

SEC. 303. EXTENSION OF EXCLUSION OF INCOME FROM DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.

(a) **EXTENSION.**—Subparagraph (E) of section 108(a)(1) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2010” and inserting “January 1, 2013”. 26 USC 108.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to discharges of indebtedness occurring on or after January 1, 2010. 26 USC 108 note.

DIVISION B—ENERGY IMPROVEMENT AND EXTENSION ACT OF 2008

SEC. 1. SHORT TITLE, ETC.

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

(b) **REFERENCE.**—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986. 26 USC 1 *et al.*

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

Sec. 1. Short title, etc.

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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.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

SEC. 101. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

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

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

- (A) Clauses (i) and (ii) of paragraph (2)(A).
- (B) Clauses (i)(I) and (ii) of paragraph (3)(A).
- (C) Paragraph (4).
- (D) Paragraph (5).
- (E) Paragraph (6).
- (F) Paragraph (7).
- (G) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF REFINED COAL AS A QUALIFIED ENERGY RESOURCE.—

(1) ELIMINATION OF INCREASED MARKET VALUE TEST.—Section 45(c)(7)(A)(i) (defining refined coal), as amended by section 108, is amended—

- (A) by striking subclause (IV),
- (B) by adding “and” at the end of subclause (II), and
- (C) by striking “, and” at the end of subclause (III) and inserting a period.

(2) INCREASE IN REQUIRED EMISSION REDUCTION.—Section 45(c)(7)(B) (defining qualified emission reduction) is amended by inserting “at least 40 percent of the emissions of” after “nitrogen oxide and”.

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

26 USC 45.

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

(2) by striking “COMBUSTION”.

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

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

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

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

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

“(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

“(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

“(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and

“(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.”

Certification.

Applicability.
26 USC 45 note.

Electricity.

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) **REFINED COAL.**—The amendments made by subsection (b) shall apply to coal produced and sold from facilities placed in service after December 31, 2008.

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

(4) **EXPANSION OF BIOMASS FACILITIES.**—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

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

“(I) marine and hydrokinetic renewable energy.”

(b) **MARINE RENEWABLES.**—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

“(10) **MARINE AND HYDROKINETIC RENEWABLE ENERGY.**—

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

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

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

“(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

“(iv) differentials in ocean temperature (ocean thermal energy conversion).

“(B) **EXCEPTIONS.**—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.”

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

“(11) **MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.**—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term ‘qualified facility’ means any facility owned by the taxpayer—

“(A) which has a nameplate capacity rating of at least 150 kilowatts, and

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

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

(e) **COORDINATION WITH SMALL IRRIGATION POWER.**—Paragraph (5) of section 45(d), as amended by section 101, is amended by

striking “January 1, 2012” and inserting “the date of the enactment of paragraph (11)”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date. 26 USC 45 note.

SEC. 103. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking “January 1, 2009” and inserting “January 1, 2017”. 26 USC 48.

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

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking “December 31, 2008” and inserting “December 31, 2016”.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—

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

“(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48,”.

(2) TECHNICAL AMENDMENT.—Clause (vi) of section 38(c)(4)(B), as redesignated by paragraph (1), is amended by striking “section 47 to the extent attributable to” and inserting “section 46 to the extent that such credit is attributable to the rehabilitation credit under section 47, but only with respect to”.

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

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

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

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (c) of section 48 is amended—

(A) by striking “QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY” in the heading and inserting “DEFINITIONS”, and

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

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

“(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term ‘combined heat and power system property’ means property comprising a system—

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

“(ii) which produces—

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

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

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

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

“(B) LIMITATION.—

“(i) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

“(ii) APPLICABLE CAPