

110TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

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

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

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

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

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

Sec. 1. Short title, etc.

#### TITLE I—ENERGY PRODUCTION INCENTIVES

##### Subtitle A—Renewable Energy Incentives

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

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

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

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

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

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

TITLE III—ENERGY CONSERVATION AND EFFICIENCY  
PROVISIONS

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

TITLE IV—MISCELLANEOUS ENERGY PROVISIONS

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

TITLE V—REVENUE PROVISIONS

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

TITLE VI—OTHER PROVISIONS

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

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

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

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

9 (1) Paragraph (1).

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

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

12 (4) Paragraph (4).

13 (5) Paragraph (5).

14 (6) Paragraph (6).

15 (7) Paragraph (7).

16 (8) Paragraph (8).

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

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

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

24 (A) by striking clause (iv),

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

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

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

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

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

15 (2) by striking “COMBUSTION”.

16 (d) EXPANSION OF BIOMASS FACILITIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

4       (f) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (a) EXTENSION OF CREDIT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(ii) which produces—

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

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

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

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

24 “(B) LIMITATION.—

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

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

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

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

3 “(C) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

4           (2) CONFORMING AMENDMENTS.—

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

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

13          (f) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

4           (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(2) CARRYFORWARD OF UNUSED CREDIT.—

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

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

22          (2) CONFORMING AMENDMENTS.—

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

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

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

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

9 (f) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12             “(3) METHOD OF ALLOCATION.—

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13          (e) EFFECTIVE DATES.—

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

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

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

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

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

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

15                       “(A) \$350,000,000, plus

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       paid (including all unpaid interest accrued thereon  
2       through the date of prepayment) were purchased by  
3       a third party and held to the maturity date of such  
4       obligation, produce a yield to the third-party pur-  
5       chaser for the period from the date of purchase to  
6       the maturity date of such obligation substantially  
7       equal to the Treasury yield on outstanding market-  
8       able obligations of the United States having a com-  
9       parable maturity to this period.

10 **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**  
11 **CISE TAX TO CERTAIN COAL PRODUCERS**  
12 **AND EXPORTERS.**

13       (a) REFUND.—

14           (1) COAL PRODUCERS.—

15               (A) IN GENERAL.—Notwithstanding sub-  
16       sections (a)(1) and (c) of section 6416 and sec-  
17       tion 6511 of the Internal Revenue Code of  
18       1986, if—

19                   (i) a coal producer establishes that  
20       such coal producer, or a party related to  
21       such coal producer, exported coal produced  
22       by such coal producer to a foreign country  
23       or shipped coal produced by such coal pro-  
24       ducer to a possession of the United States,  
25       or caused such coal to be exported or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9           (i) STANDING NOT CONFERRED.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 For purposes of this section—

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10          (b) **INCREASE IN RATE OF CREDIT.**—

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

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

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

18               (3) **CONFORMING AMENDMENTS.**—

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

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

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

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

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

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

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

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

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

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

24           “(4) CERTAIN AVIATION FUEL.—

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

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

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

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

1 (f) EFFECTIVE DATE.—

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

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

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

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

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

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

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

12 (c) EXCISE TAX CREDIT.—

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

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

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

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

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

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

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

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

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

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

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

24 “(a) ALLOWANCE OF CREDIT.—

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

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

9                   “(A) \$2,500, plus

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

13           “(b) LIMITATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(d) APPLICATION WITH OTHER CREDITS.—

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



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

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

4 For purposes of this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(f) REGULATIONS.—

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

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

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

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

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

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

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

4           (d) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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



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

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

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

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

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

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

19           “(2) PERSONAL CREDIT.—

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

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

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

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

14 (2) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (a) EXTENSION.—

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

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

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

17 (b) MODIFICATIONS.—

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

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

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

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

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

12           “(4) CARBON CAPTURE REQUIREMENT.—

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

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

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

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

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

6                                 “(II) December 30, 2011, and

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

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

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

5           (3) CARBON SEQUESTRATION CAPABILITY  
6           PANEL.—

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

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

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

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

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

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

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

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

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

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

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

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

25                           “(C) Electricity.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21          “(e) ALLOCATIONS.—

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

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

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

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

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

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

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

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

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

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

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

15 “(ii) implementing green community  
16 programs,

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

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

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

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

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

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

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

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

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

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

23                   “(i) green building technology,

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

4                   “(iii) advanced battery manufacturing  
5                   technologies,

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

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

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

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

19                  “(g) POPULATION.—

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

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

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

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

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

23          (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(2) after December 31, 2011.”.

13 (b) **QUALIFIED BIOMASS FUEL PROPERTY.**—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (f) EFFECTIVE DATES.—

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

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

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

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

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

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

1 **SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
2 **ANCE CREDIT FOR APPLIANCES PRODUCED**  
3 **AFTER 2007.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) ELIGIBLE PRODUCTION.—

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

19 (A) by striking paragraph (2),

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

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

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

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

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

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

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

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

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

20 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

23 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

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

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

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

13       (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

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

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

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

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

23                       “(C) any refrigerator described in sub-  
24       section (b)(3).”.

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

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

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

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

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

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

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

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

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

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

15 **SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPREE-**  
16 **CIATION OF SMART METERS AND SMART**  
17 **GRID SYSTEMS.**

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

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

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

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

3 “(18) QUALIFIED SMART ELECTRIC METERS.—

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

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

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

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

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

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

3 “(iv) provides net metering.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

11           “(A) REUSE AND RECYCLING PROPERTY.—

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

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

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

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

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

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

17                   “(II) any central processing unit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24          (d) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (c) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (2) FICA.—For purposes of chapter 21 of the  
17 Internal Revenue Code of 1986 and section 209 of  
18 the Social Security Act, no portion of qualified set-  
19 tlement income received by a qualified taxpayer shall  
20 be treated as wages.

21 (d) QUALIFIED TAXPAYER.—For purposes of this  
22 section, the term “qualified taxpayer” means—

23 (1) any individual who is a plaintiff in the civil  
24 action *In re Exxon Valdez*, No. 89–095–CV (HRH)  
25 (Consolidated) (D. Alaska); or

1           (2) any individual who is a beneficiary of the  
2           estate of such a plaintiff who—

3                   (A) acquired the right to receive qualified  
4           settlement income from that plaintiff; and

5                   (B) was the spouse or an immediate rel-  
6           ative of that plaintiff.

7           (e) **QUALIFIED SETTLEMENT INCOME.**—For pur-  
8           poses of this section, the term “qualified settlement in-  
9           come” means any interest and punitive damage awards  
10          which are—

11                   (1) otherwise includible in taxable income, and

12                   (2) received (whether as lump sums or periodic  
13          payments) in connection with the civil action *In re*  
14          *Exxon Valdez*, No. 89–095–CV (HRH) (Consoli-  
15          dated) (D. Alaska) (whether pre- or post-judgment  
16          and whether related to a settlement or judgment).

## 17   **TITLE V—REVENUE PROVISIONS**

### 18   **SEC. 501. LIMITATION OF DEDUCTION FOR INCOME AT-** 19                   **TRIBUTABLE TO DOMESTIC PRODUCTION OF** 20                   **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

21           (a) **DENIAL OF DEDUCTION FOR MAJOR INTE-**  
22          **GRATED OIL COMPANIES AND STATE-OWNED OIL COMPA-**  
23          **NIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRO-**  
24          **DUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THERE-**  
25          **OF.—**

1           (1) IN GENERAL.—Subparagraph (B) of section  
2           199(c)(4) of the Internal Revenue Code of 1986 (re-  
3           lating to exceptions) is amended by striking “or” at  
4           the end of clause (ii), by striking the period at the  
5           end of clause (iii) and inserting “, or”, and by in-  
6           serting after clause (iii) the following new clause:

7                   “(iv) in the case of any disqualified oil  
8                   company, the production, refining, proc-  
9                   essing, transportation, or distribution of  
10                  oil, gas, or any primary product thereof.”.

11           (2) DISQUALIFIED OIL COMPANY.—Section  
12           199(c) of such Code is amended by adding at the  
13           end the following new paragraph:

14                   “(8) DISQUALIFIED OIL COMPANY.—

15                   “(A) IN GENERAL.—The term ‘disqualified  
16                   oil company’ means—

17                           “(i) any major integrated oil company  
18                           (as defined in section 167(h)(5)(B)) during  
19                           any taxable year described in section  
20                           167(h)(5)(B), or

21                           “(ii) any controlled commercial entity  
22                           (as defined in section 892(a)(2)(B)) the  
23                           commercial activities of which during the  
24                           taxable year includes the production, refin-  
25                           ing, processing, transportation, or distribu-

1                   tion of oil, gas, or any primary product  
2                   thereof.

3                   “(B) PRIMARY PRODUCT.—The term ‘pri-  
4                   mary product’ has the same meaning as when  
5                   used in section 927(a)(2)(C), as in effect before  
6                   its repeal.”.

7           (b) LIMITATION ON OIL RELATED QUALIFIED PRO-  
8   DUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER  
9   THAN MAJOR INTEGRATED OIL COMPANIES AND STATE-  
10   OWNED OIL COMPANIES.—

11           (1) IN GENERAL.—Section 199(d) of the Inter-  
12   nal Revenue Code of 1986 is amended by redesignig-  
13   nating paragraph (9) as paragraph (10) and by in-  
14   serting after paragraph (8) the following new para-  
15   graph:

16           “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL  
17   RELATED QUALIFIED PRODUCTION ACTIVITIES IN-  
18   COME.—

19           “(A) IN GENERAL.—If a taxpayer (other  
20   than a disqualified oil company) has oil related  
21   qualified production activities income for any  
22   taxable year beginning after 2009, the amount  
23   otherwise allowable as a deduction under sub-  
24   section (a) shall be reduced by 3 percent of the  
25   least of—

1 “(i) the oil related qualified produc-  
2 tion activities income of the taxpayer for  
3 the taxable year,

4 “(ii) the qualified production activities  
5 income of the taxpayer for the taxable  
6 year, or

7 “(iii) taxable income (determined  
8 without regard to this section).

9 “(B) OIL RELATED QUALIFIED PRODUC-  
10 TION ACTIVITIES INCOME.—The term ‘oil re-  
11 lated qualified production activities income’  
12 means for any taxable year the qualified pro-  
13 duction activities income which is attributable  
14 to the production, refining, processing, trans-  
15 portation, or distribution of oil, gas, or any pri-  
16 mary product thereof during such taxable  
17 year.”.

18 (2) CONFORMING AMENDMENT.—Section  
19 199(d)(2) of such Code (relating to application to  
20 individuals) is amended by striking “subsection  
21 (a)(1)(B)” and inserting “subsections (a)(1)(B) and  
22 (d)(9)(A)(iii)”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2008.





1           “(B) in the case of taxable natural gas, the  
2           amount per 1,000 cubic feet for which such  
3           natural gas is sold.

4           “(2) SALES BETWEEN RELATED PERSONS.—In  
5           the case of a sale between related persons, the re-  
6           moval price shall not be less than the constructive  
7           sales price for purposes of determining gross income  
8           from the property under section 613.

9           “(3) OIL OR GAS REMOVED FROM PROPERTY  
10          BEFORE SALE.—If crude oil or natural gas is re-  
11          moved from the property before it is sold, the re-  
12          moval price shall be the constructive sales price for  
13          purposes of determining gross income from the prop-  
14          erty under section 613.

15          “(4) REFINING BEGUN ON PROPERTY.—If the  
16          manufacture or conversion of crude oil into refined  
17          products begins before such oil is removed from the  
18          property—

19                 “(A) such oil shall be treated as removed  
20                 on the day such manufacture or conversion be-  
21                 gins, and

22                 “(B) the removal price shall be the con-  
23                 structive sales price for purposes of determining  
24                 gross income from the property under section  
25                 613.

1           “(5) PROPERTY.—The term ‘property’ has the  
2           meaning given such term by section 614.

