

110TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, 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 “Jobs, Energy, Families, and Disaster Relief Act of
6 2008”.

7 (b) **REFERENCE.**—Except as otherwise expressly pro-
8 vided, whenever in this Act an amendment or repeal is
9 expressed in terms of an amendment to, or repeal of, a
10 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the In-
2 ternal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART I—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. Special rule to implement FERC and State electric restructuring pol-
icy.

Sec. 106. New clean renewable energy bonds.

PART II—CARBON MITIGATION PROVISIONS

Sec. 111. Expansion and modification of advanced coal project investment cred-
it.

Sec. 112. Expansion and modification of coal gasification investment credit.

Sec. 113. Temporary increase in coal excise tax.

Sec. 114. Special rules for refund of the coal excise tax to certain coal pro-
ducers and exporters.

Sec. 115. Carbon audit of the tax code.

Subtitle B—Transportation and Domestic Fuel Security Provisions

Sec. 121. Inclusion of cellulosic biofuel in bonus depreciation for biomass eth-
anol plant property.

Sec. 122. Credits for biodiesel and renewable diesel.

Sec. 123. Clarification that credits for fuel are designed to provide an incentive
for United States production.

Sec. 124. Credit for new qualified plug-in electric drive motor vehicles.

Sec. 125. Exclusion from heavy truck tax for idling reduction units and ad-
vanced insulation.

Sec. 126. Transportation fringe benefit to bicycle commuters.

Sec. 127. Alternative fuel vehicle refueling property credit.

Sec. 128. Certain income and gains relating to alcohol fuels and mixtures, bio-
diesel fuels and mixtures, and alternative fuels and mixtures
treated as qualifying income for publicly traded partnerships.

Subtitle C—Energy Conservation and Efficiency Provisions

Sec. 141. Qualified energy conservation bonds.

Sec. 142. Credit for nonbusiness energy property.

Sec. 143. Energy efficient commercial buildings deduction.

Sec. 144. Modifications of energy efficient appliance credit for appliances pro-
duced after 2007.

- Sec. 145. Accelerated recovery period for depreciation of smart meters and smart grid systems.
- Sec. 146. Qualified green building and sustainable design projects.
- Sec. 147. Special depreciation allowance for certain reuse and recycling property.

TITLE II—ONE-YEAR EXTENSION OF TEMPORARY PROVISIONS

Subtitle A—Alternative Minimum Tax

- Sec. 201. Extension of alternative minimum tax relief for nonrefundable personal credits.
- Sec. 202. Extension of increased alternative minimum tax exemption amount.
- Sec. 203. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

Subtitle B—Extensions Primarily Affecting Individuals

- Sec. 211. Deduction for State and local sales taxes.
- Sec. 212. Deduction of qualified tuition and related expenses.
- Sec. 213. Treatment of certain dividends of regulated investment companies.
- Sec. 214. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 215. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 216. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 217. Qualified investment entities.
- Sec. 218. Exclusion of amounts received under qualified group legal services plans.

Subtitle C—Extensions Primarily Affecting Businesses

- Sec. 221. Extension and modification of research credit.
- Sec. 222. Indian employment credit.
- Sec. 223. Extension and modification of new markets tax credit.
- Sec. 224. Railroad track maintenance.
- Sec. 225. Extension of mine rescue team training credit.
- Sec. 226. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.
- Sec. 227. Seven-year cost recovery period for motorsports racing track facility.
- Sec. 228. Accelerated depreciation for business property on Indian reservation.
- Sec. 229. Extension of election to expense advanced mine safety equipment.
- Sec. 230. Expensing of environmental remediation costs.
- Sec. 231. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 232. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 233. Qualified zone academy bonds.
- Sec. 234. Tax incentives for investment in the District of Columbia.
- Sec. 235. Economic development credit for American Samoa.
- Sec. 236. Extension and expansion of charitable deduction for contributions of food inventory.
- Sec. 237. Enhanced charitable deduction for contributions of book inventory to public schools.

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- Sec. 238. Enhanced deduction for qualified computer contributions.
- Sec. 239. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 240. Work opportunity tax credit for Hurricane Katrina employees.
- Sec. 241. Subpart F exception for active financing income.
- Sec. 242. Look-thru rule for related controlled foreign corporations.
- Sec. 243. Expensing for certain qualified film and television productions.
- Sec. 244. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.

Subtitle D—Other Extensions

- Sec. 251. Authority to disclose information related to terrorist activities made permanent.
- Sec. 252. Authority for undercover operations made permanent.
- Sec. 253. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.

TITLE III—ADDITIONAL RELIEF

Subtitle A—Individual Tax Relief

- Sec. 301. \$8,500 income threshold used to calculate refundable portion of child tax credit.
- Sec. 302. Income averaging for amounts received in connection with the Exxon Valdez litigation.

Subtitle B—Business Related Provisions

- Sec. 311. Provisions related to film and television productions.
- Sec. 312. Modification of rate of excise tax on certain wooden arrows designed for use by children.
- Sec. 313. Mental health parity.

Subtitle C—Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer

- Sec. 321. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

Subtitle D—Other Provisions

- Sec. 331. Secure rural schools and community self-determination program.
- Sec. 332. Clarification of uniform definition of child.

TITLE IV—TRANSPORTATION AND INFRASTRUCTURE

- Sec. 401. Restoration of Highway Trust Fund balance.

TITLE V—DISASTER RELIEF

Subtitle A—Relief for Federally Declared Disasters

- Sec. 501. Losses attributable to federally declared disasters.
- Sec. 502. Expensing of Qualified Disaster Expenses.
- Sec. 503. Net operating losses attributable to federally declared disasters.
- Sec. 504. Waiver of certain mortgage revenue bond requirements following federally declared disasters.
- Sec. 505. Other relief for federally declared disasters.

Sec. 506. Sunset.

Subtitle B—Other Disaster Relief Provisions

Sec. 511. Restructuring of New York Liberty Zone tax credits.

Sec. 512. Reporting requirements relating to disaster relief contributions.

TITLE VI—REVENUE PROVISIONS

Sec. 601. Nonqualified deferred compensation from certain tax indifferent parties.

Sec. 602. Delay in application of worldwide allocation of interest.

Sec. 603. Broker reporting of customer's basis in securities transactions.

Sec. 604. Time for payment of corporate estimated taxes.

1 **TITLE I—ENERGY TAX**
2 **INCENTIVES**
3 **Subtitle A—Energy Production**
4 **Incentives**
5 **PART I—RENEWABLE ENERGY INCENTIVES**

6 **SEC. 101. RENEWABLE ENERGY CREDIT.**

7 (a) **EXTENSION OF CREDIT.**—

8 (1) **1-YEAR EXTENSION FOR WIND FACILI-**
9 **TIES.**—Paragraph (1) of section 45(d) is amended
10 by striking “January 1, 2009” and inserting “Janu-
11 **ary 1, 2010”.**

12 (2) **3-YEAR EXTENSION FOR CERTAIN OTHER**
13 **FACILITIES.**—Each of the following provisions of
14 section 45(d) is amended by striking “January 1,
15 2009” and inserting “January 1, 2012”:

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

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

1 (C) Paragraph (4).

2 (D) Paragraph (5).

3 (E) Paragraph (6).

4 (F) Paragraph (7).

5 (G) Subparagraphs (A) and (B) of para-
6 graph (9).

7 (b) MODIFICATION OF CREDIT PHASEOUT.—

8 (1) REPEAL OF PHASEOUT.—Subsection (b) of
9 section 45 is amended—

10 (A) by striking paragraph (1), and

11 (B) by striking “the 8 cent amount in
12 paragraph (1),” in paragraph (2) thereof.

13 (2) LIMITATION BASED ON INVESTMENT IN FA-
14 CILITY.—Subsection (b) of section 45 is amended by
15 inserting before paragraph (2) the following new
16 paragraph:

17 “(1) LIMITATION BASED ON INVESTMENT IN
18 FACILITY.—

19 “(A) IN GENERAL.—In the case of any
20 qualified facility originally placed in service
21 after December 31, 2009, the amount of the
22 credit determined under subsection (a) for any
23 taxable year with respect to electricity produced
24 at such facility shall not exceed the product
25 of—

1 “(i) the applicable percentage with re-
2 spect to such facility, multiplied by

3 “(ii) the eligible basis of such facility.

4 “(B) CARRYFORWARD OF UNUSED LIMITA-
5 TION AND EXCESS CREDIT.—

6 “(i) UNUSED LIMITATION.—If the
7 limitation imposed under subparagraph (A)
8 with respect to any facility for any taxable
9 year exceeds the prelimitation credit for
10 such facility for such taxable year, the lim-
11 itation imposed under subparagraph (A)
12 with respect to such facility for the suc-
13 ceeding taxable year shall be increased by
14 the amount of such excess.

15 “(ii) EXCESS CREDIT.—If the
16 prelimitation credit with respect to any fa-
17 cility for any taxable year exceeds the limi-
18 tation imposed under subparagraph (A)
19 with respect to such facility for such tax-
20 able year, the credit determined under sub-
21 section (a) with respect to such facility for
22 the succeeding taxable year (determined
23 before the application of subparagraph (A)
24 for such succeeding taxable year) shall be
25 increased by the amount of such excess.

1 With respect to any facility, no amount
2 may be carried forward under this clause
3 to any taxable year beginning after the 10-
4 year period described in subsection
5 (a)(2)(A)(ii) with respect to such facility.

6 “(iii) PRELIMINATION CREDIT.—The
7 term ‘prelimitation credit’ with respect to
8 any facility for a taxable year means the
9 credit determined under subsection (a)
10 with respect to such facility for such tax-
11 able year, determined without regard to
12 subparagraph (A) and after taking into ac-
13 count any increase for such taxable year
14 under clause (ii).

15 “(C) APPLICABLE PERCENTAGE.—For
16 purposes of this paragraph—

17 “(i) IN GENERAL.—The term ‘applica-
18 ble percentage’ means, with respect to any
19 facility, the appropriate percentage pre-
20 scribed by the Secretary for the month in
21 which such facility is originally placed in
22 service.

23 “(ii) METHOD OF PRESCRIBING AP-
24 PPLICABLE PERCENTAGES.—The applicable
25 percentages prescribed by the Secretary for

1 any month under clause (i) shall be per-
2 centages which yield over a 10-year period
3 amounts of limitation under subparagraph
4 (A) which have a present value equal to 35
5 percent of the eligible basis of the facility.

6 “(iii) METHOD OF DISCOUNTING.—
7 The present value under clause (ii) shall be
8 determined—

9 “(I) as of the last day of the 1st
10 year of the 10-year period referred to
11 in clause (ii),

12 “(II) by using a discount rate
13 equal to the greater of 110 percent of
14 the Federal long-term rate as in effect
15 under section 1274(d) for the month
16 preceding the month for which the ap-
17 plicable percentage is being pre-
18 scribed, or 4.5 percent, and

19 “(III) by taking into account the
20 limitation under subparagraph (A) for
21 any year on the last day of such year.

22 “(D) ELIGIBLE BASIS.—For purposes of
23 this paragraph—

1 “(i) IN GENERAL.—The term ‘eligible
2 basis’ means, with respect to any facility,
3 the sum of—

4 “(I) the basis of such facility de-
5 termined as of the time that such fa-
6 cility is originally placed in service,
7 and

8 “(II) the portion of the basis of
9 any shared qualified property which is
10 properly allocable to such facility
11 under clause (ii).

12 “(ii) RULES FOR ALLOCATION.—For
13 purposes of subclause (II) of clause (i), the
14 basis of shared qualified property shall be
15 allocated among all qualified facilities
16 which are projected to be placed in service
17 and which require utilization of such prop-
18 erty in proportion to projected generation
19 from such facilities.

20 “(iii) SHARED QUALIFIED PROP-
21 erty.—For purposes of this paragraph,
22 the term ‘shared qualified property’ means,
23 with respect to any facility, any property
24 described in section 168(e)(3)(B)(vi)—

1 “(I) which a qualified facility will
2 require for utilization of such facility,
3 and

4 “(II) which is not a qualified fa-
5 cility.

6 “(iv) SPECIAL RULE RELATING TO
7 GEOTHERMAL FACILITIES.—In the case of
8 any qualified facility using geothermal en-
9 ergy to produce electricity, the basis of
10 such facility for purposes of this paragraph
11 shall be determined as though intangible
12 drilling and development costs described in
13 section 263(c) were capitalized rather than
14 expensed.

15 “(E) SPECIAL RULE FOR FIRST AND LAST
16 YEAR OF CREDIT PERIOD.—In the case of any
17 taxable year any portion of which is not within
18 the 10-year period described in subsection
19 (a)(2)(A)(ii) with respect to any facility, the
20 amount of the limitation under subparagraph
21 (A) with respect to such facility shall be re-
22 duced by an amount which bears the same ratio
23 to the amount of such limitation (determined
24 without regard to this subparagraph) as such

1 portion of the taxable year which is not within
2 such period bears to the entire taxable year.

3 “(F) ELECTION TO TREAT ALL FACILITIES
4 PLACED IN SERVICE IN A YEAR AS 1 FACIL-
5 ITY.—At the election of the taxpayer, all quali-
6 fied facilities which are part of the same project
7 and which are placed in service during the same
8 calendar year shall be treated for purposes of
9 this section as 1 facility which is placed in serv-
10 ice at the mid-point of such year or the first
11 day of the following calendar year.”.

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

14 (1) by striking “facility which burns” and in-
15 serting “facility (other than a facility described in
16 paragraph (6)) which uses”, and

17 (2) by striking “COMBUSTION”.

18 (d) EXPANSION OF BIOMASS FACILITIES.—

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

24 “(B) EXPANSION OF FACILITY.—Such
25 term shall include a new unit placed in service

1 after the date of the enactment of this subpara-
2 graph in connection with a facility described in
3 subparagraph (A), but only to the extent of the
4 increased amount of electricity produced at the
5 facility by reason of such new unit.”.

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

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

18 (e) SALES OF NET ELECTRICITY TO REGULATED
19 PUBLIC UTILITIES TREATED AS SALES TO UNRELATED
20 PERSONS.—Paragraph (4) of section 45(e) is amended by
21 adding at the end the following new sentence: “The net
22 amount of electricity sold by any taxpayer to a regulated
23 public utility (as defined in section 7701(a)(33)) shall be
24 treated as sold to an unrelated person.”.

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

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

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

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

20 “(iii) the hydroelectric project is oper-
21 ated so that the water surface elevation at
22 any given location and time that would
23 have occurred in the absence of the hydro-
24 electric project is maintained, subject to
25 any license requirements imposed under

1 applicable law that change the water sur-
2 face elevation for the purpose of improving
3 environmental quality of the affected wa-
4 terway.

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

14 (g) EFFECTIVE DATE.—

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

19 (2) REPEAL OF CREDIT PHASEOUT.—The
20 amendments made by subsection (b)(1) shall apply
21 to taxable years ending after December 31, 2008.

22 (3) LIMITATION BASED ON INVESTMENT IN FA-
23 CILITY.—The amendment made by subsection (b)(2)
24 shall apply to property originally placed in service
25 after December 31, 2009.

1 (4) TRASH FACILITY CLARIFICATION; SALES TO
2 RELATED REGULATED PUBLIC UTILITIES.—The
3 amendments made by subsections (c) and (e) shall
4 apply to electricity produced and sold after the date
5 of the enactment of this Act.

6 (5) EXPANSION OF BIOMASS FACILITIES.—The
7 amendments made by subsection (d) shall apply to
8 property placed in service after the date of the en-
9 actment of this Act.

10 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
11 **DUCED FROM MARINE RENEWABLES.**

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

17 “(I) marine and hydrokinetic renewable en-
18 ergy.”.

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

22 “(10) MARINE AND HYDROKINETIC RENEW-
23 ABLE ENERGY.—

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

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

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

8 “(iii) free flowing water in an irriga-
9 tion system, canal, or other man-made
10 channel, including projects that utilize non-
11 mechanical structures to accelerate the
12 flow of water for electric power production
13 purposes, or

14 “(iv) differentials in ocean tempera-
15 ture (ocean thermal energy conversion).

16 “(B) EXCEPTIONS.—Such term shall not
17 include any energy which is derived from any
18 source which utilizes a dam, diversionary struc-
19 ture (except as provided in subparagraph
20 (A)(iii)), or impoundment for electric power
21 production purposes.”.

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

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

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

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

11 (d) CREDIT RATE.—Subparagraph (A) of section
12 45(b)(4) is amended by striking “or (9)” and inserting
13 “(9), or (11)”.

14 (e) COORDINATION WITH SMALL IRRIGATION
15 POWER.—Paragraph (5) of section 45(d), as amended by
16 section 101, is amended by striking “January 1, 2012”
17 and inserting “the date of the enactment of paragraph
18 (11)”.

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

23 **SEC. 103. ENERGY CREDIT.**

24 (a) EXTENSION OF CREDIT.—

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

5 (2) FUEL CELL PROPERTY.—Subparagraph (E)
6 of section 48(c)(1) is amended by striking “Decem-
7 ber 31, 2008” and inserting “December 31, 2017”.

8 (3) MICROTURBINE PROPERTY.—Subparagraph
9 (E) of section 48(c)(2) is amended by striking “De-
10 cember 31, 2008” and inserting “December 31,
11 2017”.

12 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
13 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
14 38(c)(4), as amended by the Housing Assistance Tax Act
15 of 2008, is amended by redesignating clauses (v) and (vi)
16 as clauses (vi) and (vii), respectively, and by inserting
17 after clause (iv) the following new clause:

18 “(v) the credit determined under sec-
19 tion 46 to the extent that such credit is at-
20 tributable to the energy credit determined
21 under section 48, and”.

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

24 (1) IN GENERAL.—Section 48(a)(3)(A) is
25 amended by striking “or” at the end of clause (iii),

1 by inserting “or” at the end of clause (iv), and by
2 adding at the end the following new clause:

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

5 (2) COMBINED HEAT AND POWER SYSTEM
6 PROPERTY.—Section 48 is amended by adding at
7 the end the following new subsection:

8 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
9 erty.—For purposes of subsection (a)(3)(A)(v)—

10 “(1) COMBINED HEAT AND POWER SYSTEM
11 PROPERTY.—The term ‘combined heat and power
12 system property’ means property comprising a sys-
13 tem—

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

20 “(B) which produces—

21 “(i) at least 20 percent of its total
22 useful energy in the form of thermal en-
23 ergy which is not used to produce electrical
24 or mechanical power (or combination
25 thereof), and

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

4 “(C) the energy efficiency percentage of
5 which exceeds 60 percent, and

6 “(D) which is placed in service before Jan-
7 uary 1, 2018.

8 “(2) LIMITATION.—

9 “(A) IN GENERAL.—In the case of com-
10 bined heat and power system property with an
11 electrical capacity in excess of the applicable ca-
12 pacity placed in service during the taxable year,
13 the credit under subsection (a)(1) (determined
14 without regard to this paragraph) for such year
15 shall be equal to the amount which bears the
16 same ratio to such credit as the applicable ca-
17 pacity bears to the capacity of such property.

18 “(B) APPLICABLE CAPACITY.—For pur-
19 poses of subparagraph (A), the term ‘applicable
20 capacity’ means 15 megawatts or a mechanical
21 energy capacity of more than 20,000 horse-
22 power or an equivalent combination of electrical
23 and mechanical energy capacities.

24 “(C) MAXIMUM CAPACITY.—The term
25 ‘combined heat and power system property’

1 shall not include any property comprising a sys-
2 tem if such system has a capacity in excess of
3 50 megawatts or a mechanical energy capacity
4 in excess of 67,000 horsepower or an equivalent
5 combination of electrical and mechanical energy
6 capacities.

7 “(3) SPECIAL RULES.—

8 “(A) ENERGY EFFICIENCY PERCENT-
9 AGE.—For purposes of this subsection, the en-
10 ergy efficiency percentage of a system is the
11 fraction—

12 “(i) the numerator of which is the
13 total useful electrical, thermal, and me-
14 chanical power produced by the system at
15 normal operating rates, and expected to be
16 consumed in its normal application, and

17 “(ii) the denominator of which is the
18 lower heating value of the fuel sources for
19 the system.

20 “(B) DETERMINATIONS MADE ON BTU
21 BASIS.—The energy efficiency percentage and
22 the percentages under paragraph (1)(B) shall
23 be determined on a Btu basis.

24 “(C) INPUT AND OUTPUT PROPERTY NOT
25 INCLUDED.—The term ‘combined heat and

1 power system property' does not include prop-
2 erty used to transport the energy source to the
3 facility or to distribute energy produced by the
4 facility.

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

10 “(A) paragraph (1)(C) shall not apply, but

11 “(B) the amount of credit determined
12 under subsection (a) with respect to such sys-
13 tem shall not exceed the amount which bears
14 the same ratio to such amount of credit (deter-
15 mined without regard to this paragraph) as the
16 energy efficiency percentage of such system
17 bears to 60 percent.”.

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

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

23 (1) IN GENERAL.—Paragraph (3) of section
24 48(a) is amended by striking the second sentence
25 thereof.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Paragraph (1) of section 48(c) is
3 amended by striking subparagraph (D) and re-
4 designating subparagraph (E) as subparagraph
5 (D).

6 (B) Paragraph (2) of section 48(c) is
7 amended by striking subparagraph (D) and re-
8 designating subparagraph (E) as subparagraph
9 (D).

10 (f) EFFECTIVE DATE.—

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

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

21 (3) COMBINED HEAT AND POWER AND FUEL
22 CELL PROPERTY.—The amendments made by sub-
23 sections (c) and (d) shall apply to periods after the
24 date of the enactment of this Act, in taxable years
25 ending after such date, under rules similar to the

1 rules of section 48(m) of the Internal Revenue Code
2 of 1986 (as in effect on the day before the date of
3 the enactment of the Revenue Reconciliation Act of
4 1990).

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

12 **SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
13 **PROPERTY.**

14 (a) EXTENSION.—Section 25D(g) is amended by
15 striking “December 31, 2008” and inserting “December
16 31, 2016”.

17 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
18 erty.—

19 (1) IN GENERAL.—Section 25D(b)(1)(A) is
20 amended by striking “\$2,000” and inserting
21 “\$4,000”.

22 (2) CONFORMING AMENDMENT.—Section
23 25D(e)(4)(A)(i) is amended by striking “\$6,667”
24 and inserting “\$13,333”.

25 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

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

6 “(4) 30 percent of the qualified small wind en-
7 ergy property expenditures made by the taxpayer
8 during such year.”.

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

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

18 (3) QUALIFIED SMALL WIND ENERGY PROP-
19 ERTY EXPENDITURES.—

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

23 “(4) QUALIFIED SMALL WIND ENERGY PROP-
24 ERTY EXPENDITURE.—The term ‘qualified small
25 wind energy property expenditure’ means an expend-

1 iture for property which uses a wind turbine to gen-
2 erate electricity for use in connection with a dwelling
3 unit located in the United States and used as a resi-
4 dence by the taxpayer.”.

5 (B) NO DOUBLE BENEFIT.—Section
6 45(d)(1) is amended by adding at the end the
7 following new sentence: “Such term shall not
8 include any facility with respect to which any
9 qualified small wind energy property expendi-
10 ture (as defined in subsection (d)(4) of section
11 25D) is taken into account in determining the
12 credit under such section.”.

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

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

24 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
25 TEMS.—

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

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

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

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

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

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

23 “(A) IN GENERAL.—The term ‘qualified
24 geothermal heat pump property expenditure’
25 means an expenditure for qualified geothermal

1 heat pump property installed on or in connec-
2 tion with a dwelling unit located in the United
3 States and used as a residence by the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

18 “(2) CARRYFORWARD OF UNUSED CREDIT.—

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

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

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

15 (2) CONFORMING AMENDMENTS.—

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

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

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

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

1 (f) EFFECTIVE DATE.—

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

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

11 **SEC. 105. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
12 **ELECTRIC RESTRUCTURING POLICY.**

13 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
14 TIES.—

15 (1) IN GENERAL.—Paragraph (3) of section
16 451(i) is amended by inserting “(before January 1,
17 2010, in the case of a qualified electric utility)”
18 after “January 1, 2008”.

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

24 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-
25 poses of this subsection, the term ‘qualified electric

1 utility’ means a person that, as of the date of the
2 qualifying electric transmission transaction, is
3 vertically integrated, in that it is both—

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

9 “(B) an electric utility (as defined in sec-
10 tion 3(22) of the Federal Power Act (16 U.S.C.
11 796(22))).”.

12 (b) EXTENSION OF PERIOD FOR TRANSFER OF
13 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
14 Clause (ii) of section 451(i)(4)(B) is amended by striking
15 “December 31, 2007” and inserting “the date which is
16 4 years after the close of the taxable year in which the
17 transaction occurs”.

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

22 “(C) EXCEPTION FOR PROPERTY LOCATED
23 OUTSIDE THE UNITED STATES.—The term ‘ex-
24 empt utility property’ shall not include any

1 property which is located outside the United
2 States.”.

3 (d) EFFECTIVE DATES.—

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

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

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

15 **SEC. 106. NEW CLEAN RENEWABLE ENERGY BONDS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(3) METHOD OF ALLOCATION.—

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

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

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

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

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

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

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

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

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

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

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

16 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

18 **PART II—CARBON MITIGATION PROVISIONS**

19 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED** 20 **COAL PROJECT INVESTMENT CREDIT.**

21 (a) MODIFICATION OF CREDIT AMOUNT.—Section
22 48A(a) is amended by striking “and” at the end of para-
23 graph (1), by striking the period at the end of paragraph
24 (2) and inserting “, and”, and by adding at the end the
25 following new paragraph:

1 “(3) 30 percent of the qualified investment for
2 such taxable year in the case of projects described
3 in clause (iii) of subsection (d)(3)(B).”.

4 (b) EXPANSION OF AGGREGATE CREDITS.—Section
5 48A(d)(3)(A) is amended by striking “\$1,300,000,000”
6 and inserting “\$2,550,000,000”.

7 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

8 (1) IN GENERAL.—Subparagraph (B) of section
9 48A(d)(3) is amended to read as follows:

10 “(B) PARTICULAR PROJECTS.—Of the dol-
11 lar amount in subparagraph (A), the Secretary
12 is authorized to certify—

13 “(i) \$800,000,000 for integrated gas-
14 fication combined cycle projects the appli-
15 cation for which is submitted during the
16 period described in paragraph (2)(A)(i),

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

22 “(iii) \$1,250,000,000 for advanced
23 coal-based generation technology projects
24 the application for which is submitted dur-

1 ing the period described in paragraph
2 (2)(A)(ii).”.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (ii),

15 (B) by redesignating clause (iii) as clause

16 (iv), and

17 (C) by inserting after clause (ii) the fol-
18 lowing new clause:

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

23 (5) CLERICAL AMENDMENT.—Section 48A(e)(3)
24 is amended by striking “INTEGRATED GASIFICATION

1 COMBINED CYCLE” in the heading and inserting
2 “CERTAIN”.

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

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

11 (e) EFFECTIVE DATES.—

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

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

23 (3) CLERICAL AMENDMENT.—The amendment
24 made by subsection (c)(5) shall take effect as if in-

1 cluded in the amendment made by section 1307(b)
2 of the Energy Tax Incentives Act of 2005.

3 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**
4 **CATION INVESTMENT CREDIT.**

5 (a) MODIFICATION OF CREDIT AMOUNT.—Section
6 48B(a) is amended by inserting “(30 percent in the case
7 of credits allocated under subsection (d)(1)(B))” after “20
8 percent”.

9 (b) EXPANSION OF AGGREGATE CREDITS.—Section
10 48B(d)(1) is amended by striking “shall not exceed
11 \$350,000,000” and all that follows and inserting “shall
12 not exceed—

13 “(A) \$350,000,000, plus

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

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

21 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-
22 QUESTER.—The Secretary shall provide for recapturing
23 the benefit of any credit allowable under subsection (a)
24 with respect to any project which fails to attain or main-

1 tain the separation and sequestration requirements for
2 such project under subsection (d)(1).”.

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

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

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

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

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

21 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX.**

22 Paragraph (2) of section 4121(e) is amended—

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

1 and on or before the date of the enactment
2 of this Act, and

3 (iii) such coal producer files a claim
4 for refund with the Secretary not later
5 than the close of the 30-day period begin-
6 ning on the date of the enactment of this
7 Act,

8 then the Secretary shall pay to such coal pro-
9 ducer an amount equal to the tax paid under
10 section 4121 of such Code on such coal ex-
11 ported or shipped by the coal producer or a
12 party related to such coal producer, or caused
13 by the coal producer or a party related to such
14 coal producer to be exported or shipped.

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

17 (i) IN GENERAL.—If a coal producer
18 or a party related to a coal producer has
19 received a judgment described in clause
20 (iii), such coal producer shall be deemed to
21 have established the export of coal to a for-
22 eign country or shipment of coal to a pos-
23 session of the United States under sub-
24 paragraph (A)(i).

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

7 (iii) JUDGMENT DESCRIBED.—A judg-
8 ment is described in this subparagraph if
9 such judgment—

10 (I) is made by a court of com-
11 petent jurisdiction within the United
12 States,

13 (II) relates to the constitu-
14 tionality of any tax paid on exported
15 coal under section 4121 of the Inter-
16 nal Revenue Code of 1986, and

17 (III) is in favor of the coal pro-
18 ducer or the party related to the coal
19 producer.

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

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

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

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

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

18 (b) LIMITATIONS.—Subsection (a) shall not apply
19 with respect to exported coal if a settlement with the Fed-
20 eral Government has been made with and accepted by, the
21 coal producer, a party related to such coal producer, or
22 the exporter, of such coal, as of the date that the claim
23 is filed under this section with respect to such exported
24 coal. For purposes of this subsection, the term “settlement
25 with the Federal Government” shall not include any settle-

1 ment or stipulation entered into as of the date of the en-
2 actment of this Act, the terms of which contemplate a
3 judgment concerning which any party has reserved the
4 right to file an appeal, or has filed an appeal.

