

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.**

**H. R. 1424**

To amend section 712 of the Employee Retirement Income Security Act of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, 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 IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

1           **DIVISION A—EMERGENCY**  
 2           **ECONOMIC STABILIZATION**

3   **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4           (a) **SHORT TITLE.**—This division may be cited as the  
 5 “Emergency Economic Stabilization Act of 2008”.

6           (b) **TABLE OF CONTENTS.**—The table of contents for  
 7 this division is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

- Sec. 101. Purchases of troubled assets.
- Sec. 102. Insurance of troubled assets.
- Sec. 103. Considerations.
- Sec. 104. Financial Stability Oversight Board.
- Sec. 105. Reports.
- Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.
- Sec. 107. Contracting procedures.
- Sec. 108. Conflicts of interest.
- Sec. 109. Foreclosure mitigation efforts.
- Sec. 110. Assistance to homeowners.
- Sec. 111. Executive compensation and corporate governance.
- Sec. 112. Coordination with foreign authorities and central banks.
- Sec. 113. Minimization of long-term costs and maximization of benefits for taxpayers.
- Sec. 114. Market transparency.
- Sec. 115. Graduated authorization to purchase.
- Sec. 116. Oversight and audits.
- Sec. 117. Study and report on margin authority.
- Sec. 118. Funding.
- Sec. 119. Judicial review and related matters.
- Sec. 120. Termination of authority.
- Sec. 121. Special Inspector General for the Troubled Asset Relief Program.
- Sec. 122. Increase in statutory limit on the public debt.
- Sec. 123. Credit reform.
- Sec. 124. HOPE for Homeowners amendments.
- Sec. 125. Congressional Oversight Panel.
- Sec. 126. FDIC authority.
- Sec. 127. Cooperation with the FBI.
- Sec. 128. Acceleration of effective date.
- Sec. 129. Disclosures on exercise of loan authority.
- Sec. 130. Technical corrections.
- Sec. 131. Exchange Stabilization Fund reimbursement.
- Sec. 132. Authority to suspend mark-to-market accounting.

- Sec. 133. Study on mark-to-market accounting.
- Sec. 134. Recoupment.
- Sec. 135. Preservation of authority.
- Sec. 136. Temporary increase in deposit and share insurance coverage.

#### TITLE II—BUDGET-RELATED PROVISIONS

- Sec. 201. Information for congressional support agencies.
- Sec. 202. Reports by the Office of Management and Budget and the Congressional Budget Office.
- Sec. 203. Analysis in President's Budget.
- Sec. 204. Emergency treatment.

#### TITLE III—TAX PROVISIONS

- Sec. 301. Gain or loss from sale or exchange of certain preferred stock.
- Sec. 302. Special rules for tax treatment of executive compensation of employers participating in the troubled assets relief program.
- Sec. 303. Extension of exclusion of income from discharge of qualified principal residence indebtedness.

### 1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to immediately provide authority and facili-  
4 ties that the Secretary of the Treasury can use to  
5 restore liquidity and stability to the financial system  
6 of the United States; and

7 (2) to ensure that such authority and such fa-  
8 cilities are used in a manner that—

9 (A) protects home values, college funds, re-  
10 tirement accounts, and life savings;

11 (B) preserves homeownership and pro-  
12 motes jobs and economic growth;

13 (C) maximizes overall returns to the tax-  
14 payers of the United States; and

15 (D) provides public accountability for the  
16 exercise of such authority.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act, the following definitions  
3 shall apply:

4 (1) **APPROPRIATE COMMITTEES OF CON-**  
5 **GRESS.**—The term “appropriate committees of Con-  
6 gress” means—

7 (A) the Committee on Banking, Housing,  
8 and Urban Affairs, the Committee on Finance,  
9 the Committee on the Budget, and the Com-  
10 mittee on Appropriations of the Senate; and

11 (B) the Committee on Financial Services,  
12 the Committee on Ways and Means, the Com-  
13 mittee on the Budget, and the Committee on  
14 Appropriations of the House of Representatives.

15 (2) **BOARD.**—The term “Board” means the  
16 Board of Governors of the Federal Reserve System.

17 (3) **CONGRESSIONAL SUPPORT AGENCIES.**—The  
18 term “congressional support agencies” means the  
19 Congressional Budget Office and the Joint Com-  
20 mittee on Taxation.

21 (4) **CORPORATION.**—The term “Corporation”  
22 means the Federal Deposit Insurance Corporation.

23 (5) **FINANCIAL INSTITUTION.**—The term “fi-  
24 nancial institution” means any institution, including,  
25 but not limited to, any bank, savings association,  
26 credit union, security broker or dealer, or insurance

1 company, established and regulated under the laws  
2 of the United States or any State, territory, or pos-  
3 session of the United States, the District of Colum-  
4 bia, Commonwealth of Puerto Rico, Commonwealth  
5 of Northern Mariana Islands, Guam, American  
6 Samoa, or the United States Virgin Islands, and  
7 having significant operations in the United States,  
8 but excluding any central bank of, or institution  
9 owned by, a foreign government.

10 (6) FUND.—The term “Fund” means the Trou-  
11 bled Assets Insurance Financing Fund established  
12 under section 102.

13 (7) SECRETARY.—The term “Secretary” means  
14 the Secretary of the Treasury.

15 (8) TARP.—The term “TARP” means the  
16 Troubled Asset Relief Program established under  
17 section 101.

18 (9) TROUBLED ASSETS.—The term “troubled  
19 assets” means—

20 (A) residential or commercial mortgages  
21 and any securities, obligations, or other instru-  
22 ments that are based on or related to such  
23 mortgages, that in each case was originated or  
24 issued on or before March 14, 2008, the pur-

1           chase of which the Secretary determines pro-  
2           motes financial market stability; and

3                   (B) any other financial instrument that the  
4           Secretary, after consultation with the Chairman  
5           of the Board of Governors of the Federal Re-  
6           serve System, determines the purchase of which  
7           is necessary to promote financial market sta-  
8           bility, but only upon transmittal of such deter-  
9           mination, in writing, to the appropriate commit-  
10          tees of Congress.

11           **TITLE I—TROUBLED ASSETS**  
12                   **RELIEF PROGRAM**

13   **SEC. 101. PURCHASES OF TROUBLED ASSETS.**

14           (a) OFFICES; AUTHORITY.—

15                   (1) AUTHORITY.—The Secretary is authorized  
16           to establish the Troubled Asset Relief Program (or  
17           “TARP”) to purchase, and to make and fund com-  
18           mitments to purchase, troubled assets from any fi-  
19           nancial institution, on such terms and conditions as  
20           are determined by the Secretary, and in accordance  
21           with this Act and the policies and procedures devel-  
22           oped and published by the Secretary.

23                   (2) COMMENCEMENT OF PROGRAM.—Establish-  
24           ment of the policies and procedures and other simi-  
25           lar administrative requirements imposed on the Sec-

1           retary by this Act are not intended to delay the com-  
2           mencement of the TARP.

3           (3) ESTABLISHMENT OF TREASURY OFFICE.—

4                   (A) IN GENERAL.—The Secretary shall im-  
5           plement any program under paragraph (1)  
6           through an Office of Financial Stability, estab-  
7           lished for such purpose within the Office of Do-  
8           mestic Finance of the Department of the Treas-  
9           ury, which office shall be headed by an Assist-  
10          ant Secretary of the Treasury, appointed by the  
11          President, by and with the advice and consent  
12          of the Senate, except that an interim Assistant  
13          Secretary may be appointed by the Secretary.

14                   (B) CLERICAL AMENDMENTS.—

15                   (i) TITLE 5.—Section 5315 of title 5,  
16           United States Code, is amended in the  
17           item relating to Assistant Secretaries of  
18           the Treasury, by striking “(9)” and insert-  
19           ing “(10)”.

20                   (ii) TITLE 31.—Section 301(e) of title  
21           31, United States Code, is amended by  
22           striking “9” and inserting “10”.

23          (b) CONSULTATION.—In exercising the authority  
24          under this section, the Secretary shall consult with the  
25          Board, the Corporation, the Comptroller of the Currency,

1 the Director of the Office of Thrift Supervision, and the  
2 Secretary of Housing and Urban Development.

3 (c) NECESSARY ACTIONS.—The Secretary is author-  
4 ized to take such actions as the Secretary deems necessary  
5 to carry out the authorities in this Act, including, without  
6 limitation, the following:

7 (1) The Secretary shall have direct hiring au-  
8 thority with respect to the appointment of employees  
9 to administer this Act.

10 (2) Entering into contracts, including contracts  
11 for services authorized by section 3109 of title 5,  
12 United States Code.

13 (3) Designating financial institutions as finan-  
14 cial agents of the Federal Government, and such in-  
15 stitutions shall perform all such reasonable duties  
16 related to this Act as financial agents of the Federal  
17 Government as may be required.

18 (4) In order to provide the Secretary with the  
19 flexibility to manage troubled assets in a manner de-  
20 signed to minimize cost to the taxpayers, estab-  
21 lishing vehicles that are authorized, subject to super-  
22 vision by the Secretary, to purchase, hold, and sell  
23 troubled assets and issue obligations.



1           (5) Issuing such regulations and other guidance  
2           as may be necessary or appropriate to define terms  
3           or carry out the authorities or purposes of this Act.

4           (d) PROGRAM GUIDELINES.—Before the earlier of  
5 the end of the 2-business-day period beginning on the date  
6 of the first purchase of troubled assets pursuant to the  
7 authority under this section or the end of the 45-day pe-  
8 riod beginning on the date of enactment of this Act, the  
9 Secretary shall publish program guidelines, including the  
10 following:

11           (1) Mechanisms for purchasing troubled assets.

12           (2) Methods for pricing and valuing troubled  
13 assets.

14           (3) Procedures for selecting asset managers.

15           (4) Criteria for identifying troubled assets for  
16 purchase.

17           (e) PREVENTING UNJUST ENRICHMENT.—In making  
18 purchases under the authority of this Act, the Secretary  
19 shall take such steps as may be necessary to prevent un-  
20 just enrichment of financial institutions participating in  
21 a program established under this section, including by pre-  
22 venting the sale of a troubled asset to the Secretary at  
23 a higher price than what the seller paid to purchase the  
24 asset. This subsection does not apply to troubled assets  
25 acquired in a merger or acquisition, or a purchase of as-

1 sets from a financial institution in conservatorship or re-  
2 ceivership, or that has initiated bankruptcy proceedings  
3 under title 11, United States Code.

4 **SEC. 102. INSURANCE OF TROUBLED ASSETS.**

5 (a) AUTHORITY.—

6 (1) IN GENERAL.—If the Secretary establishes  
7 the program authorized under section 101, then the  
8 Secretary shall establish a program to guarantee  
9 troubled assets originated or issued prior to March  
10 14, 2008, including mortgage-backed securities.

11 (2) GUARANTEES.—In establishing any pro-  
12 gram under this subsection, the Secretary may de-  
13 velop guarantees of troubled assets and the associ-  
14 ated premiums for such guarantees. Such guaran-  
15 tees and premiums may be determined by category  
16 or class of the troubled assets to be guaranteed.

17 (3) EXTENT OF GUARANTEE.—Upon request of  
18 a financial institution, the Secretary may guarantee  
19 the timely payment of principal of, and interest on,  
20 troubled assets in amounts not to exceed 100 per-  
21 cent of such payments. Such guarantee may be on  
22 such terms and conditions as are determined by the  
23 Secretary, provided that such terms and conditions  
24 are consistent with the purposes of this Act.

1 (b) REPORTS.—Not later than 90 days after the date  
2 of enactment of this Act, the Secretary shall report to the  
3 appropriate committees of Congress on the program estab-  
4 lished under subsection (a).

5 (c) PREMIUMS.—

6 (1) IN GENERAL.—The Secretary shall collect  
7 premiums from any financial institution partici-  
8 pating in the program established under subsection  
9 (a). Such premiums shall be in an amount that the  
10 Secretary determines necessary to meet the purposes  
11 of this Act and to provide sufficient reserves pursu-  
12 ant to paragraph (3).

13 (2) AUTHORITY TO BASE PREMIUMS ON PROD-  
14 UCT RISK.—In establishing any premium under  
15 paragraph (1), the Secretary may provide for vari-  
16 ations in such rates according to the credit risk as-  
17 sociated with the particular troubled asset that is  
18 being guaranteed. The Secretary shall publish the  
19 methodology for setting the premium for a class of  
20 troubled assets together with an explanation of the  
21 appropriateness of the class of assets for participa-  
22 tion in the program established under this section.  
23 The methodology shall ensure that the premium is  
24 consistent with paragraph (3).

1           (3) MINIMUM LEVEL.—The premiums referred  
2           to in paragraph (1) shall be set by the Secretary at  
3           a level necessary to create reserves sufficient to meet  
4           anticipated claims, based on an actuarial analysis,  
5           and to ensure that taxpayers are fully protected.

6           (4) ADJUSTMENT TO PURCHASE AUTHORITY.—  
7           The purchase authority limit in section 115 shall be  
8           reduced by an amount equal to the difference be-  
9           tween the total of the outstanding guaranteed obli-  
10          gations and the balance in the Troubled Assets In-  
11          surance Financing Fund.

12          (d) TROUBLED ASSETS INSURANCE FINANCING  
13          FUND.—

14           (1) DEPOSITS.—The Secretary shall deposit  
15           fees collected under this section into the Fund estab-  
16           lished under paragraph (2).

17           (2) ESTABLISHMENT.—There is established a  
18           Troubled Assets Insurance Financing Fund that  
19           shall consist of the amounts collected pursuant to  
20           paragraph (1), and any balance in such fund shall  
21           be invested by the Secretary in United States Treas-  
22           ury securities, or kept in cash on hand or on deposit,  
23           as necessary.

24           (3) PAYMENTS FROM FUND.—The Secretary  
25           shall make payments from amounts deposited in the

1 Fund to fulfill obligations of the guarantees provided  
2 to financial institutions under subsection (a).

3 **SEC. 103. CONSIDERATIONS.**

4 In exercising the authorities granted in this Act, the  
5 Secretary shall take into consideration—

6 (1) protecting the interests of taxpayers by  
7 maximizing overall returns and minimizing the im-  
8 pact on the national debt;

9 (2) providing stability and preventing disrup-  
10 tion to financial markets in order to limit the impact  
11 on the economy and protect American jobs, savings,  
12 and retirement security;

13 (3) the need to help families keep their homes  
14 and to stabilize communities;

15 (4) in determining whether to engage in a di-  
16 rect purchase from an individual financial institu-  
17 tion, the long-term viability of the financial institu-  
18 tion in determining whether the purchase represents  
19 the most efficient use of funds under this Act;

20 (5) ensuring that all financial institutions are  
21 eligible to participate in the program, without dis-  
22 crimination based on size, geography, form of orga-  
23 nization, or the size, type, and number of assets eli-  
24 gible for purchase under this Act;

1           (6) providing financial assistance to financial  
2 institutions, including those serving low- and mod-  
3 erate-income populations and other underserved  
4 communities, and that have assets less than  
5 \$1,000,000,000, that were well or adequately cap-  
6 italized as of June 30, 2008, and that as a result  
7 of the devaluation of the preferred government-spon-  
8 sored enterprises stock will drop one or more capital  
9 levels, in a manner sufficient to restore the financial  
10 institutions to at least an adequately capitalized  
11 level;

12           (7) the need to ensure stability for United  
13 States public instrumentalities, such as counties and  
14 cities, that may have suffered significant increased  
15 costs or losses in the current market turmoil;

16           (8) protecting the retirement security of Ameri-  
17 cans by purchasing troubled assets held by or on be-  
18 half of an eligible retirement plan described in clause  
19 (iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the  
20 Internal Revenue Code of 1986, except that such au-  
21 thority shall not extend to any compensation ar-  
22 rangements subject to section 409A of such Code;  
23 and

1           (9) the utility of purchasing other real estate  
2           owned and instruments backed by mortgages on  
3           multifamily properties.

4 **SEC. 104. FINANCIAL STABILITY OVERSIGHT BOARD.**

5           (a) ESTABLISHMENT.—There is established the Fi-  
6 nancial Stability Oversight Board, which shall be respon-  
7 sible for—

8           (1) reviewing the exercise of authority under a  
9           program developed in accordance with this Act, in-  
10          cluding—

11           (A) policies implemented by the Secretary  
12           and the Office of Financial Stability created  
13           under sections 101 and 102, including the ap-  
14           pointment of financial agents, the designation  
15           of asset classes to be purchased, and plans for  
16           the structure of vehicles used to purchase trou-  
17           bled assets; and

18           (B) the effect of such actions in assisting  
19           American families in preserving home owner-  
20           ship, stabilizing financial markets, and pro-  
21           tecting taxpayers;

22           (2) making recommendations, as appropriate, to  
23           the Secretary regarding use of the authority under  
24           this Act; and

1           (3) reporting any suspected fraud, misrepresen-  
2           tation, or malfeasance to the Special Inspector Gen-  
3           eral for the Troubled Assets Relief Program or the  
4           Attorney General of the United States, consistent  
5           with section 535(b) of title 28, United States Code.

6           (b) MEMBERSHIP.—The Financial Stability Over-  
7           sight Board shall be comprised of—

8           (1) the Chairman of the Board of Governors of  
9           the Federal Reserve System;

10          (2) the Secretary;

11          (3) the Director of the Federal Housing Fi-  
12          nance Agency;

13          (4) the Chairman of the Securities Exchange  
14          Commission; and

15          (5) the Secretary of Housing and Urban Devel-  
16          opment.

17          (c) CHAIRPERSON.—The chairperson of the Financial  
18          Stability Oversight Board shall be elected by the members  
19          of the Board from among the members other than the Sec-  
20          retary.

21          (d) MEETINGS.—The Financial Stability Oversight  
22          Board shall meet 2 weeks after the first exercise of the  
23          purchase authority of the Secretary under this Act, and  
24          monthly thereafter.



1 (e) ADDITIONAL AUTHORITIES.—In addition to the  
2 responsibilities described in subsection (a), the Financial  
3 Stability Oversight Board shall have the authority to en-  
4 sure that the policies implemented by the Secretary are—

5 (1) in accordance with the purposes of this Act;

6 (2) in the economic interests of the United  
7 States; and

8 (3) consistent with protecting taxpayers, in ac-  
9 cordance with section 113(a).

10 (f) CREDIT REVIEW COMMITTEE.—The Financial  
11 Stability Oversight Board may appoint a credit review  
12 committee for the purpose of evaluating the exercise of  
13 the purchase authority provided under this Act and the  
14 assets acquired through the exercise of such authority, as  
15 the Financial Stability Oversight Board determines appro-  
16 priate.

17 (g) REPORTS.—The Financial Stability Oversight  
18 Board shall report to the appropriate committees of Con-  
19 gress and the Congressional Oversight Panel established  
20 under section 125, not less frequently than quarterly, on  
21 the matters described under subsection (a)(1).

22 (h) TERMINATION.—The Financial Stability Over-  
23 sight Board, and its authority under this section, shall ter-  
24minate on the expiration of the 15-day period beginning  
25 upon the later of—

1           (1) the date that the last troubled asset ac-  
2           quired by the Secretary under section 101 has been  
3           sold or transferred out of the ownership or control  
4           of the Federal Government; or

5           (2) the date of expiration of the last insurance  
6           contract issued under section 102.

7   **SEC. 105. REPORTS.**

8           (a) IN GENERAL.—Before the expiration of the 60-  
9           day period beginning on the date of the first exercise of  
10          the authority granted in section 101(a), or of the first ex-  
11          ercise of the authority granted in section 102, whichever  
12          occurs first, and every 30-day period thereafter, the Sec-  
13          retary shall report to the appropriate committees of Con-  
14          gress, with respect to each such period—

15               (1) an overview of actions taken by the Sec-  
16               retary, including the considerations required by sec-  
17               tion 103 and the efforts under section 109;

18               (2) the actual obligation and expenditure of the  
19               funds provided for administrative expenses by sec-  
20               tion 118 during such period and the expected ex-  
21               penditure of such funds in the subsequent period;  
22               and

23               (3) a detailed financial statement with respect  
24               to the exercise of authority under this Act, includ-  
25               ing—

1 (A) all agreements made or renewed;

2 (B) all insurance contracts entered into  
3 pursuant to section 102;

4 (C) all transactions occurring during such  
5 period, including the types of parties involved;

6 (D) the nature of the assets purchased;

7 (E) all projected costs and liabilities;

8 (F) operating expenses, including com-  
9 pensation for financial agents;

10 (G) the valuation or pricing method used  
11 for each transaction; and

12 (H) a description of the vehicles estab-  
13 lished to exercise such authority.

14 (b) TRANCHE REPORTS TO CONGRESS.—

15 (1) REPORTS.—The Secretary shall provide to  
16 the appropriate committees of Congress, at the times  
17 specified in paragraph (2), a written report, includ-  
18 ing—

19 (A) a description of all of the transactions  
20 made during the reporting period;

21 (B) a description of the pricing mechanism  
22 for the transactions;

23 (C) a justification of the price paid for and  
24 other financial terms associated with the trans-  
25 actions;

1 (D) a description of the impact of the exer-  
2 cise of such authority on the financial system,  
3 supported, to the extent possible, by specific  
4 data;

5 (E) a description of challenges that remain  
6 in the financial system, including any bench-  
7 marks yet to be achieved; and

8 (F) an estimate of additional actions under  
9 the authority provided under this Act that may  
10 be necessary to address such challenges.

11 (2) TIMING.—The report required by this sub-  
12 section shall be submitted not later than 7 days  
13 after the date on which commitments to purchase  
14 troubled assets under the authorities provided in this  
15 Act first reach an aggregate of \$50,000,000,000 and  
16 not later than 7 days after each \$50,000,000,000 in-  
17 terval of such commitments is reached thereafter.

18 (c) REGULATORY MODERNIZATION REPORT.—The  
19 Secretary shall review the current state of the financial  
20 markets and the regulatory system and submit a written  
21 report to the appropriate committees of Congress not later  
22 than April 30, 2009, analyzing the current state of the  
23 regulatory system and its effectiveness at overseeing the  
24 participants in the financial markets, including the over-  
25 the-counter swaps market and government-sponsored en-

1 terprises, and providing recommendations for improve-  
2 ment, including—

3 (1) recommendations regarding—

4 (A) whether any participants in the finan-  
5 cial markets that are currently outside the reg-  
6 ulatory system should become subject to the  
7 regulatory system; and

8 (B) enhancement of the clearing and set-  
9 tlement of over-the-counter swaps; and

10 (2) the rationale underlying such recommenda-  
11 tions.

12 (d) SHARING OF INFORMATION.—Any report re-  
13 quired under this section shall also be submitted to the  
14 Congressional Oversight Panel established under section  
15 125.

16 (e) SUNSET.—The reporting requirements under this  
17 section shall terminate on the later of—

18 (1) the date that the last troubled asset ac-  
19 quired by the Secretary under section 101 has been  
20 sold or transferred out of the ownership or control  
21 of the Federal Government; or

22 (2) the date of expiration of the last insurance  
23 contract issued under section 102.

1 **SEC. 106. RIGHTS; MANAGEMENT; SALE OF TROUBLED AS-**  
2 **SETS; REVENUES AND SALE PROCEEDS.**

3 (a) EXERCISE OF RIGHTS.—The Secretary may, at  
4 any time, exercise any rights received in connection with  
5 troubled assets purchased under this Act.

6 (b) MANAGEMENT OF TROUBLED ASSETS.—The Sec-  
7 retary shall have authority to manage troubled assets pur-  
8 chased under this Act, including revenues and portfolio  
9 risks therefrom.

10 (c) SALE OF TROUBLED ASSETS.—The Secretary  
11 may, at any time, upon terms and conditions and at a  
12 price determined by the Secretary, sell, or enter into secu-  
13 rities loans, repurchase transactions, or other financial  
14 transactions in regard to, any troubled asset purchased  
15 under this Act.

16 (d) TRANSFER TO TREASURY.—Revenues of, and  
17 proceeds from the sale of troubled assets purchased under  
18 this Act, or from the sale, exercise, or surrender of war-  
19 rants or senior debt instruments acquired under section  
20 113 shall be paid into the general fund of the Treasury  
21 for reduction of the public debt.

22 (e) APPLICATION OF SUNSET TO TROUBLED AS-  
23 SETS.—The authority of the Secretary to hold any trou-  
24 bled asset purchased under this Act before the termination  
25 date in section 120, or to purchase or fund the purchase  
26 of a troubled asset under a commitment entered into be-

1 fore the termination date in section 120, is not subject  
2 to the provisions of section 120.

3 **SEC. 107. CONTRACTING PROCEDURES.**

4 (a) STREAMLINED PROCESS.—For purposes of this  
5 Act, the Secretary may waive specific provisions of the  
6 Federal Acquisition Regulation upon a determination that  
7 urgent and compelling circumstances make compliance  
8 with such provisions contrary to the public interest. Any  
9 such determination, and the justification for such deter-  
10 mination, shall be submitted to the Committees on Over-  
11 sight and Government Reform and Financial Services of  
12 the House of Representatives and the Committees on  
13 Homeland Security and Governmental Affairs and Bank-  
14 ing, Housing, and Urban Affairs of the Senate within 7  
15 days.

16 (b) ADDITIONAL CONTRACTING REQUIREMENTS.—In  
17 any solicitation or contract where the Secretary has, pur-  
18 suant to subsection (a), waived any provision of the Fed-  
19 eral Acquisition Regulation pertaining to minority con-  
20 tracting, the Secretary shall develop and implement stand-  
21 ards and procedures to ensure, to the maximum extent  
22 practicable, the inclusion and utilization of minorities (as  
23 such term is defined in section 1204(e) of the Financial  
24 Institutions Reform, Recovery, and Enforcement Act of  
25 1989 (12 U.S.C. 1811 note)) and women, and minority-

1 and women-owned businesses (as such terms are defined  
2 in section 21A(r)(4) of the Federal Home Loan Bank Act  
3 (12 U.S.C. 1441a(r)(4)), in that solicitation or contract,  
4 including contracts to asset managers, servicers, property  
5 managers, and other service providers or expert consult-  
6 ants.

7 (c) ELIGIBILITY OF FDIC.—Notwithstanding sub-  
8 sections (a) and (b), the Corporation—

9 (1) shall be eligible for, and shall be considered  
10 in, the selection of asset managers for residential  
11 mortgage loans and residential mortgage-backed se-  
12 curities; and

13 (2) shall be reimbursed by the Secretary for  
14 any services provided.

15 **SEC. 108. CONFLICTS OF INTEREST.**

16 (a) STANDARDS REQUIRED.—The Secretary shall  
17 issue regulations or guidelines necessary to address and  
18 manage or to prohibit conflicts of interest that may arise  
19 in connection with the administration and execution of the  
20 authorities provided under this Act, including—

21 (1) conflicts arising in the selection or hiring of  
22 contractors or advisors, including asset managers;

23 (2) the purchase of troubled assets;

24 (3) the management of the troubled assets held;



1           (4) post-employment restrictions on employees;  
2           and

3           (5) any other potential conflict of interest, as  
4           the Secretary deems necessary or appropriate in the  
5           public interest.

6           (b) **TIMING.**—Regulations or guidelines required by  
7           this section shall be issued as soon as practicable after  
8           the date of enactment of this Act.

9           **SEC. 109. FORECLOSURE MITIGATION EFFORTS.**

10          (a) **RESIDENTIAL MORTGAGE LOAN SERVICING**  
11 **STANDARDS.**—To the extent that the Secretary acquires  
12 mortgages, mortgage backed securities, and other assets  
13 secured by residential real estate, including multifamily  
14 housing, the Secretary shall implement a plan that seeks  
15 to maximize assistance for homeowners and use the au-  
16 thority of the Secretary to encourage the servicers of the  
17 underlying mortgages, considering net present value to the  
18 taxpayer, to take advantage of the HOPE for Home-  
19 owners Program under section 257 of the National Hous-  
20 ing Act or other available programs to minimize fore-  
21 closures. In addition, the Secretary may use loan guaran-  
22 tees and credit enhancements to facilitate loan modifica-  
23 tions to prevent avoidable foreclosures.

24          (b) **COORDINATION.**—The Secretary shall coordinate  
25 with the Corporation, the Board (with respect to any

1 mortgage or mortgage-backed securities or pool of securi-  
2 ties held, owned, or controlled by or on behalf of a Federal  
3 reserve bank, as provided in section 110(a)(1)(C)), the  
4 Federal Housing Finance Agency, the Secretary of Hous-  
5 ing and Urban Development, and other Federal Govern-  
6 ment entities that hold troubled assets to attempt to iden-  
7 tify opportunities for the acquisition of classes of troubled  
8 assets that will improve the ability of the Secretary to im-  
9 prove the loan modification and restructuring process and,  
10 where permissible, to permit bona fide tenants who are  
11 current on their rent to remain in their homes under the  
12 terms of the lease. In the case of a mortgage on a residen-  
13 tial rental property, the plan required under this section  
14 shall include protecting Federal, State, and local rental  
15 subsidies and protections, and ensuring any modification  
16 takes into account the need for operating funds to main-  
17 tain decent and safe conditions at the property.

18 (c) CONSENT TO REASONABLE LOAN MODIFICATION  
19 REQUESTS.—Upon any request arising under existing in-  
20 vestment contracts, the Secretary shall consent, where ap-  
21 propriate, and considering net present value to the tax-  
22 payer, to reasonable requests for loss mitigation measures,  
23 including term extensions, rate reductions, principal write  
24 downs, increases in the proportion of loans within a trust

1 or other structure allowed to be modified, or removal of  
2 other limitation on modifications.

3 **SEC. 110. ASSISTANCE TO HOMEOWNERS.**

4 (a) DEFINITIONS.—As used in this section—

5 (1) the term “Federal property manager”  
6 means—

7 (A) the Federal Housing Finance Agency,  
8 in its capacity as conservator of the Federal  
9 National Mortgage Association and the Federal  
10 Home Loan Mortgage Corporation;

11 (B) the Corporation, with respect to resi-  
12 dential mortgage loans and mortgage-backed se-  
13 curities held by any bridge depository institu-  
14 tion pursuant to section 11(n) of the Federal  
15 Deposit Insurance Act; and

16 (C) the Board, with respect to any mort-  
17 gage or mortgage-backed securities or pool of  
18 securities held, owned, or controlled by or on  
19 behalf of a Federal reserve bank, other than  
20 mortgages or securities held, owned, or con-  
21 trolled in connection with open market oper-  
22 ations under section 14 of the Federal Reserve  
23 Act (12 U.S.C. 353), or as collateral for an ad-  
24 vance or discount that is not in default;

1           (2) the term “consumer” has the same meaning  
2 as in section 103 of the Truth in Lending Act (15  
3 U.S.C. 1602);

4           (3) the term “insured depository institution”  
5 has the same meaning as in section 3 of the Federal  
6 Deposit Insurance Act (12 U.S.C. 1813); and

7           (4) the term “servicer” has the same meaning  
8 as in section 6(i)(2) of the Real Estate Settlement  
9 Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

10 (b) HOMEOWNER ASSISTANCE BY AGENCIES.—

11           (1) IN GENERAL.—To the extent that the Fed-  
12 eral property manager holds, owns, or controls mort-  
13 gages, mortgage backed securities, and other assets  
14 secured by residential real estate, including multi-  
15 family housing, the Federal property manager shall  
16 implement a plan that seeks to maximize assistance  
17 for homeowners and use its authority to encourage  
18 the servicers of the underlying mortgages, and con-  
19 sidering net present value to the taxpayer, to take  
20 advantage of the HOPE for Homeowners Program  
21 under section 257 of the National Housing Act or  
22 other available programs to minimize foreclosures.

23           (2) MODIFICATIONS.—In the case of a residen-  
24 tial mortgage loan, modifications made under para-  
25 graph (1) may include—

- 1 (A) reduction in interest rates;
- 2 (B) reduction of loan principal; and
- 3 (C) other similar modifications.

4 (3) TENANT PROTECTIONS.—In the case of  
5 mortgages on residential rental properties, modifica-  
6 tions made under paragraph (1) shall ensure—

7 (A) the continuation of any existing Fed-  
8 eral, State, and local rental subsidies and pro-  
9 tections; and

10 (B) that modifications take into account  
11 the need for operating funds to maintain decent  
12 and safe conditions at the property.

13 (4) TIMING.—Each Federal property manager  
14 shall develop and begin implementation of the plan  
15 required by this subsection not later than 60 days  
16 after the date of enactment of this Act.

17 (5) REPORTS TO CONGRESS.—Each Federal  
18 property manager shall, 60 days after the date of  
19 enactment of this Act and every 30 days thereafter,  
20 report to Congress specific information on the num-  
21 ber and types of loan modifications made and the  
22 number of actual foreclosures occurring during the  
23 reporting period in accordance with this section.

24 (6) CONSULTATION.—In developing the plan re-  
25 quired by this subsection, the Federal property man-

1       agers shall consult with one another and, to the ex-  
2       tent possible, utilize consistent approaches to imple-  
3       ment the requirements of this subsection.

4       (c) **ACTIONS WITH RESPECT TO SERVICERS.**—In any  
5       case in which a Federal property manager is not the owner  
6       of a residential mortgage loan, but holds an interest in  
7       obligations or pools of obligations secured by residential  
8       mortgage loans, the Federal property manager shall—

9               (1) encourage implementation by the loan  
10       servicers of loan modifications developed under sub-  
11       section (b); and

12              (2) assist in facilitating any such modifications,  
13       to the extent possible.

14       (d) **LIMITATION.**—The requirements of this section  
15       shall not supersede any other duty or requirement imposed  
16       on the Federal property managers under otherwise appli-  
17       cable law.

18       **SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE**  
19                               **GOVERNANCE.**

20       (a) **APPLICABILITY.**—Any financial institution that  
21       sells troubled assets to the Secretary under this Act shall  
22       be subject to the executive compensation requirements of  
23       subsections (b) and (c) and the provisions under the Inter-  
24       nal Revenue Code of 1986, as provided under the amend-  
25       ment by section 302, as applicable.

1 (b) DIRECT PURCHASES.—

2 (1) IN GENERAL.—Where the Secretary deter-  
3 mines that the purposes of this Act are best met  
4 through direct purchases of troubled assets from an  
5 individual financial institution where no bidding  
6 process or market prices are available, and the Sec-  
7 retary receives a meaningful equity or debt position  
8 in the financial institution as a result of the trans-  
9 action, the Secretary shall require that the financial  
10 institution meet appropriate standards for executive  
11 compensation and corporate governance. The stand-  
12 ards required under this subsection shall be effective  
13 for the duration of the period that the Secretary  
14 holds an equity or debt position in the financial in-  
15 stitution.

16 (2) CRITERIA.—The standards required under  
17 this subsection shall include—

18 (A) limits on compensation that exclude in-  
19 centives for senior executive officers of a finan-  
20 cial institution to take unnecessary and exces-  
21 sive risks that threaten the value of the finan-  
22 cial institution during the period that the Sec-  
23 retary holds an equity or debt position in the fi-  
24 nancial institution;

1 (B) a provision for the recovery by the fi-  
2 nancial institution of any bonus or incentive  
3 compensation paid to a senior executive officer  
4 based on statements of earnings, gains, or other  
5 criteria that are later proven to be materially  
6 inaccurate; and

7 (C) a prohibition on the financial institu-  
8 tion making any golden parachute payment to  
9 its senior executive officer during the period  
10 that the Secretary holds an equity or debt posi-  
11 tion in the financial institution.

12 (3) DEFINITION.—For purposes of this section,  
13 the term “senior executive officer” means an indi-  
14 vidual who is one of the top 5 highly paid executives  
15 of a public company, whose compensation is required  
16 to be disclosed pursuant to the Securities Exchange  
17 Act of 1934, and any regulations issued thereunder,  
18 and non-public company counterparts.

19 (c) AUCTION PURCHASES.—Where the Secretary de-  
20 termines that the purposes of this Act are best met  
21 through auction purchases of troubled assets, and only  
22 where such purchases per financial institution in the ag-  
23 gregate exceed \$300,000,000 (including direct purchases),  
24 the Secretary shall prohibit, for such financial institution,  
25 any new employment contract with a senior executive offi-



1 cer that provides a golden parachute in the event of an  
2 involuntary termination, bankruptcy filing, insolvency, or  
3 receivership. The Secretary shall issue guidance to carry  
4 out this paragraph not later than 2 months after the date  
5 of enactment of this Act, and such guidance shall be effec-  
6 tive upon issuance.

7 (d) SUNSET.—The provisions of subsection (c) shall  
8 apply only to arrangements entered into during the period  
9 during which the authorities under section 101(a) are in  
10 effect, as determined under section 120.

11 **SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES**  
12 **AND CENTRAL BANKS.**

13 The Secretary shall coordinate, as appropriate, with  
14 foreign financial authorities and central banks to work to-  
15 ward the establishment of similar programs by such au-  
16 thorities and central banks. To the extent that such for-  
17 eign financial authorities or banks hold troubled assets as  
18 a result of extending financing to financial institutions  
19 that have failed or defaulted on such financing, such trou-  
20 bled assets qualify for purchase under section 101.

21 **SEC. 113. MINIMIZATION OF LONG-TERM COSTS AND MAXI-**  
22 **MIZATION OF BENEFITS FOR TAXPAYERS.**

23 (a) LONG-TERM COSTS AND BENEFITS.—

24 (1) MINIMIZING NEGATIVE IMPACT.—The Sec-  
25 retary shall use the authority under this Act in a

1 manner that will minimize any potential long-term  
2 negative impact on the taxpayer, taking into account  
3 the direct outlays, potential long-term returns on as-  
4 sets purchased, and the overall economic benefits of  
5 the program, including economic benefits due to im-  
6 provements in economic activity and the availability  
7 of credit, the impact on the savings and pensions of  
8 individuals, and reductions in losses to the Federal  
9 Government.

10 (2) **AUTHORITY.**—In carrying out paragraph  
11 (1), the Secretary shall—

12 (A) hold the assets to maturity or for re-  
13 sale for and until such time as the Secretary  
14 determines that the market is optimal for sell-  
15 ing such assets, in order to maximize the value  
16 for taxpayers; and

17 (B) sell such assets at a price that the Sec-  
18 retary determines, based on available financial  
19 analysis, will maximize return on investment for  
20 the Federal Government.

21 (3) **PRIVATE SECTOR PARTICIPATION.**—The  
22 Secretary shall encourage the private sector to par-  
23 ticipate in purchases of troubled assets, and to in-  
24 vest in financial institutions, consistent with the pro-  
25 visions of this section.

1 (b) USE OF MARKET MECHANISMS.—In making pur-  
2 chases under this Act, the Secretary shall—

3 (1) make such purchases at the lowest price  
4 that the Secretary determines to be consistent with  
5 the purposes of this Act; and

6 (2) maximize the efficiency of the use of tax-  
7 payer resources by using market mechanisms, in-  
8 cluding auctions or reverse auctions, where appro-  
9 priate.

10 (c) DIRECT PURCHASES.—If the Secretary deter-  
11 mines that use of a market mechanism under subsection  
12 (b) is not feasible or appropriate, and the purposes of the  
13 Act are best met through direct purchases from an indi-  
14 vidual financial institution, the Secretary shall pursue ad-  
15 ditional measures to ensure that prices paid for assets are  
16 reasonable and reflect the underlying value of the asset.

17 (d) CONDITIONS ON PURCHASE AUTHORITY FOR  
18 WARRANTS AND DEBT INSTRUMENTS.—

19 (1) IN GENERAL.—The Secretary may not pur-  
20 chase, or make any commitment to purchase, any  
21 troubled asset under the authority of this Act, unless  
22 the Secretary receives from the financial institution  
23 from which such assets are to be purchased—

24 (A) in the case of a financial institution,  
25 the securities of which are traded on a national

1 securities exchange, a warrant giving the right  
2 to the Secretary to receive nonvoting common  
3 stock or preferred stock in such financial insti-  
4 tution, or voting stock with respect to which,  
5 the Secretary agrees not to exercise voting  
6 power, as the Secretary determines appropriate;  
7 or

8 (B) in the case of any financial institution  
9 other than one described in subparagraph (A),  
10 a warrant for common or preferred stock, or a  
11 senior debt instrument from such financial in-  
12 stitution, as described in paragraph (2)(C).

13 (2) TERMS AND CONDITIONS.—The terms and  
14 conditions of any warrant or senior debt instrument  
15 required under paragraph (1) shall meet the fol-  
16 lowing requirements:

17 (A) PURPOSES.—Such terms and condi-  
18 tions shall, at a minimum, be designed—

19 (i) to provide for reasonable participa-  
20 tion by the Secretary, for the benefit of  
21 taxpayers, in equity appreciation in the  
22 case of a warrant or other equity security,  
23 or a reasonable interest rate premium, in  
24 the case of a debt instrument; and

1 (ii) to provide additional protection  
2 for the taxpayer against losses from sale of  
3 assets by the Secretary under this Act and  
4 the administrative expenses of the TARP.

5 (B) AUTHORITY TO SELL, EXERCISE, OR  
6 SURRENDER.—The Secretary may sell, exercise,  
7 or surrender a warrant or any senior debt in-  
8 strument received under this subsection, based  
9 on the conditions established under subpara-  
10 graph (A).

11 (C) CONVERSION.—The warrant shall pro-  
12 vide that if, after the warrant is received by the  
13 Secretary under this subsection, the financial  
14 institution that issued the warrant is no longer  
15 listed or traded on a national securities ex-  
16 change or securities association, as described in  
17 paragraph (1)(A), such warrants shall convert  
18 to senior debt, or contain appropriate protec-  
19 tions for the Secretary to ensure that the  
20 Treasury is appropriately compensated for the  
21 value of the warrant, in an amount determined  
22 by the Secretary.

23 (D) PROTECTIONS.—Any warrant rep-  
24 resenting securities to be received by the Sec-  
25 retary under this subsection shall contain anti-

1 dilution provisions of the type employed in cap-  
2 ital market transactions, as determined by the  
3 Secretary. Such provisions shall protect the  
4 value of the securities from market transactions  
5 such as stock splits, stock distributions, divi-  
6 dends, and other distributions, mergers, and  
7 other forms of reorganization or recapitaliza-  
8 tion.

9 (E) EXERCISE PRICE.—The exercise price  
10 for any warrant issued pursuant to this sub-  
11 section shall be set by the Secretary, in the in-  
12 terest of the taxpayers.

13 (F) SUFFICIENCY.—The financial institu-  
14 tion shall guarantee to the Secretary that it has  
15 authorized shares of nonvoting stock available  
16 to fulfill its obligations under this subsection.  
17 Should the financial institution not have suffi-  
18 cient authorized shares, including preferred  
19 shares that may carry dividend rights equal to  
20 a multiple number of common shares, the Sec-  
21 retary may, to the extent necessary, accept a  
22 senior debt note in an amount, and on such  
23 terms as will compensate the Secretary with  
24 equivalent value, in the event that a sufficient

1           shareholder vote to authorize the necessary ad-  
2           ditional shares cannot be obtained.

3           (3) EXCEPTIONS.—

4                   (A) DE MINIMIS.—The Secretary shall es-  
5           tablish de minimis exceptions to the require-  
6           ments of this subsection, based on the size of  
7           the cumulative transactions of troubled assets  
8           purchased from any one financial institution for  
9           the duration of the program, at not more than  
10          \$100,000,000.

11                   (B) OTHER EXCEPTIONS.—The Secretary  
12          shall establish an exception to the requirements  
13          of this subsection and appropriate alternative  
14          requirements for any participating financial in-  
15          stitution that is legally prohibited from issuing  
16          securities and debt instruments, so as not to  
17          allow circumvention of the requirements of this  
18          section.

19   **SEC. 114. MARKET TRANSPARENCY.**

20           (a) PRICING.—To facilitate market transparency, the  
21          Secretary shall make available to the public, in electronic  
22          form, a description, amounts, and pricing of assets ac-  
23          quired under this Act, within 2 business days of purchase,  
24          trade, or other disposition.

1           (b) DISCLOSURE.—For each type of financial institu-  
2 tions that sells troubled assets to the Secretary under this  
3 Act, the Secretary shall determine whether the public dis-  
4 closure required for such financial institutions with re-  
5 spect to off-balance sheet transactions, derivatives instru-  
6 ments, contingent liabilities, and similar sources of poten-  
7 tial exposure is adequate to provide to the public sufficient  
8 information as to the true financial position of the institu-  
9 tions. If such disclosure is not adequate for that purpose,  
10 the Secretary shall make recommendations for additional  
11 disclosure requirements to the relevant regulators.

12 **SEC. 115. GRADUATED AUTHORIZATION TO PURCHASE.**

13           (a) AUTHORITY.—The authority of the Secretary to  
14 purchase troubled assets under this Act shall be limited  
15 as follows:

16           (1) Effective upon the date of enactment of this  
17 Act, such authority shall be limited to  
18 \$250,000,000,000 outstanding at any one time.

19           (2) If at any time, the President submits to the  
20 Congress a written certification that the Secretary  
21 needs to exercise the authority under this paragraph,  
22 effective upon such submission, such authority shall  
23 be limited to \$350,000,000,000 outstanding at any  
24 one time.



1           (3) If, at any time after the certification in  
2 paragraph (2) has been made, the President trans-  
3 mits to the Congress a written report detailing the  
4 plan of the Secretary to exercise the authority under  
5 this paragraph, unless there is enacted, within 15  
6 calendar days of such transmission, a joint resolu-  
7 tion described in subsection (c), effective upon the  
8 expiration of such 15-day period, such authority  
9 shall be limited to \$700,000,000,000 outstanding at  
10 any one time.

11       (b) AGGREGATION OF PURCHASE PRICES.—The  
12 amount of troubled assets purchased by the Secretary out-  
13 standing at any one time shall be determined for purposes  
14 of the dollar amount limitations under subsection (a) by  
15 aggregating the purchase prices of all troubled assets held.

16       (c) JOINT RESOLUTION OF DISAPPROVAL.—

17           (1) IN GENERAL.—Notwithstanding any other  
18 provision of this section, the Secretary may not exer-  
19 cise any authority to make purchases under this Act  
20 with regard to any amount in excess of  
21 \$350,000,000,000 previously obligated, as described  
22 in this section if, within 15 calendar days after the  
23 date on which Congress receives a report of the plan  
24 of the Secretary described in subsection (a)(3), there  
25 is enacted into law a joint resolution disapproving

1 the plan of the Secretary with respect to such addi-  
2 tional amount.

3 (2) CONTENTS OF JOINT RESOLUTION.—For  
4 the purpose of this section, the term “joint resolu-  
5 tion” means only a joint resolution—

6 (A) that is introduced not later than 3 cal-  
7 endar days after the date on which the report  
8 of the plan of the Secretary referred to in sub-  
9 section (a)(3) is received by Congress;

10 (B) which does not have a preamble;

11 (C) the title of which is as follows: “Joint  
12 resolution relating to the disapproval of obliga-  
13 tions under the Emergency Economic Stabiliza-  
14 tion Act of 2008”; and

15 (D) the matter after the resolving clause of  
16 which is as follows: “That Congress disapproves  
17 the obligation of any amount exceeding the  
18 amounts obligated as described in paragraphs  
19 (1) and (2) of section 115(a) of the Emergency  
20 Economic Stabilization Act of 2008.”.

21 (d) FAST TRACK CONSIDERATION IN HOUSE OF REP-  
22 RESENTATIVES.—

23 (1) RECONVENING.—Upon receipt of a report  
24 under subsection (a)(3), the Speaker, if the House  
25 would otherwise be adjourned, shall notify the Mem-

1       bers of the House that, pursuant to this section, the  
2       House shall convene not later than the second cal-  
3       endar day after receipt of such report;

4           (2) REPORTING AND DISCHARGE.—Any com-  
5       mittee of the House of Representatives to which a  
6       joint resolution is referred shall report it to the  
7       House not later than 5 calendar days after the date  
8       of receipt of the report described in subsection  
9       (a)(3). If a committee fails to report the joint resolu-  
10      tion within that period, the committee shall be dis-  
11      charged from further consideration of the joint reso-  
12      lution and the joint resolution shall be referred to  
13      the appropriate calendar.

14          (3) PROCEEDING TO CONSIDERATION.—After  
15      each committee authorized to consider a joint resolu-  
16      tion reports it to the House or has been discharged  
17      from its consideration, it shall be in order, not later  
18      than the sixth day after Congress receives the report  
19      described in subsection (a)(3), to move to proceed to  
20      consider the joint resolution in the House. All points  
21      of order against the motion are waived. Such a mo-  
22      tion shall not be in order after the House has dis-  
23      posed of a motion to proceed on the joint resolution.  
24      The previous question shall be considered as ordered  
25      on the motion to its adoption without intervening

1 motion. The motion shall not be debatable. A motion  
2 to reconsider the vote by which the motion is dis-  
3 posed of shall not be in order.

4 (4) CONSIDERATION.—The joint resolution  
5 shall be considered as read. All points of order  
6 against the joint resolution and against its consider-  
7 ation are waived. The previous question shall be con-  
8 sidered as ordered on the joint resolution to its pas-  
9 sage without intervening motion except two hours of  
10 debate equally divided and controlled by the pro-  
11 ponent and an opponent. A motion to reconsider the  
12 vote on passage of the joint resolution shall not be  
13 in order.

14 (e) FAST TRACK CONSIDERATION IN SENATE.—

15 (1) RECONVENING.—Upon receipt of a report  
16 under subsection (a)(3), if the Senate has adjourned  
17 or recessed for more than 2 days, the majority lead-  
18 er of the Senate, after consultation with the minority  
19 leader of the Senate, shall notify the Members of the  
20 Senate that, pursuant to this section, the Senate  
21 shall convene not later than the second calendar day  
22 after receipt of such message.

23 (2) PLACEMENT ON CALENDAR.—Upon intro-  
24 duction in the Senate, the joint resolution shall be  
25 placed immediately on the calendar.