3   **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

4           “(a) ADMINISTRATIVE REQUIREMENTS.—

5           “(1) WITHHOLDING AND DEPOSIT OF TAX.—

6           The Secretary shall provide for the withholding and  
7           deposit of the tax imposed under section 5896 on a  
8           quarterly basis.

9           “(2) RECORDS AND INFORMATION.—Each tax-  
10          payer liable for tax under section 5896 shall keep  
11          such records, make such returns, and furnish such  
12          information (to the Secretary and to other persons  
13          having an interest in the taxable crude oil or natural  
14          gas) with respect to such oil as the Secretary may  
15          by regulations prescribe.

16          “(3) TAXABLE PERIODS; RETURN OF TAX.—

17                 “(A) TAXABLE PERIOD.—Except as pro-  
18                 vided by the Secretary, each calendar year shall  
19                 constitute a taxable period.

20                 “(B) RETURNS.—The Secretary shall pro-  
21                 vide for the filing, and the time for filing, of the  
22                 return of the tax imposed under section 5896.

23          “(b) DEFINITIONS.—For purposes of this chapter—

1           “(1) PRODUCER.—The term ‘producer’ means  
2           the holder of the economic interest with respect to  
3           the crude oil or natural gas.

4           “(2) CRUDE OIL.—The term ‘crude oil’ includes  
5           crude oil condensates and natural gasoline.

6           “(3) PREMISES AND CRUDE OIL PRODUCT.—  
7           The terms ‘premises’ and ‘crude oil product’ have  
8           the same meanings as when used for purposes of de-  
9           termining gross income from the property under sec-  
10          tion 613.

11          “(c) ADJUSTMENT OF REMOVAL PRICE.—In deter-  
12          mining the removal price of oil or natural gas from a prop-  
13          erty in the case of any transaction, the Secretary may ad-  
14          just the removal price to reflect clearly the fair market  
15          value of oil or natural gas removed.

16          “(d) REGULATIONS.—The Secretary shall prescribe  
17          such regulations as may be necessary or appropriate to  
18          carry out the purposes of this chapter.”.

19          (b) DEDUCTIBILITY OF TAX.—The first sentence of  
20          section 164(a) (relating to deduction for taxes) is amended  
21          by inserting after paragraph (5) the following new para-  
22          graph:

23                 “(6) The tax imposed by section 5896(a) (after  
24                 application of section 5896(b)) on the severance of

1 crude oil or natural gas from the outer Continental  
2 Shelf in the Gulf of Mexico.”.

3 (c) CLERICAL AMENDMENT.—The table of chapters  
4 for subtitle E is amended by adding at the end the fol-  
5 lowing new item:

“CHAPTER 56. Tax on severance of crude oil and natural gas  
from the outer Continental Shelf in the Gulf of  
Mexico.”.

6 (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to crude oil or natural gas removed  
8 after December 31, 2008.

9 **SEC. 503. ELIMINATION OF THE DIFFERENT TREATMENT**  
10 **OF FOREIGN OIL AND GAS EXTRACTION IN-**  
11 **COME AND FOREIGN OIL RELATED INCOME**  
12 **FOR PURPOSES OF THE FOREIGN TAX CRED-**  
13 **IT.**

14 (a) IN GENERAL.—Subsections (a) and (b) of section  
15 907 (relating to special rules in case of foreign oil and  
16 gas income) are amended to read as follows:

17 “(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN  
18 TAX UNDER SECTION 901.—In applying section 901, the  
19 amount of any foreign oil and gas taxes paid or accrued  
20 (or deemed to have been paid) during the taxable year  
21 which would (but for this subsection) be taken into ac-  
22 count for purposes of section 901 shall be reduced by the  
23 amount (if any) by which the amount of such taxes ex-  
24 ceeds the product of—

1           “(1) the amount of the combined foreign oil  
2 and gas income for the taxable year,

3           “(2) multiplied by—

4                   “(A) in the case of a corporation, the per-  
5 centage which is equal to the highest rate of tax  
6 specified under section 11(b), or

7                   “(B) in the case of an individual, a frac-  
8 tion the numerator of which is the tax against  
9 which the credit under section 901(a) is taken  
10 and the denominator of which is the taxpayer’s  
11 entire taxable income.

12           “(b) COMBINED FOREIGN OIL AND GAS INCOME;  
13 FOREIGN OIL AND GAS TAXES.—For purposes of this sec-  
14 tion—

15           “(1) COMBINED FOREIGN OIL AND GAS IN-  
16 COME.—The term ‘combined foreign oil and gas in-  
17 come’ means, with respect to any taxable year, the  
18 sum of—

19                   “(A) foreign oil and gas extraction income,  
20 and

21                   “(B) foreign oil related income.

22           “(2) FOREIGN OIL AND GAS TAXES.—The term  
23 ‘foreign oil and gas taxes’ means, with respect to  
24 any taxable year, the sum of—

25                   “(A) oil and gas extraction taxes, and

1           “(B) any income, war profits, and excess  
2 profits taxes paid or accrued (or deemed to  
3 have been paid or accrued under section 902 or  
4 960) during the taxable year with respect to  
5 foreign oil related income (determined without  
6 regard to subsection (c)(4)) or loss which would  
7 be taken into account for purposes of section  
8 901 without regard to this section.”.

9           (b) RECAPTURE OF FOREIGN OIL AND GAS  
10 LOSSES.—Paragraph (4) of section 907(c) (relating to re-  
11 capture of foreign oil and gas extraction losses by re-  
12 characterizing later extraction income) is amended to read  
13 as follows:

14           “(4) RECAPTURE OF FOREIGN OIL AND GAS  
15 LOSSES BY RECHARACTERIZING LATER COMBINED  
16 FOREIGN OIL AND GAS INCOME.—

17           “(A) IN GENERAL.—The combined foreign  
18 oil and gas income of a taxpayer for a taxable  
19 year (determined without regard to this para-  
20 graph) shall be reduced—

21                   “(i) first by the amount determined  
22 under subparagraph (B), and

23                   “(ii) then by the amount determined  
24 under subparagraph (C).



1           able years beginning after December  
2           31, 1982.

3           “(C) REDUCTION FOR POST-2008 FOREIGN  
4 OIL AND GAS LOSSES.—The reduction under  
5 this paragraph shall be equal to the lesser of—

6           “(i) the combined foreign oil and gas  
7 income of the taxpayer for the taxable year  
8 (determined without regard to this para-  
9 graph), reduced by an amount equal to the  
10 reduction under subparagraph (A) for the  
11 taxable year, or

12           “(ii) the excess of—

13           “(I) the aggregate amount of for-  
14 eign oil and gas losses for preceding  
15 taxable years beginning after Decem-  
16 ber 31, 2008, over

17           “(II) so much of such aggregate  
18 amount as was recharacterized under  
19 this paragraph for preceding taxable  
20 years beginning after December 31,  
21 2008.

22           “(D) FOREIGN OIL AND GAS LOSS DE-  
23 FINED.—

1           “(i) IN GENERAL.—For purposes of  
2 this paragraph, the term ‘foreign oil and  
3 gas loss’ means the amount by which—

4                   “(I) the gross income for the tax-  
5 able year from sources without the  
6 United States and its possessions  
7 (whether or not the taxpayer chooses  
8 the benefits of this subpart for such  
9 taxable year) taken into account in  
10 determining the combined foreign oil  
11 and gas income for such year, is ex-  
12 ceeded by

13                   “(II) the sum of the deductions  
14 properly apportioned or allocated  
15 thereto.

16           “(ii) NET OPERATING LOSS DEDUC-  
17 TION NOT TAKEN INTO ACCOUNT.—For  
18 purposes of clause (i), the net operating  
19 loss deduction allowable for the taxable  
20 year under section 172(a) shall not be  
21 taken into account.

22           “(iii) EXPROPRIATION AND CASUALTY  
23 LOSSES NOT TAKEN INTO ACCOUNT.—For  
24 purposes of clause (i), there shall not be  
25 taken into account—

1                   “(I) any foreign expropriation  
2                   loss (as defined in section 172(h) (as  
3                   in effect on the day before the date of  
4                   the enactment of the Revenue Rec-  
5                   onciliation Act of 1990)) for the tax-  
6                   able year, or

7                   “(II) any loss for the taxable  
8                   year which arises from fire, storm,  
9                   shipwreck, or other casualty, or from  
10                  theft,

11                  to the extent such loss is not compensated  
12                  for by insurance or otherwise.

13                  “(iv) FOREIGN OIL EXTRACTION  
14                  LOSS.—For purposes of subparagraph  
15                  (B)(ii)(I), foreign oil extraction losses shall  
16                  be determined under this paragraph as in  
17                  effect on the day before the date of the en-  
18                  actment of the Energy Independence and  
19                  Investment Act of 2008.”.

20                  (c) CARRYBACK AND CARRYOVER OF DISALLOWED  
21                  CREDITS.—Section 907(f) (relating to carryback and car-  
22                  ryover of disallowed credits) is amended—

23                         (1) by striking “oil and gas extraction taxes”  
24                         each place it appears and inserting “foreign oil and  
25                         gas taxes”, and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(4) TRANSITION RULES FOR PRE-2009 AND  
4 2009 DISALLOWED CREDITS.—

5           “(A) PRE-2009 CREDITS.—In the case of  
6 any unused credit year beginning before Janu-  
7 ary 1, 2009, this subsection shall be applied to  
8 any unused oil and gas extraction taxes carried  
9 from such unused credit year to a year begin-  
10 ning after December 31, 2008—

11           “(i) by substituting ‘oil and gas ex-  
12 traction taxes’ for ‘foreign oil and gas  
13 taxes’ each place it appears in paragraphs  
14 (1), (2), and (3), and

15           “(ii) by computing, for purposes of  
16 paragraph (2)(A), the limitation under  
17 subparagraph (A) for the year to which  
18 such taxes are carried by substituting ‘for-  
19 eign oil and gas extraction income’ for ‘for-  
20 eign oil and gas income’ in subsection (a).

21           “(B) 2009 CREDITS.—In the case of any  
22 unused credit year beginning in 2009, the  
23 amendments made to this subsection by the En-  
24 ergy Independence and Investment Act of 2008  
25 shall be treated as being in effect for any pre-

1           ceding year beginning before January 1, 2009,  
2           solely for purposes of determining how much of  
3           the unused foreign oil and gas taxes for such  
4           unused credit year may be deemed paid or ac-  
5           crued in such preceding year.”.

6           (d) CONFORMING AMENDMENT.—Section 6501(i) is  
7           amended by striking “oil and gas extraction taxes” and  
8           inserting “foreign oil and gas taxes”.

9           (e) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply to taxable years beginning after  
11          December 31, 2008.

12       **SEC. 504. BROKER REPORTING OF CUSTOMER’S BASIS IN**  
13                               **SECURITIES TRANSACTIONS.**

14          (a) IN GENERAL.—

15               (1) BROKER REPORTING FOR SECURITIES  
16          TRANSACTIONS.—Section 6045 is amended by add-  
17          ing at the end the following new subsection:

18          “(g) ADDITIONAL INFORMATION REQUIRED IN THE  
19          CASE OF SECURITIES TRANSACTIONS, ETC.—

20               “(1) IN GENERAL.—If a broker is otherwise re-  
21          quired to make a return under subsection (a) with  
22          respect to the gross proceeds of the sale of a covered  
23          security, the broker shall include in such return the  
24          information described in paragraph (2).

25               “(2) ADDITIONAL INFORMATION REQUIRED.—

1           “(A) IN GENERAL.—The information re-  
2           quired under paragraph (1) to be shown on a  
3           return with respect to a covered security of a  
4           customer shall include the customer’s adjusted  
5           basis in such security and whether any gain or  
6           loss with respect to such security is long-term  
7           or short-term (within the meaning of section  
8           1222).

