

**S. 3335**  
**The Jobs, Energy, Families, and**  
**Disaster Relief Act of 2008**

**ENERGY TAX PROVISIONS**

**A. Renewable Energy Incentives**

**Long-term Extension and Modification of Renewable Energy Production Tax Credit.** The bill extends the placed-in-service date for wind facilities for one year (through December 31, 2009). The bill also extends the placed-in-service date for three years (through December 31, 2011) for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; qualified hydropower; landfill gas; and trash combustion facilities. The bill also includes a new category of qualifying facilities that will benefit from the longer December 31, 2011 placed-in-service date – those that generate electricity from marine renewables (e.g., waves and tides). The bill caps the aggregate amount of tax credits that can be earned for these qualifying facilities placed in service after December 31, 2009 to an amount with a present value equal to 35% of the facility’s cost. The bill clarifies the availability of the credit with respect to certain sales of electricity to regulated public utilities, and updates the definition of an open-loop biomass facility, the definition of a trash combustion facility, and the definition of a non-hydroelectric dam. *The estimated cost of this proposal is \$7.046 billion over ten years.*

**Long-term Extension and Modification of Solar Energy and Fuel Cell Investment Tax Credit.** The bill extends the 30% investment tax credit for solar energy property and qualified fuel cell property and the 10% investment tax credit for microturbines for eight years (through 2016). It also increases the \$500 per half kilowatt of capacity cap for qualified fuel cells to \$1,500 per half kilowatt of capacity. The bill removes an existing limitation that prevents public utilities from claiming the investment tax credit. The bill would also provide a new 10% investment tax credit for combined heat and power systems. The bill also allows these credits to be used to offset the alternative minimum tax (AMT). *The estimated cost of this proposal is \$1.777 billion over ten years.*

**Long-term Extension and Modification of the Residential Energy-Efficient Property Credit.** The bill extends the credit for residential solar property for eight years (through 2016), and increases the annual credit cap (currently \$2,000) to \$4,000. The bill includes residential small wind equipment and geothermal heat pumps as property qualifying for this credit. The bill also allows the credit to be used to offset the AMT. *The estimated cost of this proposal is \$907 million over ten years.*

**Sales of Electric Transmission Property.** The bill extends the present-law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision allows gain on such sales to be recognized

ratably over an 8-year period. The rule applies to sales before January 1, 2010. *This proposal is revenue-neutral over ten years.*

**New Clean Renewable Energy Bonds (“CREBs”).** The bill authorizes \$2 billion of new clean renewable energy bonds to finance facilities that generate electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, qualified hydropower, landfill gas, marine renewable and trash combustion facilities. This \$2 billion authorization is subdivided into thirds: 1/3 will be available for qualifying projects of State/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives. *The estimated cost of this proposal is \$548 million over ten years.*

## ***B. Carbon Mitigation Provisions***

**Carbon Capture and Sequestration (CCS) Demonstration Projects.** The bill would provide \$1.5 billion of tax credits for the creation of advanced coal electricity projects and certain coal gasification projects that demonstrate the greatest potential for carbon capture and sequestration (CCS) technology. Of these \$1.5 billion of incentives, \$1.25 billion would be awarded to advanced coal electricity projects and \$250 million would be awarded to certain coal gasification projects. These tax credits would be awarded by Treasury through an application process, with applicants demonstrating the greatest CO<sup>2</sup> sequestration percentage receiving the highest priority. Applications will not be considered unless they can demonstrate that either their advanced coal electricity project would capture and sequester at least 65% of the facility’s CO<sup>2</sup> emissions or that their coal gasification project would capture and sequester at least 75% of the facility’s CO<sup>2</sup> emissions. Once these credits are awarded, recipients failing to meet these minimum levels of carbon capture and sequestration would forfeit these tax credits. *The estimated cost of this proposal is \$1.423 billion over ten years.*

**Solvency for the Black Lung Disability Trust Fund.** The bill would enact the President’s FY 2009 proposal to bring the Black Lung Disability Trust Fund out of debt. Under current law, an excise tax is imposed on coal at a rate of \$1.10 per ton for coal from underground mines and \$0.55 per ton for coal from surface mines (the aggregate tax per ton capped at 4.4 percent of the amount sold by the producer). Receipts from this tax are deposited in the Black Lung Disability Trust Fund, which is used to pay compensation, medical and survivor benefits to eligible miners and their survivors and to cover costs of program administration. The Trust Fund is permitted to borrow from the general fund any amounts necessary to make authorized expenditures if excise tax receipts do not provide sufficient funding. Reduced rates of excise tax apply after the earlier of December 31, 2013 or the date on which the Black Lung Disability Trust Fund has repaid, with interest, all amounts borrowed from the general fund of the Treasury. The President’s Budget proposes that the current excise tax rate should continue to apply beyond 2013 until all amounts borrowed from the general fund of the Treasury have been repaid with interest. After repayment, the reduced excise tax rates of \$0.50 per ton for coal from underground mines and \$0.25 per ton for coal from surface mines would apply (aggregate tax per ton capped at 2 percent of the amount sold by the producer). *The proposal is estimated to raise \$1.287 billion over ten years.*

**Refund of Certain Coal Excise Taxes Unconstitutionally Collected from Exporters.**

The Courts have determined that the Export Clause of the U.S. Constitution prevents the imposition of the coal excise tax on exported coal and, therefore, taxes collected on such exported coal are subject to a claim for refund. The bill would create a new procedure under which certain coal producers and exporters may claim a refund of these excise taxes that were imposed on coal exported from the United States. Under this procedure, coal producers or exporters that exported coal during the period beginning on or after October 1, 1990 and ending on or before the date of enactment of the bill, may obtain a refund (plus interest) from the Treasury of excise taxes paid on such exported coal and any interest accrued from the date of overpayment. *The estimated cost of this proposal is \$199 million over ten years.*