1 (3) FLOOR CONSIDERATION.—

2 (A) IN GENERAL.—Notwithstanding Rule  
3 XXII of the Standing Rules of the Senate, it is  
4 in order at any time during the period begin-  
5 ning on the 4th day after the date on which  
6 Congress receives a report of the plan of the  
7 Secretary described in subsection (a)(3) and  
8 ending on the 6th day after the date on which  
9 Congress receives a report of the plan of the  
10 Secretary described in subsection (a)(3) (even  
11 though a previous motion to the same effect has  
12 been disagreed to) to move to proceed to the  
13 consideration of the joint resolution, and all  
14 points of order against the joint resolution (and  
15 against consideration of the joint resolution)  
16 are waived. The motion to proceed is not debat-  
17 able. The motion is not subject to a motion to  
18 postpone. A motion to reconsider the vote by  
19 which the motion is agreed to or disagreed to  
20 shall not be in order. If a motion to proceed to  
21 the consideration of the resolution is agreed to,  
22 the joint resolution shall remain the unfinished  
23 business until disposed of.

24 (B) DEBATE.—Debate on the joint resolu-  
25 tion, and on all debatable motions and appeals

1 in connection therewith, shall be limited to not  
2 more than 10 hours, which shall be divided  
3 equally between the majority and minority lead-  
4 ers or their designees. A motion further to limit  
5 debate is in order and not debatable. An  
6 amendment to, or a motion to postpone, or a  
7 motion to proceed to the consideration of other  
8 business, or a motion to recommit the joint res-  
9 olution is not in order.

10 (C) VOTE ON PASSAGE.—The vote on pas-  
11 sage shall occur immediately following the con-  
12 clusion of the debate on a joint resolution, and  
13 a single quorum call at the conclusion of the de-  
14 bate if requested in accordance with the rules of  
15 the Senate.

16 (D) RULINGS OF THE CHAIR ON PROCE-  
17 DURE.—Appeals from the decisions of the Chair  
18 relating to the application of the rules of the  
19 Senate, as the case may be, to the procedure re-  
20 lating to a joint resolution shall be decided  
21 without debate.

22 (f) RULES RELATING TO SENATE AND HOUSE OF  
23 REPRESENTATIVES.—

24 (1) COORDINATION WITH ACTION BY OTHER  
25 HOUSE.—If, before the passage by one House of a

1 joint resolution of that House, that House receives  
2 from the other House a joint resolution, then the fol-  
3 lowing procedures shall apply:

4 (A) The joint resolution of the other House  
5 shall not be referred to a committee.

6 (B) With respect to a joint resolution of  
7 the House receiving the resolution—

8 (i) the procedure in that House shall  
9 be the same as if no joint resolution had  
10 been received from the other House; but

11 (ii) the vote on passage shall be on  
12 the joint resolution of the other House.

13 (2) TREATMENT OF JOINT RESOLUTION OF  
14 OTHER HOUSE.—If one House fails to introduce or  
15 consider a joint resolution under this section, the  
16 joint resolution of the other House shall be entitled  
17 to expedited floor procedures under this section.

18 (3) TREATMENT OF COMPANION MEASURES.—  
19 If, following passage of the joint resolution in the  
20 Senate, the Senate then receives the companion  
21 measure from the House of Representatives, the  
22 companion measure shall not be debatable.

23 (4) CONSIDERATION AFTER PASSAGE.—

24 (A) IN GENERAL.—If Congress passes a  
25 joint resolution, the period beginning on the

1 date the President is presented with the joint  
2 resolution and ending on the date the President  
3 takes action with respect to the joint resolution  
4 shall be disregarded in computing the 15-cal-  
5 endar day period described in subsection (a)(3).

6 (B) VETOES.—If the President vetoes the  
7 joint resolution—

8 (i) the period beginning on the date  
9 the President vetoes the joint resolution  
10 and ending on the date the Congress re-  
11 ceives the veto message with respect to the  
12 joint resolution shall be disregarded in  
13 computing the 15-calendar day period de-  
14 scribed in subsection (a)(3), and

15 (ii) debate on a veto message in the  
16 Senate under this section shall be 1 hour  
17 equally divided between the majority and  
18 minority leaders or their designees.

19 (5) RULES OF HOUSE OF REPRESENTATIVES  
20 AND SENATE.—This subsection and subsections (c),  
21 (d), and (e) are enacted by Congress—

22 (A) as an exercise of the rulemaking power  
23 of the Senate and House of Representatives, re-  
24 spectively, and as such it is deemed a part of  
25 the rules of each House, respectively, but appli-



1 cable only with respect to the procedure to be  
2 followed in that House in the case of a joint  
3 resolution, and it supersedes other rules only to  
4 the extent that it is inconsistent with such  
5 rules; and

6 (B) with full recognition of the constitu-  
7 tional right of either House to change the rules  
8 (so far as relating to the procedure of that  
9 House) at any time, in the same manner, and  
10 to the same extent as in the case of any other  
11 rule of that House.

12 **SEC. 116. OVERSIGHT AND AUDITS.**

13 (a) **COMPTROLLER GENERAL OVERSIGHT.**—

14 (1) **SCOPE OF OVERSIGHT.**—The Comptroller  
15 General of the United States shall, upon establish-  
16 ment of the troubled assets relief program under  
17 this Act (in this section referred to as the “TARP”),  
18 commence ongoing oversight of the activities and  
19 performance of the TARP and of any agents and  
20 representatives of the TARP (as related to the agent  
21 or representative’s activities on behalf of or under  
22 the authority of the TARP), including vehicles es-  
23 tablished by the Secretary under this Act. The sub-  
24 jects of such oversight shall include the following:

1           (A) The performance of the TARP in  
2 meeting the purposes of this Act, particularly  
3 those involving—

4                   (i) foreclosure mitigation;

5                   (ii) cost reduction;

6                   (iii) whether it has provided stability  
7 or prevented disruption to the financial  
8 markets or the banking system; and

9                   (iv) whether it has protected tax-  
10 payers.

11           (B) The financial condition and internal  
12 controls of the TARP, its representatives and  
13 agents.

14           (C) Characteristics of transactions and  
15 commitments entered into, including trans-  
16 action type, frequency, size, prices paid, and all  
17 other relevant terms and conditions, and the  
18 timing, duration and terms of any future com-  
19 mitments to purchase assets.

20           (D) Characteristics and disposition of ac-  
21 quired assets, including type, acquisition price,  
22 current market value, sale prices and terms,  
23 and use of proceeds from sales.

24           (E) Efficiency of the operations of the  
25 TARP in the use of appropriated funds.

1 (F) Compliance with all applicable laws  
2 and regulations by the TARP, its agents and  
3 representatives.

4 (G) The efforts of the TARP to prevent,  
5 identify, and minimize conflicts of interest in-  
6 volving any agent or representative performing  
7 activities on behalf of or under the authority of  
8 the TARP.

9 (H) The efficacy of contracting procedures  
10 pursuant to section 107(b), including, as appli-  
11 cable, the efforts of the TARP in evaluating  
12 proposals for inclusion and contracting to the  
13 maximum extent possible of minorities (as such  
14 term is defined in 1204(c) of the Financial In-  
15 stitutions Reform, Recovery, and Enhancement  
16 Act of 1989 (12 U.S.C. 1811 note), women,  
17 and minority- and women-owned businesses, in-  
18 cluding ascertaining and reporting the total  
19 amount of fees paid and other value delivered  
20 by the TARP to all of its agents and represent-  
21 atives, and such amounts paid or delivered to  
22 such firms that are minority- and women-owned  
23 businesses (as such terms are defined in section  
24 21A of the Federal Home Loan Bank Act (12  
25 U.S.C. 1441a)).

1           (2) CONDUCT AND ADMINISTRATION OF OVER-  
2           SIGHT.—

3                   (A) GAO PRESENCE.—The Secretary shall  
4           provide the Comptroller General with appro-  
5           priate space and facilities in the Department of  
6           the Treasury as necessary to facilitate oversight  
7           of the TARP until the termination date estab-  
8           lished in section 120.

9                   (B) ACCESS TO RECORDS.—To the extent  
10          otherwise consistent with law, the Comptroller  
11          General shall have access, upon request, to any  
12          information, data, schedules, books, accounts,  
13          financial records, reports, files, electronic com-  
14          munications, or other papers, things, or prop-  
15          erty belonging to or in use by the TARP, or  
16          any vehicles established by the Secretary under  
17          this Act, and to the officers, directors, employ-  
18          ees, independent public accountants, financial  
19          advisors, and other agents and representatives  
20          of the TARP (as related to the agent or rep-  
21          resentative's activities on behalf of or under the  
22          authority of the TARP) or any such vehicle at  
23          such reasonable time as the Comptroller Gen-  
24          eral may request. The Comptroller General  
25          shall be afforded full facilities for verifying

1 transactions with the balances or securities held  
2 by depositaries, fiscal agents, and custodians.  
3 The Comptroller General may make and retain  
4 copies of such books, accounts, and other  
5 records as the Comptroller General deems ap-  
6 propriate.

7 (C) REIMBURSEMENT OF COSTS.—The  
8 Treasury shall reimburse the Government Ac-  
9 countability Office for the full cost of any such  
10 oversight activities as billed therefor by the  
11 Comptroller General of the United States. Such  
12 reimbursements shall be credited to the appro-  
13 priation account “Salaries and Expenses, Gov-  
14 ernment Accountability Office” current when  
15 the payment is received and remain available  
16 until expended.

17 (3) REPORTING.—The Comptroller General  
18 shall submit reports of findings under this section,  
19 regularly and no less frequently than once every 60  
20 days, to the appropriate committees of Congress,  
21 and the Special Inspector General for the Troubled  
22 Asset Relief Program established under this Act on  
23 the activities and performance of the TARP. The  
24 Comptroller may also submit special reports under

1       this subsection as warranted by the findings of its  
2       oversight activities.

3       (b) COMPTROLLER GENERAL AUDITS.—

4           (1) ANNUAL AUDIT.—The TARP shall annually  
5       prepare and issue to the appropriate committees of  
6       Congress and the public audited financial statements  
7       prepared in accordance with generally accepted ac-  
8       counting principles, and the Comptroller General  
9       shall annually audit such statements in accordance  
10      with generally accepted auditing standards. The  
11      Treasury shall reimburse the Government Account-  
12      ability Office for the full cost of any such audit as  
13      billed therefor by the Comptroller General. Such re-  
14      imbursements shall be credited to the appropriation  
15      account “Salaries and Expenses, Government Ac-  
16      countability Office” current when the payment is re-  
17      ceived and remain available until expended. The fi-  
18      nancial statements prepared under this paragraph  
19      shall be on the fiscal year basis prescribed under  
20      section 1102 of title 31, United States Code.

21           (2) AUTHORITY.—The Comptroller General  
22      may audit the programs, activities, receipts, expendi-  
23      tures, and financial transactions of the TARP and  
24      any agents and representatives of the TARP (as re-  
25      lated to the agent or representative’s activities on

1       behalf of or under the authority of the TARP), in-  
2       cluding vehicles established by the Secretary under  
3       this Act.

4               (3) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The TARP shall—

5                       (A) take action to address deficiencies  
6                       identified by the Comptroller General or other  
7                       auditor engaged by the TARP; or

8                       (B) certify to appropriate committees of  
9                       Congress that no action is necessary or appro-  
10                      priate.

11               (c) INTERNAL CONTROL.—

12                       (1) ESTABLISHMENT.—The TARP shall estab-  
13                      lish and maintain an effective system of internal  
14                      control, consistent with the standards prescribed  
15                      under section 3512(c) of title 31, United States  
16                      Code, that provides reasonable assurance of—

17                               (A) the effectiveness and efficiency of oper-  
18                               ations, including the use of the resources of the  
19                               TARP;

20                               (B) the reliability of financial reporting, in-  
21                               cluding financial statements and other reports  
22                               for internal and external use; and

23                               (C) compliance with applicable laws and  
24                               regulations.  
25

1           (2) REPORTING.—In conjunction with each an-  
2 nual financial statement issued under this section,  
3 the TARP shall—

4                   (A) state the responsibility of management  
5 for establishing and maintaining adequate in-  
6 ternal control over financial reporting; and

7                   (B) state its assessment, as of the end of  
8 the most recent year covered by such financial  
9 statement of the TARP, of the effectiveness of  
10 the internal control over financial reporting.

11       (d) SHARING OF INFORMATION.—Any report or audit  
12 required under this section shall also be submitted to the  
13 Congressional Oversight Panel established under section  
14 125.

15       (e) TERMINATION.—Any oversight, reporting, or  
16 audit requirement under this section shall terminate on  
17 the later of—

18                   (1) the date that the last troubled asset ac-  
19 quired by the Secretary under section 101 has been  
20 sold or transferred out of the ownership or control  
21 of the Federal Government; or

22                   (2) the date of expiration of the last insurance  
23 contract issued under section 102.



1 **SEC. 117. STUDY AND REPORT ON MARGIN AUTHORITY.**

2 (a) STUDY.—The Comptroller General shall under-  
3 take a study to determine the extent to which leverage  
4 and sudden deleveraging of financial institutions was a  
5 factor behind the current financial crisis.

6 (b) CONTENT.—The study required by this section  
7 shall include—

8 (1) an analysis of the roles and responsibilities  
9 of the Board, the Securities and Exchange Commis-  
10 sion, the Secretary, and other Federal banking agen-  
11 cies with respect to monitoring leverage and acting  
12 to curtail excessive leveraging;

13 (2) an analysis of the authority of the Board to  
14 regulate leverage, including by setting margin re-  
15 quirements, and what process the Board used to de-  
16 cide whether or not to use its authority;

17 (3) an analysis of any usage of the margin au-  
18 thority by the Board; and

19 (4) recommendations for the Board and appro-  
20 priate committees of Congress with respect to the  
21 existing authority of the Board.

22 (c) REPORT.—Not later than June 1, 2009, the  
23 Comptroller General shall complete and submit a report  
24 on the study required by this section to the Committee  
25 on Banking, Housing, and Urban Affairs of the Senate

1 and the Committee on Financial Services of the House of  
2 Representatives.

3 (d) SHARING OF INFORMATION.—Any reports re-  
4 quired under this section shall also be submitted to the  
5 Congressional Oversight Panel established under section  
6 125.

7 **SEC. 118. FUNDING.**

8 For the purpose of the authorities granted in this  
9 Act, and for the costs of administering those authorities,  
10 the Secretary may use the proceeds of the sale of any secu-  
11 rities issued under chapter 31 of title 31, United States  
12 Code, and the purposes for which securities may be issued  
13 under chapter 31 of title 31, United States Code, are ex-  
14 tended to include actions authorized by this Act, including  
15 the payment of administrative expenses. Any funds ex-  
16 pended or obligated by the Secretary for actions author-  
17 ized by this Act, including the payment of administrative  
18 expenses, shall be deemed appropriated at the time of such  
19 expenditure or obligation.

20 **SEC. 119. JUDICIAL REVIEW AND RELATED MATTERS.**

21 (a) JUDICIAL REVIEW.—

22 (1) STANDARD.—Actions by the Secretary pur-  
23 suant to the authority of this Act shall be subject to  
24 chapter 7 of title 5, United States Code, including  
25 that such final actions shall be held unlawful and set

1       aside if found to be arbitrary, capricious, an abuse  
2       of discretion, or not in accordance with law.

3               (2) LIMITATIONS ON EQUITABLE RELIEF.—

4               (A) INJUNCTION.—No injunction or other  
5       form of equitable relief shall be issued against  
6       the Secretary for actions pursuant to section  
7       101, 102, 106, and 109, other than to remedy  
8       a violation of the Constitution.

9               (B) TEMPORARY RESTRAINING ORDER.—

10       Any request for a temporary restraining order  
11       against the Secretary for actions pursuant to  
12       this Act shall be considered and granted or de-  
13       nied by the court within 3 days of the date of  
14       the request.

15              (C) PRELIMINARY INJUNCTION.—Any re-

16       quest for a preliminary injunction against the  
17       Secretary for actions pursuant to this Act shall  
18       be considered and granted or denied by the  
19       court on an expedited basis consistent with the  
20       provisions of rule 65(b)(3) of the Federal Rules  
21       of Civil Procedure, or any successor thereto.

22              (D) PERMANENT INJUNCTION.—Any re-

23       quest for a permanent injunction against the  
24       Secretary for actions pursuant to this Act shall  
25       be considered and granted or denied by the

1 court on an expedited basis. Whenever possible,  
2 the court shall consolidate trial on the merits  
3 with any hearing on a request for a preliminary  
4 injunction, consistent with the provisions of rule  
5 65(a)(2) of the Federal Rules of Civil Proce-  
6 dure, or any successor thereto.

7 (3) LIMITATION ON ACTIONS BY PARTICIPATING  
8 COMPANIES.—No action or claims may be brought  
9 against the Secretary by any person that divests its  
10 assets with respect to its participation in a program  
11 under this Act, except as provided in paragraph (1),  
12 other than as expressly provided in a written con-  
13 tract with the Secretary.

14 (4) STAYS.—Any injunction or other form of  
15 equitable relief issued against the Secretary for ac-  
16 tions pursuant to section 101, 102, 106, and 109,  
17 shall be automatically stayed. The stay shall be lift-  
18 ed unless the Secretary seeks a stay from a higher  
19 court within 3 calendar days after the date on which  
20 the relief is issued.

21 (b) RELATED MATTERS.—

22 (1) TREATMENT OF HOMEOWNERS' RIGHTS.—  
23 The terms of any residential mortgage loan that is  
24 part of any purchase by the Secretary under this Act  
25 shall remain subject to all claims and defenses that

1 would otherwise apply, notwithstanding the exercise  
2 of authority by the Secretary under this Act.

3 (2) SAVINGS CLAUSE.—Any exercise of the au-  
4 thority of the Secretary pursuant to this Act shall  
5 not impair the claims or defenses that would other-  
6 wise apply with respect to persons other than the  
7 Secretary. Except as established in any contract, a  
8 servicer of pooled residential mortgages owes any  
9 duty to determine whether the net present value of  
10 the payments on the loan, as modified, is likely to  
11 be greater than the anticipated net recovery that  
12 would result from foreclosure to all investors and  
13 holders of beneficial interests in such investment,  
14 but not to any individual or groups of investors or  
15 beneficial interest holders, and shall be deemed to  
16 act in the best interests of all such investors or hold-  
17 ers of beneficial interests if the servicer agrees to or  
18 implements a modification or workout plan when the  
19 servicer takes reasonable loss mitigation actions, in-  
20 cluding partial payments.

21 **SEC. 120. TERMINATION OF AUTHORITY.**

22 (a) TERMINATION.—The authorities provided under  
23 sections 101(a), excluding section 101(a)(3), and 102  
24 shall terminate on December 31, 2009.

1 (b) EXTENSION UPON CERTIFICATION.—The Sec-  
2 retary, upon submission of a written certification to Con-  
3 gress, may extend the authority provided under this Act  
4 to expire not later than 2 years from the date of enact-  
5 ment of this Act. Such certification shall include a jus-  
6 tification of why the extension is necessary to assist Amer-  
7 ican families and stabilize financial markets, as well as  
8 the expected cost to the taxpayers for such an extension.

9 **SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROU-**  
10 **bled ASSET RELIEF PROGRAM.**

11 (a) OFFICE OF INSPECTOR GENERAL.—There is  
12 hereby established the Office of the Special Inspector Gen-  
13 eral for the Troubled Asset Relief Program.

14 (b) APPOINTMENT OF INSPECTOR GENERAL; RE-  
15 MOVAL.—(1) The head of the Office of the Special Inspec-  
16 tor General for the Troubled Asset Relief Program is the  
17 Special Inspector General for the Troubled Asset Relief  
18 Program (in this section referred to as the “Special In-  
19 spector General”), who shall be appointed by the Presi-  
20 dent, by and with the advice and consent of the Senate.

21 (2) The appointment of the Special Inspector General  
22 shall be made on the basis of integrity and demonstrated  
23 ability in accounting, auditing, financial analysis, law,  
24 management analysis, public administration, or investiga-  
25 tions.

1           (3) The nomination of an individual as Special In-  
2 spector General shall be made as soon as practicable after  
3 the establishment of any program under sections 101 and  
4 102.

5           (4) The Special Inspector General shall be removable  
6 from office in accordance with the provisions of section  
7 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

8           (5) For purposes of section 7324 of title 5, United  
9 States Code, the Special Inspector General shall not be  
10 considered an employee who determines policies to be pur-  
11 sued by the United States in the nationwide administra-  
12 tion of Federal law.

13           (6) The annual rate of basic pay of the Special In-  
14 spector General shall be the annual rate of basic pay for  
15 an Inspector General under section 3(e) of the Inspector  
16 General Act of 1978 (5 U.S.C. App.).

17           (c) DUTIES.—(1) It shall be the duty of the Special  
18 Inspector General to conduct, supervise, and coordinate  
19 audits and investigations of the purchase, management,  
20 and sale of assets by the Secretary of the Treasury under  
21 any program established by the Secretary under section  
22 101, and the management by the Secretary of any pro-  
23 gram established under section 102, including by col-  
24 lecting and summarizing the following information:

1 (A) A description of the categories of troubled  
2 assets purchased or otherwise procured by the Sec-  
3 retary.

4 (B) A listing of the troubled assets purchased  
5 in each such category described under subparagraph  
6 (A).

7 (C) An explanation of the reasons the Secretary  
8 deemed it necessary to purchase each such troubled  
9 asset.

10 (D) A listing of each financial institution that  
11 such troubled assets were purchased from.

12 (E) A listing of and detailed biographical infor-  
13 mation on each person or entity hired to manage  
14 such troubled assets.

15 (F) A current estimate of the total amount of  
16 troubled assets purchased pursuant to any program  
17 established under section 101, the amount of trou-  
18 bled assets on the books of the Treasury, the  
19 amount of troubled assets sold, and the profit and  
20 loss incurred on each sale or disposition of each such  
21 troubled asset.

22 (G) A listing of the insurance contracts issued  
23 under section 102.

24 (2) The Special Inspector General shall establish,  
25 maintain, and oversee such systems, procedures, and con-



1 trols as the Special Inspector General considers appro-  
2 priate to discharge the duty under paragraph (1).

3 (3) In addition to the duties specified in paragraphs  
4 (1) and (2), the Inspector General shall also have the du-  
5 ties and responsibilities of inspectors general under the In-  
6 spector General Act of 1978.

7 (d) POWERS AND AUTHORITIES.—(1) In carrying out  
8 the duties specified in subsection (c), the Special Inspector  
9 General shall have the authorities provided in section 6  
10 of the Inspector General Act of 1978.

11 (2) The Special Inspector General shall carry out the  
12 duties specified in subsection (c)(1) in accordance with  
13 section 4(b)(1) of the Inspector General Act of 1978.

14 (e) PERSONNEL, FACILITIES, AND OTHER RE-  
15 SOURCES.—(1) The Special Inspector General may select,  
16 appoint, and employ such officers and employees as may  
17 be necessary for carrying out the duties of the Special In-  
18 spector General, subject to the provisions of title 5, United  
19 States Code, governing appointments in the competitive  
20 service, and the provisions of chapter 51 and subchapter  
21 III of chapter 53 of such title, relating to classification  
22 and General Schedule pay rates.

23 (2) The Special Inspector General may obtain serv-  
24 ices as authorized by section 3109 of title 5, United States  
25 Code, at daily rates not to exceed the equivalent rate pre-

1 scribed for grade GS-15 of the General Schedule by sec-  
2 tion 5332 of such title.

3 (3) The Special Inspector General may enter into  
4 contracts and other arrangements for audits, studies,  
5 analyses, and other services with public agencies and with  
6 private persons, and make such payments as may be nec-  
7 essary to carry out the duties of the Inspector General.

8 (4)(A) Upon request of the Special Inspector General  
9 for information or assistance from any department, agen-  
10 cy, or other entity of the Federal Government, the head  
11 of such entity shall, insofar as is practicable and not in  
12 contravention of any existing law, furnish such informa-  
13 tion or assistance to the Special Inspector General, or an  
14 authorized designee.

15 (B) Whenever information or assistance requested by  
16 the Special Inspector General is, in the judgment of the  
17 Special Inspector General, unreasonably refused or not  
18 provided, the Special Inspector General shall report the  
19 circumstances to the appropriate committees of Congress  
20 without delay.

21 (f) REPORTS.—(1) Not later than 60 days after the  
22 confirmation of the Special Inspector General, and every  
23 calendar quarter thereafter, the Special Inspector General  
24 shall submit to the appropriate committees of Congress  
25 a report summarizing the activities of the Special Inspec-

1 tor General during the 120-day period ending on the date  
2 of such report. Each report shall include, for the period  
3 covered by such report, a detailed statement of all pur-  
4 chases, obligations, expenditures, and revenues associated  
5 with any program established by the Secretary of the  
6 Treasury under sections 101 and 102, as well as the infor-  
7 mation collected under subsection (c)(1).

8 (2) Nothing in this subsection shall be construed to  
9 authorize the public disclosure of information that is—

10 (A) specifically prohibited from disclosure by  
11 any other provision of law;

12 (B) specifically required by Executive order to  
13 be protected from disclosure in the interest of na-  
14 tional defense or national security or in the conduct  
15 of foreign affairs; or

16 (C) a part of an ongoing criminal investigation.

17 (3) Any reports required under this section shall also  
18 be submitted to the Congressional Oversight Panel estab-  
19 lished under section 125.

20 (g) FUNDING.—(1) Of the amounts made available  
21 to the Secretary of the Treasury under section 118,  
22 \$50,000,000 shall be available to the Special Inspector  
23 General to carry out this section.

24 (2) The amount available under paragraph (1) shall  
25 remain available until expended.

1 (h) TERMINATION.—The Office of the Special Inspec-  
2 tor General shall terminate on the later of—

3 (1) the date that the last troubled asset ac-  
4 quired by the Secretary under section 101 has been  
5 sold or transferred out of the ownership or control  
6 of the Federal Government; or

7 (2) the date of expiration of the last insurance  
8 contract issued under section 102.

9 **SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**  
10 **DEBT.**

11 Subsection (b) of section 3101 of title 31, United  
12 States Code, is amended by striking out the dollar limita-  
13 tion contained in such subsection and inserting  
14 “\$11,315,000,000,000”.

15 **SEC. 123. CREDIT REFORM.**

16 (a) IN GENERAL.—Subject to subsection (b), the  
17 costs of purchases of troubled assets made under section  
18 101(a) and guarantees of troubled assets under section  
19 102, and any cash flows associated with the activities au-  
20 thorized in section 102 and subsections (a), (b), and (c)  
21 of section 106 shall be determined as provided under the  
22 Federal Credit Reform Act of 1990 (2 U.S.C. 661 et.  
23 seq.), as applicable.

1 (b) COSTS.—For the purposes of section 502(5) of  
2 the Federal Credit Reform Act of 1990 (2 U.S.C.  
3 661a(5))—

4 (1) the cost of troubled assets and guarantees  
5 of troubled assets shall be calculated by adjusting  
6 the discount rate in section 502(5)(E) (2 U.S.C.  
7 661a(5)(E)) for market risks; and

8 (2) the cost of a modification of a troubled  
9 asset or guarantee of a troubled asset shall be the  
10 difference between the current estimate consistent  
11 with paragraph (1) under the terms of the troubled  
12 asset or guarantee of the troubled asset and the cur-  
13 rent estimate consistent with paragraph (1) under  
14 the terms of the troubled asset or guarantee of the  
15 troubled asset, as modified.

16 **SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.**

17 Section 257 of the National Housing Act (12 U.S.C.  
18 1715z-23) is amended—

19 (1) in subsection (e)—

20 (A) in paragraph (1)(B), by inserting be-  
21 fore “a ratio” the following: “, or thereafter is  
22 likely to have, due to the terms of the mortgage  
23 being reset,”;

24 (B) in paragraph (2)(B), by inserting be-  
25 fore the period at the end “(or such higher per-

1 centage as the Board determines, in the discre-  
2 tion of the Board)”;

3 (C) in paragraph (4)(A)—

4 (i) in the first sentence, by inserting  
5 after “insured loan” the following: “and  
6 any payments made under this para-  
7 graph,”; and

8 (ii) by adding at the end the fol-  
9 lowing: “Such actions may include making  
10 payments, which shall be accepted as pay-  
11 ment in full of all indebtedness under the  
12 eligible mortgage, to any holder of an ex-  
13 isting subordinate mortgage, in lieu of any  
14 future appreciation payments authorized  
15 under subparagraph (B).”; and

16 (2) in subsection (w), by inserting after “ad-  
17 ministrative costs” the following: “and payments  
18 pursuant to subsection (e)(4)(A)”.

19 **SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.**

20 (a) **ESTABLISHMENT.**—There is hereby established  
21 the Congressional Oversight Panel (hereafter in this sec-  
22 tion referred to as the “Oversight Panel”) as an establish-  
23 ment in the legislative branch.

1 (b) DUTIES.—The Oversight Panel shall review the  
2 current state of the financial markets and the regulatory  
3 system and submit the following reports to Congress:

4 (1) REGULAR REPORTS.—

5 (A) IN GENERAL.—Regular reports of the  
6 Oversight Panel shall include the following:

7 (i) The use by the Secretary of au-  
8 thority under this Act, including with re-  
9 spect to the use of contracting authority  
10 and administration of the program.

11 (ii) The impact of purchases made  
12 under the Act on the financial markets and  
13 financial institutions.

14 (iii) The extent to which the informa-  
15 tion made available on transactions under  
16 the program has contributed to market  
17 transparency.

18 (iv) The effectiveness of foreclosure  
19 mitigation efforts, and the effectiveness of  
20 the program from the standpoint of mini-  
21 mizing long-term costs to the taxpayers  
22 and maximizing the benefits for taxpayers.

23 (B) TIMING.—The reports required under  
24 this paragraph shall be submitted not later  
25 than 30 days after the first exercise by the Sec-

1           retary of the authority under section 101(a) or  
2           102, and every 30 days thereafter.

3           (2) SPECIAL REPORT ON REGULATORY RE-  
4           FORM.—The Oversight Panel shall submit a special  
5           report on regulatory reform not later than January  
6           20, 2009, analyzing the current state of the regu-  
7           latory system and its effectiveness at overseeing the  
8           participants in the financial system and protecting  
9           consumers, and providing recommendations for im-  
10          provement, including recommendations regarding  
11          whether any participants in the financial markets  
12          that are currently outside the regulatory system  
13          should become subject to the regulatory system, the  
14          rationale underlying such recommendation, and  
15          whether there are any gaps in existing consumer  
16          protections.

17          (c) MEMBERSHIP.—

18           (1) IN GENERAL.—The Oversight Panel shall  
19           consist of 5 members, as follows:

20           (A) 1 member appointed by the Speaker of  
21           the House of Representatives.

22           (B) 1 member appointed by the minority  
23           leader of the House of Representatives.

24           (C) 1 member appointed by the majority  
25           leader of the Senate.



1 (D) 1 member appointed by the minority  
2 leader of the Senate.

3 (E) 1 member appointed by the Speaker of  
4 the House of Representatives and the majority  
5 leader of the Senate, after consultation with the  
6 minority leader of the Senate and the minority  
7 leader of the House of Representatives.

8 (2) PAY.—Each member of the Oversight Panel  
9 shall each be paid at a rate equal to the daily equiv-  
10 alent of the annual rate of basic pay for level I of  
11 the Executive Schedule for each day (including trav-  
12 el time) during which such member is engaged in  
13 the actual performance of duties vested in the Com-  
14 mission.

15 (3) PROHIBITION OF COMPENSATION OF FED-  
16 ERAL EMPLOYEES.—Members of the Oversight  
17 Panel who are full-time officers or employees of the  
18 United States or Members of Congress may not re-  
19 ceive additional pay, allowances, or benefits by rea-  
20 son of their service on the Oversight Panel.

21 (4) TRAVEL EXPENSES.—Each member shall  
22 receive travel expenses, including per diem in lieu of  
23 subsistence, in accordance with applicable provisions  
24 under subchapter I of chapter 57 of title 5, United  
25 States Code.

1           (5) QUORUM.—Four members of the Oversight  
2 Panel shall constitute a quorum but a lesser number  
3 may hold hearings.

4           (6) VACANCIES.—A vacancy on the Oversight  
5 Panel shall be filled in the manner in which the  
6 original appointment was made.

7           (7) MEETINGS.—The Oversight Panel shall  
8 meet at the call of the Chairperson or a majority of  
9 its members.

10 (d) STAFF.—

11           (1) IN GENERAL.—The Oversight Panel may  
12 appoint and fix the pay of any personnel as the  
13 Commission considers appropriate.

14           (2) EXPERTS AND CONSULTANTS.—The Over-  
15 sight Panel may procure temporary and intermittent  
16 services under section 3109(b) of title 5, United  
17 States Code.

18           (3) STAFF OF AGENCIES.—Upon request of the  
19 Oversight Panel, the head of any Federal depart-  
20 ment or agency may detail, on a reimbursable basis,  
21 any of the personnel of that department or agency  
22 to the Oversight Panel to assist it in carrying out its  
23 duties under this Act.

24 (e) POWERS.—

1           (1) HEARINGS AND SESSIONS.—The Oversight  
2 Panel may, for the purpose of carrying out this sec-  
3 tion, hold hearings, sit and act at times and places,  
4 take testimony, and receive evidence as the Panel  
5 considers appropriate and may administer oaths or  
6 affirmations to witnesses appearing before it.

7           (2) POWERS OF MEMBERS AND AGENTS.—Any  
8 member or agent of the Oversight Panel may, if au-  
9 thorized by the Oversight Panel, take any action  
10 which the Oversight Panel is authorized to take by  
11 this section.

12           (3) OBTAINING OFFICIAL DATA.—The Over-  
13 sight Panel may secure directly from any depart-  
14 ment or agency of the United States information  
15 necessary to enable it to carry out this section. Upon  
16 request of the Chairperson of the Oversight Panel,  
17 the head of that department or agency shall furnish  
18 that information to the Oversight Panel.

19           (4) REPORTS .—The Oversight Panel shall re-  
20 ceive and consider all reports required to be sub-  
21 mitted to the Oversight Panel under this Act.

22           (f) TERMINATION.—The Oversight Panel shall termi-  
23 nate 6 months after the termination date specified in sec-  
24 tion 120.

25           (g) FUNDING FOR EXPENSES.—

1           (1) AUTHORIZATION OF APPROPRIATIONS.—

2           There is authorized to be appropriated to the Over-  
3           sight Panel such sums as may be necessary for any  
4           fiscal year, half of which shall be derived from the  
5           applicable account of the House of Representatives,  
6           and half of which shall be derived from the contin-  
7           gent fund of the Senate.

8           (2) REIMBURSEMENT OF AMOUNTS.—An

9           amount equal to the expenses of the Oversight Panel  
10          shall be promptly transferred by the Secretary, from  
11          time to time upon the presentment of a statement  
12          of such expenses by the Chairperson of the Over-  
13          sight Panel, from funds made available to the Sec-  
14          retary under this Act to the applicable fund of the  
15          House of Representatives and the contingent fund of  
16          the Senate, as appropriate, as reimbursement for  
17          amounts expended from such account and fund  
18          under paragraph (1).

19 **SEC. 126. FDIC AUTHORITY.**

20          (a) IN GENERAL.—Section 18(a) of the Federal De-  
21          posit Insurance Act (12 U.S.C. 1828(a)) is amended by  
22          adding at the end the following new paragraph:

23                 “(4) FALSE ADVERTISING, MISUSE OF FDIC  
24          NAMES, AND MISREPRESENTATION TO INDICATE IN-  
25          SURED STATUS.—

1           “(A) PROHIBITION ON FALSE ADVER-  
2           TISING AND MISUSE OF FDIC NAMES.—No per-  
3           son may represent or imply that any deposit li-  
4           ability, obligation, certificate, or share is in-  
5           sured or guaranteed by the Corporation, if such  
6           deposit liability, obligation, certificate, or share  
7           is not insured or guaranteed by the Corpora-  
8           tion—

9                   “(i) by using the terms ‘Federal De-  
10                  posit’, ‘Federal Deposit Insurance’, ‘Fed-  
11                  eral Deposit Insurance Corporation’, any  
12                  combination of such terms, or the abbrevi-  
13                  ation ‘FDIC’ as part of the business  
14                  name or firm name of any person, includ-  
15                  ing any corporation, partnership, business  
16                  trust, association, or other business entity;  
17                  or

18                   “(ii) by using such terms or any other  
19                  terms, sign, or symbol as part of an adver-  
20                  tisement, solicitation, or other document.

21           “(B) PROHIBITION ON MISREPRESENTA-  
22           TIONS OF INSURED STATUS.—No person may  
23           knowingly misrepresent—

24                   “(i) that any deposit liability, obliga-  
25                  tion, certificate, or share is insured, under

1           this Act, if such deposit liability, obliga-  
2           tion, certificate, or share is not so insured;  
3           or

4           “(ii) the extent to which or the man-  
5           ner in which any deposit liability, obliga-  
6           tion, certificate, or share is insured under  
7           this Act, if such deposit liability, obliga-  
8           tion, certificate, or share is not so insured,  
9           to the extent or in the manner represented.

10          “(C) AUTHORITY OF THE APPROPRIATE  
11          FEDERAL BANKING AGENCY.—The appropriate  
12          Federal banking agency shall have enforcement  
13          authority in the case of a violation of this para-  
14          graph by any person for which the agency is the  
15          appropriate Federal banking agency, or any in-  
16          stitution-affiliated party thereof.

17          “(D) CORPORATION AUTHORITY IF THE  
18          APPROPRIATE FEDERAL BANKING AGENCY  
19          FAILS TO FOLLOW RECOMMENDATION.—

20          “(i) RECOMMENDATION.—The Cor-  
21          poration may recommend in writing to the  
22          appropriate Federal banking agency that  
23          the agency take any enforcement action  
24          authorized under section 8 for purposes of  
25          enforcement of this paragraph with respect

1 to any person for which the agency is the  
2 appropriate Federal banking agency or any  
3 institution-affiliated party thereof.

4 “(ii) AGENCY RESPONSE.—If the ap-  
5 propriate Federal banking agency does not,  
6 within 30 days of the date of receipt of a  
7 recommendation under clause (i), take the  
8 enforcement action with respect to this  
9 paragraph recommended by the Corpora-  
10 tion or provide a plan acceptable to the  
11 Corporation for responding to the situation  
12 presented, the Corporation may take the  
13 recommended enforcement action against  
14 such person or institution-affiliated party.

15 “(E) ADDITIONAL AUTHORITY.—In addi-  
16 tion to its authority under subparagraphs (C)  
17 and (D), for purposes of this paragraph, the  
18 Corporation shall have, in the same manner and  
19 to the same extent as with respect to a State  
20 nonmember insured bank—

21 “(i) jurisdiction over—

22 “(I) any person other than a per-  
23 son for which another agency is the  
24 appropriate Federal banking agency

1 or any institution-affiliated party  
2 thereof; and

3 “(II) any person that aids or  
4 abets a violation of this paragraph by  
5 a person described in subclause (I);  
6 and

7 “(ii) for purposes of enforcing the re-  
8 quirements of this paragraph, the author-  
9 ity of the Corporation under—

10 “(I) section 10(c) to conduct in-  
11 vestigations; and

12 “(II) subsections (b), (c), (d) and  
13 (i) of section 8 to conduct enforce-  
14 ment actions.

15 “(F) OTHER ACTIONS PRESERVED.—No  
16 provision of this paragraph shall be construed  
17 as barring any action otherwise available, under  
18 the laws of the United States or any State, to  
19 any Federal or State agency or individual.”.

20 (b) ENFORCEMENT ORDERS.—Section 8(c) of the  
21 Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is  
22 amended by adding at the end the following new para-  
23 graph:

24 “(4) FALSE ADVERTISING OR MISUSE OF  
25 NAMES TO INDICATE INSURED STATUS.—



1 “(A) TEMPORARY ORDER.—

2 “(i) IN GENERAL.—If a notice of  
3 charges served under subsection (b)(1)  
4 specifies on the basis of particular facts  
5 that any person engaged or is engaging in  
6 conduct described in section 18(a)(4), the  
7 Corporation or other appropriate Federal  
8 banking agency may issue a temporary  
9 order requiring—

10 “(I) the immediate cessation of  
11 any activity or practice described,  
12 which gave rise to the notice of  
13 charges; and

14 “(II) affirmative action to pre-  
15 vent any further, or to remedy any ex-  
16 isting, violation.

17 “(ii) EFFECT OF ORDER.—Any tem-  
18 porary order issued under this subpara-  
19 graph shall take effect upon service.

20 “(B) EFFECTIVE PERIOD OF TEMPORARY  
21 ORDER.—A temporary order issued under sub-  
22 paragraph (A) shall remain effective and en-  
23 forceable, pending the completion of an admin-  
24 istrative proceeding pursuant to subsection

1 (b)(1) in connection with the notice of  
2 charges—

3 “(i) until such time as the Corpora-  
4 tion or other appropriate Federal banking  
5 agency dismisses the charges specified in  
6 such notice; or

7 “(ii) if a cease-and-desist order is  
8 issued against such person, until the effec-  
9 tive date of such order.

10 “(C) CIVIL MONEY PENALTIES.—Any vio-  
11 lation of section 18(a)(4) shall be subject to  
12 civil money penalties, as set forth in subsection  
13 (i), except that for any person other than an in-  
14 sured depository institution or an institution-af-  
15 filiated party that is found to have violated this  
16 paragraph, the Corporation or other appro-  
17 priate Federal banking agency shall not be re-  
18 quired to demonstrate any loss to an insured  
19 depository institution.”.

20 (c) UNENFORCEABILITY OF CERTAIN AGREE-  
21 MENTS.—Section 13(c) of the Federal Deposit Insurance  
22 Act (12 U.S.C. 1823(c)) is amended by adding at the end  
23 the following new paragraph:

24 “(11) UNENFORCEABILITY OF CERTAIN AGREE-  
25 MENTS.—No provision contained in any existing or

1 future standstill, confidentiality, or other agreement  
2 that, directly or indirectly—

3 “(A) affects, restricts, or limits the ability  
4 of any person to offer to acquire or acquire,

5 “(B) prohibits any person from offering to  
6 acquire or acquiring, or

7 “(C) prohibits any person from using any  
8 previously disclosed information in connection  
9 with any such offer to acquire or acquisition of,  
10 all or part of any insured depository institution, in-  
11 cluding any liabilities, assets, or interest therein, in  
12 connection with any transaction in which the Cor-  
13 poration exercises its authority under section 11 or  
14 13, shall be enforceable against or impose any liabil-  
15 ity on such person, as such enforcement or liability  
16 shall be contrary to public policy.”.

17 (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
18 Section 18 of the Federal Deposit Insurance Act (12  
19 U.S.C. 1828) is amended—

20 (1) in subsection (a)(3)—

21 (A) by striking “this subsection” the first  
22 place that term appears and inserting “para-  
23 graph (1)”; and

1 (B) by striking “this subsection” the sec-  
2 ond place that term appears and inserting  
3 “paragraph (2)”; and  
4 (2) in the heading for subsection (a), by strik-  
5 ing “INSURANCE LOGO.—” and inserting “REP-  
6 RESENTATIONS OF DEPOSIT INSURANCE.—”.

7 **SEC. 127. COOPERATION WITH THE FBI.**

8 Any Federal financial regulatory agency shall cooper-  
9 ate with the Federal Bureau of Investigation and other  
10 law enforcement agencies investigating fraud, misrepre-  
11 sentation, and malfeasance with respect to development,  
12 advertising, and sale of financial products.

13 **SEC. 128. ACCELERATION OF EFFECTIVE DATE.**

14 Section 203 of the Financial Services Regulatory Re-  
15 lief Act of 2006 (12 U.S.C. 461 note) is amended by strik-  
16 ing “October 1, 2011” and inserting “October 1, 2008”.

17 **SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHOR-**  
18 **ITY.**

19 (a) IN GENERAL.—Not later than 7 days after the  
20 date on which the Board exercises its authority under the  
21 third paragraph of section 13 of the Federal Reserve Act  
22 (12 U.S.C. 343; relating to discounts for individuals, part-  
23 nerships, and corporations) the Board shall provide to the  
24 Committee on Banking, Housing, and Urban Affairs of

1 the Senate and the Committee on Financial Services of  
2 the House of Representatives a report which includes—

3 (1) the justification for exercising the authority;

4 and

5 (2) the specific terms of the actions of the  
6 Board, including the size and duration of the lend-  
7 ing, available information concerning the value of  
8 any collateral held with respect to such a loan, the  
9 recipient of warrants or any other potential equity in  
10 exchange for the loan, and any expected cost to the  
11 taxpayers for such exercise.

12 (b) PERIODIC UPDATES.—The Board shall provide  
13 updates to the Committees specified in subsection (a) not  
14 less frequently than once every 60 days while the subject  
15 loan is outstanding, including—

16 (1) the status of the loan;

17 (2) the value of the collateral held by the Fed-  
18 eral reserve bank which initiated the loan; and

19 (3) the projected cost to the taxpayers of the  
20 loan.

21 (c) CONFIDENTIALITY.—The information submitted  
22 to the Congress under this section may be kept confiden-  
23 tial, upon the written request of the Chairman of the  
24 Board, in which case it shall made available only to the

1 Chairpersons and Ranking Members of the Committees  
2 described in subsection (a).

3 (d) **APPLICABILITY.**—The provisions of this section  
4 shall be in force for all uses of the authority provided  
5 under section 13 of the Federal Reserve Act occurring  
6 during the period beginning on March 1, 2008 and ending  
7 on the after the date of enactment of this Act, and reports  
8 described in subsection (a) shall be required beginning not  
9 later than 30 days after that date of enactment, with re-  
10 spect to any such exercise of authority.

11 (e) **SHARING OF INFORMATION.**—Any reports re-  
12 quired under this section shall also be submitted to the  
13 Congressional Oversight Panel established under section  
14 125.

15 **SEC. 130. TECHNICAL CORRECTIONS.**

16 (a) **IN GENERAL.**—Section 128(b)(2) of the Truth in  
17 Lending Act (15 U.S.C. 1638(b)(2)), as amended by sec-  
18 tion 2502 of the Mortgage Disclosure Improvement Act  
19 of 2008 (Public Law 110-289), is amended—

20 (1) in subparagraph (A), by striking “In the  
21 case” and inserting “Except as provided in subpara-  
22 graph (G), in the case”; and

23 (2) by amending subparagraph (G) to read as  
24 follows:

1           “(G)(i) In the case of an extension of cred-  
2           it relating to a plan described in section  
3           101(53D) of title 11, United States Code—

4                   “(I) the requirements of subpara-  
5                   graphs (A) through (E) shall not apply;  
6                   and

7                   “(II) a good faith estimate of the dis-  
8                   closures required under subsection (a) shall  
9                   be made in accordance with regulations of  
10                  the Board under section 121(c) before  
11                  such credit is extended, or shall be deliv-  
12                  ered or placed in the mail not later than  
13                  3 business days after the date on which  
14                  the creditor receives the written application  
15                  of the consumer for such credit, whichever  
16                  is earlier.

17                  “(ii) If a disclosure statement furnished  
18                  within 3 business days of the written applica-  
19                  tion (as provided under clause (i)(II)) contains  
20                  an annual percentage rate which is subse-  
21                  quently rendered inaccurate, within the mean-  
22                  ing of section 107(c), the creditor shall furnish  
23                  another disclosure statement at the time of set-  
24                  tlement or consummation of the transaction.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect as if included in the  
3 amendments made by section 2502 of the Mortgage Dis-  
4 closure Improvement Act of 2008 (Public Law 110-289).

5 **SEC. 131. EXCHANGE STABILIZATION FUND REIMBURSE-**  
6 **MENT.**

7 (a) REIMBURSEMENT.—The Secretary shall reim-  
8 burse the Exchange Stabilization Fund established under  
9 section 5302 of title 31, United States Code, for any funds  
10 that are used for the Treasury Money Market Funds  
11 Guaranty Program for the United States money market  
12 mutual fund industry, from funds under this Act.

13 (b) LIMITS ON USE OF EXCHANGE STABILIZATION  
14 FUND.—The Secretary is prohibited from using the Ex-  
15 change Stabilization Fund for the establishment of any  
16 future guaranty programs for the United States money  
17 market mutual fund industry.

18 **SEC. 132. AUTHORITY TO SUSPEND MARK-TO-MARKET AC-**  
19 **COUNTING.**

20 (a) AUTHORITY.—The Securities and Exchange Com-  
21 mission shall have the authority under the securities laws  
22 (as such term is defined in section 3(a)(47) of the Securi-  
23 ties Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to sus-  
24 pend, by rule, regulation, or order, the application of  
25 Statement Number 157 of the Financial Accounting



1 Standards Board for any issuer (as such term is defined  
2 in section 3(a)(8) of such Act) or with respect to any class  
3 or category of transaction if the Commission determines  
4 that is necessary or appropriate in the public interest and  
5 is consistent with the protection of investors.

6 (b) SAVINGS PROVISION.—Nothing in subsection (a)  
7 shall be construed to restrict or limit any authority of the  
8 Securities and Exchange Commission under securities  
9 laws as in effect on the date of enactment of this Act.

10 **SEC. 133. STUDY ON MARK-TO-MARKET ACCOUNTING.**

11 (a) STUDY.—The Securities and Exchange Commis-  
12 sion, in consultation with the Board and the Secretary,  
13 shall conduct a study on mark-to-market accounting  
14 standards as provided in Statement Number 157 of the  
15 Financial Accounting Standards Board, as such standards  
16 are applicable to financial institutions, including deposi-  
17 tory institutions. Such a study shall consider at a min-  
18 imum—

19 (1) the effects of such accounting standards on  
20 a financial institution's balance sheet;

21 (2) the impacts of such accounting on bank fail-  
22 ures in 2008;

23 (3) the impact of such standards on the quality  
24 of financial information available to investors;

1           (4) the process used by the Financial Account-  
2           ing Standards Board in developing accounting  
3           standards;

4           (5) the advisability and feasibility of modifica-  
5           tions to such standards; and

6           (6) alternative accounting standards to those  
7           provided in such Statement Number 157.

