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

18 (A) is indicated in the shipper’s export
19 declaration or other documentation as the ex-
20 porter of record, or

21 (B) actually exported such coal to a for-
22 eign country or shipped such coal to a posses-
23 sion of the United States, or caused such coal
24 to be so exported or shipped.

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

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

6 (B) is related (within the meaning of sec-
7 tion 144(a)(3) of the Internal Revenue Code of
8 1986) to such coal producer, or

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

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of Treasury or the Secretary’s des-
15 ignee.

16 (e) TIMING OF REFUND.—With respect to any claim
17 for refund filed pursuant to this section, the Secretary
18 shall determine whether the requirements of this section
19 are met not later than 180 days after such claim is filed.
20 If the Secretary determines that the requirements of this
21 section are met, the claim for refund shall be paid not
22 later than 180 days after the Secretary makes such deter-
23 mination.

24 (f) INTEREST.—Any refund paid pursuant to this
25 section shall be paid by the Secretary with interest from

1 the date of overpayment determined by using the overpay-
2 ment rate and method under section 6621 of the Internal
3 Revenue Code of 1986.

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

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

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

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

20 (i) STANDING NOT CONFERRED.—

21 (1) EXPORTERS.—With respect to exporters,
22 this section shall not confer standing upon an ex-
23 porter to commence, or intervene in, any judicial or
24 administrative proceeding concerning a claim for re-

1 fund by a coal producer of any Federal or State tax,
2 fee, or royalty paid by the coal producer.

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

10 **SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**
11 **TION.**

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

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

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

19 “(1) \$20 per metric ton of qualified carbon di-
20 oxide which is—

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

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

1 “(2) \$10 per metric ton of qualified carbon di-
2 oxide which is—

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

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

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

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

13 “(A) would otherwise be released into the
14 atmosphere as industrial emission of green-
15 house gas, and

16 “(B) is measured at the source of capture
17 and verified at the point of disposal or injec-
18 tion.

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

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

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

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

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

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

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

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

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

21 “(2) SECURE GEOLOGICAL STORAGE.—The Sec-
22 retary, in consultation with the Administrator of the
23 Environmental Protection Agency, shall establish
24 regulations for determining adequate security meas-
25 ures for the geological storage of carbon dioxide

1 under subsection (a)(1)(B) such that the carbon di-
2 oxide does not escape into the atmosphere. Such
3 term shall include storage at deep saline formations
4 and unminable coal seams under such conditions as
5 the Secretary may determine under such regulations.

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

9 “(4) QUALIFIED ENHANCED OIL OR NATURAL
10 GAS RECOVERY PROJECT.—The term ‘qualified en-
11 hanced oil or natural gas recovery project’ has the
12 meaning given the term ‘qualified enhanced oil re-
13 covery project’ by section 43(c)(2), by substituting
14 ‘crude oil or natural gas’ for ‘crude oil’ in subpara-
15 graph (A)(i) thereof.

16 “(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—
17 Any credit under this section shall be attributable to
18 the person that captures and physically or contrac-
19 tually ensures the disposal of or the use as a tertiary
20 injectant of the qualified carbon dioxide, except to
21 the extent provided in regulations prescribed by the
22 Secretary.

23 “(6) RECAPTURE.—The Secretary shall, by reg-
24 ulations, provide for recapturing the benefit of any
25 credit allowable under subsection (a) with respect to

1 any qualified carbon dioxide which ceases to be cap-
2 tured, disposed of, or used as a tertiary injectant in
3 a manner consistent with the requirements of this
4 section.

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

10 “(A) such dollar amount, multiplied by

11 “(B) the inflation adjustment factor for
12 such calendar year determined under section
13 43(b)(3)(B) for such calendar year, determined
14 by substituting ‘2008’ for ‘1990’.

15 “(e) APPLICATION OF SECTION.—The credit under
16 this section shall apply with respect to qualified carbon
17 dioxide before the end of the calendar year in which the
18 Secretary, in consultation with the Administrator of the
19 Environmental Protection Agency, certifies that
20 75,000,000 metric tons of qualified carbon dioxide have
21 been captured and disposed of or used as a tertiary
22 injectant.”.

23 (b) CONFORMING AMENDMENT.—Section 38(b) (re-
24 lating to general business credit) is amended by striking
25 “plus” at the end of paragraph (32), by striking the period

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

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

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

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

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

12 **SEC. 116. CERTAIN INCOME AND GAINS RELATING TO IN-**
13 **DUSTRIAL SOURCE CARBON DIOXIDE TREAT-**
14 **ED AS QUALIFYING INCOME FOR PUBLICLY**
15 **TRADED PARTNERSHIPS.**

16 (a) IN GENERAL.—Subparagraph (E) of section
17 7704(d)(1) (defining qualifying income) is amended by in-
18 serting “or industrial source carbon dioxide” after “tim-
19 ber)”.

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

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

24 (a) STUDY.—The Secretary of the Treasury shall
25 enter into an agreement with the National Academy of

1 Sciences to undertake a comprehensive review of the Inter-
2 nal Revenue Code of 1986 to identify the types of and
3 specific tax provisions that have the largest effects on car-
4 bon and other greenhouse gas emissions and to estimate
5 the magnitude of those effects.

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

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to carry out this section
12 \$1,500,000 for the period of fiscal years 2009 and 2010.

13 **TITLE II—TRANSPORTATION**
14 **AND DOMESTIC FUEL SECU-**
15 **RITY PROVISIONS**

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

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

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

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

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

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

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

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

16 **SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**
17 **SEL.**

18 (a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and
19 6427(e)(5)(B) are each amended by striking “December
20 31, 2008” and inserting “December 31, 2009”.

21 (b) INCREASE IN RATE OF CREDIT.—

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

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

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

5 (3) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

24 (1) by striking “diesel fuel” and inserting “liq-
25 uid fuel”,

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

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

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

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

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

17 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Sub-
18 section (f) of section 40A (relating to renewable diesel)
19 is amended by adding at the end the following new para-
20 graph:

21 “(4) CERTAIN AVIATION FUEL.—

22 “(A) IN GENERAL.—Except as provided in
23 the last 3 sentences of paragraph (3), the term
24 ‘renewable diesel’ shall include fuel derived from
25 biomass which meets the requirements of a De-

1 partment of Defense specification for military
2 jet fuel or an American Society of Testing and
3 Materials specification for aviation turbine fuel.

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

10 (f) MODIFICATION RELATING TO DEFINITION OF
11 AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (re-
12 lating to agri-biodiesel) is amended by striking “and mus-
13 tard seeds” and inserting “mustard seeds, and camelina”.

14 (g) EFFECTIVE DATE.—

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

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

1 **SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE**
2 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
3 **UNITED STATES PRODUCTION.**

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

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

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

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

25 (c) EXCISE TAX CREDIT.—

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

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

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

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

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

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

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

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

4 **SEC. 204. EXTENSION AND MODIFICATION OF ALTER-**
5 **NATIVE FUEL CREDIT.**

6 (a) EXTENSION.—

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

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

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

20 (b) MODIFICATIONS.—

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

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

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

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

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

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

17 “(4) CARBON CAPTURE REQUIREMENT.—

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

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

4 “(i) 50 percent in the case of fuel pro-
5 duced after September 30, 2009, and on or
6 before December 30, 2009, and

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

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

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

16 **SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
17 **DRIVE MOTOR VEHICLES.**

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

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

24 “(a) ALLOWANCE OF CREDIT.—

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

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

9 “(A) \$2,500, plus

10 “(B) \$417 for each kilowatt hour of trac-
11 tion battery capacity in excess of 4 kilowatt
12 hours.

13 “(b) LIMITATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 “(d) APPLICATION WITH OTHER CREDITS.—

23 “(1) BUSINESS CREDIT TREATED AS PART OF
24 GENERAL BUSINESS CREDIT.—So much of the credit
25 which would be allowed under subsection (a) for any

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

6 “(2) PERSONAL CREDIT.—

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

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

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

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

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

2 For purposes of this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(f) REGULATIONS.—

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

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

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

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

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

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

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

4 (d) CONFORMING AMENDMENTS.—

5 (1)(A) Section 24(b)(3)(B), as amended by sec-
6 tion 106, is amended by striking “and 25D” and in-
7 serting “25D, and 30D”.

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

10 (C) Section 25B(g)(2), as amended by section
11 106, is amended by striking “and 25D” and insert-
12 ing “, 25D, and 30D”.

13 (D) Section 26(a)(1), as amended by section
14 106, is amended by striking “and 25D” and insert-
15 ing “25D, and 30D”.

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

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

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

1 (3) Section 6501(m) is amended by inserting
2 “30D(e)(9),” after “30C(e)(5),”.

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

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

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

9 (f) APPLICATION OF EGTRRA SUNSET.—The
10 amendment made by subsection (d)(1)(A) shall be subject
11 to title IX of the Economic Growth and Tax Relief Rec-
12 onciliation Act of 2001 in the same manner as the provi-
13 sion of such Act to which such amendment relates.

14 **SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
15 **REDUCTION UNITS AND ADVANCED INSULA-**
16 **TION.**

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

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

21 “(A) is designed to provide to a vehicle
22 those services (such as heat, air conditioning, or
23 electricity) that would otherwise require the op-
24 eration of the main drive engine while the vehi-
25 cle is temporarily parked or remains stationary

1 using one or more devices affixed to a tractor,
2 and

3 “(B) is determined by the Administrator of
4 the Environmental Protection Agency, in con-
5 sultation with the Secretary of Energy and the
6 Secretary of Transportation, to reduce idling of
7 such vehicle at a motor vehicle rest stop or
8 other location where such vehicles are tempo-
9 rarily parked or remain stationary.

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

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

15 **SEC. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
16 **ERTY CREDIT.**

17 (a) **EXTENSION OF CREDIT.**—Paragraph (2) of sec-
18 tion 30C(g) is amended by striking “December 31, 2009”
19 and inserting “December 31, 2010”.

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

23 “(C) Electricity.”.

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

1 the date of the enactment of this Act, in taxable years
2 ending after such date.

3 **SEC. 208. CERTAIN INCOME AND GAINS RELATING TO AL-**
4 **COHOL FUELS AND MIXTURES, BIODIESEL**
5 **FUELS AND MIXTURES, AND ALTERNATIVE**
6 **FUELS AND MIXTURES TREATED AS QUALI-**
7 **FYING INCOME FOR PUBLICLY TRADED**
8 **PARTNERSHIPS.**

9 (a) IN GENERAL.—Subparagraph (E) of section
10 7704(d)(1), as amended by this Act, is amended by strik-
11 ing “or industrial source carbon dioxide” and inserting “,
12 industrial source carbon dioxide, or the transportation or
13 storage of any fuel described in subsection (b), (c), (d),
14 or (e) of section 6426, or any alcohol fuel defined in sec-
15 tion 6426(b)(4)(A) or any biodiesel fuel as defined in sec-
16 tion 40A(d)(1)” after “timber”).

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

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

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

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

1 period beginning with the first day of such
2 calendar year for reasonable expenses in-
3 curred by the employee during such cal-
4 endar year for the purchase of a bicycle
5 and bicycle improvements, repair, and stor-
6 age, if such bicycle is regularly used for
7 travel between the employee's residence
8 and place of employment.

9 “(ii) APPLICABLE ANNUAL LIMITA-
10 TION.—The term ‘applicable annual limita-
11 tion’ means, with respect to any employee
12 for any calendar year, the product of \$20
13 multiplied by the number of qualified bicy-
14 cle commuting months during such year.

15 “(iii) QUALIFIED BICYCLE COM-
16 MUTING MONTH.—The term ‘qualified bi-
17 cycle commuting month’ means, with re-
18 spect to any employee, any month during
19 which such employee—

20 “(I) regularly uses the bicycle for
21 a substantial portion of the travel be-
22 tween the employee's residence and
23 place of employment, and

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

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

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

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

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

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

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

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

23 “(1) 100 percent of the available project pro-
24 ceeds of such issue are to be used for one or more
25 qualified conservation purposes,

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

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

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

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

15 “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS
16 DESIGNATED.—There is a national qualified energy con-
17 servation bond limitation of \$800,000,000.

18 “(e) ALLOCATIONS.—

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

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

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

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

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

20 “(3) ALLOCATION TO ISSUERS; RESTRICTION
21 ON PRIVATE ACTIVITY BONDS.—Any allocation
22 under this subsection to a State or large local gov-
23 ernment shall be allocated by such State or large
24 local government to issuers within the State in a
25 manner that results in not less than 70 percent of

1 the allocation to such State or large local govern-
2 ment being used to designate bonds which are not
3 private activity bonds.

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

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

8 “(A) Capital expenditures incurred for
9 purposes of—

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

13 “(ii) implementing green community
14 programs,

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

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

23 “(B) Expenditures with respect to research
24 facilities, and research grants, to support re-
25 search in—

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

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

6 “(iii) increasing the efficiency of exist-
7 ing technologies for producing nonfossil
8 fuels,

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

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

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

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

20 “(i) green building technology,

21 “(ii) conversion of agricultural waste
22 for use in the production of fuel or other-
23 wise,

24 “(iii) advanced battery manufacturing
25 technologies,

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

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

7 “(E) Public education campaigns to pro-
8 mote energy efficiency.

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

14 “(g) POPULATION.—

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

20 “(2) SPECIAL RULE FOR COUNTIES.—In deter-
21 mining the population of any county for purposes of
22 this section, any population of such county which is
23 taken into account in determining the population of
24 any municipality which is a large local government

1 shall not be taken into account in determining the
2 population of such county.

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

7 “(1) an Indian tribal government shall be treat-
8 ed for purposes of subsection (e) as located within
9 a State to the extent of so much of the population
10 of such government as resides within such State,
11 and

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

18 (b) CONFORMING AMENDMENTS.—

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

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

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

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

2 or

3 “(C) a qualified energy conservation bond,

4 which is part of an issue that meets requirements of

5 paragraphs (2), (3), (4), (5), and (6).”.

6 (2) Subparagraph (C) of section 54A(d)(2), as

7 amended by this Act, is amended to read as follows:

8 “(C) QUALIFIED PURPOSE.—For purposes

9 of this paragraph, the term ‘qualified purpose’

10 means—

11 “(i) in the case of a qualified forestry

12 conservation bond, a purpose specified in

13 section 54B(e),

14 “(ii) in the case of a new clean renew-

15 able energy bond, a purpose specified in

16 section 54C(a)(1), and

17 “(iii) in the case of a qualified energy

18 conservation bond, a purpose specified in

19 section 54D(a)(1).”.

20 (3) The table of sections for subpart I of part

21 IV of subchapter A of chapter 1, as amended by this

22 Act, is amended by adding at the end the following

23 new item:

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

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

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

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

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

10 “(2) after December 31, 2009.”.

11 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

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

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

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

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

20 “(F) a stove which uses the burning of bio-
21 mass fuel to heat a dwelling unit located in the
22 United States and used as a residence by the
23 taxpayer, or to heat water for use in such a
24 dwelling unit, and which has a thermal effi-
25 ciency rating of at least 75 percent.”.

1 The standards and requirements prescribed by
2 the Secretary under subparagraph (B) with re-
3 spect to the energy efficiency ratio (EER) for
4 central air conditioners and electric heat
5 pumps—

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

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

15 (e) MODIFICATION OF QUALIFIED ENERGY EFFI-
16 CIENCY IMPROVEMENTS.—

17 (1) IN GENERAL.—Paragraph (1) of section
18 25C(c) is amended by inserting “, or an asphalt roof
19 with appropriate cooling granules,” before “which
20 meet the Energy Star program requirements”.

21 (2) BUILDING ENVELOPE COMPONENT.—Sub-
22 paragraph (D) of section 25C(c)(2) is amended—

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

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

3 (f) EFFECTIVE DATES.—

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

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

12 **SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
13 **DUCTION.**

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

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

18 Subsection (g) of section 45L (relating to termi-
19 nation) is amended by striking “December 31, 2008” and
20 inserting “December 31, 2009”.

21 **SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
22 **ANCE CREDIT FOR APPLIANCES PRODUCED**
23 **AFTER 2007.**

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

1 “(b) APPLICABLE AMOUNT.—For purposes of sub-
2 section (a)—

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

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

9 “(B) \$75 in the case of a dishwasher
10 which is manufactured in calendar year 2008,
11 2009, or 2010 and which uses no more than
12 307 kilowatt hours per year and 5.0 gallons per
13 cycle (5.5 gallons per cycle for dishwashers de-
14 signed for greater than 12 place settings).

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

17 “(A) \$75 in the case of a residential top-
18 loading clothes washer manufactured in cal-
19 endar year 2008 which meets or exceeds a 1.72
20 modified energy factor and does not exceed a
21 8.0 water consumption factor,

22 “(B) \$125 in the case of a residential top-
23 loading clothes washer manufactured in cal-
24 endar year 2008 or 2009 which meets or ex-

1 ceeds a 1.8 modified energy factor and does not
2 exceed a 7.5 water consumption factor,

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

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

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

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

20 “(B) \$75 in the case of a refrigerator
21 which is manufactured in calendar year 2008 or
22 2009, and consumes at least 23 percent but no
23 more than 24.9 percent less kilowatt hours per
24 year than the 2001 energy conservation stand-
25 ards,

1 “(C) \$100 in the case of a refrigerator
2 which is manufactured in calendar year 2008,
3 2009, or 2010, and consumes at least 25 per-
4 cent but not more than 29.9 percent less kilo-
5 watt hours per year than the 2001 energy con-
6 servation standards, and

7 “(D) \$200 in the case of a refrigerator
8 manufactured in calendar year 2008, 2009, or
9 2010 and which consumes at least 30 percent
10 less energy than the 2001 energy conservation
11 standards.”.

12 (b) ELIGIBLE PRODUCTION.—

13 (1) SIMILAR TREATMENT FOR ALL APPLI-
14 ANCES.—Subsection (c) of section 45M is amend-
15 ed—

16 (A) by striking paragraph (2),

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

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

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

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

5 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
6 Subsection (d) of section 45M is amended to read as fol-
7 lows:

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

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

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

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

16 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

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

1 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
2 AND CLOTHES WASHERS.—Paragraph (2) of section
3 45M(e) is amended to read as follows:

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

9 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—
10 (1) IN GENERAL.—Paragraph (1) of section
11 45M(f) is amended to read as follows:

12 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
13 ANCE.—The term ‘qualified energy efficient appli-
14 ance’ means—

15 “(A) any dishwasher described in sub-
16 section (b)(1),

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

19 “(C) any refrigerator described in sub-
20 section (b)(3).”.

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

24 (3) TOP-LOADING CLOTHES WASHER.—Sub-
25 section (f) of section 45M is amended by redesignig-

1 nating paragraphs (4), (5), (6), and (7) as para-
2 graphs (5), (6), (7), and (8), respectively, and by in-
3 serting after paragraph (3) the following new para-
4 graph:

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

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

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

18 (5) GALLONS PER CYCLE; WATER CONSUMP-
19 TION FACTOR.—Section 45M(f), as amended by
20 paragraph (3), is amended by adding at the end the
21 following:

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

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

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

9 **SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPREE-**
10 **CIATION OF SMART METERS AND SMART**
11 **GRID SYSTEMS.**

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

16 “(iii) any qualified smart electric
17 meter, and

18 “(iv) any qualified smart electric grid
19 system.”.

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

22 “(18) QUALIFIED SMART ELECTRIC METERS.—
23 “(A) IN GENERAL.—The term ‘qualified
24 smart electric meter’ means any smart electric
25 meter which—

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

4 “(ii) does not have a class life (deter-
5 mined without regard to subsection (e)) of
6 less than 10 years.

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

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

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

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

1 “(iv) provides net metering.

2 “(19) QUALIFIED SMART ELECTRIC GRID SYS-
3 TEMS.—

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

7 “(i) is used as part of a system for
8 electric distribution grid communications,
9 monitoring, and management placed in
10 service by a taxpayer who is a supplier of
11 electric energy or a provider of electric en-
12 ergy services, and

13 “(ii) does not have a class life (deter-
14 mined without regard to subsection (e)) of
15 less than 10 years.

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

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

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

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

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

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

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

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

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

24 (b) TREATMENT OF CURRENT REFUNDING
25 BONDS.—Paragraph (9) of section 142(l) is amended by

1 striking “October 1, 2009” and inserting “October 1,
2 2012”.

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

7 **SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**
8 **TAIN REUSE AND RECYCLING PROPERTY.**

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

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

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

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

21 “(B) the adjusted basis of the qualified
22 reuse and recycling property shall be reduced by
23 the amount of such deduction before computing
24 the amount otherwise allowable as a deprecia-

1 tion deduction under this chapter for such tax-
2 able year and any subsequent taxable year.

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

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

8 “(i) to which this section applies,

9 “(ii) which has a useful life of at least
10 5 years,

11 “(iii) the original use of which com-
12 mences with the taxpayer after August 31,
13 2008, and

14 “(iv) which is—

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

21 “(II) acquired by the taxpayer
22 pursuant to a written binding contract
23 which was entered into after August
24 31, 2008.

25 “(B) EXCEPTIONS.—

1 “(i) BONUS DEPRECIATION PROPERTY
2 UNDER SUBSECTION (k).—The term ‘quali-
3 fied reuse and recycling property’ shall not
4 include any property to which section
5 168(k) applies.

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

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

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

1 manufacturing, constructing, or producing the
2 property after August 31, 2008.

3 “(D) DEDUCTION ALLOWED IN COM-
4 PUTING MINIMUM TAX.—For purposes of deter-
5 mining alternative minimum taxable income
6 under section 55, the deduction under sub-
7 section (a) for qualified reuse and recycling
8 property shall be determined under this section
9 without regard to any adjustment under section
10 56.

11 “(3) DEFINITIONS.—For purposes of this sub-
12 section—

13 “(A) REUSE AND RECYCLING PROPERTY.—

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

23 “(ii) EXCLUSION.—Such term does
24 not include rolling stock or other equip-

1 ment used to transport reuse and recycla-
2 ble materials.

3 “(B) QUALIFIED REUSE AND RECYCLABLE
4 MATERIALS.—

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

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

15 “(I) any cathode ray tube, flat
16 panel screen, or similar video display
17 device with a screen size greater than
18 4 inches measured diagonally, or

19 “(II) any central processing unit.

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

1 virgin materials in manufacturing tangible con-
2 sumer and commercial products, including
3 packaging.”.

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

7 **TITLE IV—REVENUE**
8 **PROVISIONS**

9 **SEC. 401. LIMITATION OF DEDUCTION FOR INCOME AT-**
10 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**
11 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

12 (a) IN GENERAL.—Section 199(d) is amended by re-
13 designating paragraph (9) as paragraph (10) and by in-
14 serting after paragraph (8) the following new paragraph:

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

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

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

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

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

9 “(B) OIL RELATED QUALIFIED PRODUC-
10 TION ACTIVITIES INCOME.—For purposes of
11 this paragraph, the term ‘oil related qualified
12 production activities income’ means for any tax-
13 able year the qualified production activities in-
14 come which is attributable to the production,
15 refining, processing, transportation, or distribu-
16 tion of oil, gas, or any primary product thereof
17 during such taxable year.

18 “(C) PRIMARY PRODUCT.—For purposes of
19 this paragraph, the term ‘primary product’ has
20 the same meaning as when used in section
21 927(a)(2)(C), as in effect before its repeal.”.

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

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

4 **SEC. 402. ELIMINATION OF THE DIFFERENT TREATMENT**
5 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
6 **COME AND FOREIGN OIL RELATED INCOME**
7 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
8 **IT.**

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

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

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

22 “(2) multiplied by—

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

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

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

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

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

15 “(B) foreign oil related income.

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

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

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

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

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

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

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

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

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

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

23 “(B) REDUCTION FOR PRE-2009 FOREIGN
24 OIL EXTRACTION LOSSES.—The reduction

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

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

7 “(ii) the excess of—

8 “(I) the aggregate amount of for-
9 eign oil extraction losses for preceding
10 taxable years beginning after Decem-
11 ber 31, 1982, and before January 1,
12 2009, over

13 “(II) so much of such aggregate
14 amount as was recharacterized under
15 this paragraph (as in effect before
16 and after the date of the enactment of
17 the Energy Improvement and Exten-
18 sion Act of 2008) for preceding tax-
19 able years beginning after December
20 31, 1982.

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

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

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

5 “(ii) the excess of—

6 “(I) the aggregate amount of for-
7 eign oil and gas losses for preceding
8 taxable years beginning after Decem-
9 ber 31, 2008, over

10 “(II) so much of such aggregate
11 amount as was recharacterized under
12 this paragraph for preceding taxable
13 years beginning after December 31,
14 2008.

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

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

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

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

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

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

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

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

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

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

5 “(iv) FOREIGN OIL EXTRACTION
6 LOSS.—For purposes of subparagraph
7 (B)(ii)(I), foreign oil extraction losses shall
8 be determined under this paragraph as in
9 effect on the day before the date of the en-
10 actment of the Energy Improvement and
11 Extension Act of 2008.”

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

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

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

20 “(4) TRANSITION RULES FOR PRE-2009 AND
21 2009 DISALLOWED CREDITS.—

22 “(A) PRE-2009 CREDITS.—In the case of
23 any unused credit year beginning before Janu-
24 ary 1, 2009, this subsection shall be applied to
25 any unused oil and gas extraction taxes carried

1 from such unused credit year to a year begin-
2 ning after December 31, 2008—

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

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

13 “(B) 2009 CREDITS.—In the case of any
14 unused credit year beginning in 2009, the
15 amendments made to this subsection by the En-
16 ergy Improvement and Extension Act of 2008
17 shall be treated as being in effect for any pre-
18 ceding year beginning before January 1, 2009,
19 solely for purposes of determining how much of
20 the unused foreign oil and gas taxes for such
21 unused credit year may be deemed paid or ac-
22 crued in such preceding year.”.

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

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

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

6 (a) IN GENERAL.—

7 (1) BROKER REPORTING FOR SECURITIES
8 TRANSACTIONS.—Section 6045 is amended by add-
9 ing at the end the following new subsection:

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

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

17 “(2) ADDITIONAL INFORMATION REQUIRED.—

18 “(A) IN GENERAL.—The information re-
19 quired under paragraph (1) to be shown on a
20 return with respect to a covered security of a
21 customer shall include the customer's adjusted
22 basis in such security and whether any gain or
23 loss with respect to such security is long-term
24 or short-term (within the meaning of section
25 1222).

1 “(B) DETERMINATION OF ADJUSTED
2 BASIS.—For purposes of subparagraph (A)—

3 “(i) IN GENERAL.—The customer’s
4 adjusted basis shall be determined—

5 “(I) in the case of any security
6 (other than any stock for which an av-
7 erage basis method is permissible
8 under section 1012), in accordance
9 with the first-in first-out method un-
10 less the customer notifies the broker
11 by means of making an adequate
12 identification of the stock sold or
13 transferred, and

14 “(II) in the case of any stock for
15 which an average basis method is per-
16 missible under section 1012, in ac-
17 cordance with the broker’s default
18 method unless the customer notifies
19 the broker that he elects another ac-
20 ceptable method under section 1012
21 with respect to the account in which
22 such stock is held.

23 “(ii) EXCEPTION FOR WASH SALES.—
24 Except as otherwise provided by the Sec-
25 retary, the customer’s adjusted basis shall

1 be determined without regard to section
2 1091 (relating to loss from wash sales of
3 stock or securities) unless the transactions
4 occur in the same account with respect to
5 identical securities.

6 “(3) COVERED SECURITY.—For purposes of
7 this subsection—

8 “(A) IN GENERAL.—The term ‘covered se-
9 curity’ means any specified security acquired on
10 or after the applicable date if such security—

11 “(i) was acquired through a trans-
12 action in the account in which such secu-
13 rity is held, or

14 “(ii) was transferred to such account
15 from an account in which such security
16 was a covered security, but only if the
17 broker received a statement under section
18 6045A with respect to the transfer.

19 “(B) SPECIFIED SECURITY.—The term
20 ‘specified security’ means—

21 “(i) any share of stock in a corpora-
22 tion,

23 “(ii) any note, bond, debenture, or
24 other evidence of indebtedness,

1 “(iii) any commodity, or contract or
2 derivative with respect to such commodity,
3 if the Secretary determines that adjusted
4 basis reporting is appropriate for purposes
5 of this subsection, and

6 “(iv) any other financial instrument
7 with respect to which the Secretary deter-
8 mines that adjusted basis reporting is ap-
9 propriate for purposes of this subsection.