**Carbon Audit of the Tax Code.** The bill directs the Secretary of the Treasury to request that the National Academy of Sciences undertake a comprehensive review of the tax code to identify the types of specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects. *This proposal has no revenue effect.*

**C. Transportation and Domestic Fuel Security**

**Expansion of Allowance for Property to Produce Cellulosic Alcohol.** Under current law, taxpayers are allowed to immediately write off 50% of the cost of facilities that produce cellulosic ethanol if such facilities are placed in service before January 1, 2013. Consistent with other provisions in the bill that seek to be technology neutral, the bill would allow this write off to be available for the production of other cellulosic biofuels in addition to cellulosic ethanol. *This proposal is estimated to be revenue neutral over ten years.*

**Extension of Biodiesel Production Tax Credit; Extension and Modification of Renewable Diesel Tax Credit.** The bill extends for one year (through December 31, 2009) the \$1.00 per gallon production tax credits for biodiesel and the small biodiesel producer credit of 10 cents per gallon. The bill also extends for one year (through December 31, 2009) the \$1.00 per gallon production tax credit for diesel fuel created from biomass. The bill eliminates the current-law disparity in credit for biodiesel and agri-biodiesel and eliminates the requirement that renewable diesel fuel must be produced using a thermal depolymerization process. As a result, the credit will be available for any diesel fuel created from biomass without regard to the process used so long as the fuel is usable as home heating oil, as a fuel in vehicles, or as aviation jet fuel. The bill also clarifies that the \$1 per gallon production credit for renewable diesel is limited to diesel fuel that is produced solely from biomass. Diesel fuel that is created by co-processing biomass with other feedstocks (e.g., petroleum) will be eligible for the 50 cent per gallon tax credit for alternative fuels. Biodiesel that is imported and sold for export will not be eligible for the credit effective May 15, 2008. *The estimated cost of this proposal is \$401 million over ten years.*

**Plug-in Electric Drive Vehicle Credit.** The bill establishes a new credit for qualified plug-in electric drive vehicles. The base amount of the credit is \$3,000. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the

credit amount is increased by \$200, plus another \$200 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 15 kilowatt hours. 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 manufacturer records 60,000 sales. The credit is reduced in following calendar quarters. The credit is available against the alternative minimum tax (AMT). *The estimated cost of this proposal is \$1.056 billion over ten years.*

**Incentives for Idling Reduction Units and Advanced Insulation for Heavy Trucks.**

The bill provides an exemption from the heavy vehicle excise tax for the cost of idling reduction units, such as auxiliary power units (APUs), which are designed to eliminate the need for truck engine idling (e.g., to provide heating, air conditioning, or electricity) at vehicle rest stops or other temporary parking locations. The bill also exempts the installation of advanced insulation, which can reduce the need for energy consumption by transportation vehicles carrying refrigerated cargo. Both of these exemptions are intended to reduce carbon emissions in the transportation sector. *The estimated cost of this proposal is \$95 million over ten years.*

**Fringe Benefit for Bicycle Commuters.** The bill allows employers to provide employees who commute to work by bicycle limited fringe benefits to offset the costs of such commuting (e.g., storage). *The estimated cost of this proposal is \$10 million over ten years.*

**Extension and Increase of Alternative Refueling Stations Tax Credit.** The bill increases the 30% alternative refueling property credit (capped at \$30,000) to 50% (capped at \$50,000). The provision provides a tax credit to businesses (e.g., gas stations) that install alternative fuel pumps, such as fuel pumps that dispense E85 fuel. The bill also extends this credit through the end of 2010. *The estimated cost of this proposal is \$154 million over ten years.*

**Publicly Traded Partnership Income Treatment of Alternative Fuels.** The proposal permits publicly traded partnerships to treat the income derived from the transportation, storage or marketing of certain alternative fuels as qualifying income for purposes of the publicly traded partnership rules. *The proposal is estimated to cost \$61 million over ten years.*

**D. Energy Conservation and Efficiency**

**Qualified Energy Conservation Bonds.** The bill creates a new category of tax credit bonds to finance State and local government initiatives designed to reduce greenhouse emissions. There is a national limitation of \$3 billion, allocated to States, municipalities and tribal governments. *The estimated cost of this proposal is \$1.025 billion over ten years.*

**Extension and Modification of Credit for Energy-Efficiency Improvements to Existing Homes.** The bill extends the tax credits for energy-efficient existing homes for one year (through December 31, 2008) and includes energy-efficient biomass fuel stoves as a new class of energy-efficient property eligible for a consumer tax credit of \$300 and

clarifies the efficiency standard for water heaters. *The estimated cost of this proposal is \$1.064 billion over ten years.*

**Extension of Energy-efficient Commercial Buildings.** The bill extends the energy-efficient commercial buildings deduction for five years (through December 31, 2013). *The estimated cost of this proposal is \$891 million over ten years.*

**Modification and Extension of Energy-Efficient Appliance Credit.** The bill would modify the existing energy-efficient appliance credit and extend this credit for three years (through the end of 2010). *The estimated cost of this proposal is \$323 million over ten years.*

**Accelerated Depreciation for Smart Meters and Smart Grid Systems.** The bill would provide accelerated depreciation for smart electric meters and smart electric grid systems. Under current law, taxpayers are generally able to recover the cost of this property over the course of 20 years. The bill would cut the cost recovery time in half by allowing taxpayers to recover the cost of this property over a 10-year period. *The estimated cost of this proposal is \$921 million over ten years.*

**Extension and Modification of Qualified Green Building and Sustainable Design Project Bond.** The bill would extend the authority to issue qualified green building and sustainable design project bonds through the end of 2012. Authority to issue these bonds is currently set to expire on September 30, 2009. The bill would also clarify the application of the reserve account rules to multiple bond issuances. *The estimated cost of this proposal is \$45 million over ten years.*