8           (b) REPORT.—The Securities and Exchange Commis-  
9           sion shall submit to Congress a report of such study before  
10          the end of the 90-day period beginning on the date of the  
11          enactment of this Act containing the findings and deter-  
12          minations of the Commission, including such administra-  
13          tive and legislative recommendations as the Commission  
14          determines appropriate.

15       **SEC. 134. RECOUPMENT.**

16          Upon the expiration of the 5-year period beginning  
17          upon the date of the enactment of this Act, the Director  
18          of the Office of Management and Budget, in consultation  
19          with the Director of the Congressional Budget Office, shall  
20          submit a report to the Congress on the net amount within  
21          the Troubled Asset Relief Program under this Act. In any  
22          case where there is a shortfall, the President shall submit  
23          a legislative proposal that recoups from the financial in-  
24          dustry an amount equal to the shortfall in order to ensure

1 that the Troubled Asset Relief Program does not add to  
2 the deficit or national debt.

3 **SEC. 135. PRESERVATION OF AUTHORITY.**

4 With the exception of section 131, nothing in this Act  
5 may be construed to limit the authority of the Secretary  
6 or the Board under any other provision of law.

7 **SEC. 136. TEMPORARY INCREASE IN DEPOSIT AND SHARE**  
8 **INSURANCE COVERAGE.**

9 (a) FEDERAL DEPOSIT INSURANCE ACT; TEM-  
10 PORARY INCREASE IN DEPOSIT INSURANCE.—

11 (1) INCREASED AMOUNT.—Effective only dur-  
12 ing the period beginning on the date of enactment  
13 of this Act and ending on December 31, 2009, sec-  
14 tion 11(a)(1)(E) of the Federal Deposit Insurance  
15 Act (12 U.S.C. 1821(a)(1)(E)) shall apply with  
16 “\$250,000” substituted for “\$100,000”.

17 (2) TEMPORARY INCREASE NOT TO BE CONSID-  
18 ERED FOR SETTING ASSESSMENTS.—The temporary  
19 increase in the standard maximum deposit insurance  
20 amount made under paragraph (1) shall not be  
21 taken into account by the Board of Directors of the  
22 Corporation for purposes of setting assessments  
23 under section 7(b)(2) of the Federal Deposit Insur-  
24 ance Act (12 U.S.C. 1817(b)(2)).

1           (3) BORROWING LIMITS TEMPORARILY LIFT-  
2 ED.—During the period beginning on the date of en-  
3 actment of this Act and ending on December 31,  
4 2009, the Board of Directors of the Corporation  
5 may request from the Secretary, and the Secretary  
6 shall approve, a loan or loans in an amount or  
7 amounts necessary to carry out this subsection,  
8 without regard to the limitations on such borrowing  
9 under section 14(a) and 15(c) of the Federal De-  
10 posit Insurance Act (12 U.S.C. 1824(a), 1825(c)).

11       (b) FEDERAL CREDIT UNION ACT; TEMPORARY IN-  
12 CREASE IN SHARE INSURANCE.—

13           (1) INCREASED AMOUNT.—Effective only dur-  
14 ing the period beginning on the date of enactment  
15 of this Act and ending on December 31, 2009, sec-  
16 tion 207(k)(5) of the Federal Credit Union Act (12  
17 U.S.C. 1787(k)(5)) shall apply with “\$250,000”  
18 substituted for “\$100,000”.

19           (2) TEMPORARY INCREASE NOT TO BE CONSID-  
20 ERED FOR SETTING INSURANCE PREMIUM  
21 CHARGES.—The temporary increase in the standard  
22 maximum share insurance amount made under para-  
23 graph (1) shall not be taken into account by the Na-  
24 tional Credit Union Administration Board for pur-  
25 poses of setting insurance premium charges under

1 section 202(c)(2) of the Federal Credit Union Act  
2 (12 U.S.C. 1782(c)(2)).

3 (3) BORROWING LIMITS TEMPORARILY LIFT-  
4 ED.—During the period beginning on the date of en-  
5 actment of this Act and ending on December 31,  
6 2009, the National Credit Union Administration  
7 Board may request from the Secretary, and the Sec-  
8 retary shall approve, a loan or loans in an amount  
9 or amounts necessary to carry out this subsection,  
10 without regard to the limitations on such borrowing  
11 under section 203(d)(1) of the Federal Credit Union  
12 Act (12 U.S.C. 1783(d)(1)).

13 (c) NOT FOR USE IN INFLATION ADJUSTMENTS.—  
14 The temporary increase in the standard maximum deposit  
15 insurance amount made under this section shall not be  
16 used to make any inflation adjustment under section  
17 11(a)(1)(F) of the Federal Deposit Insurance Act (12  
18 U.S.C. 1821(a)(1)(F)) for purposes of that Act or the  
19 Federal Credit Union Act.

## 20 **TITLE II—BUDGET-RELATED** 21 **PROVISIONS**

### 22 **SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT** 23 **AGENCIES.**

24 Upon request, and to the extent otherwise consistent  
25 with law, all information used by the Secretary in connec-

1 tion with activities authorized under this Act (including  
2 the records to which the Comptroller General is entitled  
3 under this Act) shall be made available to congressional  
4 support agencies (in accordance with their obligations to  
5 support the Congress as set out in their authorizing stat-  
6 utes) for the purposes of assisting the committees of Con-  
7 gress with conducting oversight, monitoring, and analysis  
8 of the activities authorized under this Act.

9 **SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND**  
10 **BUDGET AND THE CONGRESSIONAL BUDGET**  
11 **OFFICE.**

12 (a) **REPORTS BY THE OFFICE OF MANAGEMENT AND**  
13 **BUDGET.**—Within 60 days of the first exercise of the au-  
14 thority granted in section 101(a), but in no case later than  
15 December 31, 2008, and semiannually thereafter, the Of-  
16 fice of Management and Budget shall report to the Presi-  
17 dent and the Congress—

18 (1) the estimate, notwithstanding section  
19 502(5)(F) of the Federal Credit Reform Act of 1990  
20 (2 U.S.C. 661a(5)(F)), as of the first business day  
21 that is at least 30 days prior to the issuance of the  
22 report, of the cost of the troubled assets, and guar-  
23 antees of the troubled assets, determined in accord-  
24 ance with section 123;

1           (2) the information used to derive the estimate,  
2           including assets purchased or guaranteed, prices  
3           paid, revenues received, the impact on the deficit  
4           and debt, and a description of any outstanding com-  
5           mitments to purchase troubled assets; and

6           (3) a detailed analysis of how the estimate has  
7           changed from the previous report.

8           Beginning with the second report under subsection (a), the  
9           Office of Management and Budget shall explain the dif-  
10          ferences between the Congressional Budget Office esti-  
11          mates delivered in accordance with subsection (b) and  
12          prior Office of Management and Budget estimates.

13          (b) REPORTS BY THE CONGRESSIONAL BUDGET OF-  
14          FICE.—Within 45 days of receipt by the Congress of each  
15          report from the Office of Management and Budget under  
16          subsection (a), the Congressional Budget Office shall re-  
17          port to the Congress the Congressional Budget Office’s  
18          assessment of the report submitted by the Office of Man-  
19          agement and Budget, including—

20                 (1) the cost of the troubled assets and guaran-  
21                 tees of the troubled assets,

22                 (2) the information and valuation methods used  
23                 to calculate such cost, and

24                 (3) the impact on the deficit and the debt.

1           (c) FINANCIAL EXPERTISE.—In carrying out the du-  
2 ties in this subsection or performing analyses of activities  
3 under this Act, the Director of the Congressional Budget  
4 Office may employ personnel and procure the services of  
5 experts and consultants.

6           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated such sums as may be  
8 necessary to produce reports required by this section.

9 **SEC. 203. ANALYSIS IN PRESIDENT'S BUDGET.**

10          (a) IN GENERAL.—Section 1105(a) of title 31,  
11 United States Code, is amended by adding at the end the  
12 following new paragraph:

13               “(35) as supplementary materials, a separate  
14 analysis of the budgetary effects for all prior fiscal  
15 years, the current fiscal year, the fiscal year for  
16 which the budget is submitted, and ensuing fiscal  
17 years of the actions the Secretary of the Treasury  
18 has taken or plans to take using any authority pro-  
19 vided in the Emergency Economic Stabilization Act  
20 of 2008, including—

21                       “(A) an estimate of the current value of all  
22 assets purchased, sold, and guaranteed under  
23 the authority provided in the Emergency Eco-  
24 nomic Stabilization Act of 2008 using method-  
25 ology required by the Federal Credit Reform



1 Act of 1990 (2 U.S.C. 661 et seq.) and section  
2 123 of the Emergency Economic Stabilization  
3 Act of 2008;

4 “(B) an estimate of the deficit, the debt  
5 held by the public, and the gross Federal debt  
6 using methodology required by the Federal  
7 Credit Reform Act of 1990 and section 123 of  
8 the Emergency Economic Stabilization Act of  
9 2008;

10 “(C) an estimate of the current value of all  
11 assets purchased, sold, and guaranteed under  
12 the authority provided in the Emergency Eco-  
13 nomic Stabilization Act of 2008 calculated on a  
14 cash basis;

15 “(D) a revised estimate of the deficit, the  
16 debt held by the public, and the gross Federal  
17 debt, substituting the cash-based estimates in  
18 subparagraph (C) for the estimates calculated  
19 under subparagraph (A) pursuant to the Fed-  
20 eral Credit Reform Act of 1990 and section 123  
21 of the Emergency Economic Stabilization Act of  
22 2008; and

23 “(E) the portion of the deficit which can  
24 be attributed to any action taken by the Sec-  
25 retary using authority provided by the Emer-

1           gency Economic Stabilization Act of 2008 and  
2           the extent to which the change in the deficit  
3           since the most recent estimate is due to a re-  
4           estimate using the methodology required by the  
5           Federal Credit Reform Act of 1990 and section  
6           123 of the Emergency Economic Stabilization  
7           Act of 2008.”

8           (b) CONSULTATION.—In implementing this section,  
9           the Director of Office of Management and Budget shall  
10          consult periodically, but at least annually, with the Com-  
11          mittee on the Budget of the House of Representatives, the  
12          Committee on the Budget of the Senate, and the Director  
13          of the Congressional Budget Office.

14          (c) EFFECTIVE DATE.—This section and the amend-  
15          ment made by this section shall apply beginning with re-  
16          spect to the fiscal year 2010 budget submission of the  
17          President.

18       **SEC. 204. EMERGENCY TREATMENT.**

19          All provisions of this Act are designated as an emer-  
20          gency requirement and necessary to meet emergency needs  
21          pursuant to section 204(a) of S. Con. Res 21 (110th Con-  
22          gress), the concurrent resolution on the budget for fiscal  
23          year 2008 and rescissions of any amounts provided in this  
24          Act shall not be counted for purposes of budget enforce-  
25          ment.

1           **TITLE III—TAX PROVISIONS**

2   **SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF**  
3                   **CERTAIN PREFERRED STOCK.**

4           (a) **IN GENERAL.**—For purposes of the Internal Rev-  
5   enue Code of 1986, gain or loss from the sale or exchange  
6   of any applicable preferred stock by any applicable finan-  
7   cial institution shall be treated as ordinary income or loss.

8           (b) **APPLICABLE PREFERRED STOCK.**—For purposes  
9   of this section, the term “applicable preferred stock”  
10   means any stock—

11           (1) which is preferred stock in—

12                   (A) the Federal National Mortgage Asso-  
13                   ciation, established pursuant to the Federal Na-  
14                   tional Mortgage Association Charter Act (12  
15                   U.S.C. 1716 et seq.), or

16                   (B) the Federal Home Loan Mortgage  
17                   Corporation, established pursuant to the Fed-  
18                   eral Home Loan Mortgage Corporation Act (12  
19                   U.S.C. 1451 et seq.), and

20           (2) which—

21                   (A) was held by the applicable financial in-  
22                   stitution on September 6, 2008, or

23                   (B) was sold or exchanged by the applica-  
24                   ble financial institution on or after January 1,  
25                   2008, and before September 7, 2008.

1 (c) APPLICABLE FINANCIAL INSTITUTION.—For pur-  
2 poses of this section:

3 (1) IN GENERAL.—Except as provided in para-  
4 graph (2), the term “applicable financial institution”  
5 means—

6 (A) a financial institution referred to in  
7 section 582(e)(2) of the Internal Revenue Code  
8 of 1986, or

9 (B) a depository institution holding com-  
10 pany (as defined in section 3(w)(1) of the Fed-  
11 eral Deposit Insurance Act (12 U.S.C.  
12 1813(w)(1))).

13 (2) SPECIAL RULES FOR CERTAIN SALES.—In  
14 the case of—

15 (A) a sale or exchange described in sub-  
16 section (b)(2)(B), an entity shall be treated as  
17 an applicable financial institution only if it was  
18 an entity described in subparagraph (A) or (B)  
19 of paragraph (1) at the time of the sale or ex-  
20 change, and

21 (B) a sale or exchange after September 6,  
22 2008, of preferred stock described in subsection  
23 (b)(2)(A), an entity shall be treated as an appli-  
24 cable financial institution only if it was an enti-  
25 ty described in subparagraph (A) or (B) of

1 paragraph (1) at all times during the period be-  
2 ginning on September 6, 2008, and ending on  
3 the date of the sale or exchange of the pre-  
4 ferred stock.

5 (d) SPECIAL RULE FOR CERTAIN PROPERTY NOT  
6 HELD ON SEPTEMBER 6, 2008.—The Secretary of the  
7 Treasury or the Secretary’s delegate may extend the appli-  
8 cation of this section to all or a portion of the gain or  
9 loss from a sale or exchange in any case where—

10 (1) an applicable financial institution sells or  
11 exchanges applicable preferred stock after Sep-  
12 tember 6, 2008, which the applicable financial insti-  
13 tution did not hold on such date, but the basis of  
14 which in the hands of the applicable financial insti-  
15 tution at the time of the sale or exchange is the  
16 same as the basis in the hands of the person which  
17 held such stock on such date, or

18 (2) the applicable financial institution is a part-  
19 ner in a partnership which—

20 (A) held such stock on September 6, 2008,  
21 and later sold or exchanged such stock, or

22 (B) sold or exchanged such stock during  
23 the period described in subsection (b)(2)(B).

24 (e) REGULATORY AUTHORITY.—The Secretary of the  
25 Treasury or the Secretary’s delegate may prescribe such

1 guidance, rules, or regulations as are necessary to carry  
2 out the purposes of this section.

3 (f) EFFECTIVE DATE.—This section shall apply to  
4 sales or exchanges occurring after December 31, 2007, in  
5 taxable years ending after such date.

6 **SEC. 302. SPECIAL RULES FOR TAX TREATMENT OF EXECU-**  
7 **TIVE COMPENSATION OF EMPLOYERS PAR-**  
8 **TICIPATING IN THE TROUBLED ASSETS RE-**  
9 **LIEF PROGRAM.**

10 (a) DENIAL OF DEDUCTION.—Subsection (m) of sec-  
11 tion 162 of the Internal Revenue Code of 1986 is amended  
12 by adding at the end the following new paragraph:

13 “(5) SPECIAL RULE FOR APPLICATION TO EM-  
14 PLOYERS PARTICIPATING IN THE TROUBLED ASSETS  
15 RELIEF PROGRAM.—

16 “(A) IN GENERAL.—In the case of an ap-  
17 plicable employer, no deduction shall be allowed  
18 under this chapter—

19 “(i) in the case of executive remunera-  
20 tion for any applicable taxable year which  
21 is attributable to services performed by a  
22 covered executive during such applicable  
23 taxable year, to the extent that the amount  
24 of such remuneration exceeds \$500,000, or



1           acquired for all taxable years exceeds  
2           \$300,000,000.

3           “(ii) DISREGARD OF CERTAIN ASSETS  
4           SOLD THROUGH DIRECT PURCHASE.—If  
5           the only sales of troubled assets by an em-  
6           ployer under the program described in  
7           clause (i) are through 1 or more direct  
8           purchases (within the meaning of section  
9           113(c) of the Emergency Economic Sta-  
10          bilization Act of 2008), such assets shall  
11          not be taken into account under clause (i)  
12          in determining whether the employer is an  
13          applicable employer for purposes of this  
14          paragraph.

15          “(iii) AGGREGATION RULES.—Two or  
16          more persons who are treated as a single  
17          employer under subsection (b) or (c) of  
18          section 414 shall be treated as a single em-  
19          ployer, except that in applying section  
20          1563(a) for purposes of either such sub-  
21          section, paragraphs (2) and (3) thereof  
22          shall be disregarded.

23          “(C) APPLICABLE TAXABLE YEAR.—For  
24          purposes of this paragraph, the term ‘applicable



1 taxable year’ means, with respect to any em-  
2 ployer—

3 “(i) the first taxable year of the em-  
4 ployer—

5 “(I) which includes any portion  
6 of the period during which the au-  
7 thorities under section 101(a) of the  
8 Emergency Economic Stabilization  
9 Act of 2008 are in effect (determined  
10 under section 120 thereof), and

11 “(II) in which the aggregate  
12 amount of troubled assets acquired  
13 from the employer during the taxable  
14 year pursuant to such authorities  
15 (other than assets to which subpara-  
16 graph (B)(ii) applies), when added to  
17 the aggregate amount so acquired for  
18 all preceding taxable years, exceeds  
19 \$300,000,000, and

20 “(ii) any subsequent taxable year  
21 which includes any portion of such period.

22 “(D) COVERED EXECUTIVE.—For pur-  
23 poses of this paragraph—

1           “(i) IN GENERAL.—The term ‘covered  
2 executive’ means, with respect to any ap-  
3 plicable taxable year, any employee—

4           “(I) who, at any time during the  
5 portion of the taxable year during  
6 which the authorities under section  
7 101(a) of the Emergency Economic  
8 Stabilization Act of 2008 are in effect  
9 (determined under section 120 there-  
10 of), is the chief executive officer of the  
11 applicable employer or the chief finan-  
12 cial officer of the applicable employer,  
13 or an individual acting in either such  
14 capacity, or

15           “(II) who is described in clause  
16 (ii).

17           “(ii) HIGHEST COMPENSATED EM-  
18 PLOYEES.—An employee is described in  
19 this clause if the employee is 1 of the 3  
20 highest compensated officers of the appli-  
21 cable employer for the taxable year (other  
22 than an individual described in clause  
23 (i)(I)), determined—

24           “(I) on the basis of the share-  
25 holder disclosure rules for compensa-

1                   tion under the Securities Exchange  
2                   Act of 1934 (without regard to wheth-  
3                   er those rules apply to the employer),  
4                   and

5                   “(II) by only taking into account  
6                   employees employed during the por-  
7                   tion of the taxable year described in  
8                   clause (i)(I).

9                   “(iii) EMPLOYEE REMAINS COVERED  
10                  EXECUTIVE.—If an employee is a covered  
11                  executive with respect to an applicable em-  
12                  ployer for any applicable taxable year, such  
13                  employee shall be treated as a covered ex-  
14                  ecutive with respect to such employer for  
15                  all subsequent applicable taxable years and  
16                  for all subsequent taxable years in which  
17                  deferred deduction executive remuneration  
18                  with respect to services performed in all  
19                  such applicable taxable years would (but  
20                  for this paragraph) be deductible.

21                  “(E) EXECUTIVE REMUNERATION.—For  
22                  purposes of this paragraph, the term ‘executive  
23                  remuneration’ means the applicable employee  
24                  remuneration of the covered executive, as deter-  
25                  mined under paragraph (4) without regard to

1           subparagraphs (B), (C), and (D) thereof. Such  
2           term shall not include any deferred deduction  
3           executive remuneration with respect to services  
4           performed in a prior applicable taxable year.

5           “(F) DEFERRED DEDUCTION EXECUTIVE  
6           REMUNERATION.—For purposes of this para-  
7           graph, the term ‘deferred deduction executive  
8           remuneration’ means remuneration which would  
9           be executive remuneration for services per-  
10          formed in an applicable taxable year but for the  
11          fact that the deduction under this chapter (de-  
12          termined without regard to this paragraph) for  
13          such remuneration is allowable in a subsequent  
14          taxable year.

15          “(G) COORDINATION.—Rules similar to  
16          the rules of subparagraphs (F) and (G) of para-  
17          graph (4) shall apply for purposes of this para-  
18          graph.

19          “(H) REGULATORY AUTHORITY.—The Sec-  
20          retary may prescribe such guidance, rules, or  
21          regulations as are necessary to carry out the  
22          purposes of this paragraph and the Emergency  
23          Economic Stabilization Act of 2008, including  
24          the extent to which this paragraph applies in

1           the case of any acquisition, merger, or reorga-  
2           nization of an applicable employer.”.

3           (b) GOLDEN PARACHUTE RULE.—Section 280G of  
4 the Internal Revenue Code of 1986 is amended—

5           (1) by redesignating subsection (e) as sub-  
6           section (f), and

7           (2) by inserting after subsection (d) the fol-  
8           lowing new subsection:

9           “(e) SPECIAL RULE FOR APPLICATION TO EMPLOY-  
10          ERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF  
11          PROGRAM.—

12           “(1) IN GENERAL.—In the case of the sever-  
13          ance from employment of a covered executive of an  
14          applicable employer during the period during which  
15          the authorities under section 101(a) of the Emer-  
16          gency Economic Stabilization Act of 2008 are in ef-  
17          fect (determined under section 120 of such Act), this  
18          section shall be applied to payments to such execu-  
19          tive with the following modifications:

20           “(A) Any reference to a disqualified indi-  
21          vidual (other than in subsection (c)) shall be  
22          treated as a reference to a covered executive.

23           “(B) Any reference to a change described  
24          in subsection (b)(2)(A)(i) shall be treated as a  
25          reference to an applicable severance from em-

1           ployment of a covered executive, and any ref-  
2           erence to a payment contingent on such a  
3           change shall be treated as a reference to any  
4           payment made during an applicable taxable  
5           year of the employer on account of such appli-  
6           cable severance from employment.

7           “(C) Any reference to a corporation shall  
8           be treated as a reference to an applicable em-  
9           ployer.

10          “(D) The provisions of subsections  
11          (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not  
12          apply.

13          “(2) DEFINITIONS AND SPECIAL RULES.—For  
14          purposes of this subsection:

15          “(A) DEFINITIONS.—Any term used in  
16          this subsection which is also used in section  
17          162(m)(5) shall have the meaning given such  
18          term by such section.

19          “(B) APPLICABLE SEVERANCE FROM EM-  
20          PLOYMENT.—The term ‘applicable severance  
21          from employment’ means any severance from  
22          employment of a covered executive—

23                  “(i) by reason of an involuntary ter-  
24                  mination of the executive by the employer,  
25                  or

1           “(ii) in connection with any bank-  
2           ruptcy, liquidation, or receivership of the  
3           employer.

4           “(C)     COORDINATION     AND     OTHER  
5           RULES.—

6           “(i)    IN GENERAL.—If a payment  
7           which is treated as a parachute payment  
8           by reason of this subsection is also a para-  
9           chute payment determined without regard  
10          to this subsection, this subsection shall not  
11          apply to such payment.

12          “(ii) REGULATORY AUTHORITY.—The  
13          Secretary may prescribe such guidance,  
14          rules, or regulations as are necessary—

15                 “(I) to carry out the purposes of  
16                 this subsection and the Emergency  
17                 Economic Stabilization Act of 2008,  
18                 including the extent to which this sub-  
19                 section applies in the case of any ac-  
20                 quisition, merger, or reorganization of  
21                 an applicable employer,

22                 “(II) to apply this section and  
23                 section 4999 in cases where one or  
24                 more payments with respect to any in-  
25                 dividual are treated as parachute pay-

1                   ments by reason of this subsection,  
2                   and other payments with respect to  
3                   such individual are treated as para-  
4                   chute payments under this section  
5                   without regard to this subsection, and  
6                   “(III) to prevent the avoidance of  
7                   the application of this section through  
8                   the mischaracterization of a severance  
9                   from employment as other than an  
10                  applicable severance from employ-  
11                  ment.”.

12           (c) EFFECTIVE DATES.—

13                   (1) IN GENERAL.—The amendment made by  
14                   subsection (a) shall apply to taxable years ending on  
15                   or after the date of the enactment of this Act.

16                   (2) GOLDEN PARACHUTE RULE.—The amend-  
17                   ments made by subsection (b) shall apply to pay-  
18                   ments with respect to severances occurring during  
19                   the period during which the authorities under sec-  
20                   tion 101(a) of this Act are in effect (determined  
21                   under section 120 of this Act).



1 **SEC. 303. EXTENSION OF EXCLUSION OF INCOME FROM**  
2 **DISCHARGE OF QUALIFIED PRINCIPAL RESI-**  
3 **DENCE INDEBTEDNESS.**

4 (a) **EXTENSION.**—Subparagraph (E) of section  
5 108(a)(1) of the Internal Revenue Code of 1986 is amend-  
6 ed by striking “January 1, 2010” and inserting “January  
7 1, 2013”.

8 (b) **EFFECTIVE DATE.**—The amendment made by  
9 this section shall apply to discharges of indebtedness oc-  
10 ccurring on or after January 1, 2010.

11 **DIVISION B—ENERGY IMPROVE-**  
12 **MENT AND EXTENSION ACT**  
13 **OF 2008**

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

15 (a) **SHORT TITLE.**—This division may be cited as the  
16 “Energy Improvement and Extension Act of 2008”.

17 (b) **REFERENCE.**—Except as otherwise expressly pro-  
18 vided, whenever in this division an amendment or repeal  
19 is expressed in terms of an amendment to, or repeal of,  
20 a section or other provision, the reference shall be consid-  
21 ered to be made to a section or other provision of the In-  
22 ternal Revenue Code of 1986.

23 (c) **TABLE OF CONTENTS.**—The table of contents for  
24 this division is as follows:

Sec. 1. Short title, etc.

## 114

## Subtitle A—Renewable Energy Incentives

- Sec. 101. Renewable energy credit.
- Sec. 102. Production credit for electricity produced from marine renewables.
- Sec. 103. Energy credit.
- Sec. 104. Energy credit for small wind property.
- Sec. 105. Energy credit for geothermal heat pump systems.
- Sec. 106. Credit for residential energy efficient property.
- Sec. 107. New clean renewable energy bonds.
- Sec. 108. Credit for steel industry fuel.
- Sec. 109. Special rule to implement FERC and State electric restructuring policy.

## Subtitle B—Carbon Mitigation and Coal Provisions

- Sec. 111. Expansion and modification of advanced coal project investment credit.
- Sec. 112. Expansion and modification of coal gasification investment credit.
- Sec. 113. Temporary increase in coal excise tax; funding of Black Lung Disability Trust Fund.
- Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.
- Sec. 115. Tax credit for carbon dioxide sequestration.
- Sec. 116. Certain income and gains relating to industrial source carbon dioxide treated as qualifying income for publicly traded partnerships.
- Sec. 117. Carbon audit of the tax code.

## TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

- Sec. 201. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
- Sec. 202. Credits for biodiesel and renewable diesel.
- Sec. 203. Clarification that credits for fuel are designed to provide an incentive for United States production.
- Sec. 204. Extension and modification of alternative fuel credit.
- Sec. 205. Credit for new qualified plug-in electric drive motor vehicles.
- Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
- Sec. 207. Alternative fuel vehicle refueling property credit.
- Sec. 208. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.
- Sec. 209. Extension and modification of election to expense certain refineries.
- Sec. 210. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 211. Transportation fringe benefit to bicycle commuters.

## TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

- Sec. 301. Qualified energy conservation bonds.
- Sec. 302. Credit for nonbusiness energy property.
- Sec. 303. Energy efficient commercial buildings deduction.
- Sec. 304. New energy efficient home credit.
- Sec. 305. Modifications of energy efficient appliance credit for appliances produced after 2007.

Sec. 306. Accelerated recovery period for depreciation of smart meters and smart grid systems.

Sec. 307. Qualified green building and sustainable design projects.

Sec. 308. Special depreciation allowance for certain reuse and recycling property.

#### TITLE IV—REVENUE PROVISIONS

Sec. 401. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 402. 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. 403. Broker reporting of customer's basis in securities transactions.

Sec. 404. 0.2 percent FUTA surtax.

Sec. 405. Increase and extension of Oil Spill Liability Trust Fund tax.

# 1 **TITLE I—ENERGY PRODUCTION**

## 2 **INCENTIVES**

### 3 **Subtitle A—Renewable Energy**

#### 4 **Incentives**

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

6 (a) EXTENSION OF CREDIT.—

7 (1) 1-YEAR EXTENSION FOR WIND AND RE-  
8 FINED COAL FACILITIES.—Paragraphs (1) and (8)  
9 of section 45(d) are each amended by striking “Jan-  
10 uary 1, 2009” and inserting “January 1, 2010”.

11 (2) 2-YEAR EXTENSION FOR CERTAIN OTHER  
12 FACILITIES.—Each of the following provisions of  
13 section 45(d) is amended by striking “January 1,  
14 2009” and inserting “January 1, 2011”:

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

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

1 (C) Paragraph (4).

2 (D) Paragraph (5).

3 (E) Paragraph (6).

4 (F) Paragraph (7).

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

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

9 (1) ELIMINATION OF INCREASED MARKET  
10 VALUE TEST.—Section 45(c)(7)(A)(i) (defining re-  
11 fined coal), as amended by section 108, is amend-  
12 ed—

13 (A) by striking subclause (IV),

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

16 (C) by striking “, and” at the end of sub-  
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 (c) TRASH FACILITY CLARIFICATION.—Paragraph  
24 (7) of section 45(d) is amended—

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

4           (2) by striking “COMBUSTION”.

5           (d) EXPANSION OF BIOMASS FACILITIES.—

6           (1) OPEN-LOOP BIOMASS FACILITIES.—Para-  
7           graph (3) of section 45(d) is amended by redesign-  
8           nating subparagraph (B) as subparagraph (C) and  
9           by inserting after subparagraph (A) the following  
10          new subparagraph:

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

18          (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-  
19          graph (2) of section 45(d) is amended by redesign-  
20          nating subparagraph (B) as subparagraph (C) and  
21          inserting after subparagraph (A) the following new  
22          subparagraph:

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

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

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

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

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

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

24 “(iii) the hydroelectric project is oper-  
25 ated so that the water surface elevation at

1           any given location and time that would  
2           have occurred in the absence of the hydro-  
3           electric project is maintained, subject to  
4           any license requirements imposed under  
5           applicable law that change the water sur-  
6           face elevation for the purpose of improving  
7           environmental quality of the affected wa-  
8           terway.

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

18          (f) EFFECTIVE DATE.—

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

23               (2) REFINED COAL.—The amendments made by  
24               subsection (b) shall apply to coal produced and sold

1 from facilities placed in service after December 31,  
2 2008.

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

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

11 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**  
12 **DUCTION FROM MARINE RENEWABLES.**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

24       (a) EXTENSION OF CREDIT.—

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

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

8           (3) MICROTURBINE PROPERTY.—Subparagraph  
9           (E) of section 48(c)(2) is amended by striking “De-  
10          cember 31, 2008” and inserting “December 31,  
11          2016”.

12          (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
13          TERNATIVE MINIMUM TAX.—

14           (1) IN GENERAL.—Subparagraph (B) of section  
15          38(c)(4), as amended by the Housing Assistance  
16          Tax Act of 2008, is amended by redesignating clause  
17          (vi) as clause (vi) and (vii), respectively, and by in-  
18          serting after clause (iv) the following new clause:

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

23           (2) TECHNICAL AMENDMENT.—Clause (vi) of  
24          section 38(c)(4)(B), as redesignated by paragraph  
25          (1), is amended by striking “section 47 to the extent

1       attributable to” and inserting “section 46 to the ex-  
2       tent that such credit is attributable to the rehabilita-  
3       tion credit under section 47, but only with respect  
4       to”.

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

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

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

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

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

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

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

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

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

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

10 “(ii) which produces—

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

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

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

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

24 “(B) LIMITATION.—



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

3 “(C) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

19           (3)    CONFORMING    AMENDMENT.—Section  
20           48(a)(1) is amended by striking “paragraphs (1)(B)  
21           and (2)(B)” and inserting “paragraphs (1)(B),  
22           (2)(B), and (3)(B)”.

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



1 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-  
2 COUNT.—

3 (1) IN GENERAL.—Paragraph (3) of section  
4 48(a) is amended by striking the second sentence  
5 thereof.

6 (2) CONFORMING AMENDMENTS.—

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

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

15 (f) EFFECTIVE DATE.—

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

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

1           (3) COMBINED HEAT AND POWER AND FUEL  
2 CELL PROPERTY.—The amendments made by sub-  
3 sections (c) and (d) shall apply to periods after the  
4 date of the enactment of this Act, in taxable years  
5 ending after such date, under rules similar to the  
6 rules of section 48(m) of the Internal Revenue Code  
7 of 1986 (as in effect on the day before the date of  
8 the enactment of the Revenue Reconciliation Act of  
9 1990).

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

17 **SEC. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.**

18           (a) IN GENERAL.—Section 48(a)(3)(A), as amended  
19 by section 103, is amended by striking “or” at the end  
20 of clause (iv), by adding “or” at the end of clause (v),  
21 and by inserting after clause (v) the following new clause:

22                           “(vi) qualified small wind energy  
23                           property.”

24           (b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is  
25 amended by striking “and” at the end of subclause (II)

1 and by inserting after subclause (III) the following new  
2 subclause:

3                                   “(IV) qualified small wind energy  
4                                   property, and”.

5       (c) QUALIFIED SMALL WIND ENERGY PROPERTY.—

6 Section 48(c), as amended by section 103, is amended by  
7 adding at the end the following new paragraph:

8                   “(4) QUALIFIED SMALL WIND ENERGY PROP-  
9       ERTY.—

10                   “(A) IN GENERAL.—The term ‘qualified  
11                   small wind energy property’ means property  
12                   which uses a qualifying small wind turbine to  
13                   generate electricity.

14                   “(B) LIMITATION.—In the case of quali-  
15                   fied small wind energy property placed in serv-  
16                   ice during the taxable year, the credit otherwise  
17                   determined under subsection (a)(1) for such  
18                   year with respect to all such property of the  
19                   taxpayer shall not exceed \$4,000.

20                   “(C) QUALIFYING SMALL WIND TUR-  
21                   BINE.—The term ‘qualifying small wind tur-  
22                   bine’ means a wind turbine which has a name-  
23                   plate capacity of not more than 100 kilowatts.

24                   “(D) TERMINATION.—The term ‘qualified  
25                   small wind energy property’ shall not include



1 but only with respect to periods ending be-  
2 fore January 1, 2017.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to periods after the date of the  
5 enactment of this Act, in taxable years ending after such  
6 date, under rules similar to the rules of section 48(m) of  
7 the Internal Revenue Code of 1986 (as in effect on the  
8 day before the date of the enactment of the Revenue Rec-  
9 onciliation Act of 1990).

10 **SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
11 **PROPERTY.**

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

15 (b) **REMOVAL OF LIMITATION FOR SOLAR ELECTRIC**  
16 **PROPERTY.**—

17 (1) **IN GENERAL.**—Section 25D(b)(1), as  
18 amended by subsections (c) and (d), is amended—

19 (A) by striking subparagraph (A), and  
20 (B) by redesignating subparagraphs (B)  
21 through (E) as subparagraphs (A) through and  
22 (D), respectively.

23 (2) **CONFORMING AMENDMENT.**—Section  
24 25D(e)(4)(A), as amended by subsections (c) and  
25 (d), is amended—

1 (A) by striking clause (i), and

2 (B) by redesignating clauses (ii) through  
3 (v) as clauses (i) and (iv), respectively.

4 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

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

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

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

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

22 (3) QUALIFIED SMALL WIND ENERGY PROP-  
23 erty expenditures.—

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(2) CARRYFORWARD OF UNUSED CREDIT.—

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

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

22          (2) CONFORMING AMENDMENTS.—

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

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

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

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

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), the amendments made by this section  
12 shall apply to taxable years beginning after Decem-  
13 ber 31, 2007.

14 (2) SOLAR ELECTRIC PROPERTY LIMITATION.—  
15 The amendments made by subsection (b) shall apply  
16 to taxable years beginning after December 31, 2008.

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

1 **SEC. 107. NEW CLEAN RENEWABLE ENERGY BONDS.**

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

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

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

10 “(1) 100 percent of the available project pro-  
11 ceeds of such issue are to be used for capital expend-  
12 itures incurred by governmental bodies, public power  
13 providers, or cooperative electric companies for one  
14 or more qualified renewable energy facilities,

15 “(2) the bond is issued by a qualified issuer,  
16 and

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

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

23 “(c) LIMITATION ON AMOUNT OF BONDS DES-  
24 IGNATED.—

25 “(1) IN GENERAL.—The maximum aggregate  
26 face amount of bonds which may be designated

1 under subsection (a) by any issuer shall not exceed  
2 the limitation amount allocated under this sub-  
3 section to such issuer.

4 “(2) NATIONAL LIMITATION ON AMOUNT OF  
5 BONDS DESIGNATED.—There is a national new clean  
6 renewable energy bond limitation of \$800,000,000  
7 which shall be allocated by the Secretary as provided  
8 in paragraph (3), except that—

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

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

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

18 “(3) METHOD OF ALLOCATION.—

19 “(A) ALLOCATION AMONG PUBLIC POWER  
20 PROVIDERS.—After the Secretary determines  
21 the qualified projects of public power providers  
22 which are appropriate for receiving an alloca-  
23 tion of the national new clean renewable energy  
24 bond limitation, the Secretary shall, to the max-  
25 imum extent practicable, make allocations

1           among such projects in such manner that the  
2           amount allocated to each such project bears the  
3           same ratio to the cost of such project as the  
4           limitation under paragraph (2)(A) bears to the  
5           cost of all such projects.

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

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

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

23                   “(2) PUBLIC POWER PROVIDER.—The term  
24          ‘public power provider’ means a State utility with a  
25          service obligation, as such terms are defined in sec-

1           tion 217 of the Federal Power Act (as in effect on  
2           the date of the enactment of this paragraph).

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

6           “(4) COOPERATIVE ELECTRIC COMPANY.—The  
7           term ‘cooperative electric company’ means a mutual  
8           or cooperative electric company described in section  
9           501(c)(12) or section 1381(a)(2)(C).

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

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

23          (b) CONFORMING AMENDMENTS.—

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



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

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

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

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

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

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

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

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

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

22           (c) EXTENSION FOR CLEAN RENEWABLE ENERGY  
23           BONDS.—Subsection (m) of section 54 is amended by  
24           striking “December 31, 2008” and inserting “December  
25           31, 2009”.

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

4 **SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.**

5 (a) TREATMENT AS REFINED COAL.—

6 (1) IN GENERAL.—Subparagraph (A) of section  
7 45(c)(7) of the Internal Revenue Code of 1986 (re-  
8 lating to refined coal), as amended by this Act, is  
9 amended to read as follows:

10 “(A) IN GENERAL.—The term ‘refined  
11 coal’ means a fuel—

12 “(i) which—

13 “(I) is a liquid, gaseous, or solid  
14 fuel produced from coal (including lig-  
15 nite) or high carbon fly ash, including  
16 such fuel used as a feedstock,

17 “(II) is sold by the taxpayer with  
18 the reasonable expectation that it will  
19 be used for purpose of producing  
20 steam,

21 “(III) is certified by the taxpayer  
22 as resulting (when used in the produc-  
23 tion of steam) in a qualified emission  
24 reduction, and



1                   rials that have been stored in ground, in  
2                   tanks and in lagoons, that have been treat-  
3                   ed as hazardous wastes under applicable  
4                   Federal environmental rules absent lique-  
5                   faction and processing with coal into a  
6                   feedstock for the manufacture of coke.”.

7           (b) CREDIT AMOUNT.—

8                   (1) IN GENERAL.—Paragraph (8) of section  
9                   45(e) of the Internal Revenue Code of 1986 (relat-  
10                  ing to refined coal production facilities) is amended  
11                  by adding at the end the following new subpara-  
12                  graph

13                           “(D) SPECIAL RULE FOR STEEL INDUSTRY  
14                   FUEL.—

15                           “(i) IN GENERAL.—In the case of a  
16                   taxpayer who produces steel industry  
17                   fuel—

18                                   “(I) this paragraph shall be ap-  
19                   plied separately with respect to steel  
20                   industry fuel and other refined coal,  
21                   and

22                                   “(II) in applying this paragraph  
23                   to steel industry fuel, the modifica-  
24                   tions in clause (ii) shall apply.

25                           “(ii) MODIFICATIONS.—

1                   “(I) CREDIT AMOUNT.—Subpara-  
2                   graph (A) shall be applied by sub-  
3                   stituting ‘\$2 per barrel-of-oil equiva-  
4                   lent’ for ‘\$4.375 per ton’.

5                   “(II) CREDIT PERIOD.—In lieu  
6                   of the 10-year period referred to in  
7                   clauses (i) and (ii)(II) of subpara-  
8                   graph (A), the credit period shall be  
9                   the period beginning on the later of  
10                  the date such facility was originally  
11                  placed in service, the date the modi-  
12                  fications described in clause (iii) were  
13                  placed in service, or October 1, 2008,  
14                  and ending on the later of December  
15                  31, 2009, or the date which is 1 year  
16                  after the date such facility or the  
17                  modifications described in clause (iii)  
18                  were placed in service.

19                  “(III) NO PHASEOUT.—Subpara-  
20                  graph (B) shall not apply.

21                  “(iii) MODIFICATIONS.—The modifica-  
22                  tions described in this clause are modifica-  
23                  tions to an existing facility which allow  
24                  such facility to produce steel industry fuel.

1                   “(iv) BARREL-OF-OIL EQUIVALENT.—  
2                   For purposes of this subparagraph, a bar-  
3                   rel-of-oil equivalent is the amount of steel  
4                   industry fuel that has a Btu content of  
5                   5,800,000 Btus.”.

6                   (2) INFLATION ADJUSTMENT.—Paragraph (2)  
7                   of section 45(b) of such Code is amended by insert-  
8                   ing “the \$3 amount in subsection (e)(8)(D)(ii)(I),”  
9                   after “subsection (e)(8)(A),”.

10                  (c) TERMINATION.—Paragraph (8) of section 45(d)  
11                  of the Internal Revenue Code of 1986 (relating to refined  
12                  coal production facility), as amended by this Act, is  
13                  amended to read as follows:

14                   “(8) REFINED COAL PRODUCTION FACILITY.—  
15                   In the case of a facility that produces refined coal,  
16                   the term ‘refined coal production facility’ means—

17                   “(A) with respect to a facility producing  
18                   steel industry fuel, any facility (or any modi-  
19                   fication to a facility) which is placed in service  
20                   before January 1, 2010, and

21                   “(B) with respect to any other facility pro-  
22                   ducing refined coal, any facility placed in serv-  
23                   ice after the date of the enactment of the Amer-  
24                   ican Jobs Creation Act of 2004 and before Jan-  
25                   uary 1, 2010.”.

1 (d) COORDINATION WITH CREDIT FOR PRODUCING  
2 FUEL FROM A NONCONVENTIONAL SOURCE.—

3 (1) IN GENERAL.—Subparagraph (B) of section  
4 45(e)(9) of the Internal Revenue Code of 1986 is  
5 amended—

6 (A) by striking “The term” and inserting  
7 the following:

8 “(i) IN GENERAL.—The term”, and  
9 (B) by adding at the end the following new  
10 clause:

11 “(ii) EXCEPTION FOR STEEL INDUS-  
12 TRY COAL.—In the case of a facility pro-  
13 ducing steel industry fuel, clause (i) shall  
14 not apply to so much of the refined coal  
15 produced at such facility as is steel indus-  
16 try fuel.”.

17 (2) NO DOUBLE BENEFIT.—Section 45K(g)(2)  
18 of such Code is amended by adding at the end the  
19 following new subparagraph:

20 “(E) COORDINATION WITH SECTION 45.—  
21 No credit shall be allowed with respect to any  
22 qualified fuel which is steel industry fuel (as de-  
23 fined in section 45(c)(7)) if a credit is allowed  
24 to the taxpayer for such fuel under section  
25 45.”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to fuel produced and sold after  
3 September 30, 2008.

4 **SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE**  
5 **ELECTRIC RESTRUCTURING POLICY.**

6 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-  
7 TIES.—

8 (1) IN GENERAL.—Paragraph (3) of section  
9 451(i) is amended by inserting “(before January 1,  
10 2010, in the case of a qualified electric utility)”  
11 after “January 1, 2008”.

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

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

22 “(A) a transmitting utility (as defined in  
23 section 3(23) of the Federal Power Act (16  
24 U.S.C. 796(23))) with respect to the trans-



1 mission facilities to which the election under  
2 this subsection applies, and

3 “(B) an electric utility (as defined in sec-  
4 tion 3(22) of the Federal Power Act (16 U.S.C.  
5 796(22))).”.

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

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

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

21 (d) EFFECTIVE DATES.—

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

1 (2) TRANSFERS OF OPERATIONAL CONTROL.—

2 The amendment made by subsection (b) shall take  
3 effect as if included in section 909 of the American  
4 Jobs Creation Act of 2004.

5 (3) EXCEPTION FOR PROPERTY LOCATED OUT-

6 SIDE THE UNITED STATES.—The amendment made  
7 by subsection (c) shall apply to transactions after  
8 the date of the enactment of this Act.

9 **Subtitle B—Carbon Mitigation and**  
10 **Coal Provisions**

11 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED**

12 **COAL PROJECT INVESTMENT CREDIT.**

13 (a) MODIFICATION OF CREDIT AMOUNT.—Section  
14 48A(a) is amended by striking “and” at the end of para-  
15 graph (1), by striking the period at the end of paragraph  
16 (2) and inserting “, and”, and by adding at the end the  
17 following new paragraph:

18 “(3) 30 percent of the qualified investment for  
19 such taxable year in the case of projects described  
20 in clause (iii) of subsection (d)(3)(B).”.

21 (b) EXPANSION OF AGGREGATE CREDITS.—Section  
22 48A(d)(3)(A) is amended by striking “\$1,300,000,000”  
23 and inserting “\$2,550,000,000”.

24 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

1           (1) IN GENERAL.—Subparagraph (B) of section  
2           48A(d)(3) is amended to read as follows:

3                   “(B) PARTICULAR PROJECTS.—Of the dol-  
4           lar amount in subparagraph (A), the Secretary  
5           is authorized to certify—

6                           “(i) \$800,000,000 for integrated gas-  
7                           fication combined cycle projects the appli-  
8                           cation for which is submitted during the  
9                           period described in paragraph (2)(A)(i),

10                           “(ii) \$500,000,000 for projects which  
11                           use other advanced coal-based generation  
12                           technologies the application for which is  
13                           submitted during the period described in  
14                           paragraph (2)(A)(i), and

15                           “(iii) \$1,250,000,000 for advanced  
16                           coal-based generation technology projects  
17                           the application for which is submitted dur-  
18                           ing the period described in paragraph  
19                           (2)(A)(ii).”.

20           (2) APPLICATION PERIOD FOR ADDITIONAL  
21           PROJECTS.—Subparagraph (A) of section 48A(d)(2)  
22           is amended to read as follows:

23                   “(A) APPLICATION PERIOD.—Each appli-  
24           cant for certification under this paragraph shall  
25           submit an application meeting the requirements

1 of subparagraph (B). An applicant may only  
2 submit an application—

3 “(i) for an allocation from the dollar  
4 amount specified in clause (i) or (ii) of  
5 paragraph (3)(B) during the 3-year period  
6 beginning on the date the Secretary estab-  
7 lishes the program under paragraph (1),  
8 and

9 “(ii) for an allocation from the dollar  
10 amount specified in paragraph (3)(B)(iii)  
11 during the 3-year period beginning at the  
12 earlier of the termination of the period de-  
13 scribed in clause (i) or the date prescribed  
14 by the Secretary.”.

15 (3) CAPTURE AND SEQUESTRATION OF CARBON  
16 DIOXIDE EMISSIONS REQUIREMENT.—

17 (A) IN GENERAL.—Section 48A(e)(1) is  
18 amended by striking “and” at the end of sub-  
19 paragraph (E), by striking the period at the  
20 end of subparagraph (F) and inserting “; and”,  
21 and by adding at the end the following new sub-  
22 paragraph:

23 “(G) in the case of any project the applica-  
24 tion for which is submitted during the period  
25 described in subsection (d)(2)(A)(ii), the project

1 includes equipment which separates and seques-  
2 ters at least 65 percent (70 percent in the case  
3 of an application for reallocated credits under  
4 subsection (d)(4)) of such project's total carbon  
5 dioxide emissions.”.

6 (B) HIGHEST PRIORITY FOR PROJECTS  
7 WHICH SEQUESTER CARBON DIOXIDE EMIS-  
8 SIONS.—Section 48A(e)(3) is amended by strik-  
9 ing “and” at the end of subparagraph (A)(iii),  
10 by striking the period at the end of subpara-  
11 graph (B)(iii) and inserting “, and”, and by  
12 adding at the end the following new subpara-  
13 graph:

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

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

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

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

4           (A) by striking “and” at the end of clause  
5           (ii),

6           (B) by redesignating clause (iii) as clause  
7           (iv), and

8           (C) by inserting after clause (ii) the fol-  
9           lowing new clause:

10                   “(iii) applicant participants who have  
11                   a research partnership with an eligible edu-  
12                   cational institution (as defined in section  
13                   529(e)(5)), and”.

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

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

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

1 (e) EFFECTIVE DATES.—

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

9 (2) DISCLOSURE OF ALLOCATIONS.—The  
10 amendment made by subsection (d) shall apply to  
11 certifications made after the date of the enactment  
12 of this Act.