9           “(B) DETERMINATION OF ADJUSTED  
10          BASIS.—For purposes of subparagraph (A)—

11           “(i) IN GENERAL.—The customer’s  
12          adjusted basis shall be determined—

13           “(I) in the case of any security  
14          (other than any stock for which an av-  
15          erage basis method is permissible  
16          under section 1012), in accordance  
17          with the first-in first-out method un-  
18          less the customer notifies the broker  
19          by means of making an adequate  
20          identification of the stock sold or  
21          transferred, and

22           “(II) in the case of any stock for  
23          which an average basis method is per-  
24          missible under section 1012, in ac-  
25          cordance with the broker’s default

1 method unless the customer notifies  
2 the broker that he elects another ac-  
3 ceptable method under section 1012  
4 with respect to the account in which  
5 such stock is held.

6 “(ii) EXCEPTION FOR WASH SALES.—  
7 Except as otherwise provided by the Sec-  
8 retary, the customer’s adjusted basis shall  
9 be determined without regard to section  
10 1091 (relating to loss from wash sales of  
11 stock or securities) unless the transactions  
12 occur in the same account with respect to  
13 identical securities.

14 “(3) COVERED SECURITY.—For purposes of  
15 this subsection—

16 “(A) IN GENERAL.—The term ‘covered se-  
17 curity’ means any specified security acquired on  
18 or after the applicable date if such security—

19 “(i) was acquired through a trans-  
20 action in the account in which such secu-  
21 rity is held, or

22 “(ii) was transferred to such account  
23 from an account in which such security  
24 was a covered security, but only if the

1 broker received a statement under section  
2 6045A with respect to the transfer.

3 “(B) SPECIFIED SECURITY.—The term  
4 ‘specified security’ means—

5 “(i) any share of stock in a corpora-  
6 tion,

7 “(ii) any note, bond, debenture, or  
8 other evidence of indebtedness,

9 “(iii) any commodity, or contract or  
10 derivative with respect to such commodity,  
11 if the Secretary determines that adjusted  
12 basis reporting is appropriate for purposes  
13 of this subsection, and

14 “(iv) any other financial instrument  
15 with respect to which the Secretary deter-  
16 mines that adjusted basis reporting is ap-  
17 propriate for purposes of this subsection.

18 “(C) APPLICABLE DATE.—The term ‘appli-  
19 cable date’ means—

20 “(i) January 1, 2010, in the case of  
21 any specified security which is stock in a  
22 corporation (other than any stock de-  
23 scribed in clause (ii)),

1                   “(ii) January 1, 2011, in the case of  
2                   any stock for which an average basis meth-  
3                   od is permissible under section 1012, and

4                   “(iii) January 1, 2012, or such later  
5                   date determined by the Secretary in the  
6                   case of any other specified security.

7                   “(4) TREATMENT OF S CORPORATIONS.—In the  
8                   case of the sale of a covered security acquired by an  
9                   S corporation (other than a financial institution)  
10                  after December 31, 2011, such S corporation shall  
11                  be treated in the same manner as a partnership for  
12                  purposes of this section.

13                  “(5) SPECIAL RULES FOR SHORT SALES.—In  
14                  the case of a short sale, reporting under this section  
15                  shall be made for the year in which such sale is  
16                  closed.”.

17                  (2) BROKER INFORMATION REQUIRED WITH RE-  
18                  SPECT TO OPTIONS.—Section 6045, as amended by  
19                  subsection (a), is amended by adding at the end the  
20                  following new subsection:

21                  “(h) APPLICATION TO OPTIONS ON SECURITIES.—

22                  “(1) EXERCISE OF OPTION.—For purposes of  
23                  this section, if a covered security is acquired or dis-  
24                  posed of pursuant to the exercise of an option that  
25                  was granted or acquired in the same account as the

1 covered security, the amount received with respect to  
2 the grant or paid with respect to the acquisition of  
3 such option shall be treated as an adjustment to  
4 gross proceeds or as an adjustment to basis, as the  
5 case may be.

6 “(2) LAPSE OR CLOSING TRANSACTION.—In the  
7 case of the lapse (or closing transaction (as defined  
8 in section 1234(b)(2)(A))) of an option on a speci-  
9 fied security or the exercise of a cash-settled option  
10 on a specified security, reporting under subsections  
11 (a) and (g) with respect to such option shall be  
12 made for the calendar year which includes the date  
13 of such lapse, closing transaction, or exercise.

14 “(3) PROSPECTIVE APPLICATION.—Paragraphs  
15 (1) and (2) shall not apply to any option which is  
16 granted or acquired before January 1, 2012.

17 “(4) DEFINITIONS.—For purposes of this sub-  
18 section, the terms ‘covered security’ and ‘specified  
19 security’ shall have the meanings given such terms  
20 in subsection (g)(3).”.

21 (3) EXTENSION OF PERIOD FOR STATEMENTS  
22 SENT TO CUSTOMERS.—

23 (A) IN GENERAL.—Subsection (b) of sec-  
24 tion 6045 is amended by striking “January 31”  
25 and inserting “February 15”.

1 (B) STATEMENTS RELATED TO SUB-  
2 STITUTE PAYMENTS.—Subsection (d) of section  
3 6045 is amended—

4 (i) by striking “at such time and”,  
5 and

6 (ii) by inserting after “other item.”  
7 the following new sentence: “The written  
8 statement required under the preceding  
9 sentence shall be furnished on or before  
10 February 15 of the year following the cal-  
11 endar year in which the payment was  
12 made.”.

13 (C) OTHER STATEMENTS.—Subsection (b)  
14 of section 6045 is amended by adding at the  
15 end the following: “In the case of a consolidated  
16 reporting statement (as defined in regulations)  
17 with respect to any account, any statement  
18 which would otherwise be required to be fur-  
19 nished on or before January 31 of a calendar  
20 year with respect to any item reportable to the  
21 taxpayer shall instead be required to be fur-  
22 nished on or before February 15 of such cal-  
23 endar year if furnished with such consolidated  
24 reporting statement.”.

1 (b) DETERMINATION OF BASIS OF CERTAIN SECURI-  
2 TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS  
3 METHOD.—Section 1012 is amended—

4 (1) by striking “The basis of property” and in-  
5 serting the following:

6 “(a) IN GENERAL.—The basis of property”,

7 (2) by striking “The cost of real property” and  
8 inserting the following:

9 “(b) SPECIAL RULE FOR APPORTIONED REAL ES-  
10 TATE TAXES.—The cost of real property”, and

11 (3) by adding at the end the following new sub-  
12 sections:

13 “(c) DETERMINATIONS BY ACCOUNT.—

14 “(1) IN GENERAL.—In the case of the sale, ex-  
15 change, or other disposition of a specified security  
16 on or after the applicable date, the conventions pre-  
17 scribed by regulations under this section shall be ap-  
18 plied on an account by account basis.

19 “(2) APPLICATION TO OPEN-END FUNDS.—

20 “(A) IN GENERAL.—Except as provided in  
21 subparagraph (B), any stock in an open-end  
22 fund acquired before January 1, 2011, shall be  
23 treated as a separate account from any such  
24 stock acquired on or after such date.

1           “(B) ELECTION BY OPEN-END FUND FOR  
2 TREATMENT AS SINGLE ACCOUNT.—If an open-  
3 end fund elects to have this subparagraph apply  
4 with respect to one or more of its stock-  
5 holders—

6           “(i) subparagraph (A) shall not apply  
7 with respect to any stock in such fund held  
8 by such stockholders, and

9           “(ii) all stock in such fund which is  
10 held by such stockholders shall be treated  
11 as covered securities described in section  
12 6045(g)(3) without regard to the date of  
13 the acquisition of such stock.

14           A rule similar to the rule of the preceding sen-  
15 tence shall apply with respect to a broker hold-  
16 ing stock in an open-end fund as a nominee.

17           “(3) DEFINITIONS.—For purposes of this sec-  
18 tion—

19           “(A) OPEN-END FUND.—The term ‘open-  
20 end fund’ means a regulated investment com-  
21 pany (as defined in section 851) which is offer-  
22 ing for sale or has outstanding any redeemable  
23 security of which it is the issuer. Any stock  
24 which is traded on an established securities ex-

1 change shall not be treated as stock in an open-  
2 end fund.

3 “(B) SPECIFIED SECURITY; APPLICABLE  
4 DATE.—The terms ‘specified security’ and ‘ap-  
5 plicable date’ shall have the meaning given such  
6 terms in section 6045(g).

7 “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-  
8 ANT TO A DIVIDEND REINVESTMENT PLAN.—

9 “(1) IN GENERAL.—In the case of any stock ac-  
10 quired after December 31, 2010, in connection with  
11 a dividend reinvestment plan, the basis of such stock  
12 while held as part of such plan shall be determined  
13 using one of the methods which may be used for de-  
14 termining the basis of stock in an open-end fund.

15 “(2) TREATMENT AFTER TRANSFER.—In the  
16 case of the transfer to another account of stock to  
17 which paragraph (1) applies, such stock shall have  
18 a cost basis in such other account equal to its basis  
19 in the dividend reinvestment plan immediately before  
20 such transfer (properly adjusted for any fees or  
21 other charges taken into account in connection with  
22 such transfer).

23 “(3) SEPARATE ACCOUNTS; ELECTION FOR  
24 TREATMENT AS SINGLE ACCOUNT.—Rules similar to

1 the rules of subsection (c)(2) shall apply for pur-  
2 poses of this subsection.

3 “(4) DIVIDEND REINVESTMENT PLAN.—For  
4 purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘dividend re-  
6 investment plan’ means any arrangement under  
7 which dividends on any stock are reinvested in  
8 stock identical to the stock with respect to  
9 which the dividends are paid.

10 “(B) INITIAL STOCK ACQUISITION TREAT-  
11 ED AS ACQUIRED IN CONNECTION WITH  
12 PLAN.—Stock shall be treated as acquired in  
13 connection with a dividend reinvestment plan if  
14 such stock is acquired pursuant to such plan or  
15 if the dividends paid on such stock are subject  
16 to such plan.”.

17 (c) INFORMATION BY TRANSFERORS TO AID BRO-  
18 KERS.—

19 (1) IN GENERAL.—Subpart B of part III of  
20 subchapter A of chapter 61 is amended by inserting  
21 after section 6045 the following new section:

1 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**  
2 **WITH TRANSFERS OF COVERED SECURITIES**  
3 **TO BROKERS.**

4 “(a) FURNISHING OF INFORMATION.—Every applica-  
5 ble person which transfers to a broker (as defined in sec-  
6 tion 6045(c)(1)) a security which is a covered security (as  
7 defined in section 6045(g)(3)) in the hands of such appli-  
8 cable person shall furnish to such broker a written state-  
9 ment in such manner and setting forth such information  
10 as the Secretary may by regulations prescribe for purposes  
11 of enabling such broker to meet the requirements of sec-  
12 tion 6045(g).

13 “(b) APPLICABLE PERSON.—For purposes of sub-  
14 section (a), the term ‘applicable person’ means—

15 “(1) any broker (as defined in section  
16 6045(c)(1)), and

17 “(2) any other person as provided by the Sec-  
18 retary in regulations.

19 “(c) TIME FOR FURNISHING STATEMENT.—Except  
20 as otherwise provided by the Secretary, any statement re-  
21 quired by subsection (a) shall be furnished not later than  
22 15 days after the date of the transfer described in such  
23 subsection.”.

24 (2) ASSESSABLE PENALTIES.—Paragraph (2)  
25 of section 6724(d), as amended by the Housing As-  
26 sistance Tax Act of 2008, is amended by redesignig-

1 nating subparagraphs (I) through (DD) as subpara-  
2 graphs (J) through (EE), respectively, and by in-  
3 serting after subparagraph (H) the following new  
4 subparagraph:

5 “(I) section 6045A (relating to information  
6 required in connection with transfers of covered  
7 securities to brokers),”.

8 (3) CLERICAL AMENDMENT.—The table of sec-  
9 tions for subpart B of part III of subchapter A of  
10 chapter 61 is amended by inserting after the item  
11 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-  
curities to brokers.”.