**Investments in Recycling.** An additional provision allows companies to claim accelerated depreciation for the purchase of equipment used to collect, distribute or recycle a variety of commodities. *The proposal is estimated to cost \$162 million over ten years.*

### **ALTERNATIVE MINIMUM TAX (AMT)**

**AMT Patch.** Currently, a taxpayer receives an exemption of \$33,750 (individuals) and \$45,000 (married filing jointly) under the AMT. Current law also does not allow personal credits against the AMT. At the end of last year, H.R. 3996 increased the exemptions to \$44,350 and \$66,250, respectively, and allowed the personal credits against the AMT to hold the number of taxpayers subject to the AMT at bay. The provision expired December 31, 2007. The proposal increases the exemption amounts to \$46,200 (individuals) and \$69,950 (married filing jointly) for 2008. The proposal will also allow the personal credits against the AMT. *The estimated cost of this proposal is \$61.291 billion over ten years.*

**Extension and Modification of AMT Credit Allowance Against Incentive Stock Options (ISOs).** Many companies offer Incentive Stock Options (ISOs) as compensation. Under the regular tax, ISOs are not taxed upon exercise. Under the AMT, however, a taxpayer must pay tax on the stock value when the option is exercised. The

economic downturn in 2000 resulted in many individuals having to pay tax on “phantom income” because the stock prices dropped dramatically since the date of exercise. In 2006, Congress provided relief for these situations, but additional relief is needed to correct this problem. Under current law, an individual is allowed a refundable AMT credit amount that is the greater of (1) the lesser of \$5,000 or the unused AMT credit amount or (2) 20 percent of the unused AMT tax credit. The AMT credit amount is reduced for those with adjusted gross income (AGI) above \$150,000 (joint filers) and \$100,000 (single filers). The proposal would allow 50% of long-term unused minimum tax credits to be refunded over each of two years instead of 20% over each of five years, eliminate the income phase-out, and abate any underpayment of tax outstanding on the date of enactment related to incentive stock options and the AMT including interest. *The estimated cost of eliminating the income phase-out is \$966 million over ten years and for the incentive stock option proposal is \$1.325 billion over ten years. The total estimated cost of this proposal is \$2.291 billion over ten years.*

### **INDIVIDUAL EXTENDER PROVISIONS**

**Deduction of State and Local General Sales Taxes.** The American Jobs Creation Act (AJCA) provided that a taxpayer may elect to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction. The provision expired on December 31, 2007. The proposal would extend the provision to the end of 2008. The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of this proposal is \$1.742 billion over ten years.*

**Qualified Tuition Deduction.** The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) created an above-the-line tax deduction for qualified higher education expenses. The maximum deduction was \$4,000 for taxpayers with AGI of \$65,000 or less (\$130,000 for joint returns) or \$2,000 for taxpayers with AGI of \$80,000 or less (\$160,000 for joint returns). This deduction expired on December 31, 2007. The proposal would extend the deduction to the end of 2008. *The estimated cost of this proposal is \$1.223 billion over ten years.*

**Treatment of Certain Dividends of Regulated Investment Companies (RICs).** The bill extends a provision allowing a RIC, under certain circumstances, to designate all or a portion of a dividend as an “interest-related dividend,” by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. In addition, an interest-related dividend received by a foreign person generally is exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442 of the Code. The proposal extends the treatment of interest-related dividends and short-term capital gain dividends received by a RIC to taxable years of the RIC beginning before January 1, 2009. The proposal is effective for dividends with respect to taxable years of RICs beginning after December 31, 2007. *The estimated cost of this proposal is \$71 million over ten years.*

**IRA Rollover Provision.** The Pension Protection Act of 2006 (PPA) created a provision allowing taxpayers to make tax-free contributions from their IRA plans to qualified charitable organizations. This tax benefit expired on December 31, 2007. The proposal

would extend the provision through 2008. The proposal is effective for distributions after December 31, 2007. *The estimated cost of this proposal is \$465 million over ten years.*

**Teacher Expense Deduction.** The bill extends the provision allowing teachers an above-the-line deduction for up to \$250 for educational expenses. The provision expired on December 31, 2007. The proposal extends the deduction to the end of 2008. The proposal is effective for taxable years beginning after December 31, 2007. *The estimated cost of this proposal is \$190 million over ten years.*

**Estate Tax Look-Through for Certain RIC Stock held by Nonresidents.** Although stock issued by a domestic corporation generally is treated as property within the United States, stock of a RIC that was owned by a nonresident non-citizen is not deemed property within the United States in the proportion that, at the end of the quarter of the RIC's taxable year immediately before a decedent's date of death, the assets held by the RIC are debt obligations, deposits, or other property that would be treated as situated outside the United States if held directly by the estate (the "estate tax look-through rule for RIC stock"). This estate tax look-through rule for RIC stock does not apply to estates of decedents dying after December 31, 2007. The proposal permits the estate tax look-through rule for RIC stock to apply to estates of decedents dying before January 1, 2009. The proposal is effective for decedents dying after December 31, 2007. *This proposal has a negligible revenue effect.*

**Extend the Treatment of RICs as "Qualified Investment Entities".** The proposal would extend the inclusion of a RIC within the definition of a "qualified investment entity" under section 897 of the Code through December 31, 2008, for those situations in which that inclusion otherwise expired at the end of 2007. The proposal is effective on January 1, 2008. *The estimated cost of this proposal is \$10 million over ten years.*

**Group Legal Service Plans.** Present law does not allow an exclusion for amounts received under qualified group legal service plans. The proposal provides a one-year exclusion from gross income for amounts received from group legal service plans (tax year 2008). The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of the proposal is \$40 million over ten years.*

