

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to provide for energy advancement and investment, and for other purposes.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

H. R. 6

To reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by
_____ to the amendment (No. 1502)
proposed by Mr. REID

Viz:

1 At the end add the following:

2 **TITLE VIII—ENERGY TAX**
3 **PROVISIONS**

4 **SEC. 800. SHORT TITLE; ETC.**

5 (a) SHORT TITLE.—This title may be cited as the

6 “Energy Advancement and Investment Act of 2007”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
2 wise expressly provided, whenever in this title an amend-
3 ment or repeal is expressed in terms of an amendment
4 to, or repeal of, a section or other provision, the reference
5 shall be considered to be made to a section or other provi-
6 sion of the Internal Revenue Code of 1986.

7 (c) TABLE OF CONTENTS.—The table of contents for
8 this title is as follows:

TITLE VIII—ENERGY TAX PROVISIONS

Sec. 800. Short title; etc.

Subtitle A—Energy Advancement and Investment

PART I—ADVANCED ELECTRICITY INFRASTRUCTURE

Sec. 801. Extension and modification of renewable electricity, refined coal, and Indian coal production credit.

Sec. 802. Extension and modification of credit for clean renewable energy bonds.

Sec. 803. Clean coal energy bonds.

Sec. 804. Extension and modification of energy credit.

Sec. 805. Energy credit for combined heat and power system property.

Sec. 806. Special depreciation allowance for certain electric transmission property.

Sec. 807. Extension of special rule to implement FERC restructuring policy.

Sec. 808. Extension and modification of credit for residential energy efficient property.

Sec. 809. Credit for residential wind property.

Sec. 810. Expansion and modification of advanced coal project investment credit.

Sec. 811. Expansion and modification of coal gasification investment credit.

Sec. 812. Seven-year applicable recovery period for depreciation of qualified energy management devices.

Sec. 813. Landowner incentive to encourage electric transmission build-out.

PART II—CARBON DIOXIDE SEQUESTRATION

Sec. 815. Tax credit for carbon dioxide sequestration.

Sec. 816. Seven-year applicable recovery period for depreciation of qualified carbon dioxide pipeline property.

Sec. 817. Certain income and gains relating to industrial source carbon dioxide treated as qualifying income for publicly traded partnerships.

PART III—DOMESTIC FUEL SECURITY

Sec. 821. Credit for production of cellulosic biomass alcohol.

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- Sec. 822. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
- Sec. 823. Extension of small ethanol producer credit.
- Sec. 824. Credit for producers of fossil free alcohol.
- Sec. 825. Modification of alcohol credit.
- Sec. 826. Extension and modification of credit for biodiesel used as fuel .
- Sec. 827. Extension and modification of alternative fuel credit.
- Sec. 828. Extension of alternative fuel vehicle refueling property credit.
- Sec. 829. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 830. Extension and modification of election to expense certain refineries.
- Sec. 831. Ethanol tariff extension.
- Sec. 832. Elimination of duty drawback on certain imported ethanol.
- Sec. 833. Certain income and gains relating to alcohol fuel mixtures, biodiesel fuel mixtures, and alternative fuel treated as qualifying income for publicly traded partnerships.
- Sec. 834. Technical amendments.

PART IV—ADVANCED TECHNOLOGY VEHICLES

- Sec. 841. Expansion and modification of credit for alternative fuel motor vehicles.
- Sec. 842. Credit for plug-in electric drive motor vehicles.
- Sec. 843. Exclusion from heavy truck tax for idling reduction units and advanced insulation added after purchase.

PART V—CONSERVATION AND ENERGY EFFICIENCY

- Sec. 851. Extension and modification of nonbusiness energy property credit.
- Sec. 852. Extension and modification of new energy efficient home credit.
- Sec. 853. Extension and modification of energy efficient commercial buildings deduction.
- Sec. 854. Modifications of energy efficient appliance credit for appliances produced after 2007.

PART VI—ACCOUNTABILITY STUDIES

- Sec. 861. Cost-benefit analysis of pollution reduction and saving in imported oil per dollar of tax benefit.
- Sec. 862. Effect of energy related tax benefits on prices for consumer goods.
- Sec. 863. Study on tax-credit bonds.

PART VII—OTHER PROVISIONS

SUBPART A—TIMBER PROVISIONS

- Sec. 871. Deduction for qualified timber gain.
- Sec. 872. Excise tax not applicable to section 1203 deduction of real estate investment trusts.
- Sec. 873. Timber REIT modernization.
- Sec. 874. Mineral royalty income qualifying income for timber REITs.
- Sec. 875. Modification of taxable REIT subsidiary asset test for timber REITs.
- Sec. 876. Safe harbor for timber property.

SUBPART B—MISCELLANEOUS

- Sec. 877. Special rules for refund of the coal excise tax to certain coal producers and exporters.

Sec. 878. Credit to holders of rural renaissance bonds.

Subtitle B—Revenue Raising Provisions

Sec. 881. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, natural gas, or primary products thereof.

Sec. 882. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.

Sec. 883. Increase and extension of Oil Spill Liability Trust Fund tax.

Sec. 884. Limitation on drawback claimed for amounts deposited into the Oil Spill Liability Trust Fund.

Sec. 885. Tax on crude oil and natural gas produced from the outer Continental Shelf in the Gulf of Mexico.

Sec. 886. Taxation of taxable fuels in foreign trade zones.

Sec. 887. Clarification of penalty for sale of fuel failing to meet EPA regulations.

Sec. 888. Clarification of eligibility for certain fuels credits for fuel with insufficient nexus to the United States.

Sec. 889. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.

Sec. 890. Calculation of volume of alcohol for fuel credits.

Sec. 891. Bulk transfer exception not to apply to finished gasoline.

Sec. 892. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.

Sec. 893. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.

Sec. 894. Revision of tax rules on expatriation of individuals.

Subtitle C—Secure Rural Schools and Community Self-Determination Program

Sec. 901. Secure rural schools and community self-determination program.

1 **Subtitle A—Energy Advancement**
2 **and Investment**

3 **PART I—ADVANCED ELECTRICITY**

4 **INFRASTRUCTURE**

5 **SEC. 801. EXTENSION AND MODIFICATION OF RENEWABLE**
6 **ELECTRICITY, REFINED COAL, AND INDIAN**
7 **COAL PRODUCTION CREDIT.**

8 (a) **EXTENSION.**—

1 (1) IN GENERAL.—Section 45(d) (relating to
2 qualified facilities) is amended—

3 (A) by striking “January 1, 2009” each
4 place it appears in paragraphs (1), (2), (3), (4),
5 (5), (6), (7), (8), and (9) and inserting “Janu-
6 ary 1, 2014”, and

7 (B) by striking “7-year period” both places
8 it appears in paragraph (10)(A) and inserting
9 “8-year period”.

10 (2) EFFECTIVE DATE.—The amendments made
11 by this subsection shall take effect on the date of the
12 enactment of this Act.

13 (b) CREDIT RATE FOR ELECTRICITY MAINTAINED AT
14 2007 LEVEL.—

15 (1) IN GENERAL.—Section 45(a)(1) (relating to
16 general rule) is amended by striking “1.5 cents” and
17 inserting “2 cents”.

18 (2) NO INFLATION ADJUSTMENT.—Section
19 45(b)(2) (relating to credit and phaseout adjustment
20 based on inflation) is amended by striking “1.5 cent
21 amount in subsection (a), the”.

22 (3) CONFORMING AMENDMENTS.—Section
23 45(b)(4)(A) is amended—

24 (A) by striking “2003” and inserting
25 “2006”, and

1 (B) by striking “the amount in effect” and
2 all that follows and inserting “subsection (a)(1)
3 shall be applied by substituting ‘0.9 cent’ for ‘2
4 cents’.”.

5 (4) EFFECTIVE DATE.—The amendments made
6 by this subsection shall apply to electricity produced
7 and sold after December 31, 2006.

8 (c) MODIFICATION OF REFINED COAL AS A QUALI-
9 FIED ENERGY RESOURCE.—

10 (1) ELIMINATION OF INCREASED MARKET
11 VALUE TEST.—Section 45(c)(7)(A) (defining refined
12 coal) is amended—

13 (A) by striking clause (iv),

14 (B) by adding “and” at the end of clause
15 (ii), and

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

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

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to coal produced and
25 sold after December 31, 2007.

1 (d) CREDIT ALLOWED FOR ON-SITE USE OF ELEC-
2 TRICITY PRODUCED FROM BIOMASS.—

3 (1) ON-SITE USE.—Section 45(e) (relating to
4 definitions and special rules) is amended by adding
5 at the end the following new paragraph:

6 “(12) CREDIT ALLOWED FOR ON-SITE USE OF
7 ELECTRICITY PRODUCED FROM BIOMASS.—In the
8 case of electricity produced after December 31,
9 2007, at any facility described in paragraph (2) or
10 (3) which is equipped with net metering to deter-
11 mine electricity consumption or sale (such consump-
12 tion or sale to be verified by a third party as deter-
13 mined by the Secretary), subsection (a)(2) shall be
14 applied without regard to subparagraph (B) there-
15 of.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall take effect on the date of the
18 enactment of this Act.

19 (e) EXPANSION OF RESOURCES TO WAVE, CURRENT,
20 TIDAL, AND OCEAN THERMAL ENERGY.—

21 (1) IN GENERAL.—Section 45(c)(1) (defining
22 qualified energy resources) is amended by striking
23 “and” at the end of subparagraph (G), by striking
24 the period at the end of subparagraph (H) and in-

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

3 “(I) wave, current, tidal, and ocean ther-
4 mal energy.”.

5 (2) DEFINITION OF RESOURCES.—Section 45(c)
6 is amended by adding at the end the following new
7 paragraph:

8 “(10) WAVE, CURRENT, TIDAL, AND OCEAN
9 THERMAL ENERGY.—The term ‘wave, current, tidal,
10 and ocean thermal energy’ means electricity pro-
11 duced from any of the following:

12 “(A) Free flowing ocean water derived
13 from tidal currents, ocean currents, waves, or
14 estuary currents.

15 “(B) Ocean thermal energy.”.

16 (3) FACILITIES.—Section 45(d) is amended by
17 adding at the end the following new paragraph:

18 “(11) WAVE, CURRENT, TIDAL, AND OCEAN
19 THERMAL FACILITY.—In the case of a facility using
20 resources described in subparagraph (A), (B), or (C)
21 of subsection (c)(10) to produce electricity, the term
22 ‘qualified facility’ means any facility owned by the
23 taxpayer which is originally placed in service after
24 the date of the enactment of this paragraph and be-
25 fore January 1, 2014, but such term shall not in-

1 clude a facility which includes impoundment struc-
2 tures or a small irrigation power facility.”.

3 (4) CREDIT RATE.—Section 45(b)(4)(A) (relat-
4 ing to credit rate), as amended by this section, is
5 amended by striking “or (9)” and inserting “(9), or
6 (11)”.

7 (5) EFFECTIVE DATE.—The amendments made
8 by this subsection shall take effect on the date of the
9 enactment of this Act.

10 (f) TRASH FACILITY CLARIFICATION.—

11 (1) IN GENERAL.—Paragraph (7) of section
12 45(d) is amended—

13 (A) by striking “facility which burns” and
14 inserting “facility (other than a facility de-
15 scribed in paragraph (6)) which uses”, and

16 (B) by striking “COMBUSTION”.

17 (2) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to electricity produced
19 and sold before, on, or after December 31, 2007.

20 **SEC. 802. EXTENSION AND MODIFICATION OF CREDIT FOR**
21 **CLEAN RENEWABLE ENERGY BONDS.**

22 (a) INCREASE IN AMOUNT OF BONDS DESIGNATED;
23 4-YEAR EXTENSION.—

24 (1) IN GENERAL.—Section 54(f) (relating to
25 limitation on amount of bonds designated) is amend-

1 ed by adding at the end the following new para-
2 graph:

3 “(3) NATIONAL ANNUAL LIMITATION.—

4 “(A) IN GENERAL.—There is a national
5 clean renewable energy bond annual limitation
6 for each calendar year. Such limitation is
7 \$900,000,000 for 2008, 2009, 2010, and 2011,
8 and, except as provided in subparagraph (C),
9 zero thereafter.

10 “(B) ALLOCATION BY SECRETARY.—The
11 national clean renewable energy bond limitation
12 for a calendar year shall be allocated by the
13 Secretary among qualified projects in such
14 manner as the Secretary determines appro-
15 priate, except that the Secretary may not allo-
16 cate more than \$563,000,000 of such limitation
17 for each calendar year to finance qualified
18 projects of qualified borrowers which are gov-
19 ernmental bodies, of which not less than one-
20 half of such amount shall be allocated with re-
21 spect to qualified projects equaling or exceeding
22 \$10,000,000 in capital expenditures per project.

23 “(C) CARRYOVER OF UNUSED LIMITA-
24 TION.—If for any calendar year, the national
25 clean renewable energy bond annual limitation

1 for such year exceeds the amount of bonds allo-
2 cated during such year, such limitation for the
3 following calendar year shall be increased by
4 the amount of such excess. Any carryforward of
5 a limitation may be carried only to the first
6 year following the unused limitation year. For
7 purposes of the preceding sentence, a limitation
8 shall be treated as used on a first-in first-out
9 basis.”.

10 (2) CONFORMING AMENDMENT.—Section 54 is
11 amended by striking subsection (m).

12 (b) LIMITATION ON TIME FOR ISSUANCE.—Section
13 54(d)(1)(A) (defining clean renewable energy bond) is
14 amended by inserting “, or is issued by the qualified issuer
15 pursuant to an allocation by the Secretary to such issuer
16 of a portion of the national clean renewable energy bond
17 annual limitation under subsection (f)(3) by not later than
18 the end of the calendar year following the year of such
19 allocation” after “subsection (f)(2)”.

20 (c) MODIFICATION OF RATABLE PRINCIPAL AMORTI-
21 ZATION REQUIREMENT.—

22 (1) IN GENERAL.—Paragraph (5) of section
23 54(l) is amended to read as follows:

24 “(5) RATABLE PRINCIPAL AMORTIZATION RE-
25 QUIRED.—A bond shall not be treated as a clean re-

1 newable energy bond unless it is part of an issue
2 which provides for an equal amount of principal to
3 be paid by the qualified issuer during each 12-month
4 period that the issue is outstanding (other than the
5 first 12-month period in the case of bonds issued
6 pursuant to an allocation under subsection (f)(3)).”.

7 (2) CONFORMING AMENDMENT.—The third sen-
8 tence of section 54(e)(2) is amended by striking
9 “subsection (l)(6)” and inserting “subsection (l)(5)”.

10 (d) QUALIFIED PROJECT INCLUDES CERTAIN
11 TRANSMISSION LINES.—Section 54(d)(2)(A) (defining
12 qualified project) is amended by inserting “and any elec-
13 tric transmission property capital expenditures (as defined
14 in section 172(b)(1)(I)(v)(I)) related to such facility” after
15 “qualified borrower”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **SEC. 803. CLEAN COAL ENERGY BONDS.**

20 (a) In general.—Subpart H of part IV of subchapter
21 A of chapter 1 is amended by adding at the end the fol-
22 lowing new section:

1 **“SEC. 54A. CREDIT TO HOLDERS OF CLEAN COAL ENERGY**
2 **BONDS.**

3 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
4 a clean coal energy bond on 1 or more credit allowance
5 dates of the bond occurring during any taxable year, there
6 shall be allowed as a credit against the tax imposed by
7 this chapter for the taxable year an amount equal to the
8 sum of the credits determined under subsection (b) with
9 respect to such dates.

10 “(b) AMOUNT OF CREDIT.—

11 “(1) IN GENERAL.—The amount of the credit
12 determined under this subsection with respect to any
13 credit allowance date for a clean coal energy bond is
14 25 percent of the annual credit determined with re-
15 spect to such bond.

16 “(2) ANNUAL CREDIT.—The annual credit de-
17 termined with respect to any clean coal energy bond
18 is the product of—

19 “(A) the credit rate determined by the Sec-
20 retary under paragraph (3) for the day on
21 which such bond was sold, multiplied by

22 “(B) the outstanding face amount of the
23 bond.

24 “(3) DETERMINATION.—For purposes of para-
25 graph (2), with respect to any clean coal energy
26 bond, the Secretary shall determine daily or cause to

1 be determined daily a credit rate which shall apply
2 to the first day on which there is a binding, written
3 contract for the sale or exchange of the bond. The
4 credit rate for any day is the credit rate which the
5 Secretary or the Secretary's designee estimates will
6 permit the issuance of clean coal energy bonds with
7 a specified maturity or redemption date without dis-
8 count and without interest cost to the qualified
9 issuer.

10 “(4) CREDIT ALLOWANCE DATE.—For purposes
11 of this section, the term ‘credit allowance date’
12 means—

13 “(A) March 15,

14 “(B) June 15,

15 “(C) September 15, and

16 “(D) December 15.

17 “Such term also includes the last day on which the
18 bond is outstanding.

19 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
20 DEMPTION.—In the case of a bond which is issued
21 during the 3-month period ending on a credit allow-
22 ance date, the amount of the credit determined
23 under this subsection with respect to such credit al-
24 lowance date shall be a ratable portion of the credit
25 otherwise determined based on the portion of the 3-

1 month period during which the bond is outstanding.

2 A similar rule shall apply when the bond is redeemed
3 or matures.

4 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
5 credit allowed under subsection (a) for any taxable year
6 shall not exceed the excess of—

7 “(1) the sum of the regular tax liability (as de-
8 fined in section 26(b)) plus the tax imposed by sec-
9 tion 55, over

10 “(2) the sum of the credits allowable under this
11 part (other than subpart C, section 1400N(l), and
12 this section).

13 “(d) CLEAN COAL ENERGY BOND.—For purposes of
14 this section—

15 “(1) IN GENERAL.—The term ‘clean coal en-
16 ergy bond’ means any bond issued as part of an
17 issue if—

18 “(A) the bond is issued by a qualified
19 issuer pursuant to an allocation by the Sec-
20 retary to such issuer of a portion of the na-
21 tional clean coal energy bond limitation under
22 subsection (f)(2),

23 “(B) 95 percent or more of the proceeds
24 from the sale of such issue are to be used for

1 capital expenditures incurred by qualified bor-
2 rowers for 1 or more qualified projects,

3 “(C) the qualified issuer designates such
4 bond for purposes of this section and the bond
5 is in registered form, and

6 “(D) the issue meets the requirements of
7 subsection (h).

8 “(2) QUALIFIED PROJECT; SPECIAL USE
9 RULES.—

10 “(A) IN GENERAL.—The term ‘qualified
11 project’ means a qualifying advanced coal
12 project (as defined in section 48A(c)(1)) placed
13 in service by a qualified borrower.

14 “(B) REFINANCING RULES.—For purposes
15 of paragraph (1)(B), a qualified project may be
16 refinanced with proceeds of a clean coal energy
17 bond only if the indebtedness being refinanced
18 (including any obligation directly or indirectly
19 refinanced by such indebtedness) was originally
20 incurred by a qualified borrower after the date
21 of the enactment of this section.

22 “(C) REIMBURSEMENT.—For purposes of
23 paragraph (1)(B), a clean coal energy bond
24 may be issued to reimburse a qualified borrower
25 for amounts paid after the date of the enact-

1 ment of this section with respect to a qualified
2 project, but only if—

3 “(i) prior to the payment of the origi-
4 nal expenditure, the qualified borrower de-
5 clared its intent to reimburse such expendi-
6 ture with the proceeds of a clean coal en-
7 ergy bond,

8 “(ii) not later than 60 days after pay-
9 ment of the original expenditure, the quali-
10 fied issuer adopts an official intent to re-
11 imburse the original expenditure with such
12 proceeds, and

13 “(iii) the reimbursement is made not
14 later than 18 months after the date the
15 original expenditure is paid.

16 “(D) TREATMENT OF CHANGES IN USE.—

17 For purposes of paragraph (1)(B), the proceeds
18 of an issue shall not be treated as used for a
19 qualified project to the extent that a qualified
20 borrower takes any action within its control
21 which causes such proceeds not to be used for
22 a qualified project. The Secretary shall pre-
23 scribe regulations specifying remedial actions
24 that may be taken (including conditions to tak-
25 ing such remedial actions) to prevent an action

1 described in the preceding sentence from caus-
2 ing a bond to fail to be a clean coal energy
3 bond.

4 “(e) MATURITY LIMITATIONS.—

5 “(1) DURATION OF TERM.—A bond shall not be
6 treated as a clean coal energy bond if the maturity
7 of such bond exceeds the maximum term determined
8 by the Secretary under paragraph (2) with respect
9 to such bond.

10 “(2) MAXIMUM TERM.—During each calendar
11 month, the Secretary shall determine the maximum
12 term permitted under this paragraph for bonds
13 issued during the following calendar month. Such
14 maximum term shall be the term which the Sec-
15 retary estimates will result in the present value of
16 the obligation to repay the principal on the bond
17 being equal to 50 percent of the face amount of such
18 bond. Such present value shall be determined with-
19 out regard to the requirements of subsection (1)(5)
20 and using as a discount rate the average annual in-
21 terest rate of tax of tax-exempt obligations having a
22 term of 10 years or more which are issued during
23 the month. If the term as so determined is not a
24 multiple of a whole year, such term shall be rounded
25 to the next highest whole year.

1 “(f) LIMITATION ON AMOUNT OF BONDS DES-
2 IGNATED.—

3 “(1) NATIONAL LIMITATION.—There is a na-
4 tional clean coal energy bond limitation of
5 \$3,000,000,000.

6 “(2) ALLOCATION BY SECRETARY.—The Sec-
7 retary shall allocate the amount described in para-
8 graph (1) among qualified projects in such manner
9 as the Secretary determines appropriate, except that
10 the Secretary may not allocate more than
11 \$1,875,000,000 of the national clean coal energy
12 bond limitation to finance qualified projects of quali-
13 fied borrowers which are governmental bodies.

14 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
15 income includes the amount of the credit allowed to the
16 taxpayer under this section (determined without regard to
17 subsection (c)) and the amount so included shall be treat-
18 ed as interest income.

19 “(h) SPECIAL RULES RELATING TO EXPENDI-
20 TURES.—

21 “(1) IN GENERAL.—An issue shall be treated as
22 meeting the requirements of this subsection if, as of
23 the date of issuance, the qualified issuer reasonably
24 expects—

1 “(A) at least 95 percent of the proceeds
2 from the sale of the issue are to be spent for
3 1 or more qualified projects within the 5-year
4 period beginning on the date of issuance of the
5 clean coal energy bond,

6 “(B) a binding commitment with a third
7 party to spend at least 10 percent of the pro-
8 ceeds from the sale of the issue will be incurred
9 within the 6-month period beginning on the
10 date of issuance of the clean coal energy bond
11 or, in the case of a clean coal energy bond the
12 proceeds of which are to be loaned to 2 or more
13 qualified borrowers, such binding commitment
14 will be incurred within the 6-month period be-
15 ginning on the date of the loan of such proceeds
16 to a qualified borrower, and

17 “(C) such projects will be completed with
18 due diligence and the proceeds from the sale of
19 the issue will be spent with due diligence.

20 “(2) EXTENSION OF PERIOD.—Upon submis-
21 sion of a request prior to the expiration of the period
22 described in paragraph (1)(A), the Secretary may
23 extend such period if the qualified issuer establishes
24 that the failure to satisfy the 5-year requirement is

1 due to reasonable cause and the related projects will
2 continue to proceed with due diligence.

3 “(3) FAILURE TO SPEND REQUIRED AMOUNT
4 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
5 tent that less than 95 percent of the proceeds of
6 such issue are expended by the close of the 5-year
7 period beginning on the date of issuance (or if an
8 extension has been obtained under paragraph (2), by
9 the close of the extended period), the qualified issuer
10 shall redeem all of the nonqualified bonds within 90
11 days after the end of such period. For purposes of
12 this paragraph, the amount of the nonqualified
13 bonds required to be redeemed shall be determined
14 in the same manner as under section 142.

15 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
16 bond which is part of an issue shall not be treated as a
17 clean coal energy bond unless, with respect to the issue
18 of which the bond is a part, the qualified issuer satisfies
19 the arbitrage requirements of section 148 with respect to
20 proceeds of the issue.

21 “(j) COOPERATIVE ELECTRIC COMPANY; CLEAN
22 COAL ENERGY BOND LENDER; GOVERNMENTAL BODY;
23 QUALIFIED BORROWER.—For purposes of this section—

24 “(1) COOPERATIVE ELECTRIC COMPANY.—The
25 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), or a not-for-
3 profit electric utility which has received a loan or
4 loan guarantee under the Rural Electrification Act.

5 “(2) CLEAN COAL ENERGY BOND LENDER.—
6 The term ‘clean coal energy bond lender’ means a
7 lender which is a cooperative which is owned by, or
8 has outstanding loans to, 100 or more cooperative
9 electric companies and is in existence on February
10 1, 2002, and shall include any affiliated entity which
11 is controlled by such lender.

12 “(3) GOVERNMENTAL BODY.—The term ‘gov-
13 ernmental body’ means any State, territory, posses-
14 sion of the United States, the District of Columbia,
15 Indian tribal government, and any political subdivi-
16 sion thereof.

17 “(4) QUALIFIED ISSUER.—The term ‘qualified
18 issuer’ means—

19 “(A) a clean coal energy bond lender,

20 “(B) a cooperative electric company, or

21 “(C) a governmental body.

22 “(5) QUALIFIED BORROWER.—The term ‘quali-
23 fied borrower’ means—

1 “(A) a mutual or cooperative electric com-
2 pany described in section 501(c)(12) or
3 1381(a)(2)(C), or

4 “(B) a governmental body.

5 “(k) SPECIAL RULES RELATING TO POOL BONDS.—

6 No portion of a pooled financing bond may be allocable
7 to any loan unless the borrower has entered into a written
8 loan commitment for such portion prior to the issue date
9 of such issue.

10 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—

11 For purposes of this section—

12 “(1) BOND.—The term ‘bond’ includes any ob-
13 ligation.

14 “(2) POOLED FINANCING BOND.—The term
15 ‘pooled financing bond’ shall have the meaning given
16 such term by section 149(f)(4)(A).

17 “(3) PARTNERSHIP; S CORPORATION; AND
18 OTHER PASS-THRU ENTITIES.—

19 “(A) IN GENERAL.—Under regulations
20 prescribed by the Secretary, in the case of a
21 partnership, trust, S corporation, or other pass-
22 thru entity, rules similar to the rules of section
23 41(g) shall apply with respect to the credit al-
24 lowable under subsection (a).

1 “(B) NO BASIS ADJUSTMENT.—Rules simi-
2 lar to the rules under section 1397E(l) shall
3 apply.

4 “(4) BONDS HELD BY REGULATED INVEST-
5 MENT COMPANIES.—If any clean coal energy bond is
6 held by a regulated investment company, the credit
7 determined under subsection (a) shall be allowed to
8 shareholders of such company under procedures pre-
9 scribed by the Secretary.

10 “(5) RATABLE PRINCIPAL AMORTIZATION RE-
11 QUIRED.—A bond shall not be treated as a clean
12 coal energy bond unless it is part of an issue which
13 provides for an equal amount principal to be paid by
14 the qualified issuer during each 12-month period
15 that the issue is outstanding (other than the first
16 12-month period).

17 “(6) REPORTING.—Issuers of clean coal energy
18 bonds shall submit reports similar to the reports re-
19 quired under section 149(e).

20 “(m) TERMINATION.—This section shall not apply
21 with respect to any bond issued after December 31,
22 2012.”.

23 (b) REPORTING.—Subsection (d) of section 6049 (re-
24 lating to returns regarding payments of interest) is

1 amended by adding at the end the following new para-
2 graph:

3 “(9) REPORTING OF CREDIT ON CLEAN COAL
4 ENERGY BONDS.—

5 “(A) IN GENERAL.—For purposes of sub-
6 section (a), the term ‘interest’ includes amounts
7 includible in gross income under section 54A(g)
8 and such amounts shall be treated as paid on
9 the credit allowance date (as defined in section
10 54A(b)(4)).

11 “(B) REPORTING TO CORPORATIONS,
12 ETC.—Except as otherwise provided in regula-
13 tions, in the case of any interest described in
14 subparagraph (A), subsection (b)(4) shall be
15 applied without regard to subparagraphs (A),
16 (H), (I), (J), (K), and (L)(i) of such subsection.

17 “(C) REGULATORY AUTHORITY.—The Sec-
18 retary may prescribe such regulations as are
19 necessary or appropriate to carry out the pur-
20 poses of this paragraph, including regulations
21 which require more frequent or more detailed
22 reporting.”.

23 (c) CONFORMING AMENDMENT.—Section 54(c)(2) is
24 amended by inserting “section 54A,” after “subpart C,”.

1 (d) CLERICAL AMENDMENT.—The table of sections
2 for subpart H of part IV of subchapter A of chapter 1
3 is amended by adding at the end the following new item:

“Sec. 54A. Credit to holders of clean coal energy bonds.”.

4 (e) ISSUANCE OF REGULATIONS.—The Secretary of
5 the Treasury shall issues regulations required under sec-
6 tion 54A of the Internal Revenue Code of 1986 (as added
7 by this section) not later than 120 days after the date
8 of the enactment of this Act.

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to bonds issued after December
11 31, 2007.

12 **SEC. 804. EXTENSION AND MODIFICATION OF ENERGY**
13 **CREDIT.**

14 (a) EXTENSION.—

15 (1) QUALIFIED FUEL CELL PROPERTY.—Sub-
16 paragraph (E) of section 48(c)(1) is amended by
17 striking “December 31, 2008” and inserting “De-
18 cember 31, 2016”.

19 (2) QUALIFIED MICROTURBINE PROPERTY.—
20 Subparagraph (E) of section 48(c)(2) is amended by
21 striking “December 31, 2008” and inserting “De-
22 cember 31, 2016”.

23 (3) SOLAR PROPERTY.—Paragraphs (2)(i)(II)
24 and (3)(A)(ii) of section 48(a) are each amended by

1 striking “January 1, 2009” and inserting “January
2 1, 2017”.