12 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-  
13 KERS.—

14 (1) IN GENERAL.—Subpart B of part III of  
15 subchapter A of chapter 61, as amended by sub-  
16 section (b), is amended by inserting after section  
17 6045A the following new section:

18 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**  
19 **BASIS OF SPECIFIED SECURITIES.**

20 “(a) IN GENERAL.—According to the forms or regu-  
21 lations prescribed by the Secretary, any issuer of a speci-  
22 fied security shall make a return setting forth—

1           “(1) a description of any organizational action  
2           which affects the basis of such specified security of  
3           such issuer,

4           “(2) the quantitative effect on the basis of such  
5           specified security resulting from such action, and

6           “(3) such other information as the Secretary  
7           may prescribe.

8           “(b) TIME FOR FILING RETURN.—Any return re-  
9           quired by subsection (a) shall be filed not later than the  
10          earlier of—

11          “(1) 45 days after the date of the action de-  
12          scribed in subsection (a), or

13          “(2) January 15 of the year following the cal-  
14          endar year during which such action occurred.

15          “(c) STATEMENTS TO BE FURNISHED TO HOLDERS  
16          OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-  
17          cording to the forms or regulations prescribed by the Sec-  
18          retary, every person required to make a return under sub-  
19          section (a) with respect to a specified security shall furnish  
20          to the nominee with respect to the specified security (or  
21          certificate holder if there is no nominee) a written state-  
22          ment showing—

23          “(1) the name, address, and phone number of  
24          the information contact of the person required to  
25          make such return,

1           “(2) the information required to be shown on  
2           such return with respect to such security, and

3           “(3) such other information as the Secretary  
4           may prescribe.

5 The written statement required under the preceding sen-  
6 tence shall be furnished to the holder on or before January  
7 15 of the year following the calendar year during which  
8 the action described in subsection (a) occurred.

9           “(d) SPECIFIED SECURITY.—For purposes of this  
10 section, the term ‘specified security’ has the meaning given  
11 such term by section 6045(g)(3)(B). No return shall be  
12 required under this section with respect to actions de-  
13 scribed in subsection (a) with respect to a specified secu-  
14 rity which occur before the applicable date (as defined in  
15 section 6045(g)(3)(C)) with respect to such security.

16           “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The  
17 Secretary may waive the requirements under subsections  
18 (a) and (c) with respect to a specified security, if the per-  
19 son required to make the return under subsection (a)  
20 makes publicly available, in such form and manner as the  
21 Secretary determines necessary to carry out the purposes  
22 of this section—

23           “(1) the name, address, phone number, and  
24           email address of the information contact of such  
25           person, and

1           “(2) the information described in paragraphs  
2 (1), (2), and (3) of subsection (a).”.

3           (2) ASSESSABLE PENALTIES.—

4           (A) Subparagraph (B) of section  
5 6724(d)(1), as amended by the Housing Assist-  
6 ance Tax Act of 2008, is amended by redesignig-  
7 nating clause (iv) and each of the clauses which  
8 follow as clauses (v) through (xxiii), respec-  
9 tively, and by inserting after clause (iii) the fol-  
10 lowing new clause:

11           “(iv) section 6045B(a) (relating to re-  
12 turns relating to actions affecting basis of  
13 specified securities),”.

14           (B) Paragraph (2) of section 6724(d), as  
15 amended by the Housing Assistance Tax Act of  
16 2008 and by subsection (c)(2), is amended by  
17 redesignating subparagraphs (J) through (EE)  
18 as subparagraphs (K) through (FF), respec-  
19 tively, and by inserting after subparagraph (I)  
20 the following new subparagraph:

21           “(J) subsections (c) and (e) of section  
22 6045B (relating to returns relating to actions  
23 affecting basis of specified securities),”.

24           (3) CLERICAL AMENDMENT.—The table of sec-  
25 tions for subpart B of part III of subchapter A of

1 chapter 61, as amended by subsection (b)(3), is  
2 amended by inserting after the item relating to sec-  
3 tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securi-  
ties.”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, the amendments made by  
7 this section shall take effect on January 1, 2010.

8 (2) EXTENSION OF PERIOD FOR STATEMENTS  
9 SENT TO CUSTOMERS.—The amendments made by  
10 subsection (a)(3) shall apply to statements required  
11 to be furnished after December 31, 2008.

12 **SEC. 505. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**  
13 **ITY TRUST FUND TAX.**

14 (a) INCREASE IN RATE.—

15 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-  
16 lating to rates) is amended by striking “5 cents”  
17 and inserting “12 cents”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by this subsection shall apply on and after the first  
20 day of the first calendar quarter beginning more  
21 than 60 days after the date of the enactment of this  
22 Act.

23 (b) EXTENSION.—

1           (1) IN GENERAL.—Section 4611(f) (relating to  
2 application of Oil Spill Liability Trust Fund financ-  
3 ing rate) is amended by striking paragraphs (2) and  
4 (3) and inserting the following new paragraph:

5           “(2) TERMINATION.—The Oil Spill Liability  
6 Trust Fund financing rate shall not apply after De-  
7 cember 31, 2017.”.

8           (2) CONFORMING AMENDMENT.—Section  
9 4611(f)(1) is amended by striking “paragraphs (2)  
10 and (3)” and inserting “paragraph (2)”.

11           (3) EFFECTIVE DATE.—The amendments made  
12 by this subsection shall take effect on the date of the  
13 enactment of this Act.

## 14 **TITLE VI—OTHER PROVISIONS**

### 15 **SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-** 16 **DETERMINATION PROGRAM.**

17           (a) REAUTHORIZATION OF THE SECURE RURAL  
18 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT  
19 OF 2000.—The Secure Rural Schools and Community  
20 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-  
21 lic Law 106–393) is amended by striking sections 1  
22 through 403 and inserting the following:

#### 23 **“SECTION 1. SHORT TITLE.**

24           “‘This Act may be cited as the ‘Secure Rural Schools  
25 and Community Self-Determination Act of 2000’.

1 **“SEC. 2. PURPOSES.**

2 “The purposes of this Act are—

3 “(1) to stabilize and transition payments to  
4 counties to provide funding for schools and roads  
5 that supplements other available funds;

6 “(2) to make additional investments in, and  
7 create additional employment opportunities through,  
8 projects that—

9 “(A)(i) improve the maintenance of exist-  
10 ing infrastructure;

11 “(ii) implement stewardship objectives that  
12 enhance forest ecosystems; and

13 “(iii) restore and improve land health and  
14 water quality;

15 “(B) enjoy broad-based support; and

16 “(C) have objectives that may include—

17 “(i) road, trail, and infrastructure  
18 maintenance or obliteration;

19 “(ii) soil productivity improvement;

20 “(iii) improvements in forest eco-  
21 system health;

22 “(iv) watershed restoration and main-  
23 tenance;

24 “(v) the restoration, maintenance, and  
25 improvement of wildlife and fish habitat;

1                   “(vi) the control of noxious and exotic  
2                   weeds; and

3                   “(vii) the reestablishment of native  
4                   species; and

5                   “(3) to improve cooperative relationships  
6                   among—

7                   “(A) the people that use and care for Fed-  
8                   eral land; and

9                   “(B) the agencies that manage the Federal  
10                  land.

11 **“SEC. 3. DEFINITIONS.**

12                  “In this Act:

13                  “(1) ADJUSTED SHARE.—The term ‘adjusted  
14                  share’ means the number equal to the quotient ob-  
15                  tained by dividing—

16                  “(A) the number equal to the quotient ob-  
17                  tained by dividing—

18                  “(i) the base share for the eligible  
19                  county; by

20                  “(ii) the income adjustment for the el-  
21                  igible county; by

22                  “(B) the number equal to the sum of the  
23                  quotients obtained under subparagraph (A) and  
24                  paragraph (8)(A) for all eligible counties.

1           “(2) BASE SHARE.—The term ‘base share’  
2 means the number equal to the average of—

3           “(A) the quotient obtained by dividing—

4                   “(i) the number of acres of Federal  
5 land described in paragraph (7)(A) in each  
6 eligible county; by

7                   “(ii) the total number acres of Fed-  
8 eral land in all eligible counties in all eligi-  
9 ble States; and

10           “(B) the quotient obtained by dividing—

11                   “(i) the amount equal to the average  
12 of the 3 highest 25-percent payments and  
13 safety net payments made to each eligible  
14 State for each eligible county during the  
15 eligibility period; by

16                   “(ii) the amount equal to the sum of  
17 the amounts calculated under clause (i)  
18 and paragraph (9)(B)(i) for all eligible  
19 counties in all eligible States during the  
20 eligibility period.

21           “(3) COUNTY PAYMENT.—The term ‘county  
22 payment’ means the payment for an eligible county  
23 calculated under section 101(b).

24           “(4) ELIGIBLE COUNTY.—The term ‘eligible  
25 county’ means any county that—

1           “(A) contains Federal land (as defined in  
2 paragraph (7)); and

3           “(B) elects to receive a share of the State  
4 payment or the county payment under section  
5 102(b).

6           “(5) ELIGIBILITY PERIOD.—The term ‘eligi-  
7 bility period’ means fiscal year 1986 through fiscal  
8 year 1999.

9           “(6) ELIGIBLE STATE.—The term ‘eligible  
10 State’ means a State or territory of the United  
11 States that received a 25-percent payment for 1 or  
12 more fiscal years of the eligibility period.

13           “(7) FEDERAL LAND.—The term ‘Federal land’  
14 means—

15           “(A) land within the National Forest Sys-  
16 tem, as defined in section 11(a) of the Forest  
17 and Rangeland Renewable Resources Planning  
18 Act of 1974 (16 U.S.C. 1609(a)) exclusive of  
19 the National Grasslands and land utilization  
20 projects designated as National Grasslands ad-  
21 ministered pursuant to the Act of July 22,  
22 1937 (7 U.S.C. 1010–1012); and

23           “(B) such portions of the revested Oregon  
24 and California Railroad and reconveyed Coos  
25 Bay Wagon Road grant land as are or may

1 hereafter come under the jurisdiction of the De-  
2 partment of the Interior, which have heretofore  
3 or may hereafter be classified as timberlands,  
4 and power-site land valuable for timber, that  
5 shall be managed, except as provided in the  
6 former section 3 of the Act of August 28, 1937  
7 (50 Stat. 875; 43 U.S.C. 1181c), for permanent  
8 forest production.

9 “(8) 50-PERCENT ADJUSTED SHARE.—The  
10 term ‘50-percent adjusted share’ means the number  
11 equal to the quotient obtained by dividing—

12 “(A) the number equal to the quotient ob-  
13 tained by dividing—

14 “(i) the 50-percent base share for the  
15 eligible county; by

16 “(ii) the income adjustment for the el-  
17 igible county; by

18 “(B) the number equal to the sum of the  
19 quotients obtained under subparagraph (A) and  
20 paragraph (1)(A) for all eligible counties.

21 “(9) 50-PERCENT BASE SHARE.—The term ‘50-  
22 percent base share’ means the number equal to the  
23 average of—

24 “(A) the quotient obtained by dividing—

1                   “(i) the number of acres of Federal  
2                   land described in paragraph (7)(B) in each  
3                   eligible county; by

4                   “(ii) the total number acres of Fed-  
5                   eral land in all eligible counties in all eligi-  
6                   ble States; and

7                   “(B) the quotient obtained by dividing—

8                   “(i) the amount equal to the average  
9                   of the 3 highest 50-percent payments made  
10                  to each eligible county during the eligibility  
11                  period; by

12                  “(ii) the amount equal to the sum of  
13                  the amounts calculated under clause (i)  
14                  and paragraph (2)(B)(i) for all eligible  
15                  counties in all eligible States during the  
16                  eligibility period.

17                  “(10) 50-PERCENT PAYMENT.—The term ‘50-  
18                  percent payment’ means the payment that is the  
19                  sum of the 50-percent share otherwise paid to a  
20                  county pursuant to title II of the Act of August 28,  
21                  1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),  
22                  and the payment made to a county pursuant to the  
23                  Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43  
24                  U.S.C. 1181f–1 et seq.).