10 “(C) APPLICABLE DATE.—The term ‘appli-
11 cable date’ means—

12 “(i) January 1, 2011, in the case of
13 any specified security which is stock in a
14 corporation (other than any stock de-
15 scribed in clause (ii)),

16 “(ii) January 1, 2012, in the case of
17 any stock for which an average basis meth-
18 od is permissible under section 1012, and

19 “(iii) January 1, 2013, or such later
20 date determined by the Secretary in the
21 case of any other specified security.

22 “(4) TREATMENT OF S CORPORATIONS.—In the
23 case of the sale of a covered security acquired by an
24 S corporation (other than a financial institution)
25 after December 31, 2011, such S corporation shall

1 be treated in the same manner as a partnership for
2 purposes of this section.

3 “(5) SPECIAL RULES FOR SHORT SALES.—In
4 the case of a short sale, reporting under this section
5 shall be made for the year in which such sale is
6 closed.”.

7 (2) BROKER INFORMATION REQUIRED WITH RE-
8 SPECT TO OPTIONS.—Section 6045, as amended by
9 subsection (a), is amended by adding at the end the
10 following new subsection:

11 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

12 “(1) EXERCISE OF OPTION.—For purposes of
13 this section, if a covered security is acquired or dis-
14 posed of pursuant to the exercise of an option that
15 was granted or acquired in the same account as the
16 covered security, the amount received with respect to
17 the grant or paid with respect to the acquisition of
18 such option shall be treated as an adjustment to
19 gross proceeds or as an adjustment to basis, as the
20 case may be.

21 “(2) LAPSE OR CLOSING TRANSACTION.—In the
22 case of the lapse (or closing transaction (as defined
23 in section 1234(b)(2)(A))) of an option on a speci-
24 fied security or the exercise of a cash-settled option
25 on a specified security, reporting under subsections

1 (a) and (g) with respect to such option shall be
2 made for the calendar year which includes the date
3 of such lapse, closing transaction, or exercise.

4 “(3) PROSPECTIVE APPLICATION.—Paragraphs
5 (1) and (2) shall not apply to any option which is
6 granted or acquired before January 1, 2013.

7 “(4) DEFINITIONS.—For purposes of this sub-
8 section, the terms ‘covered security’ and ‘specified
9 security’ shall have the meanings given such terms
10 in subsection (g)(3).”.

11 (3) EXTENSION OF PERIOD FOR STATEMENTS
12 SENT TO CUSTOMERS.—

13 (A) IN GENERAL.—Subsection (b) of sec-
14 tion 6045 is amended by striking “January 31”
15 and inserting “February 15”.

16 (B) STATEMENTS RELATED TO SUB-
17 STITUTE PAYMENTS.—Subsection (d) of section
18 6045 is amended—

19 (i) by striking “at such time and”,
20 and

21 (ii) by inserting after “other item.”
22 the following new sentence: “The written
23 statement required under the preceding
24 sentence shall be furnished on or before
25 February 15 of the year following the cal-

1 endar year in which the payment was
2 made.”.

3 (C) OTHER STATEMENTS.—Subsection (b)
4 of section 6045 is amended by adding at the
5 end the following: “In the case of a consolidated
6 reporting statement (as defined in regulations)
7 with respect to any customer, any statement
8 which would otherwise be required to be fur-
9 nished on or before January 31 of a calendar
10 year with respect to any item reportable to the
11 taxpayer shall instead be required to be fur-
12 nished on or before February 15 of such cal-
13 endar year if furnished with such consolidated
14 reporting statement.”.

15 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-
16 TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS
17 METHOD.—Section 1012 is amended—

18 (1) by striking “The basis of property” and in-
19 serting the following:

20 “(a) IN GENERAL.—The basis of property”,

21 (2) by striking “The cost of real property” and
22 inserting the following:

23 “(b) SPECIAL RULE FOR APPORTIONED REAL ES-
24 TATE TAXES.—The cost of real property”, and

1 (3) by adding at the end the following new sub-
2 sections:

3 “(c) DETERMINATIONS BY ACCOUNT.—

4 “(1) IN GENERAL.—In the case of the sale, ex-
5 change, or other disposition of a specified security
6 on or after the applicable date, the conventions pre-
7 scribed by regulations under this section shall be ap-
8 plied on an account by account basis.

9 “(2) APPLICATION TO CERTAIN FUNDS.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), any stock for which an aver-
12 age basis method is permissible under section
13 1012 which is acquired before January 1, 2012,
14 shall be treated as a separate account from any
15 such stock acquired on or after such date.

16 “(B) ELECTION FUND FOR TREATMENT AS
17 SINGLE ACCOUNT.—If a fund described in sub-
18 paragraph (A) elects to have this subparagraph
19 apply with respect to one or more of its stock-
20 holders—

21 “(i) subparagraph (A) shall not apply
22 with respect to any stock in such fund held
23 by such stockholders, and

24 “(ii) all stock in such fund which is
25 held by such stockholders shall be treated

1 as covered securities described in section
2 6045(g)(3) without regard to the date of
3 the acquisition of such stock.

4 A rule similar to the rule of the preceding sen-
5 tence shall apply with respect to a broker hold-
6 ing such stock as a nominee.

7 “(3) DEFINITIONS.—For purposes of this sec-
8 tion, the terms ‘specified security’ and ‘applicable
9 date’ shall have the meaning given such terms in
10 section 6045(g).

11 “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-
12 ANT TO A DIVIDEND REINVESTMENT PLAN.—

13 “(1) IN GENERAL.—In the case of any stock ac-
14 quired after December 31, 2010, in connection with
15 a dividend reinvestment plan, the basis of such stock
16 while held as part of such plan shall be determined
17 using one of the methods which may be used for de-
18 termining the basis of stock in an open-end fund.

19 “(2) TREATMENT AFTER TRANSFER.—In the
20 case of the transfer to another account of stock to
21 which paragraph (1) applies, such stock shall have
22 a cost basis in such other account equal to its basis
23 in the dividend reinvestment plan immediately before
24 such transfer (properly adjusted for any fees or

1 other charges taken into account in connection with
2 such transfer).

3 “(3) SEPARATE ACCOUNTS; ELECTION FOR
4 TREATMENT AS SINGLE ACCOUNT.—Rules similar to
5 the rules of subsection (c)(2) shall apply for pur-
6 poses of this subsection.

7 “(4) DIVIDEND REINVESTMENT PLAN.—For
8 purposes of this subsection—

9 “(A) IN GENERAL.—The term ‘dividend re-
10 investment plan’ means any arrangement under
11 which dividends on any stock are reinvested in
12 stock identical to the stock with respect to
13 which the dividends are paid.

14 “(B) INITIAL STOCK ACQUISITION TREAT-
15 ED AS ACQUIRED IN CONNECTION WITH
16 PLAN.—Stock shall be treated as acquired in
17 connection with a dividend reinvestment plan if
18 such stock is acquired pursuant to such plan or
19 if the dividends paid on such stock are subject
20 to such plan.”.

21 (c) INFORMATION BY TRANSFERORS TO AID BRO-
22 KERS.—

23 (1) IN GENERAL.—Subpart B of part III of
24 subchapter A of chapter 61 is amended by inserting
25 after section 6045 the following new section:

1 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**
2 **WITH TRANSFERS OF COVERED SECURITIES**
3 **TO BROKERS.**

4 “(a) FURNISHING OF INFORMATION.—Every applica-
5 ble person which transfers to a broker (as defined in sec-
6 tion 6045(c)(1)) a security which is a covered security (as
7 defined in section 6045(g)(3)) in the hands of such appli-
8 cable person shall furnish to such broker a written state-
9 ment in such manner and setting forth such information
10 as the Secretary may by regulations prescribe for purposes
11 of enabling such broker to meet the requirements of sec-
12 tion 6045(g).

13 “(b) APPLICABLE PERSON.—For purposes of sub-
14 section (a), the term ‘applicable person’ means—

15 “(1) any broker (as defined in section
16 6045(c)(1)), and

17 “(2) any other person as provided by the Sec-
18 retary in regulations.

19 “(c) TIME FOR FURNISHING STATEMENT.—Except
20 as otherwise provided by the Secretary, any statement re-
21 quired by subsection (a) shall be furnished not later than
22 15 days after the date of the transfer described in such
23 subsection.”.

24 (2) ASSESSABLE PENALTIES.—Paragraph (2)
25 of section 6724(d), as amended by the Housing As-
26 sistance Tax Act of 2008, is amended by redesignig-

1 nating subparagraphs (I) through (DD) as subpara-
2 graphs (J) through (EE), respectively, and by in-
3 serting after subparagraph (H) the following new
4 subparagraph:

5 “(I) section 6045A (relating to information
6 required in connection with transfers of covered
7 securities to brokers),”.

8 (3) CLERICAL AMENDMENT.—The table of sec-
9 tions for subpart B of part III of subchapter A of
10 chapter 61 is amended by inserting after the item
11 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-
curities to brokers.”.

12 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-
13 KERS.—

14 (1) IN GENERAL.—Subpart B of part III of
15 subchapter A of chapter 61, as amended by sub-
16 section (b), is amended by inserting after section
17 6045A the following new section:

18 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**
19 **BASIS OF SPECIFIED SECURITIES.**

20 “(a) IN GENERAL.—According to the forms or regu-
21 lations prescribed by the Secretary, any issuer of a speci-
22 fied security shall make a return setting forth—

1 “(1) a description of any organizational action
2 which affects the basis of such specified security of
3 such issuer,

4 “(2) the quantitative effect on the basis of such
5 specified security resulting from such action, and

6 “(3) such other information as the Secretary
7 may prescribe.

8 “(b) TIME FOR FILING RETURN.—Any return re-
9 quired by subsection (a) shall be filed not later than the
10 earlier of—

11 “(1) 45 days after the date of the action de-
12 scribed in subsection (a), or

13 “(2) January 15 of the year following the cal-
14 endar year during which such action occurred.

15 “(c) STATEMENTS TO BE FURNISHED TO HOLDERS
16 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-
17 cording to the forms or regulations prescribed by the Sec-
18 retary, every person required to make a return under sub-
19 section (a) with respect to a specified security shall furnish
20 to the nominee with respect to the specified security (or
21 certificate holder if there is no nominee) a written state-
22 ment showing—

23 “(1) the name, address, and phone number of
24 the information contact of the person required to
25 make such return,

1 “(2) the information required to be shown on
2 such return with respect to such security, and

3 “(3) such other information as the Secretary
4 may prescribe.

5 The written statement required under the preceding sen-
6 tence shall be furnished to the holder on or before January
7 15 of the year following the calendar year during which
8 the action described in subsection (a) occurred.

9 “(d) SPECIFIED SECURITY.—For purposes of this
10 section, the term ‘specified security’ has the meaning given
11 such term by section 6045(g)(3)(B). No return shall be
12 required under this section with respect to actions de-
13 scribed in subsection (a) with respect to a specified secu-
14 rity which occur before the applicable date (as defined in
15 section 6045(g)(3)(C)) with respect to such security.

16 “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The
17 Secretary may waive the requirements under subsections
18 (a) and (c) with respect to a specified security, if the per-
19 son required to make the return under subsection (a)
20 makes publicly available, in such form and manner as the
21 Secretary determines necessary to carry out the purposes
22 of this section—

23 “(1) the name, address, phone number, and
24 email address of the information contact of such
25 person, and

1 “(2) the information described in paragraphs
2 (1), (2), and (3) of subsection (a).”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Subparagraph (B) of section
5 6724(d)(1), as amended by the Housing Assist-
6 ance Tax Act of 2008, is amended by redesignig-
7 nating clause (iv) and each of the clauses which
8 follow as clauses (v) through (xxiii), respec-
9 tively, and by inserting after clause (iii) the fol-
10 lowing new clause:

11 “(iv) section 6045B(a) (relating to re-
12 turns relating to actions affecting basis of
13 specified securities),”.

14 (B) Paragraph (2) of section 6724(d), as
15 amended by the Housing Assistance Tax Act of
16 2008 and by subsection (c)(2), is amended by
17 redesignating subparagraphs (J) through (EE)
18 as subparagraphs (K) through (FF), respec-
19 tively, and by inserting after subparagraph (I)
20 the following new subparagraph:

21 “(J) subsections (c) and (e) of section
22 6045B (relating to returns relating to actions
23 affecting basis of specified securities),”.

24 (3) CLERICAL AMENDMENT.—The table of sec-
25 tions for subpart B of part III of subchapter A of

1 chapter 61, as amended by subsection (b)(3), is
2 amended by inserting after the item relating to sec-
3 tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securi-
ties.”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendments made by
7 this section shall take effect on January 1, 2011.

8 (2) EXTENSION OF PERIOD FOR STATEMENTS
9 SENT TO CUSTOMERS.—The amendments made by
10 subsection (a)(3) shall apply to statements required
11 to be furnished after December 31, 2008.

12 **SEC. 404. 0.2 PERCENT FUTA SURTAX.**

13 (a) IN GENERAL.—Section 3301 (relating to rate of
14 tax) is amended—

15 (1) by striking “through 2008” in paragraph
16 (1) and inserting “through 2009”, and

17 (2) by striking “calendar year 2009” in para-
18 graph (2) and inserting “calendar year 2010”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to wages paid after December 31,
21 2008.

22 **SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**
23 **ITY TRUST FUND TAX.**

24 (a) INCREASE IN RATE.—

1 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-
2 relating to rates) is amended by striking “is 5 cents
3 a barrel.” and inserting “is—

4 “(i) in the case of crude oil received
5 or petroleum products entered before Jan-
6 uary 1, 2017, 8 cents a barrel, and

7 “(ii) in the case of crude oil received
8 or petroleum products entered after De-
9 cember 31, 2016, 9 cents a barrel.”.

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

15 (b) EXTENSION.—

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

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

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

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

4 **DIVISION C—TAX EXTENDERS**
5 **AND ALTERNATIVE MINIMUM**
6 **TAX RELIEF**

7 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**
8 **TABLE OF CONTENTS.**

9 (a) SHORT TITLE.—This division may be cited as the
10 “Tax Extenders and Alternative Minimum Tax Relief Act
11 of 2008”.

12 (b) AMENDMENT OF 1986 CODE.—Except as other-
13 wise expressly provided, whenever in this division an
14 amendment or repeal is expressed in terms of an amend-
15 ment to, or repeal of, a section or other provision, the ref-
16 erence shall be considered to be made to a section or other
17 provision of the Internal Revenue Code of 1986.

18 (c) TABLE OF CONTENTS.—The table of contents of
19 this division is as follows:

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 per-
sonal 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.

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- Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 204. Additional standard deduction for real property taxes for non-itemizers.
- 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.

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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, tornados, 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.

1 **TITLE I—ALTERNATIVE**
2 **MINIMUM TAX RELIEF**

3 **SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
4 **LIEF FOR NONREFUNDABLE PERSONAL**
5 **CREDITS.**

6 (a) IN GENERAL.—Paragraph (2) of section 26(a)
7 (relating to special rule for taxable years 2000 through
8 2007) is amended—

9 (1) by striking “or 2007” and inserting “2007,
10 or 2008”, and

11 (2) by striking “2007” in the heading thereof
12 and inserting “2008”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2007.

16 **SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MIN-**
17 **IMUM TAX EXEMPTION AMOUNT.**

18 (a) IN GENERAL.—Paragraph (1) of section 55(d)
19 (relating to exemption amount) is amended—

20 (1) by striking “(\$66,250 in the case of taxable
21 years beginning in 2007)” in subparagraph (A) and
22 inserting “(\$69,950 in the case of taxable years be-
23 ginning in 2008)”, and

24 (2) by striking “(\$44,350 in the case of taxable
25 years beginning in 2007)” in subparagraph (B) and

1 inserting “(\$46,200 in the case of taxable years be-
2 ginning in 2008)”.

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

6 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT**
7 **AMOUNT FOR INDIVIDUALS WITH LONG-**
8 **TERM UNUSED CREDITS FOR PRIOR YEAR**
9 **MINIMUM TAX LIABILITY, ETC.**

10 (a) IN GENERAL.—Paragraph (2) of section 53(e) is
11 amended to read as follows:

12 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
13 For purposes of paragraph (1), the term ‘AMT re-
14 fundable credit amount’ means, with respect to any
15 taxable year, the amount (not in excess of the long-
16 term unused minimum tax credit for such taxable
17 year) equal to the greater of—

18 “(A) 50 percent of the long-term unused
19 minimum tax credit for such taxable year, or

20 “(B) the amount (if any) of the AMT re-
21 fundable credit amount determined under this
22 paragraph for the taxpayer’s preceding taxable
23 year (determined without regard to subsection
24 (f)(2)).”.

1 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
2 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
3 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is
4 amended by adding at the end the following new sub-
5 section:

6 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
7 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
8 MENT OF INCENTIVE STOCK OPTIONS.—

9 “(1) ABATEMENT.—Any underpayment of tax
10 outstanding on the date of the enactment of this
11 subsection which is attributable to the application of
12 section 56(b)(3) for any taxable year ending before
13 January 1, 2008, and any interest or penalty with
14 respect to such underpayment which is outstanding
15 on such date of enactment, is hereby abated. The
16 amount determined under subsection (b)(1) shall not
17 include any tax abated under the preceding sentence.

18 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-
19 EST AND PENALTIES ALREADY PAID.—The AMT re-
20 fundable credit amount, and the minimum tax credit
21 determined under subsection (b), for the taxpayer’s
22 first 2 taxable years beginning after December 31,
23 2007, shall each be increased by 50 percent of the
24 aggregate amount of the interest and penalties
25 which were paid by the taxpayer before the date of

1 the enactment of this subsection and which would
2 (but for such payment) have been abated under
3 paragraph (1).”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to taxable years beginning after Decem-
8 ber 31, 2007.

9 (2) ABATEMENT.—Section 53(f)(1), as added
10 by subsection (b), shall take effect on the date of the
11 enactment of this Act.

12 **TITLE II—EXTENSION OF**
13 **INDIVIDUAL TAX PROVISIONS**

14 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES**
15 **TAXES.**

16 (a) IN GENERAL.—Subparagraph (I) of section
17 164(b)(5) is amended by striking “January 1, 2008” and
18 inserting “January 1, 2010”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2007.

1 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**
2 **LATED EXPENSES.**

3 (a) IN GENERAL.—Subsection (e) of section 222 (re-
4 lating to termination) is amended by striking “December
5 31, 2007” and inserting “December 31, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2007.

9 **SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**
10 **MENTARY AND SECONDARY SCHOOL TEACH-**
11 **ERS.**

12 (a) IN GENERAL.—Subparagraph (D) of section
13 62(a)(2) (relating to certain expenses of elementary and
14 secondary school teachers) is amended by striking “or
15 2007” and inserting “2007, 2008, or 2009”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to taxable years beginning after
18 December 31, 2007.

19 **SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL**
20 **PROPERTY TAXES FOR NONITEMIZERS.**

21 (a) IN GENERAL.—Subparagraph (C) of section
22 63(c)(1), as added by the Housing Assistance Tax Act of
23 2008, is amended by inserting “or 2009” after “2008”.

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

1 **SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
2 **TIREMENT PLANS FOR CHARITABLE PUR-**
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section
5 408(d)(8) (relating to termination) is amended by striking
6 “December 31, 2007” and inserting “December 31,
7 2009”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to distributions made in taxable
10 years beginning after December 31, 2007.

11 **SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
12 **LATED INVESTMENT COMPANIES.**

13 (a) INTEREST-RELATED DIVIDENDS.—Subpara-
14 graph (C) of section 871(k)(1) (defining interest-related
15 dividend) is amended by striking “December 31, 2007”
16 and inserting “December 31, 2009”.

17 (b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Sub-
18 paragraph (C) of section 871(k)(2) (defining short-term
19 capital gain dividend) is amended by striking “December
20 31, 2007” and inserting “December 31, 2009”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to dividends with respect to taxable
23 years of regulated investment companies beginning after
24 December 31, 2007.

1 **SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING**
2 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

3 (a) IN GENERAL.—Paragraph (3) of section 2105(d)
4 (relating to stock in a RIC) is amended by striking “De-
5 cember 31, 2007” and inserting “December 31, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to decedents dying after December
8 31, 2007.

9 **SEC. 208. QUALIFIED INVESTMENT ENTITIES.**

10 (a) IN GENERAL.—Clause (ii) of section
11 897(h)(4)(A) (relating to termination) is amended by
12 striking “December 31, 2007” and inserting “December
13 31, 2009”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on January 1, 2008.

16 **TITLE III—EXTENSION OF**
17 **BUSINESS TAX PROVISIONS**

18 **SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH**
19 **CREDIT.**

20 (a) EXTENSION.—

21 (1) IN GENERAL.—Section 41(h) (relating to
22 termination) is amended by striking “December 31,
23 2007” and inserting “December 31, 2009” in para-
24 graph (1)(B).

25 (2) CONFORMING AMENDMENT.—Subparagraph
26 (D) of section 45C(b)(1) (relating to special rule) is

1 amended by striking “after December 31, 2007”
2 and inserting “after December 31, 2009”.

3 (b) TERMINATION OF ALTERNATIVE INCREMENTAL
4 CREDIT.—Section 41(h) is amended by redesignating
5 paragraph (2) as paragraph (3), and by inserting after
6 paragraph (1) the following new paragraph:

7 “(2) TERMINATION OF ALTERNATIVE INCRE-
8 MENTAL CREDIT.—No election under subsection
9 (c)(4) shall apply to taxable years beginning after
10 December 31, 2008.”.

11 (c) MODIFICATION OF ALTERNATIVE SIMPLIFIED
12 CREDIT.—Paragraph (5)(A) of section 41(c) (relating to
13 election of alternative simplified credit) is amended by
14 striking “12 percent” and inserting “14 percent (12 per-
15 cent in the case of taxable years ending before January
16 1, 2009)”.

17 (d) TECHNICAL CORRECTION.—Paragraph (3) of sec-
18 tion 41(h) is amended to read as follows:

19 “(2) COMPUTATION FOR TAXABLE YEAR IN
20 WHICH CREDIT TERMINATES.—In the case of any
21 taxable year with respect to which this section ap-
22 plies to a number of days which is less than the total
23 number of days in such taxable year—

24 “(A) the amount determined under sub-
25 section (c)(1)(B) with respect to such taxable

1 year shall be the amount which bears the same
2 ratio to such amount (determined without re-
3 gard to this paragraph) as the number of days
4 in such taxable year to which this section ap-
5 plies bears to the total number of days in such
6 taxable year, and

7 “(B) for purposes of subsection (c)(5), the
8 average qualified research expenses for the pre-
9 ceding 3 taxable years shall be the amount
10 which bears the same ratio to such average
11 qualified research expenses (determined without
12 regard to this paragraph) as the number of
13 days in such taxable year to which this section
14 applies bears to the total number of days in
15 such taxable year.”.

16 (e) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply to taxable years beginning after Decem-
20 ber 31, 2007.

21 (2) EXTENSION.—The amendments made by
22 subsection (a) shall apply to amounts paid or in-
23 curred after December 31, 2007.

1 **SEC. 302. NEW MARKETS TAX CREDIT.**

2 Subparagraph (D) of section 45D(f)(1) (relating to
3 national limitation on amount of investments designated)
4 is amended by striking “and 2008” and inserting “2008,
5 and 2009”.

6 **SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING**
7 **INCOME.**

8 (a) EXEMPT INSURANCE INCOME.—Paragraph (10)
9 of section 953(e) (relating to application) is amended—

10 (1) by striking “January 1, 2009” and insert-
11 ing “January 1, 2010”, and

12 (2) by striking “December 31, 2008” and in-
13 serting “December 31, 2009”.

14 (b) EXCEPTION TO TREATMENT AS FOREIGN PER-
15 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of
16 section 954(h) (relating to application) is amended by
17 striking “January 1, 2009” and inserting “January 1,
18 2010”.

19 **SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED**
20 **CONTROLLED FOREIGN CORPORATIONS.**

21 (a) IN GENERAL.—Subparagraph (C) of section
22 954(e)(6) (relating to application) is amended by striking
23 “January 1, 2009” and inserting “January 1, 2010”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to taxable years of foreign corpora-
26 tions beginning after December 31, 2007, and to taxable

1 years of United States shareholders with or within which
2 such taxable years of foreign corporations end.

3 **SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RE-**
4 **COVERY FOR QUALIFIED LEASEHOLD IM-**
5 **PROVEMENTS AND QUALIFIED RESTAURANT**
6 **IMPROVEMENTS; 15-YEAR STRAIGHT-LINE**
7 **COST RECOVERY FOR CERTAIN IMPROVE-**
8 **MENTS TO RETAIL SPACE.**

9 (a) EXTENSION OF LEASEHOLD AND RESTAURANT
10 IMPROVEMENTS.—

11 (1) IN GENERAL.—Clauses (iv) and (v) of sec-
12 tion 168(e)(3)(E) (relating to 15-year property) are
13 each amended by striking “January 1, 2008” and
14 inserting “January 1, 2010”.

15 (2) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to property placed in
17 service after December 31, 2007.

18 (b) TREATMENT TO INCLUDE NEW CONSTRUC-
19 TION.—

20 (1) IN GENERAL.—Paragraph (7) of section
21 168(e) (relating to classification of property) is
22 amended to read as follows:

23 “(7) QUALIFIED RESTAURANT PROPERTY.—

1 “(A) IN GENERAL.—The term ‘qualified
2 restaurant property’ means any section 1250
3 property which is—

4 “(i) a building, if such building is
5 placed in service after December 31, 2008,
6 and before January 1, 2010, or

7 “(ii) an improvement to a building,
8 if more than 50 percent of the building’s square
9 footage is devoted to preparation of, and seat-
10 ing for on-premises consumption of, prepared
11 meals.

12 “(B) EXCLUSION FROM BONUS DEPRECIA-
13 TION.—Property described in this paragraph
14 shall not be considered qualified property for
15 purposes of subsection (k).”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall apply to property placed in
18 service after December 31, 2008.

19 (c) RECOVERY PERIOD FOR DEPRECIATION OF CER-
20 TAIN IMPROVEMENTS TO RETAIL SPACE.—

21 (1) 15-YEAR RECOVERY PERIOD.—Section
22 168(e)(3)(E) (relating to 15-year property) is
23 amended by striking “and” at the end of clause
24 (vii), by striking the period at the end of clause (viii)

1 and inserting “, and”, and by adding at the end the
2 following new clause:

3 “(ix) any qualified retail improvement
4 property placed in service after December
5 31, 2008, and before January 1, 2010.”.

6 (2) QUALIFIED RETAIL IMPROVEMENT PROP-
7 ERTY.—Section 168(e) is amended by adding at the
8 end the following new paragraph:

9 “(8) QUALIFIED RETAIL IMPROVEMENT PROP-
10 ERTY.—

11 “(A) IN GENERAL.—The term ‘qualified
12 retail improvement property’ means any im-
13 provement to an interior portion of a building
14 which is nonresidential real property if—

15 “(i) such portion is open to the gen-
16 eral public and is used in the retail trade
17 or business of selling tangible personal
18 property to the general public, and

19 “(ii) such improvement is placed in
20 service more than 3 years after the date
21 the building was first placed in service.

22 “(B) IMPROVEMENTS MADE BY OWNER.—
23 In the case of an improvement made by the
24 owner of such improvement, such improvement
25 shall be qualified retail improvement property

1 (if at all) only so long as such improvement is
2 held by such owner. Rules similar to the rules
3 under paragraph (6)(B) shall apply for pur-
4 poses of the preceding sentence.

5 “(C) CERTAIN IMPROVEMENTS NOT IN-
6 CLUDED.—Such term shall not include any im-
7 provement for which the expenditure is attrib-
8 utable to—

9 “(i) the enlargement of the building,

10 “(ii) any elevator or escalator,

11 “(iii) any structural component bene-
12 fitting a common area, or

13 “(iv) the internal structural frame-
14 work of the building.

15 “(D) EXCLUSION FROM BONUS DEPRECI-
16 ATION.—Property described in this paragraph
17 shall not be considered qualified property for
18 purposes of subsection (k).

19 “(E) TERMINATION.—Such term shall not
20 include any improvement placed in service after
21 December 31, 2009.”.

22 (3) REQUIREMENT TO USE STRAIGHT LINE
23 METHOD.—Section 168(b)(3) is amended by adding
24 at the end the following new subparagraph:

1 “(I) Qualified retail improvement property
2 described in subsection (e)(8).”.