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

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

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

21 (2) EXPORTER.—The term “exporter” means a
22 person, other than a coal producer, who does not
23 have a contract, fee arrangement, or any other
24 agreement with a producer or seller of such coal to

1 export or ship such coal to a third party on behalf
2 of the producer or seller of such coal and—

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

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

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

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

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

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

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of Treasury or the Secretary's des-
24 ignee.

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

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

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

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

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

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

5 (i) STANDING NOT CONFERRED.—

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

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

19 **SEC. 115. CARBON AUDIT OF THE TAX CODE.**

20 (a) STUDY.—The Secretary of the Treasury shall
21 enter into an agreement with the National Academy of
22 Sciences to undertake a comprehensive review of the Inter-
23 nal Revenue Code of 1986 to identify the types of and
24 specific tax provisions that have the largest effects on car-

1 bon and other greenhouse gas emissions and to estimate
2 the magnitude of those effects.

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

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$1,500,000 for the period of fiscal years 2008 and 2009.

10 **Subtitle B—Transportation and** 11 **Domestic Fuel Security Provisions**

12 **SEC. 121. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS** 13 **DEPRECIATION FOR BIOMASS ETHANOL** 14 **PLANT PROPERTY.**

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

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

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

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

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

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

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

14 **SEC. 122. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**
15 **SEL.**

16 (a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and
17 6427(e)(5)(B) are each amended by striking “December
18 31, 2008” and inserting “December 31, 2009”.

19 (b) INCREASE IN RATE OF CREDIT.—

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

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

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

3 (3) CONFORMING AMENDMENTS.—

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

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

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

12 (C) Paragraphs (2) and (3) of section
13 40A(e) are each amended by striking “sub-
14 section (b)(5)(C)” and inserting “subsection
15 (b)(4)(C)”.

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

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

22 (1) by striking “diesel fuel” and inserting “liq-
23 uid fuel”,

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

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

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

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

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

16 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—
17 Paragraph (3) of section 40A(f) is amended by adding at
18 the end the following: “The term ‘renewable diesel’ also
19 means fuel derived from biomass which meets the require-
20 ments of a Department of Defense specification for mili-
21 tary jet fuel or an American Society of Testing and Mate-
22 rials specification for aviation turbine fuel.”.

23 (f) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as otherwise pro-
25 vided in this subsection, the amendments made by

1 this section shall apply to fuel produced, and sold or
2 used, after December 31, 2008.

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

8 **SEC. 123. CLARIFICATION THAT CREDITS FOR FUEL ARE**
9 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
10 **UNITED STATES PRODUCTION.**

11 (a) ALCOHOL FUELS CREDIT.—Paragraph (6) of sec-
12 tion 40(d) is amended to read as follows:

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

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

23 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
24 TION TO THE UNITED STATES.—No credit shall be
25 determined under this section with respect to any

1 biodiesel which is produced outside the United
2 States for use as a fuel outside the United States.
3 For purposes of this paragraph, the term ‘United
4 States’ includes any possession of the United
5 States.”.

6 (c) EXCISE TAX CREDIT.—

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

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

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

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

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

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

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

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

10 **SEC. 124. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
11 **DRIVE MOTOR VEHICLES.**

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

15 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**
16 **MOTOR VEHICLES.**

17 “(a) ALLOWANCE OF CREDIT.—There shall be al-
18 lowed as a credit against the tax imposed by this chapter
19 for the taxable year an amount equal to the sum of the
20 credit amounts determined under subsection (b) with re-
21 spect to each new qualified plug-in electric drive motor ve-
22 hicle placed in service by the taxpayer during the taxable
23 year.

24 “(b) PER VEHICLE DOLLAR LIMITATION.—

1 “(1) IN GENERAL.—The amount determined
2 under this subsection with respect to any new quali-
3 fied plug-in electric drive motor vehicle is the sum
4 of the amounts determined under paragraphs (2)
5 and (3) with respect to such vehicle.

6 “(2) BASE AMOUNT.—The amount determined
7 under this paragraph is \$3,000.

8 “(3) BATTERY CAPACITY.—In the case of a ve-
9 hicle which draws propulsion energy from a battery
10 with not less than 5 kilowatt hours of capacity, the
11 amount determined under this paragraph is \$200,
12 plus \$200 for each kilowatt hour of capacity in ex-
13 cess of 5 kilowatt hours. The amount determined
14 under this paragraph shall not exceed \$2,000.

15 “(c) APPLICATION WITH OTHER CREDITS.—

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

24 “(2) PERSONAL CREDIT.—

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

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

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

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

20 “(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE
21 MOTOR VEHICLE.—For purposes of this section—

22 “(1) IN GENERAL.—The term ‘new qualified
23 plug-in electric drive motor vehicle’ means a motor
24 vehicle (as defined in section 30(c)(2))—

1 “(A) the original use of which commences
2 with the taxpayer,

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

5 “(C) which is made by a manufacturer,

6 “(D) which has a gross vehicle weight rat-
7 ing of less than 14,000 pounds,

8 “(E) which has received a certificate of
9 conformity under the Clean Air Act and meets
10 or exceeds the Bin 5 Tier II emission standard
11 established in regulations prescribed by the Ad-
12 ministrator of the Environmental Protection
13 Agency under section 202(i) of the Clean Air
14 Act for that make and model year vehicle, and

15 “(F) which is propelled to a significant ex-
16 tent by an electric motor which draws electricity
17 from a battery which—

18 “(i) has a capacity of not less than 4
19 kilowatt hours, and

20 “(ii) is capable of being recharged
21 from an external source of electricity.

22 “(2) EXCEPTION.—The term ‘new qualified
23 plug-in electric drive motor vehicle’ shall not include
24 any vehicle which is not a passenger automobile or

1 light truck if such vehicle has a gross vehicle weight
2 rating of less than 8,500 pounds.

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

10 “(4) BATTERY CAPACITY.—The term ‘capacity’
11 means, with respect to any battery, the quantity of
12 electricity which the battery is capable of storing, ex-
13 pressed in kilowatt hours, as measured from a 100
14 percent state of charge to a 0 percent state of
15 charge.

16 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED
17 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE
18 FOR CREDIT.—

19 “(1) IN GENERAL.—In the case of a new quali-
20 fied plug-in electric drive motor vehicle sold during
21 the phaseout period, only the applicable percentage
22 of the credit otherwise allowable under subsection
23 (a) shall be allowed.

24 “(2) PHASEOUT PERIOD.—For purposes of this
25 subsection, the phaseout period is the period begin-

1 ning with the second calendar quarter following the
2 calendar quarter which includes the first date on
3 which the number of new qualified plug-in electric
4 drive motor vehicles manufactured by the manufac-
5 turer of the vehicle referred to in paragraph (1) sold
6 for use in the United States after the date of the en-
7 actment of this section, is at least 60,000.

8 “(3) APPLICABLE PERCENTAGE.—For purposes
9 of paragraph (1), the applicable percentage is—

10 “(A) 50 percent for the first 2 calendar
11 quarters of the phaseout period,

12 “(B) 25 percent for the 3d and 4th cal-
13 endar quarters of the phaseout period, and

14 “(C) 0 percent for each calendar quarter
15 thereafter.

16 “(4) CONTROLLED GROUPS.—Rules similar to
17 the rules of section 30B(f)(4) shall apply for pur-
18 poses of this subsection.

19 “(f) SPECIAL RULES.—

20 “(1) BASIS REDUCTION.—The basis of any
21 property for which a credit is allowable under sub-
22 section (a) shall be reduced by the amount of such
23 credit (determined without regard to subsection (c)).

24 “(2) RECAPTURE.—The Secretary shall, by reg-
25 ulations, provide for recapturing the benefit of any

1 credit allowable under subsection (a) with respect to
2 any property which ceases to be property eligible for
3 such credit.

4 “(3) PROPERTY USED OUTSIDE UNITED
5 STATES, ETC., NOT QUALIFIED.—No credit shall be
6 allowed under subsection (a) with respect to any
7 property referred to in section 50(b)(1) or with re-
8 spect to the portion of the cost of any property
9 taken into account under section 179.

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

14 “(5) PROPERTY USED BY TAX-EXEMPT ENTITY;
15 INTERACTION WITH AIR QUALITY AND MOTOR VEHI-
16 CLE SAFETY STANDARDS.—Rules similar to the rules
17 of paragraphs (6) and (10) of section 30B(h) shall
18 apply for purposes of this section.”.

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

22 “(D) EXCLUSION OF PLUG-IN VEHICLES.—
23 Any vehicle with respect to which a credit is al-
24 lowable under section 30D (determined without

1 regard to subsection (c) thereof) shall not be
2 taken into account under this section.”.

3 (c) CREDIT MADE PART OF GENERAL BUSINESS

4 CREDIT.—Section 38(b) is amended—

5 (1) by striking “plus” at the end of paragraph
6 (32),

7 (2) by striking the period at the end of para-
8 graph (33) and inserting “, plus”, and

9 (3) by adding at the end the following new
10 paragraph:

11 “(34) the portion of the new qualified plug-in
12 electric drive motor vehicle credit to which section
13 30D(c)(1) applies.”.

14 (d) CONFORMING AMENDMENTS.—

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

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

20 (C) Section 25B(g)(2), as amended by section
21 104, is amended by striking “and 25D” and insert-
22 ing “, 25D, and 30D”.

23 (D) Section 26(a)(1), as amended by section
24 104, is amended by striking “and 25D” and insert-
25 ing “25D, and 30D”.

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

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

8 “(37) to the extent provided in section
9 30D(f)(1).”.

10 (3) Section 6501(m) is amended by inserting
11 “30D(f)(4),” after “30C(e)(5),”.

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

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

15 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE
16 CREDIT AS A PERSONAL CREDIT.—

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

19 “(2) PERSONAL CREDIT.—The credit allowed
20 under subsection (a) for any taxable year (after ap-
21 plication of paragraph (1)) shall be treated as a
22 credit allowable under subpart A for such taxable
23 year.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Subparagraph (A) of section 30C(d)(2)
2 is amended by striking “sections 27, 30, and
3 30B” and inserting “sections 27 and 30”.

4 (B) Paragraph (3) of section 55(c) is
5 amended by striking “30B(g)(2),”.

6 (f) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the amendments made by
9 this section shall apply to taxable years beginning
10 after December 31, 2008.

11 (2) TREATMENT OF ALTERNATIVE MOTOR VE-
12 HICLE CREDIT AS PERSONAL CREDIT.—The amend-
13 ments made by subsection (e) shall apply to taxable
14 years beginning after December 31, 2007.

15 (g) APPLICATION OF EGTRRA SUNSET.—The
16 amendment made by subsection (d)(1)(A) shall be subject
17 to title IX of the Economic Growth and Tax Relief Rec-
18 onciliation Act of 2001 in the same manner as the provi-
19 sion of such Act to which such amendment relates.

20 **SEC. 125. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
21 **REDUCTION UNITS AND ADVANCED INSULA-**
22 **TION.**

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

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

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

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

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

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

22 **SEC. 126. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**
23 **COMMUTERS.**

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

1 “(D) Any qualified bicycle commuting re-
2 imbursement.”.

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

8 “(C) the applicable annual limitation in
9 the case of any qualified bicycle commuting re-
10 imbursement.”.

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

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

15 “(i) QUALIFIED BICYCLE COMMUTING
16 REIMBURSEMENT.—The term ‘qualified bi-
17 cycle commuting reimbursement’ means,
18 with respect to any calendar year, any em-
19 ployer reimbursement during the 15-month
20 period beginning with the first day of such
21 calendar year for reasonable expenses in-
22 curred by the employee during such cal-
23 endar year for the purchase of a bicycle
24 and bicycle improvements, repair, and stor-
25 age, if such bicycle is regularly used for

1 travel between the employee's residence
2 and place of employment.

3 “(ii) APPLICABLE ANNUAL LIMITA-
4 TION.—The term ‘applicable annual limita-
5 tion’ means, with respect to any employee
6 for any calendar year, the product of \$20
7 multiplied by the number of qualified bicy-
8 cle commuting months during such year.

9 “(iii) QUALIFIED BICYCLE COM-
10 MUTING MONTH.—The term ‘qualified bi-
11 cycle commuting month’ means, with re-
12 spect to any employee, any month during
13 which such employee—

14 “(I) regularly uses the bicycle for
15 a substantial portion of the travel be-
16 tween the employee's residence and
17 place of employment, and

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

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

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

4 **SEC. 127. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
5 **ERTY CREDIT.**

6 (a) INCREASE IN CREDIT AMOUNT.—Section 30C is
7 amended—

8 (1) by striking “30 percent” in subsection (a)
9 and inserting “50 percent”, and

10 (2) by striking “\$30,000” in subsection (b)(1)
11 and inserting “\$50,000”.

12 (b) EXTENSION OF CREDIT.—Paragraph (2) of sec-
13 tion 30C(g) is amended by striking “December 31, 2009”
14 and inserting “December 31, 2010”.

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

1 **SEC. 128. CERTAIN INCOME AND GAINS RELATING TO AL-**
2 **COHOL FUELS AND MIXTURES, BIODIESEL**
3 **FUELS AND MIXTURES, AND ALTERNATIVE**
4 **FUELS AND MIXTURES TREATED AS QUALI-**
5 **FYING INCOME FOR PUBLICLY TRADED**
6 **PARTNERSHIPS.**

7 (a) IN GENERAL.—Subparagraph (E) of section
8 7704(d)(1) is amended by inserting “, or the transpor-
9 tation, storage, or marketing of any fuel described in sub-
10 section (b), (c), (d), or (e) of section 6426, or any alcohol
11 fuel defined in section 6426(b)(4)(A) or any biodiesel fuel
12 as defined in section 40A(d)(1)” after “timber”).

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2011.

16 **Subtitle C—Energy Conservation**
17 **and Efficiency Provisions**

18 **SEC. 141. QUALIFIED ENERGY CONSERVATION BONDS.**

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

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

23 **“(a) QUALIFIED ENERGY CONSERVATION BOND.—**
24 **For purposes of this subchapter, the term ‘qualified en-**
25 **ergy conservation bond’ means any bond issued as part**
26 **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 section 106, 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 section 106, is amended to read as fol-
12 lows:

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

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

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

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

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

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

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

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

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

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

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

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

3 (f) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made this section shall
6 apply to expenditures made after December 31,
7 2007.

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

12 **SEC. 143. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
13 **DUCTION.**

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

17 **SEC. 144. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
18 **ANCE CREDIT FOR APPLIANCES PRODUCED**
19 **AFTER 2007.**

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

22 “(b) APPLICABLE AMOUNT.—For purposes of sub-
23 section (a)—

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

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

5 “(B) \$75 in the case of a dishwasher
6 which is manufactured in calendar year 2008,
7 2009, or 2010 and which uses no more than
8 307 kilowatt hours per year and 5.0 gallons per
9 cycle (5.5 gallons per cycle for dishwashers de-
10 signed for greater than 12 place settings).

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

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

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

23 “(C) \$150 in the case of a residential or
24 commercial clothes washer manufactured in cal-
25 endar year 2008, 2009, or 2010 which meets or

1 exceeds 2.0 modified energy factor and does not
2 exceed a 6.0 water consumption factor, and

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

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

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

15 “(B) \$75 in the case of a refrigerator
16 which is manufactured in calendar year 2008 or
17 2009, and consumes at least 23 percent but no
18 more than 24.9 percent less kilowatt hours per
19 year than the 2001 energy conservation stand-
20 ards,

21 “(C) \$100 in the case of a refrigerator
22 which is manufactured in calendar year 2008,
23 2009, or 2010, and consumes at least 25 per-
24 cent but not more than 29.9 percent less kilo-

1 watt hours per year than the 2001 energy con-
2 servation standards, and

3 “(D) \$200 in the case of a refrigerator
4 manufactured in calendar year 2008, 2009, or
5 2010 and which consumes at least 30 percent
6 less energy than the 2001 energy conservation
7 standards.”.

8 (b) ELIGIBLE PRODUCTION.—

9 (1) SIMILAR TREATMENT FOR ALL APPLI-
10 ANCES.—Subsection (c) of section 45M is amend-
11 ed—

12 (A) by striking paragraph (2),

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

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

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

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

1 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—

2 Subsection (d) of section 45M is amended to read as fol-
3 lows:

4 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—

5 For purposes of this section, the types of energy efficient
6 appliances are—

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

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

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

12 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

15 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

16 The aggregate amount of credit allowed under sub-
17 section (a) with respect to a taxpayer for any tax-
18 able year shall not exceed \$75,000,000 reduced by
19 the amount of the credit allowed under subsection
20 (a) to the taxpayer (or any predecessor) for all prior
21 taxable years beginning after December 31, 2007.”.

22 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
23 AND CLOTHES WASHERS.—Paragraph (2) of section
24 45M(e) is amended to read as follows:

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

6 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

7 (1) IN GENERAL.—Paragraph (1) of section
8 45M(f) is amended to read as follows:

9 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
10 ANCE.—The term ‘qualified energy efficient appli-
11 ance’ means—

12 “(A) any dishwasher described in sub-
13 section (b)(1),

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

16 “(C) any refrigerator described in sub-
17 section (b)(3).”.

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

21 (3) TOP-LOADING CLOTHES WASHER.—Sub-
22 section (f) of section 45M is amended by redesign-
23 ating paragraphs (4), (5), (6), and (7) as para-
24 graphs (5), (6), (7), and (8), respectively, and by in-

1 serting after paragraph (3) the following new para-
2 graph:

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

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

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

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

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

24 “(10) WATER CONSUMPTION FACTOR.—The
25 term ‘water consumption factor’ means, with respect

1 to a clothes washer, the quotient of the total weight-
2 ed per-cycle water consumption divided by the cubic
3 foot (or liter) capacity of the clothes washer.”.

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

7 **SEC. 145. ACCELERATED RECOVERY PERIOD FOR DEPRE-**
8 **CIATION OF SMART METERS AND SMART**
9 **GRID SYSTEMS.**

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

14 “(iii) any qualified smart electric
15 meter, and

16 “(iv) any qualified smart electric grid
17 system.”.

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

20 “(18) QUALIFIED SMART ELECTRIC METERS.—

21 “(A) IN GENERAL.—The term ‘qualified
22 smart electric meter’ means any smart electric
23 meter which is placed in service by a taxpayer
24 who is a supplier of electric energy or a pro-
25 vider of electric energy services.

1 “(B) SMART ELECTRIC METER.—For pur-
2 poses of subparagraph (A), the term ‘smart
3 electric meter’ means any time-based meter and
4 related communication equipment which is ca-
5 pable of being used by the taxpayer as part of
6 a system that—

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

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

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

20 “(iv) provides net metering.

21 “(19) QUALIFIED SMART ELECTRIC GRID SYS-
22 TEMS.—

23 “(A) IN GENERAL.—The term ‘qualified
24 smart electric grid system’ means any smart
25 grid property used as part of a system for elec-

1 tric distribution grid communications, moni-
2 toring, and management placed in service by a
3 taxpayer who is a supplier of electric energy or
4 a provider of electric energy services.

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

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

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

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

20 (c) CONTINUED APPLICATION OF 150 PERCENT DE-
21 CLINING BALANCE METHOD.—Paragraph (2) of section
22 168(b) is amended by striking “or” at the end of subpara-
23 graph (B), by redesignating subparagraph (C) as subpara-
24 graph (D), and by inserting after subparagraph (B) the
25 following new subparagraph:

1 “(C) any property (other than property de-
2 scribed in paragraph (3)) which is a qualified
3 smart electric meter or qualified smart electric
4 grid system, or”.

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

8 **SEC. 146. QUALIFIED GREEN BUILDING AND SUSTAINABLE**
9 **DESIGN PROJECTS.**

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

13 (b) **TREATMENT OF CURRENT REFUNDING**
14 **BONDS.**—Paragraph (9) of section 142(l) is amended by
15 striking “October 1, 2009” and inserting “October 1,
16 2012”.

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

21 **SEC. 147. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**
22 **TAIN REUSE AND RECYCLING PROPERTY.**

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

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

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

5 “(A) the depreciation deduction provided
6 by section 167(a) for the taxable year in which
7 such property is placed in service shall include
8 an allowance equal to 50 percent of the ad-
9 justed basis of the qualified reuse and recycling
10 property, and

11 “(B) the adjusted basis of the qualified
12 reuse and recycling property shall be reduced by
13 the amount of such deduction before computing
14 the amount otherwise allowable as a deprecia-
15 tion deduction under this chapter for such tax-
16 able year and any subsequent taxable year.

17 “(2) QUALIFIED REUSE AND RECYCLING PROP-
18 erty.—For purposes of this subsection—

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

22 “(i) to which this section applies,

23 “(ii) which has a useful life of at least
24 5 years,

1 “(iii) the original use of which com-
2 mences with the taxpayer after December
3 31, 2007, and

4 “(iv) which is—

5 “(I) acquired by purchase (as de-
6 fined in section 179(d)(2)) by the tax-
7 payer after December 31, 2007, but
8 only if no written binding contract for
9 the acquisition was in effect before
10 January 1, 2008, or

11 “(II) acquired by the taxpayer
12 pursuant to a written binding contract
13 which was entered into after Decem-
14 ber 31, 2007.

15 “(B) EXCEPTIONS.—

16 “(i) BONUS DEPRECIATION PROPERTY
17 UNDER SUBSECTION (k).—The term ‘quali-
18 fied reuse and recycling property’ shall not
19 include any property to which section
20 168(k) applies.

21 “(ii) ALTERNATIVE DEPRECIATION
22 PROPERTY.—The term ‘qualified reuse and
23 recycling property’ shall not include any
24 property to which the alternative deprecia-
25 tion system under subsection (g) applies,

1 determined without regard to paragraph
2 (7) of subsection (g) (relating to election to
3 have system apply).

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

10 “(C) SPECIAL RULE FOR SELF-CON-
11 STRUCTED PROPERTY.—In the case of a tax-
12 payer manufacturing, constructing, or pro-
13 ducing property for the taxpayer’s own use, the
14 requirements of clause (iv) of subparagraph (A)
15 shall be treated as met if the taxpayer begins
16 manufacturing, constructing, or producing the
17 property after December 31, 2007.

18 “(D) DEDUCTION ALLOWED IN COM-
19 PUTING MINIMUM TAX.—For purposes of deter-
20 mining alternative minimum taxable income
21 under section 55, the deduction under sub-
22 section (a) for qualified reuse and recycling
23 property shall be determined under this section
24 without regard to any adjustment under section
25 56.

1 “(3) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) REUSE AND RECYCLING PROPERTY.—

4 “(i) IN GENERAL.—The term ‘reuse
5 and recycling property’ means any machin-
6 ery and equipment (not including buildings
7 or real estate), along with all appur-
8 tenances thereto, including software nec-
9 essary to operate such equipment, which is
10 used exclusively to collect, distribute, or re-
11 cycle qualified reuse and recyclable mate-
12 rials.

13 “(ii) EXCLUSION.—Such term does
14 not include rolling stock or other equip-
15 ment used to transport reuse and recycla-
16 ble materials.

17 “(B) QUALIFIED REUSE AND RECYCLABLE
18 MATERIALS.—

19 “(i) IN GENERAL.—The term ‘quali-
20 fied reuse and recyclable materials’ means
21 scrap plastic, scrap glass, scrap textiles,
22 scrap rubber, scrap packaging, recovered
23 fiber, scrap ferrous and nonferrous metals,
24 or electronic scrap generated by an indi-
25 vidual or business.

101

1 “(ii) ELECTRONIC SCRAP.—For pur-
2 poses of clause (i), the term ‘electronic
3 scrap’ means—

4 “(I) any cathode ray tube, flat
5 panel screen, or similar video display
6 device with a screen size greater than
7 4 inches measured diagonally, or

8 “(II) any central processing unit.

9 “(C) RECYCLING OR RECYCLE.—The term
10 ‘recycling’ or ‘recycle’ means that process (in-
11 cluding sorting) by which worn or superfluous
12 materials are manufactured or processed into
13 specification grade commodities that are suit-
14 able for use as a replacement or substitute for
15 virgin materials in manufacturing tangible con-
16 sumer and commercial products, including
17 packaging.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to property placed in service after
20 December 31, 2007.

1 **TITLE II—ONE-YEAR EXTENSION**
2 **OF TEMPORARY PROVISIONS**
3 **Subtitle A—Alternative Minimum**
4 **Tax**

5 **SEC. 201. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
6 **LIEF FOR NONREFUNDABLE PERSONAL**
7 **CREDITS.**

8 (a) IN GENERAL.—Paragraph (2) of section 26(a) is
9 amended—

10 (1) by striking “or 2007” and inserting “2007,
11 or 2008”, and

12 (2) by striking “2007” in the heading thereof
13 and inserting “2008”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2007.

17 **SEC. 202. EXTENSION OF INCREASED ALTERNATIVE MIN-**
18 **IMUM TAX EXEMPTION AMOUNT.**

19 (a) IN GENERAL.—Paragraph (1) of section 55(d) is
20 amended—

21 (1) by striking “(\$66,250 in the case of taxable
22 years beginning in 2007)” in subparagraph (A) and
23 inserting “(\$69,950 in the case of taxable years be-
24 ginning in 2008)”, and

1 (2) by striking “(\$44,350 in the case of taxable
2 years beginning in 2007)” in subparagraph (B) and
3 inserting “(\$46,200 in the case of taxable years be-
4 ginning in 2008)”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2007.

8 **SEC. 203. INCREASE OF AMT REFUNDABLE CREDIT**
9 **AMOUNT FOR INDIVIDUALS WITH LONG-**
10 **TERM UNUSED CREDITS FOR PRIOR YEAR**
11 **MINIMUM TAX LIABILITY, ETC.**

12 (a) **IN GENERAL.**—Paragraph (2) of section 53(e) is
13 amended to read as follows:

14 “(2) **AMT REFUNDABLE CREDIT AMOUNT.**—
15 For purposes of paragraph (1), the term ‘AMT re-
16 fundable credit amount’ means, with respect to any
17 taxable year, the amount (not in excess of the long-
18 term unused minimum tax credit for such taxable
19 year) equal to the greater of—

20 “(A) 50 percent of the long-term unused
21 minimum tax credit for such taxable year, or

22 “(B) the amount (if any) of the AMT re-
23 fundable credit amount for the taxpayer’s pre-
24 ceding taxable year (determined without regard
25 to subsection (f)(2)).”.

1 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
2 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
3 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is
4 amended by adding at the end the following new sub-
5 section:

6 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
7 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
8 MENT OF INCENTIVE STOCK OPTIONS.—

9 “(1) ABATEMENT.—Any underpayment of tax
10 outstanding on the date of the enactment of this
11 subsection which is attributable to the application of
12 section 56(b)(3) for any taxable year ending before
13 January 1, 2008 (and any interest or penalty with
14 respect to such underpayment which is outstanding
15 on such date of enactment), is hereby abated. The
16 amount determined under subsection (b)(1) shall not
17 include any tax abated under the preceding sentence.

18 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-
19 EST AND PENALTIES ALREADY PAID.—The AMT re-
20 fundable credit amount, and the minimum tax credit
21 determined under subsection (b), for the taxpayer’s
22 first 2 taxable years beginning after December 31,
23 2007, shall each be increased by 50 percent of the
24 aggregate amount of the interest and penalties
25 which were paid by the taxpayer before the date of

1 the enactment of this subsection and which would
2 (but for such payment) have been abated under
3 paragraph (1).”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendment made by this section shall
7 apply to taxable years beginning after December 31,
8 2007.

9 (2) ABATEMENT.—Section 53(f)(1), as added
10 by subsection (b), shall take effect on the date of the
11 enactment of this Act.

12 **Subtitle B—Extensions Primarily**
13 **Affecting Individuals**

14 **SEC. 211. DEDUCTION FOR STATE AND LOCAL SALES**
15 **TAXES.**

16 (a) IN GENERAL.—Subparagraph (I) of section
17 164(b)(5) is amended by striking “January 1, 2008” and
18 inserting “January 1, 2009”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2007.

1 **SEC. 212. DEDUCTION OF QUALIFIED TUITION AND RE-**
2 **LATED EXPENSES.**

3 (a) **IN GENERAL.**—Subsection (e) of section 222 is
4 amended by striking “December 31, 2007” and inserting
5 “December 31, 2008”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2007.

9 **SEC. 213. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
10 **LATED INVESTMENT COMPANIES.**

11 (a) **INTEREST-RELATED DIVIDENDS.**—Subpara-
12 graph (C) of section 871(k)(1) is amended by striking
13 “December 31, 2007” and inserting “December 31,
14 2008”.

15 (b) **SHORT-TERM CAPITAL GAIN DIVIDENDS.**—Sub-
16 paragraph (C) of section 871(k)(2) is amended by striking
17 “December 31, 2007” and inserting “December 31,
18 2008”.

19 (c) **EFFECTIVE DATE.**—The amendments made by
20 this section shall apply to dividends with respect to taxable
21 years of regulated investment companies beginning after
22 December 31, 2007.

1 **SEC. 214. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
2 **TIREMENT PLANS FOR CHARITABLE PUR-**
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section
5 408(d)(8) is amended by striking “December 31, 2007”
6 and inserting “December 31, 2008”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to distributions made in taxable
9 years beginning after December 31, 2007.

10 **SEC. 215. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**
11 **MENTARY AND SECONDARY SCHOOL TEACH-**
12 **ERS.**

13 (a) IN GENERAL.—Subparagraph (D) of section
14 62(a)(2) is amended by striking “or 2007” and inserting
15 “2007, or 2008”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to taxable years beginning after
18 December 31, 2007.

19 **SEC. 216. STOCK IN RIC FOR PURPOSES OF DETERMINING**
20 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

21 (a) IN GENERAL.—Paragraph (3) of section 2105(d)
22 is amended by striking “December 31, 2007” and insert-
23 ing “December 31, 2008”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to decedents dying after December
26 31, 2007.

1 **SEC. 217. QUALIFIED INVESTMENT ENTITIES.**

2 (a) IN GENERAL.—Clause (ii) of section
3 897(h)(4)(A) is amended by striking “December 31,
4 2007” and inserting “December 31, 2008”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect on January 1, 2008, except
7 that such amendment shall not apply to the application
8 of withholding requirements with respect to any payment
9 made on or before the date of the enactment of this Act.