## **BUSINESS EXTENDER PROVISIONS**

**Research and Development Credit.** The bill would extend the research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. The provision expired December 31, 2007. The proposal would extend current law to the end of 2008, increase the alternative simplified credit from 12% to 14%, and repeal the alternative incremental research credit. The proposal is effective for amounts paid or incurred after December 31, 2007. *The estimated cost of this proposal is \$9.897 billion over ten years.*

**Indian Employment Credit.** The bill allows a business tax credit for employers of qualified employees that work and live on or near an Indian reservation. The credit is for wages and health insurance costs paid to qualified employees (up to \$20,000) in the

current year over the amount paid in 1993. Wages for which the Work Opportunity Tax Credit is available are not qualified wages for the Indian employment tax credit. This provision expired on December 31, 2007. The proposal would extend the provision to the end of 2008. The proposal is effective for taxable years beginning after December 31, 2007. *The estimated cost of this proposal is \$59 million over ten years.*

**New Markets Tax Credit.** Current law provides a credit for taxpayers who hold a qualified equity investment on a credit allowance date. The provision expires December 31, 2008. The proposal would extend the provision through 2009. The proposal also adds counties whose average wage is 75% or less than the national average located in states whose average wage is less than 75% of the national average to the definition of qualifying low-income communities. The proposal is effective for investments made after December 31, 2008. *The estimated cost of this proposal is \$1.315 billion over ten years.*

**Extend and Expand 50% Tax Credit for Certain Expenditures for Maintaining Railroad Tracks.** The railroad maintenance credit provides Class II and Class III railroads (short-line railroads) with a tax credit equal to 50% of gross expenditures for maintaining railroad tracks that they own or lease. The credit expired on December 31, 2007. The proposal extends the provision to the end of 2008, and allows the credit against the AMT. The proposal is effective for expenses paid or incurred during the taxable year beginning after December 31, 2007. *The estimated cost of this proposal is \$165 million over ten years.*

**Mine Rescue Team Training Credit.** Present law provides a credit of up to \$10,000 for the training of mine rescue team members. The provision expires on December 31, 2008. The proposal extends present law to the end of 2009. *The estimated cost of the proposal is \$4 million over ten years.*

**15-Year Straight-Line Cost Recovery for Qualified Leasehold, Restaurant, and Retail Improvements.** In AJCA, Congress shortened the cost recovery of certain leasehold improvements and restaurant property from 39 to 15 years. This shortened cost recovery period expired December 31, 2007. The proposal would extend the provision to the end of 2008 and allow retail owners and new restaurants to receive the shortened recovery period. The extension is effective for property placed in service after December 31, 2007. The allowance of the 15 year depreciation to retail and new restaurants is effective for property placed in service after the date of enactment. *The estimated cost of this proposal is \$6.728 billion over ten years.*

**7-Year Recovery Period for Certain Motorsports Racetrack Property.** The bill extends a special 7-year cost recovery period or property used for land improvement and support facilities at motorsports entertainment complexes. Absent this provision, the cost recovery period for these facilities would be 15 years. The provision expired on December 31, 2007. This proposal extends the provision to the end of 2009. The proposal is effective for property placed in service after December 31, 2007. *The estimated cost of this proposal is \$48 million over ten years.*

**Accelerated Depreciation for Business Property on Indian Reservation.** A special depreciation recovery period applies to qualified Indian reservation property placed in service before January 1, 2008. In general, qualified Indian reservation property is property used predominantly in the active conduct of a trade or business within an Indian reservation, which is not used outside the reservation on a regular basis and was not acquired from a related person. This proposal would extend the placed-in-service date for the special depreciation recovery period for qualified Indian reservation property to the end of 2008. The proposal is effective for property placed in service after December 31, 2007. *The estimated cost of this proposal is \$151 million over ten years.*

**Election to Expense Advanced Mine Safety Equipment.** Present law provides 50% immediate expensing for qualified underground mine safety equipment (that goes above and beyond current safety equipment requirements), including: (1) communications technology enabling miners to remain in constant contact with an individual above ground; (2) electronic tracking devices that enable an individual above ground to locate miners in the mine at all times; (3) self-contained self-rescue emergency breathing apparatuses carried by the miners and additional oxygen supplies stored in the mine; and (4) mine atmospheric monitoring equipment to measure levels of carbon monoxide, methane, and oxygen in the mine. This provision will encourage mining companies to invest in safety equipment that goes above and beyond current safety equipment requirements. The provision expires December 31, 2008. The proposal would extend present law to the end of 2009. *The proposal is estimated to be revenue neutral over ten years.*

**Expensing of “Brownfields” Environmental Remediation Costs.** The bill extends a provision allowing for the expensing of costs associated with cleaning up hazardous sites. The provision expired on December 31, 2007. This proposal extends present law to the end of 2008. The proposal is effective for property placed in service after December 31, 2007. *The estimated cost of this proposal is \$178 million over ten years.*

**Deduction Allowable with Respect to Income Attributable to Domestic Production Activities in Puerto Rico.** The bill extends a provision allowing a section 199 domestic production activities deduction for activities in Puerto Rico. This provision expired on December 31, 2007. The proposal would extend the provision to the end of 2008. The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of this proposal is \$116 million over ten years.*

**Modification of Tax Treatment of Certain Payments to Controlling Exempt Organizations.** In general, interest, rent, royalties, and annuities paid to a tax-exempt organization from a controlled entity are treated as unrelated business income of tax-exempt organizations. The PPA provided that if a payment to a tax-exempt organization by a controlled entity is less than fair market value, then the payment is excludable from the tax-exempt organization’s unrelated business income. The provision expired on December 31, 2007. The proposal would extend the provision to the end of 2008. The proposal is effective for payments received or accrued after December 31, 2007. *The estimated cost of this proposal is \$35 million over ten years.*