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

17 **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**  
18 **CATION INVESTMENT CREDIT.**

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

23 (b) EXPANSION OF AGGREGATE CREDITS.—Section  
24 48B(d)(1) is amended by striking “shall not exceed

1 \$350,000,000” and all that follows and inserting “shall  
2 not exceed—

3 “(A) \$350,000,000, plus

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

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

11 “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
12 QUESTER.—The Secretary shall provide for recapturing  
13 the benefit of any credit allowable under subsection (a)  
14 with respect to any project which fails to attain or main-  
15 tain the separation and sequestration requirements for  
16 such project under subsection (d)(1).”.

17 (d) SELECTION PRIORITIES.—Section 48B(d) is  
18 amended by adding at the end the following new para-  
19 graph:

20 “(4) SELECTION PRIORITIES.—In determining  
21 which qualifying gasification projects to certify  
22 under this section, the Secretary shall—

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



1           “(B) give high priority to applicant partici-  
2           pants who have a research partnership with an  
3           eligible educational institution (as defined in  
4           section 529(e)(5)).”.

5           (e) **ELIGIBLE PROJECTS INCLUDE TRANSPORTATION**  
6 **GRADE LIQUID FUELS.**—Section 48B(c)(7) (defining eli-  
7 gible entity) is amended by striking “and” at the end of  
8 subparagraph (F), by striking the period at the end of  
9 subparagraph (G) and inserting “, and”, and by adding  
10 at the end the following new subparagraph:

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

12           (f) **EFFECTIVE DATE.**—The amendments made by  
13 this section shall apply to credits described in section  
14 48B(d)(1)(B) of the Internal Revenue Code of 1986 which  
15 are allocated or reallocated after the date of the enactment  
16 of this Act.

17 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX;**

18           **FUNDING OF BLACK LUNG DISABILITY TRUST**

19           **FUND.**

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

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

1           (2) by striking “January 1 after 1981” in sub-  
2           paragraph (B) and inserting “December 31 after  
3           2007”.

4           (b) RESTRUCTURING OF TRUST FUND DEBT.—

5           (1) DEFINITIONS.—For purposes of this sub-  
6           section—

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

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

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

10           (D) TREASURY RATE.—The term “Treas-  
11           ury rate” means a rate determined by the Sec-  
12           retary of the Treasury, taking into consider-  
13           ation current market yields on outstanding  
14           marketable obligations of the United States of  
15           comparable maturities.

16           (E) TREASURY 1-YEAR RATE.—The term  
17           “Treasury 1-year rate” means a rate deter-  
18           mined by the Secretary of the Treasury, taking  
19           into consideration current market yields on out-  
20           standing marketable obligations of the United  
21           States with remaining periods to maturity of  
22           approximately 1 year, to have been in effect as  
23           of the close of business 1 business day prior to  
24           the date on which the Trust Fund issues obliga-

1           tions to the Secretary of the Treasury under  
2           paragraph (2)(B).

3           (F) TRUST FUND.—The term “Trust  
4           Fund” means the Black Lung Disability Trust  
5           Fund established under section 9501 of the In-  
6           ternal Revenue Code of 1986.

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

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

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

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

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

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

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

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

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

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

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

1 a third party and held to the maturity date of such  
2 obligation, produce a yield to the third-party pur-  
3 chaser for the period from the date of purchase to  
4 the maturity date of such obligation substantially  
5 equal to the Treasury yield on outstanding market-  
6 able obligations of the United States having a com-  
7 parable maturity to this period.

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

11 (a) REFUND.—

12 (1) COAL PRODUCERS.—

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

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

1 was other than through an exporter who  
2 meets the requirements of paragraph (2),

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

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

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

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

21 (i) IN GENERAL.—If a coal producer  
22 or a party related to a coal producer has  
23 received a judgment described in clause  
24 (iii), such coal producer shall be deemed to  
25 have established the export of coal to a for-



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

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

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

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

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

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

23          (2) EXPORTERS.—Notwithstanding subsections  
24          (a)(1) and (c) of section 6416 and section 6511 of  
25          the Internal Revenue Code of 1986, and a judgment

1 described in paragraph (1)(B)(iii) of this subsection,  
2 if—

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

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

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

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

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

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

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

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

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

23 (2) EXPORTER.—The term “exporter” means a  
24 person, other than a coal producer, who does not  
25 have a contract, fee arrangement, or any other

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (i) STANDING NOT CONFERRED.—

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

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

19 **SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**  
20 **TION.**

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

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

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

5 “(1) \$20 per metric ton of qualified carbon di-  
6 oxide which is—

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

9 “(B) disposed of by the taxpayer in secure  
10 geological storage, and

11 “(2) \$10 per metric ton of qualified carbon di-  
12 oxide which is—

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

15 “(B) used by the taxpayer as a tertiary  
16 injectant in a qualified enhanced oil or natural  
17 gas recovery project.

18 “(b) QUALIFIED CARBON DIOXIDE.—For purposes of  
19 this section—

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

23 “(A) would otherwise be released into the  
24 atmosphere as industrial emission of green-  
25 house gas, and

1           “(B) is measured at the source of capture  
2           and verified at the point of disposal or injec-  
3           tion.

4           “(2) RECYCLED CARBON DIOXIDE.—The term  
5           ‘qualified carbon dioxide’ includes the initial deposit  
6           of captured carbon dioxide used as a tertiary  
7           injectant. Such term does not include carbon dioxide  
8           that is re-captured, recycled, and re-injected as part  
9           of the enhanced oil and natural gas recovery process.

10          “(c) QUALIFIED FACILITY.—For purposes of this  
11          section, the term ‘qualified facility’ means any industrial  
12          facility—

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

14                 “(2) at which carbon capture equipment is  
15                 placed in service, and

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

18          “(d) SPECIAL RULES AND OTHER DEFINITIONS.—  
19          For purposes of this section—

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



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

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

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

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

18          “(4) QUALIFIED ENHANCED OIL OR NATURAL  
19          GAS RECOVERY PROJECT.—The term ‘qualified en-  
20          hanced oil or natural gas recovery project’ has the  
21          meaning given the term ‘qualified enhanced oil re-  
22          covery project’ by section 43(c)(2), by substituting  
23          ‘crude oil or natural gas’ for ‘crude oil’ in subpara-  
24          graph (A)(i) thereof.

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

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

15          “(7) INFLATION ADJUSTMENT.—In the case of  
16          any taxable year beginning in a calendar year after  
17          2009, there shall be substituted for each dollar  
18          amount contained in subsection (a) an amount equal  
19          to the product of—

20                  “(A) such dollar amount, multiplied by

21                  “(B) the inflation adjustment factor for  
22                  such calendar year determined under section  
23                  43(b)(3)(B) for such calendar year, determined  
24                  by substituting ‘2008’ for ‘1990’.

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

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

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

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

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

20           (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to carbon dioxide captured after  
22 the date of the enactment of this Act.

1 **SEC. 116. CERTAIN INCOME AND GAINS RELATING TO IN-**  
2 **DUSTRIAL SOURCE CARBON DIOXIDE TREAT-**  
3 **ED AS QUALIFYING INCOME FOR PUBLICLY**  
4 **TRADED PARTNERSHIPS.**

5 (a) **IN GENERAL.**—Subparagraph (E) of section  
6 7704(d)(1) (defining qualifying income) is amended by in-  
7 serting “or industrial source carbon dioxide” after “tim-  
8 ber)”.

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

12 **SEC. 117. CARBON AUDIT OF THE TAX CODE.**

13 (a) **STUDY.**—The Secretary of the Treasury shall  
14 enter into an agreement with the National Academy of  
15 Sciences to undertake a comprehensive review of the Inter-  
16 nal Revenue Code of 1986 to identify the types of and  
17 specific tax provisions that have the largest effects on car-  
18 bon and other greenhouse gas emissions and to estimate  
19 the magnitude of those effects.

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

24 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
25 authorized to be appropriated to carry out this section  
26 \$1,500,000 for the period of fiscal years 2009 and 2010.

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

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

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

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

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

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

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

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

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

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

7           (a) **IN GENERAL.**—Sections 40A(g), 6426(e)(6), and  
8 6427(e)(5)(B) are each amended by striking “December  
9 31, 2008” and inserting “December 31, 2009”.

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

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

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

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

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

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

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

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

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

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

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

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

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

17           (3) by inserting “, or other equivalent standard  
18           approved by the Secretary” after “D396”.

19          (d) COPRODUCTION OF RENEWABLE DIESEL WITH  
20 PETROLEUM FEEDSTOCK.—

21           (1) IN GENERAL.—Paragraph (3) of section  
22           40A(f) is amended by adding at the end the fol-  
23           lowing new sentences: “Such term does not include  
24           any fuel derived from coprocessing biomass with a  
25           feedstock which is not biomass. For purposes of this

1 paragraph, the term ‘biomass’ has the meaning  
2 given such term by section 45K(c)(3).”.

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

6 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Sub-  
7 section (f) of section 40A (relating to renewable diesel)  
8 is amended by adding at the end the following new para-  
9 graph:

10 “(4) CERTAIN AVIATION FUEL.—

11 “(A) IN GENERAL.—Except as provided in  
12 the last 3 sentences of paragraph (3), the term  
13 ‘renewable diesel’ shall include fuel derived from  
14 biomass which meets the requirements of a De-  
15 partment of Defense specification for military  
16 jet fuel or an American Society of Testing and  
17 Materials specification for aviation turbine fuel.

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

24 (f) MODIFICATION RELATING TO DEFINITION OF  
25 AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (re-



1 lating to agri-biodiesel) is amended by striking “and mus-  
2 tard seeds” and inserting “mustard seeds, and camelina”.

3 (g) EFFECTIVE DATE.—

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

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

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

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

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

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

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

12 (c) EXCISE TAX CREDIT.—

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

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

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

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

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

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

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

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

16 **SEC. 204. EXTENSION AND MODIFICATION OF ALTER-**  
17 **NATIVE FUEL CREDIT.**

18 (a) EXTENSION.—

19 (1) ALTERNATIVE FUEL CREDIT.—Paragraph  
20 (4) of section 6426(d) (relating to alternative fuel  
21 credit) is amended by striking “September 30,  
22 2009” and inserting “December 31, 2009”.

23 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—  
24 Paragraph (3) of section 6426(e) (relating to alter-  
25 native fuel mixture credit) is amended by striking

1 “September 30, 2009” and inserting “December 31,  
2 2009”.

3 (3) PAYMENTS.—Subparagraph (C) of section  
4 6427(e)(5) (relating to termination) is amended by  
5 striking “September 30, 2009” and inserting “De-  
6 cember 31, 2009”.

7 (b) MODIFICATIONS.—

8 (1) ALTERNATIVE FUEL TO INCLUDE COM-  
9 PRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph  
10 (2) of section 6426(d) (relating to alternative fuel  
11 credit) is amended by striking “and” at the end of  
12 subparagraph (E), by redesignating subparagraph  
13 (F) as subparagraph (G), and by inserting after sub-  
14 paragraph (E) the following new subparagraph:

15 “(F) compressed or liquefied gas derived  
16 from biomass (as defined in section 45K(c)(3)),  
17 and”.

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

22 (c) CARBON CAPTURE REQUIREMENT FOR CERTAIN  
23 FUELS.—

24 (1) IN GENERAL.—Subsection (d) of section  
25 6426, as amended by subsection (a), is amended by

1 redesignating paragraph (4) as paragraph (5) and  
2 by inserting after paragraph (3) the following new  
3 paragraph:

4 “(4) CARBON CAPTURE REQUIREMENT.—

5 “(A) IN GENERAL.—The requirements of  
6 this paragraph are met if the fuel is certified,  
7 under such procedures as required by the Sec-  
8 retary, as having been derived from coal pro-  
9 duced at a gasification facility which separates  
10 and sequesters not less than the applicable per-  
11 centage of such facility’s total carbon dioxide  
12 emissions.

13 “(B) APPLICABLE PERCENTAGE.—For  
14 purposes of subparagraph (A), the applicable  
15 percentage is—

16 “(i) 50 percent in the case of fuel pro-  
17 duced after September 30, 2009, and on or  
18 before December 30, 2009, and

19 “(ii) 75 percent in the case of fuel  
20 produced after December 30, 2009.”.

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

1 (d) EFFECTIVE DATE.—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. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**  
5 **DRIVE MOTOR VEHICLES.**

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

10 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**  
11 **MOTOR VEHICLES.**

12 “(a) ALLOWANCE OF CREDIT.—

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

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

21 “(A) \$2,500, plus

22 “(B) \$417 for each kilowatt hour of trac-  
23 tion battery capacity in excess of 4 kilowatt  
24 hours.

25 “(b) LIMITATIONS.—

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

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

8           “(B) \$10,000, 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 10,000 pounds but not more than 14,000  
12 pounds,

13           “(C) \$12,500, in the case of any new  
14 qualified plug-in electric drive motor vehicle  
15 with a gross vehicle weight rating of more than  
16 14,000 pounds but not more than 26,000  
17 pounds, and

18           “(D) \$15,000, in the case of any new  
19 qualified plug-in electric drive motor vehicle  
20 with a gross vehicle weight rating of more than  
21 26,000 pounds.

22           “(2) LIMITATION ON NUMBER OF PASSENGER  
23 VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CRED-  
24 IT.—

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

6           “(B) PHASEOUT PERIOD.—For purposes  
7 of this subsection, the phaseout period is the  
8 period beginning with the second calendar quar-  
9 ter following the calendar quarter which in-  
10 cludes the first date on which the total number  
11 of such new qualified plug-in electric drive  
12 motor vehicles sold for use in the United States  
13 after December 31, 2008, is at least 250,000.

14           “(C) APPLICABLE PERCENTAGE.—For  
15 purposes of subparagraph (A), the applicable  
16 percentage is—

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

19           “(ii) 25 percent for the 3d and 4th  
20 calendar quarters of the phaseout period,  
21 and

22           “(iii) 0 percent for each calendar  
23 quarter thereafter.



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

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

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

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

12                   “(3) which, in the case of a passenger vehicle  
13                   or light truck which has a gross vehicle weight rat-  
14                   ing of not more than 8,500 pounds, has received a  
15                   certificate of conformity under the Clean Air Act  
16                   and meets or exceeds the equivalent qualifying Cali-  
17                   fornia low emission vehicle standard under section  
18                   243(e)(2) of the Clean Air Act for that make and  
19                   model year, and

20                   “(A) in the case of a vehicle having a gross  
21                   vehicle weight rating of 6,000 pounds or less,  
22                   the Bin 5 Tier II emission standard established  
23                   in regulations prescribed by the Administrator  
24                   of the Environmental Protection Agency under

1 section 202(i) of the Clean Air Act for that  
2 make and model year vehicle, and

3 “(B) in the case of a vehicle having a gross  
4 vehicle weight rating of more than 6,000  
5 pounds but not more than 8,500 pounds, the  
6 Bin 8 Tier II emission standard which is so es-  
7 tablished,

8 “(4) the original use of which commences with  
9 the taxpayer,

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

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

13 “(d) APPLICATION WITH OTHER CREDITS.—

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

22 “(2) PERSONAL CREDIT.—

23 “(A) IN GENERAL.—For purposes of this  
24 title, the credit allowed under subsection (a) for  
25 any taxable year (determined after application

1 of paragraph (1)) shall be treated as a credit  
2 allowable under subpart A for such taxable  
3 year.

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

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

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

17 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—  
18 For purposes of this section—

19 “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
20 cle’ has the meaning given such term by section  
21 30(c)(2).

22 “(2) OTHER TERMS.—The terms ‘passenger  
23 automobile’, ‘light truck’, and ‘manufacturer’ have  
24 the meanings given such terms in regulations pre-  
25 scribed by the Administrator of the Environmental

1 Protection Agency for purposes of the administra-  
2 tion of title II of the Clean Air Act (42 U.S.C. 7521  
3 et seq.).

4 “(3) TRACTION BATTERY CAPACITY.—Traction  
5 battery capacity shall be measured in kilowatt hours  
6 from a 100 percent state of charge to a zero percent  
7 state of charge.

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

12 “(5) NO DOUBLE BENEFIT.—The amount of  
13 any deduction or other credit allowable under this  
14 chapter for a new qualified plug-in electric drive  
15 motor vehicle shall be reduced by the amount of  
16 credit allowed under subsection (a) for such vehicle  
17 for the taxable year.

18 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-  
19 TY.—In the case of a vehicle the use of which is de-  
20 scribed in paragraph (3) or (4) of section 50(b) and  
21 which is not subject to a lease, the person who sold  
22 such vehicle to the person or entity using such vehi-  
23 cle shall be treated as the taxpayer that placed such  
24 vehicle in service, but only if such person clearly dis-  
25 closes to such person or entity in a document the

1 amount of any credit allowable under subsection (a)  
2 with respect to such vehicle (determined without re-  
3 gard to subsection (b)(2)).

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

10 “(8) RECAPTURE.—The Secretary shall, by reg-  
11 ulations, provide for recapturing the benefit of any  
12 credit allowable under subsection (a) with respect to  
13 any property which ceases to be property eligible for  
14 such credit (including recapture in the case of a  
15 lease period of less than the economic life of a vehi-  
16 cle).

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

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

1           “(A) the applicable provisions of the Clean  
2           Air Act for the applicable make and model year  
3           of the vehicle (or applicable air quality provi-  
4           sions of State law in the case of a State which  
5           has adopted such provision under a waiver  
6           under section 209(b) of the Clean Air Act), and

7           “(B) the motor vehicle safety provisions of  
8           sections 30101 through 30169 of title 49,  
9           United States Code.

10          “(f) REGULATIONS.—

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

15           “(2) COORDINATION IN PRESCRIPTION OF CER-  
16           TAIN REGULATIONS.—The Secretary of the Treas-  
17           ury, in coordination with the Secretary of Transpor-  
18           tation and the Administrator of the Environmental  
19           Protection Agency, shall prescribe such regulations  
20           as necessary to determine whether a motor vehicle  
21           meets the requirements to be eligible for a credit  
22           under this section.

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

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

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

9 (c) CREDIT MADE PART OF GENERAL BUSINESS  
10 CREDIT.—Section 38(b), as amended by this Act, is  
11 amended by striking “plus” at the end of paragraph (33),  
12 by striking the period at the end of paragraph (34) and  
13 inserting “plus”, and by adding at the end the following  
14 new paragraph:

15 “(35) the portion of the new qualified plug-in  
16 electric drive motor vehicle credit to which section  
17 30D(d)(1) applies.”.

18 (d) CONFORMING AMENDMENTS.—

19 (1)(A) Section 24(b)(3)(B), as amended by sec-  
20 tion 106, is amended by striking “and 25D” and in-  
21 serting “25D, and 30D”.

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

1 (C) Section 25B(g)(2), as amended by section  
2 106, is amended by striking “and 25D” and insert-  
3 ing “, 25D, and 30D”.

4 (D) Section 26(a)(1), as amended by section  
5 106, is amended by striking “and 25D” and insert-  
6 ing “25D, and 30D”.

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

9 (2) Section 1016(a) is amended by striking  
10 “and” at the end of paragraph (35), by striking the  
11 period at the end of paragraph (36) and inserting “,  
12 and”, and by adding at the end the following new  
13 paragraph:

14 “(37) to the extent provided in section  
15 30D(e)(4).”.

16 (3) Section 6501(m) is amended by inserting  
17 “30D(e)(9),” after “30C(e)(5),”.

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

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

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

24 (f) APPLICATION OF EGTRRA SUNSET.—The  
25 amendment made by subsection (d)(1)(A) shall be subject



1 to title IX of the Economic Growth and Tax Relief Rec-  
2 onciliation Act of 2001 in the same manner as the provi-  
3 sion of such Act to which such amendment relates.

4 **SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**  
5 **REDUCTION UNITS AND ADVANCED INSULA-**  
6 **TION.**

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

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

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

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

1           “(10) **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 the  
5 date of the enactment of this Act.

6 **SEC. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**  
7 **ERTY CREDIT.**

8           (a) **EXTENSION OF CREDIT.**—Paragraph (2) of sec-  
9 tion 30C(g) is amended by striking “December 31, 2009”  
10 and inserting “December 31, 2010”.

11           (b) **INCLUSION OF ELECTRICITY AS A CLEAN-BURN-**  
12 **ING FUEL.**—Section 30C(e)(2) is amended by adding at  
13 the end the following new subparagraph:

14                           “(C) Electricity.”.

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

1 **SEC. 208. CERTAIN INCOME AND GAINS RELATING TO AL-**  
2 **COHOL FUELS AND MIXTURES, BIODIESEL**  
3 **FUELS AND MIXTURES, AND ALTERNATIVE**  
4 **FUELS AND MIXTURES TREATED AS QUALI-**  
5 **FYING INCOME FOR PUBLICLY TRADED**  
6 **PARTNERSHIPS.**

7 (a) IN GENERAL.—Subparagraph (E) of section  
8 7704(d)(1), as amended by this Act, is amended by strik-  
9 ing “or industrial source carbon dioxide” and inserting “,  
10 industrial source carbon dioxide, or the transportation or  
11 storage of any fuel described in subsection (b), (c), (d),  
12 or (e) of section 6426, or any alcohol fuel defined in sec-  
13 tion 6426(b)(4)(A) or any biodiesel fuel as defined in sec-  
14 tion 40A(d)(1)” after “timber”).

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

18 **SEC. 209. EXTENSION AND MODIFICATION OF ELECTION TO**  
19 **EXPENSE CERTAIN REFINERIES.**

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

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

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

1 (b) INCLUSION OF FUEL DERIVED FROM SHALE AND  
2 TAR SANDS.—

3 (1) IN GENERAL.—Subsection (d) of section  
4 179C is amended by inserting “, or directly from  
5 shale or tar sands” after “(as defined in section  
6 45K(e))”.

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

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

13 **SEC. 210. EXTENSION OF SUSPENSION OF TAXABLE IN-**  
14 **COME LIMIT ON PERCENTAGE DEPLETION**  
15 **FOR OIL AND NATURAL GAS PRODUCED**  
16 **FROM MARGINAL PROPERTIES.**

17 Subparagraph (H) of section 613A(c)(6) (relating to  
18 oil and gas produced from marginal properties) is amend-  
19 ed by striking “for any taxable year” and all that follows  
20 and inserting “for any taxable year—

21 “(i) beginning after December 31,  
22 1997, and before January 1, 2008, or

23 “(ii) beginning after December 31,  
24 2008, and before January 1, 2010.”.

1 **SEC. 211. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**  
2 **COMMUTERS.**

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

5 “(D) Any qualified bicycle commuting re-  
6 imbursement.”.

7 (b) **LIMITATION ON EXCLUSION.**—Paragraph (2) of  
8 section 132(f) is amended by striking “and” at the end  
9 of subparagraph (A), by striking the period at the end  
10 of subparagraph (B) and inserting “, and”, and by adding  
11 at the end the following new subparagraph:

12 “(C) the applicable annual limitation in  
13 the case of any qualified bicycle commuting re-  
14 imbursement.”.

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

17 “(F) **DEFINITIONS RELATED TO BICYCLE**  
18 **COMMUTING REIMBURSEMENT.**—

19 “(i) **QUALIFIED BICYCLE COMMUTING**  
20 **REIMBURSEMENT.**—The term ‘qualified bi-  
21 cycle commuting reimbursement’ means,  
22 with respect to any calendar year, any em-  
23 ployer reimbursement during the 15-month  
24 period beginning with the first day of such  
25 calendar year for reasonable expenses in-  
26 curred by the employee during such cal-

1           endar year for the purchase of a bicycle  
2           and bicycle improvements, repair, and stor-  
3           age, if such bicycle is regularly used for  
4           travel between the employee’s residence  
5           and place of employment.

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

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

17                 “(I) regularly uses the bicycle for  
18                 a substantial portion of the travel be-  
19                 tween the employee’s residence and  
20                 place of employment, and

21                 “(II) does not receive any benefit  
22                 described in subparagraph (A), (B),  
23                 or (C) of paragraph (1).”.

24          (d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Para-  
25          graph (4) of section 132(f) is amended by inserting

1 “(other than a qualified bicycle commuting reimburse-  
2 ment)” after “qualified transportation fringe”.

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

6 **TITLE III—ENERGY CONSERVA-**  
7 **TION AND EFFICIENCY PRO-**  
8 **VISIONS**

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

10 (a) IN GENERAL.—Subpart I of part IV of sub-  
11 chapter A of chapter 1, as amended by section 107, is  
12 amended by adding at the end the following new section:

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

14 “(a) QUALIFIED ENERGY CONSERVATION BOND.—  
15 For purposes of this subchapter, the term ‘qualified en-  
16 ergy conservation bond’ means any bond issued as part  
17 of an issue if—

18 “(1) 100 percent of the available project pro-  
19 ceeds of such issue are to be used for one or more  
20 qualified conservation purposes,

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

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

1           “(b) REDUCED CREDIT AMOUNT.—The annual credit  
2 determined under section 54A(b) with respect to any  
3 qualified energy conservation bond shall be 70 percent of  
4 the amount so determined without regard to this sub-  
5 section.

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

11           “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS  
12 DESIGNATED.—There is a national qualified energy con-  
13 servation bond limitation of \$800,000,000.

14           “(e) ALLOCATIONS.—

15           “(1) IN GENERAL.—The limitation applicable  
16 under subsection (d) shall be allocated by the Sec-  
17 retary among the States in proportion to the popu-  
18 lation of the States.

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

21           “(A) IN GENERAL.—In the case of any  
22 State in which there is a large local govern-  
23 ment, each such local government shall be allo-  
24 cated a portion of such State’s allocation which  
25 bears the same ratio to the State’s allocation



1 (determined without regard to this subpara-  
2 graph) as the population of such large local  
3 government bears to the population of such  
4 State.

5 “(B) ALLOCATION OF UNUSED LIMITATION  
6 TO STATE.—The amount allocated under this  
7 subsection to a large local government may be  
8 reallocated by such local government to the  
9 State in which such local government is located.

10 “(C) LARGE LOCAL GOVERNMENT.—For  
11 purposes of this section, the term ‘large local  
12 government’ means any municipality or county  
13 if such municipality or county has a population  
14 of 100,000 or more.

15 “(3) ALLOCATION TO ISSUERS; RESTRICTION  
16 ON PRIVATE ACTIVITY BONDS.—Any allocation  
17 under this subsection to a State or large local gov-  
18 ernment shall be allocated by such State or large  
19 local government to issuers within the State in a  
20 manner that results in not less than 70 percent of  
21 the allocation to such State or large local govern-  
22 ment being used to designate bonds which are not  
23 private activity bonds.

24 “(f) QUALIFIED CONSERVATION PURPOSE.—For  
25 purposes of this section—





1 from combusting fossil fuels in order to  
2 produce electricity.

3 “(E) Public education campaigns to pro-  
4 mote energy efficiency.

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

10 “(g) POPULATION.—

11 “(1) IN GENERAL.—The population of any  
12 State or local government shall be determined for  
13 purposes of this section as provided in section 146(j)  
14 for the calendar year which includes the date of the  
15 enactment of this section.

16 “(2) SPECIAL RULE FOR COUNTIES.—In deter-  
17 mining the population of any county for purposes of  
18 this section, any population of such county which is  
19 taken into account in determining the population of  
20 any municipality which is a large local government  
21 shall not be taken into account in determining the  
22 population of such county.

23 “(h) APPLICATION TO INDIAN TRIBAL GOVERN-  
24 MENTS.—An Indian tribal government shall be treated for

1 purposes of this section in the same manner as a large  
2 local government, except that—

3 “(1) an Indian tribal government shall be treat-  
4 ed for purposes of subsection (e) as located within  
5 a State to the extent of so much of the population  
6 of such government as resides within such State,  
7 and

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

14 (b) CONFORMING AMENDMENTS.—

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

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

19 “(A) a qualified forestry conservation  
20 bond,

21 “(B) a new clean renewable energy bond,  
22 or

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

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

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

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

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

12                          “(iii) in the case of a qualified energy  
13                          conservation bond, a purpose specified in  
14                          section 54D(a)(1).”.

15           (3) The table of sections for subpart I of part  
16           IV of subchapter A of chapter 1, as amended by this  
17           Act, is amended by adding at the end the following  
18           new item:

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

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

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

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

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

3           “(2) after December 31, 2009.”.

4           (b) QUALIFIED BIOMASS FUEL PROPERTY.—

5           (1) IN GENERAL.—Section 25C(d)(3) is amend-  
6           ed—

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

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

11                  (C) by adding at the end the following new  
12                  subparagraph:

13                   “(F) a stove which uses the burning of bio-  
14                   mass fuel to heat a dwelling unit located in the  
15                   United States and used as a residence by the  
16                   taxpayer, or to heat water for use in such a  
17                   dwelling unit, and which has a thermal effi-  
18                   ciency rating of at least 75 percent.”.

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

22                   “(6) BIOMASS FUEL.—The term ‘biomass fuel’  
23                   means any plant-derived fuel available on a renew-  
24                   able or recurring basis, including agricultural crops  
25                   and trees, wood and wood waste and residues (in-

1 cluding wood pellets), plants (including aquatic  
2 plants), grasses, residues, and fibers.”.

3 (c) MODIFICATION OF WATER HEATER REQUIRE-  
4 MENTS.—Section 25C(d)(3)(E) is amended by inserting  
5 “or a thermal efficiency of at least 90 percent” after  
6 “0.80”.

7 (d) COORDINATION WITH CREDIT FOR QUALIFIED  
8 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

9 (1) IN GENERAL.—Paragraph (3) of section  
10 25C(d), as amended by subsections (b) and (c), is  
11 amended by striking subparagraph (C) and by redес-  
12 ignating subparagraphs (D), (E), and (F) as sub-  
13 paragraphs (C), (D), and (E), respectively.

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

17 “(C) REQUIREMENTS AND STANDARDS  
18 FOR AIR CONDITIONERS AND HEAT PUMPS.—  
19 The standards and requirements prescribed by  
20 the Secretary under subparagraph (B) with re-  
21 spect to the energy efficiency ratio (EER) for  
22 central air conditioners and electric heat  
23 pumps—

24 “(i) shall require measurements to be  
25 based on published data which is tested by



1 manufacturers at 95 degrees Fahrenheit,  
2 and

3 “(ii) may be based on the certified  
4 data of the Air Conditioning and Refrig-  
5 eration Institute that are prepared in part-  
6 nership with the Consortium for Energy  
7 Efficiency.”.

8 (e) MODIFICATION OF QUALIFIED ENERGY EFFI-  
9 CIENCY IMPROVEMENTS.—

10 (1) IN GENERAL.—Paragraph (1) of section  
11 25C(e) is amended by inserting “, or an asphalt roof  
12 with appropriate cooling granules,” before “which  
13 meet the Energy Star program requirements”.

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

16 (A) by inserting “or asphalt roof” after  
17 “metal roof”, and

18 (B) by inserting “or cooling granules”  
19 after “pigmented coatings”.

20 (f) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made this section shall  
23 apply to expenditures made after December 31,  
24 2008.

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

5   **SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
6                           **DUCTION.**

7           Subsection (h) of section 179D is amended by strik-  
8           ing “December 31, 2008” and inserting “December 31,  
9           2013”.

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

11           Subsection (g) of section 45L (relating to termi-  
12           nation) is amended by striking “December 31, 2008” and  
13           inserting “December 31, 2009”.

14   **SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
15                           **ANCE CREDIT FOR APPLIANCES PRODUCED**  
16                           **AFTER 2007.**

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

19           “(b) APPLICABLE AMOUNT.—For purposes of sub-  
20           section (a)—

21                   “(1) DISHWASHERS.—The applicable amount  
22           is—

23                           “(A) \$45 in the case of a dishwasher which  
24           is manufactured in calendar year 2008 or 2009

1 and which uses no more than 324 kilowatt  
2 hours per year and 5.8 gallons per cycle, and

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

9 “(2) CLOTHES WASHERS.—The applicable  
10 amount is—

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

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

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

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

6           “(3) REFRIGERATORS.—The applicable amount  
7 is—

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

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

19           “(C) \$100 in the case of a refrigerator  
20 which is manufactured in calendar year 2008,  
21 2009, or 2010, and consumes at least 25 per-  
22 cent but not more than 29.9 percent less kilo-  
23 watt hours per year than the 2001 energy con-  
24 servation standards, and

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

6           (b) ELIGIBLE PRODUCTION.—

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

10           (A) by striking paragraph (2),

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

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

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

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

1 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—

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

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

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

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

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

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

12 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

15 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

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

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

6 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

7 **SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPRE-**  
8 **CIATION OF SMART METERS AND SMART**  
9 **GRID SYSTEMS.**

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

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

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

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

20 “(18) QUALIFIED SMART ELECTRIC METERS.—

21 “(A) IN GENERAL.—The term ‘qualified  
22 smart electric meter’ means any smart electric  
23 meter which—

1                   “(i) is placed in service by a taxpayer  
2                   who is a supplier of electric energy or a  
3                   provider of electric energy services, and

4                   “(ii) does not have a class life (deter-  
5                   mined without regard to subsection (e)) of  
6                   less than 16 years.

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

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

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

22                  “(iii) provides data to such supplier or  
23                  provider so that the supplier or provider  
24                  can provide energy usage information to  
25                  customers electronically, and

1 “(iv) provides net metering.

2 “(19) QUALIFIED SMART ELECTRIC GRID SYS-  
3 TEMS.—

4 “(A) IN GENERAL.—The term ‘qualified  
5 smart electric grid system’ means any smart  
6 grid property which—

7 “(i) is used as part of a system for  
8 electric distribution grid communications,  
9 monitoring, and management placed in  
10 service by a taxpayer who is a supplier of  
11 electric energy or a provider of electric en-  
12 ergy services, and

13 “(ii) does not have a class life (deter-  
14 mined without regard to subsection (e)) of  
15 less than 16 years.

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

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

23 “(ii) providing real-time, two-way  
24 communications to monitor or manage  
25 such grid, and

1                   “(iii) providing real time analysis of  
2                   and event prediction based upon collected  
3                   data that can be used to improve electric  
4                   distribution system reliability, quality, and  
5                   performance.”.

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

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

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

19   **SEC. 307. QUALIFIED GREEN BUILDING AND SUSTAINABLE**  
20                   **DESIGN PROJECTS.**

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

24           (b) TREATMENT OF CURRENT REFUNDING  
25   BONDS.—Paragraph (9) of section 142(l) is amended by

1 striking “October 1, 2009” and inserting “October 1,  
2 2012”.

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

7 **SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CER-**  
8 **TAIN REUSE AND RECYCLING PROPERTY.**

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

11 “(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE  
12 AND RECYCLING PROPERTY.—

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

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

21 “(B) the adjusted basis of the qualified  
22 reuse and recycling property shall be reduced by  
23 the amount of such deduction before computing  
24 the amount otherwise allowable as a deprecia-

1           tion deduction under this chapter for such tax-  
2           able year and any subsequent taxable year.

3           “(2) QUALIFIED REUSE AND RECYCLING PROP-  
4           ERTY.—For purposes of this subsection—

5                   “(A) IN GENERAL.—The term ‘qualified  
6           reuse and recycling property’ means any reuse  
7           and recycling property—

8                           “(i) to which this section applies,

9                                   “(ii) which has a useful life of at least  
10                           5 years,

11                                   “(iii) the original use of which com-  
12                                   mences with the taxpayer after August 31,  
13                                   2008, and

14                                   “(iv) which is—

15   “(I) acquired by purchase (as de-  
16   fined in section 179(d)(2)) by the tax-  
17   payer after August 31, 2008, but only  
18   if no written binding contract for the  
19   acquisition was in effect before Sep-  
20   tember 1, 2008, or

21   “(II) acquired by the taxpayer  
22   pursuant to a written binding contract  
23   which was entered into after August  
24   31, 2008.

25                                   “(B) EXCEPTIONS.—

1                   “(i) BONUS DEPRECIATION PROPERTY  
2                   UNDER SUBSECTION (k).—The term ‘quali-  
3                   fied reuse and recycling property’ shall not  
4                   include any property to which section  
5                   168(k) applies.

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

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

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

1 manufacturing, constructing, or producing the  
2 property after August 31, 2008.

3 “(D) DEDUCTION ALLOWED IN COM-  
4 PUTING MINIMUM TAX.—For purposes of deter-  
5 mining alternative minimum taxable income  
6 under section 55, the deduction under sub-  
7 section (a) for qualified reuse and recycling  
8 property shall be determined under this section  
9 without regard to any adjustment under section  
10 56.

11 “(3) DEFINITIONS.—For purposes of this sub-  
12 section—

13 “(A) REUSE AND RECYCLING PROPERTY.—

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

23 “(ii) EXCLUSION.—Such term does  
24 not include rolling stock or other equip-



1                   ment used to transport reuse and recycla-  
2                   ble materials.

3                   “(B) QUALIFIED REUSE AND RECYCLABLE  
4 MATERIALS.—

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

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

15                         “(I) any cathode ray tube, flat  
16                         panel screen, or similar video display  
17                         device with a screen size greater than  
18                         4 inches measured diagonally, or

19                         “(II) any central processing unit.

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

1 virgin materials in manufacturing tangible con-  
2 sumer and commercial products, including  
3 packaging.”.

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

7 **TITLE IV—REVENUE**  
8 **PROVISIONS**

9 **SEC. 401. LIMITATION OF DEDUCTION FOR INCOME AT-**  
10 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**  
11 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

12 (a) IN GENERAL.—Section 199(d) is amended by re-  
13 designating paragraph (9) as paragraph (10) and by in-  
14 serting after paragraph (8) the following new paragraph:

15 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL  
16 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-  
17 COME.—

18 “(A) IN GENERAL.—If a taxpayer has oil  
19 related qualified production activities income for  
20 any taxable year beginning after 2009, the  
21 amount otherwise allowable as a deduction  
22 under subsection (a) shall be reduced by 3 per-  
23 cent of the least of—

1                   “(i) the oil related qualified produc-  
2                   tion activities income of the taxpayer for  
3                   the taxable year,

4                   “(ii) the qualified production activities  
5                   income of the taxpayer for the taxable  
6                   year, or

7                   “(iii) taxable income (determined  
8                   without regard to this section).

9                   “(B) OIL RELATED QUALIFIED PRODUC-  
10                  TION ACTIVITIES INCOME.—For purposes of  
11                  this paragraph, the term ‘oil related qualified  
12                  production activities income’ means for any tax-  
13                  able year the qualified production activities in-  
14                  come which is attributable to the production,  
15                  refining, processing, transportation, or distribu-  
16                  tion of oil, gas, or any primary product thereof  
17                  during such taxable year.

18                  “(C) PRIMARY PRODUCT.—For purposes of  
19                  this paragraph, the term ‘primary product’ has  
20                  the same meaning as when used in section  
21                  927(a)(2)(C), as in effect before its repeal.”.

22                  (b) CONFORMING AMENDMENT.—Section 199(d)(2)  
23                  (relating to application to individuals) is amended by  
24                  striking “subsection (a)(1)(B)” and inserting “subsections  
25                  (a)(1)(B) and (d)(9)(A)(iii)”.

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

4 **SEC. 402. 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-2009 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 2009, 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 Improvement and Exten-  
18 sion Act of 2008) for preceding tax-  
19 able years beginning after December  
20 31, 1982.

21 “(C) REDUCTION FOR POST-2008 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, 2008, 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 2008.

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 Improvement and  
11 Extension Act of 2008.”

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-2009 AND  
21 2009 DISALLOWED CREDITS.—

22 “(A) PRE-2009 CREDITS.—In the case of  
23 any unused credit year beginning before Janu-  
24 ary 1, 2009, 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, 2008—

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) 2009 CREDITS.—In the case of any  
14 unused credit year beginning in 2009, the  
15 amendments made to this subsection by the En-  
16 ergy Improvement and Extension Act of 2008  
17 shall be treated as being in effect for any pre-  
18 ceding year beginning before January 1, 2009,  
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 cued 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, 2008.

4 **SEC. 403. BROKER REPORTING OF CUSTOMER'S BASIS IN**  
5 **SECURITIES TRANSACTIONS.**

6 (a) IN GENERAL.—

7 (1) BROKER REPORTING FOR SECURITIES  
8 TRANSACTIONS.—Section 6045 is amended by add-  
9 ing at the end the following new subsection:

10 “(g) ADDITIONAL INFORMATION REQUIRED IN THE  
11 CASE OF SECURITIES TRANSACTIONS, ETC.—

12 “(1) IN GENERAL.—If a broker is otherwise re-  
13 quired to make a return under subsection (a) with  
14 respect to the gross proceeds of the sale of a covered  
15 security, the broker shall include in such return the  
16 information described in paragraph (2).

17 “(2) ADDITIONAL INFORMATION REQUIRED.—

18 “(A) IN GENERAL.—The information re-  
19 quired under paragraph (1) to be shown on a  
20 return with respect to a covered security of a  
21 customer shall include the customer's adjusted  
22 basis in such security and whether any gain or  
23 loss with respect to such security is long-term  
24 or short-term (within the meaning of section  
25 1222).

1                   “(B) DETERMINATION OF ADJUSTED  
2 BASIS.—For purposes of subparagraph (A)—

3                   “(i) IN GENERAL.—The customer’s  
4 adjusted basis shall be determined—

5                   “(I) in the case of any security  
6 (other than any stock for which an av-  
7 erage basis method is permissible  
8 under section 1012), in accordance  
9 with the first-in first-out method un-  
10 less the customer notifies the broker  
11 by means of making an adequate  
12 identification of the stock sold or  
13 transferred, and

14                   “(II) in the case of any stock for  
15 which an average basis method is per-  
16 missible under section 1012, in ac-  
17 cordance with the broker’s default  
18 method unless the customer notifies  
19 the broker that he elects another ac-  
20 ceptable method under section 1012  
21 with respect to the account in which  
22 such stock is held.

23                   “(ii) EXCEPTION FOR WASH SALES.—  
24 Except as otherwise provided by the Sec-  
25 retary, the customer’s adjusted basis shall

1 be determined without regard to section  
2 1091 (relating to loss from wash sales of  
3 stock or securities) unless the transactions  
4 occur in the same account with respect to  
5 identical securities.

6 “(3) COVERED SECURITY.—For purposes of  
7 this subsection—

8 “(A) IN GENERAL.—The term ‘covered se-  
9 curity’ means any specified security acquired on  
10 or after the applicable date if such security—

11 “(i) was acquired through a trans-  
12 action in the account in which such secu-  
13 rity is held, or

14 “(ii) was transferred to such account  
15 from an account in which such security  
16 was a covered security, but only if the  
17 broker received a statement under section  
18 6045A with respect to the transfer.

19 “(B) SPECIFIED SECURITY.—The term  
20 ‘specified security’ means—

21 “(i) any share of stock in a corpora-  
22 tion,

23 “(ii) any note, bond, debenture, or  
24 other evidence of indebtedness,

1           “(iii) any commodity, or contract or  
2           derivative with respect to such commodity,  
3           if the Secretary determines that adjusted  
4           basis reporting is appropriate for purposes  
5           of this subsection, and

6           “(iv) any other financial instrument  
7           with respect to which the Secretary deter-  
8           mines that adjusted basis reporting is ap-  
9           propriate for purposes of this subsection.

10           “(C) APPLICABLE DATE.—The term ‘appli-  
11           cable date’ means—

12           “(i) January 1, 2011, in the case of  
13           any specified security which is stock in a  
14           corporation (other than any stock de-  
15           scribed in clause (ii)),

16           “(ii) January 1, 2012, in the case of  
17           any stock for which an average basis meth-  
18           od is permissible under section 1012, and

19           “(iii) January 1, 2013, or such later  
20           date determined by the Secretary in the  
21           case of any other specified security.

22           “(4) TREATMENT OF S CORPORATIONS.—In the  
23           case of the sale of a covered security acquired by an  
24           S corporation (other than a financial institution)  
25           after December 31, 2011, such S corporation shall

1 be treated in the same manner as a partnership for  
2 purposes of this section.

3 “(5) SPECIAL RULES FOR SHORT SALES.—In  
4 the case of a short sale, reporting under this section  
5 shall be made for the year in which such sale is  
6 closed.”.

7 (2) BROKER INFORMATION REQUIRED WITH RE-  
8 SPECT TO OPTIONS.—Section 6045, as amended by  
9 subsection (a), is amended by adding at the end the  
10 following new subsection:

11 “(h) APPLICATION TO OPTIONS ON SECURITIES.—

12 “(1) EXERCISE OF OPTION.—For purposes of  
13 this section, if a covered security is acquired or dis-  
14 posed of pursuant to the exercise of an option that  
15 was granted or acquired in the same account as the  
16 covered security, the amount received with respect to  
17 the grant or paid with respect to the acquisition of  
18 such option shall be treated as an adjustment to  
19 gross proceeds or as an adjustment to basis, as the  
20 case may be.

21 “(2) LAPSE OR CLOSING TRANSACTION.—In the  
22 case of the lapse (or closing transaction (as defined  
23 in section 1234(b)(2)(A))) of an option on a speci-  
24 fied security or the exercise of a cash-settled option  
25 on a specified security, reporting under subsections



1 (a) and (g) with respect to such option shall be  
2 made for the calendar year which includes the date  
3 of such lapse, closing transaction, or exercise.

4 “(3) PROSPECTIVE APPLICATION.—Paragraphs  
5 (1) and (2) shall not apply to any option which is  
6 granted or acquired before January 1, 2013.

7 “(4) DEFINITIONS.—For purposes of this sub-  
8 section, the terms ‘covered security’ and ‘specified  
9 security’ shall have the meanings given such terms  
10 in subsection (g)(3).”.

11 (3) EXTENSION OF PERIOD FOR STATEMENTS  
12 SENT TO CUSTOMERS.—

13 (A) IN GENERAL.—Subsection (b) of sec-  
14 tion 6045 is amended by striking “January 31”  
15 and inserting “February 15”.

16 (B) STATEMENTS RELATED TO SUB-  
17 STITUTE PAYMENTS.—Subsection (d) of section  
18 6045 is amended—

19 (i) by striking “at such time and”,  
20 and

21 (ii) by inserting after “other item.”  
22 the following new sentence: “The written  
23 statement required under the preceding  
24 sentence shall be furnished on or before  
25 February 15 of the year following the cal-

1           endar year in which the payment was  
2           made.”.

3           (C) OTHER STATEMENTS.—Subsection (b)  
4           of section 6045 is amended by adding at the  
5           end the following: “In the case of a consolidated  
6           reporting statement (as defined in regulations)  
7           with respect to any customer, any statement  
8           which would otherwise be required to be fur-  
9           nished on or before January 31 of a calendar  
10          year with respect to any item reportable to the  
11          taxpayer shall instead be required to be fur-  
12          nished on or before February 15 of such cal-  
13          endar year if furnished with such consolidated  
14          reporting statement.”.

15          (b) DETERMINATION OF BASIS OF CERTAIN SECURI-  
16          TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS  
17          METHOD.—Section 1012 is amended—

18               (1) by striking “The basis of property” and in-  
19               serting the following:

20               “(a) IN GENERAL.—The basis of property”,

21               (2) by striking “The cost of real property” and  
22               inserting the following:

23               “(b) SPECIAL RULE FOR APPORTIONED REAL ES-  
24          TATE TAXES.—The cost of real property”, and

1           (3) by adding at the end the following new sub-  
2 sections:

3           “(c) DETERMINATIONS BY ACCOUNT.—

4                 “(1) IN GENERAL.—In the case of the sale, ex-  
5 change, or other disposition of a specified security  
6 on or after the applicable date, the conventions pre-  
7 scribed by regulations under this section shall be ap-  
8 plied on an account by account basis.

9                 “(2) APPLICATION TO CERTAIN FUNDS.—

10                         “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), any stock for which an aver-  
12 age basis method is permissible under section  
13 1012 which is acquired before January 1, 2012,  
14 shall be treated as a separate account from any  
15 such stock acquired on or after such date.

16                         “(B) ELECTION FUND FOR TREATMENT AS  
17 SINGLE ACCOUNT.—If a fund described in sub-  
18 paragraph (A) elects to have this subparagraph  
19 apply with respect to one or more of its stock-  
20 holders—

21                                 “(i) subparagraph (A) shall not apply  
22 with respect to any stock in such fund held  
23 by such stockholders, and

24                                 “(ii) all stock in such fund which is  
25 held by such stockholders shall be treated

1 as covered securities described in section  
2 6045(g)(3) without regard to the date of  
3 the acquisition of such stock.

4 A rule similar to the rule of the preceding sen-  
5 tence shall apply with respect to a broker hold-  
6 ing such stock as a nominee.

7 “(3) DEFINITIONS.—For purposes of this sec-  
8 tion, the terms ‘specified security’ and ‘applicable  
9 date’ shall have the meaning given such terms in  
10 section 6045(g).

11 “(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSU-  
12 ANT TO A DIVIDEND REINVESTMENT PLAN.—

13 “(1) IN GENERAL.—In the case of any stock ac-  
14 quired after December 31, 2010, in connection with  
15 a dividend reinvestment plan, the basis of such stock  
16 while held as part of such plan shall be determined  
17 using one of the methods which may be used for de-  
18 termining the basis of stock in an open-end fund.

19 “(2) TREATMENT AFTER TRANSFER.—In the  
20 case of the transfer to another account of stock to  
21 which paragraph (1) applies, such stock shall have  
22 a cost basis in such other account equal to its basis  
23 in the dividend reinvestment plan immediately before  
24 such transfer (properly adjusted for any fees or

1 other charges taken into account in connection with  
2 such transfer).

3 “(3) SEPARATE ACCOUNTS; ELECTION FOR  
4 TREATMENT AS SINGLE ACCOUNT.—Rules similar to  
5 the rules of subsection (c)(2) shall apply for pur-  
6 poses of this subsection.

7 “(4) DIVIDEND REINVESTMENT PLAN.—For  
8 purposes of this subsection—

9 “(A) IN GENERAL.—The term ‘dividend re-  
10 investment plan’ means any arrangement under  
11 which dividends on any stock are reinvested in  
12 stock identical to the stock with respect to  
13 which the dividends are paid.

14 “(B) INITIAL STOCK ACQUISITION TREAT-  
15 ED AS ACQUIRED IN CONNECTION WITH  
16 PLAN.—Stock shall be treated as acquired in  
17 connection with a dividend reinvestment plan if  
18 such stock is acquired pursuant to such plan or  
19 if the dividends paid on such stock are subject  
20 to such plan.”.