10 **SEC. 218. EXCLUSION OF AMOUNTS RECEIVED UNDER**
11 **QUALIFIED GROUP LEGAL SERVICES PLANS.**

12 (a) IN GENERAL.—Subsection (e) of section 120 is
13 amended by striking “shall not apply to taxable years be-
14 ginning after June 30, 1992” and inserting “shall apply
15 to taxable years beginning after December 31, 2007, and
16 before January 1, 2009”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2007.

20 **Subtitle C—Extensions Primarily**
21 **Affecting Businesses**

22 **SEC. 221. EXTENSION AND MODIFICATION OF RESEARCH**
23 **CREDIT.**

24 (a) EXTENSION.—Section 41(h)(1)(B) is amended by
25 striking “December 31, 2007” and inserting “December
26 31, 2008”.

1 (b) TERMINATION OF ALTERNATIVE INCREMENTAL
2 CREDIT.—Paragraph (4) of section 41(c) is repealed.

3 (c) MODIFICATION OF ALTERNATIVE SIMPLIFIED
4 CREDIT.—Section 41(c)(5)(A) is amended by striking “12
5 percent” and inserting “14 percent”.

6 (d) CONFORMING AMENDMENT.—Subparagraph (D)
7 of section 45C(b)(1) is amended by striking “December
8 31, 2007” and inserting “December 31, 2008”.

9 (e) TECHNICAL CORRECTION.—Paragraph (3) of sec-
10 tion 41(h) is amended to read as follows:

11 “(2) COMPUTATION FOR TAXABLE YEAR IN
12 WHICH CREDIT TERMINATES.—In the case of any
13 taxable year with respect to which this section ap-
14 plies to a number of days which is less than the total
15 number of days in such taxable year—

16 “(A) the amount determined under sub-
17 section (c)(1)(B) with respect to such taxable
18 year shall be the amount which bears the same
19 ratio to such amount (determined without re-
20 gard to this paragraph) as the number of days
21 in such taxable year to which this section ap-
22 plies bears to the total number of days in such
23 taxable year, and

24 “(B) for purposes of subsection (c)(5), the
25 average qualified research expenses for the pre-

1 ceding 3 taxable years shall be the amount
2 which bears the same ratio to such average
3 qualified research expenses (determined without
4 regard to this paragraph) as the number of
5 days in such taxable year to which this section
6 applies bears to the total number of days in
7 such taxable year.”.

8 (f) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall apply to amounts paid or incurred after De-
12 cember 31, 2007.

13 (2) ALTERNATIVE INCREMENTAL AND SIM-
14 PLIFIED CREDITS AND TECHNICAL AMENDMENT.—
15 The repeal made by subsection (b) and the amend-
16 ments made by subsections (c) and (e) shall apply
17 to taxable years beginning after December 31, 2007.

18 **SEC. 222. INDIAN EMPLOYMENT CREDIT.**

19 (a) IN GENERAL.—Subsection (f) of section 45A is
20 amended by striking “December 31, 2007” and inserting
21 “December 31, 2008”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2007.

1 **SEC. 223. EXTENSION AND MODIFICATION OF NEW MAR-**
2 **KETS TAX CREDIT.**

3 (a) **EXTENSION.**—Subparagraph (D) of section
4 45D(f)(1) is amended by striking “and 2008” and insert-
5 ing “2008, and 2009”.

6 (b) **EXPANSION OF DEFINITION OF LOW-INCOME**
7 **COMMUNITY FOR NEW MARKETS TAX CREDIT.**—

8 (1) **IN GENERAL.**—Section 45D(e) is amended
9 by adding at the end the following new paragraph:

10 “(6) **CERTAIN COUNTIES TREATED AS LOW-IN-**
11 **COME COMMUNITIES.**—

12 “(A) **IN GENERAL.**—The term ‘low-income
13 community’ shall include any county if such
14 county—

15 “(i) has a decennial average annual
16 wage which is at or below 75 percent of
17 the national decennial average annual
18 wage, and

19 “(ii) is located in a State the decen-
20 nial average annual wage of which is at or
21 below 75 percent of the national decennial
22 average annual wage.

23 “(B) **DECENNIAL AVERAGE ANNUAL**
24 **WAGE.**—For purposes of subparagraph (A), the
25 term ‘decennial average annual wage’ means
26 the average wage, as determined based on data

1 from the Bureau of Labor Statistics, for the
2 year in which the most recent decennial census
3 was taken.”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to investments made
6 after the date of the enactment of this Act.

7 **SEC. 224. RAILROAD TRACK MAINTENANCE.**

8 (a) IN GENERAL.—Subsection (f) of section 45G is
9 amended by striking “January 1, 2008” and inserting
10 “January 1, 2009”.

11 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
12 IMUM TAX.—Subparagraph (B) of section 38(c)(4), as
13 amended by the Housing Assistance Tax Act of 2008 and
14 by section 103, is amended—

15 (1) by redesignating clauses (v), (vi), and (vii)
16 as clauses (vi), (vii), and (viii), respectively, and

17 (2) by inserting after clause (iv) the following
18 new clause:

19 “(v) the credit determined under sec-
20 tion 45G,”.

21 (c) EFFECTIVE DATES.—

22 (1) The amendment made by subsection (a)
23 shall apply to expenditures paid or incurred during
24 taxable years beginning after December 31, 2007.

1 (2) The amendments made by subsection (b)
2 shall apply to credits determined under section 45G
3 of the Internal Revenue Code of 1986 in taxable
4 years beginning after December 31, 2007, and to
5 carrybacks of such credits.

6 **SEC. 225. EXTENSION OF MINE RESCUE TEAM TRAINING**
7 **CREDIT.**

8 Section 45N(e) is amended by striking “December
9 31, 2008” and inserting “December 31, 2009”.

10 **SEC. 226. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RE-**
11 **COVERY FOR QUALIFIED LEASEHOLD IM-**
12 **PROVEMENTS AND QUALIFIED RESTAURANT**
13 **IMPROVEMENTS; 15-YEAR STRAIGHT-LINE**
14 **COST RECOVERY FOR CERTAIN IMPROVE-**
15 **MENTS TO RETAIL SPACE.**

16 (a) **EXTENSION OF LEASEHOLD AND RESTAURANT**
17 **IMPROVEMENTS.—**

18 (1) **IN GENERAL.—**Clauses (iv) and (v) of sec-
19 tion 168(e)(3)(E) are each amended by striking
20 “January 1, 2008” and inserting “January 1,
21 2009”.

22 (2) **EFFECTIVE DATE.—**The amendments made
23 by this subsection shall apply to property placed in
24 service after December 31, 2007.

1 (b) TREATMENT TO INCLUDE NEW CONSTRUC-
2 TION.—

3 (1) IN GENERAL.—Paragraph (7) of section
4 168(e) is amended to read as follows:

5 “(7) QUALIFIED RESTAURANT PROPERTY.—The
6 term ‘qualified restaurant property’ means any sec-
7 tion 1250 property which is a building or an im-
8 provement to a building if more than 50 percent of
9 the building’s square footage is devoted to prepara-
10 tion of, and seating for on-premises consumption of,
11 prepared meals.”.

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

15 (c) RECOVERY PERIOD FOR DEPRECIATION OF CER-
16 TAIN IMPROVEMENTS TO RETAIL SPACE.—

17 (1) 15-YEAR RECOVERY PERIOD.—Section
18 168(e)(3)(E) is amended by striking “and” at the
19 end of clause (vii), by striking the period at the end
20 of clause (viii) and inserting “, and”, and by adding
21 at the end the following new clause:

22 “(ix) any qualified retail improvement
23 property placed in service before January
24 1, 2009.”.

1 (2) QUALIFIED RETAIL IMPROVEMENT PROP-
2 ERTY.—Section 168(e) is amended by adding at the
3 end the following new paragraph:

4 “(8) QUALIFIED RETAIL IMPROVEMENT PROP-
5 ERTY.—

6 “(A) IN GENERAL.—The term ‘qualified
7 retail improvement property’ means any im-
8 provement to an interior portion of a building
9 which is nonresidential real property if—

10 “(i) such portion is open to the gen-
11 eral public and is used in the retail trade
12 or business of selling tangible personal
13 property to the general public, and

14 “(ii) such improvement is placed in
15 service more than 3 years after the date
16 the building was first placed in service.

17 “(B) IMPROVEMENTS MADE BY OWNER.—

18 In the case of an improvement made by the
19 owner of such improvement, such improvement
20 shall be qualified retail improvement property
21 (if at all) only so long as such improvement is
22 held by such owner. Rules similar to the rules
23 under paragraph (6)(B) shall apply for pur-
24 poses of the preceding sentence.

1 “(C) CERTAIN IMPROVEMENTS NOT IN-
 2 CLUDED.—Such term shall not include any im-
 3 provement for which the expenditure is attrib-
 4 utable to—

- 5 “(i) the enlargement of the building,
- 6 “(ii) any elevator or escalator,
- 7 “(iii) any structural component bene-
 8 fitting a common area, or
- 9 “(iv) the internal structural frame-
 10 work of the building.”.

11 (3) REQUIREMENT TO USE STRAIGHT LINE
 12 METHOD.—Section 168(b)(3) is amended by adding
 13 at the end the following new subparagraph:

14 “(I) Qualified retail improvement property
 15 described in subsection (e)(8).”.

16 (4) ALTERNATIVE SYSTEM.—The table con-
 17 tained in section 168(g)(3)(B) is amended by insert-
 18 ing after the item relating to subparagraph (E)(viii)
 19 the following new item:

 “(E)(ix) 39”.

20 (5) EFFECTIVE DATE.—The amendments made
 21 by this subsection shall apply to property placed in
 22 service after the date of the enactment of this Act.

1 **SEC. 227. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**
2 **TORSPO RTS RACING TRACK FACILITY.**

3 (a) IN GENERAL.—Subparagraph (D) of section
4 168(i)(15) is amended by striking “December 31, 2007”
5 and inserting “December 31, 2008”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to property placed in service after
8 December 31, 2007.

9 **SEC. 228. ACCELERATED DEPRECIATION FOR BUSINESS**
10 **PROPERTY ON INDIAN RESERVATION.**

11 (a) IN GENERAL.—Paragraph (8) of section 168(j)
12 is amended by striking “December 31, 2007” and insert-
13 ing “December 31, 2008”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to property placed in service after
16 December 31, 2007.

17 **SEC. 229. EXTENSION OF ELECTION TO EXPENSE AD-**
18 **VANCED MINE SAFETY EQUIPMENT.**

19 Section 179E(g) is amended by striking “December
20 31, 2008” and inserting “December 31, 2009”.

21 **SEC. 230. EXPENSING OF ENVIRONMENTAL REMEDIATION**
22 **COSTS.**

23 (a) IN GENERAL.—Subsection (h) of section 198 is
24 amended by striking “December 31, 2007” and inserting
25 “December 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to expenditures paid or incurred
3 after December 31, 2007.

4 **SEC. 231. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
5 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
6 **DUCTION ACTIVITIES IN PUERTO RICO.**

7 (a) IN GENERAL.—Subparagraph (C) of section
8 199(d)(8) is amended—

9 (1) by striking “first 2 taxable years” and in-
10 sserting “first 3 taxable years”, and

11 (2) by striking “January 1, 2008” and insert-
12 ing “January 1, 2009”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2007.

16 **SEC. 232. MODIFICATION OF TAX TREATMENT OF CERTAIN**
17 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
18 **NIZATIONS.**

19 (a) IN GENERAL.—Clause (iv) of section
20 512(b)(13)(E) is amended by striking “December 31,
21 2007” and inserting “December 31, 2008”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to payments received or accrued
24 after December 31, 2007.

1 **SEC. 233. QUALIFIED ZONE ACADEMY BONDS.**

2 (a) IN GENERAL.—Subpart I of part IV of sub-
3 chapter A of chapter 1, as amended by sections 106 and
4 141, is amended by adding at the end the following new
5 section:

6 **“SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.**

7 “(a) QUALIFIED ZONE ACADEMY BONDS.—For pur-
8 poses of this subchapter, the term ‘qualified zone academy
9 bond’ means any bond issued as part of an issue if—

10 “(1) 100 percent of the available project pro-
11 ceeds of such issue are to be used for a qualified
12 purpose with respect to a qualified zone academy es-
13 tablished by an eligible local education agency,

14 “(2) the bond is issued by a State or local gov-
15 ernment within the jurisdiction of which such acad-
16 emy is located, and

17 “(3) the issuer—

18 “(A) designates such bond for purposes of
19 this section,

20 “(B) certifies that it has written assur-
21 ances that the private business contribution re-
22 quirement of subsection (b) will be met with re-
23 spect to such academy, and

24 “(C) certifies that it has the written ap-
25 proval of the eligible local education agency for
26 such bond issuance.

1 “(b) PRIVATE BUSINESS CONTRIBUTION REQUIRE-
2 MENT.—For purposes of subsection (a), the private busi-
3 ness contribution requirement of this subsection is met
4 with respect to any issue if the eligible local education
5 agency that established the qualified zone academy has
6 written commitments from private entities to make quali-
7 fied contributions having a present value (as of the date
8 of issuance of the issue) of not less than 10 percent of
9 the proceeds of the issue.

10 “(c) LIMITATION ON AMOUNT OF BONDS DES-
11 IGNATED.—

12 “(1) NATIONAL LIMITATION.—There is a na-
13 tional zone academy bond limitation for each cal-
14 endar year. Such limitation is \$400,000,000 for
15 2008, and, except as provided in paragraph (4), zero
16 thereafter.

17 “(2) ALLOCATION OF LIMITATION.—The na-
18 tional zone academy bond limitation for a calendar
19 year shall be allocated by the Secretary among the
20 States on the basis of their respective populations of
21 individuals below the poverty line (as defined by the
22 Office of Management and Budget). The limitation
23 amount allocated to a State under the preceding
24 sentence shall be allocated by the State education

1 agency to qualified zone academies within such
2 State.

3 “(3) DESIGNATION SUBJECT TO LIMITATION
4 AMOUNT.—The maximum aggregate face amount of
5 bonds issued during any calendar year which may be
6 designated under subsection (a) with respect to any
7 qualified zone academy shall not exceed the limita-
8 tion amount allocated to such academy under para-
9 graph (2) for such calendar year.

10 “(4) CARRYOVER OF UNUSED LIMITATION.—

11 “(A) IN GENERAL.—If for any calendar
12 year—

13 “(i) the limitation amount for any
14 State, exceeds

15 “(ii) the amount of bonds issued dur-
16 ing such year which are designated under
17 subsection (a) with respect to qualified
18 zone academies within such State,

19 the limitation amount for such State for the fol-
20 lowing calendar year shall be increased by the
21 amount of such excess.

22 “(B) LIMITATION ON CARRYOVER.—Any
23 carryforward of a limitation amount may be
24 carried only to the first 2 years following the
25 unused limitation year. For purposes of the pre-

1 ceding sentence, a limitation amount shall be
2 treated as used on a first-in first-out basis.

3 “(C) COORDINATION WITH SECTION
4 1397E.—Any carryover determined under sec-
5 tion 1397E(e)(4) (relating to carryover of un-
6 used limitation) with respect to any State to
7 calendar year 2008 shall be treated for pur-
8 poses of this section as a carryover with respect
9 to such State for such calendar year under sub-
10 paragraph (A), and the limitation of subpara-
11 graph (B) shall apply to such carryover taking
12 into account the calendar years to which such
13 carryover relates.

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

15 “(1) QUALIFIED ZONE ACADEMY.—The term
16 ‘qualified zone academy’ means any public school (or
17 academic program within a public school) which is
18 established by and operated under the supervision of
19 an eligible local education agency to provide edu-
20 cation or training below the postsecondary level if—

21 “(A) such public school or program (as the
22 case may be) is designed in cooperation with
23 business to enhance the academic curriculum,
24 increase graduation and employment rates, and

1 better prepare students for the rigors of college
2 and the increasingly complex workforce,

3 “(B) students in such public school or pro-
4 gram (as the case may be) will be subject to the
5 same academic standards and assessments as
6 other students educated by the eligible local
7 education agency,

8 “(C) the comprehensive education plan of
9 such public school or program is approved by
10 the eligible local education agency, and

11 “(D)(i) such public school is located in an
12 empowerment zone or enterprise community
13 (including any such zone or community des-
14 ignated after the date of the enactment of this
15 section), or

16 “(ii) there is a reasonable expectation (as
17 of the date of issuance of the bonds) that at
18 least 35 percent of the students attending such
19 school or participating in such program (as the
20 case may be) will be eligible for free or reduced-
21 cost lunches under the school lunch program es-
22 tablished under the National School Lunch Act.

23 “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—

24 For purposes of this section, the term ‘eligible local
25 education agency’ means any local educational agen-

1 cy as defined in section 9101 of the Elementary and
2 Secondary Education Act of 1965.

3 “(3) QUALIFIED PURPOSE.—The term ‘quali-
4 fied purpose’ means, with respect to any qualified
5 zone academy—

6 “(A) rehabilitating or repairing the public
7 school facility in which the academy is estab-
8 lished,

9 “(B) providing equipment for use at such
10 academy,

11 “(C) developing course materials for edu-
12 cation to be provided at such academy, and

13 “(D) training teachers and other school
14 personnel in such academy.

15 “(4) QUALIFIED CONTRIBUTIONS.—The term
16 ‘qualified contribution’ means any contribution (of a
17 type and quality acceptable to the eligible local edu-
18 cation agency) of—

19 “(A) equipment for use in the qualified
20 zone academy (including state-of-the-art tech-
21 nology and vocational equipment),

22 “(B) technical assistance in developing
23 curriculum or in training teachers in order to
24 promote appropriate market driven technology
25 in the classroom,

1 “(C) services of employees as volunteer
2 mentors,

3 “(D) internships, field trips, or other edu-
4 cational opportunities outside the academy for
5 students, or

6 “(E) any other property or service speci-
7 fied by the eligible local education agency.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Paragraph (1) of section 54A(d), as amend-
10 ed by sections 106 and 141, is amended by striking
11 “or” at the end of subparagraph (B), by inserting
12 “or” at the end of subparagraph (C), and by insert-
13 ing after subparagraph (C) the following new sub-
14 paragraph:

15 “(D) a qualified zone academy bond,”.

16 (2) Subparagraph (C) of section 54A(d)(2), as
17 amended by sections 106 and 141, is amended by
18 striking “and” at the end of clause (ii), by striking
19 the period at the end of clause (iii) and inserting “,
20 and”, and by adding at the end the following new
21 clause:

22 “(iv) in the case of a qualified zone
23 academy bond, a purpose specified in sec-
24 tion 54E(a)(1).”.

1 (3) Section 1397E is amended by adding at the
2 end the following new subsection:

3 “(m) TERMINATION.—This section shall not apply to
4 any obligation issued after the date of the enactment of
5 this Act.”.

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

 “Sec. 54E. Qualified zone academy bonds.”.

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

12 **SEC. 234. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
13 **TRICT OF COLUMBIA.**

14 (a) DESIGNATION OF ZONE.—

15 (1) IN GENERAL.—Subsection (f) of section
16 1400 is amended by striking “2007” both places it
17 appears and inserting “2008”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to periods beginning
20 after December 31, 2007.

21 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
22 BONDS.—

23 (1) IN GENERAL.—Subsection (b) of section
24 1400A is amended by striking “2007” and inserting
25 “2008”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to bonds issued after
3 December 31, 2007.

4 (c) ZERO PERCENT CAPITAL GAINS RATE.—

5 (1) IN GENERAL.—Subsection (b) of section
6 1400B is amended by striking “2008” each place it
7 appears and inserting “2009”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 1400B(e)(2) is amended—

10 (i) by striking “2012” and inserting
11 “2013”, and

12 (ii) by striking “2012” in the heading
13 thereof and inserting “2013”.

14 (B) Section 1400B(g)(2) is amended by
15 striking “2012” and inserting “2013”.

16 (C) Section 1400F(d) is amended by strik-
17 ing “2012” and inserting “2013”.

18 (3) EFFECTIVE DATES.—

19 (A) EXTENSION.—The amendments made
20 by paragraph (1) shall apply to acquisitions
21 after December 31, 2007.

22 (B) CONFORMING AMENDMENTS.—The
23 amendments made by paragraph (2) shall take
24 effect on the date of the enactment of this Act.

25 (d) FIRST-TIME HOMEBUYER CREDIT.—

1 (1) IN GENERAL.—Subsection (i) of section
2 1400C is amended by striking “2008” and inserting
3 “2009”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to property purchased
6 after December 31, 2007.

7 **SEC. 235. ECONOMIC DEVELOPMENT CREDIT FOR AMER-**
8 **ICAN SAMOA.**

9 (a) IN GENERAL.—Subsection (d) of section 119 of
10 division A of the Tax Relief and Health Care Act of 2006
11 is amended—

12 (1) by striking “first two taxable years” and in-
13 serting “first 3 taxable years”, and

14 (2) by striking “January 1, 2008” and insert-
15 ing “January 1, 2009”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years beginning after
18 December 31, 2007.

19 **SEC. 236. EXTENSION AND EXPANSION OF CHARITABLE DE-**
20 **DUCTION FOR CONTRIBUTIONS OF FOOD IN-**
21 **VENTORY.**

22 (a) IN GENERAL.—Section 170(e)(3)(C) is amend-
23 ed—

24 (1) by striking “December 31, 2007” in clause
25 (iv) and inserting “December 31, 2008”, and

1 (2) by redesignating clauses (iii) and (iv) as
2 clauses (iv) and (v), respectively, and by inserting
3 after clause (ii) the following new clause:

4 “(iii) DETERMINATION OF BASIS.—If
5 a taxpayer—

6 “(I) does not account for inven-
7 tories under section 471, and

8 “(II) is not required to capitalize
9 indirect costs under section 263A,
10 the taxpayer may elect, solely for purposes
11 of subparagraph (B), to treat the basis of
12 any apparently wholesome food as being
13 equal to 25 percent of the fair market
14 value of such food.”.

15 (b) TEMPORARY SUSPENSION OF LIMITATIONS ON
16 CHARITABLE CONTRIBUTIONS.—

17 (1) IN GENERAL.—Section 170(b) is amended
18 by adding at the end the following new paragraph:

19 “(3) TEMPORARY SUSPENSION OF LIMITATIONS
20 ON CHARITABLE CONTRIBUTIONS.—In the case of a
21 qualified farmer or rancher (as defined in paragraph
22 (1)(E)(v)), any charitable contribution of food—

23 “(A) to which subsection (e)(3)(C) applies
24 (without regard to clause (ii) thereof), and

1 “(B) which is made during the period be-
2 ginning on the date of the enactment of this
3 paragraph and before January 1, 2009,
4 shall be treated for purposes of paragraph (1)(E) or
5 (2)(B), whichever is applicable, as if it were a quali-
6 fied conservation contribution which is made by a
7 qualified farmer or rancher and which otherwise
8 meets the requirements of such paragraph.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to taxable years end-
11 ing after the date of the enactment of this Act.

12 (c) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall apply to contributions made after De-
14 cember 31, 2007.

15 **SEC. 237. ENHANCED CHARITABLE DEDUCTION FOR CON-**
16 **TRIBUTIONS OF BOOK INVENTORY TO PUB-**
17 **LIC SCHOOLS.**

18 (a) IN GENERAL.—Clause (iv) of section
19 170(e)(3)(D) is amended by striking “December 31,
20 2007” and inserting “December 31, 2008”.

21 (b) CLERICAL AMENDMENT.—Clause (iii) of section
22 170(e)(3)(D) is amended by inserting “of books” after “to
23 any contribution”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made after De-
3 cember 31, 2007.

4 **SEC. 238. ENHANCED DEDUCTION FOR QUALIFIED COM-**
5 **PUTER CONTRIBUTIONS.**

6 (a) IN GENERAL.—Subparagraph (G) of section
7 170(e)(6) is amended by striking “December 31, 2007”
8 and inserting “December 31, 2008”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to contributions made during tax-
11 able years beginning after December 31, 2007.

12 **SEC. 239. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
13 **TIONS MAKING CHARITABLE CONTRIBU-**
14 **TIONS OF PROPERTY.**

15 (a) IN GENERAL.—The last sentence of section
16 1367(a)(2) is amended by striking “December 31, 2007”
17 and inserting “December 31, 2008”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to contributions made in taxable
20 years beginning after December 31, 2007.

21 **SEC. 240. WORK OPPORTUNITY TAX CREDIT FOR HURRI-**
22 **CANE KATRINA EMPLOYEES.**

23 (a) IN GENERAL.—Paragraph (1) of section 201(b)
24 of the Katrina Emergency Tax Relief Act of 2005 is
25 amended by striking “2-year” and inserting “3-year”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to individuals hired after August
3 27, 2007.

4 **SEC. 241. SUBPART F EXCEPTION FOR ACTIVE FINANCING**
5 **INCOME.**

6 (a) EXEMPT INSURANCE INCOME.—Paragraph (10)
7 of section 953(e) is amended—

8 (1) by striking “January 1, 2009” and insert-
9 ing “January 1, 2010”, and

10 (2) by striking “December 31, 2008” and in-
11 sserting “December 31, 2009”.

12 (b) EXCEPTION TO TREATMENT AS FOREIGN PER-
13 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of
14 section 954(h) is amended by striking “January 1, 2009”
15 and inserting “January 1, 2010”.

16 **SEC. 242. LOOK-THRU RULE FOR RELATED CONTROLLED**
17 **FOREIGN CORPORATIONS.**

18 (a) IN GENERAL.—Subparagraph (C) of section
19 954(c)(6) is amended by striking “January 1, 2009” and
20 inserting “January 1, 2010”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years of foreign corpora-
23 tions beginning after December 31, 2008, and to taxable
24 years of United States shareholders with or within which
25 such taxable years of foreign corporations end.

1 **SEC. 243. EXPENSING FOR CERTAIN QUALIFIED FILM AND**
2 **TELEVISION PRODUCTIONS.**

3 (a) IN GENERAL.—Subsection (f) of section 181 is
4 amended by striking “December 31, 2008” and inserting
5 “December 31, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to productions commencing after
8 December 31, 2008.

9 **SEC. 244. EXTENSION AND MODIFICATION OF DUTY SUS-**
10 **PENSION ON WOOL PRODUCTS; WOOL RE-**
11 **SEARCH FUND; WOOL DUTY REFUNDS.**

12 (a) EXTENSION OF TEMPORARY DUTY REDUC-
13 TIONS.—Each of the following headings of the Har-
14 monized Tariff Schedule of the United States is amended
15 by striking the date in the effective period column and
16 inserting “12/31/2014”:

17 (1) Heading 9902.51.11 (relating to fabrics of
18 worsted wool).

19 (2) Heading 9902.51.13 (relating to yarn of
20 combed wool).

21 (3) Heading 9902.51.14 (relating to wool fiber,
22 waste, garnetted stock, combed wool, or wool top).

23 (4) Heading 9902.51.15 (relating to fabrics of
24 combed wool).

25 (5) Heading 9902.51.16 (relating to fabrics of
26 combed wool).

1 (b) EXTENSION OF DUTY REFUNDS AND WOOL RE-
2 SEARCH TRUST FUND.—

3 (1) IN GENERAL.—Section 4002(c) of the Wool
4 Suit and Textile Trade Extension Act of 2004 (Pub-
5 lic Law 108–429; 118 Stat. 2603) is amended—

6 (A) in paragraph (3)(C), by striking
7 “2010” and inserting “2015”; and

8 (B) in paragraph (6)(A), by striking
9 “through 2009” and inserting “through 2014”.

10 (2) SUNSET.—Section 506(f) of the Trade and
11 Development Act of 2000 (Public 106–200; 114
12 Stat. 303 (7 U.S.C. 7101 note)) is amended by
13 striking “2010” and inserting “2015”.

14 **Subtitle D—Other Extensions**

15 **SEC. 251. AUTHORITY TO DISCLOSE INFORMATION RE-** 16 **LATED TO TERRORIST ACTIVITIES MADE** 17 **PERMANENT.**

18 (a) IN GENERAL.—Subparagraph (C) of section
19 6103(i)(3) is amended by striking clause (iv).

20 (b) DISCLOSURE ON REQUEST.—Paragraph (7) of
21 section 6103(i) is amended by striking subparagraph (E).

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to disclosures after the date of the
24 enactment of this Act.

1 **SEC. 252. AUTHORITY FOR UNDERCOVER OPERATIONS**
2 **MADE PERMANENT.**

3 (a) IN GENERAL.—Subsection (c) of section 7608 is
4 amended by striking paragraph (6).

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on January 1, 2008.

7 **SEC. 253. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**
8 **CISE TAX TO PUERTO RICO AND THE VIRGIN**
9 **ISLANDS.**

10 (a) IN GENERAL.—Paragraph (1) of section 7652(f)
11 is amended by striking “January 1, 2008” and inserting
12 “January 1, 2009”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to distilled spirits brought into the
15 United States after December 31, 2007.

16 **TITLE III—ADDITIONAL RELIEF**
17 **Subtitle A—Individual Tax Relief**

18 **SEC. 301. \$8,500 INCOME THRESHOLD USED TO CALCULATE**
19 **REFUNDABLE PORTION OF CHILD TAX CRED-**
20 **IT.**

21 (a) IN GENERAL.—Section 24(d) is amended by add-
22 ing at the end the following new paragraph:

23 “(4) SPECIAL RULE FOR 2008.—Notwith-
24 standing paragraph (3), in the case of any taxable
25 year beginning in 2008, the dollar amount in effect

1 for such taxable year under paragraph (1)(B)(i)
2 shall be \$8,500.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2007.