3 (b) REPEAL OF PUBLIC UTILITY PROPERTY EXCLU-
4 SION.—

5 (1) IN GENERAL.—Paragraph (3) of section
6 48(a), as amended by subsection (a)(3), is amended
7 by striking the first sentence which follows subpara-
8 graph (D).

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 48(c)(1), as amended by sub-
11 section (a)(1), is amended by striking subpara-
12 graph (D) and by redesignating subparagraph
13 (E) as subparagraph (D).

14 (B) Section 48(c)(2), as amended by sub-
15 section (a)(2), is amended by striking subpara-
16 graph (D) and by redesignating subparagraph
17 (E) as subparagraph (D).

18 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION
19 FOR FUEL CELL PROPERTY.—

20 (1) IN GENERAL.—Section 48(c)(1), as amend-
21 ed by subsection (b)(2)(A), is amended by striking
22 subparagraph (B) and by redesignating subpara-
23 graphs (C) and (D) as subparagraphs (B) and (C),
24 respectively.

1 (2) CONFORMING AMENDMENT.—Section
2 48(a)(1) is amended by striking “paragraphs (1)(B)
3 and (2)(B) of subsection (c)” and inserting “sub-
4 section (c)(2)(B)”.

5 (d) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by section shall
8 apply to periods after the date of the enactment of
9 this Act, in taxable years ending after such date,
10 under rules similar to the rules of section 48(m) of
11 the Internal Revenue Code of 1986 (as in effect on
12 the day before the date of the enactment of the Rev-
13 enue Reconciliation Act of 1990).

14 (2) EXTENSIONS.—The amendments made by
15 subsection (a) shall take effect on the date of the en-
16 actment of this Act.

17 **SEC. 805. ENERGY CREDIT FOR COMBINED HEAT AND**
18 **POWER SYSTEM PROPERTY.**

19 (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-
20 ergy property) is amended by striking “or” at the end of
21 clause (iii), by inserting “or” at the end of clause (iv),
22 and by adding at the end the following new clause:

23 “(v) combined heat and power system
24 property,”.

1 (b) COMBINED HEAT AND POWER SYSTEM PROP-
2 ERTY.—Section 48 (relating to energy credit; reforestation
3 credit) is amended by adding at the end the following new
4 subsection:

5 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
6 ERTY.—For purposes of subsection (a)(3)(A)(v)—

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

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

17 “(B) which has an electrical capacity of
18 not more than 15 megawatts or a mechanical
19 energy capacity of not more than 2,000 horse-
20 power or an equivalent combination of electrical
21 and mechanical energy capacities,

22 “(C) which produces—

23 “(i) at least 20 percent of its total
24 useful energy in the form of thermal en-
25 ergy which is not used to produce electrical

1 or mechanical power (or combination
2 thereof), and

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

6 “(D) the energy efficiency percentage of
7 which exceeds 60 percent, and

8 “(E) which is placed in service before Jan-
9 uary 1, 2017.

10 “(2) SPECIAL RULES.—

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

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

20 “(ii) the denominator of which is the
21 lower heating value of the fuel sources for
22 the system.

23 “(B) DETERMINATIONS MADE ON BTU
24 BASIS.—The energy efficiency percentage and

1 the percentages under paragraph (1)(C) shall
2 be determined on a Btu basis.

3 “(C) INPUT AND OUTPUT PROPERTY NOT
4 INCLUDED.—The term ‘combined heat and
5 power system property’ does not include prop-
6 erty used to transport the energy source to the
7 facility or to distribute energy produced by the
8 facility.

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

14 “(A) paragraph (1)(D) shall not apply, but

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

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to periods after the date of the
24 enactment of this Act, in taxable years ending after such
25 date, under rules similar to the rules of section 48(m) of

1 the Internal Revenue Code of 1986 (as in effect on the
2 day before the date of the enactment of the Revenue Rec-
3 onciliation Act of 1990).

4 **SEC. 806. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**
5 **TAIN ELECTRIC TRANSMISSION PROPERTY.**

6 (a) IN GENERAL.—Section 168 (relating to acceler-
7 ated cost recovery system) is amended by adding at the
8 end the following:

9 “(m) SPECIAL ALLOWANCE FOR CERTAIN ELECTRIC
10 TRANSMISSION PROPERTY.—

11 “(1) ADDITIONAL ALLOWANCE.—In the case of
12 any specified electric transmission property—

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

18 “(B) the adjusted basis of such property
19 shall be reduced by the amount of such deduc-
20 tion before computing the amount otherwise al-
21 lowable as a depreciation deduction under this
22 chapter for such taxable year and any subse-
23 quent taxable year.

24 “(2) SPECIFIED ELECTRIC TRANSMISSION
25 PROPERTY.—The term ‘specified electric trans-

1 mission property’ means property of a character
2 subject to the allowance for depreciation—

3 “(A) which is used in the United States as
4 a generator tie to solely transmit electricity
5 from any qualified facility described in section
6 45(d) (without regard to any placed in service
7 date or the last sentence of paragraph (4)
8 thereof) to the grid,

9 “(B) the original use of which commences
10 with the taxpayer after the date of the enact-
11 ment of this subsection,

12 “(C) which is acquired by the taxpayer by
13 purchase (as defined in section 179(d)) after
14 the date of the enactment of this subsection,
15 but only if no written binding contract for the
16 acquisition was in effect on or before the date
17 of the enactment of this subsection, and

18 “(D) which is placed in service by the tax-
19 payer before January 1, 2014.

20 “(3) EXCEPTIONS.—

21 “(A) ALTERNATIVE DEPRECIATION PROP-
22 erty.—Such term shall not include any prop-
23 erty described in section 168(k)(2)(D)(i).

24 “(B) ELECTION OUT.—If a taxpayer
25 makes an election under this subparagraph with

1 respect to any class of property for any taxable
2 year, this subsection shall not apply to all prop-
3 erty in such class placed in service during such
4 taxable year.

5 “(4) SPECIAL RULES.—For purposes of this
6 subsection, rules similar to the rules of subpara-
7 graph (E) of section 168(k)(2) shall apply, except
8 that such subparagraph shall be applied—

9 “(A) by substituting ‘the date of the enact-
10 ment of subsection (l)’ for ‘September 10,
11 2001’ each place it appears therein,

12 “(B) by substituting ‘January 1, 2014’ for
13 ‘January 1, 2005’ in clause (i) thereof, and

14 “(C) by substituting ‘specified electric
15 transmission property’ for ‘qualified property’
16 in clause (iv) thereof.

17 “(5) RECAPTURE.—For purposes of this sub-
18 section, rules similar to the rules under section
19 179(d)(10) shall apply with respect to any specified
20 electric transmission property which ceases to be
21 specified electric transmission property.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to property placed in service after
24 the date of the enactment of this Act in taxable years end-
25 ing after such date.

1 **SEC. 807. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
2 **FERC RESTRUCTURING POLICY.**

3 (a) QUALIFYING ELECTRIC TRANSMISSION TRANS-
4 ACTION.—

5 (1) IN GENERAL.—Section 451(i)(3) (defining
6 qualifying electric transmission transaction) is
7 amended by striking “January 1, 2008” and insert-
8 ing “January 1, 2010”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to transactions after
11 December 31, 2007.

12 (b) INDEPENDENT TRANSMISSION COMPANY.—

13 (1) IN GENERAL.—Section 451(i)(4)(B)(ii) (de-
14 fining independent transmission company) is amend-
15 ed by striking “December 31, 2007” and inserting
16 “the date which is 2 years after the date of such
17 transaction”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by this subsection shall take effect as if included in
20 the amendments made by section 909 of the Amer-
21 ican Jobs Creation Act of 2004.

1 **SEC. 808. EXTENSION AND MODIFICATION OF CREDIT FOR**
2 **RESIDENTIAL ENERGY EFFICIENT PROP-**
3 **ERTY.**

4 (a) EXTENSION.—Section 25D(g) (relating to termi-
5 nation) is amended by striking “December 31, 2008” and
6 inserting “December 31, 2014”.

7 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-
8 ERTY.—

9 (1) IN GENERAL.—Section 25D(b)(1)(A) (relat-
10 ing to maximum credit) is amended by striking
11 “\$2,000” and inserting “\$4,000”.

12 (2) CONFORMING AMENDMENT.—Section
13 25D(e)(4)(A)(i) is amended by striking “\$6,667”
14 and inserting “\$13,334”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to expenditures made after Decem-
17 ber 31, 2007.

18 **SEC. 809. CREDIT FOR RESIDENTIAL WIND PROPERTY.**

19 (a) IN GENERAL.—Section 25D(a) (relating to allow-
20 ance of credit) is amended by striking “and” at the end
21 of paragraph (2), by striking the period at the end of para-
22 graph (3) and inserting “, and”, and by adding at the
23 end the following new paragraph:

24 “(4) 30 percent of the qualified small wind en-
25 ergy property expenditures made by the taxpayer
26 during such year.”.

1 (b) LIMITATION.—Section 25D(b)(1) (relating to
2 maximum credit) is amended by striking “and” at the end
3 of subparagraph (B), by striking the period at the end
4 of subparagraph (A) and inserting “, and”, and by adding
5 at the end the following new subparagraph:

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

10 (c) QUALIFIED SMALL WIND ENERGY PROPERTY
11 EXPENDITURES.—

12 (1) IN GENERAL.—Section 25D(d) (relating to
13 definitions) is amended by adding at the end the fol-
14 lowing new paragraph:

15 “(4) QUALIFIED SMALL WIND ENERGY PROP-
16 erty expenditure.—The term ‘qualified small
17 wind energy property expenditure’ means an expend-
18 iture for property which uses a wind turbine to gen-
19 erate electricity for use in connection with a dwelling
20 unit located in the United States and used as a resi-
21 dence by the taxpayer.”.

22 (2) NO DOUBLE BENEFIT.—Section 45(d)(1)
23 (relating to wind facility) is amended by adding at
24 the end the following new sentence: “Such term shall
25 not include any facility with respect to which any

1 qualified small wind energy property expenditure (as
2 defined in subsection (d)(4) of section 25D) is taken
3 into account in determining the credit under such
4 section.”.

5 (d) MAXIMUM EXPENDITURES IN CASE OF JOINT
6 OCCUPANCY.—Section 25D(e)(4)(A) (relating to max-
7 imum expenditures) is amended by striking “and” at the
8 end of clause (iii), by striking the period at the end of
9 clause (iv) and inserting “, and”, and by adding at the
10 end the following new clause:

11 “(v) \$1,667 in the case of each half
12 kilowatt of capacity of wind turbines for
13 which qualified small wind energy property
14 expenditures are made.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to expenditures after December 31,
17 2007.

18 **SEC. 810. EXPANSION AND MODIFICATION OF ADVANCED**
19 **COAL PROJECT INVESTMENT CREDIT.**

20 (a) CREDIT RATE PARITY AMONG PROJECTS.—Sec-
21 tion 48A(a) (relating to qualifying advanced coal project
22 credit) is amended by striking “equal to” and all that fol-
23 lows and inserting “equal to 30 percent of the qualified in-
24 vestment for such taxable year.”.

1 (b) EXPANSION OF AGGREGATE CREDITS.—Section
2 48A(d)(3)(A) (relating to aggregate credits) is amended
3 by striking “\$1,300,000,000” and inserting
4 “\$3,800,000,000”.

5 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

6 (1) IN GENERAL.—Subparagraph (B) of section
7 48A(d)(3) (relating to aggregate credits) is amended
8 to read as follows:

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

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

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

21 “(iii) \$1,500,000,000 for integrated
22 gasification combined cycle projects the ap-
23 plication for which is submitted during the
24 period described in paragraph (2)(A)(ii),
25 and

1 “(iv) \$1,000,000,000 for other ad-
2 vanced coal-based generation technology
3 projects the application for which is sub-
4 mitted during the period described in para-
5 graph (2)(A)(ii).”.

6 (2) APPLICATION PERIOD FOR ADDITIONAL
7 PROJECTS.—Subparagraph (A) of section 48A(d)(2)
8 (relating to certification) is amended to read as fol-
9 lows:

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

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

21 “(ii) for an allocation from the dollar
22 amount specified in clause (iii) or (iv) of
23 paragraph (3)(A) during the 3-year period
24 beginning at the earlier of the termination

1 of the period described in clause (i) or the
2 date prescribed by the Secretary.”.

3 (3) CAPTURE AND SEQUESTRATION OF CARBON
4 DIOXIDE EMISSIONS REQUIREMENT.—Section
5 48A(e)(1) (relating to requirements) is amended by
6 striking “and” at the end of subparagraph (E), by
7 striking the period at the end of subparagraph (F)
8 and inserting “, and”, and by adding at the end the
9 following new subparagraph:

10 “(G) in the case of any project the applica-
11 tion for which is submitted during the period
12 described in paragraph (2)(A)(ii), the project
13 includes equipment to separate and sequester
14 65 percent of such project’s total carbon dioxide
15 emissions.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **SEC. 811. EXPANSION AND MODIFICATION OF COAL GASIFI-**
20 **CATION INVESTMENT CREDIT.**

21 (a) CREDIT RATE.—Section 48B(a) (relating to
22 qualifying gasification project credit) is amended by strik-
23 ing “20 percent” and inserting “30 percent”.

24 (b) EXPANSION OF AGGREGATE CREDITS.—Section
25 48B(d)(1) (relating to qualifying gasification project pro-

1 gram) is amended by striking “\$350,000,000” and insert-
2 ing “\$1,850,000,000 (of which \$1,500,000,000 shall be
3 allocated for qualifying gasification projects that include
4 equipment to separate and sequester 75 percent of such
5 a project’s total carbon dioxide emissions)”.

6 (c) ELIGIBLE PROJECTS INCLUDE FISCHER-
7 TROPSCH PROCESS.—Section 48B(e)(7) (defining eligible
8 entity) is amended by striking “and” at the end of sub-
9 paragraph (F), by striking the period at the end of sub-
10 paragraph (G) and inserting “, and”, and by adding at
11 the end the following new subparagraph:

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

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the date of the enactment
15 of this Act.

16 **SEC. 812. SEVEN-YEAR APPLICABLE RECOVERY PERIOD**
17 **FOR DEPRECIATION OF QUALIFIED ENERGY**
18 **MANAGEMENT DEVICES.**

19 (a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-
20 year property) is amended by striking “and” at the end
21 of clause (iv), by redesignating clause (v) as clause (vi),
22 and by inserting after clause (iv) the following new clause:

23 “(v) any qualified energy management
24 device, and”.

1 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-
2 MENT DEVICE.—Section 168(i) (relating to definitions
3 and special rules) is amended by inserting at the end the
4 following new paragraph:

5 “(18) QUALIFIED ENERGY MANAGEMENT DE-
6 VICE.—

7 “(A) IN GENERAL.—The term ‘qualified
8 energy management device’ means any energy
9 management device which is placed in service
10 before January 1, 2011, by a taxpayer who is
11 a supplier of electric energy or a provider of
12 electric energy services.

13 “(B) ENERGY MANAGEMENT DEVICE.—
14 For purposes of subparagraph (A), the term
15 ‘energy management device’ means any two-way
16 communications network and associated equip-
17 ment, including equipment installed on the
18 premises of a consumer, which is used by the
19 taxpayer—

20 “(i) to measure and record electricity
21 usage data on a time-differentiated basis
22 of at least 60 minutes, and

23 “(ii) to provide such data on demand
24 to both consumers and the taxpayer.”.

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

4 **SEC. 813. LANDOWNER INCENTIVE TO ENCOURAGE ELEC-**
5 **TRIC TRANSMISSION BUILD-OUT.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 (relating to items specifically excluded from gross
8 income) is amended by inserting after section 139A the
9 following new section:

10 **“SEC. 139B. ELECTRIC TRANSMISSION EASEMENT PAY-**
11 **MENTS.**

12 “(a) IN GENERAL.—Gross income shall not include
13 any qualified electric transmission easement payment.

14 “(b) QUALIFIED ELECTRIC TRANSMISSION EASE-
15 MENT PAYMENT.—For purposes of this section, the term
16 ‘qualified electric transmission payment’ means any pay-
17 ment by an electric utility or electric transmission entity
18 pursuant to an easement or other agreement granted by
19 the payee (or any predecessor of such payee) for the right
20 of such entity (or any successors of such entity) to locate
21 on such payee’s property transmission lines and equip-
22 ment used to transmit electricity at 230 or more kilovolts
23 primarily from qualified facilities described in section
24 45(d) (without regard to any placed in service date or the
25 last sentence of paragraph (4) thereof) or energy property

1 (as defined in section 48(a)(3)) placed in service after the
2 date of the enactment of this section.

3 “(c) NO INCREASE IN BASIS.—Notwithstanding any
4 other provision of this subtitle, no increase in the basis
5 or adjusted basis of any property shall result from any
6 amount excluded under this subsection with respect to
7 such property.

8 “(d) DENIAL OF DOUBLE BENEFIT.—Notwith-
9 standing any other provision of this subtitle, no deduction
10 or credit shall be allowed (to the person for whose benefit
11 a qualified electric transmission easement payment is
12 made) for, or by reason of, any expenditure to the extent
13 of the amount excluded under this section with respect to
14 such expenditure.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for such part III is amended by inserting after the item
17 relating to section 139A the following new item:

“Sec. 139B. Electric transmission easement payments.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to payments received after the date
20 of the enactment of this Act.

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

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

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

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

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

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

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

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

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

25 For purposes of this section—

1 “(1) ONLY CARBON DIOXIDE CAPTURED WITH-
2 IN THE UNITED STATES TAKEN INTO ACCOUNT.—
3 The credit under this section shall apply only with
4 respect to qualified carbon dioxide the capture of
5 which is within—

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

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

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

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

23 “(4) QUALIFIED ENHANCED OIL OR NATURAL
24 GAS RECOVERY PROJECT.—The term ‘qualified en-
25 hanced oil or natural gas recovery project’ has the

1 meaning given the term ‘qualified enhanced oil re-
2 covery project’ by section 43(c)(2), by substituting
3 ‘crude oil or natural gas’ for ‘crude oil’ in subpara-
4 graph (A)(i) thereof.

5 “(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—
6 Any credit under this section shall be attributable to
7 the person that captures and physically or contrac-
8 tually ensures the disposal of or the use as a tertiary
9 injectant of the qualified carbon dioxide, except to
10 the extent provided in regulations prescribed by the
11 Secretary.

12 “(6) RECAPTURE.—The Secretary shall, by reg-
13 ulations, provide for recapturing the benefit of any
14 credit allowable under subsection (a) with respect to
15 any qualified carbon dioxide which ceases to be cap-
16 tured, disposed of, or used as a tertiary injectant in
17 a manner consistent with the requirements of this
18 section.

19 “(7) INFLATION ADJUSTMENT.—In the case of
20 any taxable year beginning in a calendar year after
21 2008, there shall be substituted for each dollar
22 amount contained in subsection (a) an amount equal
23 to the product of—

24 “(A) such dollar amount, multiplied by

1 “(B) the inflation adjustment factor for
2 such calendar year determined under section
3 43(b)(3)(B) for such calendar year, determined
4 by substituting ‘2007’ for ‘1990’.

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

13 (b) CONFORMING AMENDMENT.—Section 38(b) (re-
14 lating to general business credit) is amended by striking
15 “plus” at the end of paragraph (30), by striking the period
16 at the end of paragraph (31) and inserting “, plus”, and
17 by adding at the end of following new paragraph:

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

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

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

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

4 **SEC. 816. SEVEN-YEAR APPLICABLE RECOVERY PERIOD**
5 **FOR DEPRECIATION OF QUALIFIED CARBON**
6 **DIOXIDE PIPELINE PROPERTY.**

7 (a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-
8 year property), as amended by this Act, is amended by
9 striking “and” at the end of clause (v), by redesignating
10 clause (vi) as clause (vii), and by inserting after clause
11 (iv) the following new clause:

12 “(vi) any qualified carbon dioxide
13 pipeline property—

14 “(I) the original use of which
15 commences with the taxpayer after
16 the date of the enactment of this
17 clause,

18 “(II) the original purpose of
19 which is to transport carbon dioxide,
20 and

21 “(III) which is placed in service
22 before January 1, 2014.”.

23 (b) DEFINITION OF QUALIFIED CARBON DIOXIDE
24 PIPELINE PROPERTY.—Section 168(e) (relating to classi-

1 fication of property) is amended by inserting at the end
2 the following new paragraph:

3 “(8) **QUALIFIED CARBON DIOXIDE PIPELINE**
4 **PROPERTY.**—The term ‘qualified carbon dioxide
5 pipeline property’ means property which is used in
6 the United States solely to transmit qualified carbon
7 dioxide (as defined in section 45O(b)) from the point
8 of capture to the point of disposal (as described in
9 section 45O(a)(1)(B)) or the point at which such
10 qualified carbon dioxide is used as a tertiary
11 injectant (as described in section 45O(a)(2)(B)).”.

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

15 **SEC. 817. CERTAIN INCOME AND GAINS RELATING TO IN-**
16 **DUSTRIAL SOURCE CARBON DIOXIDE TREAT-**
17 **ED AS QUALIFYING INCOME FOR PUBLICLY**
18 **TRADED PARTNERSHIPS.**

19 (a) **IN GENERAL.**—Subparagraph (E) of section
20 7704(d)(1) (defining qualifying income) is amended by in-
21 serting “or industrial source carbon dioxide” after “tim-
22 ber)”.

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

1 **PART III—DOMESTIC FUEL SECURITY**

2 **SEC. 821. CREDIT FOR PRODUCTION OF CELLULOSIC BIO-**
3 **MASS ALCOHOL.**

4 (a) IN GENERAL.—Subsection (a) of section 40 (re-
5 relating to alcohol used as fuel) is amended by striking
6 “plus” at the end of paragraph (2), by striking the period
7 at the end of paragraph (3) and inserting “, plus”, and
8 by adding at the end the following new paragraph:

9 “(4) the small cellulosic alcohol producer cred-
10 it.”.

11 (b) SMALL CELLULOSIC ALCOHOL PRODUCER CRED-
12 IT.—

13 (1) IN GENERAL.—Subsection (b) of section 40
14 is amended by adding at the end the following new
15 paragraph:

16 “(6) SMALL CELLULOSIC ALCOHOL PRODUCER
17 CREDIT.—

18 “(A) IN GENERAL.—In addition to any
19 other credit allowed under this section, there
20 shall be allowed as a credit against the tax im-
21 posed by this chapter for the taxable year an
22 amount equal to the applicable amount for each
23 gallon of qualified cellulosic alcohol production.

24 “(B) APPLICABLE AMOUNT.—For purposes
25 of subparagraph (A), the applicable amount
26 means the excess of—

1 “(i) \$1.11, over

2 “(ii) the sum of—

3 “(I) the amount of the credit al-
4 lowable for alcohol which is ethanol
5 under subsection (b)(1) (without re-
6 gard to subsection (b)(3)) at the time
7 of the qualified cellulosic alcohol pro-
8 duction, plus

9 “(II) the amount of the credit al-
10 lowable under subsection (b)(4) at the
11 time of such production.

12 “(C) QUALIFIED CELLULOSIC ALCOHOL
13 PRODUCTION.—For purposes of this section,
14 the term ‘qualified cellulosic alcohol production’
15 means any cellulosic biomass alcohol which is
16 produced by an eligible small cellulosic alcohol
17 producer and which during the taxable year—

18 “(i) is sold by the taxpayer to another
19 person—

20 “(I) for use by such other person
21 in the production of a qualified alco-
22 hol mixture in such other person’s
23 trade or business (other than casual
24 off-farm production),

1 Administrator of the Environmental
2 Protection Agency, certifies that
3 1,000,000,000 gallons of cellulosic
4 biomass alcohol (as so defined) have
5 been produced in or imported into the
6 United States after such date.”.

7 (2) TERMINATION DATE NOT TO APPLY.—Sub-
8 section (e) of section 40 (relating to termination) is
9 amended by adding at the end the following new
10 paragraph:

11 “(3) EXCEPTION FOR SMALL CELLULOSIC AL-
12 COHOL PRODUCER CREDIT.—Paragraph (1) shall
13 not apply to the portion of the credit allowed under
14 this section by reason of subsection (a)(4).”.

15 (c) ELIGIBLE SMALL CELLULOSIC ALCOHOL PRO-
16 DUCER.—Section 40 is amended by adding at the end the
17 following new subsection:

18 “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL
19 CELLULOSIC ALCOHOL PRODUCER.—For purposes of this
20 section—

21 “(1) IN GENERAL.—The term ‘eligible small
22 cellulosic alcohol producer’ means a person, who at
23 all times during the taxable year, has a productive
24 capacity for cellulosic biomass alcohol not in excess
25 of 60,000,000 gallons.

1 “(2) CELLULOSIC BIOMASS ALCOHOL.—

2 “(A) IN GENERAL.—The term ‘cellulosic
3 biomass alcohol’ has the meaning given such
4 term under section 168(l)(3), but does not in-
5 clude any alcohol with a proof of less than 150.

6 “(B) DETERMINATION OF PROOF.—The
7 determination of the proof of any alcohol shall
8 be made without regard to any added dena-
9 turants.

10 “(3) AGGREGATION RULE.—For purposes of
11 the 60,000,000 gallon limitation under paragraph
12 (1), all members of the same controlled group of cor-
13 porations (within the meaning of section 267(f)) and
14 all persons under common control (within the mean-
15 ing of section 52(b) but determined by treating an
16 interest of more than 50 percent as a controlling in-
17 terest) shall be treated as 1 person.

18 “(4) PARTNERSHIP, S CORPORATIONS, AND
19 OTHER PASS-THRU ENTITIES.—In the case of a
20 partnership, trust, S corporation, or other pass-thru
21 entity, the limitation contained in paragraph (1)
22 shall be applied at the entity level and at the partner
23 or similar level.

24 “(5) ALLOCATION.—For purposes of this sub-
25 section, in the case of a facility in which more than

1 1 person has an interest, productive capacity shall
2 be allocated among such persons in such manner as
3 the Secretary may prescribe.

4 “(6) REGULATIONS.—The Secretary may pre-
5 scribe such regulations as may be necessary to pre-
6 vent the credit provided for in subsection (a)(4)
7 from directly or indirectly benefitting any person
8 with a direct or indirect productive capacity of more
9 than 60,000,000 gallons of cellulosic biomass alcohol
10 during the taxable year.

11 “(7) ALLOCATION OF SMALL CELLULOSIC PRO-
12 DUCER CREDIT TO PATRONS OF COOPERATIVE.—
13 Rules similar to the rules under subsection (g)(6)
14 shall apply for purposes of this subsection.”.

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

16 (1) IN GENERAL.—Paragraph (3) of section
17 40(d) is amended by redesignating subparagraph
18 (D) as subparagraph (E) and by inserting after sub-
19 paragraph (C) the following new subparagraph:

20 “(D) SMALL CELLULOSIC ALCOHOL PRO-
21 DUCER CREDIT.—If—

22 “(i) any credit is allowed under sub-
23 section (a)(4), and

1 “(ii) any person does not use such
2 fuel for a purpose described in subsection
3 (b)(6)(C),
4 then there is hereby imposed on such person a
5 tax equal to the applicable amount for each gal-
6 lon of such cellulosic biomass alcohol.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Subparagraph (C) of section 40(d)(3)
9 is amended by striking “PRODUCER” in the
10 heading and inserting “SMALL ETHANOL PRO-
11 DUCER”.

12 (B) Subparagraph (E) of section 40(d)(3),
13 as redesignated by paragraph (1), is amended
14 by striking “or (C)” and inserting “(C), or
15 (D)”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to fuel produced after December
18 31, 2007.

19 **SEC. 822. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**
20 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**
21 **PROPERTY.**

22 (a) IN GENERAL.—Paragraph (3) of section 168(l)
23 (relating to special allowance for cellulosic biomass ethanol
24 plant property) is amended to read as follows:

1 “(3) CELLULOSIC BIOMASS ALCOHOL.—For
2 purposes of this subsection, the term ‘cellulosic bio-
3 mass alcohol’ means any alcohol produced from any
4 lignocellulosic or hemicellulosic matter that is avail-
5 able on a renewable or recurring basis.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subsection (l) of section 168 is amended by
8 striking “cellulosic biomass ethanol” each place it
9 appears and inserting “cellulosic biomass alcohol”.

10 (2) The heading of section 168(l) is amended
11 by striking “CELLULOSIC BIOMASS ETHANOL” and
12 inserting “CELLULOSIC BIOMASS ALCOHOL”.

13 (3) The heading of paragraph (2) of section
14 168(l) is amended by striking “CELLULOSIC BIO-
15 MASS ETHANOL” and inserting “CELLULOSIC BIO-
16 MASS ALCOHOL”.

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

21 **SEC. 823. EXTENSION OF SMALL ETHANOL PRODUCER**

22 **CREDIT.**

23 Paragraph (1) of section 40(e) (relating to termi-
24 nation) is amended—

1 (1) in subparagraph (A), by inserting “(Decem-
2 ber 31, 2012, in the case of the credit allowed by
3 reason of subsection (a)(3))” after “December 31,
4 2010”, and

5 (2) in subparagraph (B), by inserting “(Janu-
6 ary 1, 2013, in the case of the credit allowed by rea-
7 son of subsection (a)(3))” after “January 1, 2011”.

8 **SEC. 824. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**
9 **HOL.**

10 (a) IN GENERAL.—Subsection (a) of section 40 (re-
11 lating to alcohol used as fuel), as amended by section 821,
12 is amended by striking “plus” at the end of paragraph
13 (3), by striking the period at the end of paragraph (4)
14 and inserting “, plus”, and by adding at the end the fol-
15 lowing new paragraph:

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

18 (b) SMALL FOSSIL FREE ALCOHOL PRODUCER
19 CREDIT.—

20 (1) IN GENERAL.—Subsection (b) of section 40,
21 as amended by section 821, is amended by adding
22 at the end the following new paragraph:

23 “(7) SMALL FOSSIL FREE ALCOHOL PRODUCER
24 CREDIT.—

1 “(A) IN GENERAL.—In addition to any
2 other credit allowed under this section, there
3 shall be allowed as a credit against the tax im-
4 posed by this chapter for the taxable year an
5 amount equal to 25 cents for each gallon of
6 qualified fossil free alcohol production.