21 (c) INFORMATION BY TRANSFERORS TO AID BRO-  
22 KERS.—

23 (1) IN GENERAL.—Subpart B of part III of  
24 subchapter A of chapter 61 is amended by inserting  
25 after section 6045 the following new section:

1 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**  
2 **WITH TRANSFERS OF COVERED SECURITIES**  
3 **TO BROKERS.**

4 “(a) FURNISHING OF INFORMATION.—Every applica-  
5 ble person which transfers to a broker (as defined in sec-  
6 tion 6045(c)(1)) a security which is a covered security (as  
7 defined in section 6045(g)(3)) in the hands of such appli-  
8 cable person shall furnish to such broker a written state-  
9 ment in such manner and setting forth such information  
10 as the Secretary may by regulations prescribe for purposes  
11 of enabling such broker to meet the requirements of sec-  
12 tion 6045(g).

13 “(b) APPLICABLE PERSON.—For purposes of sub-  
14 section (a), the term ‘applicable person’ means—

15 “(1) any broker (as defined in section  
16 6045(c)(1)), and

17 “(2) any other person as provided by the Sec-  
18 retary in regulations.

19 “(c) TIME FOR FURNISHING STATEMENT.—Except  
20 as otherwise provided by the Secretary, any statement re-  
21 quired by subsection (a) shall be furnished not later than  
22 15 days after the date of the transfer described in such  
23 subsection.”.

24 (2) ASSESSABLE PENALTIES.—Paragraph (2)  
25 of section 6724(d), as amended by the Housing As-  
26 sistance Tax Act of 2008, is amended by redesignig-

1 nating subparagraphs (I) through (DD) as subpara-  
2 graphs (J) through (EE), respectively, and by in-  
3 serting after subparagraph (H) the following new  
4 subparagraph:

5 “(I) section 6045A (relating to information  
6 required in connection with transfers of covered  
7 securities to brokers),”.

8 (3) CLERICAL AMENDMENT.—The table of sec-  
9 tions for subpart B of part III of subchapter A of  
10 chapter 61 is amended by inserting after the item  
11 relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered se-  
curities to brokers.”.

12 (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-  
13 KERS.—

14 (1) IN GENERAL.—Subpart B of part III of  
15 subchapter A of chapter 61, as amended by sub-  
16 section (b), is amended by inserting after section  
17 6045A the following new section:

18 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**  
19 **BASIS OF SPECIFIED SECURITIES.**

20 “(a) IN GENERAL.—According to the forms or regu-  
21 lations prescribed by the Secretary, any issuer of a speci-  
22 fied security shall make a return setting forth—

1           “(1) a description of any organizational action  
2           which affects the basis of such specified security of  
3           such issuer,

4           “(2) the quantitative effect on the basis of such  
5           specified security resulting from such action, and

6           “(3) such other information as the Secretary  
7           may prescribe.

8           “(b) TIME FOR FILING RETURN.—Any return re-  
9           quired by subsection (a) shall be filed not later than the  
10          earlier of—

11          “(1) 45 days after the date of the action de-  
12          scribed in subsection (a), or

13          “(2) January 15 of the year following the cal-  
14          endar year during which such action occurred.

15          “(c) STATEMENTS TO BE FURNISHED TO HOLDERS  
16          OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-  
17          cording to the forms or regulations prescribed by the Sec-  
18          retary, every person required to make a return under sub-  
19          section (a) with respect to a specified security shall furnish  
20          to the nominee with respect to the specified security (or  
21          certificate holder if there is no nominee) a written state-  
22          ment showing—

23          “(1) the name, address, and phone number of  
24          the information contact of the person required to  
25          make such return,



1           “(2) the information required to be shown on  
2           such return with respect to such security, and

3           “(3) such other information as the Secretary  
4           may prescribe.

5 The written statement required under the preceding sen-  
6 tence shall be furnished to the holder on or before January  
7 15 of the year following the calendar year during which  
8 the action described in subsection (a) occurred.

9           “(d) SPECIFIED SECURITY.—For purposes of this  
10 section, the term ‘specified security’ has the meaning given  
11 such term by section 6045(g)(3)(B). No return shall be  
12 required under this section with respect to actions de-  
13 scribed in subsection (a) with respect to a specified secu-  
14 rity which occur before the applicable date (as defined in  
15 section 6045(g)(3)(C)) with respect to such security.

16           “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The  
17 Secretary may waive the requirements under subsections  
18 (a) and (c) with respect to a specified security, if the per-  
19 son required to make the return under subsection (a)  
20 makes publicly available, in such form and manner as the  
21 Secretary determines necessary to carry out the purposes  
22 of this section—

23           “(1) the name, address, phone number, and  
24           email address of the information contact of such  
25           person, and

1           “(2) the information described in paragraphs  
2 (1), (2), and (3) of subsection (a).”.

3           (2) ASSESSABLE PENALTIES.—

4           (A) Subparagraph (B) of section  
5 6724(d)(1), as amended by the Housing Assist-  
6 ance Tax Act of 2008, is amended by redesignig-  
7 nating clause (iv) and each of the clauses which  
8 follow as clauses (v) through (xxiii), respec-  
9 tively, and by inserting after clause (iii) the fol-  
10 lowing new clause:

11           “(iv) section 6045B(a) (relating to re-  
12 turns relating to actions affecting basis of  
13 specified securities),”.

14           (B) Paragraph (2) of section 6724(d), as  
15 amended by the Housing Assistance Tax Act of  
16 2008 and by subsection (c)(2), is amended by  
17 redesignating subparagraphs (J) through (EE)  
18 as subparagraphs (K) through (FF), respec-  
19 tively, and by inserting after subparagraph (I)  
20 the following new subparagraph:

21           “(J) subsections (c) and (e) of section  
22 6045B (relating to returns relating to actions  
23 affecting basis of specified securities),”.

24           (3) CLERICAL AMENDMENT.—The table of sec-  
25 tions for subpart B of part III of subchapter A of

1 chapter 61, as amended by subsection (b)(3), is  
2 amended by inserting after the item relating to sec-  
3 tion 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securi-  
ties.”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, the amendments made by  
7 this section shall take effect on January 1, 2011.

8 (2) EXTENSION OF PERIOD FOR STATEMENTS  
9 SENT TO CUSTOMERS.—The amendments made by  
10 subsection (a)(3) shall apply to statements required  
11 to be furnished after December 31, 2008.

12 **SEC. 404. 0.2 PERCENT FUTA SURTAX.**

13 (a) IN GENERAL.—Section 3301 (relating to rate of  
14 tax) is amended—

15 (1) by striking “through 2008” in paragraph  
16 (1) and inserting “through 2009”, and

17 (2) by striking “calendar year 2009” in para-  
18 graph (2) and inserting “calendar year 2010”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to wages paid after December 31,  
21 2008.

22 **SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**  
23 **ITY TRUST FUND TAX.**

24 (a) INCREASE IN RATE.—

1           (1) IN GENERAL.—Section 4611(c)(2)(B) (re-  
2 relating to rates) is amended by striking “is 5 cents  
3 a barrel.” and inserting “is—

4                   “(i) in the case of crude oil received  
5 or petroleum products entered before Jan-  
6 uary 1, 2017, 8 cents a barrel, and

7                   “(ii) in the case of crude oil received  
8 or petroleum products entered after De-  
9 cember 31, 2016, 9 cents a barrel.”.

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       **DIVISION C—TAX EXTENDERS**  
5       **AND ALTERNATIVE MINIMUM**  
6       **TAX RELIEF**

7       **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**  
8                       **TABLE OF CONTENTS.**

9           (a) SHORT TITLE.—This division may be cited as the  
10          “Tax Extenders and Alternative Minimum Tax Relief Act  
11          of 2008”.

12          (b) AMENDMENT OF 1986 CODE.—Except as other-  
13          wise expressly provided, whenever in this division an  
14          amendment or repeal is expressed in terms of an amend-  
15          ment to, or repeal of, a section or other provision, the ref-  
16          erence shall be considered to be made to a section or other  
17          provision of the Internal Revenue Code of 1986.

18          (c) TABLE OF CONTENTS.—The table of contents of  
19          this division is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 101. Extension of alternative minimum tax relief for nonrefundable per-  
          sonal credits.

Sec. 102. Extension of increased alternative minimum tax exemption amount.

Sec. 103. Increase of AMT refundable credit amount for individuals with long-  
          term unused credits for prior year minimum tax liability, etc.

TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS

Sec. 201. Deduction for State and local sales taxes.

Sec. 202. Deduction of qualified tuition and related expenses.

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- Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 204. Additional standard deduction for real property taxes for non-itemizers.
- Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 206. Treatment of certain dividends of regulated investment companies.
- Sec. 207. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 208. Qualified investment entities.

## TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

- Sec. 301. Extension and modification of research credit.
- Sec. 302. New markets tax credit.
- Sec. 303. Subpart F exception for active financing income.
- Sec. 304. Extension of look-thru rule for related controlled foreign corporations.
- Sec. 305. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.
- Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 307. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 308. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.
- Sec. 309. Extension of economic development credit for American Samoa.
- Sec. 310. Extension of mine rescue team training credit.
- Sec. 311. Extension of election to expense advanced mine safety equipment.
- Sec. 312. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 313. Qualified zone academy bonds.
- Sec. 314. Indian employment credit.
- Sec. 315. Accelerated depreciation for business property on Indian reservations.
- Sec. 316. Railroad track maintenance.
- Sec. 317. Seven-year cost recovery period for motorsports racing track facility.
- Sec. 318. Expensing of environmental remediation costs.
- Sec. 319. Extension of work opportunity tax credit for Hurricane Katrina employees.
- Sec. 320. Extension of increased rehabilitation credit for structures in the Gulf Opportunity Zone.
- Sec. 321. Enhanced deduction for qualified computer contributions.
- Sec. 322. Tax incentives for investment in the District of Columbia.
- Sec. 323. Enhanced charitable deductions for contributions of food inventory.
- Sec. 324. Extension of enhanced charitable deduction for contributions of book inventory.
- Sec. 325. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.

## TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

- Sec. 401. Permanent authority for undercover operations.
- Sec. 402. Permanent authority for disclosure of information relating to terrorist activities.

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## TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

## Subtitle A—General Provisions

- Sec. 501. \$8,500 income threshold used to calculate refundable portion of child tax credit.
- Sec. 502. Provisions related to film and television productions.
- Sec. 503. Exemption from excise tax for certain wooden arrows designed for use by children.
- Sec. 504. Income averaging for amounts received in connection with the Exxon Valdez litigation.
- Sec. 505. Certain farming business machinery and equipment treated as 5-year property.
- Sec. 506. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

## Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

- Sec. 511. Short title.
- Sec. 512. Mental health parity.

## TITLE VI—OTHER PROVISIONS

- Sec. 601. Secure rural schools and community self-determination program.
- Sec. 602. Transfer to abandoned mine reclamation fund.

## TITLE VII—DISASTER RELIEF

## Subtitle A—Heartland and Hurricane Ike Disaster Relief

- Sec. 701. Short title.
- Sec. 702. Temporary tax relief for areas damaged by 2008 Midwestern severe storms, tornados, and flooding.
- Sec. 703. Reporting requirements relating to disaster relief contributions.
- Sec. 704. Temporary tax-exempt bond financing and low-income housing tax relief for areas damaged by Hurricane Ike.

## Subtitle B—National Disaster Relief

- Sec. 706. Losses attributable to federally declared disasters.
- Sec. 707. Expensing of Qualified Disaster Expenses.
- Sec. 708. Net operating losses attributable to federally declared disasters.
- Sec. 709. Waiver of certain mortgage revenue bond requirements following federally declared disasters.
- Sec. 710. Special depreciation allowance for qualified disaster property.
- Sec. 711. Increased expensing for qualified disaster assistance property.
- Sec. 712. Coordination with Heartland disaster relief.

## TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY

- Sec. 801. Nonqualified deferred compensation from certain tax indifferent parties.

1                   **TITLE I—ALTERNATIVE**  
2                   **MINIMUM TAX RELIEF**

3 **SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**  
4                   **LIEF FOR NONREFUNDABLE PERSONAL**  
5                   **CREDITS.**

6           (a) IN GENERAL.—Paragraph (2) of section 26(a)  
7 (relating to special rule for taxable years 2000 through  
8 2007) is amended—

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

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

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

16 **SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MIN-**  
17                   **IMUM TAX EXEMPTION AMOUNT.**

18           (a) IN GENERAL.—Paragraph (1) of section 55(d)  
19 (relating to exemption amount) is amended—

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

24                   (2) by striking “(\$44,350 in the case of taxable  
25                   years beginning in 2007)” in subparagraph (B) and



1 inserting “(\$46,200 in the case of taxable years be-  
2 ginning in 2008)”.

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

6 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT**  
7 **AMOUNT FOR INDIVIDUALS WITH LONG-**  
8 **TERM UNUSED CREDITS FOR PRIOR YEAR**  
9 **MINIMUM TAX LIABILITY, ETC.**

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

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

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

20 “(B) the amount (if any) of the AMT re-  
21 fundable credit amount determined under this  
22 paragraph for the taxpayer’s preceding taxable  
23 year (determined without regard to subsection  
24 (f)(2)).”.

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

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

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

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

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

4 (c) EFFECTIVE DATE.—

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

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

12 **TITLE II—EXTENSION OF**  
13 **INDIVIDUAL TAX PROVISIONS**

14 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES**  
15 **TAXES.**

16 (a) IN GENERAL.—Subparagraph (I) of section  
17 164(b)(5) is amended by striking “January 1, 2008” and  
18 inserting “January 1, 2010”.

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

1 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**  
2 **LATED EXPENSES.**

3 (a) IN GENERAL.—Subsection (e) of section 222 (re-  
4 lating to termination) is amended by striking “December  
5 31, 2007” and inserting “December 31, 2009”.

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

9 **SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**  
10 **MENTARY AND SECONDARY SCHOOL TEACH-**  
11 **ERS.**

12 (a) IN GENERAL.—Subparagraph (D) of section  
13 62(a)(2) (relating to certain expenses of elementary and  
14 secondary school teachers) is amended by striking “or  
15 2007” and inserting “2007, 2008, or 2009”.

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

19 **SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL**  
20 **PROPERTY TAXES FOR NONITEMIZERS.**

21 (a) IN GENERAL.—Subparagraph (C) of section  
22 63(c)(1), as added by the Housing Assistance Tax Act of  
23 2008, is amended by inserting “or 2009” after “2008”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall apply to taxable years beginning after  
26 December 31, 2008.

1 **SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
2 **TIREMENT PLANS FOR CHARITABLE PUR-**  
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section  
5 408(d)(8) (relating to termination) is amended by striking  
6 “December 31, 2007” and inserting “December 31,  
7 2009”.

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

11 **SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**  
12 **LATED INVESTMENT COMPANIES.**

13 (a) INTEREST-RELATED DIVIDENDS.—Subpara-  
14 graph (C) of section 871(k)(1) (defining interest-related  
15 dividend) is amended by striking “December 31, 2007”  
16 and inserting “December 31, 2009”.

17 (b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Sub-  
18 paragraph (C) of section 871(k)(2) (defining short-term  
19 capital gain dividend) is amended by striking “December  
20 31, 2007” and inserting “December 31, 2009”.

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

1 **SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING**  
2 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

3 (a) IN GENERAL.—Paragraph (3) of section 2105(d)  
4 (relating to stock in a RIC) is amended by striking “De-  
5 cember 31, 2007” and inserting “December 31, 2009”.

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

9 **SEC. 208. QUALIFIED INVESTMENT ENTITIES.**

10 (a) IN GENERAL.—Clause (ii) of section  
11 897(h)(4)(A) (relating to termination) is amended by  
12 striking “December 31, 2007” and inserting “December  
13 31, 2009”.

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

19 **TITLE III—EXTENSION OF**  
20 **BUSINESS TAX PROVISIONS**

21 **SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH**  
22 **CREDIT.**

23 (a) EXTENSION.—

24 (1) IN GENERAL.—Section 41(h) (relating to  
25 termination) is amended by striking “December 31,

1       2007” and inserting “December 31, 2009” in para-  
2       graph (1)(B).

3           (2) CONFORMING AMENDMENT.—Subparagraph  
4       (D) of section 45C(b)(1) (relating to special rule) is  
5       amended by striking “after December 31, 2007”  
6       and inserting “after December 31, 2009”.

7       (b) TERMINATION OF ALTERNATIVE INCREMENTAL  
8       CREDIT.—Section 41(h) is amended by redesignating  
9       paragraph (2) as paragraph (3), and by inserting after  
10      paragraph (1) the following new paragraph:

11           “(2) TERMINATION OF ALTERNATIVE INCRE-  
12      MENTAL CREDIT.—No election under subsection  
13      (c)(4) shall apply to taxable years beginning after  
14      December 31, 2008.”.

15      (c) MODIFICATION OF ALTERNATIVE SIMPLIFIED  
16      CREDIT.—Paragraph (5)(A) of section 41(c) (relating to  
17      election of alternative simplified credit) is amended by  
18      striking “12 percent” and inserting “14 percent (12 per-  
19      cent in the case of taxable years ending before January  
20      1, 2009)”.

21      (d) TECHNICAL CORRECTION.—Paragraph (3) of sec-  
22      tion 41(h) is amended to read as follows:

23           “(2) COMPUTATION FOR TAXABLE YEAR IN  
24      WHICH CREDIT TERMINATES.—In the case of any  
25      taxable year with respect to which this section ap-

1       plies to a number of days which is less than the total  
2       number of days in such taxable year—

3               “(A) the amount determined under sub-  
4               section (c)(1)(B) with respect to such taxable  
5               year shall be the amount which bears the same  
6               ratio to such amount (determined without re-  
7               gard to this paragraph) as the number of days  
8               in such taxable year to which this section ap-  
9               plies bears to the total number of days in such  
10              taxable year, and

11             “(B) for purposes of subsection (c)(5), the  
12             average qualified research expenses for the pre-  
13             ceding 3 taxable years shall be the amount  
14             which bears the same ratio to such average  
15             qualified research expenses (determined without  
16             regard to this paragraph) as the number of  
17             days in such taxable year to which this section  
18             applies bears to the total number of days in  
19             such taxable year.”.

20       (e) EFFECTIVE DATE.—

21             (1) IN GENERAL.—Except as provided in para-  
22             graph (2), the amendments made by this section  
23             shall apply to taxable years beginning after Decem-  
24             ber 31, 2007.



1           (2) EXTENSION.—The amendments made by  
2           subsection (a) shall apply to amounts paid or in-  
3           curred after December 31, 2007.

4 **SEC. 302. NEW MARKETS TAX CREDIT.**

5           Subparagraph (D) of section 45D(f)(1) (relating to  
6 national limitation on amount of investments designated)  
7 is amended by striking “and 2008” and inserting “2008,  
8 and 2009”.

9 **SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING**  
10 **INCOME.**

11           (a) EXEMPT INSURANCE INCOME.—Paragraph (10)  
12 of section 953(e) (relating to application) is amended—

13           (1) by striking “January 1, 2009” and insert-  
14           ing “January 1, 2010”, and

15           (2) by striking “December 31, 2008” and in-  
16           serting “December 31, 2009”.

17           (b) EXCEPTION TO TREATMENT AS FOREIGN PER-  
18 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of  
19 section 954(h) (relating to application) is amended by  
20 striking “January 1, 2009” and inserting “January 1,  
21 2010”.

1 **SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED**  
2 **CONTROLLED FOREIGN CORPORATIONS.**

3 (a) IN GENERAL.—Subparagraph (C) of section  
4 954(e)(6) (relating to application) is amended by striking  
5 “January 1, 2009” and inserting “January 1, 2010”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to taxable years of foreign corpora-  
8 tions beginning after December 31, 2007, and to taxable  
9 years of United States shareholders with or within which  
10 such taxable years of foreign corporations end.

11 **SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RE-**  
12 **COVERY FOR QUALIFIED LEASEHOLD IM-**  
13 **PROVEMENTS AND QUALIFIED RESTAURANT**  
14 **IMPROVEMENTS; 15-YEAR STRAIGHT-LINE**  
15 **COST RECOVERY FOR CERTAIN IMPROVE-**  
16 **MENTS TO RETAIL SPACE.**

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

19 (1) IN GENERAL.—Clauses (iv) and (v) of sec-  
20 tion 168(e)(3)(E) (relating to 15-year property) are  
21 each amended by striking “January 1, 2008” and  
22 inserting “January 1, 2010”.

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

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

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

6           “(7) QUALIFIED RESTAURANT PROPERTY.—

7           “(A) IN GENERAL.—The term ‘qualified  
8 restaurant property’ means any section 1250  
9 property which is—

10                   “(i) a building, if such building is  
11 placed in service after December 31, 2008,  
12 and before January 1, 2010, or

13                   “(ii) an improvement to a building,  
14 if more than 50 percent of the building’s square  
15 footage is devoted to preparation of, and seat-  
16 ing for on-premises consumption of, prepared  
17 meals.

18           “(B) EXCLUSION FROM BONUS DEPRECI-  
19 A-  
20 TION.—Property described in this paragraph  
21 shall not be considered qualified property for  
22 purposes of subsection (k).”.

23           (2) EFFECTIVE DATE.—The amendment made  
24 by this subsection shall apply to property placed in  
service after December 31, 2008.



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

4           “(B) IMPROVEMENTS MADE BY OWNER.—  
5           In the case of an improvement made by the  
6           owner of such improvement, such improvement  
7           shall be qualified retail improvement property  
8           (if at all) only so long as such improvement is  
9           held by such owner. Rules similar to the rules  
10          under paragraph (6)(B) shall apply for pur-  
11          poses of the preceding sentence.

12          “(C) CERTAIN IMPROVEMENTS NOT IN-  
13          CLUDED.—Such term shall not include any im-  
14          provement for which the expenditure is attrib-  
15          utable to—

16                 “(i) the enlargement of the building,  
17                 “(ii) any elevator or escalator,  
18                 “(iii) any structural component bene-  
19                 fitting a common area, or  
20                 “(iv) the internal structural frame-  
21                 work of the building.

22          “(D) EXCLUSION FROM BONUS DEPRECIA-  
23          TION.—Property described in this paragraph  
24          shall not be considered qualified property for  
25          purposes of subsection (k).

1                   “(E) TERMINATION.—Such term shall not  
 2                   include any improvement placed in service after  
 3                   December 31, 2009.”.

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

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

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

                  “(E)(ix) ..... 39”.

13                  (5) EFFECTIVE DATE.—The amendments made  
 14                  by this subsection shall apply to property placed in  
 15                  service after December 31, 2008.

16 **SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
 17                                   **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
 18                                   **NIZATIONS.**

19                  (a) IN GENERAL.—Clause (iv) of section  
 20                  512(b)(13)(E) (relating to termination) is amended by  
 21                  striking “December 31, 2007” and inserting “December  
 22                  31, 2009”.

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

1 **SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
2 **TIONS MAKING CHARITABLE CONTRIBU-**  
3 **TIONS OF PROPERTY.**

4 (a) IN GENERAL.—The last sentence of section  
5 1367(a)(2) (relating to decreases in basis) is amended by  
6 striking “December 31, 2007” and inserting “December  
7 31, 2009”.

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

11 **SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**  
12 **CISE TAX TO PUERTO RICO AND THE VIRGIN**  
13 **ISLANDS.**

14 (a) IN GENERAL.—Paragraph (1) of section 7652(f)  
15 is amended by striking “January 1, 2008” and inserting  
16 “January 1, 2010”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to distilled spirits brought into the  
19 United States after December 31, 2007.

20 **SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CRED-**  
21 **IT FOR AMERICAN SAMOA.**

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

25 (1) by striking “first two taxable years” and in-  
26 serting “first 4 taxable years”, and

1           (2) by striking “January 1, 2008” and insert-  
2           ing “January 1, 2010”.

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

6 **SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING**  
7 **CREDIT.**

8           Section 45N(e) (relating to termination) is amended  
9 by striking “December 31, 2008” and inserting “Decem-  
10 ber 31, 2009”.

11 **SEC. 311. EXTENSION OF ELECTION TO EXPENSE AD-**  
12 **VANCED MINE SAFETY EQUIPMENT.**

13           Section 179E(g) (relating to termination) is amended  
14 by striking “December 31, 2008” and inserting “Decem-  
15 ber 31, 2009”.

16 **SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
17 **COME ATTRIBUTABLE TO DOMESTIC PRO-**  
18 **DUCTION ACTIVITIES IN PUERTO RICO.**

19           (a) IN GENERAL.—Subparagraph (C) of section  
20 199(d)(8) (relating to termination) is amended—

21           (1) by striking “first 2 taxable years” and in-  
22           serting “first 4 taxable years”, and

23           (2) by striking “January 1, 2008” and insert-  
24           ing “January 1, 2010”.



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

4 **SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

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

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

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

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

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

19 “(3) the issuer—

20 “(A) designates such bond for purposes of  
21 this section,

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

1                   “(C) certifies that it has the written ap-  
2                   proval of the eligible local education agency for  
3                   such bond issuance.

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

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

15           “(1) NATIONAL LIMITATION.—There is a na-  
16   tional zone academy bond limitation for each cal-  
17   endar year. Such limitation is \$400,000,000 for  
18   2008 and 2009, and, except as provided in para-  
19   graph (4), zero thereafter.

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

1 amount allocated to a State under the preceding  
2 sentence shall be allocated by the State education  
3 agency to qualified zone academies within such  
4 State.

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

12 “(4) CARRYOVER OF UNUSED LIMITATION.—

13 “(A) IN GENERAL.—If for any calendar  
14 year—

15 “(i) the limitation amount for any  
16 State, exceeds

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

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

24 “(B) LIMITATION ON CARRYOVER.—Any  
25 carryforward of a limitation amount may be

1 carried only to the first 2 years following the  
2 unused limitation year. For purposes of the pre-  
3 ceding sentence, a limitation amount shall be  
4 treated as used on a first-in first-out basis.

5 “(C) COORDINATION WITH SECTION  
6 1397E.—Any carryover determined under sec-  
7 tion 1397E(e)(4) (relating to carryover of un-  
8 used limitation) with respect to any State to  
9 calendar year 2008 or 2009 shall be treated for  
10 purposes of this section as a carryover with re-  
11 spect to such State for such calendar year  
12 under subparagraph (A), and the limitation of  
13 subparagraph (B) shall apply to such carryover  
14 taking into account the calendar years to which  
15 such carryover relates.

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

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

23 “(A) such public school or program (as the  
24 case may be) is designed in cooperation with  
25 business to enhance the academic curriculum,

1 increase graduation and employment rates, and  
2 better prepare students for the rigors of college  
3 and the increasingly complex workforce,

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

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

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

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

24 “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—

25 For purposes of this section, the term ‘eligible local

1 education agency’ means any local educational agen-  
2 cy as defined in section 9101 of the Elementary and  
3 Secondary Education Act of 1965.

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

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

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

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

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

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

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

23 “(B) technical assistance in developing  
24 curriculum or in training teachers in order to

1 promote appropriate market driven technology  
2 in the classroom,

3 “(C) services of employees as volunteer  
4 mentors,

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

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

10 (b) CONFORMING AMENDMENTS.—

11 (1) Paragraph (1) of section 54A(d), as amend-  
12 ed by this Act, is amended by striking “or” at the  
13 end of subparagraph (B), by inserting “or” at the  
14 end of subparagraph (C), and by inserting after sub-  
15 paragraph (C) the following new subparagraph:

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

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

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

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

3           “(m) TERMINATION.—This section shall not apply to  
4 any obligation issued after the date of the enactment of  
5 the Tax Extenders and Alternative Minimum Tax Relief  
6 Act of 2008.”.

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

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

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

13 **SEC. 314. INDIAN EMPLOYMENT CREDIT.**

14          (a) IN GENERAL.—Subsection (f) of section 45A (re-  
15 lating to termination) is amended by striking “December  
16 31, 2007” and inserting “December 31, 2009”.

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

20 **SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS**  
21 **PROPERTY ON INDIAN RESERVATIONS.**

22          (a) IN GENERAL.—Paragraph (8) of section 168(j)  
23 (relating to termination) is amended by striking “Decem-  
24 ber 31, 2007” and inserting “December 31, 2009”.



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

4 **SEC. 316. RAILROAD TRACK MAINTENANCE.**

5 (a) IN GENERAL.—Subsection (f) of section 45G (re-  
6 lating to application of section) is amended by striking  
7 “January 1, 2008” and inserting “January 1, 2010”.

8 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
9 IMUM TAX.—Subparagraph (B) of section 38(c)(4), as  
10 amended by this Act, is amended—

11 (1) by redesignating clauses (v), (vi), and (vii)  
12 as clauses (vi), (vii), and (viii), respectively, and

13 (2) by inserting after clause (iv) the following  
14 new clause:

15 “(v) the credit determined under sec-  
16 tion 45G.”.

17 (c) EFFECTIVE DATES.—

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

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

1 **SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**  
2 **TORSPO RTS RACING TRACK FACILITY.**

3 (a) IN GENERAL.—Subparagraph (D) of section  
4 168(i)(15) (relating to termination) is amended by strik-  
5 ing “December 31, 2007” and inserting “December 31,  
6 2009”.

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

10 **SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
11 **COSTS.**

12 (a) IN GENERAL.—Subsection (h) of section 198 (re-  
13 lating to termination) is amended by striking “December  
14 31, 2007” and inserting “December 31, 2009”.

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

18 **SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT**  
19 **FOR HURRICANE KATRINA EMPLOYEES.**

20 (a) IN GENERAL.—Paragraph (1) of section 201(b)  
21 of the Katrina Emergency Tax Relief Act of 2005 is  
22 amended by striking “2-year” and inserting “4-year”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply to individuals hired after August  
25 27, 2007.

1 **SEC. 320. EXTENSION OF INCREASED REHABILITATION**  
2 **CREDIT FOR STRUCTURES IN THE GULF OP-**  
3 **PORTUNITY ZONE.**

4 (a) IN GENERAL.—Subsection (h) of section 1400N  
5 is amended by striking “December 31, 2008” and insert-  
6 ing “December 31, 2009”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to expenditures paid or incurred  
9 after the date of the enactment of this Act.

10 **SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COM-**  
11 **PUTER CONTRIBUTIONS.**

12 (a) IN GENERAL.—Subparagraph (G) of section  
13 170(e)(6) is amended by striking “December 31, 2007”  
14 and inserting “December 31, 2009”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to contributions made during tax-  
17 able years beginning after December 31, 2007.

18 **SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
19 **TRICT OF COLUMBIA.**

20 (a) DESIGNATION OF ZONE.—

21 (1) IN GENERAL.—Subsection (f) of section  
22 1400 is amended by striking “2007” both places it  
23 appears and inserting “2009”.

24 (2) EFFECTIVE DATE.—The amendments made  
25 by this subsection shall apply to periods beginning  
26 after December 31, 2007.

1 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT  
2 BONDS.—

3 (1) IN GENERAL.—Subsection (b) of section  
4 1400A is amended by striking “2007” and inserting  
5 “2009”.

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

9 (c) ZERO PERCENT CAPITAL GAINS RATE.—

10 (1) IN GENERAL.—Subsection (b) of section  
11 1400B is amended by striking “2008” each place it  
12 appears and inserting “2010”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 1400B(e)(2) is amended—

15 (i) by striking “2012” and inserting  
16 “2014”, and

17 (ii) by striking “2012” in the heading  
18 thereof and inserting “2014”.

19 (B) Section 1400B(g)(2) is amended by  
20 striking “2012” and inserting “2014”.

21 (C) Section 1400F(d) is amended by strik-  
22 ing “2012” and inserting “2014”.

23 (3) EFFECTIVE DATES.—

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

4 (B) CONFORMING AMENDMENTS.—The  
5 amendments made by paragraph (2) shall take  
6 effect on the date of the enactment of this Act.

7 (d) FIRST-TIME HOMEBUYER CREDIT.—

8 (1) IN GENERAL.—Subsection (i) of section  
9 1400C is amended by striking “2008” and inserting  
10 “2010”.

11 (2) EFFECTIVE DATE.—The amendment made  
12 by this subsection shall apply to property purchased  
13 after December 31, 2007.

14 **SEC. 323. ENHANCED CHARITABLE DEDUCTIONS FOR CON-**  
15 **TRIBUTIONS OF FOOD INVENTORY.**

16 (a) INCREASED AMOUNT OF DEDUCTION.—

17 (1) IN GENERAL.—Clause (iv) of section  
18 170(e)(3)(C) (relating to termination) is amended by  
19 striking “December 31, 2007” and inserting “De-  
20 cember 31, 2009”.

21 (2) EFFECTIVE DATE.—The amendment made  
22 by this subsection shall apply to contributions made  
23 after December 31, 2007.

24 (b) TEMPORARY SUSPENSION OF LIMITATIONS ON  
25 CHARITABLE CONTRIBUTIONS.—

1           (1) IN GENERAL.—Section 170(b) is amended  
2           by adding at the end the following new paragraph:

3           “(3) TEMPORARY SUSPENSION OF LIMITATIONS  
4           ON CHARITABLE CONTRIBUTIONS.—In the case of a  
5           qualified farmer or rancher (as defined in paragraph  
6           (1)(E)(v)), any charitable contribution of food—

7                     “(A) to which subsection (e)(3)(C) applies  
8                     (without regard to clause (ii) thereof), and

9                     “(B) which is made during the period be-  
10                    ginning on the date of the enactment of this  
11                    paragraph and before January 1, 2009,

12                   shall be treated for purposes of paragraph (1)(E) or  
13                   (2)(B), whichever is applicable, as if it were a quali-  
14                   fied conservation contribution which is made by a  
15                   qualified farmer or rancher and which otherwise  
16                   meets the requirements of such paragraph.”.

17           (2) EFFECTIVE DATE.—The amendment made  
18           by this subsection shall apply to taxable years end-  
19           ing after the date of the enactment of this Act.

20 **SEC. 324. EXTENSION OF ENHANCED CHARITABLE DEDUC-**  
21 **TION FOR CONTRIBUTIONS OF BOOK INVEN-**  
22 **TORY.**

23           (a) EXTENSION.—Clause (iv) of section 170(e)(3)(D)  
24           (relating to termination) is amended by striking “Decem-  
25           ber 31, 2007” and inserting “December 31, 2009”.

1 (b) CLERICAL AMENDMENT.—Clause (iii) of section  
2 170(e)(3)(D) (relating to certification by donee) is amend-  
3 ed by inserting “of books” after “to any contribution”.

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

7 **SEC. 325. EXTENSION AND MODIFICATION OF DUTY SUS-**  
8 **PENSION ON WOOL PRODUCTS; WOOL RE-**  
9 **SEARCH FUND; WOOL DUTY REFUNDS.**

10 (a) EXTENSION OF TEMPORARY DUTY REDUC-  
11 TIONS.—Each of the following headings of the Har-  
12 monized Tariff Schedule of the United States is amended  
13 by striking the date in the effective period column and  
14 inserting “12/31/2014”:

15 (1) Heading 9902.51.11 (relating to fabrics of  
16 worsted wool).

17 (2) Heading 9902.51.13 (relating to yarn of  
18 combed wool).

19 (3) Heading 9902.51.14 (relating to wool fiber,  
20 waste, garnetted stock, combed wool, or wool top).

21 (4) Heading 9902.51.15 (relating to fabrics of  
22 combed wool).

23 (5) Heading 9902.51.16 (relating to fabrics of  
24 combed wool).

1 (b) EXTENSION OF DUTY REFUNDS AND WOOL RE-  
2 SEARCH TRUST FUND.—

3 (1) IN GENERAL.—Section 4002(c) of the Wool  
4 Suit and Textile Trade Extension Act of 2004 (Pub-  
5 lic Law 108–429; 118 Stat. 2603) is amended—

6 (A) in paragraph (3)(C), by striking  
7 “2010” and inserting “2015”; and

8 (B) in paragraph (6)(A), by striking  
9 “through 2009” and inserting “through 2014”.

10 (2) SUNSET.—Section 506(f) of the Trade and  
11 Development Act of 2000 (Public 106–200; 114  
12 Stat. 303 (7 U.S.C. 7101 note)) is amended by  
13 striking “2010” and inserting “2015”.

14 **TITLE IV—EXTENSION OF TAX**  
15 **ADMINISTRATION PROVISIONS**

16 **SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OP-**  
17 **ERATIONS.**

18 (a) IN GENERAL.—Section 7608(c) (relating to rules  
19 relating to undercover operations) is amended by striking  
20 paragraph (6).

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to operations conducted after the  
23 date of the enactment of this Act.



1 **SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF**  
2 **INFORMATION RELATING TO TERRORIST AC-**  
3 **TIVITIES.**

4 (a) DISCLOSURE OF RETURN INFORMATION TO AP-  
5 PRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVI-  
6 TIES.—Subparagraph (C) of section 6103(i)(3) is amend-  
7 ed by striking clause (iv).

8 (b) DISCLOSURE UPON REQUEST OF INFORMATION  
9 RELATING TO TERRORIST ACTIVITIES.—Paragraph (7) of  
10 section 6103(i) is amended by striking subparagraph (E).

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

14 **TITLE V—ADDITIONAL TAX RE-**  
15 **LIEF AND OTHER TAX PROVI-**  
16 **SIONS**

17 **Subtitle A—General Provisions**

18 **SEC. 501. \$8,500 INCOME THRESHOLD USED TO CALCULATE**  
19 **REFUNDABLE PORTION OF CHILD TAX CRED-**  
20 **IT.**

21 (a) IN GENERAL.—Section 24(d) is amended by add-  
22 ing at the end the following new paragraph:

23 “(4) SPECIAL RULE FOR 2008.—Notwith-  
24 standing paragraph (3), in the case of any taxable  
25 year beginning in 2008, the dollar amount in effect

1 for such taxable year under paragraph (1)(B)(i)  
2 shall be \$8,500.”.

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

6 **SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION**  
7 **PRODUCTIONS.**

8 (a) EXTENSION OF EXPENSING RULES FOR QUALI-  
9 FIED FILM AND TELEVISION PRODUCTIONS.—Section  
10 181(f) (relating to termination) is amended by striking  
11 “December 31, 2008” and inserting “December 31,  
12 2009”.

13 (b) MODIFICATION OF LIMITATION ON EXPENS-  
14 ING.—Subparagraph (A) of section 181(a)(2) is amended  
15 to read as follows:

16 “(A) IN GENERAL.—Paragraph (1) shall  
17 not apply to so much of the aggregate cost of  
18 any qualified film or television production as ex-  
19 ceeds \$15,000,000.”.

20 (c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC  
21 ACTIVITIES.—

22 (1) DETERMINATION OF W-2 WAGES.—Para-  
23 graph (2) of section 199(b) is amended by adding at  
24 the end the following new subparagraph:

1           “(D) SPECIAL RULE FOR QUALIFIED  
2 FILM.—In the case of a qualified film, such  
3 term shall include compensation for services  
4 performed in the United States by actors, pro-  
5 duction personnel, directors, and producers.”.

6           (2) DEFINITION OF QUALIFIED FILM.—Para-  
7 graph (6) of section 199(e) is amended by adding at  
8 the end the following: “A qualified film shall include  
9 any copyrights, trademarks, or other intangibles  
10 with respect to such film. The methods and means  
11 of distributing a qualified film shall not affect the  
12 availability of the deduction under this section.”.

13           (3) PARTNERSHIPS.—Subparagraph (A) of sec-  
14 tion 199(d)(1) is amended by striking “and” at the  
15 end of clause (ii), by striking the period at the end  
16 of clause (iii) and inserting “, and”, and by adding  
17 at the end the following new clause:

18                   “(iv) in the case of each partner of a  
19 partnership, or shareholder of an S cor-  
20 poration, who owns (directly or indirectly)  
21 at least 20 percent of the capital interests  
22 in such partnership or of the stock of such  
23 S corporation—

24                           “(I) such partner or shareholder  
25 shall be treated as having engaged di-

1                   rectly in any film produced by such  
2                   partnership or S corporation, and

3                   “(II) such partnership or S cor-  
4                   poration shall be treated as having en-  
5                   gaged directly in any film produced by  
6                   such partner or shareholder.”.

7           (d)       CONFORMING        AMENDMENT.—Section  
8 181(d)(3)(A) is amended by striking “actors” and all that  
9 follows and inserting “actors, production personnel, direc-  
10 tors, and producers.”.

11       (e) EFFECTIVE DATES.—

12           (1) IN GENERAL.—Except as otherwise pro-  
13 vided in this subsection, the amendments made by  
14 this section shall apply to qualified film and tele-  
15 vision productions commencing after December 31,  
16 2007.

17           (2) DEDUCTION.—The amendments made by  
18 subsection (c) shall apply to taxable years beginning  
19 after December 31, 2007.

20 **SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN**  
21 **WOODEN ARROWS DESIGNED FOR USE BY**  
22 **CHILDREN.**

23       (a) IN GENERAL.—Paragraph (2) of section 4161(b)  
24 is amended by redesignating subparagraph (B) as sub-

1 paragraph (C) and by inserting after subparagraph (A)  
2 the following new subparagraph:

3           “(B) EXEMPTION FOR CERTAIN WOODEN  
4           ARROW SHAFTS.—Subparagraph (A) shall not  
5           apply to any shaft consisting of all natural  
6           wood with no laminations or artificial means of  
7           enhancing the spine of such shaft (whether sold  
8           separately or incorporated as part of a finished  
9           or unfinished product) of a type used in the  
10          manufacture of any arrow which after its as-  
11          sembly—

12                   “(i) measures  $\frac{5}{16}$  of an inch or less in  
13                   diameter, and

14                   “(ii) is not suitable for use with a bow  
15                   described in paragraph (1)(A).”.

16          (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to shafts first sold after the date  
18 of enactment of this Act.

19 **SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN**  
20                   **CONNECTION WITH THE EXXON VALDEZ LITI-**  
21                   **GATION.**

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

1           (1) any qualified taxpayer who receives any  
2           qualified settlement income in any taxable year shall  
3           be treated as engaged in a fishing business (deter-  
4           mined without regard to the commercial nature of  
5           the business), and

6           (2) such qualified settlement income shall be  
7           treated as income attributable to such a fishing busi-  
8           ness for such taxable year.

9           (b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RE-  
10          TIREMENT ACCOUNTS.—

11           (1) IN GENERAL.—Any qualified taxpayer who  
12           receives qualified settlement income during the tax-  
13           able year may, at any time before the end of the tax-  
14           able year in which such income was received, make  
15           one or more contributions to an eligible retirement  
16           plan of which such qualified taxpayer is a bene-  
17           ficiary in an aggregate amount not to exceed the  
18           lesser of—

19                   (A) \$100,000 (reduced by the amount of  
20                   qualified settlement income contributed to an  
21                   eligible retirement plan in prior taxable years  
22                   pursuant to this subsection), or

23                   (B) the amount of qualified settlement in-  
24                   come received by the individual during the tax-  
25                   able year.

1           (2) TIME WHEN CONTRIBUTIONS DEEMED  
2 MADE.—For purposes of paragraph (1), a qualified  
3 taxpayer shall be deemed to have made a contribu-  
4 tion to an eligible retirement plan on the last day of  
5 the taxable year in which such income is received if  
6 the contribution is made on account of such taxable  
7 year and is made not later than the time prescribed  
8 by law for filing the return for such taxable year  
9 (not including extensions thereof).

10           (3) TREATMENT OF CONTRIBUTIONS TO ELIGI-  
11 BLE RETIREMENT PLANS.—For purposes of the In-  
12 ternal Revenue Code of 1986, if a contribution is  
13 made pursuant to paragraph (1) with respect to  
14 qualified settlement income, then—

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

16                   (i) to the extent of such contribution,  
17 the qualified settlement income shall not  
18 be included in taxable income, and

19                   (ii) for purposes of section 72 of such  
20 Code, such contribution shall not be con-  
21 sidered to be investment in the contract,

22           (B) the qualified taxpayer shall, to the ex-  
23 tent of the amount of the contribution, be treat-  
24 ed—

1 (i) as having received the qualified  
2 settlement income—

3 (I) in the case of a contribution  
4 to an individual retirement plan (as  
5 defined under section 7701(a)(37) of  
6 such Code), in a distribution described  
7 in section 408(d)(3) of such Code,  
8 and

9 (II) in the case of any other eligi-  
10 ble retirement plan, in an eligible roll-  
11 over distribution (as defined under  
12 section 402(f)(2) of such Code), and

13 (ii) as having transferred the amount  
14 to the eligible retirement plan in a direct  
15 trustee to trustee transfer within 60 days  
16 of the distribution,

17 (C) section 408(d)(3)(B) of the Internal  
18 Revenue Code of 1986 shall not apply with re-  
19 spect to amounts treated as a rollover under  
20 this paragraph, and

21 (D) section 408A(c)(3)(B) of the Internal  
22 Revenue Code of 1986 shall not apply with re-  
23 spect to amounts contributed to a Roth IRA (as  
24 defined under section 408A(b) of such Code) or  
25 a designated Roth contribution to an applicable



1 retirement plan (within the meaning of section  
2 402A of such Code) under this paragraph.

3 (4) SPECIAL RULE FOR ROTH IRAS AND ROTH  
4 401(k)s.—For purposes of the Internal Revenue  
5 Code of 1986, if a contribution is made pursuant to  
6 paragraph (1) with respect to qualified settlement  
7 income to a Roth IRA (as defined under section  
8 408A(b) of such Code) or as a designated Roth con-  
9 tribution to an applicable retirement plan (within  
10 the meaning of section 402A of such Code), then—

11 (A) the qualified settlement income shall  
12 be includible in taxable income, and

13 (B) for purposes of section 72 of such  
14 Code, such contribution shall be considered to  
15 be investment in the contract.

16 (5) ELIGIBLE RETIREMENT PLAN.—For pur-  
17 pose of this subsection, the term “eligible retirement  
18 plan” has the meaning given such term under sec-  
19 tion 402(c)(8)(B) of the Internal Revenue Code of  
20 1986.

21 (c) TREATMENT OF QUALIFIED SETTLEMENT IN-  
22 COME UNDER EMPLOYMENT TAXES.—

23 (1) SECA.—For purposes of chapter 2 of the  
24 Internal Revenue Code of 1986 and section 211 of  
25 the Social Security Act, no portion of qualified set-

1           tlement income received by a qualified taxpayer shall  
2           be treated as self-employment income.

3           (2) FICA.—For purposes of chapter 21 of the  
4           Internal Revenue Code of 1986 and section 209 of  
5           the Social Security Act, no portion of qualified set-  
6           tlement income received by a qualified taxpayer shall  
7           be treated as wages.

8           (d) QUALIFIED TAXPAYER.—For purposes of this  
9           section, the term “qualified taxpayer” means—

10           (1) any individual who is a plaintiff in the civil  
11           action *In re Exxon Valdez*, No. 89–095–CV (HRH)  
12           (Consolidated) (D. Alaska); or

13           (2) any individual who is a beneficiary of the  
14           estate of such a plaintiff who—

15                   (A) acquired the right to receive qualified  
16                   settlement income from that plaintiff; and

17                   (B) was the spouse or an immediate rel-  
18                   ative of that plaintiff.

19           (e) QUALIFIED SETTLEMENT INCOME.—For pur-  
20           poses of this section, the term “qualified settlement in-  
21           come” means any interest and punitive damage awards  
22           which are—

23                   (1) otherwise includible in taxable income, and

24                   (2) received (whether as lump sums or periodic  
25           payments) in connection with the civil action *In re*

1 *Exxon Valdez*, No. 89–095–CV (HRH) (Consoli-  
2 dated) (D. Alaska) (whether pre- or post-judgment  
3 and whether related to a settlement or judgment).

4 **SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND**  
5 **EQUIPMENT TREATED AS 5-YEAR PROPERTY.**

6 (a) IN GENERAL.—Section 168(e)(3)(B) (defining 5-  
7 year property) is amended by striking “and” at the end  
8 of clause (v), by striking the period at the end of clause  
9 (vi)(III) and inserting “, and”, and by inserting after  
10 clause (vi) the following new clause:

11 “(vii) any machinery or equipment  
12 (other than any grain bin, cotton ginning  
13 asset, fence, or other land improvement)  
14 which is used in a farming business (as de-  
15 fined in section 263A(e)(4)), the original  
16 use of which commences with the taxpayer  
17 after December 31, 2008, and which is  
18 placed in service before January 1, 2010.”.

19 (b) ALTERNATIVE SYSTEM.—The table contained in  
20 section 168(g)(3)(B) (relating to special rule for certain  
21 property assigned to classes) is amended by inserting after  
22 the item relating to subparagraph (B)(iii) the following:

(B)(vii) ..... 10”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 December 31, 2008.

4 **SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATE-**  
5 **MENT OF TAXPAYER'S LIABILITY BY TAX RE-**  
6 **TURN PREPARER.**

7 (a) IN GENERAL.—Subsection (a) of section 6694 is  
8 amended to read as follows:

9 “(a) UNDERSTATEMENT DUE TO UNREASONABLE  
10 POSITIONS.—

11 “(1) IN GENERAL.—If a tax return preparer—

12 “(A) prepares any return or claim of re-  
13 fund with respect to which any part of an un-  
14 derstatement of liability is due to a position de-  
15 scribed in paragraph (2), and

16 “(B) knew (or reasonably should have  
17 known) of the position,

18 such tax return preparer shall pay a penalty with re-  
19 spect to each such return or claim in an amount  
20 equal to the greater of \$1,000 or 50 percent of the  
21 income derived (or to be derived) by the tax return  
22 preparer with respect to the return or claim.

23 “(2) UNREASONABLE POSITION.—

24 “(A) IN GENERAL.—Except as otherwise  
25 provided in this paragraph, a position is de-

1           scribed in this paragraph unless there is or was  
2           substantial authority for the position.

3           “(B) DISCLOSED POSITIONS.—If the posi-  
4           tion was disclosed as provided in section  
5           6662(d)(2)(B)(ii)(I) and is not a position to  
6           which subparagraph (C) applies, the position is  
7           described in this paragraph unless there is a  
8           reasonable basis for the position.