3 (4) ALTERNATIVE SYSTEM.—The table con-
4 tained in section 168(g)(3)(B) is amended by insert-
5 ing after the item relating to subparagraph (E)(viii)
6 the following new item:

“(E)(ix) 39”.

7 (5) EFFECTIVE DATE.—The amendments made
8 by this subsection shall apply to property placed in
9 service after December 31, 2008.

10 **SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN**
11 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
12 **NIZATIONS.**

13 (a) IN GENERAL.—Clause (iv) of section
14 512(b)(13)(E) (relating to termination) is amended by
15 striking “December 31, 2007” and inserting “December
16 31, 2009”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to payments received or accrued
19 after December 31, 2007.

20 **SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
21 **TIONS MAKING CHARITABLE CONTRIBU-**
22 **TIONS OF PROPERTY.**

23 (a) IN GENERAL.—The last sentence of section
24 1367(a)(2) (relating to decreases in basis) is amended by

1 striking “December 31, 2007” and inserting “December
2 31, 2009”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to contributions made in taxable
5 years beginning after December 31, 2007.

6 **SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**
7 **CISE TAX TO PUERTO RICO AND THE VIRGIN**
8 **ISLANDS.**

9 (a) IN GENERAL.—Paragraph (1) of section 7652(f)
10 is amended by striking “January 1, 2008” and inserting
11 “January 1, 2010”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to distilled spirits brought into the
14 United States after December 31, 2007.

15 **SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CRED-**
16 **IT FOR AMERICAN SAMOA.**

17 (a) IN GENERAL.—Subsection (d) of section 119 of
18 division A of the Tax Relief and Health Care Act of 2006
19 is amended—

20 (1) by striking “first two taxable years” and in-
21 serting “first 4 taxable years”, and

22 (2) by striking “January 1, 2008” and insert-
23 ing “January 1, 2010”.

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

4 **SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING**
5 **CREDIT.**

6 Section 45N(e) (relating to termination) is amended
7 by striking “December 31, 2008” and inserting “Decem-
8 ber 31, 2009”.

9 **SEC. 311. EXTENSION OF ELECTION TO EXPENSE AD-**
10 **VANCED MINE SAFETY EQUIPMENT.**

11 Section 179E(g) (relating to termination) is amended
12 by striking “December 31, 2008” and inserting “Decem-
13 ber 31, 2009”.

14 **SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
15 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
16 **DUCTION ACTIVITIES IN PUERTO RICO.**

17 (a) IN GENERAL.—Subparagraph (C) of section
18 199(d)(8) (relating to termination) is amended—

19 (1) by striking “first 2 taxable years” and in-
20 serting “first 4 taxable years”, and

21 (2) by striking “January 1, 2008” and insert-
22 ing “January 1, 2010”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2007.

1 **SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

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

5 **“SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.**

6 “(a) QUALIFIED ZONE ACADEMY BONDS.—For pur-
7 poses of this subchapter, the term ‘qualified zone academy
8 bond’ means any bond issued as part of an issue if—

9 “(1) 100 percent of the available project pro-
10 ceeds of such issue are to be used for a qualified
11 purpose with respect to a qualified zone academy es-
12 tablished by an eligible local education agency,

13 “(2) the bond is issued by a State or local gov-
14 ernment within the jurisdiction of which such acad-
15 emy is located, and

16 “(3) the issuer—

17 “(A) designates such bond for purposes of
18 this section,

19 “(B) certifies that it has written assur-
20 ances that the private business contribution re-
21 quirement of subsection (b) will be met with re-
22 spect to such academy, and

23 “(C) certifies that it has the written ap-
24 proval of the eligible local education agency for
25 such bond issuance.

1 “(b) PRIVATE BUSINESS CONTRIBUTION REQUIRE-
2 MENT.—For purposes of subsection (a), the private busi-
3 ness contribution requirement of this subsection is met
4 with respect to any issue if the eligible local education
5 agency that established the qualified zone academy has
6 written commitments from private entities to make quali-
7 fied contributions having a present value (as of the date
8 of issuance of the issue) of not less than 10 percent of
9 the proceeds of the issue.

10 “(c) LIMITATION ON AMOUNT OF BONDS DES-
11 IGNATED.—

12 “(1) NATIONAL LIMITATION.—There is a na-
13 tional zone academy bond limitation for each cal-
14 endar year. Such limitation is \$400,000,000 for
15 2008 and 2009, and, except as provided in para-
16 graph (4), zero thereafter.

17 “(2) ALLOCATION OF LIMITATION.—The na-
18 tional zone academy bond limitation for a calendar
19 year shall be allocated by the Secretary among the
20 States on the basis of their respective populations of
21 individuals below the poverty line (as defined by the
22 Office of Management and Budget). The limitation
23 amount allocated to a State under the preceding
24 sentence shall be allocated by the State education

1 agency to qualified zone academies within such
2 State.

3 “(3) DESIGNATION SUBJECT TO LIMITATION
4 AMOUNT.—The maximum aggregate face amount of
5 bonds issued during any calendar year which may be
6 designated under subsection (a) with respect to any
7 qualified zone academy shall not exceed the limita-
8 tion amount allocated to such academy under para-
9 graph (2) for such calendar year.

10 “(4) CARRYOVER OF UNUSED LIMITATION.—

11 “(A) IN GENERAL.—If for any calendar
12 year—

13 “(i) the limitation amount for any
14 State, exceeds

15 “(ii) the amount of bonds issued dur-
16 ing such year which are designated under
17 subsection (a) with respect to qualified
18 zone academies within such State,

19 the limitation amount for such State for the fol-
20 lowing calendar year shall be increased by the
21 amount of such excess.

22 “(B) LIMITATION ON CARRYOVER.—Any
23 carryforward of a limitation amount may be
24 carried only to the first 2 years following the
25 unused limitation year. For purposes of the pre-

1 ceding sentence, a limitation amount shall be
2 treated as used on a first-in first-out basis.

3 “(C) COORDINATION WITH SECTION
4 1397E.—Any carryover determined under sec-
5 tion 1397E(e)(4) (relating to carryover of un-
6 used limitation) with respect to any State to
7 calendar year 2008 or 2009 shall be treated for
8 purposes of this section as a carryover with re-
9 spect to such State for such calendar year
10 under subparagraph (A), and the limitation of
11 subparagraph (B) shall apply to such carryover
12 taking into account the calendar years to which
13 such carryover relates.

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

15 “(1) QUALIFIED ZONE ACADEMY.—The term
16 ‘qualified zone academy’ means any public school (or
17 academic program within a public school) which is
18 established by and operated under the supervision of
19 an eligible local education agency to provide edu-
20 cation or training below the postsecondary level if—

21 “(A) such public school or program (as the
22 case may be) is designed in cooperation with
23 business to enhance the academic curriculum,
24 increase graduation and employment rates, and

1 better prepare students for the rigors of college
2 and the increasingly complex workforce,

3 “(B) students in such public school or pro-
4 gram (as the case may be) will be subject to the
5 same academic standards and assessments as
6 other students educated by the eligible local
7 education agency,

8 “(C) the comprehensive education plan of
9 such public school or program is approved by
10 the eligible local education agency, and

11 “(D)(i) such public school is located in an
12 empowerment zone or enterprise community
13 (including any such zone or community des-
14 ignated after the date of the enactment of this
15 section), or

16 “(ii) there is a reasonable expectation (as
17 of the date of issuance of the bonds) that at
18 least 35 percent of the students attending such
19 school or participating in such program (as the
20 case may be) will be eligible for free or reduced-
21 cost lunches under the school lunch program es-
22 tablished under the National School Lunch Act.

23 “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—

24 For purposes of this section, the term ‘eligible local
25 education agency’ means any local educational agen-

1 cy as defined in section 9101 of the Elementary and
2 Secondary Education Act of 1965.

3 “(3) QUALIFIED PURPOSE.—The term ‘quali-
4 fied purpose’ means, with respect to any qualified
5 zone academy—

6 “(A) rehabilitating or repairing the public
7 school facility in which the academy is estab-
8 lished,

9 “(B) providing equipment for use at such
10 academy,

11 “(C) developing course materials for edu-
12 cation to be provided at such academy, and

13 “(D) training teachers and other school
14 personnel in such academy.

15 “(4) QUALIFIED CONTRIBUTIONS.—The term
16 ‘qualified contribution’ means any contribution (of a
17 type and quality acceptable to the eligible local edu-
18 cation agency) of—

19 “(A) equipment for use in the qualified
20 zone academy (including state-of-the-art tech-
21 nology and vocational equipment),

22 “(B) technical assistance in developing
23 curriculum or in training teachers in order to
24 promote appropriate market driven technology
25 in the classroom,

1 “(C) services of employees as volunteer
2 mentors,

3 “(D) internships, field trips, or other edu-
4 cational opportunities outside the academy for
5 students, or

6 “(E) any other property or service speci-
7 fied by the eligible local education agency.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Paragraph (1) of section 54A(d), as amend-
10 ed by this Act, is amended by striking “or” at the
11 end of subparagraph (B), by inserting “or” at the
12 end of subparagraph (C), and by inserting after sub-
13 paragraph (C) the following new subparagraph:

14 “(D) a qualified zone academy bond,”.

15 (2) Subparagraph (C) of section 54A(d)(2), as
16 amended by this Act, is amended by striking “and”
17 at the end of clause (ii), by striking the period at
18 the end of clause (iii) and inserting “, and”, and by
19 adding at the end the following new clause:

20 “(iv) in the case of a qualified zone
21 academy bond, a purpose specified in sec-
22 tion 54E(a)(1).”.

23 (3) Section 1397E is amended by adding at the
24 end the following new subsection:

1 “(m) **TERMINATION.**—This section shall not apply to
2 any obligation issued after the date of the enactment of
3 the Tax Extenders and Alternative Minimum Tax Relief
4 Act of 2008.”.

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

“Sec. 54E. Qualified zone academy bonds.”.

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

11 **SEC. 314. INDIAN EMPLOYMENT CREDIT.**

12 (a) **IN GENERAL.**—Subsection (f) of section 45A (re-
13 lating to termination) is amended by striking “December
14 31, 2007” and inserting “December 31, 2009”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 this section shall apply to taxable years beginning after
17 December 31, 2007.

18 **SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS**
19 **PROPERTY ON INDIAN RESERVATIONS.**

20 (a) **IN GENERAL.**—Paragraph (8) of section 168(j)
21 (relating to termination) is amended by striking “Decem-
22 ber 31, 2007” and inserting “December 31, 2009”.

23 (b) **EFFECTIVE DATE.**—The amendment made by
24 this section shall apply to property placed in service after
25 December 31, 2007.

1 **SEC. 316. RAILROAD TRACK MAINTENANCE.**

2 (a) IN GENERAL.—Subsection (f) of section 45G (re-
3 lating to application of section) is amended by striking
4 “January 1, 2008” and inserting “January 1, 2010”.

5 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
6 IMUM TAX.—Subparagraph (B) of section 38(c)(4), as
7 amended by this Act, is amended—

8 (1) by redesignating clauses (v), (vi), and (vii)
9 as clauses (vi), (vii), and (viii), respectively, and

10 (2) by inserting after clause (iv) the following
11 new clause:

12 “(v) the credit determined under sec-
13 tion 45G.”.

14 (c) EFFECTIVE DATES.—

15 (1) The amendment made by subsection (a)
16 shall apply to expenditures paid or incurred during
17 taxable years beginning after December 31, 2007.

18 (2) The amendments made by subsection (b)
19 shall apply to credits determined under section 45G
20 of the Internal Revenue Code of 1986 in taxable
21 years beginning after December 31, 2007, and to
22 carrybacks of such credits.

23 **SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**
24 **TORSPOUNTS RACING TRACK FACILITY.**

25 (a) IN GENERAL.—Subparagraph (D) of section
26 168(i)(15) (relating to termination) is amended by strik-

1 ing “December 31, 2007” and inserting “December 31,
2 2009”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to property placed in service after
5 December 31, 2007.

6 **SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION**
7 **COSTS.**

8 (a) **IN GENERAL.**—Subsection (h) of section 198 (re-
9 lating to termination) is amended by striking “December
10 31, 2007” and inserting “December 31, 2009”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 this section shall apply to expenditures paid or incurred
13 after December 31, 2007.

14 **SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT**
15 **FOR HURRICANE KATRINA EMPLOYEES.**

16 (a) **IN GENERAL.**—Paragraph (1) of section 201(b)
17 of the Katrina Emergency Tax Relief Act of 2005 is
18 amended by striking “2-year” and inserting “4-year”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 subsection (a) shall apply to individuals hired after August
21 27, 2007.

1 **SEC. 320. EXTENSION OF INCREASED REHABILITATION**
2 **CREDIT FOR STRUCTURES IN THE GULF OP-**
3 **PORTUNITY ZONE.**

4 (a) **IN GENERAL.**—Subsection (h) of section 1400N
5 is amended by striking “December 31, 2008” and insert-
6 ing “December 31, 2009”.

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 this section shall apply to expenditures paid or incurred
9 after the date of the enactment of this Act.

10 **SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COM-**
11 **PUTER CONTRIBUTIONS.**

12 (a) **IN GENERAL.**—Subparagraph (G) of section
13 170(e)(6) is amended by striking “December 31, 2007”
14 and inserting “December 31, 2009”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 this section shall apply to contributions made during tax-
17 able years beginning after December 31, 2007.

18 **SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
19 **TRICT OF COLUMBIA.**

20 (a) **DESIGNATION OF ZONE.**—

21 (1) **IN GENERAL.**—Subsection (f) of section
22 1400 is amended by striking “2007” both places it
23 appears and inserting “2009”.

24 (2) **EFFECTIVE DATE.**—The amendments made
25 by this subsection shall apply to periods beginning
26 after December 31, 2007.

1 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
2 BONDS.—

3 (1) IN GENERAL.—Subsection (b) of section
4 1400A is amended by striking “2007” and inserting
5 “2009”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by this subsection shall apply to bonds issued after
8 December 31, 2007.

9 (c) ZERO PERCENT CAPITAL GAINS RATE.—

10 (1) IN GENERAL.—Subsection (b) of section
11 1400B is amended by striking “2008” each place it
12 appears and inserting “2010”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 1400B(e)(2) is amended—

15 (i) by striking “2012” and inserting
16 “2014”, and

17 (ii) by striking “2012” in the heading
18 thereof and inserting “2014”.

19 (B) Section 1400B(g)(2) is amended by
20 striking “2012” and inserting “2014”.

21 (C) Section 1400F(d) is amended by strik-
22 ing “2012” and inserting “2014”.

23 (3) EFFECTIVE DATES.—

1 (A) EXTENSION.—The amendments made
2 by paragraph (1) shall apply to acquisitions
3 after December 31, 2007.

4 (B) CONFORMING AMENDMENTS.—The
5 amendments made by paragraph (2) shall take
6 effect on the date of the enactment of this Act.

7 (d) FIRST-TIME HOMEBUYER CREDIT.—

8 (1) IN GENERAL.—Subsection (i) of section
9 1400C is amended by striking “2008” and inserting
10 “2010”.

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

14 **SEC. 323. ENHANCED CHARITABLE DEDUCTIONS FOR CON-**
15 **TRIBUTIONS OF FOOD INVENTORY.**

16 (a) INCREASED AMOUNT OF DEDUCTION.—

17 (1) IN GENERAL.—Clause (iv) of section
18 170(e)(3)(C) (relating to termination) is amended by
19 striking “December 31, 2007” and inserting “De-
20 cember 31, 2009”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by this subsection shall apply to contributions made
23 after December 31, 2007.

24 (b) TEMPORARY SUSPENSION OF LIMITATIONS ON
25 CHARITABLE CONTRIBUTIONS.—

1 (1) IN GENERAL.—Section 170(b) is amended
2 by adding at the end the following new paragraph:

3 “(3) TEMPORARY SUSPENSION OF LIMITATIONS
4 ON CHARITABLE CONTRIBUTIONS.—In the case of a
5 qualified farmer or rancher (as defined in paragraph
6 (1)(E)(v)), any charitable contribution of food—

7 “(A) to which subsection (e)(3)(C) applies
8 (without regard to clause (ii) thereof), and

9 “(B) which is made during the period be-
10 ginning on the date of the enactment of this
11 paragraph and before January 1, 2009,

12 shall be treated for purposes of paragraph (1)(E) or
13 (2)(B), whichever is applicable, as if it were a quali-
14 fied conservation contribution which is made by a
15 qualified farmer or rancher and which otherwise
16 meets the requirements of such paragraph.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection shall apply to taxable years end-
19 ing after the date of the enactment of this Act.

20 **SEC. 324. EXTENSION OF ENHANCED CHARITABLE DEDUC-**
21 **TION FOR CONTRIBUTIONS OF BOOK INVEN-**
22 **TORY.**

23 (a) EXTENSION.—Clause (iv) of section 170(e)(3)(D)
24 (relating to termination) is amended by striking “Decem-
25 ber 31, 2007” and inserting “December 31, 2009”.

1 (b) CLERICAL AMENDMENT.—Clause (iii) of section
2 170(e)(3)(D) (relating to certification by donee) is amend-
3 ed by inserting “of books” after “to any contribution”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to contributions made after De-
6 cember 31, 2007.

7 **SEC. 325. EXTENSION AND MODIFICATION OF DUTY SUS-**
8 **PENSION ON WOOL PRODUCTS; WOOL RE-**
9 **SEARCH FUND; WOOL DUTY REFUNDS.**

10 (a) EXTENSION OF TEMPORARY DUTY REDUC-
11 TIONS.—Each of the following headings of the Har-
12 monized Tariff Schedule of the United States is amended
13 by striking the date in the effective period column and
14 inserting “12/31/2014”:

15 (1) Heading 9902.51.11 (relating to fabrics of
16 worsted wool).

17 (2) Heading 9902.51.13 (relating to yarn of
18 combed wool).

19 (3) Heading 9902.51.14 (relating to wool fiber,
20 waste, garnetted stock, combed wool, or wool top).

21 (4) Heading 9902.51.15 (relating to fabrics of
22 combed wool).

23 (5) Heading 9902.51.16 (relating to fabrics of
24 combed wool).

1 (b) EXTENSION OF DUTY REFUNDS AND WOOL RE-
2 SEARCH TRUST FUND.—

3 (1) IN GENERAL.—Section 4002(c) of the Wool
4 Suit and Textile Trade Extension Act of 2004 (Pub-
5 lic Law 108–429; 118 Stat. 2603) is amended—

6 (A) in paragraph (3)(C), by striking
7 “2010” and inserting “2015”; and

8 (B) in paragraph (6)(A), by striking
9 “through 2009” and inserting “through 2014”.

10 (2) SUNSET.—Section 506(f) of the Trade and
11 Development Act of 2000 (Public 106–200; 114
12 Stat. 303 (7 U.S.C. 7101 note)) is amended by
13 striking “2010” and inserting “2015”.

14 **TITLE IV—EXTENSION OF TAX**
15 **ADMINISTRATION PROVISIONS**

16 **SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OP-**
17 **ERATIONS.**

18 (a) IN GENERAL.—Section 7608(c) (relating to rules
19 relating to undercover operations) is amended by striking
20 paragraph (6).

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to operations conducted after the
23 date of the enactment of this Act.

1 **SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF**
2 **INFORMATION RELATING TO TERRORIST AC-**
3 **TIVITIES.**

4 (a) DISCLOSURE OF RETURN INFORMATION TO AP-
5 PRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVI-
6 TIES.—Subparagraph (C) of section 6103(i)(3) is amend-
7 ed by striking clause (iv).

8 (b) DISCLOSURE UPON REQUEST OF INFORMATION
9 RELATING TO TERRORIST ACTIVITIES.—Paragraph (7) of
10 section 6103(i) is amended by striking subparagraph (E).

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

14 **TITLE V—ADDITIONAL TAX RE-**
15 **LIEF AND OTHER TAX PROVI-**
16 **SIONS**

17 **Subtitle A—General Provisions**

18 **SEC. 501. \$8,500 INCOME THRESHOLD USED TO CALCULATE**
19 **REFUNDABLE PORTION OF CHILD TAX CRED-**
20 **IT.**

21 (a) IN GENERAL.—Section 24(d) is amended by add-
22 ing at the end the following new paragraph:

23 “(4) SPECIAL RULE FOR 2008.—Notwith-
24 standing paragraph (3), in the case of any taxable
25 year beginning in 2008, the dollar amount in effect

1 for such taxable year under paragraph (1)(B)(i)
2 shall be \$8,500.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2007.

6 **SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION**
7 **PRODUCTIONS.**

8 (a) EXTENSION OF EXPENSING RULES FOR QUALI-
9 FIED FILM AND TELEVISION PRODUCTIONS.—Section
10 181(f) (relating to termination) is amended by striking
11 “December 31, 2008” and inserting “December 31,
12 2009”.

13 (b) MODIFICATION OF LIMITATION ON EXPENS-
14 ING.—Subparagraph (A) of section 181(a)(2) is amended
15 to read as follows:

16 “(A) IN GENERAL.—Paragraph (1) shall
17 not apply to so much of the aggregate cost of
18 any qualified film or television production as ex-
19 ceeds \$15,000,000.”.

20 (c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC
21 ACTIVITIES.—

22 (1) DETERMINATION OF W-2 WAGES.—Para-
23 graph (2) of section 199(b) is amended by adding at
24 the end the following new subparagraph:

1 rectly in any film produced by such
2 partnership or S corporation, and

3 “(II) such partnership or S cor-
4 poration shall be treated as having en-
5 gaged directly in any film produced by
6 such partner or shareholder.”.

7 (d) CONFORMING AMENDMENT.—Section
8 181(d)(3)(A) is amended by striking “actors” and all that
9 follows and inserting “actors, production personnel, direc-
10 tors, and producers.”.

11 (e) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the amendments made by
14 this section shall apply to qualified film and tele-
15 vision productions commencing after December 31,
16 2007.

17 (2) DEDUCTION.—The amendments made by
18 subsection (c) shall apply to taxable years beginning
19 after December 31, 2007.

20 **SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN**
21 **WOODEN ARROWS DESIGNED FOR USE BY**
22 **CHILDREN.**

23 (a) IN GENERAL.—Paragraph (2) of section 4161(b)
24 is amended by redesignating subparagraph (B) as sub-

1 paragraph (C) and by inserting after subparagraph (A)
2 the following new subparagraph:

3 “(B) EXEMPTION FOR CERTAIN WOODEN
4 ARROW SHAFTS.—Subparagraph (A) shall not
5 apply to any shaft consisting of all natural
6 wood with no laminations or artificial means of
7 enhancing the spine of such shaft (whether sold
8 separately or incorporated as part of a finished
9 or unfinished product) of a type used in the
10 manufacture of any arrow which after its as-
11 sembly—

12 “(i) measures $\frac{5}{16}$ of an inch or less in
13 diameter, and

14 “(ii) is not suitable for use with a bow
15 described in paragraph (1)(A).”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to shafts first sold after the date
18 of enactment of this Act.

19 **SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN**
20 **CONNECTION WITH THE EXXON VALDEZ LITI-**
21 **GATION.**

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

1 (1) any qualified taxpayer who receives any
2 qualified settlement income in any taxable year shall
3 be treated as engaged in a fishing business (deter-
4 mined without regard to the commercial nature of
5 the business), and

6 (2) such qualified settlement income shall be
7 treated as income attributable to such a fishing busi-
8 ness for such taxable year.

9 (b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RE-
10 TIREMENT ACCOUNTS.—

11 (1) IN GENERAL.—Any qualified taxpayer who
12 receives qualified settlement income during the tax-
13 able year may, at any time before the end of the tax-
14 able year in which such income was received, make
15 one or more contributions to an eligible retirement
16 plan of which such qualified taxpayer is a bene-
17 ficiary in an aggregate amount not to exceed the
18 lesser of—

19 (A) \$100,000 (reduced by the amount of
20 qualified settlement income contributed to an
21 eligible retirement plan in prior taxable years
22 pursuant to this subsection), or

23 (B) the amount of qualified settlement in-
24 come received by the individual during the tax-
25 able year.

1 (2) TIME WHEN CONTRIBUTIONS DEEMED
2 MADE.—For purposes of paragraph (1), a qualified
3 taxpayer shall be deemed to have made a contribu-
4 tion to an eligible retirement plan on the last day of
5 the taxable year in which such income is received if
6 the contribution is made on account of such taxable
7 year and is made not later than the time prescribed
8 by law for filing the return for such taxable year
9 (not including extensions thereof).

10 (3) TREATMENT OF CONTRIBUTIONS TO ELIGI-
11 BLE RETIREMENT PLANS.—For purposes of the In-
12 ternal Revenue Code of 1986, if a contribution is
13 made pursuant to paragraph (1) with respect to
14 qualified settlement income, then—

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

16 (i) to the extent of such contribution,
17 the qualified settlement income shall not
18 be included in taxable income, and

19 (ii) for purposes of section 72 of such
20 Code, such contribution shall not be con-
21 sidered to be investment in the contract,

22 (B) the qualified taxpayer shall, to the ex-
23 tent of the amount of the contribution, be treat-
24 ed—

1 (i) as having received the qualified
2 settlement income—

3 (I) in the case of a contribution
4 to an individual retirement plan (as
5 defined under section 7701(a)(37) of
6 such Code), in a distribution described
7 in section 408(d)(3) of such Code,
8 and

9 (II) in the case of any other eligi-
10 ble retirement plan, in an eligible roll-
11 over distribution (as defined under
12 section 402(f)(2) of such Code), and

13 (ii) as having transferred the amount
14 to the eligible retirement plan in a direct
15 trustee to trustee transfer within 60 days
16 of the distribution,

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

21 (D) section 408A(c)(3)(B) of the Internal
22 Revenue Code of 1986 shall not apply with re-
23 spect to amounts contributed to a Roth IRA (as
24 defined under section 408A(b) of such Code) or
25 a designated Roth contribution to an applicable

1 retirement plan (within the meaning of section
2 402A of such Code) under this paragraph.

3 (4) SPECIAL RULE FOR ROTH IRAS AND ROTH
4 401(k)s.—For purposes of the Internal Revenue
5 Code of 1986, if a contribution is made pursuant to
6 paragraph (1) with respect to qualified settlement
7 income to a Roth IRA (as defined under section
8 408A(b) of such Code) or as a designated Roth con-
9 tribution to an applicable retirement plan (within
10 the meaning of section 402A of such Code), then—

11 (A) the qualified settlement income shall
12 be includible in taxable income, and

13 (B) for purposes of section 72 of such
14 Code, such contribution shall be considered to
15 be investment in the contract.

16 (5) ELIGIBLE RETIREMENT PLAN.—For pur-
17 pose of this subsection, the term “eligible retirement
18 plan” has the meaning given such term under sec-
19 tion 402(c)(8)(B) of the Internal Revenue Code of
20 1986.

21 (c) TREATMENT OF QUALIFIED SETTLEMENT IN-
22 COME UNDER EMPLOYMENT TAXES.—

23 (1) SECA.—For purposes of chapter 2 of the
24 Internal Revenue Code of 1986 and section 211 of
25 the Social Security Act, no portion of qualified set-

1 tlement income received by a qualified taxpayer shall
2 be treated as self-employment income.

3 (2) FICA.—For purposes of chapter 21 of the
4 Internal Revenue Code of 1986 and section 209 of
5 the Social Security Act, no portion of qualified set-
6 tlement income received by a qualified taxpayer shall
7 be treated as wages.

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

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

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

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

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

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

23 (1) otherwise includible in taxable income, and

24 (2) received (whether as lump sums or periodic
25 payments) in connection with the civil action *In re*

1 *Exxon Valdez*, No. 89–095–CV (HRH) (Consoli-
2 dated) (D. Alaska) (whether pre- or post-judgment
3 and whether related to a settlement or judgment).

4 **SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND**
5 **EQUIPMENT TREATED AS 5-YEAR PROPERTY.**

6 (a) IN GENERAL.—Section 168(e)(3)(B) (defining 5-
7 year property) is amended by striking “and” at the end
8 of clause (v), by striking the period at the end of clause
9 (vi)(III) and inserting “, and”, and by inserting after
10 clause (vi) the following new clause:

11 “(vii) any machinery or equipment
12 (other than any grain bin, cotton ginning
13 asset, fence, or other land improvement)
14 which is used in a farming business (as de-
15 fined in section 263A(e)(4)), the original
16 use of which commences with the taxpayer
17 after December 31, 2008, and which is
18 placed in service before January 1, 2010.”.