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

14 “(i) is sold by the taxpayer to another
15 person—

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

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

24 “(III) who sells such alcohol at
25 retail to another person and places

1 such alcohol in the fuel tank of such
2 other person, or

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

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

12 (c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRO-
13 DUCER.—Section 40, as amended by section 821, is
14 amended by adding at the end the following new sub-
15 section:

16 “(j) DEFINITIONS AND SPECIAL RULES FOR SMALL
17 FOSSIL FREE ALCOHOL PRODUCER.—For purposes of
18 this section—

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

1 “(2) FOSSIL FREE ALCOHOL PRODUCTION FA-
2 CILITY.—The term ‘fossil free alcohol production fa-
3 cility’ means any facility at which 90 percent of the
4 fuel used in the production of alcohol is from bio-
5 mass (as defined in section 45K(c)(3)).

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

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

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

1 “(6) REGULATIONS.—The Secretary may pre-
2 scribe such regulations as may be necessary to pre-
3 vent the credit provided for in subsection (a)(5)
4 from directly or indirectly benefitting any person
5 with a direct or indirect productive capacity of more
6 than 60,000,000 gallons of alcohol from fossil free
7 alcohol production facilities during the taxable year.

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

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

13 (1) IN GENERAL.—Paragraph (3) of section
14 40(d), as amended by section 821, is amended by re-
15 designating subparagraph (E) as subparagraph (F)
16 and by inserting after subparagraph (D) the fol-
17 lowing new subparagraph:

18 “(E) SMALL FOSSIL FREE ALCOHOL PRO-
19 DUCER CREDIT.—If—

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

22 “(ii) any person does not use such
23 fuel for a purpose described in subsection
24 (b)(7)(B),

1 then there is hereby imposed on such person a
2 tax equal to 25 cents for each gallon of such al-
3 cohol.”.

4 (2) CONFORMING AMENDMENT.—Subparagraph
5 (E) of section 40(d)(3), as redesignated by para-
6 graph (1) and amended by section 821, is amended
7 by striking “or (D)” and inserting “(C), or (E)”.

8 (e) TERMINATION.—Paragraph (1) of section 40(e),
9 as amended by section 823, is amended—

10 (1) in subparagraph (A), by striking “(Decem-
11 ber 31, 2012, in the case of the credit allowed by
12 reason of subsection (a)(3))” and inserting “(De-
13 cember 31, 2012, in the case of the credits allowed
14 by reason of paragraphs (3) and (5) of subsection
15 (a))”, and

16 (2) in subparagraph (B), by striking “(January
17 1, 2013, in the case of the credit allowed by reason
18 of subsection (a)(3))” and inserting “(January 1,
19 2013, in the case of the credits allowed by reason of
20 paragraphs (3) and (5) of subsection (a))”.

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to fuel produced after December
23 31, 2007.

1 **SEC. 825. MODIFICATION OF ALCOHOL CREDIT.**

2 (a) **INCOME TAX CREDIT.**—Subsection (h) of section
3 40 (relating to reduced credit for ethanol blenders) is
4 amended by adding at the end the following new para-
5 graph:

6 “(3) **REDUCED AMOUNT AFTER SALE OF**
7 **7,500,000,000 GALLONS.**—

8 “(A) **IN GENERAL.**—In the case of any cal-
9 endar year beginning after the date described in
10 subparagraph (B), the last row in the table in
11 paragraph (2) shall be applied by substituting
12 ‘46 cents’ for ‘51 cents’.

13 “(B) **DATE DESCRIBED.**—The date de-
14 scribed in this subparagraph is the first date on
15 which 7,500,000,000 gallons of ethanol (includ-
16 ing cellulosic ethanol) have been produced in or
17 imported into the United States after the date
18 of the enactment of this paragraph, as certified
19 by the Secretary, in consultation with the Ad-
20 ministrator of the Environmental Protection
21 Agency.”.

22 (b) **EXCISE TAX CREDIT.**—

23 (1) **IN GENERAL.**—Paragraph (2) of section
24 6426(b) (relating to alcohol fuel mixture credit) is
25 amended by adding at the end the following new
26 subparagraph:

1 “(C) REDUCED AMOUNT AFTER SALE OF
2 7,500,000,000 GALLONS.—In the case of any alco-
3 hol fuel mixture produced in a calendar year be-
4 ginning after the date described in section
5 40(h)(3)(B), subparagraph (A) shall be applied
6 by substituting ‘46 cents’ for ‘51 cents’.”.

7 (2) CONFORMING AMENDMENT.—Subparagraph
8 (A) of section 6426(b)(2) is amended by striking
9 “subparagraph (B)” and inserting “subparagraphs
10 (B) and (C)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of the enactment
13 of this Act.

14 **SEC. 826. EXTENSION AND MODIFICATION OF CREDIT FOR**
15 **BIODIESEL USED AS FUEL .**

16 (a) EXTENSION.—

17 (1) INCOME TAX CREDITS FOR BIODIESEL AND
18 RENEWABLE DIESEL AND SMALL AGRI-BIODIESEL
19 PRODUCER CREDIT.—Section 40A(g) (relating to
20 termination) is amended by striking “December 31,
21 2008” and inserting “December 31, 2010 (Decem-
22 ber 31, 2012, in the case of the credit allowed by
23 reason of subsection (a)(3))”.

1 (2) EXCISE TAX CREDIT.—Section 6426(e)(6)
2 (relating to termination) is amended by striking
3 “2008” and inserting “2010”.

4 (3) FUELS NOT USED FOR TAXABLE PUR-
5 POSES.—Section 6427(e)(5)(B) (relating to termi-
6 nation) is amended by striking “2008” and inserting
7 “2010”.

8 (b) MODIFICATION OF CREDIT FOR RENEWABLE
9 DIESEL.—

10 (1) IN GENERAL.—Section 40A(f) (relating to
11 renewable diesel) is amended by adding at the end
12 the following new paragraph:

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

21 (c) MODIFICATION RELATING TO DEFINITION OF
22 AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (re-
23 lating to agri-biodiesel) is amended by striking “and mus-
24 tard seeds” and inserting “mustard seeds, and camelina”.

1 (d) EFFECTIVE DATES.—The amendments made by
2 this section shall apply to fuel sold or used after the date
3 of the enactment of this Act.

4 **SEC. 827. EXTENSION AND MODIFICATION OF ALTER-**
5 **NATIVE FUEL CREDIT.**

6 (a) EXTENSION.—

7 (1) ALTERNATIVE FUEL CREDIT.—Paragraph
8 (4) of section 6426(d) (relating to alternative fuel
9 credit) is amended by striking “September 30,
10 2009” and inserting “December 31, 2012”.

11 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—
12 Paragraph (3) of section 6426(e) (relating to alter-
13 native fuel mixture credit) is amended by striking
14 “September 30, 2009” and inserting “December 31,
15 2012”.

16 (3) PAYMENTS.—Subparagraph (C) of section
17 6427(e)(5) (relating to termination) is amended by
18 striking “September 30, 2009” and inserting “De-
19 cember 31, 2012”.

20 (b) MODIFICATIONS.—

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

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

3 “(F) compressed or liquified biomass gas,
4 and”.

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

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

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

16 “(4) CARBON CAPTURE REQUIREMENT.—The
17 requirements of this paragraph are met if the fuel
18 is certified, under such procedures as required by
19 the Secretary, as having been produced at a facility
20 which separates and sequesters not less than 75 per-
21 cent of such facility’s total carbon dioxide emis-
22 sions.”.

23 (2) CONFORMING AMENDMENT.—Subparagraph
24 (E) of section 6426(d)(2) is amended by inserting

1 “which meets the requirements of paragraph (4) and
2 which is” after “any liquid fuel”.

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to fuel sold or used after the date of the
7 enactment of this Act.

8 (2) CARBON CAPTURE REQUIREMENTS.—The
9 amendments made by subsection (c) shall apply to
10 fuel sold or used after December 31, 2007.

11 **SEC. 828. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**
12 **FUELING PROPERTY CREDIT.**

13 Paragraph (2) of section 30C(g) (relating to termi-
14 nation) is amended by striking “December 31, 2009” and
15 inserting “December 31, 2012”.

16 **SEC. 829. EXTENSION OF SUSPENSION OF TAXABLE IN-**
17 **COME LIMIT ON PERCENTAGE DEPLETION**
18 **FOR OIL AND NATURAL GAS PRODUCED**
19 **FROM MARGINAL PROPERTIES.**

20 Subparagraph (H) of section 613A(c)(6) (relating to
21 oil and gas produced from marginal properties) is amend-
22 ed by striking “January 1, 2008” and inserting “January
23 1, 2010”.

1 **SEC. 830. EXTENSION AND MODIFICATION OF ELECTION TO**
2 **EXPENSE CERTAIN REFINERIES.**

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

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

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

10 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND
11 TAR SANDS.—

12 (1) IN GENERAL.—Subsection (d) of section
13 179C is amended by inserting “, or directly from
14 shale or tar sands” after “(as defined in section
15 45K(c))”.

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

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

22 **SEC. 831. ETHANOL TARIFF EXTENSION.**

23 Headings 9901.00.50 and 9901.00.52 of the Har-
24 monized Tariff Schedule of the United States are each
25 amended in the effective period column by striking “1/1/
26 2009” and inserting “1/1/2011”.

1 **SEC. 832. ELIMINATION AND REDUCTIONS OF DUTY DRAW-**
2 **BACK ON CERTAIN IMPORTED ETHANOL.**

3 (a) IN GENERAL.—Section 313(p)(3)(A)(i)(I) of the
4 Tariff Act of 1930 (19 U.S.C. 1313(p)(3)(A)(i)(I)) is
5 amended by striking “or” and inserting the following:
6 “other than an article that contains either—

7 “(aa) imported ethyl alcohol
8 (provided for in subheading
9 2207.10.60 or 2207.20.00 of
10 such Schedule), or

11 “(bb) any imported mixture
12 (provided for in heading 2710 or
13 3824 of such Schedule) that con-
14 tains ethyl alcohol, or”.

15 (b) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-
16 BACKS.—Section 313 of the Tariff Act of 1930 (19 U.S.C.
17 1313) is amended by adding at the end the following new
18 subsection:

19 “(z) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-
20 BACKS.—

21 “(1) LIMITATIONS.—

22 “(A) IN GENERAL.—Ethyl alcohol or mix-
23 ture containing ethyl alcohol described in sub-
24 paragraph (B) may be treated as being of the
25 same kind and quality under subsection (b) of
26 this section or may be treated as being commer-

1 cially interchangeable with any other ethyl alco-
2 hol or mixture containing ethyl alcohol under
3 subsection (j)(2) of this section, only if the
4 other ethyl alcohol or mixture—

5 “(i) if imported, is subject to the addi-
6 tional duty under subheading 9901.00.50
7 of the Harmonized Tariff Schedule of the
8 United States; or

9 “(ii) if domestic, is subject to Federal
10 excise tax under section 4041 or 4081 of
11 the Internal Revenue Code of 1986 in an
12 amount equal to or greater than the
13 amount of drawback claimed.

14 “(B) ETHYL ALCOHOL OR MIXTURE CON-
15 TAINING ETHYL ALCOHOL DESCRIBED.—Ethyl
16 alcohol or mixture containing ethyl alcohol de-
17 scribed in this subparagraph means—

18 “(i) ethyl alcohol classifiable under
19 subheading 2207.10.60 or 2207.20.00 of
20 the Harmonized Tariff Schedule of the
21 United States, or

22 “(ii) a mixture containing ethyl alco-
23 hol classifiable under heading 2710 or
24 3824 of the Harmonized Tariff Schedule of
25 the United States,

1 which, if imported would be subject to addi-
2 tional duty under subheading 9901.00.50 of
3 such Schedule.

4 “(2) REDUCTION OF DRAWBACK.—For pur-
5 poses of subsections (b), (j)(2), and (p) of this sec-
6 tion, the amount of the refund as drawback under
7 this section shall be reduced by an amount equal to
8 any Federal tax credit or refund of any Federal tax
9 paid on the merchandise with respect to which the
10 drawback is claimed.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section apply to articles exported on or after the date
13 that is 15 days after the date of the enactment of this
14 Act.

15 **SEC. 833. CERTAIN INCOME AND GAINS RELATING TO AL-**
16 **COHOL FUEL MIXTURES, BIODIESEL FUEL**
17 **MIXTURES, AND ALTERNATIVE FUEL TREAT-**
18 **ED AS QUALIFYING INCOME FOR PUBLICLY**
19 **TRADED PARTNERSHIPS.**

20 (a) IN GENERAL.—Subparagraph (E) of section
21 7704(d)(1) (defining qualifying income), as amended by
22 this Act, is amended by inserting “, or the transportation
23 or storage of any fuel described in subsection (b), (c), or
24 (d) of section 6426” after “carbon dioxide”).

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

4 **SEC. 834. TECHNICAL AMENDMENTS.**

5 (a) AMENDMENTS RELATED TO SECTION 11113 OF
6 THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT
7 TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.—

8 (1) Paragraph (3) of section 6427(i) is amend-
9 ed—

10 (A) by inserting “or under subsection
11 (e)(2) by any person with respect to an alter-
12 native fuel (as defined in section 6426(d)(2))”
13 after “section 6426” in subparagraph (A),

14 (B) by inserting “or (e)(2)” after “sub-
15 section (e)(1)” in subparagraphs (A)(i) and
16 (B), and

17 (C) by inserting “AND ALTERNATIVE FUEL
18 CREDIT” after “MIXTURE CREDIT” in the head-
19 ing thereof.

20 (2)(A) Subparagraph (G) of section 6426(d)(2),
21 as redesignated by section 827, is amended by strik-
22 ing “hydrocarbons” and inserting “fuel”.

23 (B) Section 6426 is amended by adding at the
24 end the following new subsection:

1 “(h) DENIAL OF DOUBLE BENEFIT.—No credit shall
2 be determined under subsection (d) or (e) with respect to
3 any fuel which is described in subsection (b) or (c) or sec-
4 tion 40 or 40A.”.

5 (3) The amendments made by this subsection
6 shall take effect as if included in section 11113 of
7 the SAFETEA-LU.

8 (b) AMENDMENTS RELATED TO THE ENERGY POL-
9 ICY ACT OF 2005.—

10 (1) AMENDMENT RELATED TO SECTION 1342 OF
11 THE ACT.—

12 (A) So much of subsection (b) of section
13 30C as precedes paragraph (1) thereof is
14 amended to read as follows:

15 “(b) LIMITATION.—The credit allowed under sub-
16 section (a) with respect to all alternative fuel vehicle re-
17 fueling property placed in service by the taxpayer during
18 the taxable year at a location shall not exceed—”.

19 (B) Subsection (c) of section 30C is
20 amended to read as follows:

21 “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-
22 FUELING PROPERTY.—For purposes of this section, the
23 term ‘qualified alternative fuel vehicle refueling property’
24 has the same meaning as the term ‘qualified clean-fuel ve-

1 hicle refueling property' would have under section 179A
2 if—

3 “(1) paragraph (1) of section 179A(d) did not
4 apply to property installed on property which is used
5 as the principal residence (within the meaning of
6 section 121) of the taxpayer, and

7 “(2) only the following were treated as clean
8 burning fuels for purposes of section 179A(d):

9 “(A) Any fuel at least 85 percent of the
10 volume of which consists of one or more of the
11 following: ethanol, natural gas, compressed nat-
12 ural gas, liquified natural gas, liquefied petro-
13 leum gas, or hydrogen.

14 “(B) Biodiesel (as defined in section
15 40A(d)(1)).

16 “(C) Any mixture—

17 “(i) which consists of two or more of
18 the following: biodiesel (as so defined), die-
19 sel fuel (as defined in section 4083(a)(3)),
20 or kerosene, and

21 “(ii) at least 20 percent of the volume
22 of which consists of biodiesel (as so de-
23 fined) determined without regard to any
24 kerosene in such mixture.”.

1 (2) AMENDMENTS RELATED TO SECTION 1362
2 OF THE ACT.—

3 (A)(i) Paragraph (1) of section 4041(d) is
4 amended by adding at the end the following
5 new sentence: “No tax shall be imposed under
6 the preceding sentence on the sale or use of any
7 liquid if tax was imposed with respect to such
8 liquid under section 4081 at the Leaking Un-
9 derground Storage Tank Trust Fund financing
10 rate.”.

11 (ii) Paragraph (3) of section 4042(b) is
12 amended to read as follows:

13 “(3) EXCEPTION FOR FUEL ON WHICH LEAK-
14 ING UNDERGROUND STORAGE TANK TRUST FUND FI-
15 NANCING RATE SEPARATELY IMPOSED.—The Leak-
16 ing Underground Storage Tank Trust Fund financ-
17 ing rate under paragraph (2)(B) shall not apply to
18 the use of any fuel if tax was imposed with respect
19 to such fuel under section 4041(d) or 4081 at the
20 Leaking Underground Storage Tank Trust Fund fi-
21 nancing rate.”.

22 (iii) Notwithstanding section 6430 of the
23 Internal Revenue Code of 1986, a refund, cred-
24 it, or payment may be made under subchapter
25 B of chapter 65 of such Code for taxes imposed

1 with respect to any liquid after September 30,
2 2005, and before the date of the enactment of
3 this Act under section 4041(d)(1) or 4042 of
4 such Code at the Leaking Underground Storage
5 Tank Trust Fund financing rate to the extent
6 that tax was imposed with respect to such liq-
7 uid under section 4081 at the Leaking Under-
8 ground Storage Tank Trust Fund financing
9 rate.

10 (B)(i) Paragraph (5) of section 4041(d) is
11 amended—

12 (I) by striking “(other than with re-
13 spect to any sale for export under para-
14 graph (3) thereof)”, and

15 (II) by adding at the end the fol-
16 lowing new sentence: “The preceding sen-
17 tence shall not apply with respect to sub-
18 section (g)(3) and so much of subsection
19 (g)(1) as relates to vessels (within the
20 meaning of section 4221(d)(3)) employed
21 in foreign trade or trade between the
22 United States and any of its possessions.”

23 (ii) Section 4082 is amended—

24 (I) by striking “(other than such tax
25 at the Leaking Underground Storage Tank

1 Trust Fund financing rate imposed in all
2 cases other than for export)” in subsection
3 (a), and

4 (II) by redesignating subsections (f)
5 and (g) as subsections (g) and (h) and by
6 inserting after subsection (e) the following
7 new subsection:

8 “(f) EXCEPTION FOR LEAKING UNDERGROUND
9 STORAGE TANK TRUST FUND FINANCING RATE.—

10 “(1) IN GENERAL.—Subsection (a) shall not
11 apply to the tax imposed under section 4081 at the
12 Leaking Underground Storage Tank Trust Fund fi-
13 nancing rate.

14 “(2) EXCEPTION FOR EXPORT, ETC.—Para-
15 graph (1) shall not apply with respect to any fuel if
16 the Secretary determines that such fuel is destined
17 for export or for use by the purchaser as supplies for
18 vessels (within the meaning of section 4221(d)(3))
19 employed in foreign trade or trade between the
20 United States and any of its possessions.”.

21 (iii) Subsection (e) of section 4082 is
22 amended—

23 (I) by striking “an aircraft, the rate
24 of tax under section 4081(a)(2)(A)(iii)
25 shall be zero.” and inserting “an aircraft—

1 “(1) the rate of tax under section
2 4081(a)(2)(A)(iii) shall be zero, and

3 “(2) if such aircraft is employed in foreign
4 trade or trade between the United States and any of
5 its possessions, the increase in such rate under sec-
6 tion 4081(a)(2)(B) shall be zero.”; and

7 (II) by moving the last sentence flush
8 with the margin of such subsection (fol-
9 lowing the paragraph (2) added by clause
10 (i)).

11 (iv) Section 6430 is amended to read as
12 follows:

13 **“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UN-**
14 **DERGROUND STORAGE TANK TRUST FUND**
15 **FINANCING RATE.**

16 “‘No refunds, credits, or payments shall be made
17 under this subchapter for any tax imposed at the Leaking
18 Underground Storage Tank Trust Fund financing rate,
19 except in the case of fuels—

20 “(1) which are exempt from tax under section
21 4081(a) by reason of section 4081(f)(2),

22 “(2) which are exempt from tax under section
23 4041(d) by reason of the last sentence of paragraph
24 (5) thereof, or

1 “(3) with respect to which the rate increase
2 under section 4081(a)(2)(B) is zero by reason of
3 section 4082(e)(2).”.

4 (C) Paragraph (5) of section 4041(d) is
5 amended by inserting “(b)(1)(A)” after “sub-
6 sections”.

7 (3) EFFECTIVE DATE.—

8 (A) IN GENERAL.—Except as otherwise
9 provided in this paragraph, the amendments
10 made by this subsection shall take effect as if
11 included in the provisions of the Energy Policy
12 Act of 2005 to which they relate.

13 (B) NONAPPLICATION OF EXEMPTION FOR
14 OFF-HIGHWAY BUSINESS USE.—The amend-
15 ment made by paragraph (2)(C) shall apply to
16 fuel sold for use or used after the date of the
17 enactment of this Act.

18 (C) AMENDMENT MADE BY THE SAFETEA-
19 LU.—The amendment made by paragraph
20 (2)(B)(iii)(II) shall take effect as if included in
21 section 11161 of the SAFETEA-LU.

22 (c) AMENDMENTS RELATED TO SECTION 339 OF
23 THE AMERICAN JOBS CREATION ACT OF 2004.—

1 (1)(A) Section 45H is amended by striking sub-
2 section (d) and by redesignating subsections (e), (f),
3 and (g) as subsections (d), (e), and (f), respectively.

4 (B) Subsection (d) of section 280C is amended
5 to read as follows:

6 “(d) CREDIT FOR LOW SULFUR DIESEL FUEL PRO-
7 DUCTION.—The deductions otherwise allowed under this
8 chapter for the taxable year shall be reduced by the
9 amount of the credit determined for the taxable year
10 under section 45H(a).”.

11 (C) Subsection (a) of section 1016 is amended
12 by striking paragraph (31) and by redesignating
13 paragraphs (32) through (37) as paragraphs (31)
14 through (36), respectively.

15 (2)(A) Section 45H, as amended by paragraph
16 (1), is amended by adding at the end the following
17 new subsection:

18 “(g) ELECTION TO NOT TAKE CREDIT.—No credit
19 shall be determined under subsection (a) for the taxable
20 year if the taxpayer elects not to have subsection (a) apply
21 to such taxable year.”.

22 (B) Subsection (m) of section 6501 is amended
23 by inserting “45H(g),” after “45C(d)(4),”.

24 (3)(A) Subsections (b)(1)(A), (c)(2), (e)(1), and
25 (e)(2) of section 45H (as amended by paragraph

1 (1)) and section 179B(a) are each amended by strik-
2 ing “qualified capital costs” and inserting “qualified
3 costs”.

4 (B) The heading of paragraph (2) of section
5 45H(c) is amended by striking “CAPITAL”.

6 (C) Subsection (a) of section 179B is amended
7 by inserting “and which are properly chargeable to
8 capital account” before the period at the end.

9 (4) The amendments made by this subsection
10 shall take effect as if included in section 339 of the
11 American Jobs Creation Act of 2004.

12 **PART IV—ADVANCED TECHNOLOGY VEHICLES**

13 **SEC. 841. EXPANSION AND MODIFICATION OF CREDIT FOR** 14 **ALTERNATIVE FUEL MOTOR VEHICLES.**

15 (a) EXTENSION.—Section 30B(j) (relating to termi-
16 nation) is amended—

17 (1) by striking “December 31, 2014” in para-
18 graph (1) and inserting “December 31, 2016”,

19 (2) by striking “December 31, 2010” in para-
20 graph (2) and inserting “December 31, 2012”,

21 (3) by striking “December 31, 2009” in para-
22 graph (3) and inserting “December 31, 2012”, and

23 (4) by striking “December 31, 2010” in para-
24 graph (4) and inserting “December 31, 2012”.

1 (b) MODIFICATION RELATING TO NEW QUALIFIED
2 ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—The last
3 sentence of section 30B(e)(2) is amended to read as fol-
4 lows: “A new qualified alternative fuel motor vehicle which
5 weighs more than 14,000 pounds gross vehicle weight rat-
6 ing shall be deemed to satisfy the preceding sentence if
7 it is certified as exceeding the most stringent standard ap-
8 plicable to the model year in which such motor vehicle was
9 produced.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 842. CREDIT FOR PLUG-IN ELECTRIC DRIVE MOTOR**
14 **VEHICLES.**

15 (a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE
16 CREDIT.—

17 (1) IN GENERAL.—Subpart B of part IV of
18 subchapter A of chapter 1 (relating to other credits)
19 is amended by adding at the end the following new
20 section:

21 **“SEC. 30D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE**
22 **CREDIT.**

23 **“(a) ALLOWANCE OF CREDIT.—**

24 **“(1) IN GENERAL.—**There shall be allowed as a
25 credit against the tax imposed by this chapter for

1 the taxable year an amount equal to the applicable
2 amount with respect to each new qualified plug-in
3 electric drive motor vehicle placed in service by the
4 taxpayer during the taxable year.

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

7 “(A) \$2,500, plus

8 “(B) \$400 for each kilowatt hour of trac-
9 tion battery capacity of at least 5 kilowatt
10 hours, plus

11 “(C) \$400 for each kilowatt hour of trac-
12 tion battery capacity in excess of 5 kilowatt
13 hours.

14 “(b) LIMITATIONS.—

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

18 “(A) \$7,500, in the case of any new quali-
19 fied plug-in electric drive motor vehicle with a
20 gross vehicle weight rating of not more than
21 10,000 pounds,

22 “(B) \$10,000, in the case of any new
23 qualified plug-in electric drive motor vehicle
24 with a gross vehicle weight rating of more than

1 10,000 pounds but not more than 14,000
2 pounds,

3 “(C) \$12,500, in the case of any new
4 qualified plug-in electric drive motor vehicle
5 with a gross vehicle weight rating of more than
6 14,000 pounds but not more than 26,000
7 pounds, and

8 “(D) \$15,000, in the case of any new
9 qualified plug-in electric drive motor vehicle
10 with a gross vehicle weight rating of more than
11 26,000 pounds.

12 “(2) LIMITATION ON NUMBER OF PASSENGER
13 VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CRED-
14 IT.—No credit shall be allowed under subsection (a)
15 for any new qualified plug-in electric drive motor ve-
16 hicle which is a passenger vehicle or light truck in
17 any calendar year following the calendar year which
18 includes the first date on which the total number of
19 such new qualified plug-in electric drive motor vehi-
20 cles sold for use in the United States after Decem-
21 ber 31, 2007, is at least 250,000.

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

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

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

5 “(3) which, in the case of a passenger vehicle
6 or light truck which has a gross vehicle weight rat-
7 ing of not more than 8,500 pounds, has received a
8 certificate of conformity under the Clean Air Act
9 and meets or exceeds the equivalent qualifying Cali-
10 fornia low emission vehicle standard under section
11 243(e)(2) of the Clean Air Act for that make and
12 model year, and

13 “(A) in the case of a vehicle having a gross
14 vehicle weight rating of 6,000 pounds or less,
15 the Bin 5 Tier II emission standard established
16 in regulations prescribed by the Administrator
17 of the Environmental Protection Agency under
18 section 202(i) of the Clean Air Act for that
19 make and model year vehicle, and

20 “(B) in the case of a vehicle having a gross
21 vehicle weight rating of more than 6,000
22 pounds but not more than 8,500 pounds, the
23 Bin 8 Tier II emission standard which is so es-
24 tablished,

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

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

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

6 “(d) APPLICATION WITH OTHER CREDITS.—

7 “(1) BUSINESS CREDIT TREATED AS PART OF
8 GENERAL BUSINESS CREDIT.—So much of the credit
9 which would be allowed under subsection (a) for any
10 taxable year (determined without regard to this sub-
11 section) that is attributable to property of a char-
12 acter subject to an allowance for depreciation shall
13 be treated as a credit listed in section 38(b) for such
14 taxable year (and not allowed under subsection (a)).

15 “(2) PERSONAL CREDIT.—The credit allowed
16 under subsection (a) (after the application of para-
17 graph (1)) for any taxable year shall not exceed the
18 excess (if any) of—

19 “(A) the regular tax liability (as defined in
20 section 26(b)) reduced by the sum of the credits
21 allowable under subpart A and sections 27, 30,
22 30B, and 30C, over

23 “(B) the tentative minimum tax for the
24 taxable year.

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

2 For purposes of this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(f) REGULATIONS.—

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

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

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

11 (2) COORDINATION WITH OTHER MOTOR VEHI-
12 CLE CREDITS.—

13 (A) NEW QUALIFIED FUEL CELL MOTOR
14 VEHICLES.—Paragraph (3) of section 30B(b) is
15 amended by adding at the end the following
16 new flush sentence:

17 “Such term shall not include any motor vehicle
18 which is a new qualified plug-in electric drive motor
19 vehicle (as defined by section 30D(c)).”.

20 (B) NEW QUALIFIED HYBRID MOTOR VEHI-
21 CLES.—Paragraph (3) of section 30B(d) is
22 amended by adding at the end the following
23 new flush sentence:

1 “Such term shall not include any motor vehicle
2 which is a new qualified plug-in electric drive motor
3 vehicle (as defined by section 30D(e)).”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Section 38(b), as amended by this Act,
6 is amended by striking “plus” at the end of
7 paragraph (31), by striking the period at the
8 end of paragraph (32) and inserting “plus”,
9 and by adding at the end the following new
10 paragraph:

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

14 (B) Section 55(e)(3) is amended by insert-
15 ing “30D(d)(2),” after “30C(d)(2),”.

