

Summary of the Chairman's Modification to the *Energy Advancement and Investment Act of 2007*

June 19, 2007

I. Renewable Electricity

Extension and modification of Section 45. The proposal extends the placed-in-service date for five years (through December 31, 2013) for qualifying electric generating facilities (wind, closed-loop biomass; open-loop biomass; geothermal; small irrigation hydro; landfill gas; and trash combustion facilities) and eliminates the inflation adjustment factor for electricity produced and sold after December 31, 2007. The proposal also extends the placed-in-service deadline (through December 31, 2013) for refined coal, and eliminates the market value test while increasing the emissions requirements for sulfur dioxide and mercury. Indian country coal is also extended for one year. The proposal also adds tidal energy as a qualifying resource, eliminates the third party sale rule for closed and open-loop biomass facilities, and modifies the definition of trash combustion facilities. *The proposal is estimated to cost \$10.141 billion over 10 years.*

II. Advanced Electricity Infrastructure

Clean Renewable Energy Bonds (CREBs). The proposal authorizes \$900 million in each of calendar years 2008, 2009, 2010 and 2011 (total of \$3.6 billion). The maximum allocation available to governmental bodies per year is \$563 million and at least one-half of the \$563 million must go to projects exceeding \$10 million in expected capital expenditures. The proposal also modifies the amortization requirement such that amortization is not required until the first 12-month period the bonds are outstanding, and allows electric transmission property to be eligible for CREBs financing having the effect of a two-year deferral on principal payments. *The proposal is estimated to cost \$1.299 billion over 10 years.*

Clean Energy Coal Bonds. The proposal creates a new category of tax credit bonds for advanced coal facilities. The bonds are structured similarly to CREBs. There is a national limitation of \$3 billion, limited to \$1.875 billion for governmental bodies. *The proposal is estimated to cost \$1.063 billion over 10 years.*

Business solar, fuel cell, microturbine and combined heat and power (CHP) investment tax credit. The proposal extends the 30% investment tax credit for solar and fuel cells, and the 10% credit for microturbines for eight years (through December 31, 2016) and creates a new 10% investment tax credit for combined heat and power property. The proposal also eliminates the \$1,000 per kilowatt cap on fuel cells. *The proposal is estimated to cost \$691 million over 10 years.*

Expensing for electric transmission investments. The proposal allows taxpayers to expense (depreciate immediately) 50% of the cost of the generator tie to solely transmit electricity from renewable generating facilities, as defined by Section 45(d) and Section 48(a)(3), for facilities placed in service before January 1, 2013. *The proposal is estimated to cost \$794 million over 10 years.*

Sales of electricity transmission property. The proposal extends the present-law deferral on sales of transmission property from electric utilities to a FERC-approved independent transmission company. Rather than paying tax on any gain from the sale in the year the sale is completed, utilities will have 8 years to pay the tax on any gain from the sale. The rule expires December 31, 2009, but provides an additional two years for the transfer of the asset to the independent transmission company. *The proposal is revenue neutral over 10 years.*

Residential energy efficient property. The proposal extends for six years (through December 31, 2014) and modifies the personal tax credit for residential solar electric, solar water heating, and fuel cell property. The modification raises the cap on the credit for solar electric property to \$4,000. *The proposal is estimated to cost \$211 million over 10 years.*

Residential wind credit. The proposal creates a new 30% personal credit for residential wind property capped at \$4,000. The proposal expires December 31, 2014. *The proposal is estimated to cost \$41 million over 10 years.*

Business credit for clean coal facilities. The proposal increases and expands the investment tax credit for clean coal facilities. The tax credit is 30% for all Section 48A and 48B projects and the proposal provides an additional \$1.5 billion for qualifying IGCC electricity generation projects and \$1 billion for advanced coal-based electricity generation projects. The proposal also provides \$1.5 billion for qualifying coal gasification projects. To qualify, an electric generating facility must capture and sequester at least 65 percent of the total carbon dioxide emissions from the facility built using the credits, and an industrial gasification must capture 75 percent. *The proposal is estimated to cost \$3.823 billion over 10 years.*