19 (b) ALTERNATIVE SYSTEM.—The table contained in
20 section 168(g)(3)(B) (relating to special rule for certain
21 property assigned to classes) is amended by inserting after
22 the item relating to subparagraph (B)(iii) the following:

(B)(vii) 10”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2008.

4 **SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATE-**
5 **MENT OF TAXPAYER'S LIABILITY BY TAX RE-**
6 **TURN PREPARER.**

7 (a) IN GENERAL.—Subsection (a) of section 6694 is
8 amended to read as follows:

9 “(a) UNDERSTATEMENT DUE TO UNREASONABLE
10 POSITIONS.—

11 “(1) IN GENERAL.—If a tax return preparer—

12 “(A) prepares any return or claim of re-
13 fund with respect to which any part of an un-
14 derstatement of liability is due to a position de-
15 scribed in paragraph (2), and

16 “(B) knew (or reasonably should have
17 known) of the position,

18 such tax return preparer shall pay a penalty with re-
19 spect to each such return or claim in an amount
20 equal to the greater of \$1,000 or 50 percent of the
21 income derived (or to be derived) by the tax return
22 preparer with respect to the return or claim.

23 “(2) UNREASONABLE POSITION.—

24 “(A) IN GENERAL.—Except as otherwise
25 provided in this paragraph, a position is de-

1 scribed in this paragraph unless there is or was
2 substantial authority for the position.

3 “(B) DISCLOSED POSITIONS.—If the posi-
4 tion was disclosed as provided in section
5 6662(d)(2)(B)(ii)(I) and is not a position to
6 which subparagraph (C) applies, the position is
7 described in this paragraph unless there is a
8 reasonable basis for the position.

9 “(C) TAX SHELTERS AND REPORTABLE
10 TRANSACTIONS.—If the position is with respect
11 to a tax shelter (as defined in section
12 6662(d)(2)(C)(ii)) or a reportable transaction
13 to which section 6662A applies, the position is
14 described in this paragraph unless it is reason-
15 able to believe that the position would more
16 likely than not be sustained on its merits.

17 “(3) REASONABLE CAUSE EXCEPTION.—No
18 penalty shall be imposed under this subsection if it
19 is shown that there is reasonable cause for the un-
20 derstatement and the tax return preparer acted in
21 good faith.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply—

24 (1) in the case of a position other than a posi-
25 tion described in subparagraph (C) of section

1 6694(a)(2) of the Internal Revenue Code of 1986
2 (as amended by this section), to returns prepared
3 after May 25, 2007, and

4 (2) in the case of a position described in such
5 subparagraph (C), to returns prepared for taxable
6 years ending after the date of the enactment of this
7 Act.

8 **Subtitle B—Paul Wellstone and**
9 **Pete Domenici Mental Health**
10 **Parity and Addiction Equity Act**
11 **of 2008**

12 **SEC. 511. SHORT TITLE.**

13 This subtitle may be cited as the “Paul Wellstone and
14 Pete Domenici Mental Health Parity and Addiction Eq-
15 uity Act of 2008”.

16 **SEC. 512. MENTAL HEALTH PARITY.**

17 (a) AMENDMENTS TO ERISA.—Section 712 of the
18 Employee Retirement Income Security Act of 1974 (29
19 U.S.C. 1185a) is amended—

20 (1) in subsection (a), by adding at the end the
21 following:

22 “(3) FINANCIAL REQUIREMENTS AND TREAT-
23 MENT LIMITATIONS.—

24 “(A) IN GENERAL.—In the case of a group
25 health plan (or health insurance coverage of-

1 ferred in connection with such a plan) that pro-
2 vides both medical and surgical benefits and
3 mental health or substance use disorder bene-
4 fits, such plan or coverage shall ensure that—

5 “(i) the financial requirements appli-
6 cable to such mental health or substance
7 use disorder benefits are no more restric-
8 tive than the predominant financial re-
9 quirements applied to substantially all
10 medical and surgical benefits covered by
11 the plan (or coverage), and there are no
12 separate cost sharing requirements that
13 are applicable only with respect to mental
14 health or substance use disorder benefits;
15 and

16 “(ii) the treatment limitations applica-
17 ble to such mental health or substance use
18 disorder benefits are no more restrictive
19 than the predominant treatment limita-
20 tions applied to substantially all medical
21 and surgical benefits covered by the plan
22 (or coverage) and there are no separate
23 treatment limitations that are applicable
24 only with respect to mental health or sub-
25 stance use disorder benefits.

1 “(B) DEFINITIONS.—In this paragraph:

2 “(i) FINANCIAL REQUIREMENT.—The
3 term ‘financial requirement’ includes
4 deductibles, copayments, coinsurance, and
5 out-of-pocket expenses, but excludes an ag-
6 gregate lifetime limit and an annual limit
7 subject to paragraphs (1) and (2),

8 “(ii) PREDOMINANT.—A financial re-
9 quirement or treatment limit is considered
10 to be predominant if it is the most com-
11 mon or frequent of such type of limit or
12 requirement.

13 “(iii) TREATMENT LIMITATION.—The
14 term ‘treatment limitation’ includes limits
15 on the frequency of treatment, number of
16 visits, days of coverage, or other similar
17 limits on the scope or duration of treat-
18 ment.

19 “(4) AVAILABILITY OF PLAN INFORMATION.—
20 The criteria for medical necessity determinations
21 made under the plan with respect to mental health
22 or substance use disorder benefits (or the health in-
23 surance coverage offered in connection with the plan
24 with respect to such benefits) shall be made avail-
25 able by the plan administrator (or the health insur-

1 ance issuer offering such coverage) in accordance
2 with regulations to any current or potential partici-
3 pant, beneficiary, or contracting provider upon re-
4 quest. The reason for any denial under the plan (or
5 coverage) of reimbursement or payment for services
6 with respect to mental health or substance use dis-
7 order benefits in the case of any participant or bene-
8 ficiary shall, on request or as otherwise required, be
9 made available by the plan administrator (or the
10 health insurance issuer offering such coverage) to
11 the participant or beneficiary in accordance with
12 regulations.

13 “(5) OUT-OF-NETWORK PROVIDERS.—In the
14 case of a plan or coverage that provides both med-
15 ical and surgical benefits and mental health or sub-
16 stance use disorder benefits, if the plan or coverage
17 provides coverage for medical or surgical benefits
18 provided by out-of-network providers, the plan or
19 coverage shall provide coverage for mental health or
20 substance use disorder benefits provided by out-of-
21 network providers in a manner that is consistent
22 with the requirements of this section.”;

23 (2) in subsection (b), by amending paragraph
24 (2) to read as follows:

1 “(2) in the case of a group health plan (or
2 health insurance coverage offered in connection with
3 such a plan) that provides mental health or sub-
4 stance use disorder benefits, as affecting the terms
5 and conditions of the plan or coverage relating to
6 such benefits under the plan or coverage, except as
7 provided in subsection (a).”;

8 (3) in subsection (c)—

9 (A) in paragraph (1)(B)—

10 (i) by inserting “(or 1 in the case of
11 an employer residing in a State that per-
12 mits small groups to include a single indi-
13 vidual)” after “at least 2” the first place
14 that such appears; and

15 (ii) by striking “and who employs at
16 least 2 employees on the first day of the
17 plan year”; and

18 (B) by striking paragraph (2) and insert-
19 ing the following:

20 “(2) COST EXEMPTION.—

21 “(A) IN GENERAL.—With respect to a
22 group health plan (or health insurance coverage
23 offered in connection with such a plan), if the
24 application of this section to such plan (or cov-
25 erage) results in an increase for the plan year

1 involved of the actual total costs of coverage
2 with respect to medical and surgical benefits
3 and mental health and substance use disorder
4 benefits under the plan (as determined and cer-
5 tified under subparagraph (C)) by an amount
6 that exceeds the applicable percentage described
7 in subparagraph (B) of the actual total plan
8 costs, the provisions of this section shall not
9 apply to such plan (or coverage) during the fol-
10 lowing plan year, and such exemption shall
11 apply to the plan (or coverage) for 1 plan year.
12 An employer may elect to continue to apply
13 mental health and substance use disorder parity
14 pursuant to this section with respect to the
15 group health plan (or coverage) involved regard-
16 less of any increase in total costs.

17 “(B) APPLICABLE PERCENTAGE.—With re-
18 spect to a plan (or coverage), the applicable
19 percentage described in this subparagraph shall
20 be—

21 “(i) 2 percent in the case of the first
22 plan year in which this section is applied;
23 and

24 “(ii) 1 percent in the case of each
25 subsequent plan year.

1 “(C) DETERMINATIONS BY ACTUARIES.—
2 Determinations as to increases in actual costs
3 under a plan (or coverage) for purposes of this
4 section shall be made and certified by a quali-
5 fied and licensed actuary who is a member in
6 good standing of the American Academy of Ac-
7 tuaries. All such determinations shall be in a
8 written report prepared by the actuary. The re-
9 port, and all underlying documentation relied
10 upon by the actuary, shall be maintained by the
11 group health plan or health insurance issuer for
12 a period of 6 years following the notification
13 made under subparagraph (E).

14 “(D) 6-MONTH DETERMINATIONS.—If a
15 group health plan (or a health insurance issuer
16 offering coverage in connection with a group
17 health plan) seeks an exemption under this
18 paragraph, determinations under subparagraph
19 (A) shall be made after such plan (or coverage)
20 has complied with this section for the first 6
21 months of the plan year involved.

22 “(E) NOTIFICATION.—

23 “(i) IN GENERAL.—A group health
24 plan (or a health insurance issuer offering
25 coverage in connection with a group health

1 plan) that, based upon a certification de-
2 scribed under subparagraph (C), qualifies
3 for an exemption under this paragraph,
4 and elects to implement the exemption,
5 shall promptly notify the Secretary, the ap-
6 propriate State agencies, and participants
7 and beneficiaries in the plan of such elec-
8 tion.

9 “(ii) REQUIREMENT.—A notification
10 to the Secretary under clause (i) shall in-
11 clude—

12 “(I) a description of the number
13 of covered lives under the plan (or
14 coverage) involved at the time of the
15 notification, and as applicable, at the
16 time of any prior election of the cost-
17 exemption under this paragraph by
18 such plan (or coverage);

19 “(II) for both the plan year upon
20 which a cost exemption is sought and
21 the year prior, a description of the ac-
22 tual total costs of coverage with re-
23 spect to medical and surgical benefits
24 and mental health and substance use
25 disorder benefits under the plan; and

1 “(III) for both the plan year
2 upon which a cost exemption is sought
3 and the year prior, the actual total
4 costs of coverage with respect to men-
5 tal health and substance use disorder
6 benefits under the plan.

7 “(iii) CONFIDENTIALITY.—A notifica-
8 tion to the Secretary under clause (i) shall
9 be confidential. The Secretary shall make
10 available, upon request and on not more
11 than an annual basis, an anonymous
12 itemization of such notifications, that in-
13 cludes—

14 “(I) a breakdown of States by
15 the size and type of employers submit-
16 ting such notification; and

17 “(II) a summary of the data re-
18 ceived under clause (ii).

19 “(F) AUDITS BY APPROPRIATE AGEN-
20 CIES.—To determine compliance with this para-
21 graph, the Secretary may audit the books and
22 records of a group health plan or health insur-
23 ance issuer relating to an exemption, including
24 any actuarial reports prepared pursuant to sub-
25 paragraph (C), during the 6 year period fol-

1 lowing the notification of such exemption under
2 subparagraph (E). A State agency receiving a
3 notification under subparagraph (E) may also
4 conduct such an audit with respect to an ex-
5 emption covered by such notification.”;

6 (4) in subsection (e), by striking paragraph (4)
7 and inserting the following:

8 “(4) MENTAL HEALTH BENEFITS.—The term
9 ‘mental health benefits’ means benefits with respect
10 to services for mental health conditions, as defined
11 under the terms of the plan and in accordance with
12 applicable Federal and State law.

13 “(5) SUBSTANCE USE DISORDER BENEFITS.—
14 The term ‘substance use disorder benefits’ means
15 benefits with respect to services for substance use
16 disorders, as defined under the terms of the plan
17 and in accordance with applicable Federal and State
18 law.”;

19 (5) by striking subsection (f);

20 (6) by inserting after subsection (e) the fol-
21 lowing:

22 “(f) SECRETARY REPORT.—The Secretary shall, by
23 January 1, 2012, and every two years thereafter, submit
24 to the appropriate committees of Congress a report on
25 compliance of group health plans (and health insurance

1 coverage offered in connection with such plans) with the
2 requirements of this section. Such report shall include the
3 results of any surveys or audits on compliance of group
4 health plans (and health insurance coverage offered in
5 connection with such plans) with such requirements and
6 an analysis of the reasons for any failures to comply.

7 “(g) NOTICE AND ASSISTANCE.—The Secretary, in
8 cooperation with the Secretaries of Health and Human
9 Services and Treasury, as appropriate, shall publish and
10 widely disseminate guidance and information for group
11 health plans, participants and beneficiaries, applicable
12 State and local regulatory bodies, and the National Asso-
13 ciation of Insurance Commissioners concerning the re-
14 quirements of this section and shall provide assistance
15 concerning such requirements and the continued operation
16 of applicable State law. Such guidance and information
17 shall inform participants and beneficiaries of how they
18 may obtain assistance under this section, including, where
19 appropriate, assistance from State consumer and insur-
20 ance agencies.”;

21 (7) by striking “mental health benefits” and in-
22 sserting “mental health and substance use disorder
23 benefits” each place it appears in subsections
24 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
25 and

1 (8) by striking “mental health benefits” and in-
2 serting “mental health or substance use disorder
3 benefits” each place it appears (other than in any
4 provision amended by the previous paragraph).

5 (b) AMENDMENTS TO PUBLIC HEALTH SERVICE
6 ACT.—Section 2705 of the Public Health Service Act (42
7 U.S.C. 300gg–5) is amended—

8 (1) in subsection (a), by adding at the end the
9 following:

10 “(3) FINANCIAL REQUIREMENTS AND TREAT-
11 MENT LIMITATIONS.—

12 “(A) IN GENERAL.—In the case of a group
13 health plan (or health insurance coverage of-
14 fered in connection with such a plan) that pro-
15 vides both medical and surgical benefits and
16 mental health or substance use disorder bene-
17 fits, such plan or coverage shall ensure that—

18 “(i) the financial requirements appli-
19 cable to such mental health or substance
20 use disorder benefits are no more restric-
21 tive than the predominant financial re-
22 quirements applied to substantially all
23 medical and surgical benefits covered by
24 the plan (or coverage), and there are no
25 separate cost sharing requirements that

1 are applicable only with respect to mental
2 health or substance use disorder benefits;
3 and

4 “(ii) the treatment limitations applica-
5 ble to such mental health or substance use
6 disorder benefits are no more restrictive
7 than the predominant treatment limita-
8 tions applied to substantially all medical
9 and surgical benefits covered by the plan
10 (or coverage) and there are no separate
11 treatment limitations that are applicable
12 only with respect to mental health or sub-
13 stance use disorder benefits.

14 “(B) DEFINITIONS.—In this paragraph:

15 “(i) FINANCIAL REQUIREMENT.—The
16 term ‘financial requirement’ includes
17 deductibles, copayments, coinsurance, and
18 out-of-pocket expenses, but excludes an ag-
19 gregate lifetime limit and an annual limit
20 subject to paragraphs (1) and (2).

21 “(ii) PREDOMINANT.—A financial re-
22 quirement or treatment limit is considered
23 to be predominant if it is the most com-
24 mon or frequent of such type of limit or
25 requirement.

1 “(iii) TREATMENT LIMITATION.—The
2 term ‘treatment limitation’ includes limits
3 on the frequency of treatment, number of
4 visits, days of coverage, or other similar
5 limits on the scope or duration of treat-
6 ment.

7 “(4) AVAILABILITY OF PLAN INFORMATION.—
8 The criteria for medical necessity determinations
9 made under the plan with respect to mental health
10 or substance use disorder benefits (or the health in-
11 surance coverage offered in connection with the plan
12 with respect to such benefits) shall be made avail-
13 able by the plan administrator (or the health insur-
14 ance issuer offering such coverage) in accordance
15 with regulations to any current or potential partici-
16 pant, beneficiary, or contracting provider upon re-
17 quest. The reason for any denial under the plan (or
18 coverage) of reimbursement or payment for services
19 with respect to mental health or substance use dis-
20 order benefits in the case of any participant or bene-
21 ficiary shall, on request or as otherwise required, be
22 made available by the plan administrator (or the
23 health insurance issuer offering such coverage) to
24 the participant or beneficiary in accordance with
25 regulations.

1 “(5) OUT-OF-NETWORK PROVIDERS.—In the
2 case of a plan or coverage that provides both med-
3 ical and surgical benefits and mental health or sub-
4 stance use disorder benefits, if the plan or coverage
5 provides coverage for medical or surgical benefits
6 provided by out-of-network providers, the plan or
7 coverage shall provide coverage for mental health or
8 substance use disorder benefits provided by out-of-
9 network providers in a manner that is consistent
10 with the requirements of this section.”;

11 (2) in subsection (b), by amending paragraph
12 (2) to read as follows:

13 “(2) in the case of a group health plan (or
14 health insurance coverage offered in connection with
15 such a plan) that provides mental health or sub-
16 stance use disorder benefits, as affecting the terms
17 and conditions of the plan or coverage relating to
18 such benefits under the plan or coverage, except as
19 provided in subsection (a).”;

20 (3) in subsection (c)—

21 (A) in paragraph (1), by inserting before
22 the period the following: “(as defined in section
23 2791(e)(4), except that for purposes of this
24 paragraph such term shall include employers
25 with 1 employee in the case of an employer re-

1 siding in a State that permits small groups to
2 include a single individual”); and

3 (B) by striking paragraph (2) and insert-
4 ing the following:

5 “(2) COST EXEMPTION.—

6 “(A) IN GENERAL.—With respect to a
7 group health plan (or health insurance coverage
8 offered in connection with such a plan), if the
9 application of this section to such plan (or cov-
10 erage) results in an increase for the plan year
11 involved of the actual total costs of coverage
12 with respect to medical and surgical benefits
13 and mental health and substance use disorder
14 benefits under the plan (as determined and cer-
15 tified under subparagraph (C)) by an amount
16 that exceeds the applicable percentage described
17 in subparagraph (B) of the actual total plan
18 costs, the provisions of this section shall not
19 apply to such plan (or coverage) during the fol-
20 lowing plan year, and such exemption shall
21 apply to the plan (or coverage) for 1 plan year.
22 An employer may elect to continue to apply
23 mental health and substance use disorder parity
24 pursuant to this section with respect to the

1 group health plan (or coverage) involved regard-
2 less of any increase in total costs.

3 “(B) APPLICABLE PERCENTAGE.—With re-
4 spect to a plan (or coverage), the applicable
5 percentage described in this subparagraph shall
6 be—

7 “(i) 2 percent in the case of the first
8 plan year in which this section is applied;
9 and

10 “(ii) 1 percent in the case of each
11 subsequent plan year.

12 “(C) DETERMINATIONS BY ACTUARIES.—
13 Determinations as to increases in actual costs
14 under a plan (or coverage) for purposes of this
15 section shall be made and certified by a quali-
16 fied and licensed actuary who is a member in
17 good standing of the American Academy of Ac-
18 tuaries. All such determinations shall be in a
19 written report prepared by the actuary. The re-
20 port, and all underlying documentation relied
21 upon by the actuary, shall be maintained by the
22 group health plan or health insurance issuer for
23 a period of 6 years following the notification
24 made under subparagraph (E).

1 “(D) 6-MONTH DETERMINATIONS.—If a
2 group health plan (or a health insurance issuer
3 offering coverage in connection with a group
4 health plan) seeks an exemption under this
5 paragraph, determinations under subparagraph
6 (A) shall be made after such plan (or coverage)
7 has complied with this section for the first 6
8 months of the plan year involved.

9 “(E) NOTIFICATION.—

10 “(i) IN GENERAL.—A group health
11 plan (or a health insurance issuer offering
12 coverage in connection with a group health
13 plan) that, based upon a certification de-
14 scribed under subparagraph (C), qualifies
15 for an exemption under this paragraph,
16 and elects to implement the exemption,
17 shall promptly notify the Secretary, the ap-
18 propriate State agencies, and participants
19 and beneficiaries in the plan of such elec-
20 tion.

21 “(ii) REQUIREMENT.—A notification
22 to the Secretary under clause (i) shall in-
23 clude—

24 “(I) a description of the number
25 of covered lives under the plan (or

1 coverage) involved at the time of the
2 notification, and as applicable, at the
3 time of any prior election of the cost-
4 exemption under this paragraph by
5 such plan (or coverage);

6 “(II) for both the plan year upon
7 which a cost exemption is sought and
8 the year prior, a description of the ac-
9 tual total costs of coverage with re-
10 spect to medical and surgical benefits
11 and mental health and substance use
12 disorder benefits under the plan; and

13 “(III) for both the plan year
14 upon which a cost exemption is sought
15 and the year prior, the actual total
16 costs of coverage with respect to men-
17 tal health and substance use disorder
18 benefits under the plan.

19 “(iii) CONFIDENTIALITY.—A notifica-
20 tion to the Secretary under clause (i) shall
21 be confidential. The Secretary shall make
22 available, upon request and on not more
23 than an annual basis, an anonymous
24 itemization of such notifications, that in-
25 cludes—

1 “(I) a breakdown of States by
2 the size and type of employers submit-
3 ting such notification; and

4 “(II) a summary of the data re-
5 ceived under clause (ii).

6 “(F) AUDITS BY APPROPRIATE AGEN-
7 CIES.—To determine compliance with this para-
8 graph, the Secretary may audit the books and
9 records of a group health plan or health insur-
10 ance issuer relating to an exemption, including
11 any actuarial reports prepared pursuant to sub-
12 paragraph (C), during the 6 year period fol-
13 lowing the notification of such exemption under
14 subparagraph (E). A State agency receiving a
15 notification under subparagraph (E) may also
16 conduct such an audit with respect to an ex-
17 emption covered by such notification.”;

18 (4) in subsection (e), by striking paragraph (4)
19 and inserting the following:

20 “(4) MENTAL HEALTH BENEFITS.—The term
21 ‘mental health benefits’ means benefits with respect
22 to services for mental health conditions, as defined
23 under the terms of the plan and in accordance with
24 applicable Federal and State law.

1 “(5) SUBSTANCE USE DISORDER BENEFITS.—

2 The term ‘substance use disorder benefits’ means
3 benefits with respect to services for substance use
4 disorders, as defined under the terms of the plan
5 and in accordance with applicable Federal and State
6 law.”;

7 (5) by striking subsection (f);

8 (6) by striking “mental health benefits” and in-
9 serting “mental health and substance use disorder
10 benefits” each place it appears in subsections
11 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
12 and

13 (7) by striking “mental health benefits” and in-
14 serting “mental health or substance use disorder
15 benefits” each place it appears (other than in any
16 provision amended by the previous paragraph).

17 (c) AMENDMENTS TO INTERNAL REVENUE CODE.—

18 Section 9812 of the Internal Revenue Code of 1986 is
19 amended—

20 (1) in subsection (a), by adding at the end the
21 following:

22 “(3) FINANCIAL REQUIREMENTS AND TREAT-
23 MENT LIMITATIONS.—

24 “(A) IN GENERAL.—In the case of a group
25 health plan that provides both medical and sur-

1 gical benefits and mental health or substance
2 use disorder benefits, such plan shall ensure
3 that—

4 “(i) the financial requirements appli-
5 cable to such mental health or substance
6 use disorder benefits are no more restric-
7 tive than the predominant financial re-
8 quirements applied to substantially all
9 medical and surgical benefits covered by
10 the plan, and there are no separate cost
11 sharing requirements that are applicable
12 only with respect to mental health or sub-
13 stance use disorder benefits; and

14 “(ii) the treatment limitations applica-
15 ble to such mental health or substance use
16 disorder benefits are no more restrictive
17 than the predominant treatment limita-
18 tions applied to substantially all medical
19 and surgical benefits covered by the plan
20 and there are no separate treatment limi-
21 tations that are applicable only with re-
22 spect to mental health or substance use
23 disorder benefits.

24 “(B) DEFINITIONS.—In this paragraph:

1 “(i) FINANCIAL REQUIREMENT.—The
2 term ‘financial requirement’ includes
3 deductibles, copayments, coinsurance, and
4 out-of-pocket expenses, but excludes an ag-
5 gregate lifetime limit and an annual limit
6 subject to paragraphs (1) and (2),

7 “(ii) PREDOMINANT.—A financial re-
8 quirement or treatment limit is considered
9 to be predominant if it is the most com-
10 mon or frequent of such type of limit or
11 requirement.

12 “(iii) TREATMENT LIMITATION.—The
13 term ‘treatment limitation’ includes limits
14 on the frequency of treatment, number of
15 visits, days of coverage, or other similar
16 limits on the scope or duration of treat-
17 ment.

18 “(4) AVAILABILITY OF PLAN INFORMATION.—
19 The criteria for medical necessity determinations
20 made under the plan with respect to mental health
21 or substance use disorder benefits shall be made
22 available by the plan administrator in accordance
23 with regulations to any current or potential partici-
24 pant, beneficiary, or contracting provider upon re-
25 quest. The reason for any denial under the plan of

1 reimbursement or payment for services with respect
2 to mental health or substance use disorder benefits
3 in the case of any participant or beneficiary shall, on
4 request or as otherwise required, be made available
5 by the plan administrator to the participant or bene-
6 ficiary in accordance with regulations.

7 “(5) OUT-OF-NETWORK PROVIDERS.—In the
8 case of a plan that provides both medical and sur-
9 gical benefits and mental health or substance use
10 disorder benefits, if the plan provides coverage for
11 medical or surgical benefits provided by out-of-net-
12 work providers, the plan shall provide coverage for
13 mental health or substance use disorder benefits pro-
14 vided by out-of-network providers in a manner that
15 is consistent with the requirements of this section.”;

16 (2) in subsection (b), by amending paragraph
17 (2) to read as follows:

18 “(2) in the case of a group health plan that
19 provides mental health or substance use disorder
20 benefits, as affecting the terms and conditions of the
21 plan relating to such benefits under the plan, except
22 as provided in subsection (a).”;

23 (3) in subsection (c)—

24 (A) by amending paragraph (1) to read as
25 follows:

1 “(1) SMALL EMPLOYER EXEMPTION.—

2 “(A) IN GENERAL.—This section shall not
3 apply to any group health plan for any plan
4 year of a small employer.

5 “(B) SMALL EMPLOYER.—For purposes of
6 subparagraph (A), the term ‘small employer’
7 means, with respect to a calendar year and a
8 plan year, an employer who employed an aver-
9 age of at least 2 (or 1 in the case of an em-
10 ployer residing in a State that permits small
11 groups to include a single individual) but not
12 more than 50 employees on business days dur-
13 ing the preceding calendar year. For purposes
14 of the preceding sentence, all persons treated as
15 a single employer under subsection (b), (c),
16 (m), or (o) of section 414 shall be treated as 1
17 employer and rules similar to rules of subpara-
18 graphs (B) and (C) of section 4980D(d)(2)
19 shall apply.”; and

20 (B) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) COST EXEMPTION.—

23 “(A) IN GENERAL.—With respect to a
24 group health plan, if the application of this sec-
25 tion to such plan results in an increase for the

1 plan year involved of the actual total costs of
2 coverage with respect to medical and surgical
3 benefits and mental health and substance use
4 disorder benefits under the plan (as determined
5 and certified under subparagraph (C)) by an
6 amount that exceeds the applicable percentage
7 described in subparagraph (B) of the actual
8 total plan costs, the provisions of this section
9 shall not apply to such plan during the fol-
10 lowing plan year, and such exemption shall
11 apply to the plan for 1 plan year. An employer
12 may elect to continue to apply mental health
13 and substance use disorder parity pursuant to
14 this section with respect to the group health
15 plan involved regardless of any increase in total
16 costs.

17 “(B) APPLICABLE PERCENTAGE.—With re-
18 spect to a plan, the applicable percentage de-
19 scribed in this subparagraph shall be—

20 “(i) 2 percent in the case of the first
21 plan year in which this section is applied;
22 and

23 “(ii) 1 percent in the case of each
24 subsequent plan year.

1 “(C) DETERMINATIONS BY ACTUARIES.—
2 Determinations as to increases in actual costs
3 under a plan for purposes of this section shall
4 be made and certified by a qualified and li-
5 censed actuary who is a member in good stand-
6 ing of the American Academy of Actuaries. All
7 such determinations shall be in a written report
8 prepared by the actuary. The report, and all
9 underlying documentation relied upon by the
10 actuary, shall be maintained by the group
11 health plan for a period of 6 years following the
12 notification made under subparagraph (E).