16 (C) Section 1016(a), as amended by this
17 Act, is amended by striking “and” at the end
18 of paragraph (35), by striking the period at the
19 end of paragraph (36) and inserting “, and”,
20 and by adding at the end the following new
21 paragraph:

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

24 (D) Section 6501(m) is amended by insert-
25 ing “30D(e)(9)” after “30C(e)(5)”.

1 (E) The table of sections for subpart B of
2 part IV of subchapter A of chapter 1 is amend-
3 ed by adding at the end the following new item:

“Sec. 30D. Plug-in electric drive motor vehicle credit.”.

4 (b) CONVERSION KITS.—

5 (1) IN GENERAL.—Section 30B (relating to al-
6 ternative motor vehicle credit) is amended by redese-
7 ignating subsections (i) and (j) as subsections (j)
8 and (k), respectively, and by inserting after sub-
9 section (h) the following new subsection:

10 “(i) PLUG-IN CONVERSION CREDIT.—

11 “(1) IN GENERAL.—For purposes of subsection
12 (a), the plug-in conversion credit determined under
13 this subsection with respect to any motor vehicle
14 which is converted to a qualified plug-in electric
15 drive motor vehicle is an amount equal to 10 percent
16 of the cost of the plug-in traction battery module in-
17 stalled in such vehicle as part of such conversion.

18 “(2) LIMITATIONS.—The amount of the credit
19 allowed under this subsection shall not exceed
20 \$2,500 with respect to the conversion of any motor
21 vehicle.

22 “(3) DEFINITIONS AND SPECIAL RULES.—For
23 purposes of this subsection—

24 “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE
25 MOTOR VEHICLE.—The term ‘qualified plug-in

1 electric drive motor vehicle’ means any new
2 qualified plug-in electric drive motor vehicle (as
3 defined in section 30D(c), determined without
4 regard to paragraphs (4) and (6) thereof).

5 “(B) PLUG-IN TRACTION BATTERY MOD-
6 ULE.—The term ‘plug-in traction battery mod-
7 ule’ means an electro-chemical energy storage
8 device which—

9 “(i) has a traction battery capacity of
10 not less than 2.5 kilowatt hours,

11 “(ii) is equipped with an electrical
12 plug by means of which it can be energized
13 and recharged when plugged into an exter-
14 nal source of electric power,

15 “(iii) consists of a standardized con-
16 figuration and is mass produced,

17 “(iv) has been tested and approved by
18 the National Highway Transportation
19 Safety Administration as compliant with
20 applicable motor vehicle and motor vehicle
21 equipment safety standards when installed
22 by a mechanic with standardized training
23 in protocols established by the battery
24 manufacturer as part of a nationwide dis-
25 tribution program, and

1 “(v) is certified by a battery manufac-
2 turer as meeting the requirements of
3 clauses (i) through (iv).

4 “(C) CREDIT ALLOWED TO LESSOR OF
5 BATTERY MODULE.—In the case of a plug-in
6 traction battery module which is leased to the
7 taxpayer, the credit allowed under this sub-
8 section shall be allowed to the lessor of the
9 plug-in traction battery module.

10 “(D) CREDIT ALLOWED IN ADDITION TO
11 OTHER CREDITS.—The credit allowed under
12 this subsection shall be allowed with respect to
13 a motor vehicle notwithstanding whether a cred-
14 it has been allowed with respect to such motor
15 vehicle under this section (other than this sub-
16 section) in any preceding taxable year.

17 “(4) TERMINATION.—This subsection shall not
18 apply to conversions made after December 31,
19 2009.”.

20 (2) CREDIT TREATED AS PART OF ALTER-
21 NATIVE MOTOR VEHICLE CREDIT.—Section 30B(a)
22 is amended by striking “and” at the end of para-
23 graph (3), by striking the period at the end of para-
24 graph (4) and inserting “, and”, and by adding at
25 the end the following new paragraph:

1 eration of the main drive engine while the vehi-
2 cle is temporarily parked or remains stationary
3 using either—

4 “(i) an all electric unit, such as a bat-
5 tery powered unit or from grid-supplied
6 electricity, or

7 “(ii) a dual fuel unit powered by die-
8 sel or other fuels, and capable of providing
9 such services from grid-supplied electricity
10 or on-truck batteries alone, and

11 “(B) is certified by the Secretary of En-
12 ergy, in consultation with the Administrator of
13 the Environmental Protection Agency and the
14 Secretary of Transportation, to reduce long-du-
15 ration idling of such vehicle at a motor vehicle
16 rest stop or other location where such vehicles
17 are temporarily parked or remain stationary.

18 For purposes of subparagraph (B), the term ‘long-
19 duration idling’ means the operation of a main drive
20 engine, for a period greater than 15 consecutive
21 minutes, where the main drive engine is not engaged
22 in gear. Such term does not apply to routine stop-
23 pages associated with traffic movement or conges-
24 tion.

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

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to sales or installations after De-
5 cember 31, 2007.

6 **PART V—CONSERVATION AND ENERGY**

7 **EFFICIENCY**

8 **SEC. 851. EXTENSION AND MODIFICATION OF NONBUSI-**
9 **NESS ENERGY PROPERTY CREDIT.**

10 (a) **EXTENSION OF CREDIT.**—Section 25C(g) (relat-
11 ing to termination) is amended by striking “December 31,
12 2007” and inserting “December 31, 2009”.

13 (b) **NATURAL GAS FIRED HEAT PUMPS.**—Section
14 25C(d)(3) (relating to energy-efficient building property)
15 is amended—

16 (1) by striking “and” at the end of subpara-
17 graph (D),

18 (2) by striking the period at the end of sub-
19 paragraph (E) and inserting “, and”, and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(F) a natural gas fired heat pump with a
23 heating coefficient of performance (COP) of at
24 least 1.1.”.

1 (c) MODIFICATIONS OF STANDARDS FOR ENERGY-
2 EFFICIENT BUILDING PROPERTY.—

3 (1) INCREASED LIMITATION FOR OIL FURNACES
4 AND NATURAL GAS, PROPANE, AND OIL HOT WATER
5 BOILERS.—

6 (A) IN GENERAL.—Subparagraphs (B) and
7 (C) of section 25C(b)(3) are amended to read
8 as follows:

9 “(B) \$150 for any qualified natural gas
10 furnace or qualified propane furnace, and

11 “(C) \$300 for—

12 “(i) any item of energy-efficient build-
13 ing property, and

14 “(ii) any qualified oil furnace, quali-
15 fied natural gas hot water boiler, qualified
16 propane hot water boiler, or qualified oil
17 hot water boiler.”.

18 (B) CONFORMING AMENDMENT.—Clause
19 (ii) of section 25C(d)(2)(A) is amended to read
20 as follows:

21 “(ii) any qualified natural gas fur-
22 nace, qualified propane furnace, qualified
23 oil furnace, qualified natural gas hot water
24 boiler, qualified propane hot water boiler,
25 or qualified oil hot water boiler, or”.

1 (2) ELECTRIC HEAT PUMPS.—Subparagraph
2 (B) of section 25C(d)(3) is amended to read as fol-
3 lows:

4 “(B) an electric heat pump which achieves
5 the highest efficiency tier established by the
6 Consortium for Energy Efficiency, as in effect
7 on January 1, 2008.”.

8 (3) WATER HEATERS.—Subparagraph (E) of
9 section 25C(d)(3) is amended to read as follows:

10 “(E) a natural gas, propane, or oil water
11 heater which has either an energy factor of at
12 least 0.80 or a thermal efficiency of at least 90
13 percent.”.

14 (4) OIL FURNACES AND HOT WATER BOIL-
15 ERS.—Paragraph (4) of section 25C(d) is amended
16 to read as follows:

17 “(4) QUALIFIED NATURAL GAS, PROPANE, AND
18 OIL FURNACES AND HOT WATER BOILERS.—

19 “(A) QUALIFIED NATURAL GAS FUR-
20 NACE.—The term ‘qualified natural gas fur-
21 nace’ means any natural gas furnace which
22 achieves an annual fuel utilization efficiency
23 rate of not less than 95.

24 “(B) QUALIFIED NATURAL GAS HOT
25 WATER BOILER.—The term ‘qualified natural

1 gas hot water boiler’ means any natural gas hot
2 water boiler which achieves an annual fuel utili-
3 zation efficiency rate of not less than 90.

4 “(C) QUALIFIED PROPANE FURNACE.—
5 The term ‘qualified propane furnace’ means any
6 propane furnace which achieves an annual fuel
7 utilization efficiency rate of not less than 95.

8 “(D) QUALIFIED PROPANE HOT WATER
9 BOILER.—The term ‘qualified propane hot
10 water boiler’ means any propane hot water boil-
11 er which achieves an annual fuel utilization effi-
12 ciency rate of not less than 90.

13 “(E) QUALIFIED OIL FURNACES.—The
14 term ‘qualified oil furnace’ means any oil fur-
15 nace which achieves an annual fuel utilization
16 efficiency rate of not less than 90.

17 “(F) QUALIFIED OIL HOT WATER BOIL-
18 ER.—The term ‘qualified oil hot water boiler’
19 means any oil hot water boiler which achieves
20 an annual fuel utilization efficiency rate of not
21 less than 90.”.

22 (d) EFFECTIVE DATE.—The amendments made this
23 section shall apply to expenditures made after December
24 31, 2007.

1 **SEC. 852. EXTENSION AND MODIFICATION OF NEW ENERGY**
2 **EFFICIENT HOME CREDIT.**

3 (a) EXTENSION OF CREDIT.—Subsection (g) of sec-
4 tion 45L (relating to termination), as amended by section
5 205 of division A of the Tax Relief and Health Care Act
6 of 2006, is amended by striking “December 31, 2008” and
7 inserting “December 31, 2011”.

8 (b) MODIFICATION.—

9 (1) IN GENERAL.—Subparagraph (B) of section
10 45L(a)(1) is amended to read as follows:

11 “(B)(i) acquired by a person from such eli-
12 gible contractor and used by any person as a
13 residence during the taxable year, or

14 “(ii) used by such eligible contractor as a
15 residence during the taxable year.”.

16 (2) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to homes purchased
18 after December 31, 2008.

19 **SEC. 853. EXTENSION AND MODIFICATION OF ENERGY EF-**
20 **FICIENT COMMERCIAL BUILDINGS DEDUC-**
21 **TION.**

22 (a) EXTENSION.—Section 179D(h) (relating to ter-
23 mination) is amended by striking “December 31, 2008”
24 and inserting “December 31, 2013”.

25 (b) ADJUSTMENT OF MAXIMUM DEDUCTION
26 AMOUNT.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 179D(b)(1) (relating to maximum amount of deduc-
3 tion) is amended by striking “\$1.80” and inserting
4 “\$2.25”.

5 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
6 section 179D(d) is amended—

7 (A) by striking “\$.60” and inserting
8 “\$0.75”, and

9 (B) by striking “\$1.80” and inserting
10 “\$2.25”.

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

14 **SEC. 854. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
15 **ANCE CREDIT FOR APPLIANCES PRODUCED**
16 **AFTER 2007.**

17 (a) IN GENERAL.—Section 45M of the Internal Rev-
18 enue Code of 1986 is amended to read as follows:

19 **“SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.**

20 “(a) GENERAL RULE.—

21 “(1) IN GENERAL.—For purposes of section 38,
22 the energy efficient appliance credit determined
23 under this section for any taxable year is an amount
24 equal to the sum of the credit amounts determined
25 under paragraph (2) for each type of qualified en-

1 energy efficient appliance produced by the taxpayer
2 during the calendar year ending with or within the
3 taxable year.

4 “(2) CREDIT AMOUNTS.—The credit amount
5 determined for any type of qualified energy efficient
6 appliance is—

7 “(A) the applicable amount determined
8 under subsection (b) with respect to such type,
9 multiplied by

10 “(B) the eligible production for such type.

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-
12 section (a)—

13 “(1) DISHWASHERS.—The applicable amount is
14 \$75 in the case of a residential model dishwasher
15 which—

16 “(A) is manufactured in calendar year
17 2008, 2009, or 2010, and

18 “(B) uses not more than 307 kilowatt
19 hours per year and 5.0 gallons per cycle (5.5
20 gallons for dishwashers designed for greater
21 than 12 place settings).

22 “(2) CLOTHES WASHERS.—The applicable
23 amount is—

24 “(A) \$125 in the case of a residential
25 model top-loading clothes washer which—

1 “(i) is manufactured in calendar year
2 2008 or 2009, and

3 “(ii) meets or exceeds a 1.8 MEF and
4 does not exceed a 7.5 water consumption
5 factor,

6 “(B) \$150 in the case of a residential or
7 commercial model clothes washer which—

8 “(i) is manufactured in calendar year
9 2008, 2009, or 2010, and

10 “(ii) meets or exceeds a 2.0 MEF and
11 does not exceed a 6.0 water consumption
12 factor, and

13 “(C) \$250 in the case of a residential or
14 commercial model clothes washer which—

15 “(i) is manufactured in calendar year
16 2008, 2009, or 2010, and

17 “(ii) meets or exceeds a 2.2 MEF and
18 does not exceed a 4.5 water consumption
19 factor.

20 “(3) REFRIGERATORS.—The applicable amount
21 is—

22 “(A) \$75 in the case of a residential model
23 refrigerator which—

24 “(i) is manufactured in calendar year
25 2008 or 2009, and

1 “(ii) consumes at least 23 percent,
2 but not more than 24.9 percent, fewer kilo-
3 watt hours per year than the 2001 energy
4 conservation standards,

5 “(B) \$100 in the case of a residential
6 model refrigerator which—

7 “(i) is manufactured in calendar year
8 2008, 2009, or 2010, and

9 “(ii) consumes at least 25 percent,
10 but not more than 29.9 percent, fewer kilo-
11 watt hours per year than the 2001 energy
12 conservation standards, and

13 “(C) \$200 in the case of a residential
14 model refrigerator which—

15 “(i) is manufactured in calendar year
16 2008, 2009, or 2010, and

17 “(ii) consumes at least 30 percent
18 fewer kilowatt hours per year than the
19 2001 energy conservation standards.

20 “(c) ELIGIBLE PRODUCTION.—The eligible produc-
21 tion in a calendar year with respect to each type of quali-
22 fied energy efficient appliance is the excess of—

23 “(1) the number of appliances of such type
24 which are produced in the United States by the tax-
25 payer during such calendar year, over

1 “(2) the average number of appliances of such
2 type which were produced in the United States by
3 the taxpayer (or any predecessor) during the pre-
4 ceding 2-calendar year period.

5 “(d) TYPES OF QUALIFIED ENERGY EFFICIENT AP-
6 PLIANCES.—For purposes of this section, the types of
7 qualified energy efficient appliances are—

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

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

11 “(3) refrigerators described in subsection
12 (b)(3).

13 “(e) LIMITATIONS.—

14 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

15 Except as provided in paragraph (2), the aggregate
16 amount of credit allowed under subsection (a) with
17 respect to a taxpayer for any taxable year shall not
18 exceed \$75,000,000 reduced by the amount of the
19 credit allowed under subsection (a) to the taxpayer
20 (or any predecessor) for all prior taxable years be-
21 ginning after December 31, 2007.

22 “(2) LIMITATION BASED ON GROSS RE-
23 CEIPTS.—The credit allowed under subsection (a)
24 with respect to a taxpayer for the taxable year shall
25 not exceed an amount equal to 2 percent of the aver-

1 age annual gross receipts of the taxpayer for the 3
2 taxable years preceding the taxable year in which
3 the credit is determined beginning after December
4 31, 2007.

5 “(3) GROSS RECEIPTS.—For purposes of this
6 subsection, the rules of paragraphs (2) and (3) of
7 section 448(c) shall apply.

8 “(f) DEFINITIONS.—For purposes of this section:

9 “(1) DISHWASHER.—The term ‘dishwasher’
10 means a dishwasher subject to the energy conserva-
11 tion standards established by the Department of En-
12 ergy.

13 “(2) CLOTHES WASHER.—The term ‘clothes
14 washer’ includes a clothes washer subject to the en-
15 ergy conservation standards established by the De-
16 partment of Energy.

17 “(3) TOP-LOADING CLOTHES WASHER.—The
18 term ‘top-loading clothes washer’ means a clothes
19 washer with the clothes container compartment ac-
20 cess located on the top of the machine.

21 “(4) REFRIGERATOR.—The term ‘refrigerator’
22 means an automatic defrost refrigerator-freezer
23 which has an internal volume of at least 16.5 cubic
24 feet.

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

5 “(6) MEF.—The term ‘MEF’ means the modi-
6 fied energy factor established by the Department of
7 Energy for compliance with the Federal energy con-
8 servation standard.

9 “(7) WATER CONSUMPTION FACTOR.—The
10 term ‘water consumption factor’ means the quotient
11 of the total weighted per-cycle water consumption di-
12 vided by the cubic foot capacity of the clothes wash-
13 er.

14 “(8) 2001 ENERGY CONSERVATION STAND-
15 ARD.—The term ‘2001 energy conservation stand-
16 ard’ means the energy conservation standards pro-
17 mulgated by the Department of Energy and effective
18 July 1, 2001.

19 “(g) SPECIAL RULES.—For purposes of this section:

20 “(1) IN GENERAL.—Rules similar to the rules
21 of subsections (c), (d), and (e) of section 52 shall
22 apply.

23 “(2) CONTROLLED GROUP.—

24 “(A) IN GENERAL.—All persons treated as
25 a single employer under subsection (a) or (b) of

1 section 52 or subsection (m) or (o) of section
2 414 shall be treated as a single producer.

3 “(B) INCLUSION OF FOREIGN CORPORA-
4 TIONS.—For purposes of subparagraph (A), in
5 applying subsections (a) and (b) of section 52
6 to this section, section 1563 shall be applied
7 without regard to subsection (b)(2)(C) thereof.

8 “(3) VERIFICATION.—No amount shall be al-
9 lowed as a credit under subsection (a) with respect
10 to which the taxpayer has not submitted such infor-
11 mation or certification as the Secretary, in consulta-
12 tion with the Secretary of Energy, determines nec-
13 essary.”.

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

17 **PART VI—ACCOUNTABILITY STUDIES**

18 **SEC. 861. COST-BENEFIT ANALYSIS OF POLLUTION REDUC-** 19 **TION AND SAVING IN IMPORTED OIL PER** 20 **DOLLAR OF TAX BENEFIT.**

21 (a) COST-BENEFIT ANALYSIS.—The Secretary of the
22 Treasury shall undertake a cost-benefit analysis of those
23 provisions of this Act that use tax incentives to reduce
24 the use of imported oil and to reduce the emissions of car-
25 bon dioxide and harmful air pollutants.

1 (b) REPORT.—Not later than December 31 of the
2 2nd calendar year after the date of the enactment of this
3 Act, the Secretary of the Treasury shall prepare and sub-
4 mit to the Committee on Finance of the Senate and the
5 Committee on Ways and Means of the House of Rep-
6 resentatives a report on the cost-benefit analysis con-
7 ducted pursuant to subsection (a).

8 **SEC. 862. EFFECT OF ENERGY RELATED TAX BENEFITS ON**
9 **PRICES FOR CONSUMER GOODS.**

10 (a) STUDY.—The Secretary of the Treasury shall un-
11 dertake a study of the estimated effects on the price of
12 consumer goods that may result from the enactment of
13 the amendments to the Internal Revenue Code of 1986
14 made by this Act, including the effect on the price of food-
15 stuffs, soaps, automobiles, motor fuels, and any other
16 product for which the amendments made by this Act may
17 be expected to significantly alter the supply and demand
18 conditions of a consumer goods market.

19 (b) REPORT.—Not later than December 31 of the
20 2nd calendar year after the date of the enactment of this
21 Act, the Secretary of the Treasury shall prepare and sub-
22 mit to the Committee on Finance of the Senate and the
23 Committee on Ways and Means of the House of Rep-
24 resentatives a report on the study conducted pursuant to
25 subsection (a).

1 **SEC. 863. STUDY ON TAX-CREDIT BONDS.**

2 (a) STUDY.—The Secretary of the Treasury shall un-
3 dertake a study of the use of tax-credit bonds as a means
4 of subsidizing the borrowing costs of the beneficiaries of
5 such financing. In addition to providing a general exam-
6 ination of the effectiveness of the tax-credit bonds de-
7 scribed in paragraph (2) and of the Federal subsidy pro-
8 vided by tax-credit bonds relative to the subsidy provided
9 by tax-exempt bonds, the study shall—

10 (1) examine the extent to which projects eligible
11 for tax-credit bonds also receive other Federal tax
12 benefits under present law,

13 (2) examine any market or administrative
14 issues associated with present-law tax-credit bonds
15 under sections 54 and 1397E of the Internal Rev-
16 enue Code of 1986 and sections 54A and 54B of
17 such Code, as added by this Act, including—

18 (A) the effect of the Department of the
19 Treasury setting the credit rate,

20 (B) the Department's selection of projects
21 eligible for financing,

22 (C) the potential for arbitrage earnings
23 and the extent to which this may affect the
24 level of subsidy,

25 (D) the lack of uniform rules for tax-credit
26 bonds, and

1 (E) the direct issuance of tax-credit bonds
2 by private parties, and

3 (3) discuss the changes to present-law that
4 would be necessary to provide a tax-credit bond that
5 delivers a subsidy comparable to that provided by
6 tax-exempt bonds and reduces the market and ad-
7 ministrative issues associated with present-law tax-
8 credit bonds.

9 (b) REPORT.—Not later than December 31 of the
10 2nd calendar year after the date of the enactment of this
11 Act, the Secretary of the Treasury shall prepare and sub-
12 mit to the Committee on Finance of the Senate and the
13 Committee on Ways and Means of the House of Rep-
14 resentatives a report on the results of the study conducted
15 pursuant to subsection (a).

16 **PART VII—OTHER PROVISIONS**

17 **Subpart A—Timber Provisions**

18 **SEC. 871. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

19 (a) IN GENERAL.—Part I of subchapter P of chapter
20 1 is amended by adding at the end the following new sec-
21 tion:

22 **“SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

23 “(a) IN GENERAL.—In the case of a taxpayer which
24 elects the application of this section for a taxable year,

1 there shall be allowed a deduction against gross income
2 in an amount equal to 60 percent of the lesser of—

3 “(1) the taxpayer’s qualified timber gain for
4 such year, or

5 “(2) the taxpayer’s net capital gain for such
6 year.

7 “(b) QUALIFIED TIMBER GAIN.—For purposes of
8 this section, the term ‘qualified timber gain’ means, with
9 respect to any taxpayer for any taxable year, the excess
10 (if any) of—

11 “(1) the sum of the taxpayer’s gains described
12 in subsections (a) and (b) of section 631 for such
13 year, over

14 “(2) the sum of the taxpayer’s losses described
15 in such subsections for such year.

16 “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—

17 “(1) In the case of any qualified timber gain of
18 a pass-thru entity (as defined in section 1(h)(10))
19 other than a real estate investment trust, the elec-
20 tion under this section shall be made separately by
21 each taxpayer subject to tax on such gain.

22 “(2) In the case of any qualified timber gain of
23 a real estate investment trust, the election under
24 this section shall be made by the real estate invest-
25 ment trust.

1 “(d) TERMINATION.—

2 “(1) IN GENERAL.—This section shall not apply
3 to any taxable year beginning after the date that is
4 1 year after the date of the enactment of this sec-
5 tion.

6 “(2) TAXABLE YEARS WHICH INCLUDE DATE
7 OF TERMINATION.—In the case of any taxable year
8 which includes the date of the termination described
9 in paragraph (1), for purposes of this section, the
10 taxpayer’s qualified timber gain shall not exceed the
11 excess that would be described in subsection (b) if
12 only dispositions of timber before such date were
13 taken into account.”.

14 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS
15 RATES.—

16 (1) TAXPAYERS OTHER THAN CORPORA-
17 TIONS.—Paragraph (2) of section 1(h) is amended
18 to read as follows:

19 “(2) REDUCTION OF NET CAPITAL GAIN.—For
20 purposes of this subsection, the net capital gain for
21 any taxable year shall be reduced (but not below
22 zero) by the sum of—

23 “(A) the amount which the taxpayer takes
24 into account as investment income under sec-
25 tion 163(d)(4)(B)(iii), and

1 (d) DEDUCTION ALLOWED IN COMPUTING AD-
2 JUSTED CURRENT EARNINGS.—Subparagraph (C) of sec-
3 tion 56(g)(4) is amended by adding at the end the fol-
4 lowing new clause:

5 “(vii) DEDUCTION FOR QUALIFIED
6 TIMBER GAIN.—Clause (i) shall not apply
7 to any deduction allowed under section
8 1203.”.

9 (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE
10 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-
11 paragraph (C) of section 641(e)(2) is amended by insert-
12 ing after clause (iii) the following new clause:

13 “(iv) The deduction allowed under
14 section 1203.”.

15 (f) TREATMENT OF QUALIFIED TIMBER GAIN OF
16 REAL ESTATE INVESTMENT TRUSTS.—Paragraph (3) of
17 section 857(b) is amended by inserting after subparagraph
18 (F) the following new subparagraph:

19 “(G) TREATMENT OF QUALIFIED TIMBER
20 GAIN.—For purposes of this part, in the case of
21 a real estate investment trust with respect to
22 which an election is in effect under section
23 1203—

24 “(i) REDUCTION OF NET CAPITAL
25 GAIN.—The net capital gain of the real es-

1 tate investment trust for any taxable year
2 shall be reduced (but not below zero) by
3 the real estate investment trust's qualified
4 timber gain (as defined in section
5 1203(b)).

6 “(ii) ADJUSTMENT TO SHARE-
7 HOLDER'S BASIS ATTRIBUTABLE TO DE-
8 DUCTION FOR QUALIFIED TIMBER
9 GAINS.—

10 “(I) IN GENERAL.—The adjusted
11 basis of shares in the hands of the
12 shareholder shall be increased by the
13 amount of the deduction allowable
14 under section 1203(a) as provided in
15 subclauses (II) and (III).

16 “(II) ALLOCATION OF BASIS IN-
17 CREASE FOR DISTRIBUTIONS MADE
18 DURING TAXABLE YEAR.—For any
19 taxable year of a real estate invest-
20 ment trust for which an election is in
21 effect under section 1203, in the case
22 of a distribution made with respect to
23 shares during such taxable year of
24 amounts attributable to the deduction
25 allowable under section 1203(a), the

1 adjusted basis of such shares shall be
2 increased by the amount of such dis-
3 tributions.

4 “(III) ALLOCATION OF EX-
5 CESS.—If the deduction allowable
6 under section 1203(a) for a taxable
7 year exceeds the amount of distribu-
8 tions described in subclause (II), the
9 excess shall be allocated to every
10 shareholder of the real estate invest-
11 ment trust at the close of the trust’s
12 taxable year in the same manner as if
13 a distribution of such excess were
14 made with respect to such shares.

15 “(IV) DESIGNATIONS.—To the
16 extent provided in regulations, a real
17 estate investment trust shall designate
18 the amounts described in subclauses
19 (II) and (III) in a manner similar to
20 the designations provided with respect
21 to capital gains described in subpara-
22 graphs (C) and (D).

23 “(V) DEFINITIONS.—As used in
24 this subparagraph, the terms ‘share’
25 and ‘shareholder’ shall include bene-

1 ficial interests and holders of bene-
2 ficial interests, respectively.

3 “(iii) EARNINGS AND PROFITS DEDUC-
4 TION FOR QUALIFIED TIMBER GAINS.—The
5 deduction allowable under section 1203(a)
6 for a taxable year shall be allowed as a de-
7 duction in computing the earnings and
8 profits of the real estate investment trust
9 for such taxable year. The earnings and
10 profits of any such shareholder which is a
11 corporation shall be appropriately adjusted
12 in accordance with regulations prescribed
13 by the Secretary.”.

14 (g) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT
15 FOR DEDUCTION FOR QUALIFIED TIMBER GAIN OF REAL
16 ESTATE INVESTMENT TRUSTS.—

17 (1) Section 857(b)(8) is amended by redesign-
18 nating subparagraphs (B) and (C) as subparagraphs
19 (C) and (D), respectively, and by inserting after sub-
20 paragraph (A) the following new subparagraph:

21 “(B) LOSS ATTRIBUTABLE TO BASIS AD-
22 JUSTMENT FOR DEDUCTION FOR QUALIFIED
23 TIMBER GAIN.—If—

24 “(i) a shareholder of a real estate in-
25 vestment trust receives a basis adjustment

1 provided under subsection (b)(3)(G)(ii),
2 and
3 “(ii) the taxpayer has held such share
4 or interest for 6 months or less,
5 then any loss on the sale or exchange of such
6 share or interest shall, to the extent of the
7 amount described in clause (i), be disallowed.”.

8 (2) Subparagraph (D) of section 857(b)(8), as
9 redesignated by paragraph (1), is amended by strik-
10 ing “subparagraph (A)” and inserting “subpara-
11 graphs (A) and (B)”.

12 (h) CONFORMING AMENDMENTS.—

13 (1) Subparagraph (B) of section 172(d)(2) is
14 amended to read as follows:

15 “(B) the exclusion under section 1202, and
16 the deduction under section 1203, shall not be
17 allowed.”.

18 (2) Paragraph (4) of section 642(e) is amended
19 by striking the first sentence and inserting “To the
20 extent that the amount otherwise allowable as a de-
21 duction under this subsection consists of gain de-
22 scribed in section 1202(a) or qualified timber gain
23 (as defined in section 1203(b)), proper adjustment
24 shall be made for any exclusion allowable to the es-
25 tate or trust under section 1202 and for any deduc-

1 tion allowable to the estate or trust under section
2 1203.”

3 (3) Paragraph (3) of section 643(a) is amended
4 by striking the last sentence and inserting “The ex-
5 clusion under section 1202 and the deduction under
6 section 1203 shall not be taken into account.”.

7 (4) Subparagraph (C) of section 643(a)(6) is
8 amended to read as follows:

9 “(C) Paragraph (3) shall not apply to a
10 foreign trust. In the case of such a trust—

11 “(i) there shall be included gains from
12 the sale or exchange of capital assets, re-
13 duced by losses from such sales or ex-
14 changes to the extent such losses do not
15 exceed gains from such sales or exchanges,
16 and

17 “(ii) the deduction under section 1203
18 shall not be taken into account.”.