Electronic metering devices. The proposal would allow 7-year depreciation for energy management devices which provide a two-way communications network to measure and record electricity usage data on a time-differentiated basis of at least 60 minutes and provide such data on demand to the consumer and taxpayer. The proposal expires on December 31, 2010. *The proposal is estimated to cost \$255 million over 10 years.*

Transmission pole payment exemption. The proposal would allow taxpayers who locate an electricity transmission pole on a line of 230 kilovolts or more to exempt easement payments received from the electric utility or electric transmission company from gross income. *The proposal is estimated to cost \$193 million over 10 years.*

II. Carbon Mitigation Incentives

Accelerated depreciation for CO2 pipelines. The proposal allows 7-year treatment for new dedicated pipelines, on the first 300 miles, used to transport CO2 from an industrial source to a geologic formation for permanent disposal. The property must be placed in service before January 1, 2014. *The proposal is estimated to cost \$434 million over 10 tens.*

CO2 capture credit. The proposal would provide a \$10 credit per ton for the first 75 million metric tons of CO2 captured and transported from an industrial source for use in enhanced oil recovery and \$20 credit per ton for CO2 captured and transported from an industrial source for permanent storage in a geologic formation. Qualifying facilities must capture at least 500,000 metric tons of CO2 per year. *The proposal is estimated to cost \$1.090 billion over 10 years.*

Publicly traded partnership income treatment of carbon dioxide. The proposal permits publicly traded partnerships to treat the income derived from the transportation or storage of carbon dioxide as qualifying income for purposes of the publicly traded partnership rules. *The proposal is estimated to cost \$28 million over 10 years.*

III. Domestic Fuel Security

Cellulosic alcohol production credit. The proposal creates a new production tax credit of 50 cents per gallon (in addition to the current 51 cents/gallon credit and 10 cent/gallon credit) for up to 60 million gallons of cellulosic fuel production in a taxable year. The 50 cent credit is increased proportionally as the 51 cent and 10 cent/gallon credits decrease. The credit terminates the latter of December 31, 2012 or the end of the calendar year when one billion gallons of cellulosic alcohol has been produced. *The proposal is estimated to cost \$828 million over 10 years.*

Expansion of expensing for cellulosic ethanol facilities. The proposal expands the eligible property qualifying for the 50% expensing to include alcohol produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis. *The proposal is expected to cost \$1 million over 10 years.*

Small ethanol producer credit. The proposal extends for two years (through December 31, 2012) the 10 cent per gallon tax credit on the first 15 million gallons of ethanol production for producers with annual capacity of not more than 60 million gallons. *The proposal is estimated to cost \$172 million over 10 years.*

Fossil-free alcohol production tax credit. The proposal creates a new small producer alcohol credit of 25 cents per gallon for facilities that produce ethanol through a process that does not use a fossil-based resource available through December 31, 2012. *The proposal is estimated to cost less than \$278 million over 10 years.*

Modification to ethanol tax credit. The proposal reduces the 51-cent-per-gallon tax credit for ethanol by 5 cents beginning with the first calendar year after the year in which 7.5 billion gallons of ethanol (including cellulosic ethanol) has been produced. *The proposal is expected to raise \$854 million over 10 years.*

Biodiesel tax credits. The proposal extend for two years (through December 31, 2010) the \$1.00 and 50 cent production tax credits for biodiesel and extends for four years (through December 31, 2012) the 10 cent per-gallon tax credit on the first 15 million gallons of biodiesel production for producers with annual capacity of not more than 60 million gallons. *This proposal is estimated to cost \$267 million over 10 years.*

Renewable diesel tax credit. The proposal extends for two years (through December 31, 2010) the \$1 tax credit for diesel created through a thermal depolymerization process and caps, on a per facility basis, the \$1 credit at 60 million gallons per year. *The proposal is estimated to cost \$211 million over 10 years.*