13 “(D) 6-MONTH DETERMINATIONS.—If a
14 group health plan seeks an exemption under
15 this paragraph, determinations under subpara-
16 graph (A) shall be made after such plan has
17 complied with this section for the first 6
18 months of the plan year involved.

19 “(E) NOTIFICATION.—

20 “(i) IN GENERAL.—A group health
21 plan that, based upon a certification de-
22 scribed under subparagraph (C), qualifies
23 for an exemption under this paragraph,
24 and elects to implement the exemption,
25 shall promptly notify the Secretary, the ap-

1 appropriate State agencies, and participants
2 and beneficiaries in the plan of such elec-
3 tion.

4 “(ii) REQUIREMENT.—A notification
5 to the Secretary under clause (i) shall in-
6 clude—

7 “(I) a description of the number
8 of covered lives under the plan in-
9 volved at the time of the notification,
10 and as applicable, at the time of any
11 prior election of the cost-exemption
12 under this paragraph by such plan;

13 “(II) for both the plan year upon
14 which a cost exemption is sought and
15 the year prior, a description of the ac-
16 tual total costs of coverage with re-
17 spect to medical and surgical benefits
18 and mental health and substance use
19 disorder benefits under the plan; and

20 “(III) for both the plan year
21 upon which a cost exemption is sought
22 and the year prior, the actual total
23 costs of coverage with respect to men-
24 tal health and substance use disorder
25 benefits under the plan.

1 “(iii) CONFIDENTIALITY.—A notifica-
2 tion to the Secretary under clause (i) shall
3 be confidential. The Secretary shall make
4 available, upon request and on not more
5 than an annual basis, an anonymous
6 itemization of such notifications, that in-
7 cludes—

8 “(I) a breakdown of States by
9 the size and type of employers submit-
10 ting such notification; and

11 “(II) a summary of the data re-
12 ceived under clause (ii).

13 “(F) AUDITS BY APPROPRIATE AGEN-
14 CIES.—To determine compliance with this para-
15 graph, the Secretary may audit the books and
16 records of a group health plan relating to an
17 exemption, including any actuarial reports pre-
18 pared pursuant to subparagraph (C), during
19 the 6 year period following the notification of
20 such exemption under subparagraph (E). A
21 State agency receiving a notification under sub-
22 paragraph (E) may also conduct such an audit
23 with respect to an exemption covered by such
24 notification.”;

1 (4) in subsection (e), by striking paragraph (4)
2 and inserting the following:

3 “(4) MENTAL HEALTH BENEFITS.—The term
4 ‘mental health benefits’ means benefits with respect
5 to services for mental health conditions, as defined
6 under the terms of the plan and in accordance with
7 applicable Federal and State law.

8 “(5) SUBSTANCE USE DISORDER BENEFITS.—
9 The term ‘substance use disorder benefits’ means
10 benefits with respect to services for substance use
11 disorders, as defined under the terms of the plan
12 and in accordance with applicable Federal and State
13 law.”;

14 (5) by striking subsection (f);

15 (6) by striking “mental health benefits” and in-
16 serting “mental health and substance use disorder
17 benefits” each place it appears in subsections
18 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
19 and

20 (7) by striking “mental health benefits” and in-
21 serting “mental health or substance use disorder
22 benefits” each place it appears (other than in any
23 provision amended by the previous paragraph).

24 (d) REGULATIONS.—Not later than 1 year after the
25 date of enactment of this Act, the Secretaries of Labor,

1 Health and Human Services, and the Treasury shall issue
2 regulations to carry out the amendments made by sub-
3 sections (a), (b), and (c), respectively.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply with respect to group health
7 plans for plan years beginning after the date that is
8 1 year after the date of enactment of this Act, re-
9 gardless of whether regulations have been issued to
10 carry out such amendments by such effective date,
11 except that the amendments made by subsections
12 (a)(5), (b)(5), and (c)(5), relating to striking of cer-
13 tain sunset provisions, shall take effect on January
14 1, 2009.

15 (2) SPECIAL RULE FOR COLLECTIVE BAR-
16 GAINING AGREEMENTS.—In the case of a group
17 health plan maintained pursuant to one or more col-
18 lective bargaining agreements between employee rep-
19 resentatives and one or more employers ratified be-
20 fore the date of the enactment of this Act, the
21 amendments made by this section shall not apply to
22 plan years beginning before the later of—

23 (A) the date on which the last of the col-
24 lective bargaining agreements relating to the
25 plan terminates (determined without regard to

1 any extension thereof agreed to after the date
2 of the enactment of this Act), or

3 (B) January 1, 2009.

4 For purposes of subparagraph (A), any plan amend-
5 ment made pursuant to a collective bargaining
6 agreement relating to the plan which amends the
7 plan solely to conform to any requirement added by
8 this section shall not be treated as a termination of
9 such collective bargaining agreement.

10 (f) ASSURING COORDINATION.—The Secretary of
11 Health and Human Services, the Secretary of Labor, and
12 the Secretary of the Treasury may ensure, through the
13 execution or revision of an interagency memorandum of
14 understanding among such Secretaries, that—

15 (1) regulations, rulings, and interpretations
16 issued by such Secretaries relating to the same mat-
17 ter over which two or more such Secretaries have re-
18 sponsibility under this section (and the amendments
19 made by this section) are administered so as to have
20 the same effect at all times; and

21 (2) coordination of policies relating to enforcing
22 the same requirements through such Secretaries in
23 order to have a coordinated enforcement strategy
24 that avoids duplication of enforcement efforts and
25 assigns priorities in enforcement.

1 (g) CONFORMING CLERICAL AMENDMENTS.—

2 (1) ERISA HEADING.—

3 (A) IN GENERAL.—The heading of section
4 712 of the Employee Retirement Income Secu-
5 rity Act of 1974 is amended to read as follows:

6 **“SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE**
7 **USE DISORDER BENEFITS.”.**

8 (B) CLERICAL AMENDMENT.—The table of
9 contents in section 1 of such Act is amended by
10 striking the item relating to section 712 and in-
11 sserting the following new item:

“Sec. 712. Parity in mental health and substance use disorder benefits.”.

12 (2) PHSA HEADING.—The heading of section
13 2705 of the Public Health Service Act is amended
14 to read as follows:

15 **“SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE**
16 **USE DISORDER BENEFITS.”.**

17 (3) IRC HEADING.—

18 (A) IN GENERAL.—The heading of section
19 9812 of the Internal Revenue Code of 1986 is
20 amended to read as follows:

21 **“SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE**
22 **USE DISORDER BENEFITS.”.**

23 (B) CLERICAL AMENDMENT.—The table of
24 sections for subchapter B of chapter 100 of
25 such Code is amended by striking the item re-

1 lating to section 9812 and inserting the fol-
2 lowing new item:

“Sec. 9812. Parity in mental health and substance use disorder benefits.”.

3 (h) GAO STUDY ON COVERAGE AND EXCLUSION OF
4 MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAG-
5 NOSES.—

6 (1) IN GENERAL.—The Comptroller General of
7 the United States shall conduct a study that ana-
8 lyzes the specific rates, patterns, and trends in cov-
9 erage and exclusion of specific mental health and
10 substance use disorder diagnoses by health plans
11 and health insurance. The study shall include an
12 analysis of—

13 (A) specific coverage rates for all mental
14 health conditions and substance use disorders;

15 (B) which diagnoses are most commonly
16 covered or excluded;

17 (C) whether implementation of this Act
18 has affected trends in coverage or exclusion of
19 such diagnoses; and

20 (D) the impact of covering or excluding
21 specific diagnoses on participants’ and enroll-
22 ees’ health, their health care coverage, and the
23 costs of delivering health care.

24 (2) REPORTS.—Not later than 3 years after the
25 date of the enactment of this Act, and 2 years after

1 the date of submission the first report under this
2 paragraph, the Comptroller General shall submit to
3 Congress a report on the results of the study con-
4 ducted under paragraph (1).

5 **TITLE VI—OTHER PROVISIONS**

6 **SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-** 7 **DETERMINATION PROGRAM.**

8 (a) REAUTHORIZATION OF THE SECURE RURAL
9 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT
10 OF 2000.—The Secure Rural Schools and Community
11 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-
12 lic Law 106–393) is amended by striking sections 1
13 through 403 and inserting the following:

14 **“SECTION 1. SHORT TITLE.**

15 “This Act may be cited as the ‘Secure Rural Schools
16 and Community Self-Determination Act of 2000’.

17 **“SEC. 2. PURPOSES.**

18 “The purposes of this Act are—

19 “(1) to stabilize and transition payments to
20 counties to provide funding for schools and roads
21 that supplements other available funds;

22 “(2) to make additional investments in, and
23 create additional employment opportunities through,
24 projects that—

1 “(A)(i) improve the maintenance of exist-
2 ing infrastructure;

3 “(ii) implement stewardship objectives that
4 enhance forest ecosystems; and

5 “(iii) restore and improve land health and
6 water quality;

7 “(B) enjoy broad-based support; and

8 “(C) have objectives that may include—

9 “(i) road, trail, and infrastructure
10 maintenance or obliteration;

11 “(ii) soil productivity improvement;

12 “(iii) improvements in forest eco-
13 system health;

14 “(iv) watershed restoration and main-
15 tenance;

16 “(v) the restoration, maintenance, and
17 improvement of wildlife and fish habitat;

18 “(vi) the control of noxious and exotic
19 weeds; and

20 “(vii) the reestablishment of native
21 species; and

22 “(3) to improve cooperative relationships
23 among—

24 “(A) the people that use and care for Fed-
25 eral land; and

1 “(B) the quotient obtained by dividing—

2 “(i) the amount equal to the average
3 of the 3 highest 25-percent payments and
4 safety net payments made to each eligible
5 State for each eligible county during the
6 eligibility period; by

7 “(ii) the amount equal to the sum of
8 the amounts calculated under clause (i)
9 and paragraph (9)(B)(i) for all eligible
10 counties in all eligible States during the
11 eligibility period.

12 “(3) COUNTY PAYMENT.—The term ‘county
13 payment’ means the payment for an eligible county
14 calculated under section 101(b).

15 “(4) ELIGIBLE COUNTY.—The term ‘eligible
16 county’ means any county that—

17 “(A) contains Federal land (as defined in
18 paragraph (7)); and

19 “(B) elects to receive a share of the State
20 payment or the county payment under section
21 102(b).

22 “(5) ELIGIBILITY PERIOD.—The term ‘eli-
23 gibility period’ means fiscal year 1986 through fiscal
24 year 1999.

1 “(6) ELIGIBLE STATE.—The term ‘eligible
2 State’ means a State or territory of the United
3 States that received a 25-percent payment for 1 or
4 more fiscal years of the eligibility period.

5 “(7) FEDERAL LAND.—The term ‘Federal land’
6 means—

7 “(A) land within the National Forest Sys-
8 tem, as defined in section 11(a) of the Forest
9 and Rangeland Renewable Resources Planning
10 Act of 1974 (16 U.S.C. 1609(a)) exclusive of
11 the National Grasslands and land utilization
12 projects designated as National Grasslands ad-
13 ministered pursuant to the Act of July 22,
14 1937 (7 U.S.C. 1010–1012); and

15 “(B) such portions of the revested Oregon
16 and California Railroad and reconveyed Coos
17 Bay Wagon Road grant land as are or may
18 hereafter come under the jurisdiction of the De-
19 partment of the Interior, which have heretofore
20 or may hereafter be classified as timberlands,
21 and power-site land valuable for timber, that
22 shall be managed, except as provided in the
23 former section 3 of the Act of August 28, 1937
24 (50 Stat. 875; 43 U.S.C. 1181c), for permanent
25 forest production.

1 “(8) 50-PERCENT ADJUSTED SHARE.—The
2 term ‘50-percent adjusted share’ means the number
3 equal to the quotient obtained by dividing—

4 “(A) the number equal to the quotient ob-
5 tained by dividing—

6 “(i) the 50-percent base share for the
7 eligible county; by

8 “(ii) the income adjustment for the el-
9 igible county; by

10 “(B) the number equal to the sum of the
11 quotients obtained under subparagraph (A) and
12 paragraph (1)(A) for all eligible counties.

13 “(9) 50-PERCENT BASE SHARE.—The term ‘50-
14 percent base share’ means the number equal to the
15 average of—

16 “(A) the quotient obtained by dividing—

17 “(i) the number of acres of Federal
18 land described in paragraph (7)(B) in each
19 eligible county; by

20 “(ii) the total number acres of Fed-
21 eral land in all eligible counties in all eligi-
22 ble States; and

23 “(B) the quotient obtained by dividing—

24 “(i) the amount equal to the average
25 of the 3 highest 50-percent payments made

1 to each eligible county during the eligibility
2 period; by

3 “(ii) the amount equal to the sum of
4 the amounts calculated under clause (i)
5 and paragraph (2)(B)(i) for all eligible
6 counties in all eligible States during the
7 eligibility period.

8 “(10) 50-PERCENT PAYMENT.—The term ‘50-
9 percent payment’ means the payment that is the
10 sum of the 50-percent share otherwise paid to a
11 county pursuant to title II of the Act of August 28,
12 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),
13 and the payment made to a county pursuant to the
14 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43
15 U.S.C. 1181f–1 et seq.).

16 “(11) FULL FUNDING AMOUNT.—The term ‘full
17 funding amount’ means—

18 “(A) \$500,000,000 for fiscal year 2008;

19 and

20 “(B) for fiscal year 2009 and each fiscal
21 year thereafter, the amount that is equal to 90
22 percent of the full funding amount for the pre-
23 ceding fiscal year.

1 “(12) INCOME ADJUSTMENT.—The term ‘in-
2 come adjustment’ means the square of the quotient
3 obtained by dividing—

4 “(A) the per capita personal income for
5 each eligible county; by

6 “(B) the median per capita personal in-
7 come of all eligible counties.

8 “(13) PER CAPITA PERSONAL INCOME.—The
9 term ‘per capita personal income’ means the most
10 recent per capita personal income data, as deter-
11 mined by the Bureau of Economic Analysis.

12 “(14) SAFETY NET PAYMENTS.—The term
13 ‘safety net payments’ means the special payment
14 amounts paid to States and counties required by
15 section 13982 or 13983 of the Omnibus Budget
16 Reconciliation Act of 1993 (Public Law 103–66; 16
17 U.S.C. 500 note; 43 U.S.C. 1181f note).

18 “(15) SECRETARY CONCERNED.—The term
19 ‘Secretary concerned’ means—

20 “(A) the Secretary of Agriculture or the
21 designee of the Secretary of Agriculture with
22 respect to the Federal land described in para-
23 graph (7)(A); and

24 “(B) the Secretary of the Interior or the
25 designee of the Secretary of the Interior with

1 respect to the Federal land described in para-
2 graph (7)(B).

3 “(16) STATE PAYMENT.—The term ‘State pay-
4 ment’ means the payment for an eligible State cal-
5 culated under section 101(a).

6 “(17) 25-PERCENT PAYMENT.—The term ‘25-
7 percent payment’ means the payment to States re-
8 quired by the sixth paragraph under the heading of
9 ‘FOREST SERVICE’ in the Act of May 23, 1908
10 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the
11 Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.
12 500).

13 **“TITLE I—SECURE PAYMENTS**
14 **FOR STATES AND COUNTIES**
15 **CONTAINING FEDERAL LAND**

16 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
17 **FEDERAL LAND.**

18 “(a) STATE PAYMENT.—For each of fiscal years
19 2008 through 2011, the Secretary of Agriculture shall cal-
20 culate for each eligible State an amount equal to the sum
21 of the products obtained by multiplying—

22 “(1) the adjusted share for each eligible county
23 within the eligible State; by

24 “(2) the full funding amount for the fiscal year.

1 “(b) COUNTY PAYMENT.—For each of fiscal years
2 2008 through 2011, the Secretary of the Interior shall cal-
3 culate for each eligible county that received a 50-percent
4 payment during the eligibility period an amount equal to
5 the product obtained by multiplying—

6 “(1) the 50-percent adjusted share for the eligi-
7 ble county; by

8 “(2) the full funding amount for the fiscal year.

9 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

10 “(a) PAYMENT AMOUNTS.—Except as provided in
11 section 103, the Secretary of the Treasury shall pay to—

12 “(1) a State or territory of the United States
13 an amount equal to the sum of the amounts elected
14 under subsection (b) by each county within the State
15 or territory for—

16 “(A) if the county is eligible for the 25-
17 percent payment, the share of the 25-percent
18 payment; or

19 “(B) the share of the State payment of the
20 eligible county; and

21 “(2) a county an amount equal to the amount
22 elected under subsection (b) by each county for—

23 “(A) if the county is eligible for the 50-
24 percent payment, the 50-percent payment; or

1 “(B) the county payment for the eligible
2 county.

3 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

4 “(1) ELECTION; SUBMISSION OF RESULTS.—

5 “(A) IN GENERAL.—The election to receive
6 a share of the State payment, the county pay-
7 ment, a share of the State payment and the
8 county payment, a share of the 25-percent pay-
9 ment, the 50-percent payment, or a share of the
10 25-percent payment and the 50-percent pay-
11 ment, as applicable, shall be made at the discre-
12 tion of each affected county by August 1, 2008
13 (or as soon thereafter as the Secretary con-
14 cerned determines is practicable), and August 1
15 of each second fiscal year thereafter, in accord-
16 ance with paragraph (2), and transmitted to
17 the Secretary concerned by the Governor of
18 each eligible State.

19 “(B) FAILURE TO TRANSMIT.—If an elec-
20 tion for an affected county is not transmitted to
21 the Secretary concerned by the date specified
22 under subparagraph (A), the affected county
23 shall be considered to have elected to receive a
24 share of the State payment, the county pay-

1 ment, or a share of the State payment and the
2 county payment, as applicable.

3 “(2) DURATION OF ELECTION.—

4 “(A) IN GENERAL.—A county election to
5 receive a share of the 25-percent payment or
6 50-percent payment, as applicable, shall be ef-
7 fective for 2 fiscal years.

8 “(B) FULL FUNDING AMOUNT.—If a coun-
9 ty elects to receive a share of the State payment
10 or the county payment, the election shall be ef-
11 fective for all subsequent fiscal years through
12 fiscal year 2011.

13 “(3) SOURCE OF PAYMENT AMOUNTS.—The
14 payment to an eligible State or eligible county under
15 this section for a fiscal year shall be derived from—

16 “(A) any amounts that are appropriated to
17 carry out this Act;

18 “(B) any revenues, fees, penalties, or mis-
19 cellaneous receipts, exclusive of deposits to any
20 relevant trust fund, special account, or perma-
21 nent operating funds, received by the Federal
22 Government from activities by the Bureau of
23 Land Management or the Forest Service on the
24 applicable Federal land; and

1 “(C) to the extent of any shortfall, out of
2 any amounts in the Treasury of the United
3 States not otherwise appropriated.

4 “(c) DISTRIBUTION AND EXPENDITURE OF PAY-
5 MENTS.—

6 “(1) DISTRIBUTION METHOD.—A State that re-
7 ceives a payment under subsection (a) for Federal
8 land described in section 3(7)(A) shall distribute the
9 appropriate payment amount among the appropriate
10 counties in the State in accordance with—

11 “(A) the Act of May 23, 1908 (16 U.S.C.
12 500); and

13 “(B) section 13 of the Act of March 1,
14 1911 (36 Stat. 963; 16 U.S.C. 500).

15 “(2) EXPENDITURE PURPOSES.—Subject to
16 subsection (d), payments received by a State under
17 subsection (a) and distributed to counties in accord-
18 ance with paragraph (1) shall be expended as re-
19 quired by the laws referred to in paragraph (1).

20 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-
21 TIES.—

22 “(1) ALLOCATIONS.—

23 “(A) USE OF PORTION IN SAME MANNER
24 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-
25 MENT, AS APPLICABLE.—Except as provided in

1 paragraph (3)(B), if an eligible county elects to
2 receive its share of the State payment or the
3 county payment, not less than 80 percent, but
4 not more than 85 percent, of the funds shall be
5 expended in the same manner in which the 25-
6 percent payments or 50-percent payment, as
7 applicable, are required to be expended.

8 “(B) ELECTION AS TO USE OF BAL-
9 ANCE.—Except as provided in subparagraph
10 (C), an eligible county shall elect to do 1 or
11 more of the following with the balance of any
12 funds not expended pursuant to subparagraph
13 (A):

14 “(i) Reserve any portion of the bal-
15 ance for projects in accordance with title
16 II.

17 “(ii) Reserve not more than 7 percent
18 of the total share for the eligible county of
19 the State payment or the county payment
20 for projects in accordance with title III.

21 “(iii) Return the portion of the bal-
22 ance not reserved under clauses (i) and (ii)
23 to the Treasury of the United States.

24 “(C) COUNTIES WITH MODEST DISTRIBU-
25 TIONS.—In the case of each eligible county to

1 which more than \$100,000, but less than
2 \$350,000, is distributed for any fiscal year pur-
3 suant to either or both of paragraphs (1)(B)
4 and (2)(B) of subsection (a), the eligible coun-
5 ty, with respect to the balance of any funds not
6 expended pursuant to subparagraph (A) for
7 that fiscal year, shall—

8 “(i) reserve any portion of the balance
9 for—

10 “(I) carrying out projects under
11 title II;

12 “(II) carrying out projects under
13 title III; or

14 “(III) a combination of the pur-
15 poses described in subclauses (I) and
16 (II); or

17 “(ii) return the portion of the balance
18 not reserved under clause (i) to the Treas-
19 ury of the United States.

20 “(2) DISTRIBUTION OF FUNDS.—

21 “(A) IN GENERAL.—Funds reserved by an
22 eligible county under subparagraph (B)(i) or
23 (C)(i) of paragraph (1) for carrying out
24 projects under title II shall be deposited in a

1 special account in the Treasury of the United
2 States.

3 “(B) AVAILABILITY.—Amounts deposited
4 under subparagraph (A) shall—

5 “(i) be available for expenditure by
6 the Secretary concerned, without further
7 appropriation; and

8 “(ii) remain available until expended
9 in accordance with title II.

10 “(3) ELECTION.—

11 “(A) NOTIFICATION.—

12 “(i) IN GENERAL.—An eligible county
13 shall notify the Secretary concerned of an
14 election by the eligible county under this
15 subsection not later than September 30,
16 2008 (or as soon thereafter as the Sec-
17 retary concerned determines is prac-
18 ticable), and each September 30 thereafter
19 for each succeeding fiscal year.

20 “(ii) FAILURE TO ELECT.—Except as
21 provided in subparagraph (B), if the eligi-
22 ble county fails to make an election by the
23 date specified in clause (i), the eligible
24 county shall—

1 (as in effect on September 29, 2006) for
2 the eligible counties in the covered State
3 that have elected under section 102(b) to
4 receive a share of the State payment for
5 fiscal year 2008; and

6 “(ii) the sum of the amounts paid for
7 fiscal year 2006 under section 103(a)(2)
8 (as in effect on September 29, 2006) for
9 the eligible counties in the State of Oregon
10 that have elected under section 102(b) to
11 receive the county payment for fiscal year
12 2008;

13 “(B) for fiscal year 2009, 81 percent of—

14 “(i) the sum of the amounts paid for
15 fiscal year 2006 under section 102(a)(2)
16 (as in effect on September 29, 2006) for
17 the eligible counties in the covered State
18 that have elected under section 102(b) to
19 receive a share of the State payment for
20 fiscal year 2009; and

21 “(ii) the sum of the amounts paid for
22 fiscal year 2006 under section 103(a)(2)
23 (as in effect on September 29, 2006) for
24 the eligible counties in the State of Oregon
25 that have elected under section 102(b) to

1 receive the county payment for fiscal year
2 2009; and

3 “(C) for fiscal year 2010, 73 percent of—

4 “(i) the sum of the amounts paid for
5 fiscal year 2006 under section 102(a)(2)
6 (as in effect on September 29, 2006) for
7 the eligible counties in the covered State
8 that have elected under section 102(b) to
9 receive a share of the State payment for
10 fiscal year 2010; and

11 “(ii) the sum of the amounts paid for
12 fiscal year 2006 under section 103(a)(2)
13 (as in effect on September 29, 2006) for
14 the eligible counties in the State of Oregon
15 that have elected under section 102(b) to
16 receive the county payment for fiscal year
17 2010.

18 “(2) COVERED STATE.—The term ‘covered
19 State’ means each of the States of California, Lou-
20 isiana, Oregon, Pennsylvania, South Carolina, South
21 Dakota, Texas, and Washington.

22 “(b) TRANSITION PAYMENTS.—For each of fiscal
23 years 2008 through 2010, in lieu of the payment amounts
24 that otherwise would have been made under paragraphs
25 (1)(B) and (2)(B) of section 102(a), the Secretary of the

1 Treasury shall pay the adjusted amount to each covered
2 State and the eligible counties within the covered State,
3 as applicable.

4 “(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Ex-
5 cept as provided in subsection (d), it is the intent of Con-
6 gress that the method of distributing the payments under
7 subsection (b) among the counties in the covered States
8 for each of fiscal years 2008 through 2010 be in the same
9 proportion that the payments were distributed to the eligi-
10 ble counties in fiscal year 2006.

11 “(d) DISTRIBUTION OF PAYMENTS IN CALI-
12 FORNIA.—The following payments shall be distributed
13 among the eligible counties in the State of California in
14 the same proportion that payments under section
15 102(a)(2) (as in effect on September 29, 2006) were dis-
16 tributed to the eligible counties for fiscal year 2006:

17 “(1) Payments to the State of California under
18 subsection (b).

19 “(2) The shares of the eligible counties of the
20 State payment for California under section 102 for
21 fiscal year 2011.

22 “(e) TREATMENT OF PAYMENTS.—For purposes of
23 this Act, any payment made under subsection (b) shall be
24 considered to be a payment made under section 102(a).

1 **“TITLE II—SPECIAL PROJECTS**
2 **ON FEDERAL LAND**

3 **“SEC. 201. DEFINITIONS.**

4 “In this title:

5 “(1) PARTICIPATING COUNTY.—The term ‘par-

6 ticipating county’ means an eligible county that

7 elects under section 102(d) to expend a portion of

8 the Federal funds received under section 102 in ac-

9 cordance with this title.

10 “(2) PROJECT FUNDS.—The term ‘project

11 funds’ means all funds an eligible county elects

12 under section 102(d) to reserve for expenditure in

13 accordance with this title.

14 “(3) RESOURCE ADVISORY COMMITTEE.—The

15 term ‘resource advisory committee’ means—

16 “(A) an advisory committee established by

17 the Secretary concerned under section 205; or

18 “(B) an advisory committee determined by

19 the Secretary concerned to meet the require-

20 ments of section 205.

21 “(4) RESOURCE MANAGEMENT PLAN.—The

22 term ‘resource management plan’ means—

23 “(A) a land use plan prepared by the Bu-

24 reau of Land Management for units of the Fed-

25 eral land described in section 3(7)(B) pursuant

1 to section 202 of the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1712); or
3 “(B) a land and resource management
4 plan prepared by the Forest Service for units of
5 the National Forest System pursuant to section
6 6 of the Forest and Rangeland Renewable Re-
7 sources Planning Act of 1974 (16 U.S.C.
8 1604).

9 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**
10 **FUNDS.**

11 “(a) LIMITATION.—Project funds shall be expended
12 solely on projects that meet the requirements of this title.

13 “(b) AUTHORIZED USES.—Project funds may be
14 used by the Secretary concerned for the purpose of enter-
15 ing into and implementing cooperative agreements with
16 willing Federal agencies, State and local governments, pri-
17 vate and nonprofit entities, and landowners for protection,
18 restoration, and enhancement of fish and wildlife habitat,
19 and other resource objectives consistent with the purposes
20 of this Act on Federal land and on non-Federal land where
21 projects would benefit the resources on Federal land.

22 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

23 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-
24 RETARY CONCERNED.—

1 “(1) PROJECTS FUNDED USING PROJECT
2 FUNDS.—Not later than September 30 for fiscal
3 year 2008 (or as soon thereafter as the Secretary
4 concerned determines is practicable), and each Sep-
5 tember 30 thereafter for each succeeding fiscal year
6 through fiscal year 2011, each resource advisory
7 committee shall submit to the Secretary concerned a
8 description of any projects that the resource advi-
9 sory committee proposes the Secretary undertake
10 using any project funds reserved by eligible counties
11 in the area in which the resource advisory committee
12 has geographic jurisdiction.