1           “(11) FULL FUNDING AMOUNT.—The term ‘full  
2 funding amount’ means—

3           “(A) \$500,000,000 for fiscal year 2008;  
4 and

5           “(B) for fiscal year 2009 and each fiscal  
6 year thereafter, the amount that is equal to 90  
7 percent of the full funding amount for the pre-  
8 ceding fiscal year.

9           “(12) INCOME ADJUSTMENT.—The term ‘in-  
10 come adjustment’ means the square of the quotient  
11 obtained by dividing—

12           “(A) the per capita personal income for  
13 each eligible county; by

14           “(B) the median per capita personal in-  
15 come of all eligible counties.

16           “(13) PER CAPITA PERSONAL INCOME.—The  
17 term ‘per capita personal income’ means the most  
18 recent per capita personal income data, as deter-  
19 mined by the Bureau of Economic Analysis.

20           “(14) SAFETY NET PAYMENTS.—The term  
21 ‘safety net payments’ means the special payment  
22 amounts paid to States and counties required by  
23 section 13982 or 13983 of the Omnibus Budget  
24 Reconciliation Act of 1993 (Public Law 103–66; 16  
25 U.S.C. 500 note; 43 U.S.C. 1181f note).

1           “(15) SECRETARY CONCERNED.—The term  
2           ‘Secretary concerned’ means—

3                   “(A) the Secretary of Agriculture or the  
4                   designee of the Secretary of Agriculture with  
5                   respect to the Federal land described in para-  
6                   graph (7)(A); and

7                   “(B) the Secretary of the Interior or the  
8                   designee of the Secretary of the Interior with  
9                   respect to the Federal land described in para-  
10                  graph (7)(B).

11           “(16) STATE PAYMENT.—The term ‘State pay-  
12           ment’ means the payment for an eligible State cal-  
13           culated under section 101(a).

14           “(17) 25-PERCENT PAYMENT.—The term ‘25-  
15           percent payment’ means the payment to States re-  
16           quired by the sixth paragraph under the heading of  
17           ‘FOREST SERVICE’ in the Act of May 23, 1908  
18           (35 Stat. 260; 16 U.S.C. 500), and section 13 of the  
19           Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.  
20           500).

1 **“TITLE I—SECURE PAYMENTS**  
2 **FOR STATES AND COUNTIES**  
3 **CONTAINING FEDERAL LAND**

4 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**  
5 **FEDERAL LAND.**

6 “(a) STATE PAYMENT.—For each of fiscal years  
7 2008 through 2011, the Secretary of Agriculture shall cal-  
8 culate for each eligible State an amount equal to the sum  
9 of the products obtained by multiplying—

10 “(1) the adjusted share for each eligible county  
11 within the eligible State; by

12 “(2) the full funding amount for the fiscal year.

13 “(b) COUNTY PAYMENT.—For each of fiscal years  
14 2008 through 2011, the Secretary of the Interior shall cal-  
15 culate for each eligible county that received a 50-percent  
16 payment during the eligibility period an amount equal to  
17 the product obtained by multiplying—

18 “(1) the 50-percent adjusted share for the eligi-  
19 ble county; by

20 “(2) the full funding amount for the fiscal year.

21 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

22 “(a) PAYMENT AMOUNTS.—Except as provided in  
23 section 103, the Secretary of the Treasury shall pay to—

24 “(1) a State or territory of the United States  
25 an amount equal to the sum of the amounts elected

1 under subsection (b) by each county within the State  
2 or territory for—

3 “(A) if the county is eligible for the 25-  
4 percent payment, the share of the 25-percent  
5 payment; or

6 “(B) the share of the State payment of the  
7 eligible county; and

8 “(2) a county an amount equal to the amount  
9 elected under subsection (b) by each county for—

10 “(A) if the county is eligible for the 50-  
11 percent payment, the 50-percent payment; or

12 “(B) the county payment for the eligible  
13 county.

14 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

15 “(1) ELECTION; SUBMISSION OF RESULTS.—

16 “(A) IN GENERAL.—The election to receive  
17 a share of the State payment, the county pay-  
18 ment, a share of the State payment and the  
19 county payment, a share of the 25-percent pay-  
20 ment, the 50-percent payment, or a share of the  
21 25-percent payment and the 50-percent pay-  
22 ment, as applicable, shall be made at the discre-  
23 tion of each affected county by August 1, 2008  
24 (or as soon thereafter as the Secretary con-  
25 cerned determines is practicable), and August 1

1 of each second fiscal year thereafter, in accord-  
2 ance with paragraph (2), and transmitted to  
3 the Secretary concerned by the Governor of  
4 each eligible State.

5 “(B) FAILURE TO TRANSMIT.—If an elec-  
6 tion for an affected county is not transmitted to  
7 the Secretary concerned by the date specified  
8 under subparagraph (A), the affected county  
9 shall be considered to have elected to receive a  
10 share of the State payment, the county pay-  
11 ment, or a share of the State payment and the  
12 county payment, as applicable.

13 “(2) DURATION OF ELECTION.—

14 “(A) IN GENERAL.—A county election to  
15 receive a share of the 25-percent payment or  
16 50-percent payment, as applicable, shall be ef-  
17 fective for 2 fiscal years.

18 “(B) FULL FUNDING AMOUNT.—If a coun-  
19 ty elects to receive a share of the State payment  
20 or the county payment, the election shall be ef-  
21 fective for all subsequent fiscal years through  
22 fiscal year 2011.

23 “(3) SOURCE OF PAYMENT AMOUNTS.—The  
24 payment to an eligible State or eligible county under  
25 this section for a fiscal year shall be derived from—

1           “(A) any amounts that are appropriated to  
2 carry out this Act;

3           “(B) any revenues, fees, penalties, or mis-  
4 cellaneous receipts, exclusive of deposits to any  
5 relevant trust fund, special account, or perma-  
6 nent operating funds, received by the Federal  
7 Government from activities by the Bureau of  
8 Land Management or the Forest Service on the  
9 applicable Federal land; and

10           “(C) to the extent of any shortfall, out of  
11 any amounts in the Treasury of the United  
12 States not otherwise appropriated.

13           “(c) DISTRIBUTION AND EXPENDITURE OF PAY-  
14 MENTS.—

15           “(1) DISTRIBUTION METHOD.—A State that re-  
16 ceives a payment under subsection (a) for Federal  
17 land described in section 3(7)(A) shall distribute the  
18 appropriate payment amount among the appropriate  
19 counties in the State in accordance with—

20           “(A) the Act of May 23, 1908 (16 U.S.C.  
21 500); and

22           “(B) section 13 of the Act of March 1,  
23 1911 (36 Stat. 963; 16 U.S.C. 500).

24           “(2) EXPENDITURE PURPOSES.—Subject to  
25 subsection (d), payments received by a State under

1 subsection (a) and distributed to counties in accord-  
2 ance with paragraph (1) shall be expended as re-  
3 quired by the laws referred to in paragraph (1).

4 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-  
5 TIES.—

6 “(1) ALLOCATIONS.—

7 “(A) USE OF PORTION IN SAME MANNER  
8 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-  
9 MENT, AS APPLICABLE.—Except as provided in  
10 paragraph (3)(B), if an eligible county elects to  
11 receive its share of the State payment or the  
12 county payment, not less than 80 percent, but  
13 not more than 85 percent, of the funds shall be  
14 expended in the same manner in which the 25-  
15 percent payments or 50-percent payment, as  
16 applicable, are required to be expended.

17 “(B) ELECTION AS TO USE OF BAL-  
18 ANCE.—Except as provided in subparagraph  
19 (C), an eligible county shall elect to do 1 or  
20 more of the following with the balance of any  
21 funds not expended pursuant to subparagraph  
22 (A):

23 “(i) Reserve any portion of the bal-  
24 ance for projects in accordance with title  
25 II.





1                    ticable), and September 30 of each fiscal  
2                    year thereafter.

3                    “(ii) FAILURE TO ELECT.—Except as  
4                    provided in subparagraph (B), if the eligi-  
5                    ble county fails to make an election by the  
6                    date specified in clause (i), the eligible  
7                    county shall—

8                                       “(I) be considered to have elected  
9                                       to expend 85 percent of the funds in  
10                                       accordance with paragraph (1)(A);  
11                                       and

12                                       “(II) return the balance to the  
13                                       Treasury of the United States.

14                                       “(B) COUNTIES WITH MINOR DISTRIBUTI-  
15                                       ONS.—In the case of each eligible county to  
16                                       which less than \$100,000 is distributed for any  
17                                       fiscal year pursuant to either or both of para-  
18                                       graphs (1)(B) and (2)(B) of subsection (a), the  
19                                       eligible county may elect to expend all the funds  
20                                       in the same manner in which the 25-percent  
21                                       payments or 50-percent payments, as applica-  
22                                       ble, are required to be expended.

23                    “(e) TIME FOR PAYMENT.—The payments required  
24                    under this section for a fiscal year shall be made as soon  
25                    as practicable after the end of that fiscal year.

1 **“SEC. 103. TRANSITION PAYMENTS TO STATES.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADJUSTED AMOUNT.—The term ‘adjusted  
4 amount’ means, with respect to a covered State—

5 “(A) for fiscal year 2008, 90 percent of—

6 “(i) the sum of the amounts paid for  
7 fiscal year 2006 under section 102(a)(2)  
8 (as in effect on September 29, 2006) for  
9 the eligible counties in the covered State  
10 that have elected under section 102(b) to  
11 receive a share of the State payment for  
12 fiscal year 2008; and

13 “(ii) the sum of the amounts paid for  
14 fiscal year 2006 under section 103(a)(2)  
15 (as in effect on September 29, 2006) for  
16 the eligible counties in the State of Oregon  
17 that have elected under section 102(b) to  
18 receive the county payment for fiscal year  
19 2008;

20 “(B) for fiscal year 2009, 76 percent of—

21 “(i) the sum of the amounts paid for  
22 fiscal year 2006 under section 102(a)(2)  
23 (as in effect on September 29, 2006) for  
24 the eligible counties in the covered State  
25 that have elected under section 102(b) to

1 receive a share of the State payment for  
2 fiscal year 2009; and

3 “(ii) the sum of the amounts paid for  
4 fiscal year 2006 under section 103(a)(2)  
5 (as in effect on September 29, 2006) for  
6 the eligible counties in the State of Oregon  
7 that have elected under section 102(b) to  
8 receive the county payment for fiscal year  
9 2009; and

10 “(C) for fiscal year 2010, 65 percent of—

11 “(i) the sum of the amounts paid for  
12 fiscal year 2006 under section 102(a)(2)  
13 (as in effect on September 29, 2006) for  
14 the eligible counties in the covered State  
15 that have elected under section 102(b) to  
16 receive a share of the State payment for  
17 fiscal year 2010; and

18 “(ii) the sum of the amounts paid for  
19 fiscal year 2006 under section 103(a)(2)  
20 (as in effect on September 29, 2006) for  
21 the eligible counties in the State of Oregon  
22 that have elected under section 102(b) to  
23 receive the county payment for fiscal year  
24 2010.

1           “(2) COVERED STATE.—The term ‘covered  
2           State’ means each of the States of California, Lou-  
3           isiana, Oregon, Pennsylvania, South Carolina, South  
4           Dakota, Texas, and Washington.

5           “(b) TRANSITION PAYMENTS.—For each of fiscal  
6           years 2008 through 2010, in lieu of the payment amounts  
7           that otherwise would have been made under paragraphs  
8           (1)(B) and (2)(B) of section 102(a), the Secretary of the  
9           Treasury shall pay the adjusted amount to each covered  
10          State and the eligible counties within the covered State,  
11          as applicable.

12          “(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Ex-  
13          cept as provided in subsection (d), it is the intent of Con-  
14          gress that the method of distributing the payments under  
15          subsection (b) among the counties in the covered States  
16          for each of fiscal years 2008 through 2010 be in the same  
17          proportion that the payments were distributed to the eligi-  
18          ble counties in fiscal year 2006.