19 (5) Paragraph (4) of section 691(c) is amended
20 by inserting “1203,” after “1202,”.

21 (6) Paragraph (2) of section 871(a) is amended
22 by inserting “or 1203,” after “1202,”.

23 (7) The table of sections for part I of sub-
24 chapter P of chapter 1 is amended by adding at the
25 end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

1 (i) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to taxable years ending after
4 the date of the enactment of this Act.

5 (2) TAXABLE YEARS WHICH INCLUDE DATE OF
6 ENACTMENT.—In the case of any taxable year which
7 includes the date of the enactment of this Act, for
8 purposes of the Internal Revenue Code of 1986, the
9 taxpayer’s qualified timber gain shall not exceed the
10 excess that would be described in section 1203(b) of
11 such Code, as added by this section, if only disposi-
12 tions of timber after such date were taken into ac-
13 count.

14 **SEC. 872. EXCISE TAX NOT APPLICABLE TO SECTION 1203**

15 **DEDUCTION OF REAL ESTATE INVESTMENT**
16 **TRUSTS.**

17 (a) IN GENERAL.—Subparagraph (B) of section
18 4981(b)(1) is amended to read as follows:

19 “(B) 95 percent of the real estate invest-
20 ment trust’s capital gain net income, without
21 regard to any reduction that would be applied
22 for purposes of section 857(b)(3)(G)(i).”.

23 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendment made by
2 this section shall apply to taxable years ending after
3 the date of the enactment of this Act.

4 (2) TAXABLE YEARS WHICH INCLUDE DATE OF
5 ENACTMENT.—In the case of any taxable year which
6 includes the date of the enactment of this Act, for
7 purposes of the Internal Revenue Code of 1986, the
8 taxpayer’s qualified timber gain shall not exceed the
9 excess that would be described in section 1203(b) of
10 such Code, as added by this Act, if only dispositions
11 of timber after such date were taken into account.

12 **SEC. 873. TIMBER REIT MODERNIZATION.**

13 (a) IN GENERAL.—Section 856(c)(5) is amended by
14 adding after subparagraph (G) the following new subpara-
15 graph:

16 “(H) TREATMENT OF TIMBER GAINS.—

17 “(i) IN GENERAL.—Gain from the sale
18 of real property described in paragraph
19 (2)(D) and (3)(C) shall include gain which
20 is—

21 “(I) recognized by an election
22 under section 631(a) from timber
23 owned by the real estate investment
24 trust, the cutting of which is provided

1 by a taxable REIT subsidiary of the
2 real estate investment trust;

3 “(II) recognized under section
4 631(b); or

5 “(III) income which would con-
6 stitute gain under subclause (I) or
7 (II) but for the failure to meet the 1-
8 year holding period requirement.

9 “(ii) SPECIAL RULES.—

10 “(I) For purposes of this subtitle,
11 cut timber, the gain of which is recog-
12 nized by a real estate investment trust
13 pursuant to an election under section
14 631(a) described in clause (i)(I) or so
15 much of clause (i)(III) as relates to
16 clause (i)(I), shall be deemed to be
17 sold to the taxable REIT subsidiary of
18 the real estate investment trust on the
19 first day of the taxable year.

20 “(II) For purposes of this sub-
21 title, income described in this sub-
22 paragraph shall not be treated as gain
23 from the sale of property described in
24 section 1221(a)(1).

25 “(iii) TERMINATION.—

1 “(I) IN GENERAL.—This sub-
2 paragraph shall not apply to disposi-
3 tions on or after the termination date.

4 “(II) TERMINATION DATE.—For
5 purposes of this subsection, the termi-
6 nation date is the date that is 1 year
7 after the date of the enactment of this
8 subparagraph.”.

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

12 **SEC. 874. MINERAL ROYALTY INCOME QUALIFYING INCOME**
13 **FOR TIMBER REITS.**

14 (a) IN GENERAL.—Section 856(c)(2) is amended by
15 striking “and” at the end of subparagraph (G), by insert-
16 ing “and” at the end of subparagraph (H), and by adding
17 after subparagraph (H) the following new subparagraph:

18 “(I) mineral royalty income earned before
19 the termination date, from real property owned
20 by a timber real estate investment trust held, or
21 once held, in connection with the trade or busi-
22 ness of producing timber by such real estate in-
23 vestment trust;”.

24 (b) TIMBER REAL ESTATE INVESTMENT TRUST.—
25 Section 856(c)(5), as amended by this Act, is amended

1 by adding after subparagraph (H) the following new sub-
2 paragraph:

3 “(I) **TIMBER REAL ESTATE INVESTMENT**
4 **TRUST.**—The term ‘timber real estate invest-
5 ment trust’ means a real estate investment
6 trust in which more than 50 percent in value of
7 its total assets consists of real property held in
8 connection with the trade or business of pro-
9 ducing timber.”.

10 (c) **EFFECTIVE DATES.**—

11 (1) **SUBSECTION (a).**—The amendment made
12 by subsection (a) shall apply to income earned after
13 the date of the enactment of this Act.

14 (2) **SUBSECTION (b).**—The amendments made
15 by subsection (b) shall apply to taxable years ending
16 after the date of the enactment of this Act.

17 **SEC. 875. MODIFICATION OF TAXABLE REIT SUBSIDIARY**
18 **ASSET TEST FOR TIMBER REITS.**

19 (a) **IN GENERAL.**—Section 856(c)(4)(B)(ii) is
20 amended by inserting “(in the case of a quarter which
21 closes before the termination date, 25 percent in the case
22 of a timber real estate investment trust)” after “not more
23 than 20 percent of the value of its total assets is rep-
24 resented by securities of one or more taxable REIT sub-
25 sidiaries”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to quarters closing after the date
3 of the enactment of this Act.

4 **SEC. 876. SAFE HARBOR FOR TIMBER PROPERTY.**

5 (a) IN GENERAL.—Section 857(b)(6) (relating to in-
6 come from prohibited transactions) is amended by adding
7 at the end the following new subparagraph:

8 “(G) SPECIAL RULES FOR SALES TO
9 QUALIFIED ORGANIZATIONS.—

10 “(i) IN GENERAL.—In the case of sale
11 of a real estate asset (as defined in section
12 856(e)(5)(B)) to a qualified organization
13 (as defined in section 170(h)(3)) exclu-
14 sively for conservation purposes (within the
15 meaning of section 170(h)(1)(C)), subpara-
16 graph (D) shall be applied—

17 “(I) by substituting ‘2 years’ for
18 ‘4 years’ in clause (i), and

19 “(II) by substituting ‘2-year pe-
20 riod’ for ‘4-year period’ in clauses (ii)
21 and (iii).

22 “(ii) TERMINATION.—This subpara-
23 graph shall not apply to sales on or after
24 the termination date.”.

1 (b) PROHIBITED TRANSACTIONS.—Section
2 857(b)(6)(D)(v) is amended by inserting “or, in the case
3 of a sale before the termination date, a taxable REIT sub-
4 sidiary” after “independent contractor (as defined in sec-
5 tion 856(d)(3)) from whom the trust itself does not derive
6 or receive any income”.

7 (c) SALES THAT ARE NOT PROHIBITED TRANS-
8 ACTIONS.—Section 857(b)(6), as amended by subsection
9 (a), is amended by adding at the end the following new
10 subparagraph:

11 “(H) SALES OF PROPERTY THAT ARE NOT
12 A PROHIBITED TRANSACTION.—In the case of a
13 sale before the termination date, the sale of
14 property which is not a prohibited transaction
15 through application of subparagraph (D) shall
16 be considered property held for investment or
17 for use in a trade or business and not property
18 described in section 1221(a)(1) for all purposes
19 of this subtitle.”.

20 (d) TERMINATION DATE.—Section 857(b)(6), as
21 amended by subsections (a) and (c), is amended by adding
22 at the end the following new subparagraph:

23 “(I) TERMINATION DATE.—For purposes
24 of this paragraph, the termination date is the

1 date that is 1 year after the date of the enact-
2 ment of this subparagraph.”.

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

6 **Subpart B—Miscellaneous**

7 **SEC. 877. SPECIAL RULES FOR REFUND OF THE COAL EX-**
8 **CISE TAX TO CERTAIN COAL PRODUCERS**
9 **AND EXPORTERS.**

10 (a) REFUND.—

11 (1) COAL PRODUCERS.—

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

16 (i) a coal producer establishes that
17 such coal producer, or a party related to
18 such coal producer, exported coal produced
19 by such coal producer to a foreign country
20 or shipped coal produced by such coal pro-
21 ducer to a possession of the United States,
22 the export or shipment of which was other
23 than through an exporter who has filed a
24 claim for a refund under paragraph (2),

1 (ii) such coal producer filed a return
2 on or after October 1, 1990, and on or be-
3 fore the date of the enactment of this Act,
4 and

5 (iii) such coal producer files a claim
6 for refund not later than the close of the
7 30-day period beginning on the date of the
8 enactment of this Act,

9 then the Secretary of the Treasury shall pay to
10 such coal producer an amount equal to the tax
11 paid under section 4121 of such Code on such
12 coal exported by the coal producer or a party
13 related to such coal producer.

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

16 (i) ESTABLISHMENT OF EXPORT.—If
17 a coal producer or a party related to a coal
18 producer has received a judgment de-
19 scribed in clause (iii), such coal producer
20 shall be deemed to have established the ex-
21 port of coal to a foreign country or ship-
22 ment of coal to a possession of the United
23 States under subparagraph (A)(i).

24 (ii) AMOUNT OF PAYMENT.—If a tax-
25 payer described in clause (i) is entitled to

1 a payment under subparagraph (A), the
2 amount of such payment shall be reduced
3 by any amount awarded under the judg-
4 ment described in clause (iii).

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

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

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

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

18 (iv) RECAPTURE.—In the case any
19 judgment described in clause (iii) is over-
20 turned, the coal producer shall pay to the
21 Secretary the amount of any payment re-
22 ceived under subparagraph (A) unless the
23 coal producer establishes the export of the
24 coal to a foreign country or shipment of
25 coal to a possession of the United States.

1 (2) EXPORTERS.—Notwithstanding subsections
2 (a)(1) and (c) of section 6416 and section 6511 of
3 the Internal Revenue Code of 1986, and a judgment
4 described in paragraph (1)(B)(iii) of this subsection,
5 if—

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

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

14 (C) such exporter files a claim for refund
15 not later than the close of the 30-day period be-
16 ginning on the date of the enactment of this
17 Act,

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

22 (b) LIMITATIONS.—Subsection (a) shall not apply
23 with respect to exported coal if a credit or refund of tax
24 imposed by section 4121 of such Code on such coal has
25 been allowed or made to, or if a settlement with the Fed-

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

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

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

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

1 which results from the wet washing (or similar proc-
2 essing) of coal.

3 (2) EXPORTER.—The term “exporter” means a
4 person, other than a coal producer, who does not
5 have a contract, fee arrangement, or any other
6 agreement with a producer or seller of such coal to
7 sell or export such coal to a third party on behalf
8 of the producer or seller of such coal and—

9 (A) is indicated in the shipper’s export
10 declaration or other documentation as the ex-
11 porter of record, or

12 (B) actually exported such coal to a for-
13 eign country or shipped such coal to a posses-
14 sion of the United States, or caused such coal
15 to be so exported or shipped.

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

18 (A) is related to such coal producer
19 through any degree of common management,
20 stock ownership, or voting control,

21 (B) is related (within the meaning of sec-
22 tion 144(a)(3) of such Code) to such coal pro-
23 ducer, or

24 (C) has a contract, fee arrangement, or
25 any other agreement with such coal producer to

1 sell such coal to a third party on behalf of such
2 coal producer.

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

11 (f) **INTEREST.**—Any refund paid pursuant to this
12 section shall be paid by the Secretary of the Treasury with
13 interest from the date of overpayment determined by using
14 the overpayment rate and method under section 6621 of
15 such Code.

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

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

24 (2) in the case of a payment to an exporter, an
25 amount equal to \$0.825 per ton with respect to such

1 coal exported by the exporter or caused to be ex-
2 ported by the exporter.

3 (h) APPLICATION OF SECTION.—This section applies
4 only to claims on coal exported on or after October 1,
5 1990, through the date of the enactment of this Act.

6 (i) STANDING NOT CONFERRED.—

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

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

20 **SEC. 878. CREDIT TO HOLDERS OF RURAL RENAISSANCE**
21 **BONDS.**

22 (a) IN GENERAL.—Subpart H of part IV of sub-
23 chapter A of chapter 1 (relating to credits against tax),
24 as amended by this Act, is amended by adding at the end
25 the following new section:

1 **“SEC. 54B. CREDIT TO HOLDERS OF RURAL RENAISSANCE**
2 **BONDS.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
4 payer who holds a rural renaissance bond on 1 or more
5 credit allowance dates of the bond occurring during any
6 taxable year, there shall be allowed as a credit against the
7 tax imposed by this chapter for the taxable year an
8 amount equal to the sum of the credits determined under
9 subsection (b) with respect to such dates.

10 “(b) AMOUNT OF CREDIT.—

11 “(1) IN GENERAL.—The amount of the credit
12 determined under this subsection with respect to any
13 credit allowance date for a rural renaissance bond is
14 25 percent of the annual credit determined with re-
15 spect to such bond.

16 “(2) ANNUAL CREDIT.—The annual credit de-
17 termined with respect to any rural renaissance bond
18 is the product of—

19 “(A) the credit rate determined by the Sec-
20 retary under paragraph (3) for the day on
21 which such bond was sold, multiplied by

22 “(B) the outstanding face amount of the
23 bond.

24 “(3) DETERMINATION.—For purposes of para-
25 graph (2), with respect to any rural renaissance
26 bond, the Secretary shall determine daily or caused

1 to be determined daily a credit rate which shall
2 apply to the first day on which there is a binding,
3 written contract for the sale or exchange of the
4 bond. The credit rate for any day is the credit rate
5 which the Secretary or the Secretary's designee esti-
6 mates will permit the issuance of rural renaissance
7 bonds with a specified maturity or redemption date
8 without discount and without interest cost to the
9 qualified issuer.

10 “(4) CREDIT ALLOWANCE DATE.—For purposes
11 of this section, the term ‘credit allowance date’
12 means—

13 “(A) March 15,

14 “(B) June 15,

15 “(C) September 15, and

16 “(D) December 15.

17 Such term also includes the last day on which the
18 bond is outstanding.

19 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
20 DEMPTION.—In the case of a bond which is issued
21 during the 3-month period ending on a credit allow-
22 ance date, the amount of the credit determined
23 under this subsection with respect to such credit al-
24 lowance date shall be a ratable portion of the credit
25 otherwise determined based on the portion of the 3-

1 month period during which the bond is outstanding.

2 A similar rule shall apply when the bond is redeemed
3 or matures.

4 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
5 credit allowed under subsection (a) for any taxable year
6 shall not exceed the excess of—

7 “(1) the sum of the regular tax liability (as de-
8 fined in section 26(b)) plus the tax imposed by sec-
9 tion 55, over

10 “(2) the sum of the credits allowable under this
11 part (other than subpart C, section 1400N(l), and
12 this section).

13 “(d) RURAL RENAISSANCE BOND.—For purposes of
14 this section—

15 “(1) IN GENERAL.—The term ‘rural renais-
16 sance bond’ means any bond issued as part of an
17 issue if—

18 “(A) the bond is issued by a qualified
19 issuer pursuant to an allocation by the Sec-
20 retary to such issuer of a portion of the na-
21 tional rural renaissance bond limitation under
22 subsection (f)(2),

23 “(B) 95 percent or more of the proceeds
24 from the sale of such issue are to be used for

1 capital expenditures incurred by qualified bor-
2 rowers for 1 or more qualified projects,

3 “(C) the qualified issuer designates such
4 bond for purposes of this section and the bond
5 is in registered form,

6 “(D) the issue meets the requirements of
7 subsection (h), and

8 “(E) such bond is not a federally guaran-
9 teed bond (within the meaning of section
10 149(b)(2)).

11 “(2) QUALIFIED PROJECT; SPECIAL USE
12 RULES.—

13 “(A) IN GENERAL.—The term ‘qualified
14 project’ means 1 or more projects described in
15 subparagraph (B) located in a rural area.

16 “(B) PROJECTS DESCRIBED.—A project
17 described in this subparagraph is a project eli-
18 gible for assistance under—

19 “(i) the utilities programs described in
20 section 381E(d)(2) of the Consolidated
21 Farm and Rural Development Act (7
22 U.S.C. 2009d(d)(2)),

23 “(ii) the distance learning or telemedi-
24 cine programs authorized pursuant to
25 chapter 1 of subtitle D of title XXIII of

1 the Food, Agriculture, Conservation, and
2 Trade Act of 1990 (7 U.S.C. 950aaa et
3 seq.),

4 “(iii) the rural electric programs au-
5 thORIZED pursuant to the Rural Electrifica-
6 tion Act of 1936 (7 U.S.C. 901 et seq.),

7 “(iv) the rural telephone programs au-
8 thORIZED pursuant to the Rural Electrifica-
9 tion Act of 1936 (7 U.S.C. 901 et seq.),

10 “(v) the broadband access programs
11 authorized pursuant to title VI of the
12 Rural Electrification Act of 1936 (7
13 U.S.C. 950bb et seq.), and

14 “(vi) the rural community facility pro-
15 grams as described in section 381E(d)(1)
16 of the Consolidated Farm and Rural De-
17 velopment Act (7 U.S.C. 2009d(d)(1)).

18 “(C) REFINANCING RULES.—For purposes
19 of paragraph (1)(B), a qualified project may be
20 refinanced with proceeds of a rural renaissance
21 bond only if the indebtedness being refinanced
22 (including any obligation directly or indirectly
23 refinanced by such indebtedness) was originally
24 incurred by a qualified borrower after the date
25 of the enactment of this section.

1 “(D) REIMBURSEMENT.—For purposes of
2 paragraph (1)(B), a rural renaissance bond
3 may be issued to reimburse a qualified borrower
4 for amounts paid after the date of the enact-
5 ment of this section with respect to a qualified
6 project, but only if—

7 “(i) prior to the payment of the origi-
8 nal expenditure, the qualified borrower de-
9 clared its intent to reimburse such expendi-
10 ture with the proceeds of a rural renaiss-
11 sance bond,

12 “(ii) not later than 60 days after pay-
13 ment of the original expenditure, the quali-
14 fied issuer adopts an official intent to re-
15 imburse the original expenditure with such
16 proceeds, and

17 “(iii) the reimbursement is made not
18 later than 18 months after the date the
19 original expenditure is paid.

20 “(E) TREATMENT OF CHANGES IN USE.—
21 For purposes of paragraph (1)(B), the proceeds
22 of an issue shall not be treated as used for a
23 qualified project to the extent that a qualified
24 borrower or qualified issuer takes any action
25 within its control which causes such proceeds

1 not to be used for a qualified project. The Sec-
2 retary shall prescribe regulations specifying re-
3 medial actions that may be taken (including
4 conditions to taking such remedial actions) to
5 prevent an action described in the preceding
6 sentence from causing a bond to fail to be a
7 rural renaissance bond.

8 “(F) TREATMENT OF OTHER SUBSIDIES.—
9 For purposes of subparagraph (B), a qualified
10 project does not include any portion of a project
11 financed by grants or subsidized financing pro-
12 vided (directly or indirectly) under a Federal
13 program, including any State or local obligation
14 used to provide financing for such portion the
15 interest on which is exempt from tax under sec-
16 tion 103.

17 “(e) MATURITY LIMITATIONS.—

18 “(1) DURATION OF TERM.—A bond shall not be
19 treated as a rural renaissance bond if the maturity
20 of such bond exceeds the maximum term determined
21 by the Secretary under paragraph (2) with respect
22 to such bond.

23 “(2) MAXIMUM TERM.—During each calendar
24 month, the Secretary shall determine the maximum
25 term permitted under this paragraph for bonds

1 issued during the following calendar month. Such
2 maximum term shall be the term which the Sec-
3 retary estimates will result in the present value of
4 the obligation to repay the principal on the bond
5 being equal to 50 percent of the face amount of such
6 bond. Such present value shall be determined with-
7 out regard to the requirements of paragraph (3) and
8 using as a discount rate the average annual interest
9 rate of tax-exempt obligations having a term of 10
10 years or more which are issued during the month. If
11 the term as so determined is not a multiple of a
12 whole year, such term shall be rounded to the next
13 highest whole year.

14 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
15 QUIRED.—A bond shall not be treated as a rural
16 renaissance bond unless it is part of an issue which
17 provides for an equal amount of principal to be paid
18 by the qualified issuer during each calendar year
19 that the issue is outstanding.

20 “(f) LIMITATION ON AMOUNT OF BONDS DES-
21 IGNATED.—

22 “(1) NATIONAL LIMITATION.—There is a na-
23 tional rural renaissance bond limitation of
24 \$400,000,000.

25 “(2) ALLOCATION BY SECRETARY.—

1 “(A) IN GENERAL.—In accordance with
2 subparagraph (B), the Secretary shall allocate
3 the amount described in paragraph (1) among
4 at least 20 qualified projects, or such lesser
5 number of qualified projects with proper appli-
6 cations filed after 12 months after the adoption
7 of the selection process under subparagraph
8 (B).

9 “(B) SELECTION PROCESS.—In consulta-
10 tion with the Secretary of Agriculture, the Sec-
11 retary shall adopt a process to select projects
12 described in subparagraph (A). Under such
13 process, the Secretary shall not allocate more
14 than 15 percent of the allocation under sub-
15 paragraph (A) to qualified projects within a sin-
16 gle State.

17 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
18 income includes the amount of the credit allowed to the
19 taxpayer under this section (determined without regard to
20 subsection (c)) and the amount so included shall be treat-
21 ed as interest income.

22 “(h) SPECIAL RULES RELATING TO EXPENDI-
23 TURES.—

24 “(1) IN GENERAL.—An issue shall be treated as
25 meeting the requirements of this subsection if, as of

1 the date of issuance, the qualified issuer reasonably
2 expects—

3 “(A) at least 95 percent of the proceeds
4 from the sale of the issue are to be spent for
5 1 or more qualified projects within the 5-year
6 period beginning on the date of issuance of the
7 rural renaissance bond,

8 “(B) a binding commitment with a third
9 party to spend at least 10 percent of the pro-
10 ceeds from the sale of the issue will be incurred
11 within the 6-month period beginning on the
12 date of issuance of the rural renaissance bond
13 or, in the case of a rural renaissance bond the
14 proceeds of which are to be loaned to 2 or more
15 qualified borrowers, such binding commitment
16 will be incurred within the 6-month period be-
17 ginning on the date of the loan of such proceeds
18 to a qualified borrower, and

19 “(C) such projects will be completed with
20 due diligence and the proceeds from the sale of
21 the issue will be spent with due diligence.

22 “(2) EXTENSION OF PERIOD.—Upon submis-
23 sion of a request prior to the expiration of the period
24 described in paragraph (1)(A), the Secretary may
25 extend such period if the qualified issuer establishes

1 that the failure to satisfy the 5-year requirement is
2 due to reasonable cause and the related projects will
3 continue to proceed with due diligence.

4 “(3) FAILURE TO SPEND REQUIRED AMOUNT
5 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
6 tent that less than 95 percent of the proceeds of
7 such issue are expended by the close of the 5-year
8 period beginning on the date of issuance (or if an
9 extension has been obtained under paragraph (2), by
10 the close of the extended period), the qualified issuer
11 shall redeem all of the nonqualified bonds within 90
12 days after the end of such period. For purposes of
13 this paragraph, the amount of the nonqualified
14 bonds required to be redeemed shall be determined
15 in the same manner as under section 142.

16 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
17 bond which is part of an issue shall not be treated as a
18 rural renaissance bond unless, with respect to the issue
19 of which the bond is a part, the qualified issuer satisfies
20 the arbitrage requirements of section 148 with respect to
21 proceeds of the issue.

22 “(j) DEFINITIONS AND SPECIAL RULES RELATING
23 TO ISSUERS AND BORROWERS.—For purposes of this sec-
24 tion—

1 “(1) QUALIFIED ISSUER.—The term ‘qualified
2 issuer’ means—

3 “(A) a rural renaissance bond lender,

4 “(B) a cooperative electric company, or

5 “(C) a governmental body.

6 “(2) QUALIFIED BORROWER.—The term ‘quali-
7 fied borrower’ means—

8 “(A) a mutual or cooperative electric com-
9 pany described in section 501(c)(12) or
10 1381(a)(2)(C), or

11 “(B) a governmental body.

12 “(3) RURAL RENAISSANCE BOND LENDER.—
13 The term ‘rural renaissance bond lender’ means a
14 lender which is a cooperative which is owned by, or
15 has outstanding loans to, 100 or more cooperative
16 electric companies and is in existence on February
17 1, 2002, and shall include any affiliated entity which
18 is controlled by such lender.

19 “(4) COOPERATIVE ELECTRIC COMPANY.—The
20 term ‘cooperative electric company’ means a mutual
21 or cooperative electric company described in section
22 501(c)(12) or section 1381(a)(2)(C), or a not-for-
23 profit electric utility which has received a loan or
24 loan guarantee under the Rural Electrification Act.

1 “(5) GOVERNMENTAL BODY.—The term ‘gov-
2 ernmental body’ means any State, territory, posses-
3 sion of the United States, the District of Columbia,
4 Indian tribal government, and any political subdivi-
5 sion thereof.

6 “(k) SPECIAL RULES RELATING TO POOL BONDS.—
7 No portion of a pooled financing bond may be allocable
8 to loan unless the borrower has entered into a written loan
9 commitment for such portion prior to the issue date of
10 such issue.

11 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—
12 For purposes of this section—

13 “(1) BOND.—The term ‘bond’ includes any ob-
14 ligation.

15 “(2) POOLED FINANCING BOND.—The term
16 ‘pooled financing bond’ shall have the meaning given
17 such term by section 149(f)(4)(A).

18 “(3) RURAL AREA.—The term ‘rural area’ shall
19 have the meaning given such term by section
20 1393(a)(2).

21 “(4) PARTNERSHIP; S CORPORATION; AND
22 OTHER PASS-THRU ENTITIES.—

23 “(A) IN GENERAL.—Under regulations
24 prescribed by the Secretary, in the case of a
25 partnership, trust, S corporation, or other pass-

1 thru entity, rules similar to the rules of section
2 41(g) shall apply with respect to the credit al-
3 lowable under subsection (a).

4 “(B) NO BASIS ADJUSTMENT.—In the case
5 of a bond held by a partnership or an S cor-
6 poration, rules similar to the rules under sec-
7 tion 1397E(i) shall apply.

8 “(5) BONDS HELD BY REGULATED INVEST-
9 MENT COMPANIES.—If any rural renaissance bond is
10 held by a regulated investment company, the credit
11 determined under subsection (a) shall be allowed to
12 shareholders of such company under procedures pre-
13 scribed by the Secretary.

14 “(6) REPORTING.—Issuers of rural renaissance
15 bonds shall submit reports similar to the reports re-
16 quired under section 149(e).

17 “(7) TERMINATION.—This section shall not
18 apply with respect to any bond issued after Decem-
19 ber 31, 2008.”.

20 (b) REPORTING.—Subsection (d) of section 6049 (re-
21 lating to returns regarding payments of interest), as
22 amended by this Act, is amended by adding at the end
23 the following new paragraph:

24 “(10) REPORTING OF CREDIT ON RURAL REN-
25 AISSANCE BONDS.—

1 “(A) IN GENERAL.—For purposes of sub-
2 section (a), the term ‘interest’ includes amounts
3 includible in gross income under section 54B(g)
4 and such amounts shall be treated as paid on
5 the credit allowance date (as defined in section
6 54B(b)(4)).

7 “(B) REPORTING TO CORPORATIONS,
8 ETC.—Except as otherwise provided in regula-
9 tions, in the case of any interest described in
10 subparagraph (A), subsection (b)(4) shall be
11 applied without regard to subparagraphs (A),
12 (H), (I), (J), (K), and (L)(i) of such subsection.

13 “(C) REGULATORY AUTHORITY.—The Sec-
14 retary may prescribe such regulations as are
15 necessary or appropriate to carry out the pur-
16 poses of this paragraph, including regulations
17 which require more frequent or more detailed
18 reporting.”.

19 (c) CONFORMING AMENDMENTS.—

20 (1) The table of sections for subpart H of part
21 IV of subchapter A of chapter 1, as amended by this
22 Act, is amended by adding at the end the following
23 new item:

“Sec. 54B. Credit to holders of rural renaissance bonds.”.

1 (2) Section 54(c)(2), as amended by this Act, is
2 amended by inserting “section 54B,” after “section
3 54A,”.

4 (3) Section 54A(c)(2), as added by this Act, is
5 amended by inserting “section 54B,” after “subpart
6 C,”.

7 (d) ISSUANCE OF REGULATIONS.—The Secretary of
8 Treasury shall issue regulations required under section
9 54B of the Internal Revenue Code of 1986 (as added by
10 this section) not later than 120 days after the date of the
11 enactment of this Act.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to bonds issued after the date of
14 the enactment of this Act.

15 **Subtitle B—Revenue Raising** 16 **Provisions**

17 **SEC. 881. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED** 18 **OIL COMPANIES FOR INCOME ATTRIBUTABLE** 19 **TO DOMESTIC PRODUCTION OF OIL, NAT-** 20 **URAL GAS, OR PRIMARY PRODUCTS THERE-** 21 **OF.**

22 (a) IN GENERAL.—Subparagraph (B) of section
23 199(c)(4) of the Internal Revenue Code of 1986 (relating
24 to exceptions) is amended by striking “or” at the end of
25 clause (ii), by striking the period at the end of clause (iii)

1 and inserting “, or”, and by inserting after clause (iii) the
2 following new clause:

3 “(iv) in the case of any major inte-
4 grated oil company (as defined in section
5 167(h)(5)(B)), the production, refining,
6 processing, transportation, or distribution
7 of oil, natural gas, or any primary product
8 thereof during any taxable year described
9 in section 167(h)(5)(B).”.