13 “(2) PROJECTS FUNDED USING OTHER
14 FUNDS.—A resource advisory committee may submit
15 to the Secretary concerned a description of any
16 projects that the committee proposes the Secretary
17 undertake using funds from State or local govern-
18 ments, or from the private sector, other than project
19 funds and funds appropriated and otherwise avail-
20 able to do similar work.

21 “(3) JOINT PROJECTS.—Participating counties
22 or other persons may propose to pool project funds
23 or other funds, described in paragraph (2), and
24 jointly propose a project or group of projects to a re-

1 source advisory committee established under section
2 205.

3 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In
4 submitting proposed projects to the Secretary concerned
5 under subsection (a), a resource advisory committee shall
6 include in the description of each proposed project the fol-
7 lowing information:

8 “(1) The purpose of the project and a descrip-
9 tion of how the project will meet the purposes of this
10 title.

11 “(2) The anticipated duration of the project.

12 “(3) The anticipated cost of the project.

13 “(4) The proposed source of funding for the
14 project, whether project funds or other funds.

15 “(5)(A) Expected outcomes, including how the
16 project will meet or exceed desired ecological condi-
17 tions, maintenance objectives, or stewardship objec-
18 tives.

19 “(B) An estimate of the amount of any timber,
20 forage, and other commodities and other economic
21 activity, including jobs generated, if any, anticipated
22 as part of the project.

23 “(6) A detailed monitoring plan, including
24 funding needs and sources, that—

1 “(A) tracks and identifies the positive or
2 negative impacts of the project, implementation,
3 and provides for validation monitoring; and

4 “(B) includes an assessment of the fol-
5 lowing:

6 “(i) Whether or not the project met or
7 exceeded desired ecological conditions; cre-
8 ated local employment or training opportu-
9 nities, including summer youth jobs pro-
10 grams such as the Youth Conservation
11 Corps where appropriate.

12 “(ii) Whether the project improved
13 the use of, or added value to, any products
14 removed from land consistent with the pur-
15 poses of this title.

16 “(7) An assessment that the project is to be in
17 the public interest.

18 “(c) AUTHORIZED PROJECTS.—Projects proposed
19 under subsection (a) shall be consistent with section 2.

20 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**
21 **SECRETARY CONCERNED.**

22 “(a) CONDITIONS FOR APPROVAL OF PROPOSED
23 PROJECT.—The Secretary concerned may make a decision
24 to approve a project submitted by a resource advisory com-

1 mittee under section 203 only if the proposed project satis-
2 fies each of the following conditions:

3 “(1) The project complies with all applicable
4 Federal laws (including regulations).

5 “(2) The project is consistent with the applica-
6 ble resource management plan and with any water-
7 shed or subsequent plan developed pursuant to the
8 resource management plan and approved by the Sec-
9 retary concerned.

10 “(3) The project has been approved by the re-
11 source advisory committee in accordance with sec-
12 tion 205, including the procedures issued under sub-
13 section (e) of that section.

14 “(4) A project description has been submitted
15 by the resource advisory committee to the Secretary
16 concerned in accordance with section 203.

17 “(5) The project will improve the maintenance
18 of existing infrastructure, implement stewardship ob-
19 jectives that enhance forest ecosystems, and restore
20 and improve land health and water quality.

21 “(b) ENVIRONMENTAL REVIEWS.—

22 “(1) REQUEST FOR PAYMENT BY COUNTY.—
23 The Secretary concerned may request the resource
24 advisory committee submitting a proposed project to
25 agree to the use of project funds to pay for any envi-

1 ronmental review, consultation, or compliance with
2 applicable environmental laws required in connection
3 with the project.

4 “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—
5 If a payment is requested under paragraph (1) and
6 the resource advisory committee agrees to the ex-
7 penditure of funds for this purpose, the Secretary
8 concerned shall conduct environmental review, con-
9 sultation, or other compliance responsibilities in ac-
10 cordance with Federal laws (including regulations).

11 “(3) EFFECT OF REFUSAL TO PAY.—

12 “(A) IN GENERAL.—If a resource advisory
13 committee does not agree to the expenditure of
14 funds under paragraph (1), the project shall be
15 deemed withdrawn from further consideration
16 by the Secretary concerned pursuant to this
17 title.

18 “(B) EFFECT OF WITHDRAWAL.—A with-
19 drawal under subparagraph (A) shall be deemed
20 to be a rejection of the project for purposes of
21 section 207(c).

22 “(c) DECISIONS OF SECRETARY CONCERNED.—

23 “(1) REJECTION OF PROJECTS.—

24 “(A) IN GENERAL.—A decision by the Sec-
25 retary concerned to reject a proposed project

1 shall be at the sole discretion of the Secretary
2 concerned.

3 “(B) NO ADMINISTRATIVE APPEAL OR JU-
4 DICIAL REVIEW.—Notwithstanding any other
5 provision of law, a decision by the Secretary
6 concerned to reject a proposed project shall not
7 be subject to administrative appeal or judicial
8 review.

9 “(C) NOTICE OF REJECTION.—Not later
10 than 30 days after the date on which the Sec-
11 retary concerned makes the rejection decision,
12 the Secretary concerned shall notify in writing
13 the resource advisory committee that submitted
14 the proposed project of the rejection and the
15 reasons for rejection.

16 “(2) NOTICE OF PROJECT APPROVAL.—The
17 Secretary concerned shall publish in the Federal
18 Register notice of each project approved under sub-
19 section (a) if the notice would be required had the
20 project originated with the Secretary.

21 “(d) SOURCE AND CONDUCT OF PROJECT.—Once the
22 Secretary concerned accepts a project for review under
23 section 203, the acceptance shall be deemed a Federal ac-
24 tion for all purposes.

25 “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

1 “(1) COOPERATION.—Notwithstanding chapter
2 63 of title 31, United States Code, using project
3 funds the Secretary concerned may enter into con-
4 tracts, grants, and cooperative agreements with
5 States and local governments, private and nonprofit
6 entities, and landowners and other persons to assist
7 the Secretary in carrying out an approved project.

8 “(2) BEST VALUE CONTRACTING.—

9 “(A) IN GENERAL.—For any project in-
10 volving a contract authorized by paragraph (1)
11 the Secretary concerned may elect a source for
12 performance of the contract on a best value
13 basis.

14 “(B) FACTORS.—The Secretary concerned
15 shall determine best value based on such factors
16 as—

17 “(i) the technical demands and com-
18 plexity of the work to be done;

19 “(ii)(I) the ecological objectives of the
20 project; and

21 “(II) the sensitivity of the resources
22 being treated;

23 “(iii) the past experience by the con-
24 tractor with the type of work being done,
25 using the type of equipment proposed for

1 the project, and meeting or exceeding de-
2 sired ecological conditions; and

3 “(iv) the commitment of the con-
4 tractor to hiring highly qualified workers
5 and local residents.

6 “(3) MERCHANTABLE TIMBER CONTRACTING
7 PILOT PROGRAM.—

8 “(A) ESTABLISHMENT.—The Secretary
9 concerned shall establish a pilot program to im-
10 plement a certain percentage of approved
11 projects involving the sale of merchantable tim-
12 ber using separate contracts for—

13 “(i) the harvesting or collection of
14 merchantable timber; and

15 “(ii) the sale of the timber.

16 “(B) ANNUAL PERCENTAGES.—Under the
17 pilot program, the Secretary concerned shall en-
18 sure that, on a nationwide basis, not less than
19 the following percentage of all approved projects
20 involving the sale of merchantable timber are
21 implemented using separate contracts:

22 “(i) For fiscal year 2008, 35 percent.

23 “(ii) For fiscal year 2009, 45 percent.

24 “(iii) For each of fiscal years 2010
25 and 2011, 50 percent.

1 “(C) INCLUSION IN PILOT PROGRAM.—The
2 decision whether to use separate contracts to
3 implement a project involving the sale of mer-
4 chantable timber shall be made by the Sec-
5 retary concerned after the approval of the
6 project under this title.

7 “(D) ASSISTANCE.—

8 “(i) IN GENERAL.—The Secretary
9 concerned may use funds from any appro-
10 priated account available to the Secretary
11 for the Federal land to assist in the ad-
12 ministration of projects conducted under
13 the pilot program.

14 “(ii) MAXIMUM AMOUNT OF ASSIST-
15 ANCE.—The total amount obligated under
16 this subparagraph may not exceed
17 \$1,000,000 for any fiscal year during
18 which the pilot program is in effect.

19 “(E) REVIEW AND REPORT.—

20 “(i) INITIAL REPORT.—Not later than
21 September 30, 2010, the Comptroller Gen-
22 eral shall submit to the Committees on Ag-
23 riculture, Nutrition, and Forestry and En-
24 ergy and Natural Resources of the Senate
25 and the Committees on Agriculture and

1 Natural Resources of the House of Rep-
2 resentatives a report assessing the pilot
3 program.

4 “(ii) ANNUAL REPORT.—The Sec-
5 retary concerned shall submit to the Com-
6 mittees on Agriculture, Nutrition, and For-
7 estry and Energy and Natural Resources
8 of the Senate and the Committees on Agri-
9 culture and Natural Resources of the
10 House of Representatives an annual report
11 describing the results of the pilot program.

12 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The
13 Secretary shall ensure that at least 50 percent of all
14 project funds be used for projects that are primarily dedi-
15 cated—

16 “(1) to road maintenance, decommissioning, or
17 obliteration; or

18 “(2) to restoration of streams and watersheds.

19 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

20 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE
21 ADVISORY COMMITTEES.—

22 “(1) ESTABLISHMENT.—The Secretary con-
23 cerned shall establish and maintain resource advi-
24 sory committees to perform the duties in subsection
25 (b), except as provided in paragraph (4).

1 “(2) PURPOSE.—The purpose of a resource ad-
2 visory committee shall be—

3 “(A) to improve collaborative relationships;
4 and

5 “(B) to provide advice and recommenda-
6 tions to the land management agencies con-
7 sistent with the purposes of this title.

8 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-
9 TEES.—To ensure that each unit of Federal land
10 has access to a resource advisory committee, and
11 that there is sufficient interest in participation on a
12 committee to ensure that membership can be bal-
13 anced in terms of the points of view represented and
14 the functions to be performed, the Secretary con-
15 cerned may, establish resource advisory committees
16 for part of, or 1 or more, units of Federal land.

17 “(4) EXISTING ADVISORY COMMITTEES.—

18 “(A) IN GENERAL.—An advisory com-
19 mittee that meets the requirements of this sec-
20 tion, a resource advisory committee established
21 before September 29, 2006, or an advisory com-
22 mittee determined by the Secretary concerned
23 before September 29, 2006, to meet the re-
24 quirements of this section may be deemed by

1 the Secretary concerned to be a resource advi-
2 sory committee for the purposes of this title.

3 “(B) CHARTER.—A charter for a com-
4 mittee described in subparagraph (A) that was
5 filed on or before September 29, 2006, shall be
6 considered to be filed for purposes of this Act.

7 “(C) BUREAU OF LAND MANAGEMENT AD-
8 VISORY COMMITTEES.—The Secretary of the In-
9 terior may deem a resource advisory committee
10 meeting the requirements of subpart 1784 of
11 part 1780 of title 43, Code of Federal Regula-
12 tions, as a resource advisory committee for the
13 purposes of this title.

14 “(b) DUTIES.—A resource advisory committee
15 shall—

16 “(1) review projects proposed under this title by
17 participating counties and other persons;

18 “(2) propose projects and funding to the Sec-
19 retary concerned under section 203;

20 “(3) provide early and continuous coordination
21 with appropriate land management agency officials
22 in recommending projects consistent with purposes
23 of this Act under this title;

24 “(4) provide frequent opportunities for citizens,
25 organizations, tribes, land management agencies,

1 and other interested parties to participate openly
2 and meaningfully, beginning at the early stages of
3 the project development process under this title;

4 “(5)(A) monitor projects that have been ap-
5 proved under section 204; and

6 “(B) advise the designated Federal official on
7 the progress of the monitoring efforts under sub-
8 paragraph (A); and

9 “(6) make recommendations to the Secretary
10 concerned for any appropriate changes or adjust-
11 ments to the projects being monitored by the re-
12 source advisory committee.

13 “(c) APPOINTMENT BY THE SECRETARY.—

14 “(1) APPOINTMENT AND TERM.—

15 “(A) IN GENERAL.—The Secretary con-
16 cerned, shall appoint the members of resource
17 advisory committees for a term of 4 years be-
18 ginning on the date of appointment.

19 “(B) REAPPOINTMENT.—The Secretary
20 concerned may reappoint members to subse-
21 quent 4-year terms.

22 “(2) BASIC REQUIREMENTS.—The Secretary
23 concerned shall ensure that each resource advisory
24 committee established meets the requirements of
25 subsection (d).

1 “(3) INITIAL APPOINTMENT.—Not later than
2 180 days after the date of the enactment of this Act,
3 the Secretary concerned shall make initial appoint-
4 ments to the resource advisory committees.

5 “(4) VACANCIES.—The Secretary concerned
6 shall make appointments to fill vacancies on any re-
7 source advisory committee as soon as practicable
8 after the vacancy has occurred.

9 “(5) COMPENSATION.—Members of the re-
10 source advisory committees shall not receive any
11 compensation.

12 “(d) COMPOSITION OF ADVISORY COMMITTEE.—

13 “(1) NUMBER.—Each resource advisory com-
14 mittee shall be comprised of 15 members.

15 “(2) COMMUNITY INTERESTS REPRESENTED.—
16 Committee members shall be representative of the
17 interests of the following 3 categories:

18 “(A) 5 persons that—

19 “(i) represent organized labor or non-
20 timber forest product harvester groups;

21 “(ii) represent developed outdoor
22 recreation, off highway vehicle users, or
23 commercial recreation activities;

24 “(iii) represent—

1 “(I) energy and mineral develop-
2 ment interests; or

3 “(II) commercial or recreational
4 fishing interests;

5 “(iv) represent the commercial timber
6 industry; or

7 “(v) hold Federal grazing or other
8 land use permits, or represent nonindus-
9 trial private forest land owners, within the
10 area for which the committee is organized.

11 “(B) 5 persons that represent—

12 “(i) nationally recognized environ-
13 mental organizations;

14 “(ii) regionally or locally recognized
15 environmental organizations;

16 “(iii) dispersed recreational activities;

17 “(iv) archaeological and historical in-
18 terests; or

19 “(v) nationally or regionally recog-
20 nized wild horse and burro interest groups,
21 wildlife or hunting organizations, or water-
22 shed associations.

23 “(C) 5 persons that—

24 “(i) hold State elected office (or a
25 designee);

1 “(ii) hold county or local elected of-
2 fice;

3 “(iii) represent American Indian
4 tribes within or adjacent to the area for
5 which the committee is organized;

6 “(iv) are school officials or teachers;
7 or

8 “(v) represent the affected public at
9 large.

10 “(3) BALANCED REPRESENTATION.—In ap-
11 pointing committee members from the 3 categories
12 in paragraph (2), the Secretary concerned shall pro-
13 vide for balanced and broad representation from
14 within each category.

15 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
16 bers of a resource advisory committee shall reside
17 within the State in which the committee has juris-
18 diction and, to extent practicable, the Secretary con-
19 cerned shall ensure local representation in each cat-
20 egory in paragraph (2).

21 “(5) CHAIRPERSON.—A majority on each re-
22 source advisory committee shall select the chair-
23 person of the committee.

24 “(e) APPROVAL PROCEDURES.—

1 “(1) IN GENERAL.—Subject to paragraph (3),
2 each resource advisory committee shall establish pro-
3 cedures for proposing projects to the Secretary con-
4 cerned under this title.

5 “(2) QUORUM.—A quorum must be present to
6 constitute an official meeting of the committee.

7 “(3) APPROVAL BY MAJORITY OF MEMBERS.—
8 A project may be proposed by a resource advisory
9 committee to the Secretary concerned under section
10 203(a), if the project has been approved by a major-
11 ity of members of the committee from each of the
12 3 categories in subsection (d)(2).

13 “(f) OTHER COMMITTEE AUTHORITIES AND RE-
14 QUIREMENTS.—

15 “(1) STAFF ASSISTANCE.—A resource advisory
16 committee may submit to the Secretary concerned a
17 request for periodic staff assistance from Federal
18 employees under the jurisdiction of the Secretary.

19 “(2) MEETINGS.—All meetings of a resource
20 advisory committee shall be announced at least 1
21 week in advance in a local newspaper of record and
22 shall be open to the public.

23 “(3) RECORDS.—A resource advisory committee
24 shall maintain records of the meetings of the com-

1 mittee and make the records available for public in-
2 spection.

3 **“SEC. 206. USE OF PROJECT FUNDS.**

4 “(a) AGREEMENT REGARDING SCHEDULE AND COST
5 OF PROJECT.—

6 “(1) AGREEMENT BETWEEN PARTIES.—The
7 Secretary concerned may carry out a project sub-
8 mitted by a resource advisory committee under sec-
9 tion 203(a) using project funds or other funds de-
10 scribed in section 203(a)(2), if, as soon as prac-
11 ticable after the issuance of a decision document for
12 the project and the exhaustion of all administrative
13 appeals and judicial review of the project decision,
14 the Secretary concerned and the resource advisory
15 committee enter into an agreement addressing, at a
16 minimum, the following:

17 “(A) The schedule for completing the
18 project.

19 “(B) The total cost of the project, includ-
20 ing the level of agency overhead to be assessed
21 against the project.

22 “(C) For a multiyear project, the esti-
23 mated cost of the project for each of the fiscal
24 years in which it will be carried out.

1 “(D) The remedies for failure of the Sec-
2 retary concerned to comply with the terms of
3 the agreement consistent with current Federal
4 law.

5 “(2) LIMITED USE OF FEDERAL FUNDS.—The
6 Secretary concerned may decide, at the sole discre-
7 tion of the Secretary concerned, to cover the costs
8 of a portion of an approved project using Federal
9 funds appropriated or otherwise available to the Sec-
10 retary for the same purposes as the project.

11 “(b) TRANSFER OF PROJECT FUNDS.—

12 “(1) INITIAL TRANSFER REQUIRED.—As soon
13 as practicable after the agreement is reached under
14 subsection (a) with regard to a project to be funded
15 in whole or in part using project funds, or other
16 funds described in section 203(a)(2), the Secretary
17 concerned shall transfer to the applicable unit of Na-
18 tional Forest System land or Bureau of Land Man-
19 agement District an amount of project funds equal
20 to—

21 “(A) in the case of a project to be com-
22 pleted in a single fiscal year, the total amount
23 specified in the agreement to be paid using
24 project funds, or other funds described in sec-
25 tion 203(a)(2); or

1 “(B) in the case of a multiyear project, the
2 amount specified in the agreement to be paid
3 using project funds, or other funds described in
4 section 203(a)(2) for the first fiscal year.

5 “(2) CONDITION ON PROJECT COMMENCE-
6 MENT.—The unit of National Forest System land or
7 Bureau of Land Management District concerned,
8 shall not commence a project until the project funds,
9 or other funds described in section 203(a)(2) re-
10 quired to be transferred under paragraph (1) for the
11 project, have been made available by the Secretary
12 concerned.

13 “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR
14 PROJECTS.—

15 “(A) IN GENERAL.—For the second and
16 subsequent fiscal years of a multiyear project to
17 be funded in whole or in part using project
18 funds, the unit of National Forest System land
19 or Bureau of Land Management District con-
20 cerned shall use the amount of project funds re-
21 quired to continue the project in that fiscal year
22 according to the agreement entered into under
23 subsection (a).

24 “(B) SUSPENSION OF WORK.—The Sec-
25 retary concerned shall suspend work on the

1 project if the project funds required by the
2 agreement in the second and subsequent fiscal
3 years are not available.

4 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

5 “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-
6 GATE FUNDS.—By September 30, 2008 (or as soon there-
7 after as the Secretary concerned determines is prac-
8 ticable), and each September 30 thereafter for each suc-
9 ceeding fiscal year through fiscal year 2011, a resource
10 advisory committee shall submit to the Secretary con-
11 cerned pursuant to section 203(a)(1) a sufficient number
12 of project proposals that, if approved, would result in the
13 obligation of at least the full amount of the project funds
14 reserved by the participating county in the preceding fiscal
15 year.

16 “(b) USE OR TRANSFER OF UNOBLIGATED
17 FUNDS.—Subject to section 208, if a resource advisory
18 committee fails to comply with subsection (a) for a fiscal
19 year, any project funds reserved by the participating coun-
20 ty in the preceding fiscal year and remaining unobligated
21 shall be available for use as part of the project submissions
22 in the next fiscal year.

23 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject
24 to section 208, any project funds reserved by a partici-
25 pating county in the preceding fiscal year that are unobli-

1 gated at the end of a fiscal year because the Secretary
2 concerned has rejected one or more proposed projects shall
3 be available for use as part of the project submissions in
4 the next fiscal year.

5 “(d) EFFECT OF COURT ORDERS.—

6 “(1) IN GENERAL.—If an approved project
7 under this Act is enjoined or prohibited by a Federal
8 court, the Secretary concerned shall return the un-
9 obligated project funds related to the project to the
10 participating county or counties that reserved the
11 funds.

12 “(2) EXPENDITURE OF FUNDS.—The returned
13 funds shall be available for the county to expend in
14 the same manner as the funds reserved by the coun-
15 ty under subparagraph (B) or (C)(i) of section
16 102(d)(1).

17 **“SEC. 208. TERMINATION OF AUTHORITY.**

18 “(a) IN GENERAL.—The authority to initiate projects
19 under this title shall terminate on September 30, 2011.

20 “(b) DEPOSITS IN TREASURY.—Any project funds
21 not obligated by September 30, 2012, shall be deposited
22 in the Treasury of the United States.

23 **“TITLE III—COUNTY FUNDS**

24 **“SEC. 301. DEFINITIONS.**

25 “In this title:

1 “(1) COUNTY FUNDS.—The term ‘county funds’
2 means all funds an eligible county elects under sec-
3 tion 102(d) to reserve for expenditure in accordance
4 with this title.

5 “(2) PARTICIPATING COUNTY.—The term ‘par-
6 ticipating county’ means an eligible county that
7 elects under section 102(d) to expend a portion of
8 the Federal funds received under section 102 in ac-
9 cordance with this title.

10 **“SEC. 302. USE.**

11 “(a) AUTHORIZED USES.—A participating county,
12 including any applicable agencies of the participating
13 county, shall use county funds, in accordance with this
14 title, only—

15 “(1) to carry out activities under the Firewise
16 Communities program to provide to homeowners in
17 fire-sensitive ecosystems education on, and assist-
18 ance with implementing, techniques in home siting,
19 home construction, and home landscaping that can
20 increase the protection of people and property from
21 wildfires;

22 “(2) to reimburse the participating county for
23 search and rescue and other emergency services, in-
24 cluding firefighting, that are—

1 “(A) performed on Federal land after the
2 date on which the use was approved under sub-
3 section (b);

4 “(B) paid for by the participating county;
5 and

6 “(3) to develop community wildfire protection
7 plans in coordination with the appropriate Secretary
8 concerned.

9 “(b) PROPOSALS.—A participating county shall use
10 county funds for a use described in subsection (a) only
11 after a 45-day public comment period, at the beginning
12 of which the participating county shall—

13 “(1) publish in any publications of local record
14 a proposal that describes the proposed use of the
15 county funds; and

16 “(2) submit the proposal to any resource advi-
17 sory committee established under section 205 for the
18 participating county.

19 **“SEC. 303. CERTIFICATION.**

20 “(a) IN GENERAL.—Not later than February 1 of the
21 year after the year in which any county funds were ex-
22 pended by a participating county, the appropriate official
23 of the participating county shall submit to the Secretary
24 concerned a certification that the county funds expended
25 in the applicable year have been used for the uses author-

1 ized under section 302(a), including a description of the
2 amounts expended and the uses for which the amounts
3 were expended.

4 “(b) REVIEW.—The Secretary concerned shall review
5 the certifications submitted under subsection (a) as the
6 Secretary concerned determines to be appropriate.

7 **“SEC. 304. TERMINATION OF AUTHORITY.**

8 “(a) IN GENERAL.—The authority to initiate projects
9 under this title terminates on September 30, 2011.

10 “(b) AVAILABILITY.—Any county funds not obligated
11 by September 30, 2012, shall be returned to the Treasury
12 of the United States.

13 **“TITLE IV—MISCELLANEOUS**
14 **PROVISIONS**

15 **“SEC. 401. REGULATIONS.**

16 “The Secretary of Agriculture and the Secretary of
17 the Interior shall issue regulations to carry out the pur-
18 poses of this Act.

19 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated such sums
21 as are necessary to carry out this Act for each of fiscal
22 years 2008 through 2011.

23 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

24 “(a) RELATION TO OTHER APPROPRIATIONS.—
25 Funds made available under section 402 and funds made

1 available to a Secretary concerned under section 206 shall
2 be in addition to any other annual appropriations for the
3 Forest Service and the Bureau of Land Management.

4 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—
5 All revenues generated from projects pursuant to title II,
6 including any interest accrued from the revenues, shall be
7 deposited in the Treasury of the United States.”.

8 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE
9 STATES AND COUNTIES.—

10 (1) ACT OF MAY 23, 1908.—The sixth paragraph
11 under the heading “FOREST SERVICE” in the Act
12 of May 23, 1908 (16 U.S.C. 500) is amended in the
13 first sentence by striking “twenty-five percentum”
14 and all that follows through “shall be paid” and in-
15 serting the following: “an amount equal to the an-
16 nual average of 25 percent of all amounts received
17 for the applicable fiscal year and each of the pre-
18 ceding 6 fiscal years from each national forest shall
19 be paid”.

20 (2) WEEKS LAW.—Section 13 of the Act of
21 March 1, 1911 (commonly known as the “Weeks
22 Law”) (16 U.S.C. 500) is amended in the first sen-
23 tence by striking “twenty-five percentum” and all
24 that follows through “shall be paid” and inserting
25 the following: “an amount equal to the annual aver-

1 age of 25 percent of all amounts received for the ap-
2 plicable fiscal year and each of the preceding 6 fiscal
3 years from each national forest shall be paid”.

4 (c) PAYMENTS IN LIEU OF TAXES.—

5 (1) IN GENERAL.—Section 6906 of title 31,
6 United States Code, is amended to read as follows:

7 **“§ 6906. Funding**

8 “For each of fiscal years 2008 through 2012—

9 “(1) each county or other eligible unit of local
10 government shall be entitled to payment under this
11 chapter; and

12 “(2) sums shall be made available to the Sec-
13 retary of the Interior for obligation or expenditure in
14 accordance with this chapter.”.

15 (2) CONFORMING AMENDMENT.—The table of
16 sections for chapter 69 of title 31, United States
17 Code, is amended by striking the item relating to
18 section 6906 and inserting the following:

“6906. Funding.”.

19 (3) BUDGET SCOREKEEPING.—

20 (A) IN GENERAL.—Notwithstanding the
21 Budget Scorekeeping Guidelines and the accom-
22 panying list of programs and accounts set forth
23 in the joint explanatory statement of the com-
24 mittee of conference accompanying Conference
25 Report 105–217, the section in this title re-

1 garding Payments in Lieu of Taxes shall be
2 treated in the baseline for purposes of section
3 257 of the Balanced Budget and Emergency
4 Deficit Control Act of 1985 (as in effect prior
5 to September 30, 2002), and by the Chairmen
6 of the House and Senate Budget Committees,
7 as appropriate, for purposes of budget enforce-
8 ment in the House and Senate, and under the
9 Congressional Budget Act of 1974 as if Pay-
10 ment in Lieu of Taxes (14-1114-0-1-806)
11 were an account designated as Appropriated
12 Entitlements and Mandatories for Fiscal Year
13 1997 in the joint explanatory statement of the
14 committee of conference accompanying Con-
15 ference Report 105-217.

16 (B) EFFECTIVE DATE.—This paragraph
17 shall remain in effect for the fiscal years to
18 which the entitlement in section 6906 of title
19 31, United States Code (as amended by para-
20 graph (1)), applies.