Alternative fuels credit. The proposal extends for 39 months (through December 31, 2012) the alternative fuel tax credit including liquid fuel derived from coal. The proposal modifies the credit to include biomass gas-based versions of liquified petroleum gas and liquified or compressed natural gas. *The proposal is estimated to cost \$968 million over 10 years.*

Alternative refueling stations tax credit. The proposal extends the 30% alternative refueling property credit (capped at \$30,000) for non-hydrogen property for three years (through December 31, 2012). *The proposal is estimated to cost \$314 million over 10 years.*

Percentage depletion for marginal wells. The proposal extends for two years (through December 31, 2009) the suspension on the taxable income limit for purposes of depreciating a marginal oil or gas well. *The proposal is estimated to cost \$198 million over 10 years.*

Refinery expensing. The proposal extends for three years (through January 1, 2014) the placed-in-service requirement and the building construction contract requirement through 2010. The proposal provides 50% bonus depreciation for costs incurred for a new refinery or an existing refinery to increase total capacity by 5% or process nonconventional feedstocks at a rate equal or greater to 25% of the total throughput of the refinery. Finally, the proposal qualifies refineries directly processing shale or tar sands. *The proposal is estimated to cost \$922 million over 10 years.*

Extension of tariff on ethanol. The proposal extends the tariff on imported ethanol for two years (through December 31, 2010). *The proposal raises \$25 million over 10 years.*

Duty drawback on imported ethanol. Present law allows duties paid upon import to be reclaimed at a later date if the same or similar product is exported. Current law treats ethanol blended with gasoline the same as jet fuel. The proposal terminates that

treatment. Any drawback for ethanol blended with gasoline is still allowed. *The proposal is estimated to raise \$44 million over 10 years.*

Publicly traded partnership income treatment of alternative fuels. The proposal permits publicly traded partnerships to treat the income derived from the transportation or storage of ethanol and biodiesel and other fuels as qualifying income for purposes of the publicly traded partnership rules. *The proposal is estimated to cost \$69 million over 10 years.*

Technical corrections. The proposal makes certain technical modifications to the Jobs Bill of 2004, the Transportation Bill of 2005, and the Energy Policy Act of 2005. *No revenue effect.*

IV. Advanced Technology Vehicles

Extension of alternative vehicle credit. The proposal extends the advanced lean burn technology vehicle credit through 2012 and through 2016 for qualified fuel cell vehicles. The proposal also clarifies that a new qualified alternative fuel vehicle which weighs more than 14,000 pounds is eligible for the additional credit available to vehicles meeting certain emissions standards so long as the vehicle is certified as exceeding the most stringent standard applicable to the model year in which such vehicle was produced. *The proposal is expected to cost \$759 million over 10 years.*

Plug-in hybrid vehicle credit. The proposal establishes a new credit for each qualified plug-in vehicle placed in service during each taxable year by a taxpayer. The base amount of the credit is \$2,500. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt-hours of capacity, the credit amount is increased by \$400, plus another \$400 for each kilowatt-hour of battery capacity in excess of 5 kilowatt-hours, up to 16 kilowatt-hours. The maximum credit available for qualified plug-in vehicles is limited based on gross vehicle weight. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter after the quarter in which the total nationwide sales reaches 250,000. The credit ramps down in the following quarters. The proposal also creates a 10% investment tax credit, capped at \$2,500, for the cost of purchasing and installing a plug-in traction battery module used to convert a hybrid vehicle to a plug-in hybrid vehicle. The proposal disallows the tax credit for vehicles that claimed the hybrid tax credit in Section 30B. The proposal expires December 31, 2009. *The proposal is estimated to cost \$706 million over 10 years.*

Auxiliary power units. The proposal would eliminate the 12% excise tax on auxiliary power units, also known as idling reduction devices, and advanced insulation, units installed in refrigerator trucks that allow the refrigerated trailer to remain cold without idling. The exemption applies regardless of whether the device is factory installed or later added as an accessory. *The proposal is estimated to cost \$77 million over 10 years.*