6 **SEC. 302. INCOME AVERAGING FOR AMOUNTS RECEIVED IN**
7 **CONNECTION WITH THE EXXON VALDEZ LITI-**
8 **GATION.**

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

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

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

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

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

1 one or more contributions to an eligible retirement
2 plan of which such qualified taxpayer is a bene-
3 ficiary in an aggregate amount not to exceed the
4 lesser of—

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

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

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

21 (3) TREATMENT OF CONTRIBUTIONS TO ELIGI-
22 BLE RETIREMENT PLANS.—For purposes of the In-
23 ternal Revenue Code of 1986, if a contribution is
24 made pursuant to paragraph (1) with respect to
25 qualified settlement income, then—

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

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

5 (ii) for purposes of section 72 of such
6 Code, such contribution shall not be con-
7 sidered to be investment in the contract,

8 (B) the qualified taxpayer shall, to the ex-
9 tent of the amount of the contribution, be treat-
10 ed—

11 (i) as having received the qualified
12 settlement income—

13 (I) in the case of a contribution
14 to an individual retirement plan (as
15 defined under section 7701(a)(37) of
16 such Code), in a distribution described
17 in section 408(d)(3) of such Code,
18 and

19 (II) in the case of any other eligi-
20 ble retirement plan, in an eligible roll-
21 over distribution (as defined under
22 section 402(f)(2) of such Code), and

23 (ii) as having transferred the amount
24 to the eligible retirement plan in a direct

1 trustee to trustee transfer within 60 days
2 of the distribution,

3 (C) section 408(d)(3)(B) of the Internal
4 Revenue Code of 1986 shall not apply with re-
5 spect to amounts treated as a rollover under
6 this paragraph, and

7 (D) section 408A(c)(3)(B) of the Internal
8 Revenue Code of 1986 shall not apply with re-
9 spect to amounts contributed to a Roth IRA (as
10 defined under section 408A(b) of such Code) or
11 a designated Roth contribution to an applicable
12 retirement plan (within the meaning of section
13 402A of such Code) under this paragraph.

14 (4) SPECIAL RULE FOR ROTH IRAS AND ROTH
15 401(k)s.—For purposes of the Internal Revenue
16 Code of 1986, if a contribution is made pursuant to
17 paragraph (1) with respect to qualified settlement
18 income to a Roth IRA (as defined under section
19 408A(b) of such Code) or as a designated Roth con-
20 tribution to an applicable retirement plan (within
21 the meaning of section 402A of such Code), then—

22 (A) the qualified settlement income shall
23 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 **Subtitle B—Business Related**
18 **Provisions**

19 **SEC. 311. PROVISIONS RELATED TO FILM AND TELEVISION**
20 **PRODUCTIONS.**

21 (a) **MODIFICATION OF LIMITATION ON EXPENS-**
22 **ING.**—Subparagraph (A) of section 181(a)(2) is amended
23 to read as follows:

24 “(A) **IN GENERAL.**—Paragraph (1) shall
25 not apply to so much of the aggregate cost of

1 any qualified film or television production as ex-
2 ceeds \$15,000,000.”.

3 (b) MODIFICATIONS TO DEDUCTION FOR DOMESTIC
4 ACTIVITIES.—

5 (1) DETERMINATION OF W-2 WAGES.—Para-
6 graph (2) of section 199(b) is amended by adding at
7 the end the following new subparagraph:

8 “(D) SPECIAL RULE FOR QUALIFIED
9 FILM.—In the case of a qualified film, such
10 term shall include compensation for services
11 performed in the United States by actors, pro-
12 duction personnel, directors, and producers.”.

13 (2) DEFINITION OF QUALIFIED FILM.—Para-
14 graph (6) of section 199(e) is amended by adding at
15 the end the following: “A qualified film shall include
16 any copyrights, trademarks, or other intangibles
17 with respect to such film. The methods and means
18 of distributing a qualified film shall not affect the
19 availability of the deduction under this section.”.

20 (3) PARTNERSHIPS.—Subparagraph (A) of sec-
21 tion 199(d)(1) is amended by striking “and” at the
22 end of clause (ii), by striking the period at the end
23 of clause (iii) and inserting “, and”, and by adding
24 at the end the following new clause:

1 “(iv) in the case of each partner of a
2 partnership, or shareholder of an S cor-
3 poration, who owns (directly or indirectly)
4 at least 20 percent of the capital interests
5 in such partnership or of the stock of such
6 S corporation—

7 “(I) such partner or shareholder
8 shall be treated as having engaged di-
9 rectly in any film produced by such
10 partnership or S corporation, and

11 “(II) such partnership or S cor-
12 poration shall be treated as having en-
13 gaged directly in any film produced by
14 such partner or shareholder.”.

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, the amendments made by
18 this section shall apply to taxable years beginning
19 after December 31, 2007.

20 (2) EXPENSING.—The amendments made by
21 subsection (a) shall apply to qualified film and tele-
22 vision productions commencing after December 31,
23 2007.

1 **SEC. 312. MODIFICATION OF RATE OF EXCISE TAX ON CER-**
2 **TAIN WOODEN ARROWS DESIGNED FOR USE**
3 **BY CHILDREN.**

4 (a) **IN GENERAL.**—Paragraph (2) of section 4161(b)
5 is amended by redesignating subparagraph (B) as sub-
6 paragraph (C) and by inserting after subparagraph (A)
7 the following new subparagraph:

8 “(B) **EXEMPTION FOR CERTAIN WOODEN**
9 **ARROW SHAFTS.**—Subparagraph (A) shall not
10 apply to any shaft consisting of all natural
11 wood with no laminations or artificial means of
12 enhancing the spine of such shaft (whether sold
13 separately or incorporated as part of a finished
14 or unfinished product) of a type used in the
15 manufacture of any arrow which after its as-
16 sembly—

17 “(i) measures $\frac{5}{16}$ of an inch or less in
18 diameter, and

19 “(ii) is not suitable for use with a bow
20 described in paragraph (1)(A).”.

21 (b) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply to shafts first sold after the date
23 of enactment of this Act.

1 **SEC. 313. MENTAL HEALTH PARITY.**

2 (a) AMENDMENTS TO ERISA.—Section 712 of the
3 Employee Retirement Income Security Act of 1974 (29
4 U.S.C. 1185a) is amended—

5 (1) in subsection (a), by adding at the end the
6 following:

7 “(3) FINANCIAL REQUIREMENTS AND TREAT-
8 MENT LIMITATIONS.—

9 “(A) IN GENERAL.—In the case of a group
10 health plan (or health insurance coverage of-
11 fered in connection with such a plan) that pro-
12 vides both medical and surgical benefits and
13 mental health or substance use disorder bene-
14 fits, such plan or coverage shall ensure that—

15 “(i) the financial requirements appli-
16 cable to such mental health or substance
17 use disorder benefits are no more restric-
18 tive than the predominant financial re-
19 quirements applied to substantially all
20 medical and surgical benefits covered by
21 the plan (or coverage), and there are no
22 separate cost sharing requirements that
23 are applicable only with respect to mental
24 health or substance use disorder benefits;
25 and

1 “(ii) the treatment limitations applica-
2 ble to such mental health or substance use
3 disorder benefits are no more restrictive
4 than the predominant treatment limita-
5 tions applied to substantially all medical
6 and surgical benefits covered by the plan
7 (or coverage) and there are no separate
8 treatment limitations that are applicable
9 only with respect to mental health or sub-
10 stance use disorder benefits.

11 “(B) DEFINITIONS.—In this paragraph:

12 “(i) FINANCIAL REQUIREMENT.—The
13 term ‘financial requirement’ includes
14 deductibles, copayments, coinsurance, and
15 out-of-pocket expenses, but excludes an ag-
16 gregate lifetime limit and an annual limit
17 subject to paragraphs (1) and (2),

18 “(ii) PREDOMINANT.—A financial re-
19 quirement or treatment limit is considered
20 to be predominant if it is the most com-
21 mon or frequent of such type of limit or
22 requirement.

23 “(iii) TREATMENT LIMITATION.—The
24 term ‘treatment limitation’ includes limits
25 on the frequency of treatment, number of

1 visits, days of coverage, or other similar
2 limits on the scope or duration of treat-
3 ment.

4 “(4) AVAILABILITY OF PLAN INFORMATION.—
5 The criteria for medical necessity determinations
6 made under the plan with respect to mental health
7 or substance use disorder benefits (or the health in-
8 surance coverage offered in connection with the plan
9 with respect to such benefits) shall be made avail-
10 able by the plan administrator (or the health insur-
11 ance issuer offering such coverage) in accordance
12 with regulations to any current or potential partici-
13 pant, beneficiary, or contracting provider upon re-
14 quest. The reason for any denial under the plan (or
15 coverage) of reimbursement or payment for services
16 with respect to mental health or substance use dis-
17 order benefits in the case of any participant or bene-
18 ficiary shall, on request or as otherwise required, be
19 made available by the plan administrator (or the
20 health insurance issuer offering such coverage) to
21 the participant or beneficiary in accordance with
22 regulations.

23 “(5) OUT-OF-NETWORK PROVIDERS.—In the
24 case of a plan or coverage that provides both med-
25 ical and surgical benefits and mental health or sub-

1 stance use disorder benefits, if the plan or coverage
2 provides coverage for medical or surgical benefits
3 provided by out-of-network providers, the plan or
4 coverage shall provide coverage for mental health or
5 substance use disorder benefits provided by out-of-
6 network providers in a manner that is consistent
7 with the requirements of this section.”;

8 (2) in subsection (b), by amending paragraph
9 (2) to read as follows:

10 “(2) in the case of a group health plan (or
11 health insurance coverage offered in connection with
12 such a plan) that provides mental health or sub-
13 stance use disorder benefits, as affecting the terms
14 and conditions of the plan or coverage relating to
15 such benefits under the plan or coverage, except as
16 provided in subsection (a).”;

17 (3) in subsection (c)—

18 (A) in paragraph (1)(B)—

19 (i) by inserting “(or 1 in the case of
20 an employer residing in a State that per-
21 mits small groups to include a single indi-
22 vidual)” after “at least 2” the first place
23 that such appears; and

1 (ii) by striking “and who employs at
2 least 2 employees on the first day of the
3 plan year”; and

4 (B) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) COST EXEMPTION.—

7 “(A) IN GENERAL.—With respect to a
8 group health plan (or health insurance coverage
9 offered in connection with such a plan), if the
10 application of this section to such plan (or cov-
11 erage) results in an increase for the plan year
12 involved of the actual total costs of coverage
13 with respect to medical and surgical benefits
14 and mental health and substance use disorder
15 benefits under the plan (as determined and cer-
16 tified under subparagraph (C)) by an amount
17 that exceeds the applicable percentage described
18 in subparagraph (B) of the actual total plan
19 costs, the provisions of this section shall not
20 apply to such plan (or coverage) during the fol-
21 lowing plan year, and such exemption shall
22 apply to the plan (or coverage) for 1 plan year.
23 An employer may elect to continue to apply
24 mental health and substance use disorder parity
25 pursuant to this section with respect to the

1 group health plan (or coverage) involved regard-
2 less of any increase in total costs.

3 “(B) APPLICABLE PERCENTAGE.—With re-
4 spect to a plan (or coverage), the applicable
5 percentage described in this subparagraph shall
6 be—

7 “(i) 2 percent in the case of the first
8 plan year in which this section is applied;
9 and

10 “(ii) 1 percent in the case of each
11 subsequent plan year.

12 “(C) DETERMINATIONS BY ACTUARIES.—
13 Determinations as to increases in actual costs
14 under a plan (or coverage) for purposes of this
15 section shall be made and certified by a quali-
16 fied and licensed actuary who is a member in
17 good standing of the American Academy of Ac-
18 tuaries. All such determinations shall be in a
19 written report prepared by the actuary. The re-
20 port, and all underlying documentation relied
21 upon by the actuary, shall be maintained by the
22 group health plan or health insurance issuer for
23 a period of 6 years following the notification
24 made under subparagraph (E).

1 “(D) 6-MONTH DETERMINATIONS.—If a
2 group health plan (or a health insurance issuer
3 offering coverage in connection with a group
4 health plan) seeks an exemption under this
5 paragraph, determinations under subparagraph
6 (A) shall be made after such plan (or coverage)
7 has complied with this section for the first 6
8 months of the plan year involved.

9 “(E) NOTIFICATION.—

10 “(i) IN GENERAL.—A group health
11 plan (or a health insurance issuer offering
12 coverage in connection with a group health
13 plan) that, based upon a certification de-
14 scribed under subparagraph (C), qualifies
15 for an exemption under this paragraph,
16 and elects to implement the exemption,
17 shall notify the Secretary, the appropriate
18 State agencies, and participants and bene-
19 ficiaries in the plan of such election in a
20 timely manner promptly following such cer-
21 tification.

22 “(ii) REQUIREMENT.—A notification
23 to the Secretary under clause (i) shall in-
24 clude—

1 “(I) a description of the number
2 of covered lives under the plan (or
3 coverage) involved at the time of the
4 notification, and as applicable, at the
5 time of any prior election of the cost-
6 exemption under this paragraph by
7 such plan (or coverage);

8 “(II) for both the plan year upon
9 which a cost exemption is sought and
10 the year prior, a description of the ac-
11 tual total costs of coverage with re-
12 spect to medical and surgical benefits
13 and mental health and substance use
14 disorder benefits under the plan; and

15 “(III) for both the plan year
16 upon which a cost exemption is sought
17 and the year prior, the actual total
18 costs of coverage with respect to men-
19 tal health and substance use disorder
20 benefits under the plan.

21 “(iii) CONFIDENTIALITY.—A notifica-
22 tion to the Secretary under clause (i) shall
23 be confidential. The Secretary shall make
24 available, upon request and on not more
25 than an annual basis, an anonymous

1 itemization of such notifications, that in-
2 cludes—

3 “(I) a breakdown of States by
4 the size and type of employers submit-
5 ting such notification; and

6 “(II) a summary of the data re-
7 ceived under clause (ii).

8 “(F) AUDITS BY APPROPRIATE AGEN-
9 CIES.—To determine compliance with this para-
10 graph, the Secretary may audit the books and
11 records of a group health plan or health insur-
12 ance issuer relating to an exemption, including
13 any actuarial reports prepared pursuant to sub-
14 paragraph (C), during the 6 year period fol-
15 lowing the notification of such exemption under
16 subparagraph (E). A State agency receiving a
17 notification under subparagraph (E) may also
18 conduct such an audit with respect to an ex-
19 emption covered by such notification.”;

20 (4) in subsection (e), by striking paragraph (4)
21 and inserting the following:

22 “(4) MENTAL HEALTH BENEFITS.—The term
23 ‘mental health benefits’ means benefits with respect
24 to services for mental health conditions, as defined

1 under the terms of the plan and in accordance with
2 applicable Federal and State law.

3 “(5) SUBSTANCE USE DISORDER BENEFITS.—

4 The term ‘substance use disorder benefits’ means
5 benefits with respect to services for substance use
6 disorders, as defined under the terms of the plan
7 and in accordance with applicable Federal and State
8 law.”;

9 (5) by striking subsection (f);

10 (6) by inserting after subsection (e) the fol-
11 lowing:

12 “(f) SECRETARY REPORT.—The Secretary shall, by
13 January 1, 2012, and every two years thereafter, submit
14 to the appropriate committees of Congress a report on
15 compliance of group health plans (and health insurance
16 coverage offered in connection with such plans) with the
17 requirements of this section. Such report shall include the
18 results of any surveys or audits on compliance of group
19 health plans (and health insurance coverage offered in
20 connection with such plans) with such requirements and
21 an analysis of the reasons for any failures to comply.

22 “(g) NOTICE AND ASSISTANCE.—The Secretary, in
23 cooperation with the Secretaries of Health and Human
24 Services and Treasury, as appropriate, shall publish and
25 widely disseminate guidance and information for group

1 health plans, participants and beneficiaries, applicable
2 State and local regulatory bodies, and the National Asso-
3 ciation of Insurance Commissioners concerning the re-
4 quirements of this section and shall provide assistance
5 concerning such requirements and the continued operation
6 of applicable State law. Such guidance and information
7 shall inform participants and beneficiaries of how they
8 may obtain assistance under this section, including, where
9 appropriate, assistance from State consumer and insur-
10 ance agencies.”;

11 (7) by striking “mental health benefits” and in-
12 serting “mental health and substance use disorder
13 benefits” each place it appears in subsections
14 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
15 and

16 (8) by striking “mental health benefits” and in-
17 serting “mental health or substance use disorder
18 benefits” each place it appears (other than in any
19 provision amended by the previous paragraph).

20 (b) AMENDMENTS TO PUBLIC HEALTH SERVICE
21 ACT.—Section 2705 of the Public Health Service Act (42
22 U.S.C. 300gg–5) is amended—

23 (1) in subsection (a), by adding at the end the
24 following:

1 “(3) FINANCIAL REQUIREMENTS AND TREAT-
2 MENT LIMITATIONS.—

3 “(A) IN GENERAL.—In the case of a group
4 health plan (or health insurance coverage of-
5 fered in connection with such a plan) that pro-
6 vides both medical and surgical benefits and
7 mental health or substance use disorder bene-
8 fits, such plan or coverage shall ensure that—

9 “(i) the financial requirements appli-
10 cable to such mental health or substance
11 use disorder benefits are no more restric-
12 tive than the predominant financial re-
13 quirements applied to substantially all
14 medical and surgical benefits covered by
15 the plan (or coverage), and there are no
16 separate cost sharing requirements that
17 are applicable only with respect to mental
18 health or substance use disorder benefits;
19 and

20 “(ii) the treatment limitations applica-
21 ble to such mental health or substance use
22 disorder benefits are no more restrictive
23 than the predominant treatment limita-
24 tions applied to substantially all medical
25 and surgical benefits covered by the plan

1 (or coverage) and there are no separate
2 treatment limitations that are applicable
3 only with respect to mental health or sub-
4 stance use disorder benefits.

5 “(B) DEFINITIONS.—In this paragraph:

6 “(i) FINANCIAL REQUIREMENT.—The
7 term ‘financial requirement’ includes
8 deductibles, copayments, coinsurance, and
9 out-of-pocket expenses, but excludes an ag-
10 gregate lifetime limit and an annual limit
11 subject to paragraphs (1) and (2),

12 “(ii) PREDOMINANT.—A financial re-
13 quirement or treatment limit is considered
14 to be predominant if it is the most com-
15 mon or frequent of such type of limit or
16 requirement.

17 “(iii) TREATMENT LIMITATION.—The
18 term ‘treatment limitation’ includes limits
19 on the frequency of treatment, number of
20 visits, days of coverage, or other similar
21 limits on the scope or duration of treat-
22 ment.

23 “(4) AVAILABILITY OF PLAN INFORMATION.—
24 The criteria for medical necessity determinations
25 made under the plan with respect to mental health

1 or substance use disorder benefits (or the health in-
2 surance coverage offered in connection with the plan
3 with respect to such benefits) shall be made avail-
4 able by the plan administrator (or the health insur-
5 ance issuer offering such coverage) in accordance
6 with regulations to any current or potential partici-
7 pant, beneficiary, or contracting provider upon re-
8 quest. The reason for any denial under the plan (or
9 coverage) of reimbursement or payment for services
10 with respect to mental health or substance use dis-
11 order benefits in the case of any participant or bene-
12 ficiary shall, on request or as otherwise required, be
13 made available by the plan administrator (or the
14 health insurance issuer offering such coverage) to
15 the participant or beneficiary in accordance with
16 regulations.

17 “(5) OUT-OF-NETWORK PROVIDERS.—In the
18 case of a plan or coverage that provides both med-
19 ical and surgical benefits and mental health or sub-
20 stance use disorder benefits, if the plan or coverage
21 provides coverage for medical or surgical benefits
22 provided by out-of-network providers, the plan or
23 coverage shall provide coverage for mental health or
24 substance use disorder benefits provided by out-of-

1 network providers in a manner that is consistent
2 with the requirements of this section.”;

3 (2) in subsection (b), by amending paragraph
4 (2) to read as follows:

5 “(2) in the case of a group health plan (or
6 health insurance coverage offered in connection with
7 such a plan) that provides mental health or sub-
8 stance use disorder benefits, as affecting the terms
9 and conditions of the plan or coverage relating to
10 such benefits under the plan or coverage, except as
11 provided in subsection (a).”;

12 (3) in subsection (c)—

13 (A) in paragraph (1), by inserting before
14 the period the following: “(as defined in section
15 2791(e)(4), except that for purposes of this
16 paragraph such term shall include employers
17 with 1 employee in the case of an employer re-
18 siding in a State that permits small groups to
19 include a single individual)”;

20 (B) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) COST EXEMPTION.—

23 “(A) IN GENERAL.—With respect to a
24 group health plan (or health insurance coverage
25 offered in connection with such a plan), if the

1 application of this section to such plan (or cov-
2 erage) results in an increase for the plan year
3 involved of the actual total costs of coverage
4 with respect to medical and surgical benefits
5 and mental health and substance use disorder
6 benefits under the plan (as determined and cer-
7 tified under subparagraph (C)) by an amount
8 that exceeds the applicable percentage described
9 in subparagraph (B) of the actual total plan
10 costs, the provisions of this section shall not
11 apply to such plan (or coverage) during the fol-
12 lowing plan year, and such exemption shall
13 apply to the plan (or coverage) for 1 plan year.
14 An employer may elect to continue to apply
15 mental health and substance use disorder parity
16 pursuant to this section with respect to the
17 group health plan (or coverage) involved regard-
18 less of any increase in total costs.

19 “(B) APPLICABLE PERCENTAGE.—With re-
20 spect to a plan (or coverage), the applicable
21 percentage described in this subparagraph shall
22 be—

23 “(i) 2 percent in the case of the first
24 plan year in which this section is applied;
25 and

1 “(ii) 1 percent in the case of each
2 subsequent plan year.

3 “(C) DETERMINATIONS BY ACTUARIES.—
4 Determinations as to increases in actual costs
5 under a plan (or coverage) for purposes of this
6 section shall be made and certified by a quali-
7 fied and licensed actuary who is a member in
8 good standing of the American Academy of Ac-
9 tuaries. All such determinations shall be in a
10 written report prepared by the actuary. The re-
11 port, and all underlying documentation relied
12 upon by the actuary, shall be maintained by the
13 group health plan or health insurance issuer for
14 a period of 6 years following the notification
15 made under subparagraph (E).

16 “(D) 6-MONTH DETERMINATIONS.—If a
17 group health plan (or a health insurance issuer
18 offering coverage in connection with a group
19 health plan) seeks an exemption under this
20 paragraph, determinations under subparagraph
21 (A) shall be made after such plan (or coverage)
22 has complied with this section for the first 6
23 months of the plan year involved.

24 “(E) NOTIFICATION.—

1 tual total costs of coverage with re-
2 spect to medical and surgical benefits
3 and mental health and substance use
4 disorder benefits under the plan; and

5 “(III) for both the plan year
6 upon which a cost exemption is sought
7 and the year prior, the actual total
8 costs of coverage with respect to men-
9 tal health and substance use disorder
10 benefits under the plan.

11 “(iii) CONFIDENTIALITY.—A notifica-
12 tion to the Secretary under clause (i) shall
13 be confidential. The Secretary shall make
14 available, upon request and on not more
15 than an annual basis, an anonymous
16 itemization of such notifications, that in-
17 cludes—

18 “(I) a breakdown of States by
19 the size and type of employers submit-
20 ting such notification; and

21 “(II) a summary of the data re-
22 ceived under clause (ii).

23 “(F) AUDITS BY APPROPRIATE AGEN-
24 CIES.—To determine compliance with this para-
25 graph, the Secretary may audit the books and

1 records of a group health plan or health insur-
2 ance issuer relating to an exemption, including
3 any actuarial reports prepared pursuant to sub-
4 paragraph (C), during the 6 year period fol-
5 lowing the notification of such exemption under
6 subparagraph (E). A State agency receiving a
7 notification under subparagraph (E) may also
8 conduct such an audit with respect to an ex-
9 emption covered by such notification.”;

10 (4) in subsection (e), by striking paragraph (4)
11 and inserting the following:

12 “(4) MENTAL HEALTH BENEFITS.—The term
13 ‘mental health benefits’ means benefits with respect
14 to services for mental health conditions, as defined
15 under the terms of the plan and in accordance with
16 applicable Federal and State law.

17 “(5) SUBSTANCE USE DISORDER BENEFITS.—
18 The term ‘substance use disorder benefits’ means
19 benefits with respect to services for substance use
20 disorders, as defined under the terms of the plan
21 and in accordance with applicable Federal and State
22 law.”;

23 (5) by striking subsection (f);

24 (6) by striking “mental health benefits” and in-
25 serting “mental health and substance use disorder

1 benefits” each place it appears in subsections
2 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
3 and

4 (7) by striking “mental health benefits” and in-
5 serting “mental health or substance use disorder
6 benefits” each place it appears (other than in any
7 provision amended by the previous paragraph).

8 (c) AMENDMENTS TO INTERNAL REVENUE CODE.—
9 Section 9812 is amended—

10 (1) in subsection (a), by adding at the end the
11 following:

12 “(3) FINANCIAL REQUIREMENTS AND TREAT-
13 MENT LIMITATIONS.—

14 “(A) IN GENERAL.—In the case of a group
15 health plan that provides both medical and sur-
16 gical benefits and mental health or substance
17 use disorder benefits, such plan shall ensure
18 that—

19 “(i) the financial requirements appli-
20 cable to such mental health or substance
21 use disorder benefits are no more restric-
22 tive than the predominant financial re-
23 quirements applied to substantially all
24 medical and surgical benefits covered by
25 the plan, and there are no separate cost

1 sharing requirements that are applicable
2 only with respect to mental health or sub-
3 stance use disorder benefits; and

4 “(ii) the treatment limitations applica-
5 ble to such mental health or substance use
6 disorder benefits are no more restrictive
7 than the predominant treatment limita-
8 tions applied to substantially all medical
9 and surgical benefits covered by the plan
10 and there are no separate treatment limi-
11 tations that are applicable only with re-
12 spect to mental health or substance use
13 disorder benefits.

14 “(B) DEFINITIONS.—In this paragraph:

15 “(i) FINANCIAL REQUIREMENT.—The
16 term ‘financial requirement’ includes
17 deductibles, copayments, coinsurance, and
18 out-of-pocket expenses, but excludes an ag-
19 gregate lifetime limit and an annual limit
20 subject to paragraphs (1) and (2),

21 “(ii) PREDOMINANT.—A financial re-
22 quirement or treatment limit is considered
23 to be predominant if it is the most com-
24 mon or frequent of such type of limit or
25 requirement.

1 “(iii) TREATMENT LIMITATION.—The
2 term ‘treatment limitation’ includes limits
3 on the frequency of treatment, number of
4 visits, days of coverage, or other similar
5 limits on the scope or duration of treat-
6 ment.

7 “(4) AVAILABILITY OF PLAN INFORMATION.—
8 The criteria for medical necessity determinations
9 made under the plan with respect to mental health
10 or substance use disorder benefits shall be made
11 available by the plan administrator in accordance
12 with regulations to any current or potential partici-
13 pant, beneficiary, or contracting provider upon re-
14 quest. The reason for any denial under the plan of
15 reimbursement or payment for services with respect
16 to mental health or substance use disorder benefits
17 in the case of any participant or beneficiary shall, on
18 request or as otherwise required, be made available
19 by the plan administrator to the participant or bene-
20 ficiary in accordance with regulations.

21 “(5) OUT-OF-NETWORK PROVIDERS.—In the
22 case of a plan that provides both medical and sur-
23 gical benefits and mental health or substance use
24 disorder benefits, if the plan provides coverage for
25 medical or surgical benefits provided by out-of-net-

1 work providers, the plan shall provide coverage for
2 mental health or substance use disorder benefits pro-
3 vided by out-of-network providers in a manner that
4 is consistent with the requirements of this section.”;

5 (2) in subsection (b), by amending paragraph
6 (2) to read as follows:

7 “(2) in the case of a group health plan that
8 provides mental health or substance use disorder
9 benefits, as affecting the terms and conditions of the
10 plan relating to such benefits under the plan, except
11 as provided in subsection (a).”;

12 (3) in subsection (c)—

13 (A) by amending paragraph (1) to read as
14 follows:

15 “(1) SMALL EMPLOYER EXEMPTION.—

16 “(A) IN GENERAL.—This section shall not
17 apply to any group health plan for any plan
18 year of a small employer.

19 “(B) SMALL EMPLOYER.—For purposes of
20 subparagraph (A), the term ‘small employer’
21 means, with respect to a calendar year and a
22 plan year, an employer who employed an aver-
23 age of at least 2 (or 1 in the case of an em-
24 ployer residing in a State that permits small
25 groups to include a single individual) but not

1 more than 50 employees on business days dur-
2 ing the preceding calendar year. For purposes
3 of the preceding sentence, all persons treated as
4 a single employer under subsection (b), (c),
5 (m), or (o) of section 414 shall be treated as 1
6 employer and rules similar to rules of subpara-
7 graphs (B) and (C) of section 4980D(d)(2)
8 shall apply.”; and

9 (B) by striking paragraph (2) and insert-
10 ing the following:

11 “(2) COST EXEMPTION.—

12 “(A) IN GENERAL.—With respect to a
13 group health plan, if the application of this sec-
14 tion to such plan results in an increase for the
15 plan year involved of the actual total costs of
16 coverage with respect to medical and surgical
17 benefits and mental health and substance use
18 disorder benefits under the plan (as determined
19 and certified under subparagraph (C)) by an
20 amount that exceeds the applicable percentage
21 described in subparagraph (B) of the actual
22 total plan costs, the provisions of this section
23 shall not apply to such plan during the fol-
24 lowing plan year, and such exemption shall
25 apply to the plan for 1 plan year. An employer

1 may elect to continue to apply mental health
2 and substance use disorder parity pursuant to
3 this section with respect to the group health
4 plan involved regardless of any increase in total
5 costs.

6 “(B) APPLICABLE PERCENTAGE.—With re-
7 spect to a plan, the applicable percentage de-
8 scribed in this subparagraph shall be—

9 “(i) 2 percent in the case of the first
10 plan year in which this section is applied;
11 and

12 “(ii) 1 percent in the case of each
13 subsequent plan year.

14 “(C) DETERMINATIONS BY ACTUARIES.—
15 Determinations as to increases in actual costs
16 under a plan for purposes of this section shall
17 be made and certified by a qualified and li-
18 censed actuary who is a member in good stand-
19 ing of the American Academy of Actuaries. All
20 such determinations shall be in a written report
21 prepared by the actuary. The report, and all
22 underlying documentation relied upon by the
23 actuary, shall be maintained by the group
24 health plan for a period of 6 years following the
25 notification made under subparagraph (E).