21 **SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION**
22 **FUND.**

23 Subparagraph (C) of section 402(i)(1) of the Surface
24 Mining Control and Reclamation Act of 1977 (30 U.S.C.
25 1232(i)(1)) is amended by striking “and \$9,000,000 on

1 October 1, 2009” and inserting “\$9,000,000 on October
2 1, 2009, and \$9,000,000 on October 1, 2010”.

3 **TITLE VII—DISASTER RELIEF**
4 **Subtitle A—Heartland and**
5 **Hurricane Ike Disaster Relief**

6 **SEC. 701. SHORT TITLE.**

7 This subtitle may be cited as the “Heartland Disaster
8 Tax Relief Act of 2008”.

9 **SEC. 702. TEMPORARY TAX RELIEF FOR AREAS DAMAGED**
10 **BY 2008 MIDWESTERN SEVERE STORMS, TOR-**
11 **NADOS, AND FLOODING.**

12 (a) IN GENERAL.—Subject to the modifications de-
13 scribed in this section, the following provisions of or relat-
14 ing to the Internal Revenue Code of 1986 shall apply to
15 any Midwestern disaster area in addition to the areas to
16 which such provisions otherwise apply:

17 (1) GO ZONE BENEFITS.—

18 (A) Section 1400N (relating to tax bene-
19 fits) other than subsections (b), (d), (e), (i), (j),
20 (m), and (o) thereof.

21 (B) Section 1400O (relating to education
22 tax benefits).

23 (C) Section 1400P (relating to housing tax
24 benefits).

1 (D) Section 1400Q (relating to special
2 rules for use of retirement funds).

3 (E) Section 1400R(a) (relating to em-
4 ployee retention credit for employers).

5 (F) Section 1400S (relating to additional
6 tax relief) other than subsection (d) thereof.

7 (G) Section 1400T (relating to special
8 rules for mortgage revenue bonds).

9 (2) OTHER BENEFITS INCLUDED IN KATRINA
10 EMERGENCY TAX RELIEF ACT OF 2005.—Sections
11 302, 303, 304, 401, and 405 of the Katrina Emer-
12 gency Tax Relief Act of 2005.

13 (b) MIDWESTERN DISASTER AREA.—

14 (1) IN GENERAL.—For purposes of this section
15 and for applying the substitutions described in sub-
16 sections (d) and (e), the term “Midwestern disaster
17 area” means an area—

18 (A) with respect to which a major disaster
19 has been declared by the President on or after
20 May 20, 2008, and before August 1, 2008,
21 under section 401 of the Robert T. Stafford
22 Disaster Relief and Emergency Assistance Act
23 by reason of severe storms, tornados, or flood-
24 ing occurring in any of the States of Arkansas,

1 Illinois, Indiana, Iowa, Kansas, Michigan, Min-
2 nesota, Missouri, Nebraska, and Wisconsin, and

3 (B) determined by the President to war-
4 rant individual or individual and public assist-
5 ance from the Federal Government under such
6 Act with respect to damages attributable to
7 such severe storms, tornados, or flooding.

8 (2) CERTAIN BENEFITS AVAILABLE TO AREAS
9 ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For pur-
10 poses of applying this section to benefits under the
11 following provisions, paragraph (1) shall be applied
12 without regard to subparagraph (B):

13 (A) Sections 1400Q, 1400S(b), and
14 1400S(d) of the Internal Revenue Code of
15 1986.

16 (B) Sections 302, 401, and 405 of the
17 Katrina Emergency Tax Relief Act of 2005.

18 (c) REFERENCES.—

19 (1) AREA.—Any reference in such provisions to
20 the Hurricane Katrina disaster area or the Gulf Op-
21 portunity Zone shall be treated as a reference to any
22 Midwestern disaster area and any reference to the
23 Hurricane Katrina disaster area or the Gulf Oppor-
24 tunity Zone within a State shall be treated as a ref-

1 erence to all Midwestern disaster areas within the
2 State.

3 (2) ITEMS ATTRIBUTABLE TO DISASTER.—Any
4 reference in such provisions to any loss, damage, or
5 other item attributable to Hurricane Katrina shall
6 be treated as a reference to any loss, damage, or
7 other item attributable to the severe storms, tor-
8 nados, or flooding giving rise to any Presidential
9 declaration described in subsection (b)(1)(A).

10 (3) APPLICABLE DISASTER DATE.—For pur-
11 poses of applying the substitutions described in sub-
12 sections (d) and (e), the term “applicable disaster
13 date” means, with respect to any Midwestern dis-
14 aster area, the date on which the severe storms, tor-
15 nados, or flooding giving rise to the Presidential dec-
16 laration described in subsection (b)(1)(A) occurred.

17 (d) MODIFICATIONS TO 1986 CODE.—The following
18 provisions of the Internal Revenue Code of 1986 shall be
19 applied with the following modifications:

20 (1) TAX-EXEMPT BOND FINANCING.—Section
21 1400N(a)—

22 (A) by substituting “qualified Midwestern
23 disaster area bond” for “qualified Gulf Oppor-
24 tunity Zone Bond” each place it appears, except

1 aged by such severe storms, tornados,
2 or flooding, and

3 (ii) paragraph (2)(A)(ii) shall be ap-
4 plied by treating an issue as a qualified
5 mortgage issue only if 95 percent or more
6 of the net proceeds (as defined in section
7 150(a)(3)) of the issue are to be used to
8 provide financing for mortgagors who suf-
9 fered damages to their principal residences
10 attributable to such severe storms, tor-
11 nados, or flooding.

12 (B) by substituting “any State in which a
13 Midwestern disaster area is located” for “the
14 State of Alabama, Louisiana, or Mississippi” in
15 paragraph (2)(B),

16 (C) by substituting “designated for pur-
17 poses of this section (on the basis of providing
18 assistance to areas in the order in which such
19 assistance is most needed)” for “designated for
20 purposes of this section” in paragraph (2)(C),

21 (D) by substituting “January 1, 2013” for
22 “January 1, 2011” in paragraph (2)(D),

23 (E) in paragraph (3)(A)—

24 (i) by substituting “\$1,000” for
25 “\$2,500”, and

1 (ii) by substituting “before the ear-
2 liest applicable disaster date for Mid-
3 western disaster areas within the State”
4 for “before August 28, 2005”,

5 (F) by substituting “qualified Midwestern
6 disaster area repair or construction” for “quali-
7 fied GO Zone repair or construction” each place
8 it appears,

9 (G) by substituting “after the date of the
10 enactment of the Heartland Disaster Tax Relief
11 Act of 2008 and before January 1, 2013” for
12 “after the date of the enactment of this para-
13 graph and before January 1, 2011” in para-
14 graph (7)(C), and

15 (H) by disregarding paragraph (8) thereof.

16 (2) LOW-INCOME HOUSING CREDIT.—Section
17 1400N(c)—

18 (A) only with respect to calendar years
19 2008, 2009, and 2010,

20 (B) by substituting “Disaster Recovery As-
21 sistance housing amount” for “Gulf Oppor-
22 tunity housing amount” each place it appears,

23 (C) in paragraph (1)(B)—

24 (i) by substituting “\$8.00” for
25 “\$18.00”, and

1 (ii) by substituting “before the ear-
2 liest applicable disaster date for Mid-
3 western disaster areas within the State”
4 for “before August 28, 2005” , and
5 (D) determined without regard to para-
6 graphs (2), (3), (4), (5), and (6) thereof.

7 (3) EXPENSING FOR CERTAIN DEMOLITION AND
8 CLEAN-UP COSTS.—Section 1400N(f)—

9 (A) by substituting “qualified Disaster Re-
10 covery Assistance clean-up cost” for “qualified
11 Gulf Opportunity Zone clean-up cost” each
12 place it appears,

13 (B) by substituting “beginning on the ap-
14 plicable disaster date and ending on December
15 31, 2010” for “beginning on August 28, 2005,
16 and ending on December 31, 2007” in para-
17 graph (2), and

18 (C) by treating costs as qualified Disaster
19 Recovery Assistance clean-up costs only if the
20 removal of debris or demolition of any structure
21 was necessary due to damage attributable to
22 the severe storms, tornados, or flooding giving
23 rise to any Presidential declaration described in
24 subsection (b)(1)(A).

1 (4) EXTENSION OF EXPENSING FOR ENVIRON-
2 MENTAL REMEDIATION COSTS.—Section 1400N(g)—

3 (A) by substituting “the applicable disaster
4 date” for “August 28, 2005” each place it ap-
5 pears,

6 (B) by substituting “January 1, 2011” for
7 “January 1, 2008” in paragraph (1),

8 (C) by substituting “December 31, 2010”
9 for “December 31, 2007” in paragraph (1), and

10 (D) by treating a site as a qualified con-
11 taminated site only if the release (or threat of
12 release) or disposal of a hazardous substance at
13 the site was attributable to the severe storms,
14 tornados, or flooding giving rise to any Presi-
15 dential declaration described in subsection
16 (b)(1)(A).

17 (5) INCREASE IN REHABILITATION CREDIT.—
18 Section 1400N(h), as amended by this Act—

19 (A) by substituting “the applicable disaster
20 date” for “August 28, 2005”,

21 (B) by substituting “December 31, 2011”
22 for “December 31, 2009” in paragraph (1), and

23 (C) by only applying such subsection to
24 qualified rehabilitation expenditures with re-
25 spect to any building or structure which was

1 damaged or destroyed as a result of the severe
2 storms, tornados, or flooding giving rise to any
3 Presidential declaration described in subsection
4 (b)(1)(A).

5 (6) TREATMENT OF NET OPERATING LOSSES
6 ATTRIBUTABLE TO DISASTER LOSSES.—Section
7 1400N(k)—

8 (A) by substituting “qualified Disaster Re-
9 covery Assistance loss” for “qualified Gulf Op-
10 portunity Zone loss” each place it appears,

11 (B) by substituting “after the day before
12 the applicable disaster date, and before January
13 1, 2011” for “after August 27, 2005, and be-
14 fore January 1, 2008” each place it appears,

15 (C) by substituting “the applicable disaster
16 date” for “August 28, 2005” in paragraph
17 (2)(B)(ii)(I),

18 (D) by substituting “qualified Disaster Re-
19 covery Assistance property” for “qualified Gulf
20 Opportunity Zone property” in paragraph
21 (2)(B)(iv), and

22 (E) by substituting “qualified Disaster Re-
23 covery Assistance casualty loss” for “qualified
24 Gulf Opportunity Zone casualty loss” each
25 place it appears.

1 (7) CREDIT TO HOLDERS OF TAX CREDIT
2 BONDS.—Section 1400N(l)—

3 (A) by substituting “Midwestern tax credit
4 bond” for “Gulf tax credit bond” each place it
5 appears,

6 (B) by substituting “any State in which a
7 Midwestern disaster area is located or any in-
8 strumentality of the State” for “the State of
9 Alabama, Louisiana, or Mississippi” in para-
10 graph (4)(A)(i),

11 (C) by substituting “after December 31,
12 2008 and before January 1, 2010” for “after
13 December 31, 2005, and before January 1,
14 2007”,

15 (D) by substituting “shall not exceed
16 \$100,000,000 for any State with an aggregate
17 population located in all Midwestern disaster
18 areas within the State of at least 2,000,000,
19 \$50,000,000 for any State with an aggregate
20 population located in all Midwestern disaster
21 areas within the State of at least 1,000,000 but
22 less than 2,000,000, and zero for any other
23 State. The population of a State within any
24 area shall be determined on the basis of the
25 most recent census estimate of resident popu-

1 lation released by the Bureau of Census before
2 the earliest applicable disaster date for Mid-
3 western disaster areas within the State.” for
4 “shall not exceed” and all that follows in para-
5 graph (4)(C), and

6 (E) by substituting “the earliest applicable
7 disaster date for Midwestern disaster areas
8 within the State” for “August 28, 2005” in
9 paragraph (5)(A).

10 (8) EDUCATION TAX BENEFITS.—Section
11 1400O, by substituting “2008 or 2009” for “2005
12 or 2006”.

13 (9) HOUSING TAX BENEFITS.—Section 1400P,
14 by substituting “the applicable disaster date” for
15 “August 28, 2005” in subsection (c)(1).

16 (10) SPECIAL RULES FOR USE OF RETIREMENT
17 FUNDS.—Section 1400Q—

18 (A) by substituting “qualified Disaster Re-
19 covery Assistance distribution” for “qualified
20 hurricane distribution” each place it appears,

21 (B) by substituting “on or after the appli-
22 cable disaster date and before January 1,
23 2010” for “on or after August 25, 2005, and
24 before January 1, 2007” in subsection
25 (a)(4)(A)(i),

1 (C) by substituting “the applicable disaster
2 date” for “August 28, 2005” in subsections
3 (a)(4)(A)(i) and (c)(3)(B),

4 (D) by disregarding clauses (ii) and (iii) of
5 subsection (a)(4)(A) thereof,

6 (E) by substituting “qualified storm dam-
7 age distribution” for “qualified Katrina dis-
8 tribution” each place it appears,

9 (F) by substituting “after the date which
10 is 6 months before the applicable disaster date
11 and before the date which is the day after the
12 applicable disaster date” for “after February
13 28, 2005, and before August 29, 2005” in sub-
14 section (b)(2)(B)(ii),

15 (G) by substituting “the Midwestern dis-
16 aster area, but not so purchased or constructed
17 on account of severe storms, tornados, or flood-
18 ing giving rise to the designation of the area as
19 a disaster area” for “the Hurricane Katrina
20 disaster area, but not so purchased or con-
21 structed on account of Hurricane Katrina” in
22 subsection (b)(2)(B)(iii),

23 (H) by substituting “beginning on the ap-
24 plicable disaster date and ending on the date
25 which is 5 months after the date of the enact-

1 ment of the Heartland Disaster Tax Relief Act
2 of 2008” for “beginning on August 25, 2005,
3 and ending on February 28, 2006” in sub-
4 section (b)(3)(A),

5 (I) by substituting “qualified storm dam-
6 age individual” for “qualified Hurricane
7 Katrina individual” each place it appears,

8 (J) by substituting “December 31, 2009”
9 for “December 31, 2006” in subsection
10 (c)(2)(A),

11 (K) by disregarding subparagraphs (C)
12 and (D) of subsection (c)(3) thereof,

13 (L) by substituting “beginning on the date
14 of the enactment of the Heartland Disaster Tax
15 Relief Act of 2008 and ending on December 31,
16 2009” for “beginning on September 24, 2005,
17 and ending on December 31, 2006” in sub-
18 section (c)(4)(A)(i),

19 (M) by substituting “the applicable dis-
20 aster date” for “August 25, 2005” in sub-
21 section (c)(4)(A)(ii), and

22 (N) by substituting “January 1, 2010” for
23 “January 1, 2007” in subsection (d)(2)(A)(ii).

1 (11) EMPLOYEE RETENTION CREDIT FOR EM-
2 PLOYERS AFFECTED BY SEVERE STORMS, TOR-
3 NADOS, AND FLOODING.—Section 1400R(a)—

4 (A) by substituting “the applicable disaster
5 date” for “August 28, 2005” each place it ap-
6 pears,

7 (B) by substituting “January 1, 2009” for
8 “January 1, 2006” both places it appears, and

9 (C) only with respect to eligible employers
10 who employed an average of not more than 200
11 employees on business days during the taxable
12 year before the applicable disaster date.

13 (12) TEMPORARY SUSPENSION OF LIMITATIONS
14 ON CHARITABLE CONTRIBUTIONS.—Section
15 1400S(a), by substituting the following paragraph
16 for paragraph (4) thereof:

17 “(4) QUALIFIED CONTRIBUTIONS.—

18 “(A) IN GENERAL.—For purposes of this
19 subsection, the term ‘qualified contribution’
20 means any charitable contribution (as defined
21 in section 170(c)) if—

22 “(i) such contribution—

23 “(I) is paid during the period be-
24 ginning on the earliest applicable dis-
25 aster date for all States and ending

1 on December 31, 2008, in cash to an
2 organization described in section
3 170(b)(1)(A), and

4 “(II) is made for relief efforts in
5 1 or more Midwestern disaster areas,

6 “(ii) the taxpayer obtains from such
7 organization contemporaneous written ac-
8 knowledgment (within the meaning of sec-
9 tion 170(f)(8)) that such contribution was
10 used (or is to be used) for relief efforts in
11 1 or more Midwestern disaster areas, and

12 “(iii) the taxpayer has elected the ap-
13 plication of this subsection with respect to
14 such contribution.

15 “(B) EXCEPTION.—Such term shall not in-
16 clude a contribution by a donor if the contribu-
17 tion is—

18 “(i) to an organization described in
19 section 509(a)(3), or

20 “(ii) for establishment of a new, or
21 maintenance of an existing, donor advised
22 fund (as defined in section 4966(d)(2)).

23 “(C) APPLICATION OF ELECTION TO PART-
24 NERSHIPS AND S CORPORATIONS.—In the case
25 of a partnership or S corporation, the election

1 under subparagraph (A)(iii) shall be made sepa-
2 rately by each partner or shareholder.”.

3 (13) SUSPENSION OF CERTAIN LIMITATIONS ON
4 PERSONAL CASUALTY LOSSES.—Section
5 1400S(b)(1), by substituting “the applicable disaster
6 date” for “August 25, 2005”.

7 (14) SPECIAL RULE FOR DETERMINING
8 EARNED INCOME.—Section 1400S(d)—

9 (A) by treating an individual as a qualified
10 individual if such individual’s principal place of
11 abode on the applicable disaster date was lo-
12 cated in a Midwestern disaster area,

13 (B) by treating the applicable disaster date
14 with respect to any such individual as the appli-
15 cable date for purposes of such subsection, and

16 (C) by treating an area as described in
17 paragraph (2)(B)(ii) thereof if the area is a
18 Midwestern disaster area only by reason of sub-
19 section (b)(2) of this section (relating to areas
20 eligible only for public assistance).

21 (15) ADJUSTMENTS REGARDING TAXPAYER AND
22 DEPENDENCY STATUS.—Section 1400S(e), by sub-
23 stituting “2008 or 2009” for “2005 or 2006”.

24 (e) MODIFICATIONS TO KATRINA EMERGENCY TAX
25 RELIEF ACT OF 2005.—The following provisions of the

1 Katrina Emergency Tax Relief Act of 2005 shall be ap-
2 plied with the following modifications:

3 (1) ADDITIONAL EXEMPTION FOR HOUSING DIS-
4 PLACED INDIVIDUAL.—Section 302—

5 (A) by substituting “2008 or 2009” for
6 “2005 or 2006” in subsection (a) thereof,

7 (B) by substituting “Midwestern displaced
8 individual” for “Hurricane Katrina displaced
9 individual” each place it appears, and

10 (C) by treating an area as a core disaster
11 area for purposes of applying subsection (c)
12 thereof if the area is a Midwestern disaster area
13 without regard to subsection (b)(2) of this sec-
14 tion (relating to areas eligible only for public
15 assistance).

16 (2) INCREASE IN STANDARD MILEAGE RATE.—
17 Section 303, by substituting “beginning on the ap-
18 plicable disaster date and ending on December 31,
19 2008” for “beginning on August 25, 2005, and end-
20 ing on December 31, 2006”.

21 (3) MILEAGE REIMBURSEMENTS FOR CHARIT-
22 TABLE VOLUNTEERS.—Section 304—

23 (A) by substituting “beginning on the ap-
24 plicable disaster date and ending on December
25 31, 2008” for “beginning on August 25, 2005,

1 and ending on December 31, 2006” in sub-
2 section (a), and

3 (B) by substituting “the applicable disaster
4 date” for “August 25, 2005” in subsection (a).

5 (4) EXCLUSION OF CERTAIN CANCELLATION OF
6 INDEBTEDNESS INCOME.—Section 401—

7 (A) by treating an individual whose prin-
8 cipal place of abode on the applicable disaster
9 date was in a Midwestern disaster area (deter-
10 mined without regard to subsection (b)(2) of
11 this section) as an individual described in sub-
12 section (b)(1) thereof, and by treating an indi-
13 vidual whose principal place of abode on the ap-
14 plicable disaster date was in a Midwestern dis-
15 aster area solely by reason of subsection (b)(2)
16 of this section as an individual described in sub-
17 section (b)(2) thereof,

18 (B) by substituting “the applicable disaster
19 date” for “August 28, 2005” both places it ap-
20 pears, and

21 (C) by substituting “January 1, 2010” for
22 “January 1, 2007” in subsection (e).

23 (5) EXTENSION OF REPLACEMENT PERIOD FOR
24 NONRECOGNITION OF GAIN.—Section 405, by sub-

1 stituting “on or after the applicable disaster date”
2 for “on or after August 25, 2005”.

3 **SEC. 703. REPORTING REQUIREMENTS RELATING TO DIS-**
4 **ASTER RELIEF CONTRIBUTIONS.**

5 (a) IN GENERAL.—Section 6033(b) (relating to re-
6 turns of certain organizations described in section
7 501(c)(3)) is amended by striking “and” at the end of
8 paragraph (13), by redesignating paragraph (14) as para-
9 graph (15), and by adding after paragraph (13) the fol-
10 lowing new paragraph:

11 “(14) such information as the Secretary may
12 require with respect to disaster relief activities, in-
13 cluding the amount and use of qualified contribu-
14 tions to which section 1400S(a) applies, and”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to returns the due date for which
17 (determined without regard to any extension) occurs after
18 December 31, 2008.

19 **SEC. 704. TEMPORARY TAX-EXEMPT BOND FINANCING AND**
20 **LOW-INCOME HOUSING TAX RELIEF FOR**
21 **AREAS DAMAGED BY HURRICANE IKE.**

22 (a) TAX-EXEMPT BOND FINANCING.—Section
23 1400N(a) of the Internal Revenue Code of 1986 shall
24 apply to any Hurricane Ike disaster area in addition to

1 any other area referenced in such section, but with the
2 following modifications:

3 (1) By substituting “qualified Hurricane Ike
4 disaster area bond” for “qualified Gulf Opportunity
5 Zone Bond” each place it appears, except that in de-
6 termining whether a bond is a qualified Hurricane
7 Ike disaster area bond—

8 (A) paragraph (2)(A)(i) shall be applied by
9 only treating costs as qualified project costs
10 if—

11 (i) in the case of a project involving a
12 private business use (as defined in section
13 141(b)(6)), either the person using the
14 property suffered a loss in a trade or busi-
15 ness attributable to Hurricane Ike or is a
16 person designated for purposes of this sec-
17 tion by the Governor of the State in which
18 the project is located as a person carrying
19 on a trade or business replacing a trade or
20 business with respect to which another per-
21 son suffered such a loss, and

22 (ii) in the case of a project relating to
23 public utility property, the project involves
24 repair or reconstruction of public utility
25 property damaged by Hurricane Ike, and

1 (B) paragraph (2)(A)(ii) shall be applied
2 by treating an issue as a qualified mortgage
3 issue only if 95 percent or more of the net pro-
4 ceeds (as defined in section 150(a)(3)) of the
5 issue are to be used to provide financing for
6 mortgagors who suffered damages to their prin-
7 cipal residences attributable to Hurricane Ike.

8 (2) By substituting “any State in which any
9 Hurricane Ike disaster area is located” for “the
10 State of Alabama, Louisiana, or Mississippi” in
11 paragraph (2)(B).

12 (3) By substituting “designated for purposes of
13 this section (on the basis of providing assistance to
14 areas in the order in which such assistance is most
15 needed)” for “designated for purposes of this sec-
16 tion” in paragraph (2)(C).

17 (4) By substituting “January 1, 2013” for
18 “January 1, 2011” in paragraph (2)(D).

19 (5) By substituting the following for subpara-
20 graph (A) of paragraph (3):

21 “(A) AGGREGATE AMOUNT DESIGNATED.—
22 The maximum aggregate face amount of bonds
23 which may be designated under this subsection
24 with respect to any State shall not exceed the

1 product of \$2,000 multiplied by the portion of
2 the State population which is in—

3 “(i) in the case of Texas, the counties
4 of Brazoria, Chambers, Galveston, Jeffer-
5 son, and Orange, and

6 “(ii) in the case of Louisiana, the par-
7 ishes of Calcasieu and Cameron,
8 (as determined on the basis of the most recent
9 census estimate of resident population released
10 by the Bureau of Census before September 13,
11 2008).”.

12 (6) By substituting “qualified Hurricane Ike
13 disaster area repair or construction” for “qualified
14 GO Zone repair or construction” each place it ap-
15 pears.

16 (7) By substituting “after the date of the en-
17 actment of the Heartland Disaster Tax Relief Act of
18 2008 and before January 1, 2013” for “after the
19 date of the enactment of this paragraph and before
20 January 1, 2011” in paragraph (7)(C).

21 (8) By disregarding paragraph (8) thereof.

22 (9) By substituting “any Hurricane Ike disaster
23 area” for “the Gulf Opportunity Zone” each place it
24 appears.

1 (b) LOW-INCOME HOUSING CREDIT.—Section
2 1400N(e) of the Internal Revenue Code of 1986 shall
3 apply to any Hurricane Ike disaster area in addition to
4 any other area referenced in such section, but with the
5 following modifications:

6 (1) Only with respect to calendar years 2008,
7 2009, and 2010.

8 (2) By substituting “any Hurricane Ike disaster
9 area” for “the Gulf Opportunity Zone” each place it
10 appears.

11 (3) By substituting “Hurricane Ike Recovery
12 Assistance housing amount” for “Gulf Opportunity
13 housing amount” each place it appears.

14 (4) By substituting the following for subpara-
15 graph (B) of paragraph (1):

16 “(B) HURRICANE IKE HOUSING
17 AMOUNT.—For purposes of subparagraph (A),
18 the term ‘Hurricane Ike housing amount’
19 means, for any calendar year, the amount equal
20 to the product of \$16.00 multiplied by the por-
21 tion of the State population which is in—

22 “(i) in the case of Texas, the counties
23 of Brazoria, Chambers, Galveston, Jeffer-
24 son, and Orange, and

1 “(ii) in the case of Louisiana, the par-
2 ishes of Calcasieu and Cameron,
3 (as determined on the basis of the most recent
4 census estimate of resident population released
5 by the Bureau of Census before September 13,
6 2008).”.

7 (5) Determined without regard to paragraphs
8 (2), (3), (4), (5), and (6) thereof.

9 (c) HURRICANE IKE DISASTER AREA.—For purposes
10 of this section and for applying the substitutions described
11 in subsections (a) and (b), the term “Hurricane Ike dis-
12 aster area” means an area in the State of Texas or Lou-
13 isiana—

14 (1) with respect to which a major disaster has
15 been declared by the President on September 13,
16 2008, under section 401 of the Robert T. Stafford
17 Disaster Relief and Emergency Assistance Act by
18 reason of Hurricane Ike, and

19 (2) determined by the President to warrant in-
20 dividual or individual and public assistance from the
21 Federal Government under such Act with respect to
22 damages attributable to Hurricane Ike.

1 **Subtitle B—National Disaster**
2 **Relief**

3 **SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
4 **CLARED DISASTERS.**

5 (a) WAIVER OF ADJUSTED GROSS INCOME LIMITA-
6 TION.—

7 (1) IN GENERAL.—Subsection (h) of section
8 165 is amended by redesignating paragraphs (3) and
9 (4) as paragraphs (4) and (5), respectively, and by
10 inserting after paragraph (2) the following new
11 paragraph:

12 “(3) SPECIAL RULE FOR LOSSES IN FEDERALLY
13 DECLARED DISASTERS.—

14 “(A) IN GENERAL.—If an individual has a
15 net disaster loss for any taxable year, the
16 amount determined under paragraph (2)(A)(ii)
17 shall be the sum of—

18 “(i) such net disaster loss, and

19 “(ii) so much of the excess referred to
20 in the matter preceding clause (i) of para-
21 graph (2)(A) (reduced by the amount in
22 clause (i) of this subparagraph) as exceeds
23 10 percent of the adjusted gross income of
24 the individual.

1 “(B) NET DISASTER LOSS.—For purposes
2 of subparagraph (A), the term ‘net disaster
3 loss’ means the excess of—

4 “(i) the personal casualty losses—

5 “(I) attributable to a federally
6 declared disaster occurring before
7 January 1, 2010, and

8 “(II) occurring in a disaster
9 area, over

10 “(ii) personal casualty gains.

11 “(C) FEDERALLY DECLARED DISASTER.—

12 For purposes of this paragraph—

13 “(i) FEDERALLY DECLARED DIS-
14 ASTER.—The term ‘federally declared dis-
15 aster’ means any disaster subsequently de-
16 termined by the President of the United
17 States to warrant assistance by the Fed-
18 eral Government under the Robert T. Staf-
19 ford Disaster Relief and Emergency Assist-
20 ance Act.