V. Conservation and Energy Efficiency

Energy efficient existing homes credit. The proposal extends and modifies the 10% investment tax credit for two years (through December 31, 2009) for expenditures to improve the energy efficiency of an existing home. For existing homes, natural gas fired heat pumps are added to the list of qualified energy efficient building property eligible for a \$300 credit if it has a heating coefficient of performance of at least 1.1. *The proposal is estimated to cost over \$1.063 billion over 10 years.*

New energy efficient homes credit. The proposal extends for three years (through December 31, 2011) the energy efficient new homes credit, and permits the eligible contractor to claim the credit on a home built for personal use as a residence. *The proposal is estimated to cost \$157 million over 10 years.*

Energy efficient commercial buildings. The proposal extends the energy efficient commercial buildings deduction for five years (through December 31, 2013), and the deduction amount is increased to \$2.25 per square foot (\$0.75 in the case of subsystems). *This proposal is estimated to cost \$1.345 billion over 10 years.*

Energy efficient appliances. The proposal extends for two years (through December 31, 2009), adds natural gas fired heat pumps, and updates the standards for property qualifying for the credit. *The proposal is estimated to cost \$300 million over 10 years.*

VI. Accountability Studies

Cost benefit analysis of energy tax incentives. The proposal directs the Secretary to undertake a cost-benefit analysis of provisions enacted as part of the current legislation that use tax incentives to reduce the use of imported oil and to reduce the emissions of carbon dioxide and harmful air pollutants.

Effect of tax incentives on consumer goods. The proposal directs the Secretary to study the changes in the price of consumer goods that may result from the provisions enacted as part of the current legislation. Areas of study would include the effect on the price of foodstuffs, soaps, automobiles, and motor fuels.

Tax credit bonds. The proposal directs the Secretary to undertake a study of the utility of and the use of tax-credit bonds as a means of subsidizing the borrowing costs of the beneficiaries of such financing.

VII. Miscellaneous

Deduction for timber sales. The proposal allows a tax deduction for up to 60% of the gains from certain sales or exchanges of timber that occur after the date of enactment and before the end of the one-year period following the date of enactment. The proposal also

changes the real estate investment trust (REIT) rules for timber property. *The proposal is estimated to cost \$454 million over 10 years.*

Refund for improperly collected coal excise taxes. The proposal creates a new procedure under which certain coal producers and exporters may claim a refund of excise taxes imposed on coal exported from the United States. *The proposal is estimated to cost \$113 million over 10 years.*

Rural Renaissance Bonds. The proposal creates a new category of tax credit bonds with a total allocation of \$400 million for projects such as rural electric and telemedicine, rural broadband and other community projects. *The proposal is estimated to cost \$169 million over 10 years.*

VIII. Revenue Raising Proposals

Modification to Section 199. The proposal excludes gross receipts of major integrated oil companies derived from the sale, exchange or other disposition of oil, natural gas, or any primary product thereof from the domestic production deduction for purposes of Section 199. Primary products does not include petrochemicals, medicinal products, insecticides, and alcohols. *The proposal is estimated to raise \$9.433 billion over 10 years.*

Modification of Section 907. The proposal eliminates the distinction between foreign oil and gas extraction income (“FOGEI”) and foreign oil related income (“FORI”). FOGEI relates to upstream production to the point the oil leaves the wellhead. FORI is defined as all downstream processes once the oil leaves the wellhead (i.e. transportation, refining). Currently, FOGEI and FORI have separate foreign tax credit limitations. This proposal combines FOGEI and FORI into one foreign oil basket and applies the existing FOGEI limitation. *The proposal is estimated to raise \$3.187 billion over 10 years.*

Oil spill liability trust fund. The proposal extends the oil spill tax through December 31, 2017, increases the per barrel tax from 5 cents to 10 cents, and repeals the requirement that the tax be suspended when the unobligated balance exceeds \$2.7 billion. *The proposal is estimated to raise \$2.76 billion over 10 years.*