19          “(d) DISTRIBUTION OF PAYMENTS IN CALI-  
20          FORNIA.—The following payments shall be distributed  
21          among the eligible counties in the State of California in  
22          the same proportion that payments under section  
23          102(a)(2) (as in effect on September 29, 2006) were dis-  
24          tributed to the eligible counties for fiscal year 2006:

1           “(1) Payments to the State of California under  
2 subsection (b).

3           “(2) The shares of the eligible counties of the  
4 State payment for California under section 102 for  
5 fiscal year 2011.

6           “(e) TREATMENT OF PAYMENTS.—For purposes of  
7 this Act, any payment made under subsection (b) shall be  
8 considered to be a payment made under section 102(a).

9           **“TITLE II—SPECIAL PROJECTS**  
10                           **ON FEDERAL LAND**

11           **“SEC. 201. DEFINITIONS.**

12           “In this title:

13           “(1) PARTICIPATING COUNTY.—The term ‘par-  
14 ticipating county’ means an eligible county that  
15 elects under section 102(d) to expend a portion of  
16 the Federal funds received under section 102 in ac-  
17 cordance with this title.

18           “(2) PROJECT FUNDS.—The term ‘project  
19 funds’ means all funds an eligible county elects  
20 under section 102(d) to reserve for expenditure in  
21 accordance with this title.

22           “(3) RESOURCE ADVISORY COMMITTEE.—The  
23 term ‘resource advisory committee’ means—

24                   “(A) an advisory committee established by  
25 the Secretary concerned under section 205; or

1           “(B) an advisory committee determined by  
2           the Secretary concerned to meet the require-  
3           ments of section 205.

4           “(4) RESOURCE MANAGEMENT PLAN.—The  
5           term ‘resource management plan’ means—

6                   “(A) a land use plan prepared by the Bu-  
7                   reau of Land Management for units of the Fed-  
8                   eral land described in section 3(7)(B) pursuant  
9                   to section 202 of the Federal Land Policy and  
10                  Management Act of 1976 (43 U.S.C. 1712); or

11                   “(B) a land and resource management  
12                   plan prepared by the Forest Service for units of  
13                   the National Forest System pursuant to section  
14                   6 of the Forest and Rangeland Renewable Re-  
15                   sources Planning Act of 1974 (16 U.S.C.  
16                   1604).

17   **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**  
18                   **FUNDS.**

19           “(a) LIMITATION.—Project funds shall be expended  
20           solely on projects that meet the requirements of this title.

21           “(b) AUTHORIZED USES.—Project funds may be  
22           used by the Secretary concerned for the purpose of enter-  
23           ing into and implementing cooperative agreements with  
24           willing Federal agencies, State and local governments, pri-  
25           vate and nonprofit entities, and landowners for protection,

1 restoration, and enhancement of fish and wildlife habitat,  
2 and other resource objectives consistent with the purposes  
3 of this Act on Federal land and on non-Federal land where  
4 projects would benefit the resources on Federal land.

5 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

6 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-  
7 RETARY CONCERNED.—

8 “(1) PROJECTS FUNDED USING PROJECT  
9 FUNDS.—Not later than September 30 for fiscal  
10 year 2008 (or as soon thereafter as the Secretary  
11 concerned determines is practicable), and each Sep-  
12 tember 30 thereafter for each succeeding fiscal year  
13 through fiscal year 2011, each resource advisory  
14 committee shall submit to the Secretary concerned a  
15 description of any projects that the resource advi-  
16 sory committee proposes the Secretary undertake  
17 using any project funds reserved by eligible counties  
18 in the area in which the resource advisory committee  
19 has geographic jurisdiction.

20 “(2) PROJECTS FUNDED USING OTHER  
21 FUNDS.—A resource advisory committee may submit  
22 to the Secretary concerned a description of any  
23 projects that the committee proposes the Secretary  
24 undertake using funds from State or local govern-  
25 ments, or from the private sector, other than project

1 funds and funds appropriated and otherwise avail-  
2 able to do similar work.

3 “(3) JOINT PROJECTS.—Participating counties  
4 or other persons may propose to pool project funds  
5 or other funds, described in paragraph (2), and  
6 jointly propose a project or group of projects to a re-  
7 source advisory committee established under section  
8 205.

9 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In  
10 submitting proposed projects to the Secretary concerned  
11 under subsection (a), a resource advisory committee shall  
12 include in the description of each proposed project the fol-  
13 lowing information:

14 “(1) The purpose of the project and a descrip-  
15 tion of how the project will meet the purposes of this  
16 title.

17 “(2) The anticipated duration of the project.

18 “(3) The anticipated cost of the project.

19 “(4) The proposed source of funding for the  
20 project, whether project funds or other funds.

21 “(5)(A) Expected outcomes, including how the  
22 project will meet or exceed desired ecological condi-  
23 tions, maintenance objectives, or stewardship objec-  
24 tives.

1           “(B) An estimate of the amount of any timber,  
2 forage, and other commodities and other economic  
3 activity, including jobs generated, if any, anticipated  
4 as part of the project.

5           “(6) A detailed monitoring plan, including  
6 funding needs and sources, that—

7               “(A) tracks and identifies the positive or  
8 negative impacts of the project, implementation,  
9 and provides for validation monitoring; and

10           “(B) includes an assessment of the fol-  
11 lowing:

12               “(i) Whether or not the project met or  
13 exceeded desired ecological conditions; cre-  
14 ated local employment or training opportu-  
15 nities, including summer youth jobs pro-  
16 grams such as the Youth Conservation  
17 Corps where appropriate.

18               “(ii) Whether the project improved  
19 the use of, or added value to, any products  
20 removed from land consistent with the pur-  
21 poses of this title.

22           “(7) An assessment that the project is to be in  
23 the public interest.

24           “(c) AUTHORIZED PROJECTS.—Projects proposed  
25 under subsection (a) shall be consistent with section 2.

1 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**  
2 **SECRETARY CONCERNED.**

3 “(a) **CONDITIONS FOR APPROVAL OF PROPOSED**  
4 **PROJECT.**—The Secretary concerned may make a decision  
5 to approve a project submitted by a resource advisory com-  
6 mittee under section 203 only if the proposed project satis-  
7 fies each of the following conditions:

8 “(1) The project complies with all applicable  
9 Federal laws (including regulations).

10 “(2) The project is consistent with the applica-  
11 ble resource management plan and with any water-  
12 shed or subsequent plan developed pursuant to the  
13 resource management plan and approved by the Sec-  
14 retary concerned.

15 “(3) The project has been approved by the re-  
16 source advisory committee in accordance with sec-  
17 tion 205, including the procedures issued under sub-  
18 section (e) of that section.

19 “(4) A project description has been submitted  
20 by the resource advisory committee to the Secretary  
21 concerned in accordance with section 203.

22 “(5) The project will improve the maintenance  
23 of existing infrastructure, implement stewardship ob-  
24 jectives that enhance forest ecosystems, and restore  
25 and improve land health and water quality.

26 “(b) **ENVIRONMENTAL REVIEWS.**—

1           “(1) REQUEST FOR PAYMENT BY COUNTY.—

2           The Secretary concerned may request the resource  
3           advisory committee submitting a proposed project to  
4           agree to the use of project funds to pay for any envi-  
5           ronmental review, consultation, or compliance with  
6           applicable environmental laws required in connection  
7           with the project.

8           “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—

9           If a payment is requested under paragraph (1) and  
10          the resource advisory committee agrees to the ex-  
11          penditure of funds for this purpose, the Secretary  
12          concerned shall conduct environmental review, con-  
13          sultation, or other compliance responsibilities in ac-  
14          cordance with Federal laws (including regulations).

15          “(3) EFFECT OF REFUSAL TO PAY.—

16                 “(A) IN GENERAL.—If a resource advisory  
17                 committee does not agree to the expenditure of  
18                 funds under paragraph (1), the project shall be  
19                 deemed withdrawn from further consideration  
20                 by the Secretary concerned pursuant to this  
21                 title.

22                 “(B) EFFECT OF WITHDRAWAL.—A with-  
23                 drawal under subparagraph (A) shall be deemed  
24                 to be a rejection of the project for purposes of  
25                 section 207(c).

1 “(c) DECISIONS OF SECRETARY CONCERNED.—

2 “(1) REJECTION OF PROJECTS.—

3 “(A) IN GENERAL.—A decision by the Sec-  
4 retary concerned to reject a proposed project  
5 shall be at the sole discretion of the Secretary  
6 concerned.

7 “(B) NO ADMINISTRATIVE APPEAL OR JU-  
8 DICIAL REVIEW.—Notwithstanding any other  
9 provision of law, a decision by the Secretary  
10 concerned to reject a proposed project shall not  
11 be subject to administrative appeal or judicial  
12 review.

13 “(C) NOTICE OF REJECTION.—Not later  
14 than 30 days after the date on which the Sec-  
15 retary concerned makes the rejection decision,  
16 the Secretary concerned shall notify in writing  
17 the resource advisory committee that submitted  
18 the proposed project of the rejection and the  
19 reasons for rejection.

20 “(2) NOTICE OF PROJECT APPROVAL.—The  
21 Secretary concerned shall publish in the Federal  
22 Register notice of each project approved under sub-  
23 section (a) if the notice would be required had the  
24 project originated with the Secretary.

1           “(d) SOURCE AND CONDUCT OF PROJECT.—Once the  
2 Secretary concerned accepts a project for review under  
3 section 203, the acceptance shall be deemed a Federal ac-  
4 tion for all purposes.

5           “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

6           “(1) COOPERATION.—Notwithstanding chapter  
7 63 of title 31, United States Code, using project  
8 funds the Secretary concerned may enter into con-  
9 tracts, grants, and cooperative agreements with  
10 States and local governments, private and nonprofit  
11 entities, and landowners and other persons to assist  
12 the Secretary in carrying out an approved project.

13           “(2) BEST VALUE CONTRACTING.—

14           “(A) IN GENERAL.—For any project in-  
15 volving a contract authorized by paragraph (1)  
16 the Secretary concerned may elect a source for  
17 performance of the contract on a best value  
18 basis.

19           “(B) FACTORS.—The Secretary concerned  
20 shall determine best value based on such factors  
21 as—

22           “(i) the technical demands and com-  
23 plexity of the work to be done;

24           “(ii)(I) the ecological objectives of the  
25 project; and

1                   “(II) the sensitivity of the resources  
2                   being treated;

3                   “(iii) the past experience by the con-  
4                   tractor with the type of work being done,  
5                   using the type of equipment proposed for  
6                   the project, and meeting or exceeding de-  
7                   sired ecological conditions; and

8                   “(iv) the commitment of the con-  
9                   tractor to hiring highly qualified workers  
10                  and local residents.

11                  “(3) MERCHANTABLE TIMBER CONTRACTING  
12                  PILOT PROGRAM.—

13                  “(A) ESTABLISHMENT.—The Secretary  
14                  concerned shall establish a pilot program to im-  
15                  plement a certain percentage of approved  
16                  projects involving the sale of merchantable tim-  
17                  ber using separate contracts for—

18                         “(i) the harvesting or collection of  
19                         merchantable timber; and

20                         “(ii) the sale of the timber.

21                  “(B) ANNUAL PERCENTAGES.—Under the  
22                  pilot program, the Secretary concerned shall en-  
23                  sure that, on a nationwide basis, not less than  
24                  the following percentage of all approved projects

1 involving the sale of merchantable timber are  
2 implemented using separate contracts:

3 “(i) For fiscal year 2008, 35 percent.

4 “(ii) For fiscal year 2009, 45 percent.

5 “(iii) For each of fiscal years 2010  
6 and 2011, 50 percent.

7 “(C) INCLUSION IN PILOT PROGRAM.—The  
8 decision whether to use separate contracts to  
9 implement a project involving the sale of mer-  
10 chantable timber shall be made by the Sec-  
11 retary concerned after the approval of the  
12 project under this title.

13 “(D) ASSISTANCE.—

14 “(i) IN GENERAL.—The Secretary  
15 concerned may use funds from any appro-  
16 priated account available to the Secretary  
17 for the Federal land to assist in the ad-  
18 ministration of projects conducted under  
19 the pilot program.