10 (b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of
11 such Code is amended by adding at the end the following
12 flush sentence:

13 “For purposes of clause (iv), the term ‘primary
14 product’ has the same meaning as when used in
15 section 927(a)(2)(C), as in effect before its re-
16 peal.”.

17 (c) CONFORMING AMENDMENTS.—Section 199(c)(4)
18 of such Code is amended—

19 (1) in subparagraph (A)(i)(III) by striking
20 “electricity, natural gas,” and inserting “electricity”,
21 and

22 (2) in subparagraph (B)(ii) by striking “elec-
23 tricity, natural gas,” and inserting “electricity”.

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

4 **SEC. 882. ELIMINATION OF THE DIFFERENT TREATMENT**
5 **OF FOREIGN OIL AND GAS EXTRACTION IN-**
6 **COME AND FOREIGN OIL RELATED INCOME**
7 **FOR PURPOSES OF THE FOREIGN TAX CRED-**
8 **IT.**

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

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

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

22 “(2) multiplied by—

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

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

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

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

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

15 “(B) foreign oil related income.

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

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

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

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

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

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

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

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

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

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

23 “(B) REDUCTION FOR PRE-2008 FOREIGN
24 OIL EXTRACTION LOSSES.—The reduction

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

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

7 “(ii) the excess of—

8 “(I) the aggregate amount of for-
9 eign oil extraction losses for preceding
10 taxable years beginning after Decem-
11 ber 31, 1982, and before January 1,
12 2008, over

13 “(II) so much of such aggregate
14 amount as was recharacterized under
15 this paragraph (as in effect before
16 and after the date of the enactment of
17 the Energy Advancement and Invest-
18 ment Act of 2007) for preceding tax-
19 able years beginning after December
20 31, 1982.

21 “(C) REDUCTION FOR POST-2007 FOREIGN
22 OIL AND GAS LOSSES.—The reduction under
23 this paragraph shall be equal to the lesser of—

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

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

5 “(ii) the excess of—

6 “(I) the aggregate amount of for-
7 eign oil and gas losses for preceding
8 taxable years beginning after Decem-
9 ber 31, 2007, over

10 “(II) so much of such aggregate
11 amount as was recharacterized under
12 this paragraph for preceding taxable
13 years beginning after December 31,
14 2007.

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

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

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

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

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

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

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

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

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

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

5 “(iv) FOREIGN OIL EXTRACTION
6 LOSS.—For purposes of subparagraph
7 (B)(ii)(I), foreign oil extraction losses shall
8 be determined under this paragraph as in
9 effect on the day before the date of the en-
10 actment of the Energy Advancement and
11 Investment Act of 2007.”.

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

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

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

20 “(4) TRANSITION RULES FOR PRE-2008 AND
21 2008 DISALLOWED CREDITS.—

22 “(A) PRE-2008 CREDITS.—In the case of
23 any unused credit year beginning before Janu-
24 ary 1, 2008, this subsection shall be applied to
25 any unused oil and gas extraction taxes carried

1 from such unused credit year to a year begin-
2 ning after December 31, 2007—

3 “(i) by substituting ‘oil and gas ex-
4 traction taxes’ for ‘foreign oil and gas
5 taxes’ each place it appears in paragraphs
6 (1), (2), and (3), and

7 “(ii) by computing, for purposes of
8 paragraph (2)(A), the limitation under
9 subparagraph (A) for the year to which
10 such taxes are carried by substituting ‘for-
11 eign oil and gas extraction income’ for ‘for-
12 eign oil and gas income’ in subsection (a).

13 “(B) 2008 CREDITS.—In the case of any
14 unused credit year beginning in 2008, the
15 amendments made to this subsection by the En-
16 ergy Advancement and Investment Act of 2007
17 shall be treated as being in effect for any pre-
18 ceding year beginning before January 1, 2008,
19 solely for purposes of determining how much of
20 the unused foreign oil and gas taxes for such
21 unused credit year may be deemed paid or ac-
22 crued in such preceding year.”.

23 (d) CONFORMING AMENDMENT.—Section 6501(i) is
24 amended by striking “oil and gas extraction taxes” and
25 inserting “foreign oil and gas taxes”.

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

4 **SEC. 883. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**
5 **ITY TRUST FUND TAX.**

6 (a) INCREASE IN RATE.—

7 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-
8 lating to rates) is amended by striking “5 cents”
9 and inserting “10 cents”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by this subsection shall apply on and after the first
12 day of the first calendar quarter beginning more
13 than 60 days after the date of the enactment of this
14 Act.

15 (b) EXTENSION.—

16 (1) IN GENERAL.—Section 4611(f) (relating to
17 application of Oil Spill Liability Trust Fund financ-
18 ing rate) is amended by striking paragraphs (2) and
19 (3) and inserting the following new paragraph:

20 “(2) TERMINATION.—The Oil Spill Liability
21 Trust Fund financing rate shall not apply after De-
22 cember 31, 2017.”.

23 (2) CONFORMING AMENDMENT.—Section
24 4611(f)(1) is amended by striking “paragraphs (2)
25 and (3)” and inserting “paragraph (2)”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on the date of the
3 enactment of this Act.

4 **SEC. 884. LIMITATION ON DRAWBACK CLAIMED FOR**
5 **AMOUNTS DEPOSITED INTO THE OIL SPILL**
6 **LIABILITY TRUST FUND.**

7 Section 313(j) of the Tariff Act of 1930 (19 U.S.
8 C. 1313(j)) is amended by adding at the end the following
9 new paragraph:

10 “(5) LIMITATION ON CERTAIN DRAWBACKS.—
11 Any tax or fee imposed under section 4611 of the
12 Internal Revenue Code of 1986 for deposit in the Oil
13 Spill Liability Trust Fund pursuant to section 9509
14 of such Code shall not be eligible for refund as draw-
15 back under this section.”.

16 **SEC. 885. TAX ON CRUDE OIL AND NATURAL GAS PRO-**
17 **DUCED FROM THE OUTER CONTINENTAL**
18 **SHELF IN THE GULF OF MEXICO.**

19 (a) IN GENERAL.—Subtitle E (relating to alcohol, to-
20 bacco, and certain other excise taxes) is amended by add-
21 ing at the end the following new chapter:

1 **“CHAPTER 56—TAX ON SEVERANCE OF**
2 **CRUDE OIL AND NATURAL GAS FROM**
3 **THE OUTER CONTINENTAL SHELF IN**
4 **THE GULF OF MEXICO**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Taxable crude oil or natural gas and removal price.

“Sec. 5898. Special rules and definitions.

5 **“SEC. 5896. IMPOSITION OF TAX.**

6 “(a) IN GENERAL.—In addition to any other tax im-
7 posed under this title, there is hereby imposed a tax equal
8 to 13 percent of the removal price of any taxable crude
9 oil or natural gas removed from the premises during any
10 taxable period.

11 “(b) CREDIT FOR FEDERAL ROYALTIES PAID.—

12 “(1) IN GENERAL.—There shall be allowed as a
13 credit against the tax imposed by subsection (a) with
14 respect to the production of any taxable crude oil or
15 natural gas an amount equal to the aggregate
16 amount of royalties paid under Federal law with re-
17 spect to such production.

18 “(2) LIMITATION.—The aggregate amount of
19 credits allowed under paragraph (1) to any taxpayer
20 for any taxable period shall not exceed the amount
21 of tax imposed by subsection (a) for such taxable pe-
22 riod.

1 removal price shall not be less than the constructive
2 sales price for purposes of determining gross income
3 from the property under section 613.

4 “(3) OIL OR GAS REMOVED FROM PROPERTY
5 BEFORE SALE.—If crude oil or natural gas is re-
6 moved from the property before it is sold, the re-
7 moval price shall be the constructive sales price for
8 purposes of determining gross income from the prop-
9 erty under section 613.

10 “(4) REFINING BEGUN ON PROPERTY.—If the
11 manufacture or conversion of crude oil into refined
12 products begins before such oil is removed from the
13 property—

14 “(A) such oil shall be treated as removed
15 on the day such manufacture or conversion be-
16 gins, and

17 “(B) the removal price shall be the con-
18 structive sales price for purposes of determining
19 gross income from the property under section
20 613.

21 “(5) PROPERTY.—The term ‘property’ has the
22 meaning given such term by section 614.

23 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

24 “(a) ADMINISTRATIVE REQUIREMENTS.—

1 “(1) WITHHOLDING AND DEPOSIT OF TAX.—

2 The Secretary shall provide for the withholding and
3 deposit of the tax imposed under section 5896 on a
4 quarterly basis.

5 “(2) RECORDS AND INFORMATION.—Each tax-

6 payer liable for tax under section 5896 shall keep
7 such records, make such returns, and furnish such
8 information (to the Secretary and to other persons
9 having an interest in the taxable crude oil or natural
10 gas) with respect to such oil as the Secretary may
11 by regulations prescribe.

12 “(3) TAXABLE PERIODS; RETURN OF TAX.—

13 “(A) TAXABLE PERIOD.—Except as pro-
14 vided by the Secretary, each calendar year shall
15 constitute a taxable period.

16 “(B) RETURNS.—The Secretary shall pro-
17 vide for the filing, and the time for filing, of the
18 return of the tax imposed under section 5896.

19 “(b) DEFINITIONS.—For purposes of this chapter—

20 “(1) PRODUCER.—The term ‘producer’ means
21 the holder of the economic interest with respect to
22 the crude oil or natural gas.

23 “(2) CRUDE OIL.—The term ‘crude oil’ includes
24 crude oil condensates and natural gasoline.

1 “(3) PREMISES AND CRUDE OIL PRODUCT.—

2 The terms ‘premises’ and ‘crude oil product’ have
3 the same meanings as when used for purposes of de-
4 termining gross income from the property under sec-
5 tion 613.

6 “(c) ADJUSTMENT OF REMOVAL PRICE.—In deter-
7 mining the removal price of oil or natural gas from a prop-
8 erty in the case of any transaction, the Secretary may ad-
9 just the removal price to reflect clearly the fair market
10 value of oil or natural gas removed.

11 “(d) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this chapter.”.

14 (b) DEDUCTIBILITY OF TAX.—The first sentence of
15 section 164(a) (relating to deduction for taxes) is amended
16 by inserting after paragraph (5) the following new para-
17 graph:

18 “(6) The tax imposed by section 5896(a) (after
19 application of section 5896(b)) on the severance of
20 crude oil or natural gas from the outer Continental
21 Shelf in the Gulf of Mexico.”.

22 (c) CLERICAL AMENDMENT.—The table of chapters
23 for subtitle E is amended by adding at the end the fol-
24 lowing new item:

 “CHAPTER 56. Tax on severance of crude oil and natural gas
 from the outer Continental Shelf in the Gulf of
 Mexico.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to crude oil or natural gas removed
3 after the date of the enactment of this Act.

4 **SEC. 886. TAXATION OF TAXABLE FUELS IN FOREIGN**
5 **TRADE ZONES.**

6 (a) TAX IMPOSED ON REMOVALS AND ENTRIES IN
7 FOREIGN TRADE ZONES.—

8 (1) IN GENERAL.—Subsection (a) of section
9 4083 (relating to definitions) is amended by adding
10 at the end the following new paragraph:

11 “(4) UNITED STATES.—The term ‘United
12 States’ includes any foreign trade zone or bonded
13 warehouse located in the United States.”.

14 (2) CONFORMING AMENDMENT.—Section
15 4081(a)(1)(A) (relating to imposition of tax) is
16 amended—

17 (A) in clause (i), by inserting “in the
18 United States” after “refinery”; and

19 (B) in clause (ii), by inserting “in the
20 United States” after “terminal”.

21 (b) TREATMENT OF TAXABLE FUEL IN FOREIGN
22 TRADE ZONES.—Paragraph (2) of section 81c(a) of title
23 19, United States Code, is amended by inserting “(other
24 than the provisions relating to taxable fuel (as defined

1 under section 4083(a) of the Internal Revenue Code of
2 1986))” after “thereunder”.

3 (c) EFFECTIVE DATES.—

4 (1) SUBSECTION (a).—The amendments made
5 by subsection (a) shall apply to removals and entries
6 after December 31, 2007.

7 (2) SUBSECTION (b).—The amendment made
8 by subsection (b) shall take effect on January 1,
9 2008.

10 **SEC. 887. CLARIFICATION OF PENALTY FOR SALE OF FUEL**

11 **FAILING TO MEET EPA REGULATIONS.**

12 (a) IN GENERAL.—Subsection (a) of section 6720A
13 (relating to penalty with respect to certain adulterated
14 fuels) is amended by striking “applicable EPA regulations
15 (as defined in section 45H(c)(3))” and inserting “the re-
16 quirements for diesel fuel under section 211 of the Clean
17 Air Act, as determined by the Secretary,”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any transfer, sale, or holding
20 out for sale or resale occurring after the date of the enact-
21 ment of this Act.

22 **SEC. 888. CLARIFICATION OF ELIGIBILITY FOR CERTAIN**

23 **FUELS CREDITS FOR FUEL WITH INSUFFI-**
24 **CIENT NEXUS TO THE UNITED STATES.**

25 (a) IN GENERAL.—

1 (1) ALCOHOL CREDIT.—Subsection (d) of sec-
2 tion 40 is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(6) LIMITATION TO ALCOHOL WITH CONNEC-
5 TION TO THE UNITED STATES.—

6 “(A) ALCOHOL CREDIT.—No alcohol credit
7 shall be determined under this section with re-
8 spect to any alcohol unless such alcohol is pro-
9 duced in the United States for consumption in
10 the United States or entered into the United
11 States for consumption in the United States.

12 “(B) ALCOHOL MIXTURE CREDIT.—No al-
13 cohol mixture credit shall be determined under
14 this section with respect to any mixture unless
15 such mixture is produced in the United States
16 for consumption in the United States or entered
17 into the United States for consumption in the
18 United States.

19 “(C) NO CREDITS FOR ALCOHOL DES-
20 TINED FOR EXPORT.—No credit (other than the
21 small ethanol producer credit) shall be deter-
22 mined under this section with respect to any
23 mixture or alcohol if such mixture or alcohol is
24 destined for export from the United States (as
25 determined by the Secretary).

1 “(D) SPECIAL RULE FOR SMALL PRO-
2 DUCER CREDITS.—No small ethanol producer
3 credit, small cellulosic alcohol producer credit,
4 or small fossil free alcohol producer credit shall
5 be determined under this section with respect to
6 any alcohol unless such alcohol is produced in
7 the United States.”.

8 (2) BIODIESEL CREDIT.—Subsection (d) of sec-
9 tion 40A is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
12 TION TO THE UNITED STATES.—

13 “(A) BIODIESEL CREDIT.—No biodiesel
14 credit shall be determined under this section
15 with respect to any biodiesel unless such bio-
16 diesel is produced in the United States for con-
17 sumption in the United States or is entered into
18 the United States for consumption in the
19 United States.

20 “(B) BIODIESEL MIXTURE CREDIT.—No
21 biodiesel mixture credit shall be determined
22 under this section with respect to any mixture
23 unless such mixture is produced in the United
24 States for consumption in the United States or

1 is entered into the United States for consump-
2 tion in the United States.

3 “(C) NO CREDITS FOR BIODIESEL DES-
4 TINED FOR EXPORT.—No credit (other than the
5 small agri-biodiesel producer credit) shall be de-
6 termined under this section with respect to any
7 mixture or biodiesel if such mixture or biodiesel
8 is destined for export from the United States
9 (as determined by the Secretary).

10 “(D) SPECIAL RULE FOR SMALL AGRI-BIO-
11 DIESEL PRODUCER CREDIT.—No small agri-bio-
12 diesel producer credit shall be determined under
13 this section with respect to any agri-biodiesel
14 unless such agri-biodiesel is produced in the
15 United States.”.

16 (3) EXCISE TAX CREDITS.—Section 6426, as
17 amended by section 833, is amended by adding at
18 the end the following new subsection:

19 “(i) LIMITATION TO FUELS WITH CONNECTION TO
20 THE UNITED STATES.—

21 “(1) MIXTURE CREDITS.—No credit shall be
22 determined under this section with respect to any
23 mixture unless such mixture is produced in the
24 United States for consumption in the United States

1 or is entered into the United States for consumption
2 in the United States.

3 “(2) ALTERNATIVE FUEL CREDIT.—No alter-
4 native fuel credit shall be determined under this sec-
5 tion with respect to any alternative fuel unless such
6 alternative fuel is produced in the United States for
7 consumption in the United States or is entered into
8 the United States for consumption in the United
9 States.

10 “(3) NO CREDITS FOR FUELS DESTINED FOR
11 EXPORT.—No credit shall be determined under this
12 section with respect to any mixture or alternative
13 fuel if such mixture or alternative fuel is destined
14 for export from the United States (as determined by
15 the Secretary).”.

16 (4) PAYMENTS.—Subsection (e) of section 6427
17 is amended by redesignating paragraph (5), as
18 amended by this Act, as paragraph (6) and by in-
19 serting after paragraph (4) the following new para-
20 graph:

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

1 with respect to such mixture or alternative fuel by
2 reason of section 6426(i).”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to fuel sold or used after the date
5 of the enactment of this Act.

6 **SEC. 889. TREATMENT OF QUALIFIED ALCOHOL FUEL MIX-**
7 **TURES AND QUALIFIED BIODIESEL FUEL MIX-**
8 **TURES AS TAXABLE FUELS.**

9 (a) IN GENERAL.—Subparagraph (A) of section
10 4083(a)(3) (relating to diesel fuel) is amended by striking
11 “and” at the end of clause (ii), by redesignating clause
12 (iii) as clause (v), and inserting after clause (ii) the fol-
13 lowing new clauses:

14 “(iii) any qualified mixture (as de-
15 fined in section 40(b)(1)(B)) which is a
16 mixture of alcohol and special fuel,

17 “(iv) any qualified biodiesel mixture
18 (as defined in section 40A(b)(1)(B)), and”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to fuels removed, entered, or sold
21 after December 31, 2007.

22 **SEC. 890. CALCULATION OF VOLUME OF ALCOHOL FOR**
23 **FUEL CREDITS.**

24 (a) IN GENERAL.—Paragraph (4) of section 40(d)
25 (relating to volume of alcohol) is amended by striking “the

1 volume of alcohol” and all that follows and inserting “the
2 volume of alcohol shall not include any denaturant added
3 to such alcohol.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to fuel sold or used after December
6 31, 2007.

7 **SEC. 891. BULK TRANSFER EXCEPTION NOT TO APPLY TO**
8 **FINISHED GASOLINE.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 4081(a)(1) (relating to tax on removal, entry, or sale) is
11 amended by adding at the end the following new clause:

12 “(iii) EXCEPTION FOR FINISHED GAS-
13 OLINE.—Clause (i) shall not apply to any
14 gasoline which meets the requirements for
15 gasoline under section 211 of the Clean
16 Air Act.”.

17 (b) EXCEPTION TO TAX ON FINISHED GASOLINE FOR
18 PRIOR TAXABLE REMOVALS.—Paragraph (1) of section
19 4081(a) is amended by adding at the end the following
20 new subparagraph:

21 “(C) EXEMPTION FOR PREVIOUSLY TAXED
22 FINISHED GASOLINE.—The tax imposed by this
23 paragraph shall not apply to the removal of
24 gasoline described in subparagraph (B)(iii)
25 from any terminal if there was a prior taxable

1 removal or entry of such fuel under clause (i),
2 (ii), or (iii) of subparagraph (A). The preceding
3 sentence shall not apply to the volume of any
4 product added to such gasoline at the terminal
5 unless there was a prior taxable removal or
6 entry of such product under clause (i), (ii), or
7 (iii) of subparagraph (A).”.

8 (c) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to fuel removed, entered, or sold
10 after December 31, 2007.

11 **SEC. 892. APPLICATION OF RULES TREATING INVERTED**
12 **CORPORATIONS AS DOMESTIC CORPORA-**
13 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
14 **RING AFTER MARCH 20, 2002.**

15 (a) IN GENERAL.—Section 7874(b) (relating to in-
16 verted corporations treated as domestic corporations) is
17 amended to read as follows:

18 “(b) INVERTED CORPORATIONS TREATED AS DO-
19 MESTIC CORPORATIONS.—

20 “(1) IN GENERAL.—Notwithstanding section
21 7701(a)(4), a foreign corporation shall be treated for
22 purposes of this title as a domestic corporation if
23 such corporation would be a surrogate foreign cor-
24 poration if subsection (a)(2) were applied by sub-
25 stituting ‘80 percent’ for ‘60 percent’.

1 “(2) SPECIAL RULE FOR CERTAIN TRANS-
2 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

3 “(A) IN GENERAL.—If—

4 “(i) paragraph (1) does not apply to
5 a foreign corporation, but

6 “(ii) paragraph (1) would apply to
7 such corporation if, in addition to the sub-
8 stitution under paragraph (1), subsection
9 (a)(2) were applied by substituting ‘March
10 20, 2002’ for ‘March 4, 2003’ each place
11 it appears,

12 then paragraph (1) shall apply to such corpora-
13 tion but only with respect to taxable years of
14 such corporation beginning after December 31,
15 2006.

16 “(B) SPECIAL RULES.—Subject to such
17 rules as the Secretary may prescribe, in the
18 case of a corporation to which paragraph (1)
19 applies by reason of this paragraph—

20 “(i) the corporation shall be treated,
21 as of the close of its last taxable year be-
22 ginning before January 1, 2007, as having
23 transferred all of its assets, liabilities, and
24 earnings and profits to a domestic corpora-

1 tion in a transaction with respect to which
2 no tax is imposed under this title,

3 “(ii) the bases of the assets trans-
4 ferred in the transaction to the domestic
5 corporation shall be the same as the bases
6 of the assets in the hands of the foreign
7 corporation, subject to any adjustments
8 under this title for built-in losses,

9 “(iii) the basis of the stock of any
10 shareholder in the domestic corporation
11 shall be the same as the basis of the stock
12 of the shareholder in the foreign corpora-
13 tion for which it is treated as exchanged,
14 and

15 “(iv) the transfer of any earnings and
16 profits by reason of clause (i) shall be dis-
17 regarded in determining any deemed divi-
18 dend or foreign tax creditable to the do-
19 mestic corporation with respect to such
20 transfer.

21 “(C) REGULATIONS.—The Secretary may
22 prescribe such regulations as may be necessary
23 or appropriate to carry out this paragraph, in-
24 cluding regulations to prevent the avoidance of
25 the purposes of this paragraph.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2006.

4 **SEC. 893. MODIFICATION OF EFFECTIVE DATE OF LEASING**
5 **PROVISIONS OF THE AMERICAN JOBS CRE-**
6 **ATION ACT OF 2004.**

7 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)
8 of the American Jobs Creation Act of 2004 is amended
9 by adding at the end the following new paragraph:

10 “(5) LEASES TO FOREIGN ENTITIES.—In the
11 case of tax-exempt use property leased to a tax-ex-
12 empt entity which is a foreign person or entity, the
13 amendments made by this part shall apply to taxable
14 years beginning after December 31, 2006, with re-
15 spect to leases entered into on or before March 12,
16 2004.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect as if included in the enact-
19 ment of the American Jobs Creation Act of 2004.

20 **SEC. 894. REVISION OF TAX RULES ON EXPATRIATION OF**
21 **INDIVIDUALS.**

22 (a) IN GENERAL.—Subpart A of part II of sub-
23 chapter N of chapter 1 is amended by inserting after sec-
24 tion 877 the following new section:

1 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

2 “(a) GENERAL RULES.—For purposes of this sub-
3 title—

4 “(1) MARK TO MARKET.—Except as provided in
5 subsections (d) and (f), all property of a covered ex-
6 patriate to whom this section applies shall be treated
7 as sold on the day before the expatriation date for
8 its fair market value.

9 “(2) RECOGNITION OF GAIN OR LOSS.—In the
10 case of any sale under paragraph (1)—

11 “(A) notwithstanding any other provision
12 of this title, any gain arising from such sale
13 shall be taken into account for the taxable year
14 of the sale, and

15 “(B) any loss arising from such sale shall
16 be taken into account for the taxable year of
17 the sale to the extent otherwise provided by this
18 title, except that section 1091 shall not apply to
19 any such loss.

20 Proper adjustment shall be made in the amount of
21 any gain or loss subsequently realized for gain or
22 loss taken into account under the preceding sen-
23 tence.

24 “(3) EXCLUSION FOR CERTAIN GAIN.—

25 “(A) IN GENERAL.—The amount which,
26 but for this paragraph, would be includible in

1 the gross income of any individual by reason of
2 this section shall be reduced (but not below
3 zero) by \$600,000. For purposes of this para-
4 graph, allocable expatriation gain taken into ac-
5 count under subsection (f)(2) shall be treated in
6 the same manner as an amount required to be
7 includible in gross income.

8 “(B) COST-OF-LIVING ADJUSTMENT.—

9 “(i) IN GENERAL.—In the case of an
10 expatriation date occurring in any calendar
11 year after 2007, the \$600,000 amount
12 under subparagraph (A) shall be increased
13 by an amount equal to—

14 “(I) such dollar amount, multi-
15 plied by

16 “(II) the cost-of-living adjust-
17 ment determined under section 1(f)(3)
18 for such calendar year, determined by
19 substituting ‘calendar year 2006’ for
20 ‘calendar year 1992’ in subparagraph
21 (B) thereof.

22 “(ii) ROUNDING RULES.—If any
23 amount after adjustment under clause (i)
24 is not a multiple of \$1,000, such amount

1 may be imposed by reason of this para-
2 graph, and

3 “(iii) complies with such other re-
4 quirements as the Secretary may prescribe.

5 “(C) ELECTION.—An election under sub-
6 paragraph (A) shall apply to all property to
7 which this section would apply but for the elec-
8 tion and, once made, shall be irrevocable. Such
9 election shall also apply to property the basis of
10 which is determined in whole or in part by ref-
11 erence to the property with respect to which the
12 election was made.

13 “(b) ELECTION TO DEFER TAX.—

14 “(1) IN GENERAL.—If the taxpayer elects the
15 application of this subsection with respect to any
16 property treated as sold by reason of subsection (a),
17 the payment of the additional tax attributable to
18 such property shall be postponed until the due date
19 of the return for the taxable year in which such
20 property is disposed of (or, in the case of property
21 disposed of in a transaction in which gain is not rec-
22 ognized in whole or in part, until such other date as
23 the Secretary may prescribe).

24 “(2) DETERMINATION OF TAX WITH RESPECT
25 TO PROPERTY.—For purposes of paragraph (1), the

1 additional tax attributable to any property is an
2 amount which bears the same ratio to the additional
3 tax imposed by this chapter for the taxable year
4 solely by reason of subsection (a) as the gain taken
5 into account under subsection (a) with respect to
6 such property bears to the total gain taken into ac-
7 count under subsection (a) with respect to all prop-
8 erty to which subsection (a) applies.

9 “(3) TERMINATION OF POSTPONEMENT.—No
10 tax may be postponed under this subsection later
11 than the due date for the return of tax imposed by
12 this chapter for the taxable year which includes the
13 date of death of the expatriate (or, if earlier, the
14 time that the security provided with respect to the
15 property fails to meet the requirements of paragraph
16 (4), unless the taxpayer corrects such failure within
17 the time specified by the Secretary).

18 “(4) SECURITY.—

19 “(A) IN GENERAL.—No election may be
20 made under paragraph (1) with respect to any
21 property unless adequate security is provided to
22 the Secretary with respect to such property.

23 “(B) ADEQUATE SECURITY.—For purposes
24 of subparagraph (A), security with respect to

1 any property shall be treated as adequate secu-
2 rity if—

3 “(i) it is a bond in an amount equal
4 to the deferred tax amount under para-
5 graph (2) for the property, or

6 “(ii) the taxpayer otherwise estab-
7 lishes to the satisfaction of the Secretary
8 that the security is adequate.

9 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
10 tion may be made under paragraph (1) unless the
11 taxpayer consents to the waiver of any right under
12 any treaty of the United States which would pre-
13 clude assessment or collection of any tax imposed by
14 reason of this section.

15 “(6) ELECTIONS.—An election under paragraph
16 (1) shall only apply to property described in the elec-
17 tion and, once made, is irrevocable. An election may
18 be made under paragraph (1) with respect to an in-
19 terest in a trust with respect to which gain is re-
20 quired to be recognized under subsection (f)(1).

21 “(7) INTEREST.—For purposes of section
22 6601—

23 “(A) the last date for the payment of tax
24 shall be determined without regard to the elec-
25 tion under this subsection, and

1 “(B) section 6621(a)(2) shall be applied by
2 substituting ‘5 percentage points’ for ‘3 per-
3 centage points’ in subparagraph (B) thereof.

4 “(c) COVERED EXPATRIATE.—For purposes of this
5 section—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), the term ‘covered expatriate’ means an
8 expatriate.

9 “(2) EXCEPTIONS.—An individual shall not be
10 treated as a covered expatriate if—

11 “(A) the individual—

12 “(i) became at birth a citizen of the
13 United States and a citizen of another
14 country and, as of the expatriation date,
15 continues to be a citizen of, and is taxed
16 as a resident of, such other country, and

17 “(ii) has not been a resident of the
18 United States (as defined in section
19 7701(b)(1)(A)(ii)) during the 5 taxable
20 years ending with the taxable year during
21 which the expatriation date occurs, or

22 “(B)(i) the individual’s relinquishment of
23 United States citizenship occurs before such in-
24 dividual attains age 18½, and

1 “(ii) the individual has been a resident of
2 the United States (as so defined) for not more
3 than 5 taxable years before the date of relin-
4 quishment.

5 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
6 SION PLANS.—

7 “(1) EXEMPT PROPERTY.—This section shall
8 not apply to the following:

9 “(A) UNITED STATES REAL PROPERTY IN-
10 TERESTS.—Any United States real property in-
11 terest (as defined in section 897(c)(1)), other
12 than stock of a United States real property
13 holding corporation which does not, on the day
14 before the expatriation date, meet the require-
15 ments of section 897(c)(2).