1 “(D) 6-MONTH DETERMINATIONS.—If a
2 group health plan seeks an exemption under
3 this paragraph, determinations under subpara-
4 graph (A) shall be made after such plan has
5 complied with this section for the first 6
6 months of the plan year involved.

7 “(E) NOTIFICATION.—

8 “(i) IN GENERAL.—A group health
9 plan that, based upon a certification de-
10 scribed under subparagraph (C), qualifies
11 for an exemption under this paragraph,
12 and elects to implement the exemption,
13 shall notify the Secretary, the appropriate
14 State agencies, and participants and bene-
15 ficiaries in the plan of such election in a
16 timely manner promptly following such cer-
17 tification.

18 “(ii) REQUIREMENT.—A notification
19 to the Secretary under clause (i) shall in-
20 clude—

21 “(I) a description of the number
22 of covered lives under the plan in-
23 volved at the time of the notification,
24 and as applicable, at the time of any

1 prior election of the cost-exemption
2 under this paragraph by such plan;

3 “(II) for both the plan year upon
4 which a cost exemption is sought and
5 the year prior, a description of the ac-
6 tual total costs of coverage with re-
7 spect to medical and surgical benefits
8 and mental health and substance use
9 disorder benefits under the plan; and

10 “(III) for both the plan year
11 upon which a cost exemption is sought
12 and the year prior, the actual total
13 costs of coverage with respect to men-
14 tal health and substance use disorder
15 benefits under the plan.

16 “(iii) CONFIDENTIALITY.—A notifica-
17 tion to the Secretary under clause (i) shall
18 be confidential. The Secretary shall make
19 available, upon request and on not more
20 than an annual basis, an anonymous
21 itemization of such notifications, that in-
22 cludes—

23 “(I) a breakdown of States by
24 the size and type of employers submit-
25 ting such notification; and

1 “(II) a summary of the data re-
2 ceived under clause (ii).

3 “(F) AUDITS BY APPROPRIATE AGEN-
4 CIES.—To determine compliance with this para-
5 graph, the Secretary may audit the books and
6 records of a group health plan relating to an
7 exemption, including any actuarial reports pre-
8 pared pursuant to subparagraph (C), during
9 the 6 year period following the notification of
10 such exemption under subparagraph (E). A
11 State agency receiving a notification under sub-
12 paragraph (E) may also conduct such an audit
13 with respect to an exemption covered by such
14 notification.”;

15 (4) in subsection (e), by striking paragraph (4)
16 and inserting the following:

17 “(4) MENTAL HEALTH BENEFITS.—The term
18 ‘mental health benefits’ means benefits with respect
19 to services for mental health conditions, as defined
20 under the terms of the plan and in accordance with
21 applicable Federal and State law.

22 “(5) SUBSTANCE USE DISORDER BENEFITS.—
23 The term ‘substance use disorder benefits’ means
24 benefits with respect to services for substance use
25 disorders, as defined under the terms of the plan

1 and in accordance with applicable Federal and State
2 law.”;

3 (5) by striking subsection (f);

4 (6) by striking “mental health benefits” and in-
5 sserting “mental health and substance use disorder
6 benefits” each place it appears in subsections
7 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
8 and

9 (7) by striking “mental health benefits” and in-
10 sserting “mental health or substance use disorder
11 benefits” each place it appears (other than in any
12 provision amended by the previous paragraph).

13 (d) REGULATIONS.—Not later than 1 year after the
14 date of enactment of this Act, the Secretaries of Labor,
15 Health and Human Services, and the Treasury shall issue
16 regulations to carry out the amendments made by sub-
17 sections (a), (b), and (c), respectively.

18 (e) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply with respect to group health
21 plans for plan years beginning after the date that is
22 1 year after the date of enactment of this Act, re-
23 gardless of whether regulations have been issued to
24 carry out such amendment by such effective date,
25 except that the amendments made by subsections

1 (a)(5), (b)(5), and (c)(5) shall take effect on Janu-
2 ary 1, 2009.

3 (2) SPECIAL RULE FOR COLLECTIVE BAR-
4 GAINING AGREEMENTS.—In the case of a group
5 health plan maintained pursuant to one or more col-
6 lective bargaining agreements between employee rep-
7 resentatives and one or more employers ratified be-
8 fore the date of the enactment of this Act, the
9 amendments made by this section shall not apply to
10 plan years beginning before the later of—

11 (A) the date on which the last of the col-
12 lective bargaining agreements relating to the
13 plan terminates (determined without regard to
14 any extension thereof agreed to after the date
15 of the enactment of this Act), or

16 (B) January 1, 2009.

17 For purposes of subparagraph (A), any plan amend-
18 ment made pursuant to a collective bargaining
19 agreement relating to the plan which amends the
20 plan solely to conform to any requirement added by
21 this section shall not be treated as a termination of
22 such collective bargaining agreement.

23 (f) ASSURING COORDINATION.—The Secretary of
24 Health and Human Services, the Secretary of Labor, and
25 the Secretary of the Treasury may ensure, through the

1 execution or revision of an interagency memorandum of
2 understanding among such Secretaries, that—

3 (1) regulations, rulings, and interpretations
4 issued by such Secretaries relating to the same mat-
5 ter over which two or more such Secretaries have re-
6 sponsibility under this section (and the amendments
7 made by this section) are administered so as to have
8 the same effect at all times; and

9 (2) coordination of policies relating to enforcing
10 the same requirements through such Secretaries in
11 order to have a coordinated enforcement strategy
12 that avoids duplication of enforcement efforts and
13 assigns priorities in enforcement.

14 (g) CONFORMING CLERICAL AMENDMENTS.—

15 (1) ERISA HEADING.—

16 (A) IN GENERAL.—The heading of section
17 712 of the Employee Retirement Income Secu-
18 rity Act of 1974 is amended to read as follows:

19 **“SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE**
20 **USE DISORDER BENEFITS.”.**

21 (B) CLERICAL AMENDMENT.—The table of
22 contents in section 1 of such Act is amended by
23 striking the item relating to section 712 and in-
24 serting the following new item:

“Sec. 712. Parity in mental health and substance use disorder benefits.”.

1 (2) PHSA HEADING.—The heading of section
2 2705 of the Public Health Service Act is amended
3 to read as follows:

4 **“SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE**
5 **USE DISORDER BENEFITS.”.**

6 (3) IRC HEADING.—

7 (A) IN GENERAL.—The heading of section
8 9812 is amended to read as follows:

9 **“SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE**
10 **USE DISORDER BENEFITS.”.**

11 (B) CLERICAL AMENDMENT.—The table of
12 sections for subchapter B of chapter 100 is
13 amended by striking the item relating to section
14 9812 and inserting the following new item:

 “Sec. 9812. Parity in mental health and substance use disorder benefits.”.

15 (h) GAO STUDY ON COVERAGE AND EXCLUSION OF
16 MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAG-
17 NOSES.—

18 (1) IN GENERAL.—The Comptroller General of
19 the United States shall conduct a study that ana-
20 lyzes the specific rates, patterns, and trends in cov-
21 erage and exclusion of specific mental health and
22 substance use disorder diagnoses by health plans
23 and health insurance. The study shall include an
24 analysis of—

1 (A) specific coverage rates for all mental
2 health conditions and substance use disorders;

3 (B) which diagnoses are most commonly
4 covered or excluded;

5 (C) whether implementation of this Act
6 has affected trends in coverage or exclusion of
7 such diagnoses; and

8 (D) the impact of covering or excluding
9 specific diagnoses on participants' and enroll-
10 ees' health, their health care coverage, and the
11 costs of delivering health care.

12 (2) REPORTS.—Not later than 3 years after the
13 date of the enactment of this Act, and 2 years after
14 the date of submission the first report under this
15 paragraph, the Comptroller General shall submit to
16 Congress a report on the results of the study con-
17 ducted under paragraph (1).

1 **Subtitle C—Modification of Penalty**
2 **on Understatement of Tax-**
3 **payer’s Liability by Tax Return**
4 **Preparer**

5 **SEC. 321. MODIFICATION OF PENALTY ON UNDERSTATE-**
6 **MENT OF TAXPAYER’S LIABILITY BY TAX RE-**
7 **TURN PREPARER.**

8 (a) IN GENERAL.—Subsection (a) of section 6694 is
9 amended to read as follows:

10 “(a) UNDERSTATEMENT DUE TO UNREASONABLE
11 POSITIONS.—

12 “(1) IN GENERAL.—If a tax return preparer—

13 “(A) prepares any return or claim of re-
14 fund with respect to which any part of an un-
15 derstatement of liability is due to a position de-
16 scribed in paragraph (2), and

17 “(B) knew (or reasonably should have
18 known) of the position,

19 such tax return preparer shall pay a penalty with re-
20 spect to each such return or claim in an amount
21 equal to the greater of \$1,000 or 50 percent of the
22 income derived (or to be derived) by the tax return
23 preparer with respect to the return or claim.

24 “(2) UNREASONABLE POSITION.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided in this paragraph, a position is de-
3 scribed in this paragraph unless there is or was
4 substantial authority for the position.

5 “(B) DISCLOSED POSITIONS.—If the posi-
6 tion was disclosed as provided in section
7 6662(d)(2)(B)(ii)(I) and is not a position to
8 which subparagraph (C) applies, the position is
9 described in this paragraph unless there is a
10 reasonable basis for the position.

11 “(C) TAX SHELTERS AND REPORTABLE
12 TRANSACTIONS.—If the position is with respect
13 to a tax shelter (as defined in section
14 6662(d)(2)(C)(ii)) or a reportable transaction
15 to which section 6662A applies, the position is
16 described in this paragraph unless it is reason-
17 able to believe that the position would more
18 likely than not be sustained on its merits.

19 “(3) REASONABLE CAUSE EXCEPTION.—No
20 penalty shall be imposed under this subsection if it
21 is shown that there is reasonable cause for the un-
22 derstatement and the tax return preparer acted in
23 good faith.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply—

1 (1) in the case of a position other than a posi-
2 tion described in subparagraph (C) of section
3 6694(a)(2) of the Internal Revenue Code of 1986
4 (as amended by this section), to returns prepared
5 after May 25, 2007, and

6 (2) in the case of a position described in such
7 subparagraph (C), to returns prepared for taxable
8 years ending after the date of the enactment of this
9 Act.

10 **Subtitle D—Other Provisions**

11 **SEC. 331. SECURE RURAL SCHOOLS AND COMMUNITY SELF-** 12 **DETERMINATION PROGRAM.**

13 (a) REAUTHORIZATION OF THE SECURE RURAL
14 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT
15 OF 2000.—The Secure Rural Schools and Community
16 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-
17 lic Law 106–393) is amended by striking sections 1
18 through 403 and inserting the following:

19 **“SECTION 1. SHORT TITLE.**

20 “This Act may be cited as the ‘Secure Rural Schools
21 and Community Self-Determination Act of 2000’.

22 **“SEC. 2. PURPOSES.**

23 “The purposes of this Act are—

1 “(1) to stabilize and transition payments to
2 counties to provide funding for schools and roads
3 that supplements other available funds;

4 “(2) to make additional investments in, and
5 create additional employment opportunities through,
6 projects that—

7 “(A)(i) improve the maintenance of exist-
8 ing infrastructure;

9 “(ii) implement stewardship objectives that
10 enhance forest ecosystems; and

11 “(iii) restore and improve land health and
12 water quality;

13 “(B) enjoy broad-based support; and

14 “(C) have objectives that may include—

15 “(i) road, trail, and infrastructure
16 maintenance or obliteration;

17 “(ii) soil productivity improvement;

18 “(iii) improvements in forest eco-
19 system health;

20 “(iv) watershed restoration and main-
21 tenance;

22 “(v) the restoration, maintenance, and
23 improvement of wildlife and fish habitat;

24 “(vi) the control of noxious and exotic
25 weeds; and

1 “(i) the number of acres of Federal
2 land described in paragraph (7)(A) 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 25-percent payments and
10 safety net payments made to each eligible
11 State for each eligible county during the
12 eligibility period; by

13 “(ii) the amount equal to the sum of
14 the amounts calculated under clause (i)
15 and paragraph (9)(B)(i) for all eligible
16 counties in all eligible States during the
17 eligibility period.

18 “(3) COUNTY PAYMENT.—The term ‘county
19 payment’ means the payment for an eligible county
20 calculated under section 101(b).

21 “(4) ELIGIBLE COUNTY.—The term ‘eligible
22 county’ means any county that—

23 “(A) contains Federal land (as defined in
24 paragraph (7)); and

1 “(B) elects to receive a share of the State
2 payment or the county payment under section
3 102(b).

4 “(5) ELIGIBILITY PERIOD.—The term ‘eligi-
5 bility period’ means fiscal year 1986 through fiscal
6 year 1999.

7 “(6) ELIGIBLE STATE.—The term ‘eligible
8 State’ means a State or territory of the United
9 States that received a 25-percent payment for 1 or
10 more fiscal years of the eligibility period.

11 “(7) FEDERAL LAND.—The term ‘Federal land’
12 means—

13 “(A) land within the National Forest Sys-
14 tem, as defined in section 11(a) of the Forest
15 and Rangeland Renewable Resources Planning
16 Act of 1974 (16 U.S.C. 1609(a)) exclusive of
17 the National Grasslands and land utilization
18 projects designated as National Grasslands ad-
19 ministered pursuant to the Act of July 22,
20 1937 (7 U.S.C. 1010–1012); and

21 “(B) such portions of the revested Oregon
22 and California Railroad and reconveyed Coos
23 Bay Wagon Road grant land as are or may
24 hereafter come under the jurisdiction of the De-
25 partment of the Interior, which have heretofore

1 or may hereafter be classified as timberlands,
2 and power-site land valuable for timber, that
3 shall be managed, except as provided in the
4 former section 3 of the Act of August 28, 1937
5 (50 Stat. 875; 43 U.S.C. 1181c), for permanent
6 forest production.

7 “(8) 50-PERCENT ADJUSTED SHARE.—The
8 term ‘50-percent adjusted share’ means the number
9 equal to the quotient obtained by dividing—

10 “(A) the number equal to the quotient ob-
11 tained by dividing—

12 “(i) the 50-percent base share for the
13 eligible county; by

14 “(ii) the income adjustment for the el-
15 igible county; by

16 “(B) the number equal to the sum of the
17 quotients obtained under subparagraph (A) and
18 paragraph (1)(A) for all eligible counties.

19 “(9) 50-PERCENT BASE SHARE.—The term ‘50-
20 percent base share’ means the number equal to the
21 average of—

22 “(A) the quotient obtained by dividing—

23 “(i) the number of acres of Federal
24 land described in paragraph (7)(B) in each
25 eligible county; by

1 “(ii) the total number acres of Fed-
2 eral land in all eligible counties in all eligi-
3 ble States; and

4 “(B) the quotient obtained by dividing—

5 “(i) the amount equal to the average
6 of the 3 highest 50-percent payments made
7 to each eligible county during the eligibility
8 period; by

9 “(ii) the amount equal to the sum of
10 the amounts calculated under clause (i)
11 and paragraph (2)(B)(i) for all eligible
12 counties in all eligible States during the
13 eligibility period.

14 “(10) 50-PERCENT PAYMENT.—The term ‘50-
15 percent payment’ means the payment that is the
16 sum of the 50-percent share otherwise paid to a
17 county pursuant to title II of the Act of August 28,
18 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),
19 and the payment made to a county pursuant to the
20 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43
21 U.S.C. 1181f–1 et seq.).

22 “(11) FULL FUNDING AMOUNT.—The term ‘full
23 funding amount’ means—

24 “(A) \$500,000,000 for fiscal year 2008;

25 and

1 “(B) for fiscal year 2009 and each fiscal
2 year thereafter, the amount that is equal to 90
3 percent of the full funding amount for the pre-
4 ceding fiscal year.

5 “(12) INCOME ADJUSTMENT.—The term ‘in-
6 come adjustment’ means the square of the quotient
7 obtained by dividing—

8 “(A) the per capita personal income for
9 each eligible county; by

10 “(B) the median per capita personal in-
11 come of all eligible counties.

12 “(13) PER CAPITA PERSONAL INCOME.—The
13 term ‘per capita personal income’ means the most
14 recent per capita personal income data, as deter-
15 mined by the Bureau of Economic Analysis.

16 “(14) SAFETY NET PAYMENTS.—The term
17 ‘safety net payments’ means the special payment
18 amounts paid to States and counties required by
19 section 13982 or 13983 of the Omnibus Budget
20 Reconciliation Act of 1993 (Public Law 103–66; 16
21 U.S.C. 500 note; 43 U.S.C. 1181f note).

22 “(15) SECRETARY CONCERNED.—The term
23 ‘Secretary concerned’ means—

24 “(A) the Secretary of Agriculture or the
25 designee of the Secretary of Agriculture with

1 respect to the Federal land described in para-
2 graph (7)(A); and

3 “(B) the Secretary of the Interior or the
4 designee of the Secretary of the Interior with
5 respect to the Federal land described in para-
6 graph (7)(B).

7 “(16) STATE PAYMENT.—The term ‘State pay-
8 ment’ means the payment for an eligible State cal-
9 culated under section 101(a).

10 “(17) 25-PERCENT PAYMENT.—The term ‘25-
11 percent payment’ means the payment to States re-
12 quired by the sixth paragraph under the heading of
13 ‘FOREST SERVICE’ in the Act of May 23, 1908
14 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the
15 Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.
16 500).

17 **“TITLE I—SECURE PAYMENTS**
18 **FOR STATES AND COUNTIES**
19 **CONTAINING FEDERAL LAND**

20 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
21 **FEDERAL LAND.**

22 “(a) STATE PAYMENT.—For each of fiscal years
23 2008 through 2011, the Secretary of Agriculture shall cal-
24 culate for each eligible State an amount equal to the sum
25 of the products obtained by multiplying—

1 “(1) the adjusted share for each eligible county
2 within the eligible State; by

3 “(2) the full funding amount for the fiscal year.

4 “(b) COUNTY PAYMENT.—For each of fiscal years
5 2008 through 2011, the Secretary of the Interior shall cal-
6 culate for each eligible county that received a 50-percent
7 payment during the eligibility period an amount equal to
8 the product obtained by multiplying—

9 “(1) the 50-percent adjusted share for the eligi-
10 ble county; by

11 “(2) the full funding amount for the fiscal year.

12 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

13 “(a) PAYMENT AMOUNTS.—Except as provided in
14 section 103, the Secretary of the Treasury shall pay to—

15 “(1) a State or territory of the United States
16 an amount equal to the sum of the amounts elected
17 under subsection (b) by each county within the State
18 or territory for—

19 “(A) if the county is eligible for the 25-
20 percent payment, the share of the 25-percent
21 payment; or

22 “(B) the share of the State payment of the
23 eligible county; and

24 “(2) a county an amount equal to the amount
25 elected under subsection (b) by each county for—

1 “(A) if the county is eligible for the 50-
2 percent payment, the 50-percent payment; or

3 “(B) the county payment for the eligible
4 county.

5 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

6 “(1) ELECTION; SUBMISSION OF RESULTS.—

7 “(A) IN GENERAL.—The election to receive
8 a share of the State payment, the county pay-
9 ment, a share of the State payment and the
10 county payment, a share of the 25-percent pay-
11 ment, the 50-percent payment, or a share of the
12 25-percent payment and the 50-percent pay-
13 ment, as applicable, shall be made at the discre-
14 tion of each affected county by August 1, 2008
15 (or as soon thereafter as the Secretary con-
16 cerned determines is practicable), and August 1
17 of each second fiscal year thereafter, in accord-
18 ance with paragraph (2), and transmitted to
19 the Secretary concerned by the Governor of
20 each eligible State.

21 “(B) FAILURE TO TRANSMIT.—If an elec-
22 tion for an affected county is not transmitted to
23 the Secretary concerned by the date specified
24 under subparagraph (A), the affected county
25 shall be considered to have elected to receive a

1 share of the State payment, the county pay-
2 ment, or a share of the State payment and the
3 county payment, as applicable.

4 “(2) DURATION OF ELECTION.—

5 “(A) IN GENERAL.—A county election to
6 receive a share of the 25-percent payment or
7 50-percent payment, as applicable, shall be ef-
8 fective for 2 fiscal years.

9 “(B) FULL FUNDING AMOUNT.—If a coun-
10 ty elects to receive a share of the State payment
11 or the county payment, the election shall be ef-
12 fective for all subsequent fiscal years through
13 fiscal year 2011.

14 “(3) SOURCE OF PAYMENT AMOUNTS.—The
15 payment to an eligible State or eligible county under
16 this section for a fiscal year shall be derived from—

17 “(A) any amounts that are appropriated to
18 carry out this Act;

19 “(B) any revenues, fees, penalties, or mis-
20 cellaneous receipts, exclusive of deposits to any
21 relevant trust fund, special account, or perma-
22 nent operating funds, received by the Federal
23 Government from activities by the Bureau of
24 Land Management or the Forest Service on the
25 applicable Federal land; and

1 “(C) to the extent of any shortfall, out of
2 any amounts in the Treasury of the United
3 States not otherwise appropriated.

4 “(c) DISTRIBUTION AND EXPENDITURE OF PAY-
5 MENTS.—

6 “(1) DISTRIBUTION METHOD.—A State that re-
7 ceives a payment under subsection (a) for Federal
8 land described in section 3(7)(A) shall distribute the
9 appropriate payment amount among the appropriate
10 counties in the State in accordance with—

11 “(A) the Act of May 23, 1908 (16 U.S.C.
12 500); and

13 “(B) section 13 of the Act of March 1,
14 1911 (36 Stat. 963; 16 U.S.C. 500).

15 “(2) EXPENDITURE PURPOSES.—Subject to
16 subsection (d), payments received by a State under
17 subsection (a) and distributed to counties in accord-
18 ance with paragraph (1) shall be expended as re-
19 quired by the laws referred to in paragraph (1).

20 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-
21 TIES.—

22 “(1) ALLOCATIONS.—

23 “(A) USE OF PORTION IN SAME MANNER
24 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-
25 MENT, AS APPLICABLE.—Except as provided in

1 paragraph (3)(B), if an eligible county elects to
2 receive its share of the State payment or the
3 county payment, not less than 80 percent, but
4 not more than 85 percent, of the funds shall be
5 expended in the same manner in which the 25-
6 percent payments or 50-percent payment, as
7 applicable, are required to be expended.

8 “(B) ELECTION AS TO USE OF BAL-
9 ANCE.—Except as provided in subparagraph
10 (C), an eligible county shall elect to do 1 or
11 more of the following with the balance of any
12 funds not expended pursuant to subparagraph
13 (A):

14 “(i) Reserve any portion of the bal-
15 ance for projects in accordance with title
16 II.

17 “(ii) Reserve not more than 7 percent
18 of the total share for the eligible county of
19 the State payment or the county payment
20 for projects in accordance with title III.

21 “(iii) Return the portion of the bal-
22 ance not reserved under clauses (i) and (ii)
23 to the Treasury of the United States.

24 “(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to
25

1 which more than \$100,000, but less than
2 \$350,000, is distributed for any fiscal year pur-
3 suant to either or both of paragraphs (1)(B)
4 and (2)(B) of subsection (a), the eligible coun-
5 ty, with respect to the balance of any funds not
6 expended pursuant to subparagraph (A) for
7 that fiscal year, shall—

8 “(i) reserve any portion of the balance
9 for—

10 “(I) carrying out projects under
11 title II;

12 “(II) carrying out projects under
13 title III; or

14 “(III) a combination of the pur-
15 poses described in subclauses (I) and
16 (II); or

17 “(ii) return the portion of the balance
18 not reserved under clause (i) to the Treas-
19 ury of the United States.

20 “(2) DISTRIBUTION OF FUNDS.—

21 “(A) IN GENERAL.—Funds reserved by an
22 eligible county under subparagraph (B)(i) or
23 (C)(i) of paragraph (1) for carrying out
24 projects under title II shall be deposited in a

1 special account in the Treasury of the United
2 States.

3 “(B) AVAILABILITY.—Amounts deposited
4 under subparagraph (A) shall—

5 “(i) be available for expenditure by
6 the Secretary concerned, without further
7 appropriation; and

8 “(ii) remain available until expended
9 in accordance with title II.

10 “(3) ELECTION.—

11 “(A) NOTIFICATION.—

12 “(i) IN GENERAL.—An eligible county
13 shall notify the Secretary concerned of an
14 election by the eligible county under this
15 subsection not later than September 30,
16 2008 (or as soon thereafter as the Sec-
17 retary concerned determines is prac-
18 ticable), and September 30 of each fiscal
19 year thereafter.

20 “(ii) FAILURE TO ELECT.—Except as
21 provided in subparagraph (B), if the eligi-
22 ble county fails to make an election by the
23 date specified in clause (i), the eligible
24 county shall—

1 (as in effect on September 29, 2006) for
2 the eligible counties in the covered State
3 that have elected under section 102(b) to
4 receive a share of the State payment for
5 fiscal year 2008; and

6 “(ii) the sum of the amounts paid for
7 fiscal year 2006 under section 103(a)(2)
8 (as in effect on September 29, 2006) for
9 the eligible counties in the State of Oregon
10 that have elected under section 102(b) to
11 receive the county payment for fiscal year
12 2008;

13 “(B) for fiscal year 2009, 76 percent of—

14 “(i) the sum of the amounts paid for
15 fiscal year 2006 under section 102(a)(2)
16 (as in effect on September 29, 2006) for
17 the eligible counties in the covered State
18 that have elected under section 102(b) to
19 receive a share of the State payment for
20 fiscal year 2009; and

21 “(ii) the sum of the amounts paid for
22 fiscal year 2006 under section 103(a)(2)
23 (as in effect on September 29, 2006) for
24 the eligible counties in the State of Oregon
25 that have elected under section 102(b) to

1 receive the county payment for fiscal year
2 2009; and

3 “(C) for fiscal year 2010, 65 percent of—

4 “(i) the sum of the amounts paid for
5 fiscal year 2006 under section 102(a)(2)
6 (as in effect on September 29, 2006) for
7 the eligible counties in the covered State
8 that have elected under section 102(b) to
9 receive a share of the State payment for
10 fiscal year 2010; and

11 “(ii) the sum of the amounts paid for
12 fiscal year 2006 under section 103(a)(2)
13 (as in effect on September 29, 2006) for
14 the eligible counties in the State of Oregon
15 that have elected under section 102(b) to
16 receive the county payment for fiscal year
17 2010.

18 “(2) COVERED STATE.—The term ‘covered
19 State’ means each of the States of California, Lou-
20 isiana, Oregon, Pennsylvania, South Carolina, South
21 Dakota, Texas, and Washington.

22 “(b) TRANSITION PAYMENTS.—For each of fiscal
23 years 2008 through 2010, in lieu of the payment amounts
24 that otherwise would have been made under paragraphs
25 (1)(B) and (2)(B) of section 102(a), the Secretary of the

1 Treasury shall pay the adjusted amount to each covered
2 State and the eligible counties within the covered State,
3 as applicable.

4 “(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Ex-
5 cept as provided in subsection (d), it is the intent of Con-
6 gress that the method of distributing the payments under
7 subsection (b) among the counties in the covered States
8 for each of fiscal years 2008 through 2010 be in the same
9 proportion that the payments were distributed to the eligi-
10 ble counties in fiscal year 2006.

11 “(d) DISTRIBUTION OF PAYMENTS IN CALI-
12 FORNIA.—The following payments shall be distributed
13 among the eligible counties in the State of California in
14 the same proportion that payments under section
15 102(a)(2) (as in effect on September 29, 2006) were dis-
16 tributed to the eligible counties for fiscal year 2006:

17 “(1) Payments to the State of California under
18 subsection (b).

19 “(2) The shares of the eligible counties of the
20 State payment for California under section 102 for
21 fiscal year 2011.

22 “(e) TREATMENT OF PAYMENTS.—For purposes of
23 this Act, any payment made under subsection (b) shall be
24 considered to be a payment made under section 102(a).

1 **“TITLE II—SPECIAL PROJECTS**
2 **ON FEDERAL LAND**

3 **“SEC. 201. DEFINITIONS.**

4 “In this title:

5 “(1) PARTICIPATING COUNTY.—The term ‘par-

6 ticipating county’ means an eligible county that

7 elects under section 102(d) to expend a portion of

8 the Federal funds received under section 102 in ac-

9 cordance with this title.

10 “(2) PROJECT FUNDS.—The term ‘project

11 funds’ means all funds an eligible county elects

12 under section 102(d) to reserve for expenditure in

13 accordance with this title.

14 “(3) RESOURCE ADVISORY COMMITTEE.—The

15 term ‘resource advisory committee’ means—

16 “(A) an advisory committee established by

17 the Secretary concerned under section 205; or

18 “(B) an advisory committee determined by

19 the Secretary concerned to meet the require-

20 ments of section 205.

21 “(4) RESOURCE MANAGEMENT PLAN.—The

22 term ‘resource management plan’ means—

23 “(A) a land use plan prepared by the Bu-

24 reau of Land Management for units of the Fed-

25 eral land described in section 3(7)(B) pursuant

1 to section 202 of the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1712); or
3 “(B) a land and resource management
4 plan prepared by the Forest Service for units of
5 the National Forest System pursuant to section
6 6 of the Forest and Rangeland Renewable Re-
7 sources Planning Act of 1974 (16 U.S.C.
8 1604).

9 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**
10 **FUNDS.**

11 “(a) LIMITATION.—Project funds shall be expended
12 solely on projects that meet the requirements of this title.

13 “(b) AUTHORIZED USES.—Project funds may be
14 used by the Secretary concerned for the purpose of enter-
15 ing into and implementing cooperative agreements with
16 willing Federal agencies, State and local governments, pri-
17 vate and nonprofit entities, and landowners for protection,
18 restoration, and enhancement of fish and wildlife habitat,
19 and other resource objectives consistent with the purposes
20 of this Act on Federal land and on non-Federal land where
21 projects would benefit the resources on Federal land.