**Qualified Zone Academy Bonds (QZABs).** QZABs help school districts with low-income populations save on interest costs associated with public financing school (below the post-secondary level) renovations and repairs. QZABs cannot be used for new construction but can be used for the following activities: renovating and repairing buildings, investing in equipment and up-to-date technology, developing challenging curricula, and training quality teachers. The QZAB provision expired on December 31, 2007. The proposal would extend this provision to the end of 2008, and modify the arbitrage restrictions. The proposal is effective for obligations issued after December 31, 2007. *The estimated cost of this proposal is \$201 million over ten years.*

**Tax Incentives for Investments in the District of Columbia.** The bill provides for the designation of certain economically depressed census tracts within the District as the DC Enterprise Zone. Businesses and individual residents within this enterprise zone are eligible for special tax incentives. First time home buyers receive a \$5,000 credit for DC. The bill extends the provision through the end of 2008. The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of this proposal is \$129 million over ten years.*

**American Samoa Economic Development Credit.** Certain domestic corporations operating in American Samoa were eligible for a possessions tax credit, which offset their U.S. tax liability on income earned in American Samoa from active business operations, sales of assets used in a business, or certain investments in American Samoa. Further, the credit was held to an economic activity-based limit, measuring the credit against wages, depreciation, and American Samoa income taxes. The provision expired December 31, 2007. The proposal extends the provision to the end of 2008. The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of this proposal is \$16 million over ten years.*

**Enhanced Charitable Deduction for Food Inventory.** The bill would extend for one year, through 2008, the provision allowing businesses to claim an enhanced deduction for the contribution of food inventory. The proposal would also expand the rule to allow farmers to treat the basis of the contributed food as being equal to 25 percent of the food's fair market value. The proposal is effective for contributions made after December 31, 2007. *The estimated cost of this proposal is \$87 million over ten years.*

**Enhanced Charitable Deduction for Contributions of Book Inventory to Schools.** The bill would extend a provision that allowing C corporations an enhanced charitable deduction for donations of books to schools, public libraries and literacy programs. This provision expired after December 31, 2007. The proposal extends the provision to the end of 2008. The proposal is effective for contributions made after December 31, 2007. *The estimated cost of this proposal is \$22 million over ten years.*

**Enhanced Charitable Deduction for Qualified Computer Contributions.** The bill would extend for one year, through 2008, a provision that encourages businesses to contribute computer equipment and software to elementary, secondary, and post-secondary schools by allowing an enhanced deduction for such contributions. The proposal is effective for contributions made after December 31, 2007. *The estimated cost of this proposal is \$252 million over ten years.*

**Basis Adjustment to Stock of an S Corporation Making Charitable Contributions of Property.** Prior to the PPA, if an S corporation made a contribution to a charity, shareholders reduced the basis in their stock by their pro rata share of the fair market value of the contribution. The Pension Protection Act provided the amount of a shareholder's basis reduction in the S corporation stock will be equal to the shareholder's pro rata share of the adjusted basis of the contributed property. The provision expired December 31, 2007. The proposal would extend the provision to the end of 2008. The proposal would also make a technical correction clarifying the application of this provision. The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of this proposal is \$63 million over ten years.*

**Extend Work Opportunity Tax Credit (WOTC) for Hurricane Katrina Employees.** The proposal extends through August 28, 2008 the work opportunity tax credit for those employed within the Hurricane Katrina core disaster area. The proposal is effective on August 28, 2007. *The estimated cost of this proposal is \$16 million over ten years.*

**Exception under Subpart F for Active Financing Income.** The U.S. parent of a foreign subsidiary engaged in a banking, financing, or similar business is eligible for deferral of tax on such subsidiary's earnings if the subsidiary is predominantly engaged in such business and conducts substantial activity with respect to such business. The subsidiary must pass an entity level income test to demonstrate that the income is active income and not passive income. The provision expires December 31, 2008. The proposal would extend the provision to the end of 2009. The proposal is effective for tax years beginning after December 31, 2008. *The estimated cost of this proposal is \$3.97 billion over ten years.*

**Look-Through Treatment of Payments between Related CFCs under the Foreign Personal Holding Company Rules.** The bill allows deferral for certain payments (interest, dividends, rents and royalties) between commonly controlled foreign corporations (CFC). This provision allows U.S. taxpayers to deploy capital from one CFC to another without triggering U.S. tax. The provision expires December 31, 2008. The proposal extends present law to the end of 2009. The proposal is effective for tax years beginning after December 31, 2008. *The estimated cost of this proposal is \$611 million over ten years.*

**Special Expensing Rules for Certain Film and Television Productions.** Under current law, a producer can elect to take a single-year deduction of up to \$15 million in production costs incurred in the U.S. If the production costs are over \$15 million, this deduction does not apply. The maximum deduction is increased to \$20 million if the costs are significantly incurred in economically depressed areas. No other depreciation or amortization is allowed for a production for which this deduction is taken. The provision expires December 31, 2008. The proposal would extend the provision to the end of 2009. The proposal is effective for qualified film and television productions commencing after December 31, 2008. *The estimated cost of this proposal is \$10 million over ten years.*

**Wool Trust Fund.** The bill would extend a provision that reduces import duties on a limited quantity of imported wool fabrics and places duties otherwise collected on the import of certain wool products into the Wool Trust Fund, which promotes the competitiveness of American wool. The provision is extended for five years. *The estimated cost of the proposal is \$148 million over ten years.*

## **TAX ADMINISTRATION EXTENDER PROVISIONS**

**Permanent Authority to Disclose Information Related to Terrorist Activities.** The bill would permanently extend the current-law terrorist activity provisions. The proposal is effective for disclosures after December 31, 2007. *This proposal is estimated to have no revenue effect.*