9           “(C) TAX SHELTERS AND REPORTABLE  
10          TRANSACTIONS.—If the position is with respect  
11          to a tax shelter (as defined in section  
12          6662(d)(2)(C)(ii)) or a reportable transaction  
13          to which section 6662A applies, the position is  
14          described in this paragraph unless it is reason-  
15          able to believe that the position would more  
16          likely than not be sustained on its merits.

17          “(3) REASONABLE CAUSE EXCEPTION.—No  
18          penalty shall be imposed under this subsection if it  
19          is shown that there is reasonable cause for the un-  
20          derstatement and the tax return preparer acted in  
21          good faith.”.

22          (b) EFFECTIVE DATE.—The amendment made by  
23          this section shall apply—

24                 (1) in the case of a position other than a posi-  
25                 tion described in subparagraph (C) of section

1       6694(a)(2) of the Internal Revenue Code of 1986  
2       (as amended by this section), to returns prepared  
3       after May 25, 2007, and

4             (2) in the case of a position described in such  
5       subparagraph (C), to returns prepared for taxable  
6       years ending after the date of the enactment of this  
7       Act.

8       **Subtitle B—Paul Wellstone and**  
9       **Pete Domenici Mental Health**  
10       **Parity and Addiction Equity Act**  
11       **of 2008**

12       **SEC. 511. SHORT TITLE.**

13       This subtitle may be cited as the “Paul Wellstone and  
14       Pete Domenici Mental Health Parity and Addiction Eq-  
15       uity Act of 2008”.

16       **SEC. 512. MENTAL HEALTH PARITY.**

17       (a) AMENDMENTS TO ERISA.—Section 712 of the  
18       Employee Retirement Income Security Act of 1974 (29  
19       U.S.C. 1185a) is amended—

20             (1) in subsection (a), by adding at the end the  
21       following:

22             “(3) FINANCIAL REQUIREMENTS AND TREAT-  
23       MENT LIMITATIONS.—

24             “(A) IN GENERAL.—In the case of a group  
25       health plan (or health insurance coverage of-

1           ferred in connection with such a plan) that pro-  
2           vides both medical and surgical benefits and  
3           mental health or substance use disorder bene-  
4           fits, such plan or coverage shall ensure that—

5                   “(i) the financial requirements appli-  
6                   cable to such mental health or substance  
7                   use disorder benefits are no more restric-  
8                   tive than the predominant financial re-  
9                   quirements applied to substantially all  
10                  medical and surgical benefits covered by  
11                  the plan (or coverage), and there are no  
12                  separate cost sharing requirements that  
13                  are applicable only with respect to mental  
14                  health or substance use disorder benefits;  
15                  and

16                   “(ii) the treatment limitations applica-  
17                   ble to such mental health or substance use  
18                   disorder benefits are no more restrictive  
19                   than the predominant treatment limita-  
20                   tions applied to substantially all medical  
21                   and surgical benefits covered by the plan  
22                   (or coverage) and there are no separate  
23                   treatment limitations that are applicable  
24                   only with respect to mental health or sub-  
25                   stance use disorder benefits.

1 “(B) DEFINITIONS.—In this paragraph:

2 “(i) FINANCIAL REQUIREMENT.—The  
3 term ‘financial requirement’ includes  
4 deductibles, copayments, coinsurance, and  
5 out-of-pocket expenses, but excludes an ag-  
6 gregate lifetime limit and an annual limit  
7 subject to paragraphs (1) and (2),

8 “(ii) PREDOMINANT.—A financial re-  
9 quirement or treatment limit is considered  
10 to be predominant if it is the most com-  
11 mon or frequent of such type of limit or  
12 requirement.

13 “(iii) TREATMENT LIMITATION.—The  
14 term ‘treatment limitation’ includes limits  
15 on the frequency of treatment, number of  
16 visits, days of coverage, or other similar  
17 limits on the scope or duration of treat-  
18 ment.

19 “(4) AVAILABILITY OF PLAN INFORMATION.—  
20 The criteria for medical necessity determinations  
21 made under the plan with respect to mental health  
22 or substance use disorder benefits (or the health in-  
23 surance coverage offered in connection with the plan  
24 with respect to such benefits) shall be made avail-  
25 able by the plan administrator (or the health insur-



1       ance issuer offering such coverage) in accordance  
2       with regulations to any current or potential partici-  
3       pant, beneficiary, or contracting provider upon re-  
4       quest. The reason for any denial under the plan (or  
5       coverage) of reimbursement or payment for services  
6       with respect to mental health or substance use dis-  
7       order benefits in the case of any participant or bene-  
8       ficiary shall, on request or as otherwise required, be  
9       made available by the plan administrator (or the  
10      health insurance issuer offering such coverage) to  
11      the participant or beneficiary in accordance with  
12      regulations.

13           “(5) OUT-OF-NETWORK PROVIDERS.—In the  
14      case of a plan or coverage that provides both med-  
15      ical and surgical benefits and mental health or sub-  
16      stance use disorder benefits, if the plan or coverage  
17      provides coverage for medical or surgical benefits  
18      provided by out-of-network providers, the plan or  
19      coverage shall provide coverage for mental health or  
20      substance use disorder benefits provided by out-of-  
21      network providers in a manner that is consistent  
22      with the requirements of this section.”;

23           (2) in subsection (b), by amending paragraph  
24      (2) to read as follows:

1           “(2) in the case of a group health plan (or  
2 health insurance coverage offered in connection with  
3 such a plan) that provides mental health or sub-  
4 stance use disorder benefits, as affecting the terms  
5 and conditions of the plan or coverage relating to  
6 such benefits under the plan or coverage, except as  
7 provided in subsection (a).”;

8           (3) in subsection (c)—

9           (A) in paragraph (1)(B)—

10           (i) by inserting “(or 1 in the case of  
11 an employer residing in a State that per-  
12 mits small groups to include a single indi-  
13 vidual)” after “at least 2” the first place  
14 that such appears; and

15           (ii) by striking “and who employs at  
16 least 2 employees on the first day of the  
17 plan year”; and

18           (B) by striking paragraph (2) and insert-  
19 ing the following:

20           “(2) COST EXEMPTION.—

21           “(A) IN GENERAL.—With respect to a  
22 group health plan (or health insurance coverage  
23 offered in connection with such a plan), if the  
24 application of this section to such plan (or cov-  
25 erage) results in an increase for the plan year

1 involved of the actual total costs of coverage  
2 with respect to medical and surgical benefits  
3 and mental health and substance use disorder  
4 benefits under the plan (as determined and cer-  
5 tified under subparagraph (C)) by an amount  
6 that exceeds the applicable percentage described  
7 in subparagraph (B) of the actual total plan  
8 costs, the provisions of this section shall not  
9 apply to such plan (or coverage) during the fol-  
10 lowing plan year, and such exemption shall  
11 apply to the plan (or coverage) for 1 plan year.  
12 An employer may elect to continue to apply  
13 mental health and substance use disorder parity  
14 pursuant to this section with respect to the  
15 group health plan (or coverage) involved regard-  
16 less of any increase in total costs.

17 “(B) APPLICABLE PERCENTAGE.—With re-  
18 spect to a plan (or coverage), the applicable  
19 percentage described in this subparagraph shall  
20 be—

21 “(i) 2 percent in the case of the first  
22 plan year in which this section is applied;  
23 and

24 “(ii) 1 percent in the case of each  
25 subsequent plan year.

1           “(C) DETERMINATIONS BY ACTUARIES.—  
2           Determinations as to increases in actual costs  
3           under a plan (or coverage) for purposes of this  
4           section shall be made and certified by a quali-  
5           fied and licensed actuary who is a member in  
6           good standing of the American Academy of Ac-  
7           tuaries. All such determinations shall be in a  
8           written report prepared by the actuary. The re-  
9           port, and all underlying documentation relied  
10          upon by the actuary, shall be maintained by the  
11          group health plan or health insurance issuer for  
12          a period of 6 years following the notification  
13          made under subparagraph (E).

14          “(D) 6-MONTH DETERMINATIONS.—If a  
15          group health plan (or a health insurance issuer  
16          offering coverage in connection with a group  
17          health plan) seeks an exemption under this  
18          paragraph, determinations under subparagraph  
19          (A) shall be made after such plan (or coverage)  
20          has complied with this section for the first 6  
21          months of the plan year involved.

22          “(E) NOTIFICATION.—

23                 “(i) IN GENERAL.—A group health  
24                 plan (or a health insurance issuer offering  
25                 coverage in connection with a group health

1 plan) that, based upon a certification de-  
2 scribed under subparagraph (C), qualifies  
3 for an exemption under this paragraph,  
4 and elects to implement the exemption,  
5 shall promptly notify the Secretary, the ap-  
6 propriate State agencies, and participants  
7 and beneficiaries in the plan of such elec-  
8 tion.

9 “(ii) REQUIREMENT.—A notification  
10 to the Secretary under clause (i) shall in-  
11 clude—

12 “(I) a description of the number  
13 of covered lives under the plan (or  
14 coverage) involved at the time of the  
15 notification, and as applicable, at the  
16 time of any prior election of the cost-  
17 exemption under this paragraph by  
18 such plan (or coverage);

19 “(II) for both the plan year upon  
20 which a cost exemption is sought and  
21 the year prior, a description of the ac-  
22 tual total costs of coverage with re-  
23 spect to medical and surgical benefits  
24 and mental health and substance use  
25 disorder benefits under the plan; and

1                   “(III) for both the plan year  
2                   upon which a cost exemption is sought  
3                   and the year prior, the actual total  
4                   costs of coverage with respect to men-  
5                   tal health and substance use disorder  
6                   benefits under the plan.

7                   “(iii) CONFIDENTIALITY.—A notifica-  
8                   tion to the Secretary under clause (i) shall  
9                   be confidential. The Secretary shall make  
10                  available, upon request and on not more  
11                  than an annual basis, an anonymous  
12                  itemization of such notifications, that in-  
13                  cludes—

14                   “(I) a breakdown of States by  
15                   the size and type of employers submit-  
16                   ting such notification; and

17                   “(II) a summary of the data re-  
18                   ceived under clause (ii).

19                   “(F) AUDITS BY APPROPRIATE AGEN-  
20                   CIES.—To determine compliance with this para-  
21                   graph, the Secretary may audit the books and  
22                   records of a group health plan or health insur-  
23                   ance issuer relating to an exemption, including  
24                   any actuarial reports prepared pursuant to sub-  
25                   paragraph (C), during the 6 year period fol-

1           lowing the notification of such exemption under  
2           subparagraph (E). A State agency receiving a  
3           notification under subparagraph (E) may also  
4           conduct such an audit with respect to an ex-  
5           emption covered by such notification.”;

6           (4) in subsection (e), by striking paragraph (4)  
7           and inserting the following:

8           “(4) MENTAL HEALTH BENEFITS.—The term  
9           ‘mental health benefits’ means benefits with respect  
10          to services for mental health conditions, as defined  
11          under the terms of the plan and in accordance with  
12          applicable Federal and State law.

13          “(5) SUBSTANCE USE DISORDER BENEFITS.—  
14          The term ‘substance use disorder benefits’ means  
15          benefits with respect to services for substance use  
16          disorders, as defined under the terms of the plan  
17          and in accordance with applicable Federal and State  
18          law.”;

19          (5) by striking subsection (f);

20          (6) by inserting after subsection (e) the fol-  
21          lowing:

22          “(f) SECRETARY REPORT.—The Secretary shall, by  
23          January 1, 2012, and every two years thereafter, submit  
24          to the appropriate committees of Congress a report on  
25          compliance of group health plans (and health insurance

1 coverage offered in connection with such plans) with the  
2 requirements of this section. Such report shall include the  
3 results of any surveys or audits on compliance of group  
4 health plans (and health insurance coverage offered in  
5 connection with such plans) with such requirements and  
6 an analysis of the reasons for any failures to comply.

7 “(g) NOTICE AND ASSISTANCE.—The Secretary, in  
8 cooperation with the Secretaries of Health and Human  
9 Services and Treasury, as appropriate, shall publish and  
10 widely disseminate guidance and information for group  
11 health plans, participants and beneficiaries, applicable  
12 State and local regulatory bodies, and the National Asso-  
13 ciation of Insurance Commissioners concerning the re-  
14 quirements of this section and shall provide assistance  
15 concerning such requirements and the continued operation  
16 of applicable State law. Such guidance and information  
17 shall inform participants and beneficiaries of how they  
18 may obtain assistance under this section, including, where  
19 appropriate, assistance from State consumer and insur-  
20 ance agencies.”;

21 (7) by striking “mental health benefits” and in-  
22 sserting “mental health and substance use disorder  
23 benefits” each place it appears in subsections  
24 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);  
25 and



1           (8) by striking “mental health benefits” and in-  
2           serting “mental health or substance use disorder  
3           benefits” each place it appears (other than in any  
4           provision amended by the previous paragraph).

5           (b) AMENDMENTS TO PUBLIC HEALTH SERVICE  
6 ACT.—Section 2705 of the Public Health Service Act (42  
7 U.S.C. 300gg–5) is amended—

8           (1) in subsection (a), by adding at the end the  
9           following:

10           “(3) FINANCIAL REQUIREMENTS AND TREAT-  
11           MENT LIMITATIONS.—

12           “(A) IN GENERAL.—In the case of a group  
13           health plan (or health insurance coverage of-  
14           fered in connection with such a plan) that pro-  
15           vides both medical and surgical benefits and  
16           mental health or substance use disorder bene-  
17           fits, such plan or coverage shall ensure that—

18           “(i) the financial requirements appli-  
19           cable to such mental health or substance  
20           use disorder benefits are no more restric-  
21           tive than the predominant financial re-  
22           quirements applied to substantially all  
23           medical and surgical benefits covered by  
24           the plan (or coverage), and there are no  
25           separate cost sharing requirements that

1 are applicable only with respect to mental  
2 health or substance use disorder benefits;  
3 and

4 “(ii) the treatment limitations applica-  
5 ble to such mental health or substance use  
6 disorder benefits are no more restrictive  
7 than the predominant treatment limita-  
8 tions applied to substantially all medical  
9 and surgical benefits covered by the plan  
10 (or coverage) and there are no separate  
11 treatment limitations that are applicable  
12 only with respect to mental health or sub-  
13 stance use disorder benefits.

14 “(B) DEFINITIONS.—In this paragraph:

15 “(i) FINANCIAL REQUIREMENT.—The  
16 term ‘financial requirement’ includes  
17 deductibles, copayments, coinsurance, and  
18 out-of-pocket expenses, but excludes an ag-  
19 gregate lifetime limit and an annual limit  
20 subject to paragraphs (1) and (2).

21 “(ii) PREDOMINANT.—A financial re-  
22 quirement or treatment limit is considered  
23 to be predominant if it is the most com-  
24 mon or frequent of such type of limit or  
25 requirement.

1                   “(iii) TREATMENT LIMITATION.—The  
2                   term ‘treatment limitation’ includes limits  
3                   on the frequency of treatment, number of  
4                   visits, days of coverage, or other similar  
5                   limits on the scope or duration of treat-  
6                   ment.

7                   “(4) AVAILABILITY OF PLAN INFORMATION.—  
8                   The criteria for medical necessity determinations  
9                   made under the plan with respect to mental health  
10                  or substance use disorder benefits (or the health in-  
11                  surance coverage offered in connection with the plan  
12                  with respect to such benefits) shall be made avail-  
13                  able by the plan administrator (or the health insur-  
14                  ance issuer offering such coverage) in accordance  
15                  with regulations to any current or potential partici-  
16                  pant, beneficiary, or contracting provider upon re-  
17                  quest. The reason for any denial under the plan (or  
18                  coverage) of reimbursement or payment for services  
19                  with respect to mental health or substance use dis-  
20                  order benefits in the case of any participant or bene-  
21                  ficiary shall, on request or as otherwise required, be  
22                  made available by the plan administrator (or the  
23                  health insurance issuer offering such coverage) to  
24                  the participant or beneficiary in accordance with  
25                  regulations.

1           “(5) OUT-OF-NETWORK PROVIDERS.—In the  
2 case of a plan or coverage that provides both med-  
3 ical and surgical benefits and mental health or sub-  
4 stance use disorder benefits, if the plan or coverage  
5 provides coverage for medical or surgical benefits  
6 provided by out-of-network providers, the plan or  
7 coverage shall provide coverage for mental health or  
8 substance use disorder benefits provided by out-of-  
9 network providers in a manner that is consistent  
10 with the requirements of this section.”;

11           (2) in subsection (b), by amending paragraph  
12 (2) to read as follows:

13           “(2) in the case of a group health plan (or  
14 health insurance coverage offered in connection with  
15 such a plan) that provides mental health or sub-  
16 stance use disorder benefits, as affecting the terms  
17 and conditions of the plan or coverage relating to  
18 such benefits under the plan or coverage, except as  
19 provided in subsection (a).”;

20           (3) in subsection (c)—

21           (A) in paragraph (1), by inserting before  
22 the period the following: “(as defined in section  
23 2791(e)(4), except that for purposes of this  
24 paragraph such term shall include employers  
25 with 1 employee in the case of an employer re-

1 siding in a State that permits small groups to  
2 include a single individual”); and

3 (B) by striking paragraph (2) and insert-  
4 ing the following:

5 “(2) COST EXEMPTION.—

6 “(A) IN GENERAL.—With respect to a  
7 group health plan (or health insurance coverage  
8 offered in connection with such a plan), if the  
9 application of this section to such plan (or cov-  
10 erage) results in an increase for the plan year  
11 involved of the actual total costs of coverage  
12 with respect to medical and surgical benefits  
13 and mental health and substance use disorder  
14 benefits under the plan (as determined and cer-  
15 tified under subparagraph (C)) by an amount  
16 that exceeds the applicable percentage described  
17 in subparagraph (B) of the actual total plan  
18 costs, the provisions of this section shall not  
19 apply to such plan (or coverage) during the fol-  
20 lowing plan year, and such exemption shall  
21 apply to the plan (or coverage) for 1 plan year.  
22 An employer may elect to continue to apply  
23 mental health and substance use disorder parity  
24 pursuant to this section with respect to the

1 group health plan (or coverage) involved regard-  
2 less of any increase in total costs.

3 “(B) APPLICABLE PERCENTAGE.—With re-  
4 spect to a plan (or coverage), the applicable  
5 percentage described in this subparagraph shall  
6 be—

7 “(i) 2 percent in the case of the first  
8 plan year in which this section is applied;  
9 and

10 “(ii) 1 percent in the case of each  
11 subsequent plan year.

12 “(C) DETERMINATIONS BY ACTUARIES.—  
13 Determinations as to increases in actual costs  
14 under a plan (or coverage) for purposes of this  
15 section shall be made and certified by a quali-  
16 fied and licensed actuary who is a member in  
17 good standing of the American Academy of Ac-  
18 tuaries. All such determinations shall be in a  
19 written report prepared by the actuary. The re-  
20 port, and all underlying documentation relied  
21 upon by the actuary, shall be maintained by the  
22 group health plan or health insurance issuer for  
23 a period of 6 years following the notification  
24 made under subparagraph (E).

1           “(D) 6-MONTH DETERMINATIONS.—If a  
2           group health plan (or a health insurance issuer  
3           offering coverage in connection with a group  
4           health plan) seeks an exemption under this  
5           paragraph, determinations under subparagraph  
6           (A) shall be made after such plan (or coverage)  
7           has complied with this section for the first 6  
8           months of the plan year involved.

9           “(E) NOTIFICATION.—

10           “(i) IN GENERAL.—A group health  
11           plan (or a health insurance issuer offering  
12           coverage in connection with a group health  
13           plan) that, based upon a certification de-  
14           scribed under subparagraph (C), qualifies  
15           for an exemption under this paragraph,  
16           and elects to implement the exemption,  
17           shall promptly notify the Secretary, the ap-  
18           propriate State agencies, and participants  
19           and beneficiaries in the plan of such elec-  
20           tion.

21           “(ii) REQUIREMENT.—A notification  
22           to the Secretary under clause (i) shall in-  
23           clude—

24                   “(I) a description of the number  
25                   of covered lives under the plan (or

1 coverage) involved at the time of the  
2 notification, and as applicable, at the  
3 time of any prior election of the cost-  
4 exemption under this paragraph by  
5 such plan (or coverage);

6 “(II) for both the plan year upon  
7 which a cost exemption is sought and  
8 the year prior, a description of the ac-  
9 tual total costs of coverage with re-  
10 spect to medical and surgical benefits  
11 and mental health and substance use  
12 disorder benefits under the plan; and

13 “(III) for both the plan year  
14 upon which a cost exemption is sought  
15 and the year prior, the actual total  
16 costs of coverage with respect to men-  
17 tal health and substance use disorder  
18 benefits under the plan.

19 “(iii) CONFIDENTIALITY.—A notifica-  
20 tion to the Secretary under clause (i) shall  
21 be confidential. The Secretary shall make  
22 available, upon request and on not more  
23 than an annual basis, an anonymous  
24 itemization of such notifications, that in-  
25 cludes—



1                   “(I) a breakdown of States by  
2                   the size and type of employers submit-  
3                   ting such notification; and

4                   “(II) a summary of the data re-  
5                   ceived under clause (ii).

6                   “(F) AUDITS BY APPROPRIATE AGEN-  
7                   CIES.—To determine compliance with this para-  
8                   graph, the Secretary may audit the books and  
9                   records of a group health plan or health insur-  
10                  ance issuer relating to an exemption, including  
11                  any actuarial reports prepared pursuant to sub-  
12                  paragraph (C), during the 6 year period fol-  
13                  lowing the notification of such exemption under  
14                  subparagraph (E). A State agency receiving a  
15                  notification under subparagraph (E) may also  
16                  conduct such an audit with respect to an ex-  
17                  emption covered by such notification.”;

18                  (4) in subsection (e), by striking paragraph (4)  
19                  and inserting the following:

20                  “(4) MENTAL HEALTH BENEFITS.—The term  
21                  ‘mental health benefits’ means benefits with respect  
22                  to services for mental health conditions, as defined  
23                  under the terms of the plan and in accordance with  
24                  applicable Federal and State law.

1           “(5) SUBSTANCE USE DISORDER BENEFITS.—

2           The term ‘substance use disorder benefits’ means  
3           benefits with respect to services for substance use  
4           disorders, as defined under the terms of the plan  
5           and in accordance with applicable Federal and State  
6           law.”;

7           (5) by striking subsection (f);

8           (6) by striking “mental health benefits” and in-  
9           serting “mental health and substance use disorder  
10          benefits” each place it appears in subsections  
11          (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);  
12          and

13          (7) by striking “mental health benefits” and in-  
14          serting “mental health or substance use disorder  
15          benefits” each place it appears (other than in any  
16          provision amended by the previous paragraph).

17          (c) AMENDMENTS TO INTERNAL REVENUE CODE.—

18          Section 9812 of the Internal Revenue Code of 1986 is  
19          amended—

20                 (1) in subsection (a), by adding at the end the  
21                 following:

22                 “(3) FINANCIAL REQUIREMENTS AND TREAT-  
23                 MENT LIMITATIONS.—

24                         “(A) IN GENERAL.—In the case of a group  
25                         health plan that provides both medical and sur-

1 gical benefits and mental health or substance  
2 use disorder benefits, such plan shall ensure  
3 that—

4 “(i) the financial requirements appli-  
5 cable to such mental health or substance  
6 use disorder benefits are no more restric-  
7 tive than the predominant financial re-  
8 quirements applied to substantially all  
9 medical and surgical benefits covered by  
10 the plan, and there are no separate cost  
11 sharing requirements that are applicable  
12 only with respect to mental health or sub-  
13 stance use disorder benefits; and

14 “(ii) the treatment limitations applica-  
15 ble to such mental health or substance use  
16 disorder benefits are no more restrictive  
17 than the predominant treatment limita-  
18 tions applied to substantially all medical  
19 and surgical benefits covered by the plan  
20 and there are no separate treatment limi-  
21 tations that are applicable only with re-  
22 spect to mental health or substance use  
23 disorder benefits.

24 “(B) DEFINITIONS.—In this paragraph:

1                   “(i) FINANCIAL REQUIREMENT.—The  
2                   term ‘financial requirement’ includes  
3                   deductibles, copayments, coinsurance, and  
4                   out-of-pocket expenses, but excludes an ag-  
5                   gregate lifetime limit and an annual limit  
6                   subject to paragraphs (1) and (2),

7                   “(ii) PREDOMINANT.—A financial re-  
8                   quirement or treatment limit is considered  
9                   to be predominant if it is the most com-  
10                  mon or frequent of such type of limit or  
11                  requirement.

12                  “(iii) TREATMENT LIMITATION.—The  
13                  term ‘treatment limitation’ includes limits  
14                  on the frequency of treatment, number of  
15                  visits, days of coverage, or other similar  
16                  limits on the scope or duration of treat-  
17                  ment.

18                  “(4) AVAILABILITY OF PLAN INFORMATION.—  
19                  The criteria for medical necessity determinations  
20                  made under the plan with respect to mental health  
21                  or substance use disorder benefits shall be made  
22                  available by the plan administrator in accordance  
23                  with regulations to any current or potential partici-  
24                  pant, beneficiary, or contracting provider upon re-  
25                  quest. The reason for any denial under the plan of

1 reimbursement or payment for services with respect  
2 to mental health or substance use disorder benefits  
3 in the case of any participant or beneficiary shall, on  
4 request or as otherwise required, be made available  
5 by the plan administrator to the participant or bene-  
6 ficiary in accordance with regulations.

7 “(5) OUT-OF-NETWORK PROVIDERS.—In the  
8 case of a plan that provides both medical and sur-  
9 gical benefits and mental health or substance use  
10 disorder benefits, if the plan provides coverage for  
11 medical or surgical benefits provided by out-of-net-  
12 work providers, the plan shall provide coverage for  
13 mental health or substance use disorder benefits pro-  
14 vided by out-of-network providers in a manner that  
15 is consistent with the requirements of this section.”;

16 (2) in subsection (b), by amending paragraph  
17 (2) to read as follows:

18 “(2) in the case of a group health plan that  
19 provides mental health or substance use disorder  
20 benefits, as affecting the terms and conditions of the  
21 plan relating to such benefits under the plan, except  
22 as provided in subsection (a).”;

23 (3) in subsection (c)—

24 (A) by amending paragraph (1) to read as  
25 follows:

1 “(1) SMALL EMPLOYER EXEMPTION.—

2 “(A) IN GENERAL.—This section shall not  
3 apply to any group health plan for any plan  
4 year of a small employer.

5 “(B) SMALL EMPLOYER.—For purposes of  
6 subparagraph (A), the term ‘small employer’  
7 means, with respect to a calendar year and a  
8 plan year, an employer who employed an aver-  
9 age of at least 2 (or 1 in the case of an em-  
10 ployer residing in a State that permits small  
11 groups to include a single individual) but not  
12 more than 50 employees on business days dur-  
13 ing the preceding calendar year. For purposes  
14 of the preceding sentence, all persons treated as  
15 a single employer under subsection (b), (c),  
16 (m), or (o) of section 414 shall be treated as 1  
17 employer and rules similar to rules of subpara-  
18 graphs (B) and (C) of section 4980D(d)(2)  
19 shall apply.”; and

20 (B) by striking paragraph (2) and insert-  
21 ing the following:

22 “(2) COST EXEMPTION.—

23 “(A) IN GENERAL.—With respect to a  
24 group health plan, if the application of this sec-  
25 tion to such plan results in an increase for the

1 plan year involved of the actual total costs of  
2 coverage with respect to medical and surgical  
3 benefits and mental health and substance use  
4 disorder benefits under the plan (as determined  
5 and certified under subparagraph (C)) by an  
6 amount that exceeds the applicable percentage  
7 described in subparagraph (B) of the actual  
8 total plan costs, the provisions of this section  
9 shall not apply to such plan during the fol-  
10 lowing plan year, and such exemption shall  
11 apply to the plan for 1 plan year. An employer  
12 may elect to continue to apply mental health  
13 and substance use disorder parity pursuant to  
14 this section with respect to the group health  
15 plan involved regardless of any increase in total  
16 costs.

17 “(B) APPLICABLE PERCENTAGE.—With re-  
18 spect to a plan, the applicable percentage de-  
19 scribed in this subparagraph shall be—

20 “(i) 2 percent in the case of the first  
21 plan year in which this section is applied;  
22 and

23 “(ii) 1 percent in the case of each  
24 subsequent plan year.

1                   “(C) DETERMINATIONS BY ACTUARIES.—  
2                   Determinations as to increases in actual costs  
3                   under a plan for purposes of this section shall  
4                   be made and certified by a qualified and li-  
5                   censed actuary who is a member in good stand-  
6                   ing of the American Academy of Actuaries. All  
7                   such determinations shall be in a written report  
8                   prepared by the actuary. The report, and all  
9                   underlying documentation relied upon by the  
10                  actuary, shall be maintained by the group  
11                  health plan for a period of 6 years following the  
12                  notification made under subparagraph (E).

13                  “(D) 6-MONTH DETERMINATIONS.—If a  
14                  group health plan seeks an exemption under  
15                  this paragraph, determinations under subpara-  
16                  graph (A) shall be made after such plan has  
17                  complied with this section for the first 6  
18                  months of the plan year involved.

19                  “(E) NOTIFICATION.—

20                  “(i) IN GENERAL.—A group health  
21                  plan that, based upon a certification de-  
22                  scribed under subparagraph (C), qualifies  
23                  for an exemption under this paragraph,  
24                  and elects to implement the exemption,  
25                  shall promptly notify the Secretary, the ap-



1 appropriate State agencies, and participants  
2 and beneficiaries in the plan of such elec-  
3 tion.

4 “(ii) REQUIREMENT.—A notification  
5 to the Secretary under clause (i) shall in-  
6 clude—

7 “(I) a description of the number  
8 of covered lives under the plan in-  
9 volved at the time of the notification,  
10 and as applicable, at the time of any  
11 prior election of the cost-exemption  
12 under this paragraph by such plan;

13 “(II) for both the plan year upon  
14 which a cost exemption is sought and  
15 the year prior, a description of the ac-  
16 tual total costs of coverage with re-  
17 spect to medical and surgical benefits  
18 and mental health and substance use  
19 disorder benefits under the plan; and

20 “(III) for both the plan year  
21 upon which a cost exemption is sought  
22 and the year prior, the actual total  
23 costs of coverage with respect to men-  
24 tal health and substance use disorder  
25 benefits under the plan.

1                   “(iii) CONFIDENTIALITY.—A notifica-  
2                   tion to the Secretary under clause (i) shall  
3                   be confidential. The Secretary shall make  
4                   available, upon request and on not more  
5                   than an annual basis, an anonymous  
6                   itemization of such notifications, that in-  
7                   cludes—

8                                 “(I) a breakdown of States by  
9                                 the size and type of employers submit-  
10                                ting such notification; and

11                               “(II) a summary of the data re-  
12                               ceived under clause (ii).

13                   “(F) AUDITS BY APPROPRIATE AGEN-  
14                   CIES.—To determine compliance with this para-  
15                   graph, the Secretary may audit the books and  
16                   records of a group health plan relating to an  
17                   exemption, including any actuarial reports pre-  
18                   pared pursuant to subparagraph (C), during  
19                   the 6 year period following the notification of  
20                   such exemption under subparagraph (E). A  
21                   State agency receiving a notification under sub-  
22                   paragraph (E) may also conduct such an audit  
23                   with respect to an exemption covered by such  
24                   notification.”;

1           (4) in subsection (e), by striking paragraph (4)  
2           and inserting the following:

3           “(4) MENTAL HEALTH BENEFITS.—The term  
4           ‘mental health benefits’ means benefits with respect  
5           to services for mental health conditions, as defined  
6           under the terms of the plan and in accordance with  
7           applicable Federal and State law.

8           “(5) SUBSTANCE USE DISORDER BENEFITS.—  
9           The term ‘substance use disorder benefits’ means  
10          benefits with respect to services for substance use  
11          disorders, as defined under the terms of the plan  
12          and in accordance with applicable Federal and State  
13          law.”;

14          (5) by striking subsection (f);

15          (6) by striking “mental health benefits” and in-  
16          serting “mental health and substance use disorder  
17          benefits” each place it appears in subsections  
18          (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);  
19          and

20          (7) by striking “mental health benefits” and in-  
21          serting “mental health or substance use disorder  
22          benefits” each place it appears (other than in any  
23          provision amended by the previous paragraph).

24          (d) REGULATIONS.—Not later than 1 year after the  
25          date of enactment of this Act, the Secretaries of Labor,

1 Health and Human Services, and the Treasury shall issue  
2 regulations to carry out the amendments made by sub-  
3 sections (a), (b), and (c), respectively.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by  
6 this section shall apply with respect to group health  
7 plans for plan years beginning after the date that is  
8 1 year after the date of enactment of this Act, re-  
9 gardless of whether regulations have been issued to  
10 carry out such amendments by such effective date,  
11 except that the amendments made by subsections  
12 (a)(5), (b)(5), and (c)(5), relating to striking of cer-  
13 tain sunset provisions, shall take effect on January  
14 1, 2009.

15 (2) SPECIAL RULE FOR COLLECTIVE BAR-  
16 GAINING AGREEMENTS.—In the case of a group  
17 health plan maintained pursuant to one or more col-  
18 lective bargaining agreements between employee rep-  
19 resentatives and one or more employers ratified be-  
20 fore the date of the enactment of this Act, the  
21 amendments made by this section shall not apply to  
22 plan years beginning before the later of—

23 (A) the date on which the last of the col-  
24 lective bargaining agreements relating to the  
25 plan terminates (determined without regard to

1           any extension thereof agreed to after the date  
2           of the enactment of this Act), or

3                       (B) January 1, 2009.

4           For purposes of subparagraph (A), any plan amend-  
5           ment made pursuant to a collective bargaining  
6           agreement relating to the plan which amends the  
7           plan solely to conform to any requirement added by  
8           this section shall not be treated as a termination of  
9           such collective bargaining agreement.

10          (f) ASSURING COORDINATION.—The Secretary of  
11       Health and Human Services, the Secretary of Labor, and  
12       the Secretary of the Treasury may ensure, through the  
13       execution or revision of an interagency memorandum of  
14       understanding among such Secretaries, that—

15               (1) regulations, rulings, and interpretations  
16               issued by such Secretaries relating to the same mat-  
17               ter over which two or more such Secretaries have re-  
18               sponsibility under this section (and the amendments  
19               made by this section) are administered so as to have  
20               the same effect at all times; and

21               (2) coordination of policies relating to enforcing  
22               the same requirements through such Secretaries in  
23               order to have a coordinated enforcement strategy  
24               that avoids duplication of enforcement efforts and  
25               assigns priorities in enforcement.

1 (g) CONFORMING CLERICAL AMENDMENTS.—

2 (1) ERISA HEADING.—

3 (A) IN GENERAL.—The heading of section  
4 712 of the Employee Retirement Income Secu-  
5 rity Act of 1974 is amended to read as follows:

6 **“SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE**  
7 **USE DISORDER BENEFITS.”.**

8 (B) CLERICAL AMENDMENT.—The table of  
9 contents in section 1 of such Act is amended by  
10 striking the item relating to section 712 and in-  
11 sserting the following new item:

“Sec. 712. Parity in mental health and substance use disorder benefits.”.

12 (2) PHSA HEADING.—The heading of section  
13 2705 of the Public Health Service Act is amended  
14 to read as follows:

15 **“SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE**  
16 **USE DISORDER BENEFITS.”.**

17 (3) IRC HEADING.—

18 (A) IN GENERAL.—The heading of section  
19 9812 of the Internal Revenue Code of 1986 is  
20 amended to read as follows:

21 **“SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE**  
22 **USE DISORDER BENEFITS.”.**

23 (B) CLERICAL AMENDMENT.—The table of  
24 sections for subchapter B of chapter 100 of  
25 such Code is amended by striking the item re-

1           lating to section 9812 and inserting the fol-  
2           lowing new item:

“Sec. 9812. Parity in mental health and substance use disorder benefits.”.

3           (h) GAO STUDY ON COVERAGE AND EXCLUSION OF  
4 MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAG-  
5 NOSES.—

6           (1) IN GENERAL.—The Comptroller General of  
7           the United States shall conduct a study that ana-  
8           lyzes the specific rates, patterns, and trends in cov-  
9           erage and exclusion of specific mental health and  
10          substance use disorder diagnoses by health plans  
11          and health insurance. The study shall include an  
12          analysis of—

13                (A) specific coverage rates for all mental  
14                health conditions and substance use disorders;

15                (B) which diagnoses are most commonly  
16                covered or excluded;

17                (C) whether implementation of this Act  
18                has affected trends in coverage or exclusion of  
19                such diagnoses; and

20                (D) the impact of covering or excluding  
21                specific diagnoses on participants’ and enroll-  
22                ees’ health, their health care coverage, and the  
23                costs of delivering health care.

24           (2) REPORTS.—Not later than 3 years after the  
25          date of the enactment of this Act, and 2 years after

1 the date of submission the first report under this  
2 paragraph, the Comptroller General shall submit to  
3 Congress a report on the results of the study con-  
4 ducted under paragraph (1).

## 5 **TITLE VI—OTHER PROVISIONS**

### 6 **SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-** 7 **DETERMINATION PROGRAM.**

8 (a) REAUTHORIZATION OF THE SECURE RURAL  
9 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT  
10 OF 2000.—The Secure Rural Schools and Community  
11 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-  
12 lic Law 106–393) is amended by striking sections 1  
13 through 403 and inserting the following:

#### 14 **“SECTION 1. SHORT TITLE.**

15 “This Act may be cited as the ‘Secure Rural Schools  
16 and Community Self-Determination Act of 2000’.

#### 17 **“SEC. 2. PURPOSES.**

18 “The purposes of this Act are—

19 “(1) to stabilize and transition payments to  
20 counties to provide funding for schools and roads  
21 that supplements other available funds;

22 “(2) to make additional investments in, and  
23 create additional employment opportunities through,  
24 projects that—



1           “(A)(i) improve the maintenance of exist-  
2           ing infrastructure;

3           “(ii) implement stewardship objectives that  
4           enhance forest ecosystems; and

5           “(iii) restore and improve land health and  
6           water quality;

7           “(B) enjoy broad-based support; and

8           “(C) have objectives that may include—

9           “(i) road, trail, and infrastructure  
10          maintenance or obliteration;

11          “(ii) soil productivity improvement;

12          “(iii) improvements in forest eco-  
13          system health;

14          “(iv) watershed restoration and main-  
15          tenance;

16          “(v) the restoration, maintenance, and  
17          improvement of wildlife and fish habitat;

18          “(vi) the control of noxious and exotic  
19          weeds; and

20          “(vii) the reestablishment of native  
21          species; and

22          “(3) to improve cooperative relationships  
23          among—

24          “(A) the people that use and care for Fed-  
25          eral land; and

1                   “(B) the agencies that manage the Federal  
2                   land.

3   **“SEC. 3. DEFINITIONS.**

4                   “In this Act:

5                   “(1) ADJUSTED SHARE.—The term ‘adjusted  
6                   share’ means the number equal to the quotient ob-  
7                   tained by dividing—

8                   “(A) the number equal to the quotient ob-  
9                   tained by dividing—

10                   “(i) the base share for the eligible  
11                   county; by

12                   “(ii) the income adjustment for the el-  
13                   igible county; by

14                   “(B) the number equal to the sum of the  
15                   quotients obtained under subparagraph (A) and  
16                   paragraph (8)(A) for all eligible counties.

17                   “(2) BASE SHARE.—The term ‘base share’  
18                   means the number equal to the average of—

19                   “(A) the quotient obtained by dividing—

20                   “(i) the number of acres of Federal  
21                   land described in paragraph (7)(A) in each  
22                   eligible county; by

23                   “(ii) the total number acres of Fed-  
24                   eral land in all eligible counties in all eligi-  
25                   ble States; and

1 “(B) the quotient obtained by dividing—

2 “(i) the amount equal to the average  
3 of the 3 highest 25-percent payments and  
4 safety net payments made to each eligible  
5 State for each eligible county during the  
6 eligibility period; by

7 “(ii) the amount equal to the sum of  
8 the amounts calculated under clause (i)  
9 and paragraph (9)(B)(i) for all eligible  
10 counties in all eligible States during the  
11 eligibility period.

12 “(3) COUNTY PAYMENT.—The term ‘county  
13 payment’ means the payment for an eligible county  
14 calculated under section 101(b).

15 “(4) ELIGIBLE COUNTY.—The term ‘eligible  
16 county’ means any county that—

17 “(A) contains Federal land (as defined in  
18 paragraph (7)); and

19 “(B) elects to receive a share of the State  
20 payment or the county payment under section  
21 102(b).

22 “(5) ELIGIBILITY PERIOD.—The term ‘eli-  
23 gibility period’ means fiscal year 1986 through fiscal  
24 year 1999.

1           “(6) ELIGIBLE STATE.—The term ‘eligible  
2 State’ means a State or territory of the United  
3 States that received a 25-percent payment for 1 or  
4 more fiscal years of the eligibility period.

5           “(7) FEDERAL LAND.—The term ‘Federal land’  
6 means—

7           “(A) land within the National Forest Sys-  
8 tem, as defined in section 11(a) of the Forest  
9 and Rangeland Renewable Resources Planning  
10 Act of 1974 (16 U.S.C. 1609(a)) exclusive of  
11 the National Grasslands and land utilization  
12 projects designated as National Grasslands ad-  
13 ministered pursuant to the Act of July 22,  
14 1937 (7 U.S.C. 1010–1012); and

15           “(B) such portions of the revested Oregon  
16 and California Railroad and reconveyed Coos  
17 Bay Wagon Road grant land as are or may  
18 hereafter come under the jurisdiction of the De-  
19 partment of the Interior, which have heretofore  
20 or may hereafter be classified as timberlands,  
21 and power-site land valuable for timber, that  
22 shall be managed, except as provided in the  
23 former section 3 of the Act of August 28, 1937  
24 (50 Stat. 875; 43 U.S.C. 1181c), for permanent  
25 forest production.

1           “(8) 50-PERCENT ADJUSTED SHARE.—The  
2 term ‘50-percent adjusted share’ means the number  
3 equal to the quotient obtained by dividing—

4           “(A) the number equal to the quotient ob-  
5 tained by dividing—

6           “(i) the 50-percent base share for the  
7 eligible county; by

8           “(ii) the income adjustment for the el-  
9 igible county; by

10           “(B) the number equal to the sum of the  
11 quotients obtained under subparagraph (A) and  
12 paragraph (1)(A) for all eligible counties.

13           “(9) 50-PERCENT BASE SHARE.—The term ‘50-  
14 percent base share’ means the number equal to the  
15 average of—

16           “(A) the quotient obtained by dividing—

17           “(i) the number of acres of Federal  
18 land described in paragraph (7)(B) in each  
19 eligible county; by

20           “(ii) the total number acres of Fed-  
21 eral land in all eligible counties in all eligi-  
22 ble States; and

23           “(B) the quotient obtained by dividing—

24           “(i) the amount equal to the average  
25 of the 3 highest 50-percent payments made

1 to each eligible county during the eligibility  
2 period; by

3 “(ii) the amount equal to the sum of  
4 the amounts calculated under clause (i)  
5 and paragraph (2)(B)(i) for all eligible  
6 counties in all eligible States during the  
7 eligibility period.

8 “(10) 50-PERCENT PAYMENT.—The term ‘50-  
9 percent payment’ means the payment that is the  
10 sum of the 50-percent share otherwise paid to a  
11 county pursuant to title II of the Act of August 28,  
12 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),  
13 and the payment made to a county pursuant to the  
14 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43  
15 U.S.C. 1181f–1 et seq.).

16 “(11) FULL FUNDING AMOUNT.—The term ‘full  
17 funding amount’ means—

18 “(A) \$500,000,000 for fiscal year 2008;

19 and

20 “(B) for fiscal year 2009 and each fiscal  
21 year thereafter, the amount that is equal to 90  
22 percent of the full funding amount for the pre-  
23 ceding fiscal year.

1           “(12) INCOME ADJUSTMENT.—The term ‘in-  
2           come adjustment’ means the square of the quotient  
3           obtained by dividing—

4                   “(A) the per capita personal income for  
5                   each eligible county; by

6                   “(B) the median per capita personal in-  
7                   come of all eligible counties.

8           “(13) PER CAPITA PERSONAL INCOME.—The  
9           term ‘per capita personal income’ means the most  
10          recent per capita personal income data, as deter-  
11          mined by the Bureau of Economic Analysis.

12          “(14) SAFETY NET PAYMENTS.—The term  
13          ‘safety net payments’ means the special payment  
14          amounts paid to States and counties required by  
15          section 13982 or 13983 of the Omnibus Budget  
16          Reconciliation Act of 1993 (Public Law 103–66; 16  
17          U.S.C. 500 note; 43 U.S.C. 1181f note).

18          “(15) SECRETARY CONCERNED.—The term  
19          ‘Secretary concerned’ means—

20                   “(A) the Secretary of Agriculture or the  
21                   designee of the Secretary of Agriculture with  
22                   respect to the Federal land described in para-  
23                   graph (7)(A); and

24                   “(B) the Secretary of the Interior or the  
25                   designee of the Secretary of the Interior with

1           respect to the Federal land described in para-  
2           graph (7)(B).

3           “(16) STATE PAYMENT.—The term ‘State pay-  
4           ment’ means the payment for an eligible State cal-  
5           culated under section 101(a).

6           “(17) 25-PERCENT PAYMENT.—The term ‘25-  
7           percent payment’ means the payment to States re-  
8           quired by the sixth paragraph under the heading of  
9           ‘FOREST SERVICE’ in the Act of May 23, 1908  
10          (35 Stat. 260; 16 U.S.C. 500), and section 13 of the  
11          Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.  
12          500).

13   **“TITLE I—SECURE PAYMENTS**  
14    **FOR STATES AND COUNTIES**  
15    **CONTAINING FEDERAL LAND**

16   **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**  
17    **FEDERAL LAND.**

18          “(a) STATE PAYMENT.—For each of fiscal years  
19    2008 through 2011, the Secretary of Agriculture shall cal-  
20    culate for each eligible State an amount equal to the sum  
21    of the products obtained by multiplying—

22           “(1) the adjusted share for each eligible county  
23           within the eligible State; by

24           “(2) the full funding amount for the fiscal year.



1           “(b) COUNTY PAYMENT.—For each of fiscal years  
2 2008 through 2011, the Secretary of the Interior shall cal-  
3 culate for each eligible county that received a 50-percent  
4 payment during the eligibility period an amount equal to  
5 the product obtained by multiplying—

6                   “(1) the 50-percent adjusted share for the eligi-  
7 ble county; by

8                   “(2) the full funding amount for the fiscal year.

9 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

10           “(a) PAYMENT AMOUNTS.—Except as provided in  
11 section 103, the Secretary of the Treasury shall pay to—

12                   “(1) a State or territory of the United States  
13 an amount equal to the sum of the amounts elected  
14 under subsection (b) by each county within the State  
15 or territory for—

16                           “(A) if the county is eligible for the 25-  
17 percent payment, the share of the 25-percent  
18 payment; or

19                           “(B) the share of the State payment of the  
20 eligible county; and

21                   “(2) a county an amount equal to the amount  
22 elected under subsection (b) by each county for—

23                           “(A) if the county is eligible for the 50-  
24 percent payment, the 50-percent payment; or

1           “(B) the county payment for the eligible  
2           county.

3           “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

4           “(1) ELECTION; SUBMISSION OF RESULTS.—

5           “(A) IN GENERAL.—The election to receive  
6           a share of the State payment, the county pay-  
7           ment, a share of the State payment and the  
8           county payment, a share of the 25-percent pay-  
9           ment, the 50-percent payment, or a share of the  
10          25-percent payment and the 50-percent pay-  
11          ment, as applicable, shall be made at the discre-  
12          tion of each affected county by August 1, 2008  
13          (or as soon thereafter as the Secretary con-  
14          cerned determines is practicable), and August 1  
15          of each second fiscal year thereafter, in accord-  
16          ance with paragraph (2), and transmitted to  
17          the Secretary concerned by the Governor of  
18          each eligible State.

19          “(B) FAILURE TO TRANSMIT.—If an elec-  
20          tion for an affected county is not transmitted to  
21          the Secretary concerned by the date specified  
22          under subparagraph (A), the affected county  
23          shall be considered to have elected to receive a  
24          share of the State payment, the county pay-

1           ment, or a share of the State payment and the  
2           county payment, as applicable.

3           “(2) DURATION OF ELECTION.—

4                   “(A) IN GENERAL.—A county election to  
5           receive a share of the 25-percent payment or  
6           50-percent payment, as applicable, shall be ef-  
7           fective for 2 fiscal years.

8                   “(B) FULL FUNDING AMOUNT.—If a coun-  
9           ty elects to receive a share of the State payment  
10          or the county payment, the election shall be ef-  
11          fective for all subsequent fiscal years through  
12          fiscal year 2011.

13          “(3) SOURCE OF PAYMENT AMOUNTS.—The  
14          payment to an eligible State or eligible county under  
15          this section for a fiscal year shall be derived from—

16                   “(A) any amounts that are appropriated to  
17           carry out this Act;

18                   “(B) any revenues, fees, penalties, or mis-  
19           cellaneous receipts, exclusive of deposits to any  
20           relevant trust fund, special account, or perma-  
21           nent operating funds, received by the Federal  
22           Government from activities by the Bureau of  
23           Land Management or the Forest Service on the  
24           applicable Federal land; and

1                   “(C) to the extent of any shortfall, out of  
2                   any amounts in the Treasury of the United  
3                   States not otherwise appropriated.