22 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

23 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-
24 RETARY CONCERNED.—

1 “(1) PROJECTS FUNDED USING PROJECT
2 FUNDS.—Not later than September 30 for fiscal
3 year 2008 (or as soon thereafter as the Secretary
4 concerned determines is practicable), and each Sep-
5 tember 30 thereafter for each succeeding fiscal year
6 through fiscal year 2011, each resource advisory
7 committee shall submit to the Secretary concerned a
8 description of any projects that the resource advi-
9 sory committee proposes the Secretary undertake
10 using any project funds reserved by eligible counties
11 in the area in which the resource advisory committee
12 has geographic jurisdiction.

13 “(2) PROJECTS FUNDED USING OTHER
14 FUNDS.—A resource advisory committee may submit
15 to the Secretary concerned a description of any
16 projects that the committee proposes the Secretary
17 undertake using funds from State or local govern-
18 ments, or from the private sector, other than project
19 funds and funds appropriated and otherwise avail-
20 able to do similar work.

21 “(3) JOINT PROJECTS.—Participating counties
22 or other persons may propose to pool project funds
23 or other funds, described in paragraph (2), and
24 jointly propose a project or group of projects to a re-

1 source advisory committee established under section
2 205.

3 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In
4 submitting proposed projects to the Secretary concerned
5 under subsection (a), a resource advisory committee shall
6 include in the description of each proposed project the fol-
7 lowing information:

8 “(1) The purpose of the project and a descrip-
9 tion of how the project will meet the purposes of this
10 title.

11 “(2) The anticipated duration of the project.

12 “(3) The anticipated cost of the project.

13 “(4) The proposed source of funding for the
14 project, whether project funds or other funds.

15 “(5)(A) Expected outcomes, including how the
16 project will meet or exceed desired ecological condi-
17 tions, maintenance objectives, or stewardship objec-
18 tives.

19 “(B) An estimate of the amount of any timber,
20 forage, and other commodities and other economic
21 activity, including jobs generated, if any, anticipated
22 as part of the project.

23 “(6) A detailed monitoring plan, including
24 funding needs and sources, that—

1 “(A) tracks and identifies the positive or
2 negative impacts of the project, implementation,
3 and provides for validation monitoring; and

4 “(B) includes an assessment of the fol-
5 lowing:

6 “(i) Whether or not the project met or
7 exceeded desired ecological conditions; cre-
8 ated local employment or training opportu-
9 nities, including summer youth jobs pro-
10 grams such as the Youth Conservation
11 Corps where appropriate.

12 “(ii) Whether the project improved
13 the use of, or added value to, any products
14 removed from land consistent with the pur-
15 poses of this title.

16 “(7) An assessment that the project is to be in
17 the public interest.

18 “(c) AUTHORIZED PROJECTS.—Projects proposed
19 under subsection (a) shall be consistent with section 2.

20 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**
21 **SECRETARY CONCERNED.**

22 “(a) CONDITIONS FOR APPROVAL OF PROPOSED
23 PROJECT.—The Secretary concerned may make a decision
24 to approve a project submitted by a resource advisory com-

1 mittee under section 203 only if the proposed project satis-
2 fies each of the following conditions:

3 “(1) The project complies with all applicable
4 Federal laws (including regulations).

5 “(2) The project is consistent with the applica-
6 ble resource management plan and with any water-
7 shed or subsequent plan developed pursuant to the
8 resource management plan and approved by the Sec-
9 retary concerned.

10 “(3) The project has been approved by the re-
11 source advisory committee in accordance with sec-
12 tion 205, including the procedures issued under sub-
13 section (e) of that section.

14 “(4) A project description has been submitted
15 by the resource advisory committee to the Secretary
16 concerned in accordance with section 203.

17 “(5) The project will improve the maintenance
18 of existing infrastructure, implement stewardship ob-
19 jectives that enhance forest ecosystems, and restore
20 and improve land health and water quality.

21 “(b) ENVIRONMENTAL REVIEWS.—

22 “(1) REQUEST FOR PAYMENT BY COUNTY.—
23 The Secretary concerned may request the resource
24 advisory committee submitting a proposed project to
25 agree to the use of project funds to pay for any envi-

1 ronmental review, consultation, or compliance with
2 applicable environmental laws required in connection
3 with the project.

4 “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—
5 If a payment is requested under paragraph (1) and
6 the resource advisory committee agrees to the ex-
7 penditure of funds for this purpose, the Secretary
8 concerned shall conduct environmental review, con-
9 sultation, or other compliance responsibilities in ac-
10 cordance with Federal laws (including regulations).

11 “(3) EFFECT OF REFUSAL TO PAY.—

12 “(A) IN GENERAL.—If a resource advisory
13 committee does not agree to the expenditure of
14 funds under paragraph (1), the project shall be
15 deemed withdrawn from further consideration
16 by the Secretary concerned pursuant to this
17 title.

18 “(B) EFFECT OF WITHDRAWAL.—A with-
19 drawal under subparagraph (A) shall be deemed
20 to be a rejection of the project for purposes of
21 section 207(c).

22 “(c) DECISIONS OF SECRETARY CONCERNED.—

23 “(1) REJECTION OF PROJECTS.—

24 “(A) IN GENERAL.—A decision by the Sec-
25 retary concerned to reject a proposed project

1 shall be at the sole discretion of the Secretary
2 concerned.

3 “(B) NO ADMINISTRATIVE APPEAL OR JU-
4 DICIAL REVIEW.—Notwithstanding any other
5 provision of law, a decision by the Secretary
6 concerned to reject a proposed project shall not
7 be subject to administrative appeal or judicial
8 review.

9 “(C) NOTICE OF REJECTION.—Not later
10 than 30 days after the date on which the Sec-
11 retary concerned makes the rejection decision,
12 the Secretary concerned shall notify in writing
13 the resource advisory committee that submitted
14 the proposed project of the rejection and the
15 reasons for rejection.

16 “(2) NOTICE OF PROJECT APPROVAL.—The
17 Secretary concerned shall publish in the Federal
18 Register notice of each project approved under sub-
19 section (a) if the notice would be required had the
20 project originated with the Secretary.

21 “(d) SOURCE AND CONDUCT OF PROJECT.—Once the
22 Secretary concerned accepts a project for review under
23 section 203, the acceptance shall be deemed a Federal ac-
24 tion for all purposes.

25 “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

1 “(1) COOPERATION.—Notwithstanding chapter
2 63 of title 31, United States Code, using project
3 funds the Secretary concerned may enter into con-
4 tracts, grants, and cooperative agreements with
5 States and local governments, private and nonprofit
6 entities, and landowners and other persons to assist
7 the Secretary in carrying out an approved project.

8 “(2) BEST VALUE CONTRACTING.—

9 “(A) IN GENERAL.—For any project in-
10 volving a contract authorized by paragraph (1)
11 the Secretary concerned may elect a source for
12 performance of the contract on a best value
13 basis.

14 “(B) FACTORS.—The Secretary concerned
15 shall determine best value based on such factors
16 as—

17 “(i) the technical demands and com-
18 plexity of the work to be done;

19 “(ii)(I) the ecological objectives of the
20 project; and

21 “(II) the sensitivity of the resources
22 being treated;

23 “(iii) the past experience by the con-
24 tractor with the type of work being done,
25 using the type of equipment proposed for

1 the project, and meeting or exceeding de-
2 sired ecological conditions; and

3 “(iv) the commitment of the con-
4 tractor to hiring highly qualified workers
5 and local residents.

6 “(3) MERCHANTABLE TIMBER CONTRACTING
7 PILOT PROGRAM.—

8 “(A) ESTABLISHMENT.—The Secretary
9 concerned shall establish a pilot program to im-
10 plement a certain percentage of approved
11 projects involving the sale of merchantable tim-
12 ber using separate contracts for—

13 “(i) the harvesting or collection of
14 merchantable timber; and

15 “(ii) the sale of the timber.

16 “(B) ANNUAL PERCENTAGES.—Under the
17 pilot program, the Secretary concerned shall en-
18 sure that, on a nationwide basis, not less than
19 the following percentage of all approved projects
20 involving the sale of merchantable timber are
21 implemented using separate contracts:

22 “(i) For fiscal year 2008, 35 percent.

23 “(ii) For fiscal year 2009, 45 percent.

24 “(iii) For each of fiscal years 2010
25 and 2011, 50 percent.

1 “(C) INCLUSION IN PILOT PROGRAM.—The
2 decision whether to use separate contracts to
3 implement a project involving the sale of mer-
4 chantable timber shall be made by the Sec-
5 retary concerned after the approval of the
6 project under this title.

7 “(D) ASSISTANCE.—

8 “(i) IN GENERAL.—The Secretary
9 concerned may use funds from any appro-
10 priated account available to the Secretary
11 for the Federal land to assist in the ad-
12 ministration of projects conducted under
13 the pilot program.

14 “(ii) MAXIMUM AMOUNT OF ASSIST-
15 ANCE.—The total amount obligated under
16 this subparagraph may not exceed
17 \$1,000,000 for any fiscal year during
18 which the pilot program is in effect.

19 “(E) REVIEW AND REPORT.—

20 “(i) INITIAL REPORT.—Not later than
21 September 30, 2010, the Comptroller Gen-
22 eral shall submit to the Committees on Ag-
23 riculture, Nutrition, and Forestry and En-
24 ergy and Natural Resources of the Senate
25 and the Committees on Agriculture and

1 Natural Resources of the House of Rep-
2 resentatives a report assessing the pilot
3 program.

4 “(ii) ANNUAL REPORT.—The Sec-
5 retary concerned shall submit to the Com-
6 mittees on Agriculture, Nutrition, and For-
7 estry and Energy and Natural Resources
8 of the Senate and the Committees on Agri-
9 culture and Natural Resources of the
10 House of Representatives an annual report
11 describing the results of the pilot program.

12 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The
13 Secretary shall ensure that at least 50 percent of all
14 project funds be used for projects that are primarily dedi-
15 cated—

16 “(1) to road maintenance, decommissioning, or
17 obliteration; or

18 “(2) to restoration of streams and watersheds.

19 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

20 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE
21 ADVISORY COMMITTEES.—

22 “(1) ESTABLISHMENT.—The Secretary con-
23 cerned shall establish and maintain resource advi-
24 sory committees to perform the duties in subsection
25 (b), except as provided in paragraph (4).

1 “(2) PURPOSE.—The purpose of a resource ad-
2 visory committee shall be—

3 “(A) to improve collaborative relationships;
4 and

5 “(B) to provide advice and recommenda-
6 tions to the land management agencies con-
7 sistent with the purposes of this title.

8 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-
9 TEES.—To ensure that each unit of Federal land
10 has access to a resource advisory committee, and
11 that there is sufficient interest in participation on a
12 committee to ensure that membership can be bal-
13 anced in terms of the points of view represented and
14 the functions to be performed, the Secretary con-
15 cerned may, establish resource advisory committees
16 for part of, or 1 or more, units of Federal land.

17 “(4) EXISTING ADVISORY COMMITTEES.—

18 “(A) IN GENERAL.—An advisory com-
19 mittee that meets the requirements of this sec-
20 tion, a resource advisory committee established
21 before September 29, 2006, or an advisory com-
22 mittee determined by the Secretary concerned
23 before September 29, 2006, to meet the re-
24 quirements of this section may be deemed by

1 the Secretary concerned to be a resource advi-
2 sory committee for the purposes of this title.

3 “(B) CHARTER.—A charter for a com-
4 mittee described in subparagraph (A) that was
5 filed on or before September 29, 2006, shall be
6 considered to be filed for purposes of this Act.

7 “(C) BUREAU OF LAND MANAGEMENT AD-
8 VISORY COMMITTEES.—The Secretary of the In-
9 terior may deem a resource advisory committee
10 meeting the requirements of subpart 1784 of
11 part 1780 of title 43, Code of Federal Regula-
12 tions, as a resource advisory committee for the
13 purposes of this title.

14 “(b) DUTIES.—A resource advisory committee
15 shall—

16 “(1) review projects proposed under this title by
17 participating counties and other persons;

18 “(2) propose projects and funding to the Sec-
19 retary concerned under section 203;

20 “(3) provide early and continuous coordination
21 with appropriate land management agency officials
22 in recommending projects consistent with purposes
23 of this Act under this title;

24 “(4) provide frequent opportunities for citizens,
25 organizations, tribes, land management agencies,

1 and other interested parties to participate openly
2 and meaningfully, beginning at the early stages of
3 the project development process under this title;

4 “(5)(A) monitor projects that have been ap-
5 proved under section 204; and

6 “(B) advise the designated Federal official on
7 the progress of the monitoring efforts under sub-
8 paragraph (A); and

9 “(6) make recommendations to the Secretary
10 concerned for any appropriate changes or adjust-
11 ments to the projects being monitored by the re-
12 source advisory committee.

13 “(c) APPOINTMENT BY THE SECRETARY.—

14 “(1) APPOINTMENT AND TERM.—

15 “(A) IN GENERAL.—The Secretary con-
16 cerned, shall appoint the members of resource
17 advisory committees for a term of 4 years be-
18 ginning on the date of appointment.

19 “(B) REAPPOINTMENT.—The Secretary
20 concerned may reappoint members to subse-
21 quent 4-year terms.

22 “(2) BASIC REQUIREMENTS.—The Secretary
23 concerned shall ensure that each resource advisory
24 committee established meets the requirements of
25 subsection (d).

1 “(3) INITIAL APPOINTMENT.—Not later than
2 180 days after the date of the enactment of this Act,
3 the Secretary concerned shall make initial appoint-
4 ments to the resource advisory committees.

5 “(4) VACANCIES.—The Secretary concerned
6 shall make appointments to fill vacancies on any re-
7 source advisory committee as soon as practicable
8 after the vacancy has occurred.

9 “(5) COMPENSATION.—Members of the re-
10 source advisory committees shall not receive any
11 compensation.

12 “(d) COMPOSITION OF ADVISORY COMMITTEE.—

13 “(1) NUMBER.—Each resource advisory com-
14 mittee shall be comprised of 15 members.

15 “(2) COMMUNITY INTERESTS REPRESENTED.—
16 Committee members shall be representative of the
17 interests of the following 3 categories:

18 “(A) 5 persons that—

19 “(i) represent organized labor or non-
20 timber forest product harvester groups;

21 “(ii) represent developed outdoor
22 recreation, off highway vehicle users, or
23 commercial recreation activities;

24 “(iii) represent—

1 “(I) energy and mineral develop-
2 ment interests; or

3 “(II) commercial or recreational
4 fishing interests;

5 “(iv) represent the commercial timber
6 industry; or

7 “(v) hold Federal grazing or other
8 land use permits, or represent nonindus-
9 trial private forest land owners, within the
10 area for which the committee is organized.

11 “(B) 5 persons that represent—

12 “(i) nationally recognized environ-
13 mental organizations;

14 “(ii) regionally or locally recognized
15 environmental organizations;

16 “(iii) dispersed recreational activities;

17 “(iv) archaeological and historical in-
18 terests; or

19 “(v) nationally or regionally recog-
20 nized wild horse and burro interest groups,
21 wildlife or hunting organizations, or water-
22 shed associations.

23 “(C) 5 persons that—

24 “(i) hold State elected office (or a
25 designee);

1 “(ii) hold county or local elected of-
2 fice;

3 “(iii) represent American Indian
4 tribes within or adjacent to the area for
5 which the committee is organized;

6 “(iv) are school officials or teachers;
7 or

8 “(v) represent the affected public at
9 large.

10 “(3) BALANCED REPRESENTATION.—In ap-
11 pointing committee members from the 3 categories
12 in paragraph (2), the Secretary concerned shall pro-
13 vide for balanced and broad representation from
14 within each category.

15 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
16 bers of a resource advisory committee shall reside
17 within the State in which the committee has juris-
18 diction and, to extent practicable, the Secretary con-
19 cerned shall ensure local representation in each cat-
20 egory in paragraph (2).

21 “(5) CHAIRPERSON.—A majority on each re-
22 source advisory committee shall select the chair-
23 person of the committee.

24 “(e) APPROVAL PROCEDURES.—

1 “(1) IN GENERAL.—Subject to paragraph (3),
2 each resource advisory committee shall establish pro-
3 cedures for proposing projects to the Secretary con-
4 cerned under this title.

5 “(2) QUORUM.—A quorum must be present to
6 constitute an official meeting of the committee.

7 “(3) APPROVAL BY MAJORITY OF MEMBERS.—
8 A project may be proposed by a resource advisory
9 committee to the Secretary concerned under section
10 203(a), if the project has been approved by a major-
11 ity of members of the committee from each of the
12 3 categories in subsection (d)(2).

13 “(f) OTHER COMMITTEE AUTHORITIES AND RE-
14 QUIREMENTS.—

15 “(1) STAFF ASSISTANCE.—A resource advisory
16 committee may submit to the Secretary concerned a
17 request for periodic staff assistance from Federal
18 employees under the jurisdiction of the Secretary.

19 “(2) MEETINGS.—All meetings of a resource
20 advisory committee shall be announced at least 1
21 week in advance in a local newspaper of record and
22 shall be open to the public.

23 “(3) RECORDS.—A resource advisory committee
24 shall maintain records of the meetings of the com-

1 mittee and make the records available for public in-
2 spection.

3 **“SEC. 206. USE OF PROJECT FUNDS.**

4 “(a) AGREEMENT REGARDING SCHEDULE AND COST
5 OF PROJECT.—

6 “(1) AGREEMENT BETWEEN PARTIES.—The
7 Secretary concerned may carry out a project sub-
8 mitted by a resource advisory committee under sec-
9 tion 203(a) using project funds or other funds de-
10 scribed in section 203(a)(2), if, as soon as prac-
11 ticable after the issuance of a decision document for
12 the project and the exhaustion of all administrative
13 appeals and judicial review of the project decision,
14 the Secretary concerned and the resource advisory
15 committee enter into an agreement addressing, at a
16 minimum, the following:

17 “(A) The schedule for completing the
18 project.

19 “(B) The total cost of the project, includ-
20 ing the level of agency overhead to be assessed
21 against the project.

22 “(C) For a multiyear project, the esti-
23 mated cost of the project for each of the fiscal
24 years in which it will be carried out.

1 “(D) The remedies for failure of the Sec-
2 retary concerned to comply with the terms of
3 the agreement consistent with current Federal
4 law.

5 “(2) LIMITED USE OF FEDERAL FUNDS.—The
6 Secretary concerned may decide, at the sole discre-
7 tion of the Secretary concerned, to cover the costs
8 of a portion of an approved project using Federal
9 funds appropriated or otherwise available to the Sec-
10 retary for the same purposes as the project.

11 “(b) TRANSFER OF PROJECT FUNDS.—

12 “(1) INITIAL TRANSFER REQUIRED.—As soon
13 as practicable after the agreement is reached under
14 subsection (a) with regard to a project to be funded
15 in whole or in part using project funds, or other
16 funds described in section 203(a)(2), the Secretary
17 concerned shall transfer to the applicable unit of Na-
18 tional Forest System land or Bureau of Land Man-
19 agement District an amount of project funds equal
20 to—

21 “(A) in the case of a project to be com-
22 pleted in a single fiscal year, the total amount
23 specified in the agreement to be paid using
24 project funds, or other funds described in sec-
25 tion 203(a)(2); or

1 “(B) in the case of a multiyear project, the
2 amount specified in the agreement to be paid
3 using project funds, or other funds described in
4 section 203(a)(2) for the first fiscal year.

5 “(2) CONDITION ON PROJECT COMMENCE-
6 MENT.—The unit of National Forest System land or
7 Bureau of Land Management District concerned,
8 shall not commence a project until the project funds,
9 or other funds described in section 203(a)(2) re-
10 quired to be transferred under paragraph (1) for the
11 project, have been made available by the Secretary
12 concerned.

13 “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR
14 PROJECTS.—

15 “(A) IN GENERAL.—For the second and
16 subsequent fiscal years of a multiyear project to
17 be funded in whole or in part using project
18 funds, the unit of National Forest System land
19 or Bureau of Land Management District con-
20 cerned shall use the amount of project funds re-
21 quired to continue the project in that fiscal year
22 according to the agreement entered into under
23 subsection (a).

24 “(B) SUSPENSION OF WORK.—The Sec-
25 retary concerned shall suspend work on the

1 project if the project funds required by the
2 agreement in the second and subsequent fiscal
3 years are not available.

4 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

5 “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-
6 GATE FUNDS.—By September 30, 2008 (or as soon there-
7 after as the Secretary concerned determines is prac-
8 ticable), and each September 30 thereafter for each suc-
9 ceeding fiscal year through fiscal year 2011, a resource
10 advisory committee shall submit to the Secretary con-
11 cerned pursuant to section 203(a)(1) a sufficient number
12 of project proposals that, if approved, would result in the
13 obligation of at least the full amount of the project funds
14 reserved by the participating county in the preceding fiscal
15 year.

16 “(b) USE OR TRANSFER OF UNOBLIGATED
17 FUNDS.—Subject to section 208, if a resource advisory
18 committee fails to comply with subsection (a) for a fiscal
19 year, any project funds reserved by the participating coun-
20 ty in the preceding fiscal year and remaining unobligated
21 shall be available for use as part of the project submissions
22 in the next fiscal year.

23 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject
24 to section 208, any project funds reserved by a partici-
25 pating county in the preceding fiscal year that are unobli-

1 gated at the end of a fiscal year because the Secretary
2 concerned has rejected one or more proposed projects shall
3 be available for use as part of the project submissions in
4 the next fiscal year.

5 “(d) EFFECT OF COURT ORDERS.—

6 “(1) IN GENERAL.—If an approved project
7 under this Act is enjoined or prohibited by a Federal
8 court, the Secretary concerned shall return the un-
9 obligated project funds related to the project to the
10 participating county or counties that reserved the
11 funds.

12 “(2) EXPENDITURE OF FUNDS.—The returned
13 funds shall be available for the county to expend in
14 the same manner as the funds reserved by the coun-
15 ty under subparagraph (B) or (C)(i) of section
16 102(d)(1).

17 **“SEC. 208. TERMINATION OF AUTHORITY.**

18 “(a) IN GENERAL.—The authority to initiate projects
19 under this title shall terminate on September 30, 2011.

20 “(b) DEPOSITS IN TREASURY.—Any project funds
21 not obligated by September 30, 2012, shall be deposited
22 in the Treasury of the United States.

23 **“TITLE III—COUNTY FUNDS**

24 **“SEC. 301. DEFINITIONS.**

25 “In this title:

1 “(1) COUNTY FUNDS.—The term ‘county funds’
2 means all funds an eligible county elects under sec-
3 tion 102(d) to reserve for expenditure in accordance
4 with this title.

5 “(2) PARTICIPATING COUNTY.—The term ‘par-
6 ticipating county’ means an eligible county that
7 elects under section 102(d) to expend a portion of
8 the Federal funds received under section 102 in ac-
9 cordance with this title.

10 **“SEC. 302. USE.**

11 “(a) AUTHORIZED USES.—A participating county,
12 including any applicable agencies of the participating
13 county, shall use county funds, in accordance with this
14 title, only—

15 “(1) to carry out activities under the Firewise
16 Communities program to provide to homeowners in
17 fire-sensitive ecosystems education on, and assist-
18 ance with implementing, techniques in home siting,
19 home construction, and home landscaping that can
20 increase the protection of people and property from
21 wildfires;

22 “(2) to reimburse the participating county for
23 search and rescue and other emergency services, in-
24 cluding firefighting, that are—

1 “(A) performed on Federal land after the
2 date on which the use was approved under sub-
3 section (b);

4 “(B) paid for by the participating county;
5 and

6 “(3) to develop community wildfire protection
7 plans in coordination with the appropriate Secretary
8 concerned.

9 “(b) PROPOSALS.—A participating county shall use
10 county funds for a use described in subsection (a) only
11 after a 45-day public comment period, at the beginning
12 of which the participating county shall—

13 “(1) publish in any publications of local record
14 a proposal that describes the proposed use of the
15 county funds; and

16 “(2) submit the proposal to any resource advi-
17 sory committee established under section 205 for the
18 participating county.

19 **“SEC. 303. CERTIFICATION.**

20 “(a) IN GENERAL.—Not later than February 1 of the
21 year after the year in which any county funds were ex-
22 pended by a participating county, the appropriate official
23 of the participating county shall submit to the Secretary
24 concerned a certification that the county funds expended
25 in the applicable year have been used for the uses author-

1 ized under section 302(a), including a description of the
2 amounts expended and the uses for which the amounts
3 were expended.

4 “(b) REVIEW.—The Secretary concerned shall review
5 the certifications submitted under subsection (a) as the
6 Secretary concerned determines to be appropriate.

7 **“SEC. 304. TERMINATION OF AUTHORITY.**

8 “(a) IN GENERAL.—The authority to initiate projects
9 under this title terminates on September 30, 2011.

10 “(b) AVAILABILITY.—Any county funds not obligated
11 by September 30, 2012, shall be returned to the Treasury
12 of the United States.

13 **“TITLE IV—MISCELLANEOUS**
14 **PROVISIONS**

15 **“SEC. 401. REGULATIONS.**

16 “The Secretary of Agriculture and the Secretary of
17 the Interior shall issue regulations to carry out the pur-
18 poses of this Act.

19 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated such sums
21 as are necessary to carry out this Act for each of fiscal
22 years 2008 through 2011.

23 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

24 “(a) RELATION TO OTHER APPROPRIATIONS.—
25 Funds made available under section 402 and funds made

1 available to a Secretary concerned under section 206 shall
2 be in addition to any other annual appropriations for the
3 Forest Service and the Bureau of Land Management.

4 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—
5 All revenues generated from projects pursuant to title II,
6 including any interest accrued from the revenues, shall be
7 deposited in the Treasury of the United States.”.

8 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE
9 STATES AND COUNTIES.—

10 (1) ACT OF MAY 23, 1908.—The sixth paragraph
11 under the heading “FOREST SERVICE” in the Act
12 of May 23, 1908 (16 U.S.C. 500) is amended in the
13 first sentence by striking “twenty-five percentum”
14 and all that follows through “shall be paid” and in-
15 serting the following: “an amount equal to the an-
16 nual average of 25 percent of all amounts received
17 for the applicable fiscal year and each of the pre-
18 ceding 6 fiscal years from each national forest shall
19 be paid”.

20 (2) WEEKS LAW.—Section 13 of the Act of
21 March 1, 1911 (commonly known as the “Weeks
22 Law”) (16 U.S.C. 500) is amended in the first sen-
23 tence by striking “twenty-five percentum” and all
24 that follows through “shall be paid” and inserting
25 the following: “an amount equal to the annual aver-

1 age of 25 percent of all amounts received for the ap-
2 plicable fiscal year and each of the preceding 6 fiscal
3 years from each national forest shall be paid”.

4 (c) PAYMENTS IN LIEU OF TAXES.—

5 (1) IN GENERAL.—Section 6906 of title 31,
6 United States Code, is amended to read as follows:

7 **“§ 6906. Funding**

8 “For each of fiscal years 2008 through 2012—

9 “(1) each county or other eligible unit of local
10 government shall be entitled to payment under this
11 chapter; and

12 “(2) sums shall be made available to the Sec-
13 retary of the Interior for obligation or expenditure in
14 accordance with this chapter.”.

15 (2) CONFORMING AMENDMENT.—The table of
16 sections for chapter 69 of title 31, United States
17 Code, is amended by striking the item relating to
18 section 6906 and inserting the following:

“6906. Funding.”.

19 (3) BUDGET SCOREKEEPING.—

20 (A) IN GENERAL.—Notwithstanding the
21 Budget Scorekeeping Guidelines and the accom-
22 panying list of programs and accounts set forth
23 in the joint explanatory statement of the com-
24 mittee of conference accompanying Conference
25 Report 105–217, the section in this title re-

1 garding Payments in Lieu of Taxes shall be
2 treated in the baseline for purposes of section
3 257 of the Balanced Budget and Emergency
4 Deficit Control Act of 1985 (as in effect prior
5 to September 30, 2002), and by the Chairmen
6 of the House and Senate Budget Committees,
7 as appropriate, for purposes of budget enforce-
8 ment in the House and Senate, and under the
9 Congressional Budget Act of 1974 as if Pay-
10 ment in Lieu of Taxes (14-1114-0-1-806)
11 were an account designated as Appropriated
12 Entitlements and Mandatories for Fiscal Year
13 1997 in the joint explanatory statement of the
14 committee of conference accompanying Con-
15 ference Report 105-217.

16 (B) EFFECTIVE DATE.—This paragraph
17 shall remain in effect for the fiscal years to
18 which the entitlement in section 6906 of title
19 31, United States Code (as amended by para-
20 graph (1)), applies.

21 **SEC. 332. CLARIFICATION OF UNIFORM DEFINITION OF**
22 **CHILD.**

23 (a) CHILD MUST BE YOUNGER THAN CLAIMANT.—
24 Section 152(c)(3)(A) is amended by inserting “is younger

1 than the taxpayer claiming such individual as a qualifying
2 child and” after “such individual”.

3 (b) CHILD MUST BE UNMARRIED.—Section
4 152(c)(1) is amended by striking “and” at the end of sub-
5 paragraph (C), by striking the period at the end of sub-
6 paragraph (D) and inserting “, and”, and by adding at
7 the end the following new subparagraph:

8 “(E) who has not filed a joint return
9 (other than only for a claim of refund) with the
10 individual’s spouse under section 6013 for the
11 taxable year beginning in the calendar year in
12 which the taxable year of the taxpayer begins.”.

13 (c) RESTRICT QUALIFYING CHILD TAX BENEFITS TO
14 CHILD’S PARENT.—

15 (1) CHILD TAX CREDIT.—Subsection (a) of sec-
16 tion 24 is amended by inserting “for which the tax-
17 payer is allowed a deduction under section 151”
18 after “of the taxpayer”.

19 (2) PERSONS OTHER THAN PARENTS CLAIMING
20 QUALIFYING CHILD.—

21 (A) IN GENERAL.—Paragraph (4) of sec-
22 tion 152(c) is amended by adding at the end
23 the following new subparagraph:

24 “(C) NO PARENT CLAIMING QUALIFYING
25 CHILD.—If the parents of an individual may

1 claim such individual as a qualifying child but
2 no parent so claims the individual, such indi-
3 vidual may be claimed as the qualifying child of
4 another taxpayer but only if the adjusted gross
5 income of such taxpayer is higher than the
6 highest adjusted gross income of any parent of
7 the individual.”.