**Permanent Authority for Undercover Operations.** IRS's authorization to use proceeds it receives from undercover operations to offset necessary expenses incurred in such operations expires on December 31, 2007. Undercover operations are an integral part of IRS efforts to detect and prove noncompliance. The temporary status of this provision creates uncertainty as the IRS plans its undercover efforts from year to year. The proposal permanently authorizes the IRS to return funds collected through undercover operations back into the IRS undercover program. The proposal is effective on the date of enactment. *The proposal raises less than \$500,000 over ten years.*

**Temporary Increase in Limit on Cover over of Rum Excise Tax Revenues to Puerto Rico and the Virgin Islands.** The present law imposes a \$13.50 per proof gallon excise tax on distilled spirits produced in or imported into the United States. The Code provides a payment to Puerto Rico and the Virgin Islands of the excise tax on rum imported into the United States. The payment is limited to \$10.50 per proof gallon. This was increased to \$13.25 per proof gallon during the period July 1, 1999 through December 31, 2007. The proposal would extend the provision to the end of 2008. The proposal is effective for articles brought into the United States after December 31, 2007. *The estimated cost of this proposal is \$192 million over ten years.*

## **ADDITIONAL RELIEF**

### **A. Individual Tax Relief**

**Child Tax Credit.** Currently, a taxpayer receives \$1,000 tax credit for each qualifying child under the age of 17. If the amount of a taxpayer's child tax credit is greater than the amount of the taxpayer's income tax, the taxpayer may receive a refund if the income threshold is met. EGTRRA set the income threshold for child tax credit refundability at \$10,000 (indexed). The threshold for 2008 is \$12,050. The proposal lowers the refundable threshold for the child tax credit to \$8,500 for the 2008 tax year. The proposal is effective for tax years beginning after December 31, 2007. *The estimated cost of the proposal is \$3.129 billion over ten years.*

**Income averaging for Exxon Valdez litigation amounts.** The bill would allow commercial fishermen and other individuals whose livelihoods were negatively impacted by the 1989 Exxon Valdez oil spill to average any settlement or judgment-related income that they receive in connection with pending litigation in the federal courts over three years for federal tax purposes. The bill would also allow these individuals to use these funds to make contributions to retirement accounts. The proposal is effective on the date of enactment. *The estimated cost of the proposal is \$49 million over ten years.*

**B. Business Relief**

**Provisions related to film and television productions.** Under current law, many film and television show production companies are unable to take advantage of the domestic production deduction. The proposal allows more film and television show production companies to use the domestic production deduction, which will encourage more production of films and television productions. *This estimated cost of the proposal is \$468 million over ten years.*

**Excise Tax Exemption for Wooden Practice Arrows Used by Children.** Current law imposes an excise tax of 39 cents, adjusted for inflation, on the first sale by the manufacturer, producer, or importer of any shaft of a type used to produce certain types of arrows. This proposal would exempt from the excise tax any shaft consisting of all natural wood with no laminations or artificial means to enhance the spine of the shaft used in the manufacture of an arrow that measures 5/16 of an inch or less and is unsuited for use with a bow with a peak draw weight of 30 pounds or more. The proposal is effective on the date of enactment. *The estimated cost of the proposal is \$2 million over ten years.*

**Mental Health Parity.** This bill would require private insurance plans that offer mental health benefits as part of the coverage to offer such benefits on par with the medical-surgical benefits. Any cost-sharing or benefit limits imposed on mental health services must not be any more restrictive than those imposed on med-surg services. *The proposal is estimated to cost \$3.575 billion over 10 years.*

**C. Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer.** The proposal changes the standards for imposition of the tax return preparer penalty. The preparer standard for undisclosed positions is reduced to "substantial authority." The preparer standard for disclosed positions is "reasonable basis." For tax shelters and reportable transactions to which section 6662A applies (i.e., listed transactions and reportable transactions with significant avoidance or evasion purposes), a tax return preparer is required to have a reasonable belief that such a transaction was more likely than not to be sustained on the merits. The proposal is effective for returns prepared after May 25, 2007. *The estimated cost of the proposal is \$22 million over ten years.*

**D. Secure Rural Schools**

**Reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 and Payment in Lieu of Taxes.** The bill would reauthorize the Secure Rural Schools program through 2011. It also adjusts the funding distribution formula to make it more equitable, by taking into account historic payment levels to counties, average income levels in counties and acreage of federal land. Finally, the provision also provides for full funding for the Payment in Lieu of Taxes program for 2009. *The estimated cost of the proposal is \$3.264 billion over ten years.*

**Uniform Definition of a Qualifying Child.** The proposal would restore eligibility for the earned income credit to certain lower-income siblings while eliminating a tax planning opportunity for more affluent families, and was part of the President's FY 2009 budget. The proposal would provide that a taxpayer is not a qualifying child of another individual if that taxpayer is older than the individual. The exception to this rule is if the individual is a sibling and the taxpayer is permanently or totally disabled. The proposal would also provide that if an individual is married and files a joint return (unless that return is solely as a claim for refund), that individual is not a qualifying child for the child-related tax incentives (e.g., child tax credit). The proposal would also provide that if a parent resides with his child for over half the year, only that parent is eligible to claim the child as a qualifying child. The parent, however, can waive the child-related tax incentives to another member of the household who has a higher AGI and is eligible for the child tax incentive. The proposal would also provide that a dependent is not eligible to claim the child-related tax incentives. *This proposal raises \$1.749 billion in revenues over ten years. The proposal raises \$1.402 billion over ten years in negative outlays. The proposal raises a total of \$3.151 billion over ten years.*