4           “(c) DISTRIBUTION AND EXPENDITURE OF PAY-  
5 MENTS.—

6                   “(1) DISTRIBUTION METHOD.—A State that re-  
7                   ceives a payment under subsection (a) for Federal  
8                   land described in section 3(7)(A) shall distribute the  
9                   appropriate payment amount among the appropriate  
10                  counties in the State in accordance with—

11                   “(A) the Act of May 23, 1908 (16 U.S.C.  
12                   500); and

13                   “(B) section 13 of the Act of March 1,  
14                   1911 (36 Stat. 963; 16 U.S.C. 500).

15                   “(2) EXPENDITURE PURPOSES.—Subject to  
16                   subsection (d), payments received by a State under  
17                   subsection (a) and distributed to counties in accord-  
18                   ance with paragraph (1) shall be expended as re-  
19                   quired by the laws referred to in paragraph (1).

20           “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-  
21 TIES.—

22                   “(1) ALLOCATIONS.—

23                   “(A) USE OF PORTION IN SAME MANNER  
24                   AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-  
25                   MENT, AS APPLICABLE.—Except as provided in

1 paragraph (3)(B), if an eligible county elects to  
2 receive its share of the State payment or the  
3 county payment, not less than 80 percent, but  
4 not more than 85 percent, of the funds shall be  
5 expended in the same manner in which the 25-  
6 percent payments or 50-percent payment, as  
7 applicable, are required to be expended.

8 “(B) ELECTION AS TO USE OF BAL-  
9 ANCE.—Except as provided in subparagraph  
10 (C), an eligible county shall elect to do 1 or  
11 more of the following with the balance of any  
12 funds not expended pursuant to subparagraph  
13 (A):

14 “(i) Reserve any portion of the bal-  
15 ance for projects in accordance with title  
16 II.

17 “(ii) Reserve not more than 7 percent  
18 of the total share for the eligible county of  
19 the State payment or the county payment  
20 for projects in accordance with title III.

21 “(iii) Return the portion of the bal-  
22 ance not reserved under clauses (i) and (ii)  
23 to the Treasury of the United States.

24 “(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to  
25

1           which more than \$100,000, but less than  
2           \$350,000, is distributed for any fiscal year pur-  
3           suant to either or both of paragraphs (1)(B)  
4           and (2)(B) of subsection (a), the eligible coun-  
5           ty, with respect to the balance of any funds not  
6           expended pursuant to subparagraph (A) for  
7           that fiscal year, shall—

8                   “(i) reserve any portion of the balance  
9                   for—

10                           “(I) carrying out projects under  
11                           title II;

12                           “(II) carrying out projects under  
13                           title III; or

14                           “(III) a combination of the pur-  
15                           poses described in subclauses (I) and  
16                           (II); or

17                   “(ii) return the portion of the balance  
18                   not reserved under clause (i) to the Treas-  
19                   ury of the United States.

20           “(2) DISTRIBUTION OF FUNDS.—

21                   “(A) IN GENERAL.—Funds reserved by an  
22                   eligible county under subparagraph (B)(i) or  
23                   (C)(i) of paragraph (1) for carrying out  
24                   projects under title II shall be deposited in a

1 special account in the Treasury of the United  
2 States.

3 “(B) AVAILABILITY.—Amounts deposited  
4 under subparagraph (A) shall—

5 “(i) be available for expenditure by  
6 the Secretary concerned, without further  
7 appropriation; and

8 “(ii) remain available until expended  
9 in accordance with title II.

10 “(3) ELECTION.—

11 “(A) NOTIFICATION.—

12 “(i) IN GENERAL.—An eligible county  
13 shall notify the Secretary concerned of an  
14 election by the eligible county under this  
15 subsection not later than September 30,  
16 2008 (or as soon thereafter as the Sec-  
17 retary concerned determines is prac-  
18 ticable), and each September 30 thereafter  
19 for each succeeding fiscal year.

20 “(ii) FAILURE TO ELECT.—Except as  
21 provided in subparagraph (B), if the eligi-  
22 ble county fails to make an election by the  
23 date specified in clause (i), the eligible  
24 county shall—





1 (as in effect on September 29, 2006) for  
2 the eligible counties in the covered State  
3 that have elected under section 102(b) to  
4 receive a share of the State payment for  
5 fiscal year 2008; and

6 “(ii) the sum of the amounts paid for  
7 fiscal year 2006 under section 103(a)(2)  
8 (as in effect on September 29, 2006) for  
9 the eligible counties in the State of Oregon  
10 that have elected under section 102(b) to  
11 receive the county payment for fiscal year  
12 2008;

13 “(B) for fiscal year 2009, 81 percent of—

14 “(i) the sum of the amounts paid for  
15 fiscal year 2006 under section 102(a)(2)  
16 (as in effect on September 29, 2006) for  
17 the eligible counties in the covered State  
18 that have elected under section 102(b) to  
19 receive a share of the State payment for  
20 fiscal year 2009; and

21 “(ii) the sum of the amounts paid for  
22 fiscal year 2006 under section 103(a)(2)  
23 (as in effect on September 29, 2006) for  
24 the eligible counties in the State of Oregon  
25 that have elected under section 102(b) to

1 receive the county payment for fiscal year  
2 2009; and

3 “(C) for fiscal year 2010, 73 percent of—

4 “(i) the sum of the amounts paid for  
5 fiscal year 2006 under section 102(a)(2)  
6 (as in effect on September 29, 2006) for  
7 the eligible counties in the covered State  
8 that have elected under section 102(b) to  
9 receive a share of the State payment for  
10 fiscal year 2010; and

11 “(ii) the sum of the amounts paid for  
12 fiscal year 2006 under section 103(a)(2)  
13 (as in effect on September 29, 2006) for  
14 the eligible counties in the State of Oregon  
15 that have elected under section 102(b) to  
16 receive the county payment for fiscal year  
17 2010.

18 “(2) COVERED STATE.—The term ‘covered  
19 State’ means each of the States of California, Lou-  
20 isiana, Oregon, Pennsylvania, South Carolina, South  
21 Dakota, Texas, and Washington.

22 “(b) TRANSITION PAYMENTS.—For each of fiscal  
23 years 2008 through 2010, in lieu of the payment amounts  
24 that otherwise would have been made under paragraphs  
25 (1)(B) and (2)(B) of section 102(a), the Secretary of the

1 Treasury shall pay the adjusted amount to each covered  
2 State and the eligible counties within the covered State,  
3 as applicable.

4 “(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Ex-  
5 cept as provided in subsection (d), it is the intent of Con-  
6 gress that the method of distributing the payments under  
7 subsection (b) among the counties in the covered States  
8 for each of fiscal years 2008 through 2010 be in the same  
9 proportion that the payments were distributed to the eligi-  
10 ble counties in fiscal year 2006.

11 “(d) DISTRIBUTION OF PAYMENTS IN CALI-  
12 FORNIA.—The following payments shall be distributed  
13 among the eligible counties in the State of California in  
14 the same proportion that payments under section  
15 102(a)(2) (as in effect on September 29, 2006) were dis-  
16 tributed to the eligible counties for fiscal year 2006:

17 “(1) Payments to the State of California under  
18 subsection (b).

19 “(2) The shares of the eligible counties of the  
20 State payment for California under section 102 for  
21 fiscal year 2011.

22 “(e) TREATMENT OF PAYMENTS.—For purposes of  
23 this Act, any payment made under subsection (b) shall be  
24 considered to be a payment made under section 102(a).

1     **“TITLE II—SPECIAL PROJECTS**  
2                     **ON FEDERAL LAND**

3     **“SEC. 201. DEFINITIONS.**

4             “In this title:

5                     “(1) PARTICIPATING COUNTY.—The term ‘par-

6             ticipating county’ means an eligible county that

7             elects under section 102(d) to expend a portion of

8             the Federal funds received under section 102 in ac-

9             cordance with this title.

10                    “(2) PROJECT FUNDS.—The term ‘project

11             funds’ means all funds an eligible county elects

12             under section 102(d) to reserve for expenditure in

13             accordance with this title.

14                    “(3) RESOURCE ADVISORY COMMITTEE.—The

15             term ‘resource advisory committee’ means—

16                             “(A) an advisory committee established by

17             the Secretary concerned under section 205; or

18                             “(B) an advisory committee determined by

19             the Secretary concerned to meet the require-

20             ments of section 205.

21                    “(4) RESOURCE MANAGEMENT PLAN.—The

22             term ‘resource management plan’ means—

23                             “(A) a land use plan prepared by the Bu-

24             reau of Land Management for units of the Fed-

25             eral land described in section 3(7)(B) pursuant

1 to section 202 of the Federal Land Policy and  
2 Management Act of 1976 (43 U.S.C. 1712); or  
3 “(B) a land and resource management  
4 plan prepared by the Forest Service for units of  
5 the National Forest System pursuant to section  
6 6 of the Forest and Rangeland Renewable Re-  
7 sources Planning Act of 1974 (16 U.S.C.  
8 1604).

9 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**  
10 **FUNDS.**

11 “(a) LIMITATION.—Project funds shall be expended  
12 solely on projects that meet the requirements of this title.

13 “(b) AUTHORIZED USES.—Project funds may be  
14 used by the Secretary concerned for the purpose of enter-  
15 ing into and implementing cooperative agreements with  
16 willing Federal agencies, State and local governments, pri-  
17 vate and nonprofit entities, and landowners for protection,  
18 restoration, and enhancement of fish and wildlife habitat,  
19 and other resource objectives consistent with the purposes  
20 of this Act on Federal land and on non-Federal land where  
21 projects would benefit the resources on Federal land.

22 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

23 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-  
24 RETARY CONCERNED.—

1           “(1) PROJECTS FUNDED USING PROJECT  
2 FUNDS.—Not later than September 30 for fiscal  
3 year 2008 (or as soon thereafter as the Secretary  
4 concerned determines is practicable), and each Sep-  
5 tember 30 thereafter for each succeeding fiscal year  
6 through fiscal year 2011, each resource advisory  
7 committee shall submit to the Secretary concerned a  
8 description of any projects that the resource advi-  
9 sory committee proposes the Secretary undertake  
10 using any project funds reserved by eligible counties  
11 in the area in which the resource advisory committee  
12 has geographic jurisdiction.

13           “(2) PROJECTS FUNDED USING OTHER  
14 FUNDS.—A resource advisory committee may submit  
15 to the Secretary concerned a description of any  
16 projects that the committee proposes the Secretary  
17 undertake using funds from State or local govern-  
18 ments, or from the private sector, other than project  
19 funds and funds appropriated and otherwise avail-  
20 able to do similar work.

21           “(3) JOINT PROJECTS.—Participating counties  
22 or other persons may propose to pool project funds  
23 or other funds, described in paragraph (2), and  
24 jointly propose a project or group of projects to a re-

1 source advisory committee established under section  
2 205.

3 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In  
4 submitting proposed projects to the Secretary concerned  
5 under subsection (a), a resource advisory committee shall  
6 include in the description of each proposed project the fol-  
7 lowing information:

8 “(1) The purpose of the project and a descrip-  
9 tion of how the project will meet the purposes of this  
10 title.

11 “(2) The anticipated duration of the project.

12 “(3) The anticipated cost of the project.

13 “(4) The proposed source of funding for the  
14 project, whether project funds or other funds.

15 “(5)(A) Expected outcomes, including how the  
16 project will meet or exceed desired ecological condi-  
17 tions, maintenance objectives, or stewardship objec-  
18 tives.

19 “(B) An estimate of the amount of any timber,  
20 forage, and other commodities and other economic  
21 activity, including jobs generated, if any, anticipated  
22 as part of the project.

23 “(6) A detailed monitoring plan, including  
24 funding needs and sources, that—

1           “(A) tracks and identifies the positive or  
2           negative impacts of the project, implementation,  
3           and provides for validation monitoring; and

4           “(B) includes an assessment of the fol-  
5           lowing:

6                   “(i) Whether or not the project met or  
7                   exceeded desired ecological conditions; cre-  
8                   ated local employment or training opportu-  
9                   nities, including summer youth jobs pro-  
10                  grams such as the Youth Conservation  
11                  Corps where appropriate.

12                   “(ii) Whether the project improved  
13                   the use of, or added value to, any products  
14                   removed from land consistent with the pur-  
15                   poses of this title.

16           “(7) An assessment that the project is to be in  
17           the public interest.

18           “(c) AUTHORIZED PROJECTS.—Projects proposed  
19           under subsection (a) shall be consistent with section 2.

20           **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**  
21           **SECRETARY CONCERNED.**

22           “(a) CONDITIONS FOR APPROVAL OF PROPOSED  
23           PROJECT.—The Secretary concerned may make a decision  
24           to approve a project submitted by a resource advisory com-



1 mittee under section 203 only if the proposed project satis-  
2 fies each of the following conditions:

3 “(1) The project complies with all applicable  
4 Federal laws (including regulations).

5 “(2) The project is consistent with the applica-  
6 ble resource management plan and with any water-  
7 shed or subsequent plan developed pursuant to the  
8 resource management plan and approved by the Sec-  
9 retary concerned.

10 “(3) The project has been approved by the re-  
11 source advisory committee in accordance with sec-  
12 tion 205, including the procedures issued under sub-  
13 section (e) of that section.

14 “(4) A project description has been submitted  
15 by the resource advisory committee to the Secretary  
16 concerned in accordance with section 203.

17 “(5) The project will improve the maintenance  
18 of existing infrastructure, implement stewardship ob-  
19 jectives that enhance forest ecosystems, and restore  
20 and improve land health and water quality.

21 “(b) ENVIRONMENTAL REVIEWS.—

22 “(1) REQUEST FOR PAYMENT BY COUNTY.—  
23 The Secretary concerned may request the resource  
24 advisory committee submitting a proposed project to  
25 agree to the use of project funds to pay for any envi-

1       ronmental review, consultation, or compliance with  
2       applicable environmental laws required in connection  
3       with the project.

4               “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—  
5       If a payment is requested under paragraph (1) and  
6       the resource advisory committee agrees to the ex-  
7       penditure of funds for this purpose, the Secretary  
8       concerned shall conduct environmental review, con-  
9       sultation, or other compliance responsibilities in ac-  
10      cordance with Federal laws (including regulations).

11              “(3) EFFECT OF REFUSAL TO PAY.—

12                   “(A) IN GENERAL.—If a resource advisory  
13              committee does not agree to the expenditure of  
14              funds under paragraph (1), the project shall be  
15              deemed withdrawn from further consideration  
16              by the Secretary concerned pursuant to this  
17              title.

18                   “(B) EFFECT OF WITHDRAWAL.—A with-  
19              drawal under subparagraph (A) shall be deemed  
20              to be a rejection of the project for purposes of  
21              section 207(c).

22              “(c) DECISIONS OF SECRETARY CONCERNED.—

23                   “(1) REJECTION OF PROJECTS.—

24                   “(A) IN GENERAL.—A decision by the Sec-  
25              retary concerned to reject a proposed project

1           shall be at the sole discretion of the Secretary  
2           concerned.

3           “(B) NO ADMINISTRATIVE APPEAL OR JU-  
4           DICIAL REVIEW.—Notwithstanding any other  
5           provision of law, a decision by the Secretary  
6           concerned to reject a proposed project shall not  
7           be subject to administrative appeal or judicial  
8           review.

9           “(C) NOTICE OF REJECTION.—Not later  
10          than 30 days after the date on which the Sec-  
11          retary concerned makes the rejection decision,  
12          the Secretary concerned shall notify in writing  
13          the resource advisory committee that submitted  
14          the proposed project of the rejection and the  
15          reasons for rejection.

16          “(2) NOTICE OF PROJECT APPROVAL.—The  
17          Secretary concerned shall publish in the Federal  
18          Register notice of each project approved under sub-  
19          section (a) if the notice would be required had the  
20          project originated with the Secretary.

21          “(d) SOURCE AND CONDUCT OF PROJECT.—Once the  
22          Secretary concerned accepts a project for review under  
23          section 203, the acceptance shall be deemed a Federal ac-  
24          tion for all purposes.

25          “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

1           “(1) COOPERATION.—Notwithstanding chapter  
2           63 of title 31, United States Code, using project  
3           funds the Secretary concerned may enter into con-  
4           tracts, grants, and cooperative agreements with  
5           States and local governments, private and nonprofit  
6           entities, and landowners and other persons to assist  
7           the Secretary in carrying out an approved project.

8           “(2) BEST VALUE CONTRACTING.—

9           “(A) IN GENERAL.—For any project in-  
10          volving a contract authorized by paragraph (1)  
11          the Secretary concerned may elect a source for  
12          performance of the contract on a best value  
13          basis.

14          “(B) FACTORS.—The Secretary concerned  
15          shall determine best value based on such factors  
16          as—

17                 “(i) the technical demands and com-  
18                 plexity of the work to be done;

19                 “(ii)(I) the ecological objectives of the  
20                 project; and

21                 “(II) the sensitivity of the resources  
22                 being treated;

23                 “(iii) the past experience by the con-  
24                 tractor with the type of work being done,  
25                 using the type of equipment proposed for

1 the project, and meeting or exceeding de-  
2 sired ecological conditions; and

3 “(iv) the commitment of the con-  
4 tractor to hiring highly qualified workers  
5 and local residents.

6 “(3) MERCHANTABLE TIMBER CONTRACTING  
7 PILOT PROGRAM.—

8 “(A) ESTABLISHMENT.—The Secretary  
9 concerned shall establish a pilot program to im-  
10 plement a certain percentage of approved  
11 projects involving the sale of merchantable tim-  
12 ber using separate contracts for—

13 “(i) the harvesting or collection of  
14 merchantable timber; and

15 “(ii) the sale of the timber.

16 “(B) ANNUAL PERCENTAGES.—Under the  
17 pilot program, the Secretary concerned shall en-  
18 sure that, on a nationwide basis, not less than  
19 the following percentage of all approved projects  
20 involving the sale of merchantable timber are  
21 implemented using separate contracts:

22 “(i) For fiscal year 2008, 35 percent.

23 “(ii) For fiscal year 2009, 45 percent.

24 “(iii) For each of fiscal years 2010  
25 and 2011, 50 percent.

1           “(C) INCLUSION IN PILOT PROGRAM.—The  
2           decision whether to use separate contracts to  
3           implement a project involving the sale of mer-  
4           chantable timber shall be made by the Sec-  
5           retary concerned after the approval of the  
6           project under this title.

7           “(D) ASSISTANCE.—

8           “(i) IN GENERAL.—The Secretary  
9           concerned may use funds from any appro-  
10          priated account available to the Secretary  
11          for the Federal land to assist in the ad-  
12          ministration of projects conducted under  
13          the pilot program.

14          “(ii) MAXIMUM AMOUNT OF ASSIST-  
15          ANCE.—The total amount obligated under  
16          this subparagraph may not exceed  
17          \$1,000,000 for any fiscal year during  
18          which the pilot program is in effect.

19          “(E) REVIEW AND REPORT.—

20          “(i) INITIAL REPORT.—Not later than  
21          September 30, 2010, the Comptroller Gen-  
22          eral shall submit to the Committees on Ag-  
23          riculture, Nutrition, and Forestry and En-  
24          ergy and Natural Resources of the Senate  
25          and the Committees on Agriculture and

1 Natural Resources of the House of Rep-  
2 resentatives a report assessing the pilot  
3 program.

4 “(ii) ANNUAL REPORT.—The Sec-  
5 retary concerned shall submit to the Com-  
6 mittees on Agriculture, Nutrition, and For-  
7 estry and Energy and Natural Resources  
8 of the Senate and the Committees on Agri-  
9 culture and Natural Resources of the  
10 House of Representatives an annual report  
11 describing the results of the pilot program.

12 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The  
13 Secretary shall ensure that at least 50 percent of all  
14 project funds be used for projects that are primarily dedi-  
15 cated—

16 “(1) to road maintenance, decommissioning, or  
17 obliteration; or

18 “(2) to restoration of streams and watersheds.

19 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

20 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE  
21 ADVISORY COMMITTEES.—

22 “(1) ESTABLISHMENT.—The Secretary con-  
23 cerned shall establish and maintain resource advi-  
24 sory committees to perform the duties in subsection  
25 (b), except as provided in paragraph (4).

1           “(2) PURPOSE.—The purpose of a resource ad-  
2           visory committee shall be—

3                   “(A) to improve collaborative relationships;  
4           and

5                   “(B) to provide advice and recommenda-  
6           tions to the land management agencies con-  
7           sistent with the purposes of this title.

8           “(3) ACCESS TO RESOURCE ADVISORY COMMIT-  
9           TEES.—To ensure that each unit of Federal land  
10          has access to a resource advisory committee, and  
11          that there is sufficient interest in participation on a  
12          committee to ensure that membership can be bal-  
13          anced in terms of the points of view represented and  
14          the functions to be performed, the Secretary con-  
15          cerned may, establish resource advisory committees  
16          for part of, or 1 or more, units of Federal land.

17          “(4) EXISTING ADVISORY COMMITTEES.—

18                   “(A) IN GENERAL.—An advisory com-  
19           mittee that meets the requirements of this sec-  
20           tion, a resource advisory committee established  
21           before September 29, 2006, or an advisory com-  
22           mittee determined by the Secretary concerned  
23           before September 29, 2006, to meet the re-  
24           quirements of this section may be deemed by



1 the Secretary concerned to be a resource advi-  
2 sory committee for the purposes of this title.

3 “(B) CHARTER.—A charter for a com-  
4 mittee described in subparagraph (A) that was  
5 filed on or before September 29, 2006, shall be  
6 considered to be filed for purposes of this Act.

7 “(C) BUREAU OF LAND MANAGEMENT AD-  
8 VISORY COMMITTEES.—The Secretary of the In-  
9 terior may deem a resource advisory committee  
10 meeting the requirements of subpart 1784 of  
11 part 1780 of title 43, Code of Federal Regula-  
12 tions, as a resource advisory committee for the  
13 purposes of this title.

14 “(b) DUTIES.—A resource advisory committee  
15 shall—

16 “(1) review projects proposed under this title by  
17 participating counties and other persons;

18 “(2) propose projects and funding to the Sec-  
19 retary concerned under section 203;

20 “(3) provide early and continuous coordination  
21 with appropriate land management agency officials  
22 in recommending projects consistent with purposes  
23 of this Act under this title;

24 “(4) provide frequent opportunities for citizens,  
25 organizations, tribes, land management agencies,

1 and other interested parties to participate openly  
2 and meaningfully, beginning at the early stages of  
3 the project development process under this title;

4 “(5)(A) monitor projects that have been ap-  
5 proved under section 204; and

6 “(B) advise the designated Federal official on  
7 the progress of the monitoring efforts under sub-  
8 paragraph (A); and

9 “(6) make recommendations to the Secretary  
10 concerned for any appropriate changes or adjust-  
11 ments to the projects being monitored by the re-  
12 source advisory committee.

13 “(c) APPOINTMENT BY THE SECRETARY.—

14 “(1) APPOINTMENT AND TERM.—

15 “(A) IN GENERAL.—The Secretary con-  
16 cerned, shall appoint the members of resource  
17 advisory committees for a term of 4 years be-  
18 ginning on the date of appointment.

19 “(B) REAPPOINTMENT.—The Secretary  
20 concerned may reappoint members to subse-  
21 quent 4-year terms.

22 “(2) BASIC REQUIREMENTS.—The Secretary  
23 concerned shall ensure that each resource advisory  
24 committee established meets the requirements of  
25 subsection (d).

1           “(3) INITIAL APPOINTMENT.—Not later than  
2           180 days after the date of the enactment of this Act,  
3           the Secretary concerned shall make initial appoint-  
4           ments to the resource advisory committees.

5           “(4) VACANCIES.—The Secretary concerned  
6           shall make appointments to fill vacancies on any re-  
7           source advisory committee as soon as practicable  
8           after the vacancy has occurred.

9           “(5) COMPENSATION.—Members of the re-  
10          source advisory committees shall not receive any  
11          compensation.

12          “(d) COMPOSITION OF ADVISORY COMMITTEE.—

13                 “(1) NUMBER.—Each resource advisory com-  
14                 mittee shall be comprised of 15 members.

15                 “(2) COMMUNITY INTERESTS REPRESENTED.—  
16                 Committee members shall be representative of the  
17                 interests of the following 3 categories:

18                         “(A) 5 persons that—

19                                 “(i) represent organized labor or non-  
20                                 timber forest product harvester groups;

21                                 “(ii) represent developed outdoor  
22                                 recreation, off highway vehicle users, or  
23                                 commercial recreation activities;

24                                 “(iii) represent—

1                   “(I) energy and mineral develop-  
2                   ment interests; or

3                   “(II) commercial or recreational  
4                   fishing interests;

5                   “(iv) represent the commercial timber  
6                   industry; or

7                   “(v) hold Federal grazing or other  
8                   land use permits, or represent nonindus-  
9                   trial private forest land owners, within the  
10                  area for which the committee is organized.

11                 “(B) 5 persons that represent—

12                   “(i) nationally recognized environ-  
13                   mental organizations;

14                   “(ii) regionally or locally recognized  
15                   environmental organizations;

16                   “(iii) dispersed recreational activities;

17                   “(iv) archaeological and historical in-  
18                   terests; or

19                   “(v) nationally or regionally recog-  
20                   nized wild horse and burro interest groups,  
21                   wildlife or hunting organizations, or water-  
22                   shed associations.

23                 “(C) 5 persons that—

24                   “(i) hold State elected office (or a  
25                   designee);

1                   “(ii) hold county or local elected of-  
2                   fice;

3                   “(iii) represent American Indian  
4                   tribes within or adjacent to the area for  
5                   which the committee is organized;

6                   “(iv) are school officials or teachers;  
7                   or

8                   “(v) represent the affected public at  
9                   large.

10                  “(3) BALANCED REPRESENTATION.—In ap-  
11                  pointing committee members from the 3 categories  
12                  in paragraph (2), the Secretary concerned shall pro-  
13                  vide for balanced and broad representation from  
14                  within each category.

15                  “(4) GEOGRAPHIC DISTRIBUTION.—The mem-  
16                  bers of a resource advisory committee shall reside  
17                  within the State in which the committee has juris-  
18                  diction and, to extent practicable, the Secretary con-  
19                  cerned shall ensure local representation in each cat-  
20                  egory in paragraph (2).

21                  “(5) CHAIRPERSON.—A majority on each re-  
22                  source advisory committee shall select the chair-  
23                  person of the committee.

24                  “(e) APPROVAL PROCEDURES.—

1           “(1) IN GENERAL.—Subject to paragraph (3),  
2 each resource advisory committee shall establish pro-  
3 cedures for proposing projects to the Secretary con-  
4 cerned under this title.

5           “(2) QUORUM.—A quorum must be present to  
6 constitute an official meeting of the committee.

7           “(3) APPROVAL BY MAJORITY OF MEMBERS.—  
8 A project may be proposed by a resource advisory  
9 committee to the Secretary concerned under section  
10 203(a), if the project has been approved by a major-  
11 ity of members of the committee from each of the  
12 3 categories in subsection (d)(2).

13           “(f) OTHER COMMITTEE AUTHORITIES AND RE-  
14 QUIREMENTS.—

15           “(1) STAFF ASSISTANCE.—A resource advisory  
16 committee may submit to the Secretary concerned a  
17 request for periodic staff assistance from Federal  
18 employees under the jurisdiction of the Secretary.

19           “(2) MEETINGS.—All meetings of a resource  
20 advisory committee shall be announced at least 1  
21 week in advance in a local newspaper of record and  
22 shall be open to the public.

23           “(3) RECORDS.—A resource advisory committee  
24 shall maintain records of the meetings of the com-

1       mittee and make the records available for public in-  
2       spection.

3       **“SEC. 206. USE OF PROJECT FUNDS.**

4       “(a) AGREEMENT REGARDING SCHEDULE AND COST  
5       OF PROJECT.—

6               “(1) AGREEMENT BETWEEN PARTIES.—The  
7       Secretary concerned may carry out a project sub-  
8       mitted by a resource advisory committee under sec-  
9       tion 203(a) using project funds or other funds de-  
10      scribed in section 203(a)(2), if, as soon as prac-  
11      ticable after the issuance of a decision document for  
12      the project and the exhaustion of all administrative  
13      appeals and judicial review of the project decision,  
14      the Secretary concerned and the resource advisory  
15      committee enter into an agreement addressing, at a  
16      minimum, the following:

17               “(A) The schedule for completing the  
18      project.

19               “(B) The total cost of the project, includ-  
20      ing the level of agency overhead to be assessed  
21      against the project.

22               “(C) For a multiyear project, the esti-  
23      mated cost of the project for each of the fiscal  
24      years in which it will be carried out.

1           “(D) The remedies for failure of the Sec-  
2           retary concerned to comply with the terms of  
3           the agreement consistent with current Federal  
4           law.

5           “(2) LIMITED USE OF FEDERAL FUNDS.—The  
6           Secretary concerned may decide, at the sole discre-  
7           tion of the Secretary concerned, to cover the costs  
8           of a portion of an approved project using Federal  
9           funds appropriated or otherwise available to the Sec-  
10          retary for the same purposes as the project.

11          “(b) TRANSFER OF PROJECT FUNDS.—

12           “(1) INITIAL TRANSFER REQUIRED.—As soon  
13           as practicable after the agreement is reached under  
14           subsection (a) with regard to a project to be funded  
15           in whole or in part using project funds, or other  
16           funds described in section 203(a)(2), the Secretary  
17           concerned shall transfer to the applicable unit of Na-  
18           tional Forest System land or Bureau of Land Man-  
19           agement District an amount of project funds equal  
20           to—

21           “(A) in the case of a project to be com-  
22           pleted in a single fiscal year, the total amount  
23           specified in the agreement to be paid using  
24           project funds, or other funds described in sec-  
25           tion 203(a)(2); or



1           “(B) in the case of a multiyear project, the  
2           amount specified in the agreement to be paid  
3           using project funds, or other funds described in  
4           section 203(a)(2) for the first fiscal year.

5           “(2) CONDITION ON PROJECT COMMENCE-  
6           MENT.—The unit of National Forest System land or  
7           Bureau of Land Management District concerned,  
8           shall not commence a project until the project funds,  
9           or other funds described in section 203(a)(2) re-  
10          quired to be transferred under paragraph (1) for the  
11          project, have been made available by the Secretary  
12          concerned.

13          “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR  
14          PROJECTS.—

15                 “(A) IN GENERAL.—For the second and  
16                 subsequent fiscal years of a multiyear project to  
17                 be funded in whole or in part using project  
18                 funds, the unit of National Forest System land  
19                 or Bureau of Land Management District con-  
20                 cerned shall use the amount of project funds re-  
21                 quired to continue the project in that fiscal year  
22                 according to the agreement entered into under  
23                 subsection (a).

24                 “(B) SUSPENSION OF WORK.—The Sec-  
25                 retary concerned shall suspend work on the

1 project if the project funds required by the  
2 agreement in the second and subsequent fiscal  
3 years are not available.

4 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

5 “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-  
6 GATE FUNDS.—By September 30, 2008 (or as soon there-  
7 after as the Secretary concerned determines is prac-  
8 ticable), and each September 30 thereafter for each suc-  
9 ceeding fiscal year through fiscal year 2011, a resource  
10 advisory committee shall submit to the Secretary con-  
11 cerned pursuant to section 203(a)(1) a sufficient number  
12 of project proposals that, if approved, would result in the  
13 obligation of at least the full amount of the project funds  
14 reserved by the participating county in the preceding fiscal  
15 year.

16 “(b) USE OR TRANSFER OF UNOBLIGATED  
17 FUNDS.—Subject to section 208, if a resource advisory  
18 committee fails to comply with subsection (a) for a fiscal  
19 year, any project funds reserved by the participating coun-  
20 ty in the preceding fiscal year and remaining unobligated  
21 shall be available for use as part of the project submissions  
22 in the next fiscal year.

23 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject  
24 to section 208, any project funds reserved by a partici-  
25 pating county in the preceding fiscal year that are unobli-

1 gated at the end of a fiscal year because the Secretary  
2 concerned has rejected one or more proposed projects shall  
3 be available for use as part of the project submissions in  
4 the next fiscal year.

5 “(d) EFFECT OF COURT ORDERS.—

6 “(1) IN GENERAL.—If an approved project  
7 under this Act is enjoined or prohibited by a Federal  
8 court, the Secretary concerned shall return the un-  
9 obligated project funds related to the project to the  
10 participating county or counties that reserved the  
11 funds.

12 “(2) EXPENDITURE OF FUNDS.—The returned  
13 funds shall be available for the county to expend in  
14 the same manner as the funds reserved by the coun-  
15 ty under subparagraph (B) or (C)(i) of section  
16 102(d)(1).

17 **“SEC. 208. TERMINATION OF AUTHORITY.**

18 “(a) IN GENERAL.—The authority to initiate projects  
19 under this title shall terminate on September 30, 2011.

20 “(b) DEPOSITS IN TREASURY.—Any project funds  
21 not obligated by September 30, 2012, shall be deposited  
22 in the Treasury of the United States.

## 23 **“TITLE III—COUNTY FUNDS**

24 **“SEC. 301. DEFINITIONS.**

25 “In this title:

1           “(1) COUNTY FUNDS.—The term ‘county funds’  
2           means all funds an eligible county elects under sec-  
3           tion 102(d) to reserve for expenditure in accordance  
4           with this title.

5           “(2) PARTICIPATING COUNTY.—The term ‘par-  
6           ticipating county’ means an eligible county that  
7           elects under section 102(d) to expend a portion of  
8           the Federal funds received under section 102 in ac-  
9           cordance with this title.

10 **“SEC. 302. USE.**

11           “(a) AUTHORIZED USES.—A participating county,  
12           including any applicable agencies of the participating  
13           county, shall use county funds, in accordance with this  
14           title, only—

15           “(1) to carry out activities under the Firewise  
16           Communities program to provide to homeowners in  
17           fire-sensitive ecosystems education on, and assist-  
18           ance with implementing, techniques in home siting,  
19           home construction, and home landscaping that can  
20           increase the protection of people and property from  
21           wildfires;

22           “(2) to reimburse the participating county for  
23           search and rescue and other emergency services, in-  
24           cluding firefighting, that are—

1           “(A) performed on Federal land after the  
2           date on which the use was approved under sub-  
3           section (b);

4           “(B) paid for by the participating county;  
5           and

6           “(3) to develop community wildfire protection  
7           plans in coordination with the appropriate Secretary  
8           concerned.

9           “(b) PROPOSALS.—A participating county shall use  
10          county funds for a use described in subsection (a) only  
11          after a 45-day public comment period, at the beginning  
12          of which the participating county shall—

13           “(1) publish in any publications of local record  
14           a proposal that describes the proposed use of the  
15           county funds; and

16           “(2) submit the proposal to any resource advi-  
17           sory committee established under section 205 for the  
18           participating county.

19          **“SEC. 303. CERTIFICATION.**

20           “(a) IN GENERAL.—Not later than February 1 of the  
21          year after the year in which any county funds were ex-  
22          pended by a participating county, the appropriate official  
23          of the participating county shall submit to the Secretary  
24          concerned a certification that the county funds expended  
25          in the applicable year have been used for the uses author-

1 ized under section 302(a), including a description of the  
2 amounts expended and the uses for which the amounts  
3 were expended.

4 “(b) REVIEW.—The Secretary concerned shall review  
5 the certifications submitted under subsection (a) as the  
6 Secretary concerned determines to be appropriate.

7 **“SEC. 304. TERMINATION OF AUTHORITY.**

8 “(a) IN GENERAL.—The authority to initiate projects  
9 under this title terminates on September 30, 2011.

10 “(b) AVAILABILITY.—Any county funds not obligated  
11 by September 30, 2012, shall be returned to the Treasury  
12 of the United States.

13 **“TITLE IV—MISCELLANEOUS**  
14 **PROVISIONS**

15 **“SEC. 401. REGULATIONS.**

16 “The Secretary of Agriculture and the Secretary of  
17 the Interior shall issue regulations to carry out the pur-  
18 poses of this Act.

19 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated such sums  
21 as are necessary to carry out this Act for each of fiscal  
22 years 2008 through 2011.

23 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

24 “(a) RELATION TO OTHER APPROPRIATIONS.—  
25 Funds made available under section 402 and funds made

1 available to a Secretary concerned under section 206 shall  
2 be in addition to any other annual appropriations for the  
3 Forest Service and the Bureau of Land Management.

4 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—  
5 All revenues generated from projects pursuant to title II,  
6 including any interest accrued from the revenues, shall be  
7 deposited in the Treasury of the United States.”.

8 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE  
9 STATES AND COUNTIES.—

10 (1) ACT OF MAY 23, 1908.—The sixth paragraph  
11 under the heading “FOREST SERVICE” in the Act  
12 of May 23, 1908 (16 U.S.C. 500) is amended in the  
13 first sentence by striking “twenty-five percentum”  
14 and all that follows through “shall be paid” and in-  
15 serting the following: “an amount equal to the an-  
16 nual average of 25 percent of all amounts received  
17 for the applicable fiscal year and each of the pre-  
18 ceding 6 fiscal years from each national forest shall  
19 be paid”.

20 (2) WEEKS LAW.—Section 13 of the Act of  
21 March 1, 1911 (commonly known as the “Weeks  
22 Law”) (16 U.S.C. 500) is amended in the first sen-  
23 tence by striking “twenty-five percentum” and all  
24 that follows through “shall be paid” and inserting  
25 the following: “an amount equal to the annual aver-

1       age of 25 percent of all amounts received for the ap-  
2       plicable fiscal year and each of the preceding 6 fiscal  
3       years from each national forest shall be paid”.

4       (c) PAYMENTS IN LIEU OF TAXES.—

5             (1) IN GENERAL.—Section 6906 of title 31,  
6       United States Code, is amended to read as follows:

7       **“§ 6906. Funding**

8       “For each of fiscal years 2008 through 2012—

9             “(1) each county or other eligible unit of local  
10       government shall be entitled to payment under this  
11       chapter; and

12             “(2) sums shall be made available to the Sec-  
13       retary of the Interior for obligation or expenditure in  
14       accordance with this chapter.”.

15             (2) CONFORMING AMENDMENT.—The table of  
16       sections for chapter 69 of title 31, United States  
17       Code, is amended by striking the item relating to  
18       section 6906 and inserting the following:

“6906. Funding.”.

19             (3) BUDGET SCOREKEEPING.—

20             (A) IN GENERAL.—Notwithstanding the  
21       Budget Scorekeeping Guidelines and the accom-  
22       panying list of programs and accounts set forth  
23       in the joint explanatory statement of the com-  
24       mittee of conference accompanying Conference  
25       Report 105–217, the section in this title re-



1           garding Payments in Lieu of Taxes shall be  
2           treated in the baseline for purposes of section  
3           257 of the Balanced Budget and Emergency  
4           Deficit Control Act of 1985 (as in effect prior  
5           to September 30, 2002), and by the Chairmen  
6           of the House and Senate Budget Committees,  
7           as appropriate, for purposes of budget enforce-  
8           ment in the House and Senate, and under the  
9           Congressional Budget Act of 1974 as if Pay-  
10          ment in Lieu of Taxes (14-1114-0-1-806)  
11          were an account designated as Appropriated  
12          Entitlements and Mandatories for Fiscal Year  
13          1997 in the joint explanatory statement of the  
14          committee of conference accompanying Con-  
15          ference Report 105-217.

16                 (B) EFFECTIVE DATE.—This paragraph  
17                 shall remain in effect for the fiscal years to  
18                 which the entitlement in section 6906 of title  
19                 31, United States Code (as amended by para-  
20                 graph (1)), applies.

21   **SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION**  
22                         **FUND.**

23           Subparagraph (C) of section 402(i)(1) of the Surface  
24   Mining Control and Reclamation Act of 1977 (30 U.S.C.  
25   1232(i)(1)) is amended by striking “and \$9,000,000 on

1 October 1, 2009” and inserting “\$9,000,000 on October  
2 1, 2009, and \$9,000,000 on October 1, 2010”.

3 **TITLE VII—DISASTER RELIEF**  
4 **Subtitle A—Heartland and**  
5 **Hurricane Ike Disaster Relief**

6 **SEC. 701. SHORT TITLE.**

7 This subtitle may be cited as the “Heartland Disaster  
8 Tax Relief Act of 2008”.

9 **SEC. 702. TEMPORARY TAX RELIEF FOR AREAS DAMAGED**  
10 **BY 2008 MIDWESTERN SEVERE STORMS, TOR-**  
11 **NADOS, AND FLOODING.**

12 (a) IN GENERAL.—Subject to the modifications de-  
13 scribed in this section, the following provisions of or relat-  
14 ing to the Internal Revenue Code of 1986 shall apply to  
15 any Midwestern disaster area in addition to the areas to  
16 which such provisions otherwise apply:

17 (1) GO ZONE BENEFITS.—

18 (A) Section 1400N (relating to tax bene-  
19 fits) other than subsections (b), (d), (e), (i), (j),  
20 (m), and (o) thereof.

21 (B) Section 1400O (relating to education  
22 tax benefits).

23 (C) Section 1400P (relating to housing tax  
24 benefits).

1 (D) Section 1400Q (relating to special  
2 rules for use of retirement funds).

3 (E) Section 1400R(a) (relating to em-  
4 ployee retention credit for employers).

5 (F) Section 1400S (relating to additional  
6 tax relief) other than subsection (d) thereof.

7 (G) Section 1400T (relating to special  
8 rules for mortgage revenue bonds).

9 (2) OTHER BENEFITS INCLUDED IN KATRINA  
10 EMERGENCY TAX RELIEF ACT OF 2005.—Sections  
11 302, 303, 304, 401, and 405 of the Katrina Emer-  
12 gency Tax Relief Act of 2005.

13 (b) MIDWESTERN DISASTER AREA.—

14 (1) IN GENERAL.—For purposes of this section  
15 and for applying the substitutions described in sub-  
16 sections (d) and (e), the term “Midwestern disaster  
17 area” means an area—

18 (A) with respect to which a major disaster  
19 has been declared by the President on or after  
20 May 20, 2008, and before August 1, 2008,  
21 under section 401 of the Robert T. Stafford  
22 Disaster Relief and Emergency Assistance Act  
23 by reason of severe storms, tornados, or flood-  
24 ing occurring in any of the States of Arkansas,

1 Illinois, Indiana, Iowa, Kansas, Michigan, Min-  
2 nesota, Missouri, Nebraska, and Wisconsin, and

3 (B) determined by the President to war-  
4 rant individual or individual and public assist-  
5 ance from the Federal Government under such  
6 Act with respect to damages attributable to  
7 such severe storms, tornados, or flooding.

8 (2) CERTAIN BENEFITS AVAILABLE TO AREAS  
9 ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For pur-  
10 poses of applying this section to benefits under the  
11 following provisions, paragraph (1) shall be applied  
12 without regard to subparagraph (B):

13 (A) Sections 1400Q, 1400S(b), and  
14 1400S(d) of the Internal Revenue Code of  
15 1986.

16 (B) Sections 302, 401, and 405 of the  
17 Katrina Emergency Tax Relief Act of 2005.

18 (c) REFERENCES.—

19 (1) AREA.—Any reference in such provisions to  
20 the Hurricane Katrina disaster area or the Gulf Op-  
21 portunity Zone shall be treated as a reference to any  
22 Midwestern disaster area and any reference to the  
23 Hurricane Katrina disaster area or the Gulf Oppor-  
24 tunity Zone within a State shall be treated as a ref-

1           erence to all Midwestern disaster areas within the  
2           State.

3           (2) ITEMS ATTRIBUTABLE TO DISASTER.—Any  
4           reference in such provisions to any loss, damage, or  
5           other item attributable to Hurricane Katrina shall  
6           be treated as a reference to any loss, damage, or  
7           other item attributable to the severe storms, tor-  
8           nados, or flooding giving rise to any Presidential  
9           declaration described in subsection (b)(1)(A).

10          (3) APPLICABLE DISASTER DATE.—For pur-  
11          poses of applying the substitutions described in sub-  
12          sections (d) and (e), the term “applicable disaster  
13          date” means, with respect to any Midwestern dis-  
14          aster area, the date on which the severe storms, tor-  
15          nados, or flooding giving rise to the Presidential dec-  
16          laration described in subsection (b)(1)(A) occurred.

17          (d) MODIFICATIONS TO 1986 CODE.—The following  
18          provisions of the Internal Revenue Code of 1986 shall be  
19          applied with the following modifications:

20               (1) TAX-EXEMPT BOND FINANCING.—Section  
21               1400N(a)—

22                       (A) by substituting “qualified Midwestern  
23                       disaster area bond” for “qualified Gulf Oppor-  
24                       tunity Zone Bond” each place it appears, except



1                   aged by such severe storms, tornados,  
2                   or flooding, and

3                   (ii) paragraph (2)(A)(ii) shall be ap-  
4                   plied by treating an issue as a qualified  
5                   mortgage issue only if 95 percent or more  
6                   of the net proceeds (as defined in section  
7                   150(a)(3)) of the issue are to be used to  
8                   provide financing for mortgagors who suf-  
9                   fered damages to their principal residences  
10                  attributable to such severe storms, tor-  
11                  nados, or flooding.

12                  (B) by substituting “any State in which a  
13                  Midwestern disaster area is located” for “the  
14                  State of Alabama, Louisiana, or Mississippi” in  
15                  paragraph (2)(B),

16                  (C) by substituting “designated for pur-  
17                  poses of this section (on the basis of providing  
18                  assistance to areas in the order in which such  
19                  assistance is most needed)” for “designated for  
20                  purposes of this section” in paragraph (2)(C),

21                  (D) by substituting “January 1, 2013” for  
22                  “January 1, 2011” in paragraph (2)(D),

23                  (E) in paragraph (3)(A)—

24                         (i) by substituting “\$1,000” for  
25                         “\$2,500”, and

1 (ii) by substituting “before the ear-  
2 liest applicable disaster date for Mid-  
3 western disaster areas within the State”  
4 for “before August 28, 2005”,

5 (F) by substituting “qualified Midwestern  
6 disaster area repair or construction” for “quali-  
7 fied GO Zone repair or construction” each place  
8 it appears,

9 (G) by substituting “after the date of the  
10 enactment of the Heartland Disaster Tax Relief  
11 Act of 2008 and before January 1, 2013” for  
12 “after the date of the enactment of this para-  
13 graph and before January 1, 2011” in para-  
14 graph (7)(C), and

15 (H) by disregarding paragraph (8) thereof.

16 (2) LOW-INCOME HOUSING CREDIT.—Section  
17 1400N(c)—

18 (A) only with respect to calendar years  
19 2008, 2009, and 2010,

20 (B) by substituting “Disaster Recovery As-  
21 sistance housing amount” for “Gulf Oppor-  
22 tunity housing amount” each place it appears,

23 (C) in paragraph (1)(B)—

24 (i) by substituting “\$8.00” for  
25 “\$18.00”, and



1 (ii) by substituting “before the ear-  
2 liest applicable disaster date for Mid-  
3 western disaster areas within the State”  
4 for “before August 28, 2005” , and  
5 (D) determined without regard to para-  
6 graphs (2), (3), (4), (5), and (6) thereof.

7 (3) EXPENSING FOR CERTAIN DEMOLITION AND  
8 CLEAN-UP COSTS.—Section 1400N(f)—

9 (A) by substituting “qualified Disaster Re-  
10 covery Assistance clean-up cost” for “qualified  
11 Gulf Opportunity Zone clean-up cost” each  
12 place it appears,

13 (B) by substituting “beginning on the ap-  
14 plicable disaster date and ending on December  
15 31, 2010” for “beginning on August 28, 2005,  
16 and ending on December 31, 2007” in para-  
17 graph (2), and

18 (C) by treating costs as qualified Disaster  
19 Recovery Assistance clean-up costs only if the  
20 removal of debris or demolition of any structure  
21 was necessary due to damage attributable to  
22 the severe storms, tornados, or flooding giving  
23 rise to any Presidential declaration described in  
24 subsection (b)(1)(A).

1           (4) EXTENSION OF EXPENSING FOR ENVIRON-  
2           MENTAL REMEDIATION COSTS.—Section 1400N(g)—

3                   (A) by substituting “the applicable disaster  
4           date” for “August 28, 2005” each place it ap-  
5           pears,

6                   (B) by substituting “January 1, 2011” for  
7           “January 1, 2008” in paragraph (1),

8                   (C) by substituting “December 31, 2010”  
9           for “December 31, 2007” in paragraph (1), and

10                  (D) by treating a site as a qualified con-  
11           taminated site only if the release (or threat of  
12           release) or disposal of a hazardous substance at  
13           the site was attributable to the severe storms,  
14           tornados, or flooding giving rise to any Presi-  
15           dential declaration described in subsection  
16           (b)(1)(A).

17           (5) INCREASE IN REHABILITATION CREDIT.—  
18           Section 1400N(h), as amended by this Act—

19                   (A) by substituting “the applicable disaster  
20           date” for “August 28, 2005”,

21                   (B) by substituting “December 31, 2011”  
22           for “December 31, 2009” in paragraph (1), and

23                   (C) by only applying such subsection to  
24           qualified rehabilitation expenditures with re-  
25           spect to any building or structure which was

1           damaged or destroyed as a result of the severe  
2           storms, tornados, or flooding giving rise to any  
3           Presidential declaration described in subsection  
4           (b)(1)(A).

5           (6) TREATMENT OF NET OPERATING LOSSES  
6           ATTRIBUTABLE TO DISASTER LOSSES.—Section  
7           1400N(k)—

8                   (A) by substituting “qualified Disaster Re-  
9                   covery Assistance loss” for “qualified Gulf Op-  
10                   portunity Zone loss” each place it appears,

11                   (B) by substituting “after the day before  
12                   the applicable disaster date, and before January  
13                   1, 2011” for “after August 27, 2005, and be-  
14                   fore January 1, 2008” each place it appears,

15                   (C) by substituting “the applicable disaster  
16                   date” for “August 28, 2005” in paragraph  
17                   (2)(B)(ii)(I),

18                   (D) by substituting “qualified Disaster Re-  
19                   covery Assistance property” for “qualified Gulf  
20                   Opportunity Zone property” in paragraph  
21                   (2)(B)(iv), and

22                   (E) by substituting “qualified Disaster Re-  
23                   covery Assistance casualty loss” for “qualified  
24                   Gulf Opportunity Zone casualty loss” each  
25                   place it appears.