8 (B) CONFORMING AMENDMENTS.—

9 (i) Subparagraph (A) of section
10 152(c)(4) is amended by striking “Except”
11 through “2 or more taxpayers” and insert-
12 ing “Except as provided in subparagraphs
13 (B) and (C), if (but for this paragraph) an
14 individual may be claimed as a qualifying
15 child by 2 or more taxpayers”.

16 (ii) The heading for paragraph (4) of
17 section 152(c) is amended by striking
18 “CLAIMING” and inserting “WHO CAN
19 CLAIM THE SAME”.

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

1 **TITLE IV—TRANSPORTATION**
2 **AND INFRASTRUCTURE**

3 **SEC. 401. RESTORATION OF HIGHWAY TRUST FUND BAL-**
4 **ANCE.**

5 (a) IN GENERAL.—Subsection (f) of section 9503 is
6 amended—

7 (1) by redesignating paragraphs (1) and (2) as
8 subparagraphs (A) and (B), respectively, and by
9 moving such subparagraphs 2 ems to the right,

10 (2) by striking “For purposes” and inserting
11 the following:

12 “(1) IN GENERAL.—For purposes”,

13 (3) by moving the flush sentence at the end of
14 paragraph (1), as so amended, 2 ems to the right,
15 and

16 (4) by adding at the end the following new
17 paragraph:

18 “(2) RESTORATION OF FUND BALANCE.—Out
19 of money in the Treasury not otherwise appro-
20 priated, there is hereby appropriated to the Highway
21 Trust Fund \$8,017,000,000.”.

22 (b) CONFORMING AMENDMENT.—The last sentence
23 of section 9503(f)(1), as amended by subsection (a), is
24 amended by striking “subsection” and inserting “para-
25 graph”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on September 30, 2008.

3 **TITLE V—DISASTER RELIEF**
4 **Subtitle A—Relief for Federally**
5 **Declared Disasters**

6 **SEC. 501. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
7 **CLARED DISASTERS.**

8 (a) WAIVER OF ADJUSTED GROSS INCOME LIMITA-
9 TION.—

10 (1) IN GENERAL.—Subsection (h) of section
11 165 is amended by redesignating paragraphs (3) and
12 (4) as paragraphs (4) and (5), respectively, and by
13 inserting after paragraph (2) the following new
14 paragraph:

15 “(3) SPECIAL RULE FOR LOSSES IN FEDERALLY
16 DECLARED DISASTERS.—

17 “(A) IN GENERAL.—If an individual has a
18 net disaster loss for any taxable year, the
19 amount determined under paragraph (2)(A)(ii)
20 shall be the sum of—

21 “(i) such net disaster loss, and

22 “(ii) so much of the excess referred to
23 in the matter preceding clause (i) of para-
24 graph (2)(A) (reduced by the amount in
25 clause (i) of this subparagraph) as exceeds

1 10 percent of the adjusted gross income of
2 the individual.

3 “(B) NET DISASTER LOSS.—For purposes
4 of subparagraph (A), the term ‘net disaster
5 loss’ means the excess of—

6 “(i) the personal casualty losses—

7 “(I) attributable to a federally
8 declared disaster, and

9 “(II) occurring in a disaster
10 area, over

11 “(ii) personal casualty gains.

12 “(C) FEDERALLY DECLARED DISASTER.—

13 For purposes of this paragraph—

14 “(i) FEDERALLY DECLARED DIS-
15 ASTER.—The term ‘federally declared dis-
16 aster’ means any disaster subsequently de-
17 termined by the President of the United
18 States to warrant assistance by the Fed-
19 eral Government under the Robert T. Staf-
20 ford Disaster Relief and Emergency Assist-
21 ance Act.

22 “(ii) DISASTER AREA.—The term ‘dis-
23 aster area’ means the area so determined
24 to warrant such assistance.”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 165(h)(4)(B) (as so redesignig-
2 nated) is amended by striking “paragraph (2)”
3 and inserting “paragraphs (2) and (3)”.

4 (B) Section 165(i)(1) is amended by strik-
5 ing “loss” and all that follows through “Act”
6 and inserting “loss occurring in a disaster area
7 (as defined by clause (ii) of subsection
8 (h)(3)(C)) and attributable to a federally de-
9 clared disaster (as defined by clause (i) of such
10 subsection)”.

11 (C) Section 165(i)(4) is amended by strik-
12 ing “Presidentially declared disaster (as defined
13 by section 1033(h)(3))” and inserting “federally
14 declared disaster (as defined by subsection
15 (h)(3)(C)(i))”.

16 (D)(i) So much of subsection (h) of section
17 1033 as precedes subparagraph (A) of para-
18 graph (1) thereof is amended to read as follows:

19 “(h) SPECIAL RULES FOR PROPERTY DAMAGED BY
20 FEDERALLY DECLARED DISASTERS.—

21 “(1) PRINCIPAL RESIDENCES.—If the tax-
22 payer’s principal residence or any of its contents is
23 located in a disaster area and is compulsorily or in-
24 voluntarily converted as a result of a federally de-
25 clared disaster—”.

1 (ii) Paragraph (2) of section 1033(h) is
2 amended by striking “investment” and all that
3 follows through “disaster” and inserting “in-
4 vestment located in a disaster area and
5 compulsorily or involuntarily converted as a re-
6 sult of a federally declared disaster”.

7 (iii) Paragraph (3) of section 1033(h) is
8 amended to read as follows:

9 “(3) **FEDERALLY DECLARED DISASTER; DIS-**
10 **ASTER AREA.**—The terms “federally declared dis-
11 aster” and “disaster area” shall have the respective
12 meaning given such terms by section 165(h)(3)(C).”.

13 (iv) Section 139(c)(2) is amended to read
14 as follows:

15 “(2) federally declared disaster (as defined by
16 section 165(h)(3)(C)(i)),”.

17 (v) Subclause (II) of section
18 172(b)(1)(F)(ii) is amended by striking “Presi-
19 dentially declared disasters (as defined in sec-
20 tion 1033(h)(3))” and inserting “federally de-
21 clared disasters (as defined by subsection
22 (h)(3)(C)(i))”.

23 (vi) Subclause (III) of section
24 172(b)(1)(F)(ii) is amended by striking “Presi-

1 dentially declared disasters” and inserting “fed-
2 erally declared disasters”.

3 (vii) Subsection (a) of section 7508A is
4 amended by striking “Presidentially declared
5 disaster (as defined in section 1033(h)(3))” and
6 inserting “federally declared disaster (as de-
7 fined by section 165(h)(3)(C)(i))”.

8 (b) INCREASE IN STANDARD DEDUCTION BY DIS-
9 ASTER CASUALTY LOSS.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 63(c) is amended by striking “and” at the end of
12 subparagraph (B), by striking the period at the end
13 of subparagraph (C) and inserting “, and”, and by
14 adding at the end the following new subparagraph:

15 “(D) the disaster loss deduction.”.

16 (2) DISASTER LOSS DEDUCTION.—Subsection
17 (c) of section 63 is amended by adding at the end
18 the following new paragraph:

19 “(8) DISASTER LOSS DEDUCTION.—For the
20 purposes of paragraph (1), the term ‘disaster loss
21 deduction’ means the net disaster loss (as defined in
22 section 165(h)(3)(B)).”.

23 (3) ALLOWANCE IN COMPUTING ALTERNATIVE
24 MINIMUM TAXABLE INCOME.—Subparagraph (E) of
25 section 56(b)(1) is amended by adding at the end

1 the following new sentence: “The preceding sentence
2 shall not apply to so much of the standard deduction
3 as is determined under section 63(c)(1)(D).”.

4 (c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS
5 PER CASUALTY.—Paragraph (1) of section 165(h) is
6 amended by striking “\$100” and inserting “\$500”.

7 (d) EFFECTIVE DATES.—

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

12 (2) INCREASE IN LIMITATION ON INDIVIDUAL
13 LOSS PER CASUALTY.—The amendment made by
14 subsection (c) shall apply to taxable years beginning
15 after December 31, 2008.

16 **SEC. 502. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

17 (a) IN GENERAL.—Part VI of subchapter B of chap-
18 ter 1 is amended by inserting after section 198 the fol-
19 lowing new section:

20 **“SEC. 198A. EXPENSING OF QUALIFIED DISASTER EX-
21 PENSES.**

22 “(a) IN GENERAL.—A taxpayer may elect to treat
23 any qualified disaster expenses which are paid or incurred
24 by the taxpayer as an expense which is not chargeable to
25 capital account. Any expense which is so treated shall be

1 allowed as a deduction for the taxable year in which it
2 is paid or incurred.

3 “(b) QUALIFIED DISASTER EXPENSE.—For purposes
4 of this section, the term ‘qualified disaster expense’ means
5 any expenditure—

6 “(1) which is paid or incurred in connection
7 with a trade or business or with business-related
8 property,

9 “(2) which is—

10 “(A) for the abatement or control of haz-
11 ardous substances that were released on ac-
12 count of a federally declared disaster,

13 “(B) for the removal of debris from, or the
14 demolition of structures on, real property which
15 is business-related property damaged or de-
16 stroyed as a result of a federally declared dis-
17 aster, or

18 “(C) for the repair of business-related
19 property damaged as a result of a federally de-
20 clared disaster, and

21 “(3) is otherwise chargeable to capital account.

22 “(c) OTHER DEFINITIONS.—For purposes of this
23 section—

24 “(1) BUSINESS-RELATED PROPERTY.—The
25 term ‘business-related property’ means property—

1 “(A) held by the taxpayer for use in a
2 trade or business or for the production of in-
3 come, or

4 “(B) described in section 1221(a)(1) in the
5 hands of the taxpayer.

6 “(2) **FEDERALLY DECLARED DISASTER.**—The
7 term ‘federally declared disaster’ has the meaning
8 given such term by section 165(h)(3)(C)(i).

9 “(d) **DEDUCTION RECAPTURED AS ORDINARY IN-**
10 **COME ON SALE, ETC.**—Solely for purposes of section
11 1245, in the case of property to which a qualified disaster
12 expense would have been capitalized but for this section—

13 “(1) the deduction allowed by this section for
14 such expense shall be treated as a deduction for de-
15 preciation, and

16 “(2) such property (if not otherwise section
17 1245 property) shall be treated as section 1245
18 property solely for purposes of applying section 1245
19 to such deduction.

20 “(e) **COORDINATION WITH OTHER PROVISIONS.**—
21 Sections 198, 280B, and 468 shall not apply to amounts
22 which are treated as expenses under this section.

23 “(f) **REGULATIONS.**—The Secretary shall prescribe
24 such regulations as may be necessary or appropriate to
25 carry out the purposes of this section.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for part VI of subchapter B of chapter 1 is amended by
3 inserting after the item relating to section 198 the fol-
4 lowing new item:

“Sec. 198A. Expensing of Qualified Disaster Expenses.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to amounts paid or incurred after
7 December 31, 2007.

8 **SEC. 503. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**
9 **ERALLY DECLARED DISASTERS.**

10 (a) IN GENERAL.—Paragraph (1) of section 172(b)
11 is amended by adding at the end the following new sub-
12 paragraph:

13 “(J) CERTAIN LOSSES ATTRIBUTABLE
14 FEDERALLY DECLARED DISASTERS.—In the
15 case of a taxpayer who has a qualified disaster
16 loss (as defined in subsection (j)), such loss
17 shall be a net operating loss carryback to each
18 of the 5 taxable years preceding the taxable
19 year of such loss.”.

20 (b) QUALIFIED DISASTER LOSS.—Section 172 is
21 amended by redesignating subsections (j) and (k) as sub-
22 sections (k) and (l), respectively, and by inserting after
23 subsection (i) the following new subsection:

24 “(j) RULES RELATING TO QUALIFIED DISASTER
25 LOSSES.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualified disaster loss’ means the lesser of—

2 “(A) the sum of—

3 “(i) the losses allowable under section
4 165 for the taxable year—

5 “(I) attributable to a federally
6 declared disaster (as defined in section
7 165(h)(3)(C)(i)), and

8 “(II) occurring in a disaster area
9 (as defined in section
10 165(h)(3)(C)(ii)), and

11 “(ii) the deduction for the taxable
12 year for qualified disaster expenses which
13 is allowable under section 198A(a) or
14 which would be so allowable if not otherwise
15 treated as an expense, or

16 “(B) the net operating loss for such taxable
17 year.

18 “(2) COORDINATION WITH SUBSECTION
19 (b)(2).—For purposes of applying subsection (b)(2),
20 a qualified disaster loss for any taxable year shall be
21 treated in a manner similar to the manner in which
22 a specified liability loss is treated.

23 “(3) ELECTION.—Any taxpayer entitled to a 5-
24 year carryback under subsection (b)(1)(J) from any
25

1 loss year may elect to have the carryback period
2 with respect to such loss year determined without re-
3 gard to subsection (b)(1)(J). Such election shall be
4 made in such manner as may be prescribed by the
5 Secretary and shall be made by the due date (includ-
6 ing extensions of time) for filing the taxpayer's re-
7 turn for the taxable year of the net operating loss.
8 Such election, once made for any taxable year, shall
9 be irrevocable for such taxable year.”.

10 (c) LOSS DEDUCTION ALLOWED IN COMPUTING AL-
11 TERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d)
12 of section 55 is amended by adding at the end the fol-
13 lowing new paragraph:

14 “(3) NET OPERATING LOSS ATTRIBUTABLE TO
15 FEDERALLY DECLARED DISASTERS.—In the case of
16 a taxpayer which has a qualified disaster loss (as de-
17 fined by section 172(b)(1)(J)) for the taxable year,
18 paragraph (1) shall be applied by increasing the
19 amount determined under subparagraph (A)(ii)(I)
20 thereof by the sum of the carrybacks and carryovers
21 of such loss.”.

22 (d) CONFORMING AMENDMENTS.—

23 (1) Clause (ii) of section 172(b)(1)(F) is
24 amended by inserting “or qualified disaster loss (as

1 defined in subsection (j))” before the period at the
2 end of the last sentence.

3 (2) Paragraph (1) of section 172(i) is amended
4 by adding at the end the following new flush sen-
5 tence:

6 “Such term shall not include any qualified disaster
7 loss (as defined in subsection (j)).’”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to losses arising in taxable years
10 beginning after December 31, 2007.

11 **SEC. 504. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**
12 **REQUIREMENTS FOLLOWING FEDERALLY DE-**
13 **CLARED DISASTERS.**

14 (a) IN GENERAL.—Paragraph (11) of section 143(k)
15 is amended to read as follows:

16 “(11) SPECIAL RULES FOR FEDERALLY DE-
17 CLARED DISASTERS.—

18 “(A) PRINCIPAL RESIDENCE DE-
19 STROYED.—If the principal residence (within
20 the meaning of section 121) of a taxpayer is—

21 “(i) rendered unsafe for use as a resi-
22 dence by reason of a federally declared dis-
23 aster, or

24 “(ii) demolished or relocated by rea-
25 son of an order of the government of a

1 State or political subdivision thereof on ac-
2 count of a federally declared disaster,
3 then for the 2-year period beginning on the
4 date of the disaster declaration, subsection
5 (d)(1) shall not apply with respect to such tax-
6 payer and subsection (e) shall be applied by
7 substituting ‘110’ for ‘90’ in paragraph (1)
8 thereof.

9 “(B) PRINCIPLE RESIDENCE DAMAGED.—

10 “(i) IN GENERAL.—If the principal
11 residence (within the meaning of section
12 121) of a taxpayer resulting from a feder-
13 ally declared disaster was damaged, any
14 owner-financing provided in connection
15 with the repair or reconstruction of such
16 residence shall be treated as a qualified re-
17 habilitation loan.

18 “(ii) LIMITATION.—The aggregate
19 owner-financing to which clause (i) applies
20 shall not exceed the lesser of—

21 “(I) the cost of such repair or re-
22 construction, or

23 “(II) \$150,000.

24 “(C) FEDERALLY DECLARED DISASTER.—

25 For purposes of this paragraph, the term ‘fed-

1 erally declared disaster’ has the meaning given
2 such term by section 165(h)(3)(C)(i).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply to disasters occurring after De-
5 cember 31, 2007.

6 **SEC. 505. OTHER RELIEF FOR FEDERALLY DECLARED DIS-**
7 **ASTERS.**

8 (a) **IN GENERAL.**—Chapter 1 is amended by adding
9 at the end the following new subchapter:

10 **“Subchapter Z—Relief for Federally Declared**
11 **Disasters**

“Sec. 1400U. Tax benefits for federally declared disaster areas.

12 **“SEC. 1400U. TAX BENEFITS FOR FEDERALLY DECLARED**
13 **DISASTER AREAS.**

14 “(a) **FEDERALLY DECLARED DISASTER.**—For pur-
15 poses of this section—

16 “(1) **FEDERALLY DECLARED DISASTER.**—The
17 term ‘federally declared disaster’ means any disaster
18 subsequently determined by the President of the
19 United States to warrant assistance by the Federal
20 Government under the Robert T. Stafford Disaster
21 Relief and Emergency Assistance Act.

22 “(2) **DISASTER AREA.**—The term ‘disaster area’
23 means the area so determined to warrant such as-
24 sistance.

1 “(b) SPECIAL RULES FOR USE OF RETIREMENT
2 FUNDS.—

3 “(1) TAX-FAVORED WITHDRAWALS FROM RE-
4 TIREMENT PLANS.—

5 “(A) IN GENERAL.—Section 72(t) shall not
6 apply to any qualified disaster distribution.

7 “(B) AGGREGATE DOLLAR LIMITATION.—

8 “(i) IN GENERAL.—For purposes of
9 this paragraph, the aggregate amount of
10 distributions received by an individual
11 which may be treated as qualified disaster
12 distributions for any taxable year shall not
13 exceed the excess (if any) of—

14 “(I) \$100,000, over

15 “(II) the aggregate amounts
16 treated as qualified disaster distribu-
17 tions received by such individual for
18 all prior taxable years.

19 “(ii) TREATMENT OF PLAN DISTRIBUTI-
20 TIONS.—If a distribution to an individual
21 would (without regard to clause (i)) be a
22 qualified disaster distribution, a plan shall
23 not be treated as violating any requirement
24 of this title merely because the plan treats
25 such distribution as a qualified disaster

1 distribution, unless the aggregate amount
2 of such distributions from all plans main-
3 tained by the employer (and any member
4 of any controlled group which includes the
5 employer) to such individual exceeds
6 \$100,000.

7 “(iii) CONTROLLED GROUP.—For pur-
8 poses of clause (ii), the term ‘controlled
9 group’ means any group treated as a single
10 employer under subsection (b), (c), (m), or
11 (o) of section 414.

12 “(C) AMOUNT DISTRIBUTED MAY BE RE-
13 PAID.—

14 “(i) IN GENERAL.—Any individual
15 who receives a qualified disaster distribu-
16 tion may, at any time during the 3-year
17 period beginning on the day after the date
18 on which such distribution was received,
19 make one or more contributions in an ag-
20 gregate amount not to exceed the amount
21 of such distribution to an eligible retire-
22 ment plan of which such individual is a
23 beneficiary and to which a rollover con-
24 tribution of such distribution could be
25 made under section 402(c), 403(a)(4),

1 403(b)(8), 408(d)(3), or 457(e)(16), as the
2 case may be.

3 “(ii) TREATMENT OF REPAYMENTS OF
4 DISTRIBUTIONS FROM ELIGIBLE RETIRE-
5 MENT PLANS OTHER THAN IRAS.—For
6 purposes of this title, if a contribution is
7 made pursuant to clause (i) with respect to
8 a qualified disaster distribution from an el-
9 igible retirement plan other than an indi-
10 vidual retirement plan, then the taxpayer
11 shall, to the extent of the amount of the
12 contribution, be treated as having received
13 the qualified disaster distribution in an eli-
14 gible rollover distribution (as defined in
15 section 402(c)(4)) and as having trans-
16 ferred the amount to the eligible retire-
17 ment plan in a direct trustee to trustee
18 transfer within 60 days of the distribution.

19 “(iii) TREATMENT OF REPAYMENTS
20 FOR DISTRIBUTIONS FROM IRAS.—For
21 purposes of this title, if a contribution is
22 made pursuant to clause (i) with respect to
23 a qualified disaster distribution from an in-
24 dividual retirement plan (as defined by sec-
25 tion 7701(a)(37)), then, to the extent of

1 the amount of the contribution, the quali-
2 fied disaster distribution shall be treated
3 as a distribution described in section
4 408(d)(3) and as having been transferred
5 to the eligible retirement plan in a direct
6 trustee to trustee transfer within 60 days
7 of the distribution.

8 “(D) DEFINITIONS.—For purposes of this
9 paragraph—

10 “(i) QUALIFIED DISASTER DISTRIBUTION.—Except as provided in subpara-
11 graph (B), the term ‘qualified disaster dis-
12 tribution’ means, with respect to any feder-
13 ally declared disaster, any distribution—

14 “(I) from an eligible retirement
15 plan made during the 15-month pe-
16 riod beginning on the date on which
17 such disaster occurred, and
18

19 “(II) to an individual whose prin-
20 cipal place of abode on the date on
21 which such disaster occurred is lo-
22 cated in the federally declared disaster
23 area and who has sustained an eco-
24 nomic loss attributable to the federally
25 declared disaster,

1 “(ii) ELIGIBLE RETIREMENT PLAN.—

2 The term ‘eligible retirement plan’ shall
3 have the meaning given such term by sec-
4 tion 402(c)(8)(B).

5 “(E) INCOME INCLUSION SPREAD OVER 3-
6 YEAR PERIOD.—

7 “(i) IN GENERAL.—In the case of any
8 qualified disaster distribution, unless the
9 taxpayer elects not to have this subpara-
10 graph apply for any taxable year, any
11 amount required to be included in gross in-
12 come for such taxable year shall be so in-
13 cluded ratably over the 3-taxable year pe-
14 riod beginning with such taxable year.

15 “(ii) SPECIAL RULE.—For purposes of
16 clause (i), rules similar to the rules of sub-
17 paragraph (E) of section 408A(d)(3) shall
18 apply.

19 “(F) SPECIAL RULES.—

20 “(i) EXEMPTION OF DISTRIBUTIONS
21 FROM TRUSTEE TO TRUSTEE TRANSFER
22 AND WITHHOLDING RULES.—For purposes
23 of sections 401(a)(31), 402(f), and 3405,
24 qualified disaster distributions shall not be
25 treated as eligible rollover distributions.

1 “(ii) QUALIFIED DISASTER DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes this title, a qualified disaster distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

9 “(2) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

11 “(A) RECONTRIBUTIONS.—

12 “(i) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

24 “(ii) TREATMENT OF REPAYMENTS.—
25 Rules similar to the rules of clauses (ii)

1 and (iii) of paragraph (1)(C) shall apply
2 for purposes of this paragraph.

3 “(B) QUALIFIED DISTRIBUTION.—For
4 purposes of this paragraph, the term ‘qualified
5 distribution’ means, with respect to any feder-
6 ally declared disaster, any distribution—

7 “(i) described in section
8 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
9 only to the extent such distribution relates
10 to financial hardship), 403(b)(11)(B), or
11 72(t)(2)(F),

12 “(ii) received during the 6-month pe-
13 riod ending on the date on which the dis-
14 aster occurred, and

15 “(iii) which was to be used to pur-
16 chase or construct a principal residence in
17 the disaster area, but which was not so
18 purchased or constructed on account of the
19 federally declared disaster.

20 “(C) APPLICABLE PERIOD.—For purposes
21 of this paragraph, the term ‘applicable period’
22 means, with respect to any federally declared
23 disaster, the 6-month period beginning on the
24 date on which the disaster occurred.

25 “(3) LOANS FROM QUALIFIED PLANS.—

1 “(A) INCREASE IN LIMIT ON LOANS NOT
2 TREATED AS DISTRIBUTIONS.—In the case of
3 any loan from a qualified employer plan (as de-
4 fined under section 72(p)(4)) to a qualified in-
5 dividual with respect to a federally declared dis-
6 aster made during the 18-month period begin-
7 ning on the date on which such disaster oc-
8 curs—

9 “(i) clause (i) of section 72(p)(2)(A)
10 shall be applied by substituting ‘\$100,000’
11 for ‘\$50,000’, and

12 “(ii) clause (ii) of such section shall
13 be applied by substituting ‘the present
14 value of the nonforfeitable accrued benefit
15 of the employee under the plan’ for ‘one-
16 half of the present value of the nonforfeit-
17 able accrued benefit of the employee under
18 the plan’.

19 “(B) DELAY OF REPAYMENT.—In the case
20 of a qualified individual with an outstanding
21 loan on or after the date on which the federally
22 declared disaster occurs from a qualified em-
23 ployer plan (as defined in section 72(p)(4))—

24 “(i) if the due date pursuant to sub-
25 paragraph (B) or (C) of section 72(p)(2)

1 for any repayment with respect to such
2 loan occurs during the 18-month period be-
3 ginning on the date on which the federally
4 declared disaster occurs, such due date
5 shall be delayed for 1 year,

6 “(ii) any subsequent repayments with
7 respect to any such loan shall be appro-
8 priately adjusted to reflect the delay in the
9 due date under clause (i) and any interest
10 accruing during such delay, and

11 “(iii) in determining the 5-year period
12 and the term of a loan under subpara-
13 graph (B) or (C) of section 72(p)(2), the
14 period described in clause (i) shall be dis-
15 regarded.

16 “(C) QUALIFIED INDIVIDUAL.—For pur-
17 poses of this subsection, the term ‘qualified in-
18 dividual’ means, with respect to any federally
19 declared disaster, any individual whose principal
20 place of abode on the date on which the feder-
21 ally declared disaster occurs is located in the
22 disaster area and who has sustained an eco-
23 nomic loss by reason of such disaster.

24 “(4) PROVISIONS RELATING TO PLAN AMEND-
25 MENTS.—

1 “(A) IN GENERAL.—If this paragraph ap-
2 plies to any amendment to any plan or annuity
3 contract, such plan or contract shall be treated
4 as being operated in accordance with the terms
5 of the plan during the period described in sub-
6 paragraph (B)(ii)(I).

7 “(B) AMENDMENTS TO WHICH PARAGRAPH
8 APPLIES.—

9 “(i) IN GENERAL.—In the case of any
10 federally declared disaster, this paragraph
11 shall apply to any amendment to any plan
12 or annuity contract which is made—

13 “(I) pursuant to any provision of
14 this subsection, or pursuant to any
15 regulation issued by the Secretary or
16 the Secretary of Labor under any pro-
17 vision of this subsection, and

18 “(II) on or before the last day of
19 the first plan year beginning on or
20 after the first day of the second cal-
21 endar year following the calendar year
22 in which the federally declared dis-
23 aster occurs, or such later date as the
24 Secretary may prescribe.

1 In the case of a governmental plan (as de-
2 fined in section 414(d)), subclause (II)
3 shall be applied by substituting the date
4 which is 2 years after the date otherwise
5 applied under subclause (II).

6 “(ii) CONDITIONS.—In the case of any
7 federally declared disaster, this paragraph
8 shall not apply to any amendment unless—

9 “(I) during the period beginning
10 on the date that this subsection or the
11 regulation described in clause (i)(I)
12 takes effect with respect to such dis-
13 aster (or in the case of a plan or con-
14 tract amendment not required by this
15 subsection or such regulation, the ef-
16 fective date specified by the plan with
17 respect to such disaster) and ending
18 on the date described in clause (i)(II)
19 with respect to such disaster (or, if
20 earlier, the date the plan or contract
21 amendment is adopted), the plan or
22 contract is operated as if such plan or
23 contract amendment were in effect,
24 and

1 “(II) such plan or contract
2 amendment applies retroactively for
3 such period.

4 “(c) ADDITIONAL EXEMPTION FOR INDIVIDUALS
5 DISPLACED BY FEDERALLY DECLARED DISASTERS.—

6 “(1) IN GENERAL.—In the case of taxable years
7 of a natural person beginning in the taxable year in
8 which a federally declared disaster occurs and the
9 following taxable year, for purposes of this title, tax-
10 able income shall be reduced by \$500 for each quali-
11 fied displaced individual of the taxpayer for the tax-
12 able year.

13 “(2) LIMITATIONS.—

14 “(A) DOLLAR LIMITATION.—The reduction
15 under paragraph (1) with respect to any feder-
16 ally declared disaster, shall not exceed \$2,000,
17 reduced by the amount of the reduction under
18 this subsection with respect to such disaster for
19 all prior taxable years.

20 “(B) INDIVIDUALS TAKEN INTO ACCOUNT
21 ONLY ONCE.—An individual shall not be taken
22 into account under paragraph (1) with respect
23 to any federally declared disaster if such indi-
24 vidual was taken into account under such para-

1 graph with respect to such disaster by the tax-
2 payer for any prior taxable year.

3 “(C) IDENTIFYING INFORMATION RE-
4 QUIRED.—An individual shall not be taken into
5 account under paragraph (1) for a taxable year
6 unless the taxpayer identification number of
7 such individual is included on the return of the
8 taxpayer for such taxable year.

9 “(3) QUALIFIED DISPLACED INDIVIDUAL.—For
10 purposes of this section, in the case of any federally
11 declared disaster, the term ‘qualified displaced indi-
12 vidual’ means, with respect to any taxpayer for any
13 taxable year, any natural person if—

14 “(A) such person’s principal place of abode
15 on the date on which the disaster occurred was
16 in the disaster area,

17 “(B)(i) in the case of such an abode lo-
18 cated in the portion of a disaster area with re-
19 spect to which the President has determined in-
20 dividual or individual and public assistance is
21 warranted from the Federal government, such
22 person is displaced from such abode, or

23 “(ii) in the case of such an abode located
24 in any other portion of a disaster area, such
25 person is displaced from such abode, and

1 “(I) such abode was damaged by the
2 disaster, or

3 “(II) such person was evacuated from
4 such abode by reason of the disaster, and

5 “(C) such person is provided housing free
6 of charge by the taxpayer in the principal resi-
7 dence of the taxpayer for a period of 60 con-
8 secutive days which ends in such taxable year.