## **DISASTER RELIEF**

**Qualified Disaster Expenses.** Environment remediation expenditures incurred after December 31, 2007 are capitalized (expired section 198 allowed current expensing). Demolition costs of buildings are capitalized under section 280B. Debris removal and repairs costs are either currently expensed or capitalized depending on a facts and circumstances test under section 263(a). The proposal allows disaster victims to write off and immediately recover demolition, clean up, repair, and environmental remediation expenses. Under current law, taxpayers may be required to capitalize these expenses and recover the costs over an extended period of time. The provision is effective for qualified disasters occurring after December 31, 2007 and before January 1, 2010. *The proposal is estimated to cost \$43 million over ten years.*

**Treatment of net operating losses attributable to Qualified Disaster Casualty expenses.** Net operating losses may be carried back two years under section 172(b)(1). The proposal extends from two to five years the time period taxpayers can claim casualty losses or qualified disaster expenses. When taxpayers carry losses back to prior years, they receive a refund of the taxes that they paid in the earlier year. This prompt refund can help them reinvest in their businesses or make ends meet in the aftermath of a disaster. The provision is effective for qualified disasters occurring after December 31,

2007 and before January 1, 2010. *The proposal is estimated to cost \$183 million over ten years.*

**Mortgage Revenue Bonds.** Section 143(d) requires that 95 percent of net proceeds of mortgage revenue bonds are used to finance residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed. The proposal permits states to issue tax-exempt bonds to finance low-interest loans to taxpayers whose principal residence has been damaged as a result of a disaster. Disaster victims could use these low-interest loans to repair or reconstruct their homes. The provision is effective for qualified disasters occurring after December 31, 2007 and before January 1, 2010. *The proposal is estimated to cost \$72 million over ten years.*

**Individual Loss Provision.** Individual casualty losses are itemized deductions to extent they exceed \$100 per casualty floor and 10 percent of AGI under section 165(h)(1) and (2). The proposal reforms casualty loss rules to allow more disaster victims to claim individual property losses. Under current law, taxpayers can only claim a loss that exceeds \$100 and 10 percent of the taxpayer's adjusted gross income. This bill would waive the restrictive 10 percent rule, raise the \$100 floor to \$500, and allow non-itemizers to use these losses as a standard deduction. The provision is effective for qualified disasters occurring after December 31, 2007 and before January 1, 2010. *The proposal is estimated to cost \$835 million over ten years.*

**Qualified Disaster Recovery Assistance Distributions.** The proposal waives the 10 percent penalty tax if a distribution from an individual retirement account ("IRA") or tax favored retirement plan (e.g., Code sections 401(k), 403(b), or 457(b) plans) is considered a qualified Disaster Recovery Assistance distribution ("qualified distribution"). A distribution is considered a qualified distribution if it is made on or after the Presidentially-declared disaster date ("applicable declaration date") and before January 1, 2010 and is made to an individual whose principal residence on the applicable declaration date is located in a Presidentially-declared disaster area and who sustained an economic loss by reason of the disaster. Other principal features include the following: (i) the waiver is limited to amounts up to \$100,000; (ii) the mandatory withholding rules applicable to eligible rollover distributions would not apply; (iii) participants receiving a qualified distribution would be permitted to spread the income tax resulting from receipt of the distribution ratably over three years; and (iv) amounts distributed may be recontributed to the plan over a three-year period following the distribution and such recontributed amounts would not be includible in income in the tax year in which the distribution was made (e.g., if a participant received a qualified distribution in 2008 and subsequently re-contributed the distribution amount in 2009, the participant may file an amended return requesting a refund for the amount taxable in 2008). The proposal is effective for distributions made on or after the applicable disaster date and before January 1, 2010. *The estimated cost of the proposal is \$166 million over ten years.*

**Recontribution of Withdrawals for Home Purchases.** The proposal allows distributions for home purchases that were made from a Code section 401(k) or 403(b) plan or IRA after the date which is 6 months before the applicable declaration date and

before the day after the applicable declaration date and that were not finalized because of the tornadoes and floods giving rise to the designation of the area as a disaster area to be 2 re-contributed to the plan or IRA tax-free (i.e., the recontributions would be treated as rollovers). Amounts must be re-contributed within 4 months from the date of enactment of this bill in order to receive favorable tax treatment. The proposal is effective for distributions made after the date which is six months before the applicable disaster date and before the date which is the day after the applicable disaster date. *The proposal has a negligible revenue effect.*

**Loans from Qualified Plans.** The proposal effectively doubles the limitation on loans from a 401(k), 403(b), or a governmental 457(b) plan by allowing participants located in a Presidentially-declared disaster area and who sustained economic loss by reason of the tornadoes and floods giving rise to the designation of the area as a disaster area to receive loans up to the lesser of \$100,000, or 100 percent of the vested accrued benefit for loans made after the date of enactment and before January 1, 2010. In addition, outstanding loan payments due on or after the applicable declaration date and before January 1, 2010 may be deferred an additional 12 months, with appropriate adjustments for interest. *The proposal has a negligible revenue effect over ten years.*

**Additional Personal Exemption for Housing Victims.** Current law provides a personal exemption for taxpayers, their spouses, and dependents. The proposal allows taxpayers who house up to four dislocated persons from the Presidentially-declared disaster for a minimum of sixty days in their principal residences an additional personal exemption of \$500 per dislocated person (maximum additional personal exemption increase of \$2,000). Family members (other than spouses and dependents) staying with the taxpayer may qualify, and the housing must be provided rent-free. This proposal would not affect any deductions or exemptions for the dislocated person on the dislocated person's tax return. The deduction can be claimed in 2008 and 2009, but cannot be claimed in both years with respect to the same person. The proposal is effective for taxable years beginning in 2008 or 2009. *The estimated cost of the proposal is \$76 million over ten years.*