1           (7) CREDIT TO HOLDERS OF TAX CREDIT  
2 BONDS.—Section 1400N(l)—

3           (A) by substituting “Midwestern tax credit  
4 bond” for “Gulf tax credit bond” each place it  
5 appears,

6           (B) by substituting “any State in which a  
7 Midwestern disaster area is located or any in-  
8 strumentality of the State” for “the State of  
9 Alabama, Louisiana, or Mississippi” in para-  
10 graph (4)(A)(i),

11           (C) by substituting “after December 31,  
12 2008 and before January 1, 2010” for “after  
13 December 31, 2005, and before January 1,  
14 2007”,

15           (D) by substituting “shall not exceed  
16 \$100,000,000 for any State with an aggregate  
17 population located in all Midwestern disaster  
18 areas within the State of at least 2,000,000,  
19 \$50,000,000 for any State with an aggregate  
20 population located in all Midwestern disaster  
21 areas within the State of at least 1,000,000 but  
22 less than 2,000,000, and zero for any other  
23 State. The population of a State within any  
24 area shall be determined on the basis of the  
25 most recent census estimate of resident popu-

1           lation released by the Bureau of Census before  
2           the earliest applicable disaster date for Mid-  
3           western disaster areas within the State.” for  
4           “shall not exceed” and all that follows in para-  
5           graph (4)(C), and

6                   (E) by substituting “the earliest applicable  
7           disaster date for Midwestern disaster areas  
8           within the State” for “August 28, 2005” in  
9           paragraph (5)(A).

10           (8) EDUCATION TAX BENEFITS.—Section  
11           1400O, by substituting “2008 or 2009” for “2005  
12           or 2006”.

13           (9) HOUSING TAX BENEFITS.—Section 1400P,  
14           by substituting “the applicable disaster date” for  
15           “August 28, 2005” in subsection (c)(1).

16           (10) SPECIAL RULES FOR USE OF RETIREMENT  
17           FUNDS.—Section 1400Q—

18                   (A) by substituting “qualified Disaster Re-  
19           covery Assistance distribution” for “qualified  
20           hurricane distribution” each place it appears,

21                   (B) by substituting “on or after the appli-  
22           cable disaster date and before January 1,  
23           2010” for “on or after August 25, 2005, and  
24           before January 1, 2007” in subsection  
25           (a)(4)(A)(i),

1 (C) by substituting “the applicable disaster  
2 date” for “August 28, 2005” in subsections  
3 (a)(4)(A)(i) and (c)(3)(B),

4 (D) by disregarding clauses (ii) and (iii) of  
5 subsection (a)(4)(A) thereof,

6 (E) by substituting “qualified storm dam-  
7 age distribution” for “qualified Katrina dis-  
8 tribution” each place it appears,

9 (F) by substituting “after the date which  
10 is 6 months before the applicable disaster date  
11 and before the date which is the day after the  
12 applicable disaster date” for “after February  
13 28, 2005, and before August 29, 2005” in sub-  
14 section (b)(2)(B)(ii),

15 (G) by substituting “the Midwestern dis-  
16 aster area, but not so purchased or constructed  
17 on account of severe storms, tornados, or flood-  
18 ing giving rise to the designation of the area as  
19 a disaster area” for “the Hurricane Katrina  
20 disaster area, but not so purchased or con-  
21 structed on account of Hurricane Katrina” in  
22 subsection (b)(2)(B)(iii),

23 (H) by substituting “beginning on the ap-  
24 plicable disaster date and ending on the date  
25 which is 5 months after the date of the enact-

1           ment of the Heartland Disaster Tax Relief Act  
2           of 2008” for “beginning on August 25, 2005,  
3           and ending on February 28, 2006” in sub-  
4           section (b)(3)(A),

5           (I) by substituting “qualified storm dam-  
6           age individual” for “qualified Hurricane  
7           Katrina individual” each place it appears,

8           (J) by substituting “December 31, 2009”  
9           for “December 31, 2006” in subsection  
10          (c)(2)(A),

11          (K) by disregarding subparagraphs (C)  
12          and (D) of subsection (c)(3) thereof,

13          (L) by substituting “beginning on the date  
14          of the enactment of the Heartland Disaster Tax  
15          Relief Act of 2008 and ending on December 31,  
16          2009” for “beginning on September 24, 2005,  
17          and ending on December 31, 2006” in sub-  
18          section (c)(4)(A)(i),

19          (M) by substituting “the applicable dis-  
20          aster date” for “August 25, 2005” in sub-  
21          section (c)(4)(A)(ii), and

22          (N) by substituting “January 1, 2010” for  
23          “January 1, 2007” in subsection (d)(2)(A)(ii).

1           (11) EMPLOYEE RETENTION CREDIT FOR EM-  
2 PLOYERS AFFECTED BY SEVERE STORMS, TOR-  
3 NADOS, AND FLOODING.—Section 1400R(a)—

4           (A) by substituting “the applicable disaster  
5 date” for “August 28, 2005” each place it ap-  
6 pears,

7           (B) by substituting “January 1, 2009” for  
8 “January 1, 2006” both places it appears, and

9           (C) only with respect to eligible employers  
10 who employed an average of not more than 200  
11 employees on business days during the taxable  
12 year before the applicable disaster date.

13           (12) TEMPORARY SUSPENSION OF LIMITATIONS  
14 ON CHARITABLE CONTRIBUTIONS.—Section  
15 1400S(a), by substituting the following paragraph  
16 for paragraph (4) thereof:

17           “(4) QUALIFIED CONTRIBUTIONS.—

18           “(A) IN GENERAL.—For purposes of this  
19 subsection, the term ‘qualified contribution’  
20 means any charitable contribution (as defined  
21 in section 170(c)) if—

22           “(i) such contribution—

23           “(I) is paid during the period be-  
24 ginning on the earliest applicable dis-  
25 aster date for all States and ending



1 on December 31, 2008, in cash to an  
2 organization described in section  
3 170(b)(1)(A), and

4 “(II) is made for relief efforts in  
5 1 or more Midwestern disaster areas,

6 “(ii) the taxpayer obtains from such  
7 organization contemporaneous written ac-  
8 knowledgment (within the meaning of sec-  
9 tion 170(f)(8)) that such contribution was  
10 used (or is to be used) for relief efforts in  
11 1 or more Midwestern disaster areas, and

12 “(iii) the taxpayer has elected the ap-  
13 plication of this subsection with respect to  
14 such contribution.

15 “(B) EXCEPTION.—Such term shall not in-  
16 clude a contribution by a donor if the contribu-  
17 tion is—

18 “(i) to an organization described in  
19 section 509(a)(3), or

20 “(ii) for establishment of a new, or  
21 maintenance of an existing, donor advised  
22 fund (as defined in section 4966(d)(2)).

23 “(C) APPLICATION OF ELECTION TO PART-  
24 NERSHIPS AND S CORPORATIONS.—In the case  
25 of a partnership or S corporation, the election

1 under subparagraph (A)(iii) shall be made sepa-  
2 rately by each partner or shareholder.”.

3 (13) SUSPENSION OF CERTAIN LIMITATIONS ON  
4 PERSONAL CASUALTY LOSSES.—Section  
5 1400S(b)(1), by substituting “the applicable disaster  
6 date” for “August 25, 2005”.

7 (14) SPECIAL RULE FOR DETERMINING  
8 EARNED INCOME.—Section 1400S(d)—

9 (A) by treating an individual as a qualified  
10 individual if such individual’s principal place of  
11 abode on the applicable disaster date was lo-  
12 cated in a Midwestern disaster area,

13 (B) by treating the applicable disaster date  
14 with respect to any such individual as the appli-  
15 cable date for purposes of such subsection, and

16 (C) by treating an area as described in  
17 paragraph (2)(B)(ii) thereof if the area is a  
18 Midwestern disaster area only by reason of sub-  
19 section (b)(2) of this section (relating to areas  
20 eligible only for public assistance).

21 (15) ADJUSTMENTS REGARDING TAXPAYER AND  
22 DEPENDENCY STATUS.—Section 1400S(e), by sub-  
23 stituting “2008 or 2009” for “2005 or 2006”.

24 (e) MODIFICATIONS TO KATRINA EMERGENCY TAX  
25 RELIEF ACT OF 2005.—The following provisions of the

1 Katrina Emergency Tax Relief Act of 2005 shall be ap-  
2 plied with the following modifications:

3 (1) ADDITIONAL EXEMPTION FOR HOUSING DIS-  
4 PLACED INDIVIDUAL.—Section 302—

5 (A) by substituting “2008 or 2009” for  
6 “2005 or 2006” in subsection (a) thereof,

7 (B) by substituting “Midwestern displaced  
8 individual” for “Hurricane Katrina displaced  
9 individual” each place it appears, and

10 (C) by treating an area as a core disaster  
11 area for purposes of applying subsection (c)  
12 thereof if the area is a Midwestern disaster area  
13 without regard to subsection (b)(2) of this sec-  
14 tion (relating to areas eligible only for public  
15 assistance).

16 (2) INCREASE IN STANDARD MILEAGE RATE.—  
17 Section 303, by substituting “beginning on the ap-  
18 plicable disaster date and ending on December 31,  
19 2008” for “beginning on August 25, 2005, and end-  
20 ing on December 31, 2006”.

21 (3) MILEAGE REIMBURSEMENTS FOR CHARIT-  
22 TABLE VOLUNTEERS.—Section 304—

23 (A) by substituting “beginning on the ap-  
24 plicable disaster date and ending on December  
25 31, 2008” for “beginning on August 25, 2005,

1 and ending on December 31, 2006” in sub-  
2 section (a), and

3 (B) by substituting “the applicable disaster  
4 date” for “August 25, 2005” in subsection (a).

5 (4) EXCLUSION OF CERTAIN CANCELLATION OF  
6 INDEBTEDNESS INCOME.—Section 401—

7 (A) by treating an individual whose prin-  
8 cipal place of abode on the applicable disaster  
9 date was in a Midwestern disaster area (deter-  
10 mined without regard to subsection (b)(2) of  
11 this section) as an individual described in sub-  
12 section (b)(1) thereof, and by treating an indi-  
13 vidual whose principal place of abode on the ap-  
14 plicable disaster date was in a Midwestern dis-  
15 aster area solely by reason of subsection (b)(2)  
16 of this section as an individual described in sub-  
17 section (b)(2) thereof,

18 (B) by substituting “the applicable disaster  
19 date” for “August 28, 2005” both places it ap-  
20 pears, and

21 (C) by substituting “January 1, 2010” for  
22 “January 1, 2007” in subsection (e).

23 (5) EXTENSION OF REPLACEMENT PERIOD FOR  
24 NONRECOGNITION OF GAIN.—Section 405, by sub-

1           stituting “on or after the applicable disaster date”  
2           for “on or after August 25, 2005”.

3   **SEC. 703. REPORTING REQUIREMENTS RELATING TO DIS-**  
4                           **ASTER RELIEF CONTRIBUTIONS.**

5           (a) IN GENERAL.—Section 6033(b) (relating to re-  
6 turns of certain organizations described in section  
7 501(c)(3)) is amended by striking “and” at the end of  
8 paragraph (13), by redesignating paragraph (14) as para-  
9 graph (15), and by adding after paragraph (13) the fol-  
10 lowing new paragraph:

11                   “(14) such information as the Secretary may  
12           require with respect to disaster relief activities, in-  
13           cluding the amount and use of qualified contribu-  
14           tions to which section 1400S(a) applies, and”.

15           (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to returns the due date for which  
17 (determined without regard to any extension) occurs after  
18 December 31, 2008.

19   **SEC. 704. TEMPORARY TAX-EXEMPT BOND FINANCING AND**  
20                           **LOW-INCOME HOUSING TAX RELIEF FOR**  
21                           **AREAS DAMAGED BY HURRICANE IKE.**

22           (a) TAX-EXEMPT BOND FINANCING.—Section  
23 1400N(a) of the Internal Revenue Code of 1986 shall  
24 apply to any Hurricane Ike disaster area in addition to

1 any other area referenced in such section, but with the  
2 following modifications:

3 (1) By substituting “qualified Hurricane Ike  
4 disaster area bond” for “qualified Gulf Opportunity  
5 Zone Bond” each place it appears, except that in de-  
6 termining whether a bond is a qualified Hurricane  
7 Ike disaster area bond—

8 (A) paragraph (2)(A)(i) shall be applied by  
9 only treating costs as qualified project costs  
10 if—

11 (i) in the case of a project involving a  
12 private business use (as defined in section  
13 141(b)(6)), either the person using the  
14 property suffered a loss in a trade or busi-  
15 ness attributable to Hurricane Ike or is a  
16 person designated for purposes of this sec-  
17 tion by the Governor of the State in which  
18 the project is located as a person carrying  
19 on a trade or business replacing a trade or  
20 business with respect to which another per-  
21 son suffered such a loss, and

22 (ii) in the case of a project relating to  
23 public utility property, the project involves  
24 repair or reconstruction of public utility  
25 property damaged by Hurricane Ike, and

1 (B) paragraph (2)(A)(ii) shall be applied  
2 by treating an issue as a qualified mortgage  
3 issue only if 95 percent or more of the net pro-  
4 ceeds (as defined in section 150(a)(3)) of the  
5 issue are to be used to provide financing for  
6 mortgagors who suffered damages to their prin-  
7 cipal residences attributable to Hurricane Ike.

8 (2) By substituting “any State in which any  
9 Hurricane Ike disaster area is located” for “the  
10 State of Alabama, Louisiana, or Mississippi” in  
11 paragraph (2)(B).

12 (3) By substituting “designated for purposes of  
13 this section (on the basis of providing assistance to  
14 areas in the order in which such assistance is most  
15 needed)” for “designated for purposes of this sec-  
16 tion” in paragraph (2)(C).

17 (4) By substituting “January 1, 2013” for  
18 “January 1, 2011” in paragraph (2)(D).

19 (5) By substituting the following for subpara-  
20 graph (A) of paragraph (3):

21 “(A) AGGREGATE AMOUNT DESIGNATED.—  
22 The maximum aggregate face amount of bonds  
23 which may be designated under this subsection  
24 with respect to any State shall not exceed the

1 product of \$2,000 multiplied by the portion of  
2 the State population which is in—

3 “(i) in the case of Texas, the counties  
4 of Brazoria, Chambers, Galveston, Jeffer-  
5 son, and Orange, and

6 “(ii) in the case of Louisiana, the par-  
7 ishes of Calcasieu and Cameron,  
8 (as determined on the basis of the most recent  
9 census estimate of resident population released  
10 by the Bureau of Census before September 13,  
11 2008).”.

12 (6) By substituting “qualified Hurricane Ike  
13 disaster area repair or construction” for “qualified  
14 GO Zone repair or construction” each place it ap-  
15 pears.

16 (7) By substituting “after the date of the en-  
17 actment of the Heartland Disaster Tax Relief Act of  
18 2008 and before January 1, 2013” for “after the  
19 date of the enactment of this paragraph and before  
20 January 1, 2011” in paragraph (7)(C).

21 (8) By disregarding paragraph (8) thereof.

22 (9) By substituting “any Hurricane Ike disaster  
23 area” for “the Gulf Opportunity Zone” each place it  
24 appears.



1           (b)    LOW-INCOME    HOUSING    CREDIT.—Section  
2 1400N(e) of the Internal Revenue Code of 1986 shall  
3 apply to any Hurricane Ike disaster area in addition to  
4 any other area referenced in such section, but with the  
5 following modifications:

6           (1) Only with respect to calendar years 2008,  
7 2009, and 2010.

8           (2) By substituting “any Hurricane Ike disaster  
9 area” for “the Gulf Opportunity Zone” each place it  
10 appears.

11          (3) By substituting “Hurricane Ike Recovery  
12 Assistance housing amount” for “Gulf Opportunity  
13 housing amount” each place it appears.

14          (4) By substituting the following for subpara-  
15 graph (B) of paragraph (1):

16                   “(B)    HURRICANE    IKE    HOUSING  
17                   AMOUNT.—For purposes of subparagraph (A),  
18                   the term ‘Hurricane Ike housing amount’  
19                   means, for any calendar year, the amount equal  
20                   to the product of \$16.00 multiplied by the por-  
21                   tion of the State population which is in—

22                                   “(i) in the case of Texas, the counties  
23                                   of Brazoria, Chambers, Galveston, Jeffer-  
24                                   son, and Orange, and

1                   “(ii) in the case of Louisiana, the par-  
2                   ishes of Calcasieu and Cameron,  
3                   (as determined on the basis of the most recent  
4                   census estimate of resident population released  
5                   by the Bureau of Census before September 13,  
6                   2008).”.

7                   (5) Determined without regard to paragraphs  
8                   (2), (3), (4), (5), and (6) thereof.

9                   (c) HURRICANE IKE DISASTER AREA.—For purposes  
10                  of this section and for applying the substitutions described  
11                  in subsections (a) and (b), the term “Hurricane Ike dis-  
12                  aster area” means an area in the State of Texas or Lou-  
13                  isiana—

14                  (1) with respect to which a major disaster has  
15                  been declared by the President on September 13,  
16                  2008, under section 401 of the Robert T. Stafford  
17                  Disaster Relief and Emergency Assistance Act by  
18                  reason of Hurricane Ike, and

19                  (2) determined by the President to warrant in-  
20                  dividual or individual and public assistance from the  
21                  Federal Government under such Act with respect to  
22                  damages attributable to Hurricane Ike.

1           **Subtitle B—National Disaster**  
2                           **Relief**

3   **SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**  
4                           **CLARED DISASTERS.**

5           (a) WAIVER OF ADJUSTED GROSS INCOME LIMITA-  
6   TION.—

7                   (1) IN GENERAL.—Subsection (h) of section  
8           165 is amended by redesignating paragraphs (3) and  
9           (4) as paragraphs (4) and (5), respectively, and by  
10          inserting after paragraph (2) the following new  
11          paragraph:

12                   “(3) SPECIAL RULE FOR LOSSES IN FEDERALLY  
13          DECLARED DISASTERS.—

14                           “(A) IN GENERAL.—If an individual has a  
15           net disaster loss for any taxable year, the  
16           amount determined under paragraph (2)(A)(ii)  
17           shall be the sum of—

18                                   “(i) such net disaster loss, and

19                                   “(ii) so much of the excess referred to  
20           in the matter preceding clause (i) of para-  
21           graph (2)(A) (reduced by the amount in  
22           clause (i) of this subparagraph) as exceeds  
23           10 percent of the adjusted gross income of  
24           the individual.

1           “(B) NET DISASTER LOSS.—For purposes  
2 of subparagraph (A), the term ‘net disaster  
3 loss’ means the excess of—

4           “(i) the personal casualty losses—

5           “(I) attributable to a federally  
6 declared disaster occurring before  
7 January 1, 2010, and

8           “(II) occurring in a disaster  
9 area, over

10           “(ii) personal casualty gains.

11           “(C) FEDERALLY DECLARED DISASTER.—

12 For purposes of this paragraph—

13           “(i) FEDERALLY DECLARED DIS-  
14 ASTER.—The term ‘federally declared dis-  
15 aster’ means any disaster subsequently de-  
16 termined by the President of the United  
17 States to warrant assistance by the Fed-  
18 eral Government under the Robert T. Staf-  
19 ford Disaster Relief and Emergency Assist-  
20 ance Act.

21           “(ii) DISASTER AREA.—The term ‘dis-  
22 aster area’ means the area so determined  
23 to warrant such assistance.”.

24           (2) CONFORMING AMENDMENTS.—

1 (A) Section 165(h)(4)(B) (as so redesignated) is amended by striking “paragraph (2)”  
2 and inserting “paragraphs (2) and (3)”.

3 (B) Section 165(i)(1) is amended by striking “loss” and all that follows through “Act”  
4 and inserting “loss occurring in a disaster area  
5 (as defined by clause (ii) of subsection  
6 (h)(3)(C)) and attributable to a federally de-  
7 clared disaster (as defined by clause (i) of such  
8 subsection)”.

9 (C) Section 165(i)(4) is amended by striking  
10 “Presidentially declared disaster (as defined  
11 by section 1033(h)(3))” and inserting “federally  
12 declared disaster (as defined by subsection  
13 (h)(3)(C)(i))”.

14 (D)(i) So much of subsection (h) of section  
15 1033 as precedes subparagraph (A) of para-  
16 graph (1) thereof is amended to read as follows:

17 “(h) SPECIAL RULES FOR PROPERTY DAMAGED BY  
18 FEDERALLY DECLARED DISASTERS.—

19 “(1) PRINCIPAL RESIDENCES.—If the tax-  
20 payer’s principal residence or any of its contents is  
21 located in a disaster area and is compulsorily or in-  
22 voluntarily converted as a result of a federally de-  
23 clared disaster—”.

1           (ii) Paragraph (2) of section 1033(h) is  
2           amended by striking “investment” and all that  
3           follows through “disaster” and inserting “in-  
4           vestment located in a disaster area and  
5           compulsorily or involuntarily converted as a re-  
6           sult of a federally declared disaster”.

7           (iii) Paragraph (3) of section 1033(h) is  
8           amended to read as follows:

9           “(3) **FEDERALLY DECLARED DISASTER; DIS-**  
10          **ASTER AREA.**—The terms “federally declared dis-  
11          aster” and “disaster area” shall have the respective  
12          meaning given such terms by section 165(h)(3)(C).”.

13          (iv) Section 139(c)(2) is amended to read  
14          as follows:

15          “(2) federally declared disaster (as defined by  
16          section 165(h)(3)(C)(i)),”.

17          (v) Subclause (II) of section  
18          172(b)(1)(F)(ii) is amended by striking “Presi-  
19          dentially declared disasters (as defined in sec-  
20          tion 1033(h)(3))” and inserting “federally de-  
21          clared disasters (as defined by subsection  
22          (h)(3)(C)(i))”.

23          (vi) Subclause (III) of section  
24          172(b)(1)(F)(ii) is amended by striking “Presi-

1           dentially declared disasters” and inserting “fed-  
2           erally declared disasters”.

3           (vii) Subsection (a) of section 7508A is  
4           amended by striking “Presidentially declared  
5           disaster (as defined in section 1033(h)(3))” and  
6           inserting “federally declared disaster (as de-  
7           fined by section 165(h)(3)(C)(i))”.

8           (b) INCREASE IN STANDARD DEDUCTION BY DIS-  
9           ASTER CASUALTY LOSS.—

10           (1) IN GENERAL.—Paragraph (1) of section  
11           63(c), as amended by the Housing Assistance Tax  
12           Act of 2008, is amended by striking “and” at the  
13           end of subparagraph (B), by striking the period at  
14           the end of subparagraph (C) and inserting “, and”,  
15           and by adding at the end the following new subpara-  
16           graph:

17                   “(D) the disaster loss deduction.”.

18           (2) DISASTER LOSS DEDUCTION.—Subsection  
19           (c) of section 63, as amended by the Housing Assist-  
20           ance Tax Act of 2008, is amended by adding at the  
21           end the following new paragraph:

22                   “(8) DISASTER LOSS DEDUCTION.—For the  
23           purposes of paragraph (1), the term ‘disaster loss  
24           deduction’ means the net disaster loss (as defined in  
25           section 165(h)(3)(B)).”.

1           (3) ALLOWANCE IN COMPUTING ALTERNATIVE  
2           MINIMUM TAXABLE INCOME.—Subparagraph (E) of  
3           section 56(b)(1) is amended by adding at the end  
4           the following new sentence: “The preceding sentence  
5           shall not apply to so much of the standard deduction  
6           as is determined under section 63(c)(1)(D).”.

7           (c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS  
8           PER CASUALTY.—Paragraph (1) of section 165(h) is  
9           amended by striking “\$100” and inserting “\$500 (\$100  
10          for taxable years beginning after December 31, 2009)”.

11          (d) EFFECTIVE DATES.—

12           (1) IN GENERAL.—Except as provided by para-  
13          graph (2), the amendments made by this section  
14          shall apply to disasters declared in taxable years be-  
15          ginning after December 31, 2007.

16           (2) INCREASE IN LIMITATION ON INDIVIDUAL  
17          LOSS PER CASUALTY.—The amendment made by  
18          subsection (c) shall apply to taxable years beginning  
19          after December 31, 2008.

20   **SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

21          (a) IN GENERAL.—Part VI of subchapter B of chap-  
22          ter 1 is amended by inserting after section 198 the fol-  
23          lowing new section:



1 **“SEC. 198A. EXPENSING OF QUALIFIED DISASTER EX-**  
2 **PENSES.**

3 “(a) IN GENERAL.—A taxpayer may elect to treat  
4 any qualified disaster expenses which are paid or incurred  
5 by the taxpayer as an expense which is not chargeable to  
6 capital account. Any expense which is so treated shall be  
7 allowed as a deduction for the taxable year in which it  
8 is paid or incurred.

9 “(b) QUALIFIED DISASTER EXPENSE.—For purposes  
10 of this section, the term ‘qualified disaster expense’ means  
11 any expenditure—

12 “(1) which is paid or incurred in connection  
13 with a trade or business or with business-related  
14 property,

15 “(2) which is—

16 “(A) for the abatement or control of haz-  
17 ardous substances that were released on ac-  
18 count of a federally declared disaster occurring  
19 before January 1, 2010,

20 “(B) for the removal of debris from, or the  
21 demolition of structures on, real property which  
22 is business-related property damaged or de-  
23 stroyed as a result of a federally declared dis-  
24 aster occurring before such date, or

1           “(C) for the repair of business-related  
2           property damaged as a result of a federally de-  
3           clared disaster occurring before such date, and  
4           “(3) which is otherwise chargeable to capital ac-  
5           count.

6           “(c) OTHER DEFINITIONS.—For purposes of this  
7           section—

8           “(1) BUSINESS-RELATED PROPERTY.—The  
9           term ‘business-related property’ means property—

10           “(A) held by the taxpayer for use in a  
11           trade or business or for the production of in-  
12           come, or

13           “(B) described in section 1221(a)(1) in the  
14           hands of the taxpayer.

15           “(2) FEDERALLY DECLARED DISASTER.—The  
16           term ‘federally declared disaster’ has the meaning  
17           given such term by section 165(h)(3)(C)(i).

18           “(d) DEDUCTION RECAPTURED AS ORDINARY IN-  
19           COME ON SALE, ETC.—Solely for purposes of section  
20           1245, in the case of property to which a qualified disaster  
21           expense would have been capitalized but for this section—

22           “(1) the deduction allowed by this section for  
23           such expense shall be treated as a deduction for de-  
24           preciation, and



1 case of a taxpayer who has a qualified disaster  
2 loss (as defined in subsection (j)), such loss  
3 shall be a net operating loss carryback to each  
4 of the 5 taxable years preceding the taxable  
5 year of such loss.”.

6 (b) QUALIFIED DISASTER LOSS.—Section 172 is  
7 amended by redesignating subsections (j) and (k) as sub-  
8 sections (k) and (l), respectively, and by inserting after  
9 subsection (i) the following new subsection:

10 “(j) RULES RELATING TO QUALIFIED DISASTER  
11 LOSSES.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified dis-  
13 aster loss’ means the lesser of—

14 “(A) the sum of—

15 “(i) the losses allowable under section  
16 165 for the taxable year—

17 “(I) attributable to a federally  
18 declared disaster (as defined in sec-  
19 tion 165(h)(3)(C)(i)) occurring before  
20 January 1, 2010, and

21 “(II) occurring in a disaster area  
22 (as defined in section  
23 165(h)(3)(C)(ii)), and

24 “(ii) the deduction for the taxable  
25 year for qualified disaster expenses which

1 is allowable under section 198A(a) or  
2 which would be so allowable if not other-  
3 wise treated as an expense, or

4 “(B) the net operating loss for such tax-  
5 able year.

6 “(2) COORDINATION WITH SUBSECTION  
7 (b)(2).—For purposes of applying subsection (b)(2),  
8 a qualified disaster loss for any taxable year shall be  
9 treated in a manner similar to the manner in which  
10 a specified liability loss is treated.

11 “(3) ELECTION.—Any taxpayer entitled to a 5-  
12 year carryback under subsection (b)(1)(J) from any  
13 loss year may elect to have the carryback period  
14 with respect to such loss year determined without re-  
15 gard to subsection (b)(1)(J). Such election shall be  
16 made in such manner as may be prescribed by the  
17 Secretary and shall be made by the due date (includ-  
18 ing extensions of time) for filing the taxpayer’s re-  
19 turn for the taxable year of the net operating loss.  
20 Such election, once made for any taxable year, shall  
21 be irrevocable for such taxable year.

22 “(4) EXCLUSION.—The term ‘qualified disaster  
23 loss’ shall not include any loss with respect to any  
24 property described in section 1400N(p)(3).”.

1 (c) LOSS DEDUCTION ALLOWED IN COMPUTING AL-  
2 TERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d)  
3 of section 56 is amended by adding at the end the fol-  
4 lowing new paragraph:

5 “(3) NET OPERATING LOSS ATTRIBUTABLE TO  
6 FEDERALLY DECLARED DISASTERS.—In the case of  
7 a taxpayer which has a qualified disaster loss (as de-  
8 fined by section 172(b)(1)(J)) for the taxable year,  
9 paragraph (1) shall be applied by increasing the  
10 amount determined under subparagraph (A)(ii)(I)  
11 thereof by the sum of the carrybacks and carryovers  
12 of such loss.”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Clause (ii) of section 172(b)(1)(F) is  
15 amended by inserting “or qualified disaster loss (as  
16 defined in subsection (j))” before the period at the  
17 end of the last sentence.

18 (2) Paragraph (1) of section 172(i) is amended  
19 by adding at the end the following new flush sen-  
20 tence:

21 “Such term shall not include any qualified disaster  
22 loss (as defined in subsection (j)).”.

23 (e) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to losses arising in taxable years

1 beginning after December 31, 2007, in connection with  
2 disasters declared after such date.

3 **SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**  
4 **REQUIREMENTS FOLLOWING FEDERALLY DE-**  
5 **CLARED DISASTERS.**

6 (a) IN GENERAL.—Subsection (k) of section 143 is  
7 amended by adding at the end the following new para-  
8 graph:

9 “(12) SPECIAL RULES FOR RESIDENCES DE-  
10 STROYED IN FEDERALLY DECLARED DISASTERS.—

11 “(A) PRINCIPAL RESIDENCE DE-  
12 STROYED.—At the election of the taxpayer, if  
13 the principal residence (within the meaning of  
14 section 121) of such taxpayer is—

15 “(i) rendered unsafe for use as a resi-  
16 dence by reason of a federally declared dis-  
17 aster occurring before January 1, 2010, or

18 “(ii) demolished or relocated by rea-  
19 son of an order of the government of a  
20 State or political subdivision thereof on ac-  
21 count of a federally declared disaster oc-  
22 ccurring before such date,

23 then, for the 2-year period beginning on the  
24 date of the disaster declaration, subsection  
25 (d)(1) shall not apply with respect to such tax-

1 payer and subsection (e) shall be applied by  
2 substituting ‘110’ for ‘90’ in paragraph (1)  
3 thereof.

4 “(B) PRINCIPAL RESIDENCE DAMAGED.—

5 “(i) IN GENERAL.—At the election of  
6 the taxpayer, if the principal residence  
7 (within the meaning of section 121) of  
8 such taxpayer was damaged as the result  
9 of a federally declared disaster occurring  
10 before January 1, 2010, any owner-financ-  
11 ing provided in connection with the repair  
12 or reconstruction of such residence shall be  
13 treated as a qualified rehabilitation loan.

14 “(ii) LIMITATION.—The aggregate  
15 owner-financing to which clause (i) applies  
16 shall not exceed the lesser of—

17 “(I) the cost of such repair or re-  
18 construction, or

19 “(II) \$150,000.

20 “(C) FEDERALLY DECLARED DISASTER.—

21 For purposes of this paragraph, the term ‘fed-  
22 erally declared disaster’ has the meaning given  
23 such term by section 165(h)(3)(C)(i).

24 “(D) ELECTION; DENIAL OF DOUBLE BEN-  
25 EFIT.—



1                   “(i) ELECTION.—An election under  
2                   this paragraph may not be revoked except  
3                   with the consent of the Secretary.

4                   “(ii) DENIAL OF DOUBLE BENEFIT.—  
5                   If a taxpayer elects the application of this  
6                   paragraph, paragraph (11) shall not apply  
7                   with respect to the purchase or financing  
8                   of any residence by such taxpayer.”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall apply to disasters occurring after De-  
11 cember 31, 2007.

12 **SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**  
13 **FIED DISASTER PROPERTY.**

14           (a) IN GENERAL.—Section 168, as amended by this  
15 Act, is amended by adding at the end the following new  
16 subsection:

17           “(n) SPECIAL ALLOWANCE FOR QUALIFIED DIS-  
18 ASTER ASSISTANCE PROPERTY.—

19                   “(1) IN GENERAL.—In the case of any qualified  
20 disaster assistance property—

21                           “(A) the depreciation deduction provided  
22 by section 167(a) for the taxable year in which  
23 such property is placed in service shall include  
24 an allowance equal to 50 percent of the ad-

1           justed basis of the qualified disaster assistance  
2           property, and

3                   “(B) the adjusted basis of the qualified  
4           disaster assistance property shall be reduced by  
5           the amount of such deduction before computing  
6           the amount otherwise allowable as a depreci-  
7           ation deduction under this chapter for such tax-  
8           able year and any subsequent taxable year.

9           “(2) QUALIFIED DISASTER ASSISTANCE PROP-  
10          PERTY.—For purposes of this subsection—

11                   “(A) IN GENERAL.—The term ‘qualified  
12          disaster assistance property’ means any prop-  
13          erty—

14                           “(i)(I) which is described in sub-  
15                           section (k)(2)(A)(i), or

16                           “(II) which is nonresidential real  
17                           property or residential rental property,

18                           “(ii) substantially all of the use of  
19                           which is—

20                                   “(I) in a disaster area with re-  
21                                   spect to a federally declared disaster  
22                                   occurring before January 1, 2010,  
23                                   and

1                   “(II) in the active conduct of a  
2                   trade or business by the taxpayer in  
3                   such disaster area,

4                   “(iii) which—

5                   “(I) rehabilitates property dam-  
6                   aged, or replaces property destroyed  
7                   or condemned, as a result of such fed-  
8                   erally declared disaster, except that,  
9                   for purposes of this clause, property  
10                  shall be treated as replacing property  
11                  destroyed or condemned if, as part of  
12                  an integrated plan, such property re-  
13                  places property which is included in a  
14                  continuous area which includes real  
15                  property destroyed or condemned, and

16                  “(II) is similar in nature to, and  
17                  located in the same county as, the  
18                  property being rehabilitated or re-  
19                  placed,

20                  “(iv) the original use of which in such  
21                  disaster area commences with an eligible  
22                  taxpayer on or after the applicable disaster  
23                  date,

24                  “(v) which is acquired by such eligible  
25                  taxpayer by purchase (as defined in section

1 179(d)) on or after the applicable disaster  
2 date, but only if no written binding con-  
3 tract for the acquisition was in effect be-  
4 fore such date, and

5 “(vi) which is placed in service by  
6 such eligible taxpayer on or before the date  
7 which is the last day of the third calendar  
8 year following the applicable disaster date  
9 (the fourth calendar year in the case of  
10 nonresidential real property and residential  
11 rental property).

12 “(B) EXCEPTIONS.—

13 “(i) OTHER BONUS DEPRECIATION  
14 PROPERTY.—The term ‘qualified disaster  
15 assistance property’ shall not include—

16 “(I) any property to which sub-  
17 section (k) (determined without re-  
18 gard to paragraph (4)), (l), or (m) ap-  
19 plies,

20 “(II) any property to which sec-  
21 tion 1400N(d) applies, and

22 “(III) any property described in  
23 section 1400N(p)(3).

24 “(ii) ALTERNATIVE DEPRECIATION  
25 PROPERTY.—The term ‘qualified disaster

1 assistance property' shall not include any  
2 property to which the alternative deprecia-  
3 tion system under subsection (g) applies,  
4 determined without regard to paragraph  
5 (7) of subsection (g) (relating to election to  
6 have system apply).

7 “(iii) TAX-EXEMPT BOND FINANCED  
8 PROPERTY.—Such term shall not include  
9 any property any portion of which is fi-  
10 nanced with the proceeds of any obligation  
11 the interest on which is exempt from tax  
12 under section 103.

13 “(iv) QUALIFIED REVITALIZATION  
14 BUILDINGS.—Such term shall not include  
15 any qualified revitalization building with  
16 respect to which the taxpayer has elected  
17 the application of paragraph (1) or (2) of  
18 section 1400I(a).

19 “(v) ELECTION OUT.—If a taxpayer  
20 makes an election under this clause with  
21 respect to any class of property for any  
22 taxable year, this subsection shall not  
23 apply to all property in such class placed  
24 in service during such taxable year.

1           “(C) SPECIAL RULES.—For purposes of  
2 this subsection, rules similar to the rules of  
3 subparagraph (E) of subsection (k)(2) shall  
4 apply, except that such subparagraph shall be  
5 applied—

6           “(i) by substituting ‘the applicable  
7 disaster date’ for ‘December 31, 2007’  
8 each place it appears therein,

9           “(ii) without regard to ‘and before  
10 January 1, 2009’ in clause (i) thereof, and

11           “(iii) by substituting ‘qualified dis-  
12 aster assistance property’ for ‘qualified  
13 property’ in clause (iv) thereof.

14           “(D) ALLOWANCE AGAINST ALTERNATIVE  
15 MINIMUM TAX.—For purposes of this sub-  
16 section, rules similar to the rules of subsection  
17 (k)(2)(G) shall apply.

18           “(3) OTHER DEFINITIONS.—For purposes of  
19 this subsection—

20           “(A) APPLICABLE DISASTER DATE.—The  
21 term ‘applicable disaster date’ means, with re-  
22 spect to any federally declared disaster, the  
23 date on which such federally declared disaster  
24 occurs.

1 “(B) FEDERALLY DECLARED DISASTER.—

2 The term ‘federally declared disaster’ has the  
3 meaning given such term under section  
4 165(h)(3)(C)(i).

5 “(C) DISASTER AREA.—The term ‘disaster  
6 area’ has the meaning given such term under  
7 section 165(h)(3)(C)(ii).

8 “(D) ELIGIBLE TAXPAYER.—The term ‘eli-  
9 gible taxpayer’ means a taxpayer who has suf-  
10 fered an economic loss attributable to a feder-  
11 ally declared disaster.

12 “(4) RECAPTURE.—For purposes of this sub-  
13 section, rules similar to the rules under section  
14 179(d)(10) shall apply with respect to any qualified  
15 disaster assistance property which ceases to be quali-  
16 fied disaster assistance property.”.

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

21 **SEC. 711. INCREASED EXPENSING FOR QUALIFIED DIS-**  
22 **ASTER ASSISTANCE PROPERTY.**

23 (a) IN GENERAL.—Section 179 is amended by adding  
24 at the end the following new subsection:

1           “(e) SPECIAL RULES FOR QUALIFIED DISASTER AS-  
2   SISTANCE PROPERTY.—

3           “(1) IN GENERAL.—For purposes of this sec-  
4   tion—

5           “(A) the dollar amount in effect under  
6           subsection (b)(1) for the taxable year shall be  
7           increased by the lesser of—

8                   “(i) \$100,000, or

9                   “(ii) the cost of qualified section 179  
10           disaster assistance property placed in serv-  
11           ice during the taxable year, and

12           “(B) the dollar amount in effect under  
13           subsection (b)(2) for the taxable year shall be  
14           increased by the lesser of—

15                   “(i) \$600,000, or

16                   “(ii) the cost of qualified section 179  
17           disaster assistance property placed in serv-  
18           ice during the taxable year.

19           “(2) QUALIFIED SECTION 179 DISASTER ASSIST-  
20   ANCE PROPERTY.—For purposes of this subsection,  
21   the term ‘qualified section 179 disaster assistance  
22   property’ means section 179 property (as defined in  
23   subsection (d)) which is qualified disaster assistance  
24   property (as defined in section 168(n)(2)).



1           “(3) COORDINATION WITH EMPOWERMENT  
2 ZONES AND RENEWAL COMMUNITIES.—For purposes  
3 of sections 1397A and 1400J, qualified section 179  
4 disaster assistance property shall not be treated as  
5 qualified zone property or qualified renewal prop-  
6 erty, unless the taxpayer elects not to take such  
7 qualified section 179 disaster assistance property  
8 into account for purposes of this subsection.

9           “(4) RECAPTURE.—For purposes of this sub-  
10 section, rules similar to the rules under subsection  
11 (d)(10) shall apply with respect to any qualified sec-  
12 tion 179 disaster assistance property which ceases to  
13 be qualified section 179 disaster assistance prop-  
14 erty.”.

15       (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to property placed in service after  
17 December 31, 2007, with respect disasters declared after  
18 such date.

19 **SEC. 712. COORDINATION WITH HEARTLAND DISASTER RE-**  
20 **LIEF.**

21       The amendments made by this subtitle, other than  
22 the amendments made by sections 706(a)(2), 710, and  
23 711, shall not apply to any disaster described in section  
24 702(c)(1)(A), or to any expenditure or loss resulting from  
25 such disaster.

1 **TITLE VIII—SPENDING REDUC-**  
2 **TIONS AND APPROPRIATE**  
3 **REVENUE RAISERS FOR NEW**  
4 **TAX RELIEF POLICY**

5 **SEC. 801. NONQUALIFIED DEFERRED COMPENSATION**  
6 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

7 (a) IN GENERAL.—Subpart B of part II of sub-  
8 chapter E of chapter 1 is amended by inserting after sec-  
9 tion 457 the following new section:

10 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**  
11 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

12 “(a) IN GENERAL.—Any compensation which is de-  
13 ferred under a nonqualified deferred compensation plan of  
14 a nonqualified entity shall be includible in gross income  
15 when there is no substantial risk of forfeiture of the rights  
16 to such compensation.

17 “(b) NONQUALIFIED ENTITY.—For purposes of this  
18 section, the term ‘nonqualified entity’ means—

19 “(1) any foreign corporation unless substan-  
20 tially all of its income is—

21 “(A) effectively connected with the conduct  
22 of a trade or business in the United States, or

23 “(B) subject to a comprehensive foreign in-  
24 come tax, and

1           “(2) any partnership unless substantially all of  
2 its income is allocated to persons other than—

3           “(A) foreign persons with respect to whom  
4 such income is not subject to a comprehensive  
5 foreign income tax, and

6           “(B) organizations which are exempt from  
7 tax under this title.

8           “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-  
9 TION.—

10           “(1) IN GENERAL.—If the amount of any com-  
11 pensation is not determinable at the time that such  
12 compensation is otherwise includible in gross income  
13 under subsection (a)—

14           “(A) such amount shall be so includible in  
15 gross income when determinable, and

16           “(B) the tax imposed under this chapter  
17 for the taxable year in which such compensation  
18 is includible in gross income shall be increased  
19 by the sum of—

20           “(i) the amount of interest determined  
21 under paragraph (2), and

22           “(ii) an amount equal to 20 percent of  
23 the amount of such compensation.

24           “(2) INTEREST.—For purposes of paragraph  
25 (1)(B)(i), the interest determined under this para-

1 graph for any taxable year is the amount of interest  
2 at the underpayment rate under section 6621 plus  
3 1 percentage point on the underpayments that would  
4 have occurred had the deferred compensation been  
5 includible in gross income for the taxable year in  
6 which first deferred or, if later, the first taxable year  
7 in which such deferred compensation is not subject  
8 to a substantial risk of forfeiture.

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

10 For purposes of this section—

11 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

12 “(A) IN GENERAL.—The rights of a person  
13 to compensation shall be treated as subject to  
14 a substantial risk of forfeiture only if such per-  
15 son’s rights to such compensation are condi-  
16 tioned upon the future performance of substan-  
17 tial services by any individual.

18 “(B) EXCEPTION FOR COMPENSATION  
19 BASED ON GAIN RECOGNIZED ON AN INVEST-  
20 MENT ASSET.—

21 “(i) IN GENERAL.—To the extent pro-  
22 vided in regulations prescribed by the Sec-  
23 retary, if compensation is determined solely  
24 by reference to the amount of gain recog-  
25 nized on the disposition of an investment

1           asset, such compensation shall be treated  
2           as subject to a substantial risk of for-  
3           feiture until the date of such disposition.

4           “(ii) INVESTMENT ASSET.—For pur-  
5           poses of clause (i), the term ‘investment  
6           asset’ means any single asset (other than  
7           an investment fund or similar entity)—

8                     “(I) acquired directly by an in-  
9                     vestment fund or similar entity,

10                    “(II) with respect to which such  
11                    entity does not (nor does any person  
12                    related to such entity) participate in  
13                    the active management of such asset  
14                    (or if such asset is an interest in an  
15                    entity, in the active management of  
16                    the activities of such entity), and

17                    “(III) substantially all of any  
18                    gain on the disposition of which (other  
19                    than such deferred compensation) is  
20                    allocated to investors in such entity.

21           “(iii) COORDINATION WITH SPECIAL  
22           RULE.—Paragraph (3)(B) shall not apply  
23           to any compensation to which clause (i)  
24           applies.

1           “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

2           The term ‘comprehensive foreign income tax’ means,  
3           with respect to any foreign person, the income tax  
4           of a foreign country if—

5                   “(A) such person is eligible for the benefits  
6                   of a comprehensive income tax treaty between  
7                   such foreign country and the United States, or

8                   “(B) such person demonstrates to the sat-  
9                   isfaction of the Secretary that such foreign  
10                  country has a comprehensive income tax.

11           “(3) NONQUALIFIED DEFERRED COMPENSA-  
12           TION PLAN.—

13                   “(A) IN GENERAL.—The term ‘non-  
14                   qualified deferred compensation plan’ has the  
15                   meaning given such term under section  
16                   409A(d), except that such term shall include  
17                   any plan that provides a right to compensation  
18                   based on the appreciation in value of a specified  
19                   number of equity units of the service recipient.

20                   “(B) EXCEPTION.—Compensation shall  
21                   not be treated as deferred for purposes of this  
22                   section if the service provider receives payment  
23                   of such compensation not later than 12 months  
24                   after the end of the taxable year of the service  
25                   recipient during which the right to the payment

1           of such compensation is no longer subject to a  
2           substantial risk of forfeiture.

3           “(4) EXCEPTION FOR CERTAIN COMPENSATION  
4           WITH RESPECT TO EFFECTIVELY CONNECTED IN-  
5           COME.—In the case a foreign corporation with in-  
6           come which is taxable under section 882, this section  
7           shall not apply to compensation which, had such  
8           compensation had been paid in cash on the date that  
9           such compensation ceased to be subject to a sub-  
10          stantial risk of forfeiture, would have been deduct-  
11          ible by such foreign corporation against such income.

12          “(5) APPLICATION OF RULES.—Rules similar to  
13          the rules of paragraphs (5) and (6) of section  
14          409A(d) shall apply.

15          “(e) REGULATIONS.—The Secretary shall prescribe  
16          such regulations as may be necessary or appropriate to  
17          carry out the purposes of this section, including regula-  
18          tions disregarding a substantial risk of forfeiture in cases  
19          where necessary to carry out the purposes of this sec-  
20          tion.”.

21          (b) CONFORMING AMENDMENT.—Section 26(b)(2),  
22          as amended by the Housing Assistance Tax Act of 2008,  
23          is amended by striking “and” at the end of subparagraph  
24          (V), by striking the period at the end of subparagraph

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

3 “(X) section 457A(c)(1)(B) (relating to de-  
4 terminability of amounts of compensation).”.

5 (c) CLERICAL AMENDMENT.—The table of sections  
6 of subpart B of part II of subchapter E of chapter 1 is  
7 amended by inserting after the item relating to section  
8 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent  
parties.”.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-  
11 vided in this subsection, the amendments made by  
12 this section shall apply to amounts deferred which  
13 are attributable to services performed after Decem-  
14 ber 31, 2008.

15 (2) APPLICATION TO EXISTING DEFERRALS.—  
16 In the case of any amount deferred to which the  
17 amendments made by this section do not apply solely  
18 by reason of the fact that the amount is attributable  
19 to services performed before January 1, 2009, to the  
20 extent such amount is not includible in gross income  
21 in a taxable year beginning before 2018, such  
22 amounts shall be includible in gross income in the  
23 later of—



1 (A) the last taxable year beginning before  
2 2018, or

3 (B) the taxable year in which there is no  
4 substantial risk of forfeiture of the rights to  
5 such compensation (determined in the same  
6 manner as determined for purposes of section  
7 457A of the Internal Revenue Code of 1986, as  
8 added by this section).

9 (3) ACCELERATED PAYMENTS.—No later than  
10 120 days after the date of the enactment of this Act,  
11 the Secretary shall issue guidance providing a lim-  
12 ited period of time during which a nonqualified de-  
13 ferred compensation arrangement attributable to  
14 services performed on or before December 31, 2008,  
15 may, without violating the requirements of section  
16 409A(a) of the Internal Revenue Code of 1986, be  
17 amended to conform the date of distribution to the  
18 date the amounts are required to be included in in-  
19 come.

20 (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—  
21 If the taxpayer is also a service recipient and main-  
22 tains one or more nonqualified deferred compensa-  
23 tion arrangements for its service providers under  
24 which any amount is attributable to services per-  
25 formed on or before December 31, 2008, the guid-

1       ance issued under paragraph (4) shall permit such  
2       arrangements to be amended to conform the dates of  
3       distribution under such arrangement to the date  
4       amounts are required to be included in the income  
5       of such taxpayer under this subsection.

6               (5) ACCELERATED PAYMENT NOT TREATED AS  
7       MATERIAL MODIFICATION.—Any amendment to a  
8       nonqualified deferred compensation arrangement  
9       made pursuant to paragraph (4) or (5) shall not be  
10      treated as a material modification of the arrange-  
11      ment for purposes of section 409A of the Internal  
12      Revenue Code of 1986.

Amend the title so as to read: “To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes”.