21 “(ii) DISASTER AREA.—The term ‘dis-
22 aster area’ means the area so determined
23 to warrant such assistance.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Section 165(h)(4)(B) (as so redesign-
2 nated) is amended by striking “paragraph (2)”
3 and inserting “paragraphs (2) and (3)”.

4 (B) Section 165(i)(1) is amended by strik-
5 ing “loss” and all that follows through “Act”
6 and inserting “loss occurring in a disaster area
7 (as defined by clause (ii) of subsection
8 (h)(3)(C)) and attributable to a federally de-
9 clared disaster (as defined by clause (i) of such
10 subsection)”.

11 (C) Section 165(i)(4) is amended by strik-
12 ing “Presidentially declared disaster (as defined
13 by section 1033(h)(3))” and inserting “federally
14 declared disaster (as defined by subsection
15 (h)(3)(C)(i)”.

16 (D)(i) So much of subsection (h) of section
17 1033 as precedes subparagraph (A) of para-
18 graph (1) thereof is amended to read as follows:

19 “(h) SPECIAL RULES FOR PROPERTY DAMAGED BY
20 FEDERALLY DECLARED DISASTERS.—

21 “(1) PRINCIPAL RESIDENCES.—If the tax-
22 payer’s principal residence or any of its contents is
23 located in a disaster area and is compulsorily or in-
24 voluntarily converted as a result of a federally de-
25 clared disaster—”.

1 (ii) Paragraph (2) of section 1033(h) is
2 amended by striking “investment” and all that
3 follows through “disaster” and inserting “in-
4 vestment located in a disaster area and
5 compulsorily or involuntarily converted as a re-
6 sult of a federally declared disaster”.

7 (iii) Paragraph (3) of section 1033(h) is
8 amended to read as follows:

9 “(3) **FEDERALLY DECLARED DISASTER; DIS-**
10 **ASTER AREA.**—The terms “federally declared dis-
11 aster” and “disaster area” shall have the respective
12 meaning given such terms by section 165(h)(3)(C).”.

13 (iv) Section 139(c)(2) is amended to read
14 as follows:

15 “(2) federally declared disaster (as defined by
16 section 165(h)(3)(C)(i)),”.

17 (v) Subclause (II) of section
18 172(b)(1)(F)(ii) is amended by striking “Presi-
19 dentially declared disasters (as defined in sec-
20 tion 1033(h)(3))” and inserting “federally de-
21 clared disasters (as defined by subsection
22 (h)(3)(C)(i))”.

23 (vi) Subclause (III) of section
24 172(b)(1)(F)(ii) is amended by striking “Presi-

1 dentially declared disasters” and inserting “fed-
2 erally declared disasters”.

3 (vii) Subsection (a) of section 7508A is
4 amended by striking “Presidentially declared
5 disaster (as defined in section 1033(h)(3))” and
6 inserting “federally declared disaster (as de-
7 fined by section 165(h)(3)(C)(i))”.

8 (b) INCREASE IN STANDARD DEDUCTION BY DIS-
9 ASTER CASUALTY LOSS.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 63(c), as amended by the Housing Assistance Tax
12 Act of 2008, is amended by striking “and” at the
13 end of subparagraph (B), by striking the period at
14 the end of subparagraph (C) and inserting “, and”,
15 and by adding at the end the following new subpara-
16 graph:

17 “(D) the disaster loss deduction.”.

18 (2) DISASTER LOSS DEDUCTION.—Subsection
19 (c) of section 63, as amended by the Housing Assist-
20 ance Tax Act of 2008, is amended by adding at the
21 end the following new paragraph:

22 “(8) DISASTER LOSS DEDUCTION.—For the
23 purposes of paragraph (1), the term ‘disaster loss
24 deduction’ means the net disaster loss (as defined in
25 section 165(h)(3)(B)).”.

1 (3) ALLOWANCE IN COMPUTING ALTERNATIVE
2 MINIMUM TAXABLE INCOME.—Subparagraph (E) of
3 section 56(b)(1) is amended by adding at the end
4 the following new sentence: “The preceding sentence
5 shall not apply to so much of the standard deduction
6 as is determined under section 63(c)(1)(D).”.

7 (c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS
8 PER CASUALTY.—Paragraph (1) of section 165(h) is
9 amended by striking “\$100” and inserting “\$500 (\$100
10 for taxable years beginning after December 31, 2009)”.

11 (d) EFFECTIVE DATES.—

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

16 (2) INCREASE IN LIMITATION ON INDIVIDUAL
17 LOSS PER CASUALTY.—The amendment made by
18 subsection (c) shall apply to taxable years beginning
19 after December 31, 2008.

20 **SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

21 (a) IN GENERAL.—Part VI of subchapter B of chap-
22 ter 1 is amended by inserting after section 198 the fol-
23 lowing new section:

1 **“SEC. 198A. EXPENSING OF QUALIFIED DISASTER EX-**
2 **PENSES.**

3 “(a) IN GENERAL.—A taxpayer may elect to treat
4 any qualified disaster expenses which are paid or incurred
5 by the taxpayer as an expense which is not chargeable to
6 capital account. Any expense which is so treated shall be
7 allowed as a deduction for the taxable year in which it
8 is paid or incurred.

9 “(b) QUALIFIED DISASTER EXPENSE.—For purposes
10 of this section, the term ‘qualified disaster expense’ means
11 any expenditure—

12 “(1) which is paid or incurred in connection
13 with a trade or business or with business-related
14 property,

15 “(2) which is—

16 “(A) for the abatement or control of haz-
17 arduous substances that were released on ac-
18 count of a federally declared disaster occurring
19 before January 1, 2010,

20 “(B) for the removal of debris from, or the
21 demolition of structures on, real property which
22 is business-related property damaged or de-
23 stroyed as a result of a federally declared dis-
24 aster occurring before such date, or

1 “(C) for the repair of business-related
2 property damaged as a result of a federally de-
3 clared disaster occurring before such date, and
4 “(3) which is otherwise chargeable to capital ac-
5 count.

6 “(c) OTHER DEFINITIONS.—For purposes of this
7 section—

8 “(1) BUSINESS-RELATED PROPERTY.—The
9 term ‘business-related property’ means property—

10 “(A) held by the taxpayer for use in a
11 trade or business or for the production of in-
12 come, or

13 “(B) described in section 1221(a)(1) in the
14 hands of the taxpayer.

15 “(2) FEDERALLY DECLARED DISASTER.—The
16 term ‘federally declared disaster’ has the meaning
17 given such term by section 165(h)(3)(C)(i).

18 “(d) DEDUCTION RECAPTURED AS ORDINARY IN-
19 COME ON SALE, ETC.—Solely for purposes of section
20 1245, in the case of property to which a qualified disaster
21 expense would have been capitalized but for this section—

22 “(1) the deduction allowed by this section for
23 such expense shall be treated as a deduction for de-
24 preciation, and

1 case of a taxpayer who has a qualified disaster
2 loss (as defined in subsection (j)), such loss
3 shall be a net operating loss carryback to each
4 of the 5 taxable years preceding the taxable
5 year of such loss.”.

6 (b) QUALIFIED DISASTER LOSS.—Section 172 is
7 amended by redesignating subsections (j) and (k) as sub-
8 sections (k) and (l), respectively, and by inserting after
9 subsection (i) the following new subsection:

10 “(j) RULES RELATING TO QUALIFIED DISASTER
11 LOSSES.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified dis-
13 aster loss’ means the lesser of—

14 “(A) the sum of—

15 “(i) the losses allowable under section
16 165 for the taxable year—

17 “(I) attributable to a federally
18 declared disaster (as defined in sec-
19 tion 165(h)(3)(C)(i)) occurring before
20 January 1, 2010, and

21 “(II) occurring in a disaster area
22 (as defined in section
23 165(h)(3)(C)(ii)), and

24 “(ii) the deduction for the taxable
25 year for qualified disaster expenses which

1 is allowable under section 198A(a) or
2 which would be so allowable if not other-
3 wise treated as an expense, or

4 “(B) the net operating loss for such tax-
5 able year.

6 “(2) COORDINATION WITH SUBSECTION
7 (b)(2).—For purposes of applying subsection (b)(2),
8 a qualified disaster loss for any taxable year shall be
9 treated in a manner similar to the manner in which
10 a specified liability loss is treated.

11 “(3) ELECTION.—Any taxpayer entitled to a 5-
12 year carryback under subsection (b)(1)(J) from any
13 loss year may elect to have the carryback period
14 with respect to such loss year determined without re-
15 gard to subsection (b)(1)(J). Such election shall be
16 made in such manner as may be prescribed by the
17 Secretary and shall be made by the due date (includ-
18 ing extensions of time) for filing the taxpayer’s re-
19 turn for the taxable year of the net operating loss.
20 Such election, once made for any taxable year, shall
21 be irrevocable for such taxable year.

22 “(4) EXCLUSION.—The term ‘qualified disaster
23 loss’ shall not include any loss with respect to any
24 property described in section 1400N(p)(3).”.

1 (c) LOSS DEDUCTION ALLOWED IN COMPUTING AL-
2 TERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d)
3 of section 56 is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(3) NET OPERATING LOSS ATTRIBUTABLE TO
6 FEDERALLY DECLARED DISASTERS.—In the case of
7 a taxpayer which has a qualified disaster loss (as de-
8 fined by section 172(b)(1)(J)) for the taxable year,
9 paragraph (1) shall be applied by increasing the
10 amount determined under subparagraph (A)(ii)(I)
11 thereof by the sum of the carrybacks and carryovers
12 of such loss.”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Clause (ii) of section 172(b)(1)(F) is
15 amended by inserting “or qualified disaster loss (as
16 defined in subsection (j))” before the period at the
17 end of the last sentence.

18 (2) Paragraph (1) of section 172(i) is amended
19 by adding at the end the following new flush sen-
20 tence:

21 “Such term shall not include any qualified disaster
22 loss (as defined in subsection (j)).”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to losses arising in taxable years

1 beginning after December 31, 2007, in connection with
2 disasters declared after such date.

3 **SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**
4 **REQUIREMENTS FOLLOWING FEDERALLY DE-**
5 **CLARED DISASTERS.**

6 (a) IN GENERAL.—Subsection (k) of section 143 is
7 amended by adding at the end the following new para-
8 graph:

9 “(12) SPECIAL RULES FOR RESIDENCES DE-
10 STROYED IN FEDERALLY DECLARED DISASTERS.—

11 “(A) PRINCIPAL RESIDENCE DE-
12 STROYED.—At the election of the taxpayer, if
13 the principal residence (within the meaning of
14 section 121) of such taxpayer is—

15 “(i) rendered unsafe for use as a resi-
16 dence by reason of a federally declared dis-
17 aster occurring before January 1, 2010, or

18 “(ii) demolished or relocated by rea-
19 son of an order of the government of a
20 State or political subdivision thereof on ac-
21 count of a federally declared disaster oc-
22 ccurring before such date,

23 then, for the 2-year period beginning on the
24 date of the disaster declaration, subsection
25 (d)(1) shall not apply with respect to such tax-

1 payer and subsection (e) shall be applied by
2 substituting ‘110’ for ‘90’ in paragraph (1)
3 thereof.

4 “(B) PRINCIPAL RESIDENCE DAMAGED.—

5 “(i) IN GENERAL.—At the election of
6 the taxpayer, if the principal residence
7 (within the meaning of section 121) of
8 such taxpayer was damaged as the result
9 of a federally declared disaster occurring
10 before January 1, 2010, any owner-financ-
11 ing provided in connection with the repair
12 or reconstruction of such residence shall be
13 treated as a qualified rehabilitation loan.

14 “(ii) LIMITATION.—The aggregate
15 owner-financing to which clause (i) applies
16 shall not exceed the lesser of—

17 “(I) the cost of such repair or re-
18 construction, or

19 “(II) \$150,000.

20 “(C) FEDERALLY DECLARED DISASTER.—

21 For purposes of this paragraph, the term ‘fed-
22 erally declared disaster’ has the meaning given
23 such term by section 165(h)(3)(C)(i).

24 “(D) ELECTION; DENIAL OF DOUBLE BEN-
25 EFIT.—

1 “(i) ELECTION.—An election under
2 this paragraph may not be revoked except
3 with the consent of the Secretary.

4 “(ii) DENIAL OF DOUBLE BENEFIT.—
5 If a taxpayer elects the application of this
6 paragraph, paragraph (11) shall not apply
7 with respect to the purchase or financing
8 of any residence by such taxpayer.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to disasters occurring after De-
11 cember 31, 2007.

12 **SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**
13 **FIED DISASTER PROPERTY.**

14 (a) IN GENERAL.—Section 168, as amended by this
15 Act, is amended by adding at the end the following new
16 subsection:

17 “(n) SPECIAL ALLOWANCE FOR QUALIFIED DIS-
18 ASTER ASSISTANCE PROPERTY.—

19 “(1) IN GENERAL.—In the case of any qualified
20 disaster assistance property—

21 “(A) the depreciation deduction provided
22 by section 167(a) for the taxable year in which
23 such property is placed in service shall include
24 an allowance equal to 50 percent of the ad-

1 justed basis of the qualified disaster assistance
2 property, and

3 “(B) the adjusted basis of the qualified
4 disaster assistance property shall be reduced by
5 the amount of such deduction before computing
6 the amount otherwise allowable as a depreci-
7 ation deduction under this chapter for such tax-
8 able year and any subsequent taxable year.

9 “(2) QUALIFIED DISASTER ASSISTANCE PROP-
10 PERTY.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘qualified
12 disaster assistance property’ means any prop-
13 erty—

14 “(i)(I) which is described in sub-
15 section (k)(2)(A)(i), or

16 “(II) which is nonresidential real
17 property or residential rental property,

18 “(ii) substantially all of the use of
19 which is—

20 “(I) in a disaster area with re-
21 spect to a federally declared disaster
22 occurring before January 1, 2010,
23 and

1 “(II) in the active conduct of a
2 trade or business by the taxpayer in
3 such disaster area,

4 “(iii) which—

5 “(I) rehabilitates property dam-
6 aged, or replaces property destroyed
7 or condemned, as a result of such fed-
8 erally declared disaster, except that,
9 for purposes of this clause, property
10 shall be treated as replacing property
11 destroyed or condemned if, as part of
12 an integrated plan, such property re-
13 places property which is included in a
14 continuous area which includes real
15 property destroyed or condemned, and

16 “(II) is similar in nature to, and
17 located in the same county as, the
18 property being rehabilitated or re-
19 placed,

20 “(iv) the original use of which in such
21 disaster area commences with an eligible
22 taxpayer on or after the applicable disaster
23 date,

24 “(v) which is acquired by such eligible
25 taxpayer by purchase (as defined in section

1 179(d)) on or after the applicable disaster
2 date, but only if no written binding con-
3 tract for the acquisition was in effect be-
4 fore such date, and

5 “(vi) which is placed in service by
6 such eligible taxpayer on or before the date
7 which is the last day of the third calendar
8 year following the applicable disaster date
9 (the fourth calendar year in the case of
10 nonresidential real property and residential
11 rental property).

12 “(B) EXCEPTIONS.—

13 “(i) OTHER BONUS DEPRECIATION
14 PROPERTY.—The term ‘qualified disaster
15 assistance property’ shall not include—

16 “(I) any property to which sub-
17 section (k) (determined without re-
18 gard to paragraph (4)), (l), or (m) ap-
19 plies,

20 “(II) any property to which sec-
21 tion 1400N(d) applies, and

22 “(III) any property described in
23 section 1400N(p)(3).

24 “(ii) ALTERNATIVE DEPRECIATION
25 PROPERTY.—The term ‘qualified disaster

1 assistance property’ shall not include any
2 property to which the alternative deprecia-
3 tion system under subsection (g) applies,
4 determined without regard to paragraph
5 (7) of subsection (g) (relating to election to
6 have system apply).

7 “(iii) TAX-EXEMPT BOND FINANCED
8 PROPERTY.—Such term shall not include
9 any property any portion of which is fi-
10 nanced with the proceeds of any obligation
11 the interest on which is exempt from tax
12 under section 103.

13 “(iv) QUALIFIED REVITALIZATION
14 BUILDINGS.—Such term shall not include
15 any qualified revitalization building with
16 respect to which the taxpayer has elected
17 the application of paragraph (1) or (2) of
18 section 1400I(a).

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

1 “(C) SPECIAL RULES.—For purposes of
2 this subsection, rules similar to the rules of
3 subparagraph (E) of subsection (k)(2) shall
4 apply, except that such subparagraph shall be
5 applied—

6 “(i) by substituting ‘the applicable
7 disaster date’ for ‘December 31, 2007’
8 each place it appears therein,

9 “(ii) without regard to ‘and before
10 January 1, 2009’ in clause (i) thereof, and

11 “(iii) by substituting ‘qualified dis-
12 aster assistance property’ for ‘qualified
13 property’ in clause (iv) thereof.

14 “(D) ALLOWANCE AGAINST ALTERNATIVE
15 MINIMUM TAX.—For purposes of this sub-
16 section, rules similar to the rules of subsection
17 (k)(2)(G) shall apply.

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

20 “(A) APPLICABLE DISASTER DATE.—The
21 term ‘applicable disaster date’ means, with re-
22 spect to any federally declared disaster, the
23 date on which such federally declared disaster
24 occurs.

1 “(B) FEDERALLY DECLARED DISASTER.—

2 The term ‘federally declared disaster’ has the
3 meaning given such term under section
4 165(h)(3)(C)(i).

5 “(C) DISASTER AREA.—The term ‘disaster
6 area’ has the meaning given such term under
7 section 165(h)(3)(C)(ii).

8 “(D) ELIGIBLE TAXPAYER.—The term ‘eli-
9 gible taxpayer’ means a taxpayer who has suf-
10 fered an economic loss attributable to a feder-
11 ally declared disaster.

12 “(4) RECAPTURE.—For purposes of this sub-
13 section, rules similar to the rules under section
14 179(d)(10) shall apply with respect to any qualified
15 disaster assistance property which ceases to be quali-
16 fied disaster assistance property.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to property placed in service after
19 December 31, 2007, with respect disasters declared after
20 such date.

21 **SEC. 711. INCREASED EXPENSING FOR QUALIFIED DIS-**
22 **ASTER ASSISTANCE PROPERTY.**

23 (a) IN GENERAL.—Section 179 is amended by adding
24 at the end the following new subsection:

1 “(e) SPECIAL RULES FOR QUALIFIED DISASTER AS-
2 SISTANCE PROPERTY.—

3 “(1) IN GENERAL.—For purposes of this sec-
4 tion—

5 “(A) the dollar amount in effect under
6 subsection (b)(1) for the taxable year shall be
7 increased by the lesser of—

8 “(i) \$100,000, or

9 “(ii) the cost of qualified section 179
10 disaster assistance property placed in serv-
11 ice during the taxable year, and

12 “(B) the dollar amount in effect under
13 subsection (b)(2) for the taxable year shall be
14 increased by the lesser of—

15 “(i) \$600,000, or

16 “(ii) the cost of qualified section 179
17 disaster assistance property placed in serv-
18 ice during the taxable year.

19 “(2) QUALIFIED SECTION 179 DISASTER ASSIST-
20 ANCE PROPERTY.—For purposes of this subsection,
21 the term ‘qualified section 179 disaster assistance
22 property’ means section 179 property (as defined in
23 subsection (d)) which is qualified disaster assistance
24 property (as defined in section 168(n)(2)).

1 “(3) COORDINATION WITH EMPOWERMENT
2 ZONES AND RENEWAL COMMUNITIES.—For purposes
3 of sections 1397A and 1400J, qualified section 179
4 disaster assistance property shall not be treated as
5 qualified zone property or qualified renewal prop-
6 erty, unless the taxpayer elects not to take such
7 qualified section 179 disaster assistance property
8 into account for purposes of this subsection.

9 “(4) RECAPTURE.—For purposes of this sub-
10 section, rules similar to the rules under subsection
11 (d)(10) shall apply with respect to any qualified sec-
12 tion 179 disaster assistance property which ceases to
13 be qualified section 179 disaster assistance prop-
14 erty.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to property placed in service after
17 December 31, 2007, with respect to disasters declared after
18 such date.

19 **SEC. 712. COORDINATION WITH HEARTLAND DISASTER RE-**
20 **LIEF.**

21 The amendments made by this subtitle, other than
22 the amendments made by sections 706(a)(2), 710, and
23 711, shall not apply to any disaster described in section
24 702(c)(1)(A), or to any expenditure or loss resulting from
25 such disaster.

1 **TITLE VIII—SPENDING REDUC-**
2 **TIONS AND APPROPRIATE**
3 **REVENUE RAISERS FOR NEW**
4 **TAX RELIEF POLICY**

5 **SEC. 801. NONQUALIFIED DEFERRED COMPENSATION**
6 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

7 (a) IN GENERAL.—Subpart B of part II of sub-
8 chapter E of chapter 1 is amended by inserting after sec-
9 tion 457 the following new section:

10 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**
11 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

12 “(a) IN GENERAL.—Any compensation which is de-
13 ferred under a nonqualified deferred compensation plan of
14 a nonqualified entity shall be includible in gross income
15 when there is no substantial risk of forfeiture of the rights
16 to such compensation.

17 “(b) NONQUALIFIED ENTITY.—For purposes of this
18 section, the term ‘nonqualified entity’ means—

19 “(1) any foreign corporation unless substan-
20 tially all of its income is—

21 “(A) effectively connected with the conduct
22 of a trade or business in the United States, or

23 “(B) subject to a comprehensive foreign in-
24 come tax, and

1 “(2) any partnership unless substantially all of
2 its income is allocated to persons other than—

3 “(A) foreign persons with respect to whom
4 such income is not subject to a comprehensive
5 foreign income tax, and

6 “(B) organizations which are exempt from
7 tax under this title.

8 “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-
9 TION.—

10 “(1) IN GENERAL.—If the amount of any com-
11 pensation is not determinable at the time that such
12 compensation is otherwise includible in gross income
13 under subsection (a)—

14 “(A) such amount shall be so includible in
15 gross income when determinable, and

16 “(B) the tax imposed under this chapter
17 for the taxable year in which such compensation
18 is includible in gross income shall be increased
19 by the sum of—

20 “(i) the amount of interest determined
21 under paragraph (2), and

22 “(ii) an amount equal to 20 percent of
23 the amount of such compensation.

24 “(2) INTEREST.—For purposes of paragraph
25 (1)(B)(i), the interest determined under this para-

1 graph for any taxable year is the amount of interest
2 at the underpayment rate under section 6621 plus
3 1 percentage point on the underpayments that would
4 have occurred had the deferred compensation been
5 includible in gross income for the taxable year in
6 which first deferred or, if later, the first taxable year
7 in which such deferred compensation is not subject
8 to a substantial risk of forfeiture.

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

10 For purposes of this section—

11 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

12 “(A) IN GENERAL.—The rights of a person
13 to compensation shall be treated as subject to
14 a substantial risk of forfeiture only if such per-
15 son’s rights to such compensation are condi-
16 tioned upon the future performance of substan-
17 tial services by any individual.

18 “(B) EXCEPTION FOR COMPENSATION
19 BASED ON GAIN RECOGNIZED ON AN INVEST-
20 MENT ASSET.—

21 “(i) IN GENERAL.—To the extent pro-
22 vided in regulations prescribed by the Sec-
23 retary, if compensation is determined solely
24 by reference to the amount of gain recog-
25 nized on the disposition of an investment

1 asset, such compensation shall be treated
2 as subject to a substantial risk of for-
3 feiture until the date of such disposition.

4 “(ii) INVESTMENT ASSET.—For pur-
5 poses of clause (i), the term ‘investment
6 asset’ means any single asset (other than
7 an investment fund or similar entity)—

8 “(I) acquired directly by an in-
9 vestment fund or similar entity,

10 “(II) with respect to which such
11 entity does not (nor does any person
12 related to such entity) participate in
13 the active management of such asset
14 (or if such asset is an interest in an
15 entity, in the active management of
16 the activities of such entity), and

17 “(III) substantially all of any
18 gain on the disposition of which (other
19 than such deferred compensation) is
20 allocated to investors in such entity.

21 “(iii) COORDINATION WITH SPECIAL
22 RULE.—Paragraph (3)(B) shall not apply
23 to any compensation to which clause (i)
24 applies.

1 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

2 The term ‘comprehensive foreign income tax’ means,
3 with respect to any foreign person, the income tax
4 of a foreign country if—

5 “(A) such person is eligible for the benefits
6 of a comprehensive income tax treaty between
7 such foreign country and the United States, or

8 “(B) such person demonstrates to the sat-
9 isfaction of the Secretary that such foreign
10 country has a comprehensive income tax.

11 “(3) NONQUALIFIED DEFERRED COMPENSA-
12 TION PLAN.—

13 “(A) IN GENERAL.—The term ‘non-
14 qualified deferred compensation plan’ has the
15 meaning given such term under section
16 409A(d), except that such term shall include
17 any plan that provides a right to compensation
18 based on the appreciation in value of a specified
19 number of equity units of the service recipient.

20 “(B) EXCEPTION.—Compensation shall
21 not be treated as deferred for purposes of this
22 section if the service provider receives payment
23 of such compensation not later than 12 months
24 after the end of the taxable year of the service
25 recipient during which the right to the payment

1 of such compensation is no longer subject to a
2 substantial risk of forfeiture.

3 “(4) EXCEPTION FOR CERTAIN COMPENSATION
4 WITH RESPECT TO EFFECTIVELY CONNECTED IN-
5 COME.—In the case a foreign corporation with in-
6 come which is taxable under section 882, this section
7 shall not apply to compensation which, had such
8 compensation had been paid in cash on the date that
9 such compensation ceased to be subject to a sub-
10 stantial risk of forfeiture, would have been deduct-
11 ible by such foreign corporation against such income.

12 “(5) APPLICATION OF RULES.—Rules similar to
13 the rules of paragraphs (5) and (6) of section
14 409A(d) shall apply.

15 “(e) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate to
17 carry out the purposes of this section, including regula-
18 tions disregarding a substantial risk of forfeiture in cases
19 where necessary to carry out the purposes of this sec-
20 tion.”.

21 (b) CONFORMING AMENDMENT.—Section 26(b)(2),
22 as amended by the Housing Assistance Tax Act of 2008,
23 is amended by striking “and” at the end of subparagraph
24 (V), by striking the period at the end of subparagraph

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

3 “(X) section 457A(c)(1)(B) (relating to de-
4 terminability of amounts of compensation).”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 of subpart B of part II of subchapter E of chapter 1 is
7 amended by inserting after the item relating to section
8 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent
parties.”.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to amounts deferred which
13 are attributable to services performed after Decem-
14 ber 31, 2008.

15 (2) APPLICATION TO EXISTING DEFERRALS.—
16 In the case of any amount deferred to which the
17 amendments made by this section do not apply solely
18 by reason of the fact that the amount is attributable
19 to services performed before January 1, 2009, to the
20 extent such amount is not includible in gross income
21 in a taxable year beginning before 2018, such
22 amounts shall be includible in gross income in the
23 later of—

1 (A) the last taxable year beginning before
2 2018, or

3 (B) the taxable year in which there is no
4 substantial risk of forfeiture of the rights to
5 such compensation (determined in the same
6 manner as determined for purposes of section
7 457A of the Internal Revenue Code of 1986, as
8 added by this section).

9 (3) ACCELERATED PAYMENTS.—No later than
10 120 days after the date of the enactment of this Act,
11 the Secretary shall issue guidance providing a lim-
12 ited period of time during which a nonqualified de-
13 ferred compensation arrangement attributable to
14 services performed on or before December 31, 2008,
15 may, without violating the requirements of section
16 409A(a) of the Internal Revenue Code of 1986, be
17 amended to conform the date of distribution to the
18 date the amounts are required to be included in in-
19 come.

20 (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—
21 If the taxpayer is also a service recipient and main-
22 tains one or more nonqualified deferred compensa-
23 tion arrangements for its service providers under
24 which any amount is attributable to services per-
25 formed on or before December 31, 2008, the guid-

1 ance issued under paragraph (4) shall permit such
2 arrangements to be amended to conform the dates of
3 distribution under such arrangement to the date
4 amounts are required to be included in the income
5 of such taxpayer under this subsection.

6 (5) ACCELERATED PAYMENT NOT TREATED AS
7 MATERIAL MODIFICATION.—Any amendment to a
8 nonqualified deferred compensation arrangement
9 made pursuant to paragraph (4) or (5) shall not be
10 treated as a material modification of the arrange-
11 ment for purposes of section 409A of the Internal
12 Revenue Code of 1986.