20 “(ii) MAXIMUM AMOUNT OF ASSIST-  
21 ANCE.—The total amount obligated under  
22 this subparagraph may not exceed  
23 \$1,000,000 for any fiscal year during  
24 which the pilot program is in effect.

25 “(E) REVIEW AND REPORT.—

1                   “(i) INITIAL REPORT.—Not later than  
2                   September 30, 2010, the Comptroller Gen-  
3                   eral shall submit to the Committees on Ag-  
4                   riculture, Nutrition, and Forestry and En-  
5                   ergy and Natural Resources of the Senate  
6                   and the Committees on Agriculture and  
7                   Natural Resources of the House of Rep-  
8                   resentatives a report assessing the pilot  
9                   program.

10                   “(ii) ANNUAL REPORT.—The Sec-  
11                   retary concerned shall submit to the Com-  
12                   mittees on Agriculture, Nutrition, and For-  
13                   estry and Energy and Natural Resources  
14                   of the Senate and the Committees on Agri-  
15                   culture and Natural Resources of the  
16                   House of Representatives an annual report  
17                   describing the results of the pilot program.

18                   “(f) REQUIREMENTS FOR PROJECT FUNDS.—The  
19                   Secretary shall ensure that at least 50 percent of all  
20                   project funds be used for projects that are primarily dedi-  
21                   cated—

22                   “(1) to road maintenance, decommissioning, or  
23                   obliteration; or

24                   “(2) to restoration of streams and watersheds.

1 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

2 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE  
3 ADVISORY COMMITTEES.—

4 “(1) ESTABLISHMENT.—The Secretary con-  
5 cerned shall establish and maintain resource advi-  
6 sory committees to perform the duties in subsection  
7 (b), except as provided in paragraph (4).

8 “(2) PURPOSE.—The purpose of a resource ad-  
9 visory committee shall be—

10 “(A) to improve collaborative relationships;  
11 and

12 “(B) to provide advice and recommenda-  
13 tions to the land management agencies con-  
14 sistent with the purposes of this title.

15 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-  
16 TEES.—To ensure that each unit of Federal land  
17 has access to a resource advisory committee, and  
18 that there is sufficient interest in participation on a  
19 committee to ensure that membership can be bal-  
20 anced in terms of the points of view represented and  
21 the functions to be performed, the Secretary con-  
22 cerned may, establish resource advisory committees  
23 for part of, or 1 or more, units of Federal land.

24 “(4) EXISTING ADVISORY COMMITTEES.—

25 “(A) IN GENERAL.—An advisory com-  
26 mittee that meets the requirements of this sec-

1           tion, a resource advisory committee established  
2           before September 29, 2006, or an advisory com-  
3           mittee determined by the Secretary concerned  
4           before September 29, 2006, to meet the re-  
5           quirements of this section may be deemed by  
6           the Secretary concerned to be a resource advi-  
7           sory committee for the purposes of this title.

8           “(B) CHARTER.—A charter for a com-  
9           mittee described in subparagraph (A) that was  
10          filed on or before September 29, 2006, shall be  
11          considered to be filed for purposes of this Act.

12          “(C) BUREAU OF LAND MANAGEMENT AD-  
13          VISORY COMMITTEES.—The Secretary of the In-  
14          terior may deem a resource advisory committee  
15          meeting the requirements of subpart 1784 of  
16          part 1780 of title 43, Code of Federal Regula-  
17          tions, as a resource advisory committee for the  
18          purposes of this title.

19          “(b) DUTIES.—A resource advisory committee  
20          shall—

21                 “(1) review projects proposed under this title by  
22                 participating counties and other persons;

23                 “(2) propose projects and funding to the Sec-  
24                 retary concerned under section 203;

1           “(3) provide early and continuous coordination  
2 with appropriate land management agency officials  
3 in recommending projects consistent with purposes  
4 of this Act under this title;

5           “(4) provide frequent opportunities for citizens,  
6 organizations, tribes, land management agencies,  
7 and other interested parties to participate openly  
8 and meaningfully, beginning at the early stages of  
9 the project development process under this title;

10           “(5)(A) monitor projects that have been ap-  
11 proved under section 204; and

12           “(B) advise the designated Federal official on  
13 the progress of the monitoring efforts under sub-  
14 paragraph (A); and

15           “(6) make recommendations to the Secretary  
16 concerned for any appropriate changes or adjust-  
17 ments to the projects being monitored by the re-  
18 source advisory committee.

19           “(c) APPOINTMENT BY THE SECRETARY.—

20           “(1) APPOINTMENT AND TERM.—

21           “(A) IN GENERAL.—The Secretary con-  
22 cerned, shall appoint the members of resource  
23 advisory committees for a term of 4 years be-  
24 ginning on the date of appointment.

1                   “(B) REAPPOINTMENT.—The Secretary  
2                   concerned may reappoint members to subse-  
3                   quent 4-year terms.

4                   “(2) BASIC REQUIREMENTS.—The Secretary  
5                   concerned shall ensure that each resource advisory  
6                   committee established meets the requirements of  
7                   subsection (d).

8                   “(3) INITIAL APPOINTMENT.—Not later than  
9                   180 days after the date of the enactment of this Act,  
10                  the Secretary concerned shall make initial appoint-  
11                  ments to the resource advisory committees.

12                  “(4) VACANCIES.—The Secretary concerned  
13                  shall make appointments to fill vacancies on any re-  
14                  source advisory committee as soon as practicable  
15                  after the vacancy has occurred.

16                  “(5) COMPENSATION.—Members of the re-  
17                  source advisory committees shall not receive any  
18                  compensation.

19                  “(d) COMPOSITION OF ADVISORY COMMITTEE.—

20                  “(1) NUMBER.—Each resource advisory com-  
21                  mittee shall be comprised of 15 members.

22                  “(2) COMMUNITY INTERESTS REPRESENTED.—  
23                  Committee members shall be representative of the  
24                  interests of the following 3 categories:

25                  “(A) 5 persons that—

1                   “(i) represent organized labor or non-  
2 timber forest product harvester groups;

3                   “(ii) represent developed outdoor  
4 recreation, off highway vehicle users, or  
5 commercial recreation activities;

6                   “(iii) represent—

7                         “(I) energy and mineral develop-  
8 ment interests; or

9                         “(II) commercial or recreational  
10 fishing interests;

11                   “(iv) represent the commercial timber  
12 industry; or

13                   “(v) hold Federal grazing or other  
14 land use permits, or represent nonindus-  
15 trial private forest land owners, within the  
16 area for which the committee is organized.

17                   “(B) 5 persons that represent—

18                         “(i) nationally recognized environ-  
19 mental organizations;

20                         “(ii) regionally or locally recognized  
21 environmental organizations;

22                         “(iii) dispersed recreational activities;

23                         “(iv) archaeological and historical in-  
24 terests; or

1                   “(v) nationally or regionally recog-  
2 nized wild horse and burro interest groups,  
3 wildlife or hunting organizations, or water-  
4 shed associations.

5                   “(C) 5 persons that—

6                   “(i) hold State elected office (or a  
7 designee);

8                   “(ii) hold county or local elected of-  
9 fice;

10                   “(iii) represent American Indian  
11 tribes within or adjacent to the area for  
12 which the committee is organized;

13                   “(iv) are school officials or teachers;  
14 or

15                   “(v) represent the affected public at  
16 large.

17                   “(3) BALANCED REPRESENTATION.—In ap-  
18 pointing committee members from the 3 categories  
19 in paragraph (2), the Secretary concerned shall pro-  
20 vide for balanced and broad representation from  
21 within each category.

22                   “(4) GEOGRAPHIC DISTRIBUTION.—The mem-  
23 bers of a resource advisory committee shall reside  
24 within the State in which the committee has juris-  
25 diction and, to extent practicable, the Secretary con-

1           cerned shall ensure local representation in each cat-  
2           egory in paragraph (2).

3           “(5) CHAIRPERSON.—A majority on each re-  
4           source advisory committee shall select the chair-  
5           person of the committee.

6           “(e) APPROVAL PROCEDURES.—

7           “(1) IN GENERAL.—Subject to paragraph (3),  
8           each resource advisory committee shall establish pro-  
9           cedures for proposing projects to the Secretary con-  
10          cerned under this title.

11          “(2) QUORUM.—A quorum must be present to  
12          constitute an official meeting of the committee.

13          “(3) APPROVAL BY MAJORITY OF MEMBERS.—  
14          A project may be proposed by a resource advisory  
15          committee to the Secretary concerned under section  
16          203(a), if the project has been approved by a major-  
17          ity of members of the committee from each of the  
18          3 categories in subsection (d)(2).

19          “(f) OTHER COMMITTEE AUTHORITIES AND RE-  
20          QUIREMENTS.—

21          “(1) STAFF ASSISTANCE.—A resource advisory  
22          committee may submit to the Secretary concerned a  
23          request for periodic staff assistance from Federal  
24          employees under the jurisdiction of the Secretary.

1           “(2) MEETINGS.—All meetings of a resource  
2           advisory committee shall be announced at least 1  
3           week in advance in a local newspaper of record and  
4           shall be open to the public.

5           “(3) RECORDS.—A resource advisory committee  
6           shall maintain records of the meetings of the com-  
7           mittee and make the records available for public in-  
8           spection.

9           **“SEC. 206. USE OF PROJECT FUNDS.**

10          “(a) AGREEMENT REGARDING SCHEDULE AND COST  
11          OF PROJECT.—

12                 “(1) AGREEMENT BETWEEN PARTIES.—The  
13                 Secretary concerned may carry out a project sub-  
14                 mitted by a resource advisory committee under sec-  
15                 tion 203(a) using project funds or other funds de-  
16                 scribed in section 203(a)(2), if, as soon as prac-  
17                 ticable after the issuance of a decision document for  
18                 the project and the exhaustion of all administrative  
19                 appeals and judicial review of the project decision,  
20                 the Secretary concerned and the resource advisory  
21                 committee enter into an agreement addressing, at a  
22                 minimum, the following:

23                         “(A) The schedule for completing the  
24                         project.

1           “(B) The total cost of the project, includ-  
2           ing the level of agency overhead to be assessed  
3           against the project.

4           “(C) For a multiyear project, the esti-  
5           mated cost of the project for each of the fiscal  
6           years in which it will be carried out.

7           “(D) The remedies for failure of the Sec-  
8           retary concerned to comply with the terms of  
9           the agreement consistent with current Federal  
10          law.

11          “(2) LIMITED USE OF FEDERAL FUNDS.—The  
12          Secretary concerned may decide, at the sole discre-  
13          tion of the Secretary concerned, to cover the costs  
14          of a portion of an approved project using Federal  
15          funds appropriated or otherwise available to the Sec-  
16          retary for the same purposes as the project.

17          “(b) TRANSFER OF PROJECT FUNDS.—

18                 “(1) INITIAL TRANSFER REQUIRED.—As soon  
19                 as practicable after the agreement is reached under  
20                 subsection (a) with regard to a project to be funded  
21                 in whole or in part using project funds, or other  
22                 funds described in section 203(a)(2), the Secretary  
23                 concerned shall transfer to the applicable unit of Na-  
24                 tional Forest System land or Bureau of Land Man-

1           agement District an amount of project funds equal  
2           to—

3                   “(A) in the case of a project to be com-  
4                   pleted in a single fiscal year, the total amount  
5                   specified in the agreement to be paid using  
6                   project funds, or other funds described in sec-  
7                   tion 203(a)(2); or

8                   “(B) in the case of a multiyear project, the  
9                   amount specified in the agreement to be paid  
10                  using project funds, or other funds described in  
11                  section 203(a)(2) for the first fiscal year.

12                  “(2) CONDITION ON PROJECT COMMENCE-  
13                  MENT.—The unit of National Forest System land or  
14                  Bureau of Land Management District concerned,  
15                  shall not commence a project until the project funds,  
16                  or other funds described in section 203(a)(2) re-  
17                  quired to be transferred under paragraph (1) for the  
18                  project, have been made available by the Secretary  
19                  concerned.