16 “(B) SPECIFIED PROPERTY.—Any prop-
17 erty or interest in property not described in
18 subparagraph (A) which the Secretary specifies
19 in regulations.

20 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
21 MENT PLANS.—

22 “(A) IN GENERAL.—If a covered expatriate
23 holds on the day before the expatriation date
24 any interest in a retirement plan to which this
25 paragraph applies—

1 “(i) such interest shall not be treated
2 as sold for purposes of subsection (a)(1),
3 but

4 “(ii) an amount equal to the present
5 value of the expatriate’s nonforfeitable ac-
6 crued benefit shall be treated as having
7 been received by such individual on such
8 date as a distribution under the plan.

9 “(B) TREATMENT OF SUBSEQUENT DIS-
10 TRIBUTIONS.—In the case of any distribution
11 on or after the expatriation date to or on behalf
12 of the covered expatriate from a plan from
13 which the expatriate was treated as receiving a
14 distribution under subparagraph (A), the
15 amount otherwise includible in gross income by
16 reason of the subsequent distribution shall be
17 reduced by the excess of the amount includible
18 in gross income under subparagraph (A) over
19 any portion of such amount to which this sub-
20 paragraph previously applied.

21 “(C) TREATMENT OF SUBSEQUENT DIS-
22 TRIBUTIONS BY PLAN.—For purposes of this
23 title, a retirement plan to which this paragraph
24 applies, and any person acting on the plan’s be-
25 half, shall treat any subsequent distribution de-

1 “(ii) commences to be treated as a
2 resident of a foreign country under the
3 provisions of a tax treaty between the
4 United States and the foreign country and
5 who does not waive the benefits of such
6 treaty applicable to residents of the foreign
7 country.

8 “(2) EXPATRIATION DATE.—The term ‘expa-
9 triation date’ means—

10 “(A) the date an individual relinquishes
11 United States citizenship, or

12 “(B) in the case of a long-term resident of
13 the United States, the date of the event de-
14 scribed in clause (i) or (ii) of paragraph (1)(B).

15 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
16 citizen shall be treated as relinquishing United
17 States citizenship on the earliest of—

18 “(A) the date the individual renounces
19 such individual’s United States nationality be-
20 fore a diplomatic or consular officer of the
21 United States pursuant to paragraph (5) of sec-
22 tion 349(a) of the Immigration and Nationality
23 Act (8 U.S.C. 1481(a)(5)),

24 “(B) the date the individual furnishes to
25 the United States Department of State a signed

1 statement of voluntary relinquishment of
2 United States nationality confirming the per-
3 formance of an act of expatriation specified in
4 paragraph (1), (2), (3), or (4) of section 349(a)
5 of the Immigration and Nationality Act (8
6 U.S.C. 1481(a)(1)–(4)),

7 “(C) the date the United States Depart-
8 ment of State issues to the individual a certifi-
9 cate of loss of nationality, or

10 “(D) the date a court of the United States
11 cancels a naturalized citizen’s certificate of nat-
12 uralization.

13 Subparagraph (A) or (B) shall not apply to any indi-
14 vidual unless the renunciation or voluntary relin-
15 quishment is subsequently approved by the issuance
16 to the individual of a certificate of loss of nationality
17 by the United States Department of State.

18 “(4) LONG-TERM RESIDENT.—The term ‘long-
19 term resident’ has the meaning given to such term
20 by section 877(e)(2).

21 “(f) SPECIAL RULES APPLICABLE TO BENE-
22 FICIARIES’ INTERESTS IN TRUST.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), if an individual is determined under para-

1 graph (3) to hold an interest in a trust on the day
2 before the expatriation date—

3 “(A) the individual shall not be treated as
4 having sold such interest,

5 “(B) such interest shall be treated as a
6 separate share in the trust, and

7 “(C)(i) such separate share shall be treat-
8 ed as a separate trust consisting of the assets
9 allocable to such share,

10 “(ii) the separate trust shall be treated as
11 having sold its assets on the day before the ex-
12 patriation date for their fair market value and
13 as having distributed all of its assets to the in-
14 dividual as of such time, and

15 “(iii) the individual shall be treated as hav-
16 ing recontributed the assets to the separate
17 trust.

18 Subsection (a)(2) shall apply to any income, gain, or
19 loss of the individual arising from a distribution de-
20 scribed in subparagraph (C)(ii). In determining the
21 amount of such distribution, proper adjustments
22 shall be made for liabilities of the trust allocable to
23 an individual’s share in the trust.

24 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
25 FIED TRUSTS.—

1 “(A) IN GENERAL.—If the trust interest
2 described in paragraph (1) is an interest in a
3 qualified trust—

4 “(i) paragraph (1) and subsection (a)
5 shall not apply, and

6 “(ii) in addition to any other tax im-
7 posed by this title, there is hereby imposed
8 on each distribution with respect to such
9 interest a tax in the amount determined
10 under subparagraph (B).

11 “(B) AMOUNT OF TAX.—The amount of
12 tax under subparagraph (A)(ii) shall be equal to
13 the lesser of—

14 “(i) the highest rate of tax imposed by
15 section 1(e) for the taxable year which in-
16 cludes the day before the expatriation date,
17 multiplied by the amount of the distribu-
18 tion, or

19 “(ii) the balance in the deferred tax
20 account immediately before the distribution
21 determined without regard to any increases
22 under subparagraph (C)(ii) after the 30th
23 day preceding the distribution.

24 “(C) DEFERRED TAX ACCOUNT.—For pur-
25 poses of subparagraph (B)(ii)—

1 “(i) OPENING BALANCE.—The open-
2 ing balance in a deferred tax account with
3 respect to any trust interest is an amount
4 equal to the tax which would have been im-
5 posed on the allocable expatriation gain
6 with respect to the trust interest if such
7 gain had been included in gross income
8 under subsection (a).

9 “(ii) INCREASE FOR INTEREST.—The
10 balance in the deferred tax account shall
11 be increased by the amount of interest de-
12 termined (on the balance in the account at
13 the time the interest accrues), for periods
14 after the 90th day after the expatriation
15 date, by using the rates and method appli-
16 cable under section 6621 for underpay-
17 ments of tax for such periods, except that
18 section 6621(a)(2) shall be applied by sub-
19 stituting ‘5 percentage points’ for ‘3 per-
20 centage points’ in subparagraph (B) there-
21 of.

22 “(iii) DECREASE FOR TAXES PRE-
23 VIOUSLY PAID.—The balance in the tax de-
24 ferred account shall be reduced—

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1 “(I) by the amount of taxes im-
2 posed by subparagraph (A) on any
3 distribution to the person holding the
4 trust interest, and

5 “(II) in the case of a person
6 holding a nonvested interest, to the
7 extent provided in regulations, by the
8 amount of taxes imposed by subpara-
9 graph (A) on distributions from the
10 trust with respect to nonvested inter-
11 ests not held by such person.

12 “(D) **ALLOCABLE EXPATRIATION GAIN.**—
13 For purposes of this paragraph, the allocable
14 expatriation gain with respect to any bene-
15 ficiary’s interest in a trust is the amount of
16 gain which would be allocable to such bene-
17 ficiary’s vested and nonvested interests in the
18 trust if the beneficiary held directly all assets
19 allocable to such interests.

20 “(E) **TAX DEDUCTED AND WITHHELD.**—

21 “(i) **IN GENERAL.**—The tax imposed
22 by subparagraph (A)(ii) shall be deducted
23 and withheld by the trustees from the dis-
24 tribution to which it relates.

202

1 “(ii) EXCEPTION WHERE FAILURE TO
2 WAIVE TREATY RIGHTS.—If an amount
3 may not be deducted and withheld under
4 clause (i) by reason of the distributee fail-
5 ing to waive any treaty right with respect
6 to such distribution—

7 “(I) the tax imposed by subpara-
8 graph (A)(ii) shall be imposed on the
9 trust and each trustee shall be person-
10 ally liable for the amount of such tax,
11 and

12 “(II) any other beneficiary of the
13 trust shall be entitled to recover from
14 the distributee the amount of such tax
15 imposed on the other beneficiary.

16 “(F) DISPOSITION.—If a trust ceases to be
17 a qualified trust at any time, a covered expa-
18 triate disposes of an interest in a qualified
19 trust, or a covered expatriate holding an inter-
20 est in a qualified trust dies, then, in lieu of the
21 tax imposed by subparagraph (A)(ii), there is
22 hereby imposed a tax equal to the lesser of—

23 “(i) the tax determined under para-
24 graph (1) as if the day before the expatria-
25 tion date were the date of such cessation,

1 disposition, or death, whichever is applica-
2 ble, or

3 “(ii) the balance in the tax deferred
4 account immediately before such date.

5 Such tax shall be imposed on the trust and
6 each trustee shall be personally liable for the
7 amount of such tax and any other beneficiary
8 of the trust shall be entitled to recover from the
9 covered expatriate or the estate the amount of
10 such tax imposed on the other beneficiary.

11 “(G) DEFINITIONS AND SPECIAL RULES.—
12 For purposes of this paragraph—

13 “(i) QUALIFIED TRUST.—The term
14 ‘qualified trust’ means a trust which is de-
15 scribed in section 7701(a)(30)(E).

16 “(ii) VESTED INTEREST.—The term
17 ‘vested interest’ means any interest which,
18 as of the day before the expatriation date,
19 is vested in the beneficiary.

20 “(iii) NONVESTED INTEREST.—The
21 term ‘nonvested interest’ means, with re-
22 spect to any beneficiary, any interest in a
23 trust which is not a vested interest. Such
24 interest shall be determined by assuming
25 the maximum exercise of discretion in

1 favor of the beneficiary and the occurrence
2 of all contingencies in favor of the bene-
3 ficiary.

4 “(iv) ADJUSTMENTS.—The Secretary
5 may provide for such adjustments to the
6 bases of assets in a trust or a deferred tax
7 account, and the timing of such adjust-
8 ments, in order to ensure that gain is
9 taxed only once.

10 “(v) COORDINATION WITH RETIRE-
11 MENT PLAN RULES.—This subsection shall
12 not apply to an interest in a trust which
13 is part of a retirement plan to which sub-
14 section (d)(2) applies.

15 “(3) DETERMINATION OF BENEFICIARIES’ IN-
16 TEREST IN TRUST.—

17 “(A) DETERMINATIONS UNDER PARA-
18 GRAPH (1).—For purposes of paragraph (1), a
19 beneficiary’s interest in a trust shall be based
20 upon all relevant facts and circumstances, in-
21 cluding the terms of the trust instrument and
22 any letter of wishes or similar document, histor-
23 ical patterns of trust distributions, and the ex-
24 istence of and functions performed by a trust
25 protector or any similar adviser.

1 “(B) OTHER DETERMINATIONS.—For pur-
2 poses of this section—

3 “(i) CONSTRUCTIVE OWNERSHIP.—If
4 a beneficiary of a trust is a corporation,
5 partnership, trust, or estate, the share-
6 holders, partners, or beneficiaries shall be
7 deemed to be the trust beneficiaries for
8 purposes of this section.

9 “(ii) TAXPAYER RETURN POSITION.—
10 A taxpayer shall clearly indicate on its in-
11 come tax return—

12 “(I) the methodology used to de-
13 termine that taxpayer’s trust interest
14 under this section, and

15 “(II) if the taxpayer knows (or
16 has reason to know) that any other
17 beneficiary of such trust is using a
18 different methodology to determine
19 such beneficiary’s trust interest under
20 this section.

21 “(g) TERMINATION OF DEFERRALS, ETC.—In the
22 case of any covered expatriate, notwithstanding any other
23 provision of this title—

1 “(1) any period during which recognition of in-
2 come or gain is deferred shall terminate on the day
3 before the expatriation date, and

4 “(2) any extension of time for payment of tax
5 shall cease to apply on the day before the expatria-
6 tion date and the unpaid portion of such tax shall
7 be due and payable at the time and in the manner
8 prescribed by the Secretary.

9 “(h) IMPOSITION OF TENTATIVE TAX.—

10 “(1) IN GENERAL.—If an individual is required
11 to include any amount in gross income under sub-
12 section (a) for any taxable year, there is hereby im-
13 posed, immediately before the expatriation date, a
14 tax in an amount equal to the amount of tax which
15 would be imposed if the taxable year were a short
16 taxable year ending on the expatriation date.

17 “(2) DUE DATE.—The due date for any tax im-
18 posed by paragraph (1) shall be the 90th day after
19 the expatriation date.

20 “(3) TREATMENT OF TAX.—Any tax paid under
21 paragraph (1) shall be treated as a payment of the
22 tax imposed by this chapter for the taxable year to
23 which subsection (a) applies.

24 “(4) DEFERRAL OF TAX.—The provisions of
25 subsection (b) shall apply to the tax imposed by this

1 subsection to the extent attributable to gain includ-
2 ible in gross income by reason of this section.

3 “(i) SPECIAL LIENS FOR DEFERRED TAX
4 AMOUNTS.—

5 “(1) IMPOSITION OF LIEN.—

6 “(A) IN GENERAL.—If a covered expatriate
7 makes an election under subsection (a)(4) or
8 (b) which results in the deferral of any tax im-
9 posed by reason of subsection (a), the deferred
10 amount (including any interest, additional
11 amount, addition to tax, assessable penalty, and
12 costs attributable to the deferred amount) shall
13 be a lien in favor of the United States on all
14 property of the expatriate located in the United
15 States (without regard to whether this section
16 applies to the property).

17 “(B) DEFERRED AMOUNT.—For purposes
18 of this subsection, the deferred amount is the
19 amount of the increase in the covered expatri-
20 ate’s income tax which, but for the election
21 under subsection (a)(4) or (b), would have oc-
22 curred by reason of this section for the taxable
23 year including the expatriation date.

1 “(2) PERIOD OF LIEN.—The lien imposed by
2 this subsection shall arise on the expatriation date
3 and continue until—

4 “(A) the liability for tax by reason of this
5 section is satisfied or has become unenforceable
6 by reason of lapse of time, or

7 “(B) it is established to the satisfaction of
8 the Secretary that no further tax liability may
9 arise by reason of this section.

10 “(3) CERTAIN RULES APPLY.—The rules set
11 forth in paragraphs (1), (3), and (4) of section
12 6324A(d) shall apply with respect to the lien im-
13 posed by this subsection as if it were a lien imposed
14 by section 6324A.

15 “(j) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate to
17 carry out the purposes of this section.”.

18 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
19 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
20 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
21 not included in gross income) is amended by adding at
22 the end the following new subsection:

23 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
24 PATRIATES.—

1 chapter 11 and shown on a timely filed re-
2 turn of tax imposed by chapter 11 of the
3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but
5 no such return would have been required to be
6 filed even if the covered expatriate were a cit-
7 izen or long-term resident of the United States.

8 “(3) DEFINITIONS.—For purposes of this sub-
9 section, any term used in this subsection which is
10 also used in section 877A shall have the same mean-
11 ing as when used in section 877A.”.

12 (c) DEFINITION OF TERMINATION OF UNITED
13 STATES CITIZENSHIP.—Section 7701(a) is amended by
14 adding at the end the following new paragraph:

15 “(50) TERMINATION OF UNITED STATES CITI-
16 ZENSHIP.—

17 “(A) IN GENERAL.—An individual shall
18 not cease to be treated as a United States cit-
19 izen before the date on which the individual’s
20 citizenship is treated as relinquished under sec-
21 tion 877A(e)(3).

22 “(B) DUAL CITIZENS.—Under regulations
23 prescribed by the Secretary, subparagraph (A)
24 shall not apply to an individual who became at

1 birth a citizen of the United States and a cit-
2 izen of another country.”.

3 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
4 UNITED STATES.—

5 (1) IN GENERAL.—Section 212(a)(10)(E) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1182(a)(10)(E)) is amended to read as follows:

8 “(E) FORMER CITIZENS NOT IN COMPLI-
9 ANCE WITH EXPATRIATION REVENUE PROVI-
10 SIONS.—Any alien who is a former citizen of
11 the United States who relinquishes United
12 States citizenship (within the meaning of sec-
13 tion 877A(e)(3) of the Internal Revenue Code
14 of 1986) and who is not in compliance with sec-
15 tion 877A of such Code (relating to expatria-
16 tion) is inadmissible.”.

17 (2) AVAILABILITY OF INFORMATION.—

18 (A) IN GENERAL.—Section 6103(l) (relat-
19 ing to disclosure of returns and return informa-
20 tion for purposes other than tax administration)
21 is amended by adding at the end the following
22 new paragraph:

23 “(21) DISCLOSURE TO DENY VISA OR ADMIS-
24 SION TO CERTAIN EXPATRIATES.—Upon written re-
25 quest of the Attorney General or the Attorney Gen-

1 eral’s delegate, the Secretary shall disclose whether
2 an individual is in compliance with section 877A
3 (and if not in compliance, any items of noncompli-
4 ance) to officers and employees of the Federal agen-
5 cy responsible for administering section
6 212(a)(10)(E) of the Immigration and Nationality
7 Act solely for the purpose of, and to the extent nec-
8 essary in, administering such section
9 212(a)(10)(E).”.

10 (B) SAFEGUARDS.—Section 6103(p)(4)
11 (relating to safeguards) is amended by striking
12 “or (20)” each place it appears and inserting
13 “(20), or (21)”.

14 (3) EFFECTIVE DATES.—The amendments
15 made by this subsection shall apply to individuals
16 who relinquish United States citizenship on or after
17 the date of the enactment of this Act.

18 (e) CONFORMING AMENDMENTS.—

19 (1) Section 877 is amended by adding at the
20 end the following new subsection:

21 “(h) APPLICATION.—This section shall not apply to
22 an expatriate (as defined in section 877A(e)) whose expa-
23 triation date (as so defined) occurs on or after the date
24 of the enactment of this subsection.”.

1 (2) Section 2107 is amended by adding at the
2 end the following new subsection:

3 “(f) APPLICATION.—This section shall not apply to
4 any expatriate subject to section 877A.”.

5 (3) Section 2501(a)(3) is amended by adding at
6 the end the following new subparagraph:

7 “(C) APPLICATION.—This paragraph shall
8 not apply to any expatriate subject to section
9 877A.”.

10 (4) Section 6039G(a) is amended by inserting
11 “or 877A” after “section 877(b)”.

12 (5) The second sentence of section 6039G(d) is
13 amended by inserting “or who relinquishes United
14 States citizenship (within the meaning of section
15 877A(e)(3))” after “section 877(a)”.

16 (6) Section 7701(n) is amended by adding at
17 the end the following new paragraph:

18 “(3) APPLICATION.—This subsection shall not
19 apply to any expatriate subject to section 877A.”.

20 (f) CLERICAL AMENDMENT.—The table of sections
21 for subpart A of part II of subchapter N of chapter 1
22 is amended by inserting after the item relating to section
23 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

24 (g) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in this
2 subsection, the amendments made by this section
3 shall apply to expatriates (within the meaning of
4 section 877A(e) of the Internal Revenue Code of
5 1986, as added by this section) whose expatriation
6 date (as so defined) occurs on or after the date of
7 the enactment of this Act.

8 (2) GIFTS AND BEQUESTS.—Section 102(d) of
9 the Internal Revenue Code of 1986 (as added by
10 subsection (b)) shall apply to gifts and bequests re-
11 ceived on or after the date of the enactment of this
12 Act, from an individual or the estate of an individual
13 whose expatriation date (as so defined) occurs after
14 such date.

15 (3) DUE DATE FOR TENTATIVE TAX.—The due
16 date under section 877A(h)(2) of the Internal Rev-
17 enue Code of 1986, as added by this section, shall
18 in no event occur before the 90th day after the date
19 of the enactment of this Act.

1 **Subtitle C—Secure Rural Schools**
2 **and Community Self-Determina-**
3 **tion Program**

4 **SEC. 901. SECURE RURAL SCHOOLS AND COMMUNITY SELF-**
5 **DETERMINATION PROGRAM.**

6 (a) REAUTHORIZATION OF THE SECURE RURAL
7 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT
8 OF 2000.—The Secure Rural Schools and Community
9 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-
10 lic Law 106–393) is amended by striking sections 1
11 through 403 and inserting the following:

12 **“SECTION 1. SHORT TITLE.**

13 “This Act may be cited as the ‘Secure Rural Schools
14 and Community Self-Determination Act of 2000’.

15 **“SEC. 2. PURPOSES.**

16 “The purposes of this Act are—

17 “(1) to stabilize and transition payments to
18 counties to provide funding for schools and roads
19 that supplements other available funds;

20 “(2) to make additional investments in, and
21 create additional employment opportunities through,
22 projects that—

23 “(A)(i) improve the maintenance of exist-
24 ing infrastructure;

1 “(ii) implement stewardship objectives that
2 enhance forest ecosystems; and
3 “(iii) restore and improve land health and
4 water quality;
5 “(B) enjoy broad-based support; and
6 “(C) have objectives that may include—
7 “(i) road, trail, and infrastructure
8 maintenance or obliteration;
9 “(ii) soil productivity improvement;
10 “(iii) improvements in forest eco-
11 system health;
12 “(iv) watershed restoration and main-
13 tenance;
14 “(v) the restoration, maintenance, and
15 improvement of wildlife and fish habitat;
16 “(vi) the control of noxious and exotic
17 weeds; and
18 “(vii) the reestablishment of native
19 species; and
20 “(3) to improve cooperative relationships
21 among—
22 “(A) the people that use and care for Fed-
23 eral land; and
24 “(B) the agencies that manage the Federal
25 land.

1 **“SEC. 3. DEFINITIONS.**

2 “In this Act:

3 “(1) ADJUSTED SHARE.—The term ‘adjusted
4 share’ means the number equal to the quotient ob-
5 tained by dividing—

6 “(A) the number equal to the quotient ob-
7 tained by dividing—

8 “(i) the base share for the eligible
9 county; by

10 “(ii) the income adjustment for the el-
11 igible county; by

12 “(B) the number equal to the sum of the
13 quotients obtained under subparagraph (A) and
14 paragraph (8)(A) for all eligible counties.

15 “(2) BASE SHARE.—The term ‘base share’
16 means the number equal to the average of—

17 “(A) the quotient obtained by dividing—

18 “(i) the number of acres of Federal
19 land described in paragraph (7)(A) in each
20 eligible county; by

21 “(ii) the total number acres of Fed-
22 eral land in all eligible counties in all eligi-
23 ble States; and

24 “(B) the quotient obtained by dividing—

25 “(i) the amount equal to the average
26 of the 3 highest 25-percent payments and

1 safety net payments made to each eligible
2 State for each eligible county during the
3 eligibility period; by

4 “(ii) the amount equal to the sum of
5 the amounts calculated under clause (i)
6 and paragraph (9)(B)(i) for all eligible
7 counties in all eligible States during the
8 eligibility period.

9 “(3) COUNTY PAYMENT.—The term ‘county
10 payment’ means the payment for an eligible county
11 calculated under section 101(b).

12 “(4) ELIGIBLE COUNTY.—The term ‘eligible
13 county’ means any county that—

14 “(A) contains Federal land (as defined in
15 paragraph (7)); and

16 “(B) elects to receive a share of the State
17 payment or the county payment under section
18 102(b).

19 “(5) ELIGIBILITY PERIOD.—The term ‘eligi-
20 bility period’ means fiscal year 1986 through fiscal
21 year 1999.

22 “(6) ELIGIBLE STATE.—The term ‘eligible
23 State’ means a State or territory of the United
24 States that received a 25-percent payment for 1 or
25 more fiscal years of the eligibility period.

1 “(7) FEDERAL LAND.—The term ‘Federal land’
2 means—

3 “(A) land within the National Forest Sys-
4 tem, as defined in section 11(a) of the Forest
5 and Rangeland Renewable Resources Planning
6 Act of 1974 (16 U.S.C. 1609(a)) exclusive of
7 the National Grasslands and land utilization
8 projects designated as National Grasslands ad-
9 ministered pursuant to the Act of July 22,
10 1937 (7 U.S.C. 1010–1012); and

11 “(B) such portions of the revested Oregon
12 and California Railroad and reconveyed Coos
13 Bay Wagon Road grant land as are or may
14 hereafter come under the jurisdiction of the De-
15 partment of the Interior, which have heretofore
16 or may hereafter be classified as timberlands,
17 and power-site land valuable for timber, that
18 shall be managed, except as provided in the
19 former section 3 of the Act of August 28, 1937
20 (50 Stat. 875; 43 U.S.C. 1181c), for permanent
21 forest production.

22 “(8) 50-PERCENT ADJUSTED SHARE.—The
23 term ‘50-percent adjusted share’ means the number
24 equal to the quotient obtained by dividing—

1 “(A) the number equal to the quotient ob-
2 tained by dividing—

3 “(i) the 50-percent base share for the
4 eligible county; by

5 “(ii) the income adjustment for the el-
6 igible county; by

7 “(B) the number equal to the sum of the
8 quotients obtained under subparagraph (A) and
9 paragraph (1)(A) for all eligible counties.

10 “(9) 50-PERCENT BASE SHARE.—The term ‘50-
11 percent base share’ means the number equal to the
12 average of—

13 “(A) the quotient obtained by dividing—

14 “(i) the number of acres of Federal
15 land described in paragraph (7)(B) in each
16 eligible county; by

17 “(ii) the total number acres of Fed-
18 eral land in all eligible counties in all eligi-
19 ble States; and

20 “(B) the quotient obtained by dividing—

21 “(i) the amount equal to the average
22 of the 3 highest 50-percent payments made
23 to each eligible county during the eligibility
24 period; by

1 “(ii) the amount equal to the sum of
2 the amounts calculated under clause (i)
3 and paragraph (2)(B)(i) for all eligible
4 counties in all eligible States during the
5 eligibility period.

6 “(10) 50-PERCENT PAYMENT.—The term ‘50-
7 percent payment’ means the payment that is the
8 sum of the 50-percent share otherwise paid to a
9 county pursuant to title II of the Act of August 28,
10 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),
11 and the payment made to a county pursuant to the
12 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43
13 U.S.C. 1181f–1 et seq.).

14 “(11) FULL FUNDING AMOUNT.—The term ‘full
15 funding amount’ means—

16 “(A) \$526,079,656 for fiscal year 2007;

17 “(B) \$520,000,000 for fiscal year 2008;

18 and

19 “(C) for fiscal year 2009 and each fiscal
20 year thereafter, the amount that is equal to 90
21 percent of the full funding amount for the pre-
22 ceding fiscal year.

23 “(12) INCOME ADJUSTMENT.—The term ‘in-
24 come adjustment’ means the square of the quotient
25 obtained by dividing—

1 “(A) the per capita personal income for
2 each eligible county; by

3 “(B) the median per capita personal in-
4 come of all eligible counties.

5 “(13) PER CAPITA PERSONAL INCOME.—The
6 term ‘per capita personal income’ means the most
7 recent per capita personal income data, as deter-
8 mined by the Bureau of Economic Analysis.

9 “(14) SAFETY NET PAYMENTS.—The term
10 ‘safety net payments’ means the special payment
11 amounts paid to States and counties required by
12 section 13982 or 13983 of the Omnibus Budget
13 Reconciliation Act of 1993 (Public Law 103–66; 16
14 U.S.C. 500 note; 43 U.S.C. 1181f note).

15 “(15) SECRETARY CONCERNED.—The term
16 ‘Secretary concerned’ means—

17 “(A) the Secretary of Agriculture or the
18 designee of the Secretary of Agriculture with
19 respect to the Federal land described in para-
20 graph (7)(A); and

21 “(B) the Secretary of the Interior or the
22 designee of the Secretary of the Interior with
23 respect to the Federal land described in para-
24 graph (7)(B).

1 “(16) STATE PAYMENT.—The term ‘State pay-
2 ment’ means the payment for an eligible State cal-
3 culated under section 101(a).

4 “(17) 25-PERCENT PAYMENT.—The term ‘25-
5 percent payment’ means the payment to States re-
6 quired by the sixth paragraph under the heading of
7 ‘**FOREST SERVICE**’ in the Act of May 23, 1908 (35
8 Stat. 260; 16 U.S.C. 500), and section 13 of the Act
9 of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

10 **“TITLE I—SECURE PAYMENTS**
11 **FOR STATES AND COUNTIES**
12 **CONTAINING FEDERAL LAND**

13 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
14 **FEDERAL LAND.**

15 “(a) STATE PAYMENT.—For each of fiscal years
16 2007 through 2011, the Secretary of Agriculture shall cal-
17 culate for each eligible State an amount equal to the sum
18 of the products obtained by multiplying—

19 “(1) the adjusted share for each eligible county
20 within the eligible State; by

21 “(2) the full funding amount for the fiscal year.

22 “(b) COUNTY PAYMENT.—For each of fiscal years
23 2007 through 2011, the Secretary of the Interior shall cal-
24 culate for each eligible county that received a 50-percent

1 payment during the eligibility period an amount equal to
2 the product obtained by multiplying—

3 “(1) the 50-percent adjusted share for the eligi-
4 ble county; by

5 “(2) the full funding amount for the fiscal year.

6 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

7 “(a) PAYMENT AMOUNTS.—Except as provided in
8 section 103, the Secretary of the Treasury shall pay to—

9 “(1) a State or territory of the United States
10 an amount equal to the sum of the amounts elected
11 under subsection (b) by each county within the State
12 or territory for—

13 “(A) if the county is eligible for the 25-
14 percent payment, the share of the 25-percent
15 payment; or

16 “(B) the share of the State payment of the
17 eligible county; and

18 “(2) a county an amount equal to the amount
19 elected under subsection (b) by each county for—

20 “(A) if the county is eligible for the 50-
21 percent payment, the 50-percent payment; or

22 “(B) the county payment for the eligible
23 county.