9 Such term shall not include the spouse or any de-
10 pendent of the taxpayer.

11 “(4) COMPENSATION FOR HOUSING.—No de-
12 duction shall be allowed under this subsection if the
13 taxpayer receives any rent or other amount (from
14 any source) in connection with the providing of such
15 housing.

16 “(d) EMPLOYEE RETENTION CREDIT FOR EMPLOY-
17 ERS AFFECTED BY FEDERALLY DECLARED DISASTER.—

18 “(1) IN GENERAL.—For purposes of section 38,
19 in the case of an eligible employer, the employee dis-
20 aster retention credit for any taxable year is an
21 amount equal to 40 percent of the qualified wages
22 with respect to each eligible employee of such em-
23 ployer for such taxable year. For purposes of the
24 preceding sentence, the amount of qualified wages

1 which may be taken into account with respect to any
2 individual shall not exceed \$6,000.

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) ELIGIBLE EMPLOYER.—The term ‘eli-
6 gible employer’ means, with respect to any fed-
7 erally declared disaster, any employer—

8 “(i) which conducted an active trade
9 or business on the date such disaster oc-
10 curred in the disaster area, and

11 “(ii) with respect to whom the trade
12 or business described in clause (i) is inop-
13 erable on any day during the 4-month pe-
14 riod beginning on the date the disaster oc-
15 curred, as a result of damage sustained by
16 reason of the disaster.

17 “(B) ELIGIBLE EMPLOYEE.—In the case
18 of any federally declared disaster, the term ‘eli-
19 gible employee’ means, with respect to an eligi-
20 ble employer, an employee whose principal place
21 of employment on the date on which such dis-
22 aster occurred, with such eligible employer was
23 in the disaster area.

24 “(C) QUALIFIED WAGES.—The term
25 ‘qualified wages’ means wages (as defined in

1 section 51(c)(1), but without regard to section
2 3306(b)(2)(B)) paid or incurred by an eligible
3 employer with respect to an eligible employee on
4 any day during any portion of the 4-month pe-
5 riod described in subparagraph (A)(ii) during
6 which the trade or business described in sub-
7 paragraph (A) is inoperable at the principal
8 place of employment by reason of the federally
9 declared disaster. For purposes of this subpara-
10 graph, a trade or business shall be treated as
11 inoperable if it is unable to conduct significant
12 operations. Such term shall include wages paid
13 without regard to whether the employee per-
14 forms no services, performs services at a dif-
15 ferent place of employment than such principal
16 place of employment, or performs services at
17 such principal place of employment before sig-
18 nificant operations have resumed.

19 “(3) CERTAIN RULES TO APPLY.—For purposes
20 of this subsection, rules similar to the rules of sec-
21 tions 51(i)(1) and 52 shall apply.

22 “(4) EMPLOYEE NOT TAKEN INTO ACCOUNT
23 MORE THAN ONCE.—An employee shall not be treat-
24 ed as an eligible employee for purposes of this sub-
25 section for any period with respect to any employer

1 if such employer is allowed a credit under section 51
2 with respect to such employee for such period.

3 “(e) EXCLUSIONS OF CERTAIN CANCELLATIONS OF
4 INDEBTEDNESS BY REASON OF FEDERALLY DECLARED
5 DISASTERS.—

6 “(1) IN GENERAL.—For purposes of this title,
7 gross income shall not include any amount which
8 (but for this subsection) would be includible in gross
9 income by reason of the discharge (in whole or in
10 part) of indebtedness of a natural person described
11 in paragraph (2) by an applicable entity (as defined
12 in section 6050P(c)(1) of such Code) during the 18-
13 month period beginning on the date on which the
14 disaster described in paragraph (2) occurs.

15 “(2) PERSONS DESCRIBED.—A natural person
16 is described in this paragraph with respect to any
17 federally declared disaster if the principal place of
18 abode of such person on the date on which the dis-
19 aster occurred was located—

20 “(A) in any portion of the disaster area
21 with respect to which the President has deter-
22 mined individual or individual and public assist-
23 ance is warranted from the Federal govern-
24 ment, or

1 “(B) in the disaster area (but outside the
2 portion of the disaster area described in sub-
3 paragraph (A)) and such person suffered eco-
4 nomic loss by reason of the disaster.

5 “(3) EXCEPTIONS.—

6 “(A) BUSINESS INDEBTEDNESS.—Para-
7 graph (1) shall not apply to any indebtedness
8 incurred in connection with a trade or business.

9 “(B) REAL PROPERTY OUTSIDE CORE DIS-
10 ASTER AREA.—Paragraph (1) shall not apply to
11 any discharge of indebtedness to the extent that
12 real property constituting security for such in-
13 debtedness is located outside of the disaster
14 area.

15 “(4) DENIAL OF DOUBLE BENEFIT.—For pur-
16 poses of this title, the amount excluded from gross
17 income under paragraph (1) shall be treated in the
18 same manner as an amount excluded under section
19 108(a).

20 “(f) EXTENSION OF REPLACEMENT PERIOD FOR
21 NONRECOGNITION OF GAIN FOR PROPERTY LOCATED IN
22 FEDERALLY DECLARED DISASTER AREAS.—In the case
23 of any federally declared disaster area, clause (i) of section
24 1033(a)(2)(B) shall be applied by substituting ‘5 years’
25 for ‘2 years’ with respect to property in the disaster area

1 which is compulsorily or involuntarily converted on or
2 after the date on which such disaster occurred, by reason
3 of the disaster, but only if substantially all of the use of
4 the replacement property is in such area.

5 “(g) TEMPORARY SUSPENSION OF LIMITATIONS ON
6 CHARITABLE CONTRIBUTIONS.—

7 “(1) IN GENERAL.—Except as otherwise pro-
8 vided in paragraph (2), section 170(b) shall not
9 apply to qualified contributions and such contribu-
10 tions shall not be taken into account for purposes of
11 applying subsections (b) and (d) of section 170 to
12 other contributions.

13 “(2) TREATMENT OF EXCESS CONTRIBU-
14 TIONS.—For purposes of section 170—

15 “(A) INDIVIDUALS.—In the case of an in-
16 dividual—

17 “(i) LIMITATION.—Any qualified con-
18 tribution shall be allowed only to the ex-
19 tent that the aggregate of such contribu-
20 tions does not exceed the excess of the tax-
21 payer’s contribution base (as defined in
22 subparagraph (G) of section 170(b)(1))
23 over the amount of all other charitable
24 contributions allowed under section
25 170(b)(1).

1 “(ii) CARRYOVER.—If the aggregate
2 amount of qualified contributions made in
3 the contribution year (within the meaning
4 of section 170(d)(1)) exceeds the limitation
5 of clause (i), such excess shall be added to
6 the excess described in the portion of sub-
7 paragraph (A) of such section which pre-
8 cedes clause (i) thereof for purposes of ap-
9 plying such section.

10 “(B) CORPORATIONS.—In the case of a
11 corporation—

12 “(i) LIMITATION.—Any qualified con-
13 tribution shall be allowed only to the ex-
14 tent that the aggregate of such contribu-
15 tions does not exceed the excess of the tax-
16 payer’s taxable income (as determined
17 under paragraph (2) of section 170(b))
18 over the amount of all other charitable
19 contributions allowed under such para-
20 graph.

21 “(ii) CARRYOVER.—Rules similar to
22 the rules of subparagraph (A)(ii) shall
23 apply for purposes of this subparagraph.

24 “(3) EXCEPTION TO OVERALL LIMITATION ON
25 ITEMIZED DEDUCTIONS.—So much of any deduction

1 allowed under section 170 as does not exceed the
2 qualified contributions paid during the taxable year
3 shall not be treated as an itemized deduction for
4 purposes of section 68.

5 “(4) QUALIFIED CONTRIBUTIONS.—

6 “(A) IN GENERAL.—For purposes of this
7 subsection, the term ‘qualified contribution’
8 means, with respect to an federally declared dis-
9 aster, any charitable contribution (as defined in
10 section 170(c)) if—

11 “(i) such contribution—

12 “(I) is paid during the 18-month
13 period beginning on the date on which
14 the disaster occurs in cash to an orga-
15 nization described in section
16 170(b)(1)(A), and

17 “(II) is made for relief efforts in
18 the disaster area,

19 “(ii) the taxpayer obtains from such
20 organization contemporaneous written ac-
21 knowledgment (within the meaning of sec-
22 tion 170(f)(8)) that such contribution was
23 used (or is to be used) for relief efforts in
24 the disaster area, and

1 “(iii) the taxpayer has elected the ap-
2 plication of this subsection with respect to
3 such contribution.

4 “(B) EXCEPTION.—Such term shall not in-
5 clude a contribution by a donor if the contribu-
6 tion is—

7 “(i) to an organization described in
8 section 509(a)(3), or

9 “(ii) for establishment of a new, or
10 maintenance of an existing, donor advised
11 fund (as defined in section 4966(d)(2)).

12 “(C) APPLICATION OF ELECTION TO PART-
13 NERSHIPS AND S CORPORATIONS.—In the case
14 of a partnership or S corporation, the election
15 under subparagraph (A)(iii) shall be made sepa-
16 rately by each partner or shareholder.

17 “(h) INCREASE IN STANDARD MILEAGE RATE FOR
18 CHARITABLE USE OF VEHICLES.—In the case of a feder-
19 ally declared disaster, notwithstanding section 170(i), for
20 purposes of computing the deduction under section 170
21 for use of a vehicle described in subsection (f)(12)(E)(i)
22 of such section for provision of relief related to the disaster
23 during the 18-month period beginning on the date on
24 which such disaster occurred, the standard mileage rate
25 shall be 70 percent of the standard mileage rate in effect

1 under section 162(a) at the time of such use. Any increase
2 under this subsection shall be rounded to the next highest
3 cent.

4 “(i) MILEAGE REIMBURSEMENTS TO CHARITABLE
5 VOLUNTEERS EXCLUDED FROM GROSS INCOME.—

6 “(1) IN GENERAL.—For purposes of this title,
7 in the case of a federally declared disaster, gross in-
8 come of an individual for taxable years ending on or
9 after the date on which the disaster occurs, does not
10 include amounts received, from an organization de-
11 scribed in section 170(c), as reimbursement of oper-
12 ating expenses with respect to use of a passenger
13 automobile for the benefit of such organization in
14 connection with providing relief relating to the dis-
15 aster during the 18-month period beginning on the
16 date on which such disaster occurred. The preceding
17 sentence shall apply only to the extent that the ex-
18 penses which are reimbursed would be deductible
19 under this chapter if section 274(d) were applied—

20 “(A) by using the standard business mile-
21 age rate in effect under section 162(a) at the
22 time of such use, and

23 “(B) as if the individual were an employee
24 of an organization not described in section
25 170(c).

1 “(2) APPLICATION TO VOLUNTEER SERVICES
2 ONLY.—Paragraph (1) shall not apply with respect
3 to any expenses relating to the performance of serv-
4 ices for compensation.

5 “(3) NO DOUBLE BENEFIT.—No deduction or
6 credit shall be allowed under any other provision of
7 this title with respect to the expenses excludable
8 from gross income under paragraph (1).”.

9 (b) CONFORMING AMENDMENT.—Section 38(b) is
10 amended by striking “plus” at the end of paragraph (32),
11 by striking the period at the end of paragraph (33) and
12 inserting “, plus”, and by adding at the end the following
13 new paragraph:

14 “(34) the employee disaster retention credit
15 under section 1400U(d).”.

16 (c) CLERICAL AMENDMENT.—The table of sub-
17 chapters for chapter 1 is amended by adding at the end
18 the following new item:

 “SUBCHAPTER Z—RELIEF FOR FEDERALLY DECLARED DISASTERS”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to disasters occurring after Decem-
21 ber 31, 2007.

22 **SEC. 506. SUNSET.**

23 The amendments made by this subtitle shall not
24 apply to federally declared disasters (as defined in section
25 165(h)(3)(C)(i) of the Internal Revenue Code of 1986, as

1 added by this subtitle) (casualties, in the case of the
2 amendment made by section 511(e)) occurring after De-
3 cember 31, 2009. The Internal Revenue Code of 1986
4 shall be applied and administered with respect to disasters
5 and casualties described in the preceding sentence as if
6 the amendments so described had never been enacted.

7 **Subtitle B—Other Disaster Relief**
8 **Provisions**

9 **SEC. 511. RESTRUCTURING OF NEW YORK LIBERTY ZONE**
10 **TAX CREDITS.**

11 (a) IN GENERAL.—Part I of subchapter Y of chapter
12 1 is amended by redesignating section 1400L as section
13 1400K and by adding at the end the following new section:

14 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

15 “(a) IN GENERAL.—In the case of a New York Lib-
16 erty Zone governmental unit, there shall be allowed as a
17 credit against any taxes imposed for any payroll period
18 by section 3402 for which such governmental unit is liable
19 under section 3403 an amount equal to so much of the
20 portion of the qualifying project expenditure amount allo-
21 cated under subsection (b)(3) to such governmental unit
22 for the calendar year as is allocated by such governmental
23 unit to such period under subsection (b)(4).

24 “(b) QUALIFYING PROJECT EXPENDITURE
25 AMOUNT.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualifying
2 project expenditure amount’ means, with respect to
3 any calendar year, the sum of—

4 “(A) the total expenditures paid or in-
5 curred during such calendar year by all New
6 York Liberty Zone governmental units and the
7 Port Authority of New York and New Jersey
8 for any portion of qualifying projects located
9 wholly within the City of New York, New York,
10 and

11 “(B) any such expenditures—

12 “(i) paid or incurred in any preceding
13 calendar year which begins after the date
14 of enactment of this section, and

15 “(ii) not previously allocated under
16 paragraph (3).

17 “(2) QUALIFYING PROJECT.—The term ‘quali-
18 fying project’ means any transportation infrastruc-
19 ture project, including highways, mass transit sys-
20 tems, railroads, airports, ports, and waterways, in or
21 connecting with the New York Liberty Zone (as de-
22 fined in section 1400K(h)), which is designated as a
23 qualifying project under this section jointly by the
24 Governor of the State of New York and the Mayor
25 of the City of New York, New York.

1 “(3) GENERAL ALLOCATION.—

2 “(A) IN GENERAL.—The Governor of the
3 State of New York and the Mayor of the City
4 of New York, New York, shall jointly allocate to
5 each New York Liberty Zone governmental unit
6 the portion of the qualifying project expenditure
7 amount which may be taken into account by
8 such governmental unit under subsection (a) for
9 any calendar year in the credit period.

10 “(B) AGGREGATE LIMIT.—The aggregate
11 amount which may be allocated under subpara-
12 graph (A) for all calendar years in the credit
13 period shall not exceed \$2,000,000,000.

14 “(C) ANNUAL LIMIT.—The aggregate
15 amount which may be allocated under subpara-
16 graph (A) for any calendar year in the credit
17 period shall not exceed the sum of—

18 “(i) \$115,000,000 (\$425,000,000 in
19 the case of the last 2 years in the credit
20 period), plus

21 “(ii) the aggregate amount authorized
22 to be allocated under this paragraph for all
23 preceding calendar years in the credit pe-
24 riod which was not so allocated.

1 “(D) UNALLOCATED AMOUNTS AT END OF
2 CREDIT PERIOD.—If, as of the close of the cred-
3 it period, the amount under subparagraph (B)
4 exceeds the aggregate amount allocated under
5 subparagraph (A) for all calendar years in the
6 credit period, the Governor of the State of New
7 York and the Mayor of the City of New York,
8 New York, may jointly allocate to New York
9 Liberty Zone governmental units for any cal-
10 endar year in the 5-year period following the
11 credit period an amount equal to—

12 “(i) the lesser of—

13 “(I) such excess, or

14 “(II) the qualifying project ex-
15 penditure amount for such calendar
16 year, reduced by

17 “(ii) the aggregate amount allocated
18 under this subparagraph for all preceding
19 calendar years.

20 “(4) ALLOCATION TO PAYROLL PERIODS.—

21 Each New York Liberty Zone governmental unit
22 which has been allocated a portion of the qualifying
23 project expenditure amount under paragraph (3) for
24 a calendar year may allocate such portion to payroll

1 periods beginning in such calendar year as such gov-
2 ernmental unit determines appropriate.

3 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), if the amount allocated under subsection
6 (b)(3) to a New York Liberty Zone governmental
7 unit for any calendar year exceeds the aggregate
8 taxes imposed by section 3402 for which such gov-
9 ernmental unit is liable under section 3403 for peri-
10 ods beginning in such year, such excess shall be car-
11 ried to the succeeding calendar year and added to
12 the allocation of such governmental unit for such
13 succeeding calendar year.

14 “(2) REALLOCATION.—If a New York Liberty
15 Zone governmental unit does not use an amount al-
16 located to it under subsection (b)(3) within the time
17 prescribed by the Governor of the State of New York
18 and the Mayor of the City of New York, New York,
19 then such amount shall after such time be treated
20 for purposes of subsection (b)(3) in the same man-
21 ner as if it had never been allocated.

22 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
23 poses of this section—

1 “(1) CREDIT PERIOD.—The term ‘credit period’
2 means the 12-year period beginning on January 1,
3 2009.

4 “(2) NEW YORK LIBERTY ZONE GOVERN-
5 MENTAL UNIT.—The term ‘New York Liberty Zone
6 governmental unit’ means—

7 “(A) the State of New York,

8 “(B) the City of New York, New York, and

9 “(C) any agency or instrumentality of such
10 State or City.

11 “(3) TREATMENT OF FUNDS.—Any expenditure
12 for a qualifying project taken into account for pur-
13 poses of the credit under this section shall be consid-
14 ered State and local funds for the purpose of any
15 Federal program.

16 “(4) TREATMENT OF CREDIT AMOUNTS FOR
17 PURPOSES OF WITHHOLDING TAXES.—For purposes
18 of this title, a New York Liberty Zone governmental
19 unit shall be treated as having paid to the Secretary,
20 on the day on which wages are paid to employees,
21 an amount equal to the amount of the credit allowed
22 to such entity under subsection (a) with respect to
23 such wages, but only if such governmental unit de-
24 ducts and withholds wages for such payroll period
25 under section 3401 (relating to wage withholding).

1 “(e) REPORTING.—The Governor of the State of New
2 York and the Mayor of the City of New York, New York,
3 shall jointly submit to the Secretary an annual report—

4 “(1) which certifies—

5 “(A) the qualifying project expenditure
6 amount for the calendar year, and

7 “(B) the amount allocated to each New
8 York Liberty Zone governmental unit under
9 subsection (b)(3) for the calendar year, and

10 “(2) includes such other information as the
11 Secretary may require to carry out this section.

12 “(f) GUIDANCE.—The Secretary may prescribe such
13 guidance as may be necessary or appropriate to ensure
14 compliance with the purposes of this section.”.

15 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-
16 PENSING.—Subparagraph (A) of section 1400K(b)(2), as
17 redesignated by subsection (a), is amended by striking the
18 parenthetical therein and inserting “(in the case of non-
19 residential real property and residential rental property,
20 the date of the enactment of the Jobs, Energy, Families,
21 and Disaster Relief Act of 2008 or, if acquired pursuant
22 to a binding contract in effect on such enactment date,
23 December 31, 2009)”.

24 (c) CONFORMING AMENDMENTS.—

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to returns the due date for which
3 (determined without regard to any extension) occurs after
4 December 31, 2008.

5 **TITLE VI—REVENUE**

6 **PROVISIONS**

7 **SEC. 601. NONQUALIFIED DEFERRED COMPENSATION** 8 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

9 (a) IN GENERAL.—Subpart B of part II of sub-
10 chapter E of chapter 1 is amended by inserting after sec-
11 tion 457 the following new section:

12 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION** 13 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

14 “(a) IN GENERAL.—Any compensation which is de-
15 ferred under a nonqualified deferred compensation plan of
16 a nonqualified entity shall be includible in gross income
17 when there is no substantial risk of forfeiture of the rights
18 to such compensation.

19 “(b) NONQUALIFIED ENTITY.—For purposes of this
20 section, the term ‘nonqualified entity’ means—

21 “(1) any foreign corporation unless substan-
22 tially all of its income is—

23 “(A) effectively connected with the conduct
24 of a trade or business in the United States, or

1 “(B) subject to a comprehensive foreign in-
2 come tax, and

3 “(2) any partnership unless substantially all of
4 its income is allocated to persons other than—

5 “(A) foreign persons with respect to whom
6 such income is not subject to a comprehensive
7 foreign income tax, and

8 “(B) organizations which are exempt from
9 tax under this title.

10 “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-
11 TION.—

12 “(1) IN GENERAL.—If the amount of any com-
13 pensation is not determinable at the time that such
14 compensation is otherwise includible in gross income
15 under subsection (a)—

16 “(A) such amount shall be so includible in
17 gross income when determinable, and

18 “(B) the tax imposed under this chapter
19 for the taxable year in which such compensation
20 is includible in gross income shall be increased
21 by the sum of—

22 “(i) the amount of interest determined
23 under paragraph (2), and

24 “(ii) an amount equal to 20 percent of
25 the amount of such compensation.

1 “(2) INTEREST.—For purposes of paragraph
2 (1)(B)(i), the interest determined under this para-
3 graph for any taxable year is the amount of interest
4 at the underpayment rate under section 6621 plus
5 1 percentage point on the underpayments that would
6 have occurred had the deferred compensation been
7 includible in gross income for the taxable year in
8 which first deferred or, if later, the first taxable year
9 in which such deferred compensation is not subject
10 to a substantial risk of forfeiture.

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

13 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

14 “(A) IN GENERAL.—The rights of a person
15 to compensation shall be treated as subject to
16 a substantial risk of forfeiture only if such per-
17 son’s rights to such compensation are condi-
18 tioned upon the future performance of substan-
19 tial services by any individual.

20 “(B) EXCEPTION FOR COMPENSATION
21 BASED ON GAIN RECOGNIZED ON AN INVEST-
22 MENT ASSET.—

23 “(i) IN GENERAL.—To the extent pro-
24 vided in regulations prescribed by the Sec-
25 retary, if compensation is determined solely

1 by reference to the amount of gain recog-
2 nized on the disposition of an investment
3 asset, such compensation shall be treated
4 as subject to a substantial risk of for-
5 feiture until the date of such disposition.

6 “(ii) INVESTMENT ASSET.—For pur-
7 poses of clause (i), the term ‘investment
8 asset’ means any single asset (other than
9 an investment fund or similar entity)—

10 “(I) acquired directly by an in-
11 vestment fund or similar entity,

12 “(II) with respect to which such
13 entity does not (nor does any person
14 related to such entity) participate in
15 the active management of such asset
16 (or if such asset is an interest in an
17 entity, in the active management of
18 the activities of such entity), and

19 “(III) substantially all of any
20 gain on the disposition of which (other
21 than such deferred compensation) is
22 allocated to investors in such entity.

23 “(iii) COORDINATION WITH SPECIAL
24 RULE.—Paragraph (3)(B) shall not apply

1 to any compensation to which clause (i)
2 applies.

3 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

4 The term ‘comprehensive foreign income tax’ means,
5 with respect to any foreign person, the income tax
6 of a foreign country if—

7 “(A) such person is eligible for the benefits
8 of a comprehensive income tax treaty between
9 such foreign country and the United States, or

10 “(B) such person demonstrates to the sat-
11 isfaction of the Secretary that such foreign
12 country has a comprehensive income tax.

13 “(3) NONQUALIFIED DEFERRED COMPENSA-
14 TION PLAN.—

15 “(A) IN GENERAL.—The term ‘non-
16 qualified deferred compensation plan’ has the
17 meaning given such term under section
18 409A(d), except that such term shall include
19 any plan that provides a right to compensation
20 based on the appreciation in value of a specified
21 number of equity units of the service recipient.

22 “(B) EXCEPTION.—Compensation shall
23 not be treated as deferred for purposes of this
24 section if the service provider receives payment
25 of such compensation not later than 12 months

1 after the end of the taxable year of the service
2 recipient during which the right to the payment
3 of such compensation is no longer subject to a
4 substantial risk of forfeiture.

5 “(4) EXCEPTION FOR CERTAIN COMPENSATION
6 WITH RESPECT TO EFFECTIVELY CONNECTED IN-
7 COME.—In the case a foreign corporation with in-
8 come which is taxable under section 882, this section
9 shall not apply to compensation which, had such
10 compensation had been paid in cash on the date that
11 such compensation ceased to be subject to a sub-
12 stantial risk of forfeiture, would have been deduct-
13 ible by such foreign corporation against such income.

14 “(5) APPLICATION OF RULES.—Rules similar to
15 the rules of paragraphs (5) and (6) of section
16 409A(d) shall apply.

17 “(e) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be necessary or appropriate to
19 carry out the purposes of this section, including regula-
20 tions disregarding a substantial risk of forfeiture in cases
21 where necessary to carry out the purposes of this section.

22 “(f) TERMINATION.—This section shall not apply to
23 amounts deferred which are attributable to services per-
24 formed after December 31, 2018.”.

1 (b) CONFORMING AMENDMENT.—Section 26(b)(2),
2 as amended by the Housing Assistance Tax Act of 2008,
3 is amended by striking “and” at the end of subparagraph
4 (V), by striking the period at the end of subparagraph
5 (W) and inserting “, and”, and by adding at the end the
6 following new subparagraph:

7 “(X) section 457A(c)(1)(B) (relating to de-
8 terminability of amounts of compensation).”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 of subpart B of part II of subchapter E of chapter 1 is
11 amended by inserting after the item relating to section
12 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent
parties.”.

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, the amendments made by
16 this section shall apply to amounts deferred which
17 are attributable to services performed after Decem-
18 ber 31, 2008.

19 (2) APPLICATION TO EXISTING DEFERRALS.—

20 In the case of any amount deferred to which the
21 amendments made by this section do not apply solely
22 by reason of the fact that the amount is attributable
23 to services performed before January 1, 2009, to the
24 extent such amount is not includible in gross income

1 in a taxable year beginning before 2018, such
2 amounts shall be includible in gross income in the
3 later of—

4 (A) the last taxable year beginning before
5 2018, or

6 (B) the taxable year in which there is no
7 substantial risk of forfeiture of the rights to
8 such compensation (determined in the same
9 manner as determined for purposes of section
10 457A of the Internal Revenue Code of 1986, as
11 added by this section).

12 (3) CHARITABLE CONTRIBUTIONS OF EXISTING
13 DEFERRALS PERMITTED.—

14 (A) IN GENERAL.—Subsection (b) of sec-
15 tion 170 of the Internal Revenue Code of 1986
16 shall not apply to (and subsections (b) and (d)
17 of such section shall be applied without regard
18 to) so much of the taxpayer's qualified con-
19 tributions made during the taxpayer's last tax-
20 able year beginning before 2018 as does not ex-
21 ceed the taxpayer's qualified inclusion amount.
22 For purposes of subsection (b) of section 170 of
23 such Code, the taxpayer's contribution base for
24 such last taxable year shall be reduced by the
25 amount of the taxpayer's qualified contributions

1 to which such subsection does not apply by rea-
2 son the preceding sentence.

3 (B) QUALIFIED CONTRIBUTIONS.—For
4 purposes of this paragraph, the term “qualified
5 contributions” means the aggregate charitable
6 contributions (as defined in section 170(c) of
7 such Code) paid in cash by the taxpayer to or-
8 ganizations described in section 170(b)(1)(A) of
9 such Code (other than any organization de-
10 scribed in section 509(a)(3) of such Code or
11 any fund or account described in section
12 4966(d)(2) of such Code).

13 (C) QUALIFIED INCLUSION AMOUNT.—For
14 purposes of this paragraph, the term “qualified
15 inclusion amount” means the amount includible
16 in the taxpayer’s gross income for the last tax-
17 able year beginning before 2018 by reason of
18 paragraph (2).

19 (4) ACCELERATED PAYMENTS.—No later than
20 120 days after the date of the enactment of this Act,
21 the Secretary shall issue guidance providing a lim-
22 ited period of time during which a nonqualified de-
23 ferred compensation arrangement attributable to
24 services performed on or before December 31, 2008,
25 may, without violating the requirements of section

1 409A(a) of the Internal Revenue Code of 1986, be
2 amended to conform the date of distribution to the
3 date the amounts are required to be included in in-
4 come.

5 (5) CERTAIN BACK-TO-BACK ARRANGEMENTS.—
6 If the taxpayer is also a service recipient and main-
7 tains one or more nonqualified deferred compensa-
8 tion arrangements for its service providers under
9 which any amount is attributable to services per-
10 formed on or before December 31, 2008, the guid-
11 ance issued under paragraph (4) shall permit such
12 arrangements to be amended to conform the dates of
13 distribution under such arrangement to the date
14 amounts are required to be included in the income
15 of such taxpayer under this subsection.

16 (6) ACCELERATED PAYMENT NOT TREATED AS
17 MATERIAL MODIFICATION.—Any amendment to a
18 nonqualified deferred compensation arrangement
19 made pursuant to paragraph (4) or (5) shall not be
20 treated as a material modification of the arrange-
21 ment for purposes of section 409A of the Internal
22 Revenue Code of 1986.

1 **SEC. 602. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**
2 **TION OF INTEREST.**

3 (a) IN GENERAL.—Paragraph (6) of section 864(f),
4 as amended by the Housing Assistance Tax Act of 2008,
5 is amended by striking “December 31, 2010” and insert-
6 ing “December 31, 2018”.

7 (b) CONFORMING AMENDMENT.—Paragraph (5)(D)
8 of section 864(f) is amended by striking “December 31,
9 2008” and inserting “December 31, 2018”.

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

13 **SEC. 603. BROKER REPORTING OF CUSTOMER’S BASIS IN**
14 **SECURITIES TRANSACTIONS.**

15 (a) IN GENERAL.—

16 (1) BROKER REPORTING FOR SECURITIES
17 TRANSACTIONS.—Section 6045 is amended by add-
18 ing at the end the following new subsection:

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

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

26 “(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. 604. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
13 **TAXES.**

14 The percentage under subparagraph (C) of section
15 401(1) of the Tax Increase Prevention and Reconciliation
16 Act of 2005 in effect on the date of the enactment of this
17 Act is increased by 47.5 percentage points.