**Exclusion for Certain Cancellations of Indebtedness.** Under current law, gross income generally includes any amount realized from the discharge of indebtedness. The proposal ensures that individuals are not taxed on personal debt that is discharged in response to damage suffered from the Presidentially-declared disaster. For example, if a house is damaged or destroyed and the mortgage lender discharges all or part of this mortgage debt, the amount discharged is not treated as income as a result of the proposal. The proposal is effective for discharges made on or after the applicable disaster date and before January 1, 2010. *The estimated cost of the proposal is \$68 million over ten years.*

**Extension of Replacement Period for Property Lost.** Present law allows taxpayers not to recognize gain with respect to homes that are damaged or destroyed as a result of a Presidentially-declared disaster if the taxpayer replaces the property within a four-year period. Business property that is destroyed must be replaced within a two-year period to avoid gain recognition. The proposal extends the replacement period to five years for principal residences and business property that was damaged or destroyed within any Presidentially-declared disaster area. The extended replacement period applies to principal residences and business property, and the replacement property must be located

in a disaster area. The proposal is effective on the date of enactment. *The estimated cost of the proposal is \$248 million over ten years.*

**Employee Retention Credit.** This proposal provides a 40 percent tax credit for wages paid up to \$6,000 if paid after the applicable disaster date, and before January 1, 2010, by employers with 200 or fewer employees located in a Presidential disaster area who continue to pay their employees while their business is inoperable. The proposal is effective for wages paid or incurred after the applicable disaster date and before January 1, 2009. *The estimated cost of the proposal is \$642 million over ten years.*

**Temporary Suspension of Limitations on Charitable Contributions.** The amount allowed as a charitable deduction in any taxable year may not exceed ten percent of the corporation's taxable income or fifty percent of an individual's adjusted gross income. The proposal temporarily waives these limits regarding charitable cash contributions dedicated to Presidentially-declared disaster relief efforts. The proposal is effective for contributions paid during the period beginning on the earliest applicable disaster date for all States and ending on December 31, 2009. *The estimated cost of the proposal is \$1.742 billion over ten years.*

**Increase in Standard Mileage Rate for Charitable Use of Vehicles.** The mileage rate individuals may use to compute a tax deduction for personal vehicle expenses associated with charitable work is statutory and has not been increased since 1997 and is currently at 14 cents per mile. For a taxpayer assisting in relief efforts related to the Presidentially-declared disaster, the proposal sets the charitable mileage rate at approximately 35 cents per mile, which is seventy percent of the standard business mileage rate, beginning on the applicable disaster date and ending on December 31, 2009. *The estimated cost of the proposal is \$52 million over ten years.*

**Exclusion from Income of Mileage Reimbursements for Charitable Volunteers.** In general, reimbursements received for operating expenses of a personal vehicle used in connection with charitable work in excess of the statutory charitable mileage rate are taxable income to the recipient. However, reimbursements for charitable mileage attributable to the Presidentially-declared disaster up to the amount of the standard business mileage rate will not be considered taxable income through December 31, 2009. *The estimated cost of the proposal is \$4 million over ten years.*

**Restructuring of New York Liberty Zone Tax Credits.** The bill would implement a proposal included in the President's FY 2009 Budget to provide the City of New York and the State of New York with tax credits for expenditures made for transportation infrastructure projects connecting with the New York Liberty Zone. *The estimated cost of this proposal is \$1.117 billion over ten years.*

## **TRANSPORTATION AND INFRASTRUCTURE**

**Highway Trust Fund Fix.** This proposal would add \$8.017 billion to the Highway Trust Fund, to avert a funding shortfall in the coming fiscal year. This fix is needed to keep as many as 380,000 good-paying jobs available to American workers, and to sustain

infrastructure projects that will make the U.S. highway and bridge system safer. This proposal passed the House of Representatives on July 23, 2008, by a vote of 387 to 37. *This proposal has no revenue effect.*

## **REVENUE PROPOSALS**

**Current Inclusion of Deferred Compensation Paid by Certain Tax Indifferent Parties.** The bill would tax individuals on a current basis if such individuals receive deferred compensation from a tax indifferent party. Current law generally allows executives and other employees to defer paying tax on compensation until the compensation is paid. This deferral is made possible by rules that require the corporation paying the deferred compensation to defer the deduction that relates to this compensation until the compensation is paid. Matching the timing of the deduction with the income inclusion ensures that the executive is not able to achieve the tax benefits of deferred compensation at the expense of the Treasury. Instead, the corporation paying the compensation bears the expense of paying deferred compensation as a result of the deferred deduction. Where an individual is paid deferred compensation by a tax indifferent party (such as an offshore corporation in a tax haven jurisdiction), there is no offsetting deduction that can be deferred. As a result, individuals receiving deferred compensation from a tax indifferent party are able to achieve the tax benefits of deferred compensation at the expense of the Treasury. The proposal is effective for services performed after December 31, 2008. *This proposal is estimated to raise \$23.79 billion over ten years.*

**Delay Implementation of Worldwide Allocation of Interest.** In 2004, Congress provided taxpayers with an election to take advantage of a liberalized rule for allocating interest expense between United States sources and foreign sources for purposes of determining a taxpayer's foreign tax credit limitation. Although enacted in 2004, this election is not available to taxpayers until taxable years beginning after 2008. The bill would delay the phase-in of this new liberalized rule for ten years (for taxable years beginning after 2018). The proposal is effective for tax years beginning after December 31, 2007. *This proposal is estimated to raise \$22.335 billion over ten years.*

**Basis Reporting by Brokers on Sales of Stock.** This revenue raising provision creates mandatory basis reporting measures to the IRS by brokers for transactions involving publicly traded securities, such as stock, debt, commodities, derivatives and other items as specified by the Treasury. *The proposal is estimated to raise \$7.98 billion over ten years.*