24 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

25 “(1) ELECTION; SUBMISSION OF RESULTS.—

1 “(A) IN GENERAL.—The election to receive
2 a share of the State payment, the county pay-
3 ment, a share of the State payment and the
4 county payment, a share of the 25-percent pay-
5 ment, the 50-percent payment, or a share of the
6 25-percent payment and the 50-percent pay-
7 ment, as applicable, shall be made at the discre-
8 tion of each affected county by August 1, 2007,
9 and August 1 of each second fiscal year there-
10 after, in accordance with paragraph (2), and
11 transmitted to the Secretary concerned by the
12 Governor of each eligible State.

13 “(B) FAILURE TO TRANSMIT.—If an elec-
14 tion for an affected county is not transmitted to
15 the Secretary concerned by the date specified
16 under subparagraph (A), the affected county
17 shall be considered to have elected to receive a
18 share of the State payment, the county pay-
19 ment, or a share of the State payment and the
20 county payment, as applicable.

21 “(2) DURATION OF ELECTION.—

22 “(A) IN GENERAL.—A county election to
23 receive a share of the 25-percent payment or
24 50-percent payment, as applicable shall be ef-
25 fective for 2 fiscal years.

1 “(B) FULL FUNDING AMOUNT.—If a coun-
2 ty elects to receive a share of the State payment
3 or the county payment, the election shall be ef-
4 fective for all subsequent fiscal years through
5 fiscal year 2011.

6 “(3) SOURCE OF PAYMENT AMOUNTS.—The
7 payment to an eligible State or eligible county under
8 this section for a fiscal year shall be derived from—

9 “(A) any revenues, fees, penalties, or mis-
10 cellaneous receipts, exclusive of deposits to any
11 relevant trust fund, special account, or perma-
12 nent operating funds, received by the Federal
13 Government from activities by the Bureau of
14 Land Management or the Forest Service on the
15 applicable Federal land;

16 “(B) for fiscal year 2007, any funds ap-
17 propriated to carry out this Act; and

18 “(C) to the extent of any shortfall, out of
19 any amounts in the Treasury of the United
20 States not otherwise appropriated.

21 “(c) DISTRIBUTION AND EXPENDITURE OF PAY-
22 MENTS.—

23 “(1) DISTRIBUTION METHOD.—A State that re-
24 ceives a payment under subsection (a) for Federal
25 land described in section 3(7)(A) shall distribute the

1 appropriate payment amount among the appropriate
2 counties in the State in accordance with—

3 “(A) the Act of May 23, 1908 (16 U.S.C.
4 500); and

5 “(B) section 13 of the Act of March 1,
6 1911 (36 Stat. 963; 16 U.S.C. 500).

7 “(2) EXPENDITURE PURPOSES.—Subject to
8 subsection (d), payments received by a State under
9 subsection (a) and distributed to counties in accord-
10 ance with paragraph (1) shall be expended as re-
11 quired by the laws referred to in paragraph (1).

12 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-
13 TIES.—

14 “(1) ALLOCATIONS.—

15 “(A) USE OF PORTION IN SAME MANNER
16 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-
17 MENT, AS APPLICABLE.—Except as provided in
18 paragraph (3)(B), if an eligible county elects to
19 receive its share of the State payment or the
20 county payment, not less than 80 percent, but
21 not more than 85 percent, of the funds shall be
22 expended in the same manner in which the 25-
23 percent payments or 50-percent payment, as
24 applicable, are required to be expended.

1 “(B) ELECTION AS TO USE OF BAL-
2 ANCE.—Except as provided in subparagraph
3 (C), an eligible county shall elect to do 1 or
4 more of the following with the balance of any
5 funds not expended pursuant to subparagraph
6 (A):

7 “(i) Reserve any portion of the bal-
8 ance for projects in accordance with title
9 II.

10 “(ii) Reserve not more than 7 percent
11 of the total share for the eligible county of
12 the State payment or the county payment
13 for projects in accordance with title III.

14 “(iii) Return the portion of the bal-
15 ance not reserved under clauses (i) and (ii)
16 to the Treasury of the United States.

17 “(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to
18 which more than \$100,000, but less than
19 \$350,000, is distributed for any fiscal year pur-
20 suant to either or both of paragraphs (1)(B)
21 and (2)(B) of subsection (a), the eligible coun-
22 ty, with respect to the balance of any funds not
23 expended pursuant to subparagraph (A) for
24 that fiscal year, shall—
25

1 “(i) reserve any portion of the balance
2 for—

3 “(I) carrying out projects under
4 title II;

5 “(II) carrying out projects under
6 title III; or

7 “(III) a combination of the pur-
8 poses described in subclauses (I) and
9 (II); or

10 “(ii) return the portion of the balance
11 not reserved under clause (i) to the Treas-
12 ury of the United States.

13 “(2) DISTRIBUTION OF FUNDS.—

14 “(A) IN GENERAL.—Funds reserved by an
15 eligible county under subparagraph (B)(i) or
16 (C)(i) of paragraph (1) for carrying out
17 projects under title II shall be deposited in a
18 special account in the Treasury of the United
19 States.

20 “(B) AVAILABILITY.—Amounts deposited
21 under subparagraph (A) shall—

22 “(i) be available for expenditure by
23 the Secretary concerned, without further
24 appropriation; and

1 “(ii) remain available until expended
2 in accordance with title II.

3 “(3) ELECTION.—

4 “(A) NOTIFICATION.—

5 “(i) IN GENERAL.—An eligible county
6 shall notify the Secretary concerned of an
7 election by the eligible county under this
8 subsection not later than September 30 of
9 each fiscal year.

10 “(ii) FAILURE TO ELECT.—Except as
11 provided in subparagraph (B), if the eligi-
12 ble county fails to make an election by the
13 date specified in clause (i), the eligible
14 county shall—

15 “(I) be considered to have elected
16 to expend 85 percent of the funds in
17 accordance with paragraph (1)(A);
18 and

19 “(II) return the balance to the
20 Treasury of the United States.

21 “(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to
22 which less than \$100,000 is distributed for any
23 fiscal year pursuant to either or both of para-
24 graphs (1)(B) and (2)(B) of subsection (a), the
25

1 eligible county may elect to expend all the funds
2 in the same manner in which the 25-percent
3 payments or 50-percent payments, as applica-
4 ble, are required to be expended.

5 “(e) TIME FOR PAYMENT.—The payments required
6 under this section for a fiscal year shall be made as soon
7 as practicable after the end of that fiscal year.

8 **“SEC. 103. TRANSITION PAYMENTS TO THE STATES OF**
9 **CALIFORNIA, OREGON, AND WASHINGTON.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) ADJUSTED AMOUNT.—The term ‘adjusted
12 amount’ means, with respect to a covered State—

13 “(A) for fiscal year 2007—

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 2007; 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 2007;

3 “(B) for fiscal year 2008, 90 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 2008; 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 2008;

18 “(C) for fiscal year 2009, 81 percent of—

19 “(i) the sum of the amounts paid for
20 fiscal year 2006 under section 102(a)(2)
21 (as in effect on September 29, 2006) for
22 the eligible counties in the covered State
23 that have elected under section 102(b) to
24 receive a share of the State payment for
25 fiscal year 2009; and

1 “(ii) the sum of the amounts paid for
2 fiscal year 2006 under section 103(a)(2)
3 (as in effect on September 29, 2006) for
4 the eligible counties in the State of Oregon
5 that have elected under section 102(b) to
6 receive the county payment for fiscal year
7 2009; and

8 “(D) for fiscal year 2010, 73 percent of—

9 “(i) the sum of the amounts paid for
10 fiscal year 2006 under section 102(a)(2)
11 (as in effect on September 29, 2006) for
12 the eligible counties in the covered State
13 that have elected under section 102(b) to
14 receive a share of the State payment for
15 fiscal year 2010; and

16 “(ii) the sum of the amounts paid for
17 fiscal year 2006 under section 103(a)(2)
18 (as in effect on September 29, 2006) for
19 the eligible counties in the State of Oregon
20 that have elected under section 102(b) to
21 receive the county payment for fiscal year
22 2010.

23 “(2) COVERED STATE.—The term ‘covered
24 State’ means each of the States of California, Or-
25 egon, and Washington.

1 “(b) TRANSITION PAYMENTS.—For each of fiscal
2 years 2007 through 2010, in lieu of the payment amounts
3 that otherwise would have been made under paragraphs
4 (1)(B) and (2)(B) of section 102(a), the Secretary of the
5 Treasury shall pay the adjusted amount to each covered
6 State and the eligible counties within the covered State,
7 as applicable.

8 “(c) DISTRIBUTION OF ADJUSTED AMOUNT IN OR-
9 EGON AND WASHINGTON.—It is the intent of Congress
10 that the method of distributing the payments under sub-
11 section (b) among the counties in the States of Oregon
12 and Washington for each of fiscal years 2007 through
13 2010 be in the same proportion that the payments were
14 distributed to the eligible counties in fiscal year 2006.

15 “(d) DISTRIBUTION OF PAYMENTS IN CALI-
16 FORNIA.—The following payments shall be distributed
17 among the eligible counties in the State of California in
18 the same proportion that payments under section
19 102(a)(2) (as in effect on September 29, 2006) were dis-
20 tributed to the eligible counties for fiscal year 2006:

21 “(1) Payments to the State of California under
22 subsection (b).

23 “(2) The shares of the eligible counties of the
24 State payment for California under section 102 for
25 fiscal year 2011.

1 “(e) TREATMENT OF PAYMENTS.—For purposes of
2 this Act, any payment made under subsection (b) shall be
3 considered to be a payment made under section 102(a).

4 **“TITLE II—SPECIAL PROJECTS**
5 **ON FEDERAL LAND**

6 **“SEC. 201. DEFINITIONS.**

7 “In this title:

8 “(1) PARTICIPATING COUNTY.—The term ‘par-
9 ticipating county’ means an eligible county that
10 elects under section 102(d) to expend a portion of
11 the Federal funds received under section 102 in ac-
12 cordance with this title.

13 “(2) PROJECT FUNDS.—The term ‘project
14 funds’ means all funds an eligible county elects
15 under section 102(d) to reserve for expenditure in
16 accordance with this title.

17 “(3) RESOURCE ADVISORY COMMITTEE.—The
18 term ‘resource advisory committee’ means—

19 “(A) an advisory committee established by
20 the Secretary concerned under section 205; or

21 “(B) an advisory committee determined by
22 the Secretary concerned to meet the require-
23 ments of section 205.

24 “(4) RESOURCE MANAGEMENT PLAN.—The
25 term ‘resource management plan’ means—

1 “(A) a land use plan prepared by the Bu-
2 reau of Land Management for units of the Fed-
3 eral land described in section 3(7)(B) pursuant
4 to section 202 of the Federal Land Policy and
5 Management Act of 1976 (43 U.S.C. 1712); or

6 “(B) a land and resource management
7 plan prepared by the Forest Service for units of
8 the National Forest System pursuant to section
9 6 of the Forest and Rangeland Renewable Re-
10 sources Planning Act of 1974 (16 U.S.C.
11 1604).

12 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**
13 **FUNDS.**

14 “(a) **LIMITATION.**—Project funds shall be expended
15 solely on projects that meet the requirements of this title.

16 “(b) **AUTHORIZED USES.**—Project funds may be
17 used by the Secretary concerned for the purpose of enter-
18 ing into and implementing cooperative agreements with
19 willing Federal agencies, State and local governments, pri-
20 vate and nonprofit entities, and landowners for protection,
21 restoration, and enhancement of fish and wildlife habitat,
22 and other resource objectives consistent with the purposes
23 of this Act on Federal land and on non-Federal land where
24 projects would benefit the resources on Federal land.

1 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

2 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-
3 RETARY CONCERNED.—

4 “(1) PROJECTS FUNDED USING PROJECT
5 FUNDS.—Not later than September 30 for fiscal
6 year 2007, and each September 30 thereafter for
7 each succeeding fiscal year through fiscal year 2011,
8 each resource advisory committee shall submit to the
9 Secretary concerned a description of any projects
10 that the resource advisory committee proposes the
11 Secretary undertake using any project funds re-
12 served by eligible counties in the area in which the
13 resource advisory committee has geographic jurisdic-
14 tion.

15 “(2) PROJECTS FUNDED USING OTHER
16 FUNDS.—A resource advisory committee may submit
17 to the Secretary concerned a description of any
18 projects that the committee proposes the Secretary
19 undertake using funds from State or local govern-
20 ments, or from the private sector, other than project
21 funds and funds appropriated and otherwise avail-
22 able to do similar work.

23 “(3) JOINT PROJECTS.—Participating counties
24 or other persons may propose to pool project funds
25 or other funds, described in paragraph (2), and
26 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 2007, 25 percent.

23 “(ii) For fiscal year 2008, 35 percent.

24 “(iii) For fiscal year 2009, 45 per-
25 cent.

1 “(iv) For each of fiscal years 2010
2 and 2011, 50 percent.

3 “(C) INCLUSION IN PILOT PROGRAM.—The
4 decision whether to use separate contracts to
5 implement a project involving the sale of mer-
6 chantable timber shall be made by the Sec-
7 retary concerned after the approval of the
8 project under this title.

9 “(D) ASSISTANCE.—

10 “(i) IN GENERAL.—The Secretary
11 concerned may use funds from any appro-
12 priated account available to the Secretary
13 for the Federal land to assist in the ad-
14 ministration of projects conducted under
15 the pilot program.

16 “(ii) MAXIMUM AMOUNT OF ASSIST-
17 ANCE.—The total amount obligated under
18 this subparagraph may not exceed
19 \$1,000,000 for any fiscal year during
20 which the pilot program is in effect.

21 “(E) REVIEW AND REPORT.—

22 “(i) INITIAL REPORT.—Not later than
23 September 30, 2009, the Comptroller Gen-
24 eral shall submit to the Committees on Ag-
25 riculture, Nutrition, and Forestry and En-

1 ergy and Natural Resources of the Senate
2 and the Committees on Agriculture and
3 Natural Resources of the House of Rep-
4 resentatives a report assessing the pilot
5 program.

6 “(ii) ANNUAL REPORT.—The Sec-
7 retary concerned shall submit to the Com-
8 mittees on Agriculture, Nutrition, and For-
9 estry and Energy and Natural Resources
10 of the Senate and the Committees on Agri-
11 culture and Natural Resources of the
12 House of Representatives an annual report
13 describing the results of the pilot program.

14 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The
15 Secretary shall ensure that at least 50 percent of all
16 project funds be used for projects that are primarily dedi-
17 cated—

18 “(1) to road maintenance, decommissioning, or
19 obliteration; or

20 “(2) to restoration of streams and watersheds.

21 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

22 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE
23 ADVISORY COMMITTEES.—

24 “(1) ESTABLISHMENT.—The Secretary con-
25 cerned shall establish and maintain resource advi-

1 sory committees to perform the duties in subsection
2 (b), except as provided in paragraph (4).

3 “(2) PURPOSE.—The purpose of a resource ad-
4 visory committee shall be—

5 “(A) to improve collaborative relationships;
6 and

7 “(B) to provide advice and recommenda-
8 tions to the land management agencies con-
9 sistent with the purposes of this title.

10 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-
11 TEES.—To ensure that each unit of Federal land
12 has access to a resource advisory committee, and
13 that there is sufficient interest in participation on a
14 committee to ensure that membership can be bal-
15 anced in terms of the points of view represented and
16 the functions to be performed, the Secretary con-
17 cerned may, establish resource advisory committees
18 for part of, or 1 or more, units of Federal land.

19 “(4) EXISTING ADVISORY COMMITTEES.—

20 “(A) IN GENERAL.—An advisory com-
21 mittee that meets the requirements of this sec-
22 tion, a resource advisory committee established
23 before September 29, 2006, or an advisory com-
24 mittee determined by the Secretary concerned
25 before September 29, 2006, to meet the re-

1 quirements of this section may be deemed by
2 the Secretary concerned to be a resource advi-
3 sory committee for the purposes of this title.

4 “(B) CHARTER.—A charter for a com-
5 mittee described in subparagraph (A) that was
6 filed on or before September 29, 2006, shall be
7 considered to be filed for purposes of this Act.

8 “(C) BUREAU OF LAND MANAGEMENT AD-
9 VISORY COMMITTEES.—The Secretary of the In-
10 terior may deem a resource advisory committee
11 meeting the requirements of subpart 1784 of
12 part 1780 of title 43, Code of Federal Regula-
13 tions, as a resource advisory committee for the
14 purposes of this title.

15 “(b) DUTIES.—A resource advisory committee
16 shall—

17 “(1) review projects proposed under this title by
18 participating counties and other persons;

19 “(2) propose projects and funding to the Sec-
20 retary concerned under section 203;

21 “(3) provide early and continuous coordination
22 with appropriate land management agency officials
23 in recommending projects consistent with purposes
24 of this Act under this title;

1 “(4) provide frequent opportunities for citizens,
2 organizations, tribes, land management agencies,
3 and other interested parties to participate openly
4 and meaningfully, beginning at the early stages of
5 the project development process under this title;

6 “(5)(A) monitor projects that have been ap-
7 proved under section 204; and

8 “(B) advise the designated Federal official on
9 the progress of the monitoring efforts under sub-
10 paragraph (A); and

11 “(6) make recommendations to the Secretary
12 concerned for any appropriate changes or adjust-
13 ments to the projects being monitored by the re-
14 source advisory committee.

15 “(c) APPOINTMENT BY THE SECRETARY.—

16 “(1) APPOINTMENT AND TERM.—

17 “(A) IN GENERAL.—The Secretary con-
18 cerned, shall appoint the members of resource
19 advisory committees for a term of 4 years be-
20 ginning on the date of appointment.

21 “(B) REAPPOINTMENT.—The Secretary
22 concerned may reappoint members to subse-
23 quent 4-year terms.

24 “(2) BASIC REQUIREMENTS.—The Secretary
25 concerned shall ensure that each resource advisory

1 committee established meets the requirements of
2 subsection (d).

3 “(3) INITIAL APPOINTMENT.—Not later than
4 180 days after the date of the enactment of this Act,
5 the Secretary concerned shall make initial appoint-
6 ments to the resource advisory committees.

7 “(4) VACANCIES.—The Secretary concerned
8 shall make appointments to fill vacancies on any re-
9 source advisory committee as soon as practicable
10 after the vacancy has occurred.

11 “(5) COMPENSATION.—Members of the re-
12 source advisory committees shall not receive any
13 compensation.

14 “(d) COMPOSITION OF ADVISORY COMMITTEE.—

15 “(1) NUMBER.—Each resource advisory com-
16 mittee shall be comprised of 15 members.

17 “(2) COMMUNITY INTERESTS REPRESENTED.—
18 Committee members shall be representative of the
19 interests of the following 3 categories:

20 “(A) 5 persons that—

21 “(i) represent organized labor or non-
22 timber forest product harvester groups;

23 “(ii) represent developed outdoor
24 recreation, off highway vehicle users, or
25 commercial recreation activities;

- 1 “(iii) represent—
- 2 “(I) energy and mineral develop-
- 3 ment interests; or
- 4 “(II) commercial or recreational
- 5 fishing interests;
- 6 “(iv) represent the commercial timber
- 7 industry; or
- 8 “(v) hold Federal grazing or other
- 9 land use permits, or represent nonindus-
- 10 trial private forest land owners, within the
- 11 area for which the committee is organized.
- 12 “(B) 5 persons that represent—
- 13 “(i) nationally recognized environ-
- 14 mental organizations;
- 15 “(ii) regionally or locally recognized
- 16 environmental organizations;
- 17 “(iii) dispersed recreational activities;
- 18 “(iv) archaeological and historical in-
- 19 terests; or
- 20 “(v) nationally or regionally recog-
- 21 nized wild horse and burro interest groups,
- 22 wildlife or hunting organizations, or water-
- 23 shed associations.
- 24 “(C) 5 persons that—

1 “(i) hold State elected office (or a
2 designee);

3 “(ii) hold county or local elected of-
4 fice;

5 “(iii) represent American Indian
6 tribes within or adjacent to the area for
7 which the committee is organized;

8 “(iv) are school officials or teachers;
9 or

10 “(v) represent the affected public at
11 large.

12 “(3) BALANCED REPRESENTATION.—In ap-
13 pointing committee members from the 3 categories
14 in paragraph (2), the Secretary concerned shall pro-
15 vide for balanced and broad representation from
16 within each category.

17 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
18 bers of a resource advisory committee shall reside
19 within the State in which the committee has juris-
20 diction and, to extent practicable, the Secretary con-
21 cerned shall ensure local representation in each cat-
22 egory in paragraph (2).

23 “(5) CHAIRPERSON.—A majority on each re-
24 source advisory committee shall select the chair-
25 person of the committee.

1 “(e) APPROVAL PROCEDURES.—

2 “(1) IN GENERAL.—Subject to paragraph (3),
3 each resource advisory committee shall establish pro-
4 cedures for proposing projects to the Secretary con-
5 cerned under this title.

6 “(2) QUORUM.—A quorum must be present to
7 constitute an official meeting of the committee.

8 “(3) APPROVAL BY MAJORITY OF MEMBERS.—
9 A project may be proposed by a resource advisory
10 committee to the Secretary concerned under section
11 203(a), if the project has been approved by a major-
12 ity of members of the committee from each of the
13 3 categories in subsection (d)(2).

14 “(f) OTHER COMMITTEE AUTHORITIES AND RE-
15 QUIREMENTS.—

16 “(1) STAFF ASSISTANCE.—A resource advisory
17 committee may submit to the Secretary concerned a
18 request for periodic staff assistance from Federal
19 employees under the jurisdiction of the Secretary.

20 “(2) MEETINGS.—All meetings of a resource
21 advisory committee shall be announced at least 1
22 week in advance in a local newspaper of record and
23 shall be open to the public.

24 “(3) RECORDS.—A resource advisory committee
25 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 of each fiscal year
7 through fiscal year 2011, a resource advisory committee
8 shall submit to the Secretary concerned pursuant to sec-
9 tion 203(a)(1) a sufficient number of project proposals
10 that, if approved, would result in the obligation of at least
11 the full amount of the project funds reserved by the par-
12 ticipating county in the preceding fiscal year.

13 “(b) USE OR TRANSFER OF UNOBLIGATED
14 FUNDS.—Subject to section 208, if a resource advisory
15 committee fails to comply with subsection (a) for a fiscal
16 year, any project funds reserved by the participating coun-
17 ty in the preceding fiscal year and remaining unobligated
18 shall be available for use as part of the project submissions
19 in the next fiscal year.

20 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject
21 to section 208, any project funds reserved by a partici-
22 pating county in the preceding fiscal year that are unobli-
23 gated at the end of a fiscal year because the Secretary
24 concerned has rejected one or more proposed projects shall

1 be available for use as part of the project submissions in
2 the next fiscal year.

3 “(d) EFFECT OF COURT ORDERS.—

4 “(1) IN GENERAL.—If an approved project
5 under this Act is enjoined or prohibited by a Federal
6 court, the Secretary concerned shall return the un-
7 obligated project funds related to the project to the
8 participating county or counties that reserved the
9 funds.

10 “(2) EXPENDITURE OF FUNDS.—The returned
11 funds shall be available for the county to expend in
12 the same manner as the funds reserved by the coun-
13 ty under subparagraph (B) or (C)(i) of section
14 102(d)(1).

15 **“SEC. 208. TERMINATION OF AUTHORITY.**

16 “(a) IN GENERAL.—The authority to initiate projects
17 under this title shall terminate on September 30, 2011.

18 “(b) DEPOSITS IN TREASURY.—Any project funds
19 not obligated by September 30, 2012, shall be deposited
20 in the Treasury of the United States.

21 **“TITLE III—COUNTY FUNDS**

22 **“SEC. 301. DEFINITIONS.**

23 “In this title:

24 “(1) COUNTY FUNDS.—The term ‘county funds’
25 means all funds an eligible county elects under sec-

1 tion 102(d) to reserve for expenditure in accordance
2 with this title.

3 “(2) PARTICIPATING COUNTY.—The term ‘par-
4 ticipating county’ means an eligible county that
5 elects under section 102(d) to expend a portion of
6 the Federal funds received under section 102 in ac-
7 cordance with this title.

8 **“SEC. 302. USE.**

9 “(a) AUTHORIZED USES.—A participating county,
10 including any applicable agencies of the participating
11 county, shall use county funds, in accordance with this
12 title, only—

13 “(1) to carry out activities under the Firewise
14 Communities program to provide to homeowners in
15 fire-sensitive ecosystems education on, and assist-
16 ance with implementing, techniques in home siting,
17 home construction, and home landscaping that can
18 increase the protection of people and property from
19 wildfires;

20 “(2) to reimburse the participating county for
21 search and rescue and other emergency services, in-
22 cluding firefighting, that are—

23 “(A) performed on Federal land after the
24 date on which the use was approved under sub-
25 section (b);

1 “(B) paid for by the participating county;

2 and

3 “(3) to develop community wildfire protection
4 plans in coordination with the appropriate Secretary
5 concerned.

6 “(b) PROPOSALS.—A participating county shall use
7 county funds for a use described in subsection (a) only
8 after a 45-day public comment period, at the beginning
9 of which the participating county shall—

10 “(1) publish in any publications of local record
11 a proposal that describes the proposed use of the
12 county funds; and

13 “(2) submit the proposal to any resource advi-
14 sory committee established under section 205 for the
15 participating county.

16 **“SEC. 303. CERTIFICATION.**

17 “(a) IN GENERAL.—Not later than February 1 of the
18 year after the year in which any county funds were ex-
19 pended by a participating county, the appropriate official
20 of the participating county shall submit to the Secretary
21 concerned a certification that the county funds expended
22 in the applicable year have been used for the uses author-
23 ized under section 302(a), including a description of the
24 amounts expended and the uses for which the amounts
25 were expended.

1 “(b) REVIEW.—The Secretary concerned shall review
2 the certifications submitted under subsection (a) as the
3 Secretary concerned determines to be appropriate.

4 **“SEC. 304. TERMINATION OF AUTHORITY.**

5 “(a) IN GENERAL.—The authority to initiate projects
6 under this title terminates on September 30, 2011.

7 “(b) AVAILABILITY.—Any county funds not obligated
8 by September 30, 2012, shall be returned to the Treasury
9 of the United States.

10 **“TITLE IV—MISCELLANEOUS**
11 **PROVISIONS**

12 **“SEC. 401. REGULATIONS.**

13 “The Secretary of Agriculture and the Secretary of
14 the Interior shall issue regulations to carry out the pur-
15 poses of this Act.

16 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are authorized to be appropriated such sums
18 as are necessary to carry out this Act for each of fiscal
19 years 2007 through 2011.

20 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

21 “(a) RELATION TO OTHER APPROPRIATIONS.—
22 Funds made available under section 402 and funds made
23 available to a Secretary concerned under section 206 shall
24 be in addition to any other annual appropriations for the
25 Forest Service and the Bureau of Land Management.

1 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—
2 All revenues generated from projects pursuant to title II,
3 including any interest accrued from the revenues, shall be
4 deposited in the Treasury of the United States.”.

5 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE
6 STATES AND COUNTIES.—

7 (1) ACT OF MAY 23, 1908.—The sixth paragraph
8 under the heading “**FOREST SERVICE**” in the Act
9 of May 23, 1908 (16 U.S.C. 500) is amended in the
10 first sentence by striking “twenty-five percentum”
11 and all that follows through “shall be paid” and in-
12 serting the following: “an amount equal to the an-
13 nual average of 25 percent of all amounts received
14 for the applicable fiscal year and each of the pre-
15 ceding 6 fiscal years from each national forest shall
16 be paid”.

17 (2) WEEKS LAW.—Section 13 of the Act of
18 March 1, 1911 (commonly known as the “Weeks
19 Law”) (16 U.S.C. 500) is amended in the first sen-
20 tence by striking “twenty-five percentum” and all
21 that follows through “shall be paid” and inserting
22 the following: “an amount equal to the annual aver-
23 age of 25 percent of all amounts received for the ap-
24 plicable fiscal year and each of the preceding 6 fiscal
25 years from each national forest shall be paid”.

1 (c) PAYMENTS IN LIEU OF TAXES.—

2 (1) IN GENERAL.—Section 6906 of title 31,
3 United States Code, is amended to read as follows:

4 **“§ 6906. Funding**

5 “For each of fiscal years 2008 through 2012—

6 “(1) each county or other eligible unit of local
7 government shall be entitled to payment under this
8 chapter; and

9 “(2) sums shall be made available to the Sec-
10 retary of the Interior for obligation or expenditure in
11 accordance with this chapter.”.

12 (2) CONFORMING AMENDMENT.—The table of
13 sections for chapter 69 of title 31, United States
14 Code, is amended by striking the item relating to
15 section 6906 and inserting the following:

“6906. Funding.”.

16 (3) BUDGET SCOREKEEPING.—

17 (A) IN GENERAL.—Notwithstanding the
18 Budget Scorekeeping Guidelines and the accom-
19 panying list of programs and accounts set forth
20 in the joint explanatory statement of the com-
21 mittee of conference accompanying Conference
22 Report 105–217, the amendment made by para-
23 graph (1) shall be treated in the baseline for
24 purposes of section 257 of the Balanced Budget
25 and Emergency Deficit Control Act of 1985 (2

1 U.S.C. 907) (as in effect before September 30,
2 2002), by the Chairpersons of the Committee
3 on the Budget of the House of Representatives
4 and the Committee on the Budget of the Sen-
5 ate, as appropriate, for purposes of budget en-
6 forcement in the House of Representatives and
7 the Senate, and under the Congressional Budg-
8 et Act of 1974 (2 U.S.C. 601 et seq.) as if Pay-
9 ment in Lieu of Taxes (14-1114-0-1-806) were
10 an account designated as Appropriated Entitle-
11 ments and Mandatories for Fiscal Year 1997 in
12 the joint explanatory statement of the com-
13 mittee of conference accompanying Conference
14 Report 105-217.

15 (B) EFFECTIVE DATE.—This paragraph
16 shall—

17 (i) be effective beginning on the date
18 of enactment of this Act; and

19 (ii) remain in effect for any fiscal year
20 for which the entitlement in section 6906
21 of title 31, United States Code (as amend-
22 ed by paragraph (1)), applies.