20                  “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR  
21                  PROJECTS.—

22                   “(A) IN GENERAL.—For the second and  
23                   subsequent fiscal years of a multiyear project to  
24                   be funded in whole or in part using project  
25                   funds, the unit of National Forest System land

1           or Bureau of Land Management District con-  
2           cerned shall use the amount of project funds re-  
3           quired to continue the project in that fiscal year  
4           according to the agreement entered into under  
5           subsection (a).

6                   “(B) SUSPENSION OF WORK.—The Sec-  
7           retary concerned shall suspend work on the  
8           project if the project funds required by the  
9           agreement in the second and subsequent fiscal  
10          years are not available.

11   **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

12          “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-  
13   GATE FUNDS.—By September 30, 2008 (or as soon there-  
14   after as the Secretary concerned determines is prac-  
15   ticable), and each September 30 thereafter for each suc-  
16   ceeding fiscal year through fiscal year 2011, a resource  
17   advisory committee shall submit to the Secretary con-  
18   cerned pursuant to section 203(a)(1) a sufficient number  
19   of project proposals that, if approved, would result in the  
20   obligation of at least the full amount of the project funds  
21   reserved by the participating county in the preceding fiscal  
22   year.

23          “(b) USE OR TRANSFER OF UNOBLIGATED  
24   FUNDS.—Subject to section 208, if a resource advisory  
25   committee fails to comply with subsection (a) for a fiscal

1 year, any project funds reserved by the participating coun-  
2 ty in the preceding fiscal year and remaining unobligated  
3 shall be available for use as part of the project submissions  
4 in the next fiscal year.

5 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject  
6 to section 208, any project funds reserved by a partici-  
7 pating county in the preceding fiscal year that are unobli-  
8 gated at the end of a fiscal year because the Secretary  
9 concerned has rejected one or more proposed projects shall  
10 be available for use as part of the project submissions in  
11 the next fiscal year.

12 “(d) EFFECT OF COURT ORDERS.—

13 “(1) IN GENERAL.—If an approved project  
14 under this Act is enjoined or prohibited by a Federal  
15 court, the Secretary concerned shall return the un-  
16 obligated project funds related to the project to the  
17 participating county or counties that reserved the  
18 funds.

19 “(2) EXPENDITURE OF FUNDS.—The returned  
20 funds shall be available for the county to expend in  
21 the same manner as the funds reserved by the coun-  
22 ty under subparagraph (B) or (C)(i) of section  
23 102(d)(1).

1 **“SEC. 208. TERMINATION OF AUTHORITY.**

2 “(a) IN GENERAL.—The authority to initiate projects  
3 under this title shall terminate on September 30, 2011.

4 “(b) DEPOSITS IN TREASURY.—Any project funds  
5 not obligated by September 30, 2012, shall be deposited  
6 in the Treasury of the United States.

7 **“TITLE III—COUNTY FUNDS**

8 **“SEC. 301. DEFINITIONS.**

9 “In this title:

10 “(1) COUNTY FUNDS.—The term ‘county funds’  
11 means all funds an eligible county elects under sec-  
12 tion 102(d) to reserve for expenditure in accordance  
13 with this title.

14 “(2) PARTICIPATING COUNTY.—The term ‘par-  
15 ticipating county’ means an eligible county that  
16 elects under section 102(d) to expend a portion of  
17 the Federal funds received under section 102 in ac-  
18 cordance with this title.

19 **“SEC. 302. USE.**

20 “(a) AUTHORIZED USES.—A participating county,  
21 including any applicable agencies of the participating  
22 county, shall use county funds, in accordance with this  
23 title, only—

24 “(1) to carry out activities under the Firewise  
25 Communities program to provide to homeowners in  
26 fire-sensitive ecosystems education on, and assist-

1       ance with implementing, techniques in home siting,  
2       home construction, and home landscaping that can  
3       increase the protection of people and property from  
4       wildfires;

5               “(2) to reimburse the participating county for  
6       search and rescue and other emergency services, in-  
7       cluding firefighting, that are—

8                       “(A) performed on Federal land after the  
9       date on which the use was approved under sub-  
10      section (b);

11                      “(B) paid for by the participating county;  
12      and

13               “(3) to develop community wildfire protection  
14      plans in coordination with the appropriate Secretary  
15      concerned.

16      “(b) PROPOSALS.—A participating county shall use  
17      county funds for a use described in subsection (a) only  
18      after a 45-day public comment period, at the beginning  
19      of which the participating county shall—

20                      “(1) publish in any publications of local record  
21      a proposal that describes the proposed use of the  
22      county funds; and

23                      “(2) submit the proposal to any resource advi-  
24      sory committee established under section 205 for the  
25      participating county.

1 **“SEC. 303. CERTIFICATION.**

2 “(a) IN GENERAL.—Not later than February 1 of the  
3 year after the year in which any county funds were ex-  
4 pended by a participating county, the appropriate official  
5 of the participating county shall submit to the Secretary  
6 concerned a certification that the county funds expended  
7 in the applicable year have been used for the uses author-  
8 ized under section 302(a), including a description of the  
9 amounts expended and the uses for which the amounts  
10 were expended.

11 “(b) REVIEW.—The Secretary concerned shall review  
12 the certifications submitted under subsection (a) as the  
13 Secretary concerned determines to be appropriate.

14 **“SEC. 304. TERMINATION OF AUTHORITY.**

15 “(a) IN GENERAL.—The authority to initiate projects  
16 under this title terminates on September 30, 2011.

17 “(b) AVAILABILITY.—Any county funds not obligated  
18 by September 30, 2012, shall be returned to the Treasury  
19 of the United States.

20 **“TITLE IV—MISCELLANEOUS**  
21 **PROVISIONS**

22 **“SEC. 401. REGULATIONS.**

23 “The Secretary of Agriculture and the Secretary of  
24 the Interior shall issue regulations to carry out the pur-  
25 poses of this Act.

1 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such sums  
3 as are necessary to carry out this Act for each of fiscal  
4 years 2008 through 2011.

5 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

6 “(a) RELATION TO OTHER APPROPRIATIONS.—  
7 Funds made available under section 402 and funds made  
8 available to a Secretary concerned under section 206 shall  
9 be in addition to any other annual appropriations for the  
10 Forest Service and the Bureau of Land Management.

11 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—  
12 All revenues generated from projects pursuant to title II,  
13 including any interest accrued from the revenues, shall be  
14 deposited in the Treasury of the United States.”.

15 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE  
16 STATES AND COUNTIES.—

17 (1) ACT OF MAY 23, 1908.—The sixth paragraph  
18 under the heading “FOREST SERVICE” in the Act  
19 of May 23, 1908 (16 U.S.C. 500) is amended in the  
20 first sentence by striking “twenty-five percentum”  
21 and all that follows through “shall be paid” and in-  
22 serting the following: “an amount equal to the an-  
23 nual average of 25 percent of all amounts received  
24 for the applicable fiscal year and each of the pre-  
25 ceding 6 fiscal years from each national forest shall  
26 be paid”.

1           (2) WEEKS LAW.—Section 13 of the Act of  
2           March 1, 1911 (commonly known as the “Weeks  
3           Law”) (16 U.S.C. 500) is amended in the first sen-  
4           tence by striking “twenty-five percentum” and all  
5           that follows through “shall be paid” and inserting  
6           the following: “an amount equal to the annual aver-  
7           age of 25 percent of all amounts received for the ap-  
8           plicable fiscal year and each of the preceding 6 fiscal  
9           years from each national forest shall be paid”.

10          (c) PAYMENTS IN LIEU OF TAXES.—

11           (1) IN GENERAL.—Section 6906 of title 31,  
12          United States Code, is amended to read as follows:

13          **“§ 6906. Funding**

14          “For each of fiscal years 2008 through 2012—

15           “(1) each county or other eligible unit of local  
16          government shall be entitled to payment under this  
17          chapter; and

18           “(2) sums shall be made available to the Sec-  
19          retary of the Interior for obligation or expenditure in  
20          accordance with this chapter.”.

21           (2) CONFORMING AMENDMENT.—The table of  
22          sections for chapter 69 of title 31, United States  
23          Code, is amended by striking the item relating to  
24          section 6906 and inserting the following:

“6906. Funding.”.

25           (3) BUDGET SCOREKEEPING.—

1           (A) IN GENERAL.—Notwithstanding the  
2 Budget Scorekeeping Guidelines and the accom-  
3 panying list of programs and accounts set forth  
4 in the joint explanatory statement of the com-  
5 mittee of conference accompanying Conference  
6 Report 105–217, the section in this title re-  
7 garding Payments in Lieu of Taxes shall be  
8 treated in the baseline for purposes of section  
9 257 of the Balanced Budget and Emergency  
10 Deficit Control Act of 1985 (as in effect prior  
11 to September 30, 2002), and by the Chairmen  
12 of the House and Senate Budget Committees,  
13 as appropriate, for purposes of budget enforce-  
14 ment in the House and Senate, and under the  
15 Congressional Budget Act of 1974 as if Pay-  
16 ment in Lieu of Taxes (14–1114–0–1–806)  
17 were an account designated as Appropriated  
18 Entitlements and Mandatories for Fiscal Year  
19 1997 in the joint explanatory statement of the  
20 committee of conference accompanying Con-  
21 ference Report 105–217.

22           (B) EFFECTIVE DATE.—This paragraph  
23 shall remain in effect for the fiscal years to  
24 which the entitlement in section 6906 of title

1           31, United States Code (as amended by para-  
2           graph (1)), applies.

3 **SEC. 602. CLARIFICATION OF UNIFORM DEFINITION OF**  
4           **CHILD.**

5           (a) **CHILD MUST BE YOUNGER THAN CLAIMANT.**—  
6 Section 152(c)(3)(A) is amended by inserting “is younger  
7 than the taxpayer claiming such individual as a qualifying  
8 child and” after “such individual”.

9           (b) **CHILD MUST BE UNMARRIED.**—Section  
10 152(c)(1) is amended by striking “and” at the end of sub-  
11 paragraph (C), by striking the period at the end of sub-  
12 paragraph (D) and inserting “, and”, and by adding at  
13 the end the following new subparagraph:

14                   “(E) who has not filed a joint return  
15                   (other than only for a claim of refund) with the  
16                   individual’s spouse under section 6013 for the  
17                   taxable year beginning in the calendar year in  
18                   which the taxable year of the taxpayer begins.”.

19           (c) **RESTRICT QUALIFYING CHILD TAX BENEFITS TO**  
20 **CHILD’S PARENT.**—

21                   (1) **CHILD TAX CREDIT.**—Subsection (a) of sec-  
22                   tion 24 is amended by inserting “for which the tax-  
23                   payer is allowed a deduction under section 151”  
24                   after “of the taxpayer”.

1           (2) PERSONS OTHER THAN PARENTS CLAIMING  
2           QUALIFYING CHILD.—

3                   (A) IN GENERAL.—Paragraph (4) of sec-  
4           tion 152(c) is amended by adding at the end  
5           the following new subparagraph:

6                   “(C) NO PARENT CLAIMING QUALIFYING  
7           CHILD.—If the parents of an individual may  
8           claim such individual as a qualifying child but  
9           no parent so claims the individual, such indi-  
10          vidual may be claimed as the qualifying child of  
11          another taxpayer but only if the adjusted gross  
12          income of such taxpayer is higher than the  
13          highest adjusted gross income of any parent of  
14          the individual.”.

15                   (B) CONFORMING AMENDMENTS.—

16                   (i) Subparagraph (A) of section  
17           152(c)(4) is amended by striking “Except”  
18           through “2 or more taxpayers” and insert-  
19           ing “Except as provided in subparagraphs  
20           (B) and (C), if (but for this paragraph) an  
21           individual may be claimed as a qualifying  
22           child by 2 or more taxpayers”.

23                   (ii) The heading for paragraph (4) of  
24           section 152(c) is amended by striking

1                   “CLAIMING” and inserting “WHO CAN  
2                   CLAIM THE SAME”.

3           (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2008.