Elimination of refunds of oil spill liability tax. The proposal prevents the amount of fees and taxes that are deposited into the special purpose Federal Trust Funds from being refunded through the general fund of the Treasury. *Estimate to be provided by the Congressional Budget Office.*

OCS excise tax. The proposal would establish an excise tax on the removal price of any taxable crude oil or natural gas produced from Federal submerged lands on the OCS in the Gulf of Mexico pursuant to a Federal OCS lease. The removal price is defined as the amount for which the barrel of taxable crude oil or barrel-of-oil equivalent of natural gas is sold by the taxpayer. In the case of sales between related parties, the removal price is the constructive sales price of the oil or natural gas. Finally, there will be allowed as a

credit against the excise tax an amount equal to royalties paid under Federal law with respect to taxable crude oil or natural gas, with the credit not to exceed the tax paid. The excise tax would be set at 13%. The excise tax would apply to crude oil or natural gas removed after the date of enactment. *The proposal is estimated to raise \$10.684 billion over 10 years.*

Tax treatment of fuel leaving a foreign trade zone. The proposal would require excise tax be paid upon removal of fuel from a foreign trade zone. If the fuel is later exported, a credit or refund may be claimed. *The proposal is estimated to raise \$29 million over 10 years.*

Clarify penalty for sale of fuel failing EPA regulations. The proposal expands the penalty to include any fuel which does not meet Environmental Protection Agency standards and reaffirms that the Secretary is authorized to make the determination that the fuel does not comply with the applicable Environmental Protection Agency regulations and standards for purposes of asserting the penalty. *The proposal is estimated to raise less than \$500,000 over 10 years.*

Limit fuel credits to fuels consumed or sold for consumption in the U.S. The proposal requires, on a prospective basis, that the per-gallon tax incentives for alcohol fuels, biodiesel, renewable diesel, and alternative fuels be consumed or sold for consumption in the United States. *The proposal is estimated to raise \$62 million over 10 years.*

Tax treatment of alcohol and biodiesel fuel mixtures. The proposal adds qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures to the definition of taxable fuel as a type of diesel fuel. *The proposal is estimated to raise \$15 million over 10 years.*

Exclude denaturant from the alcohol fuels credit. The proposal excludes the volume of denaturant in the fuel for purposes of calculating the volume of alcohol eligible for the alcohol fuels credit. *The proposal is estimated to raise \$284 million over 10 years.*

Tax finished gasoline at the refinery gate. The proposal imposes a tax on finished gasoline upon removal from the refinery or entry into the United States and eliminates the bulk transfer exception. *The proposal is estimated to raise \$824 million over 10 years.*

Corporate inversions. This proposal revises the corporate inversion effective date of section 7874 of the American Jobs Creation Act (AJCA) from the AJCA date of March 4, 2003 to March 20, 2002. Section 7874 was enacted to stop U.S. corporations and partnerships from using inversion transactions to escape U.S. tax on their earnings. Section 7874 applies to two types of inversion transactions that occurred after March 4, 2003. In the first type of transaction, a U.S. corporation becomes a subsidiary of a foreign-incorporated entity and the former shareholders of the U.S. corporation own 80 percent or more of the foreign-incorporated entity (an “80-percent inversion”). These foreign-incorporated entities are treated as U.S. corporations for all U.S. income tax purposes. In the second type of transaction, former shareholders of the U.S. corporation

own 60 percent or more, but less than 80 percent, of the foreign-incorporated entity. In these transactions, the foreign-incorporated entity is treated as foreign, but any applicable corporate-level “toll-charge” taxes are not offset by tax attributes such as net operating losses or foreign tax credits. Section 7874 also applies inversion transactions involving certain partnerships. An exception applies for transactions that were substantially completed prior to March 4, 2003. Under this provision section 7874 would apply to treat foreign corporations as U.S. corporations if they completed an 80-percent inversion after March 20, 2002 but on or before March 4, 2003, subject to the same exception for substantially completed transactions that is contained in present law. The proposal is effective for tax years beginning after December 31, 2006. *The proposal is estimated to raise \$1.323 billion over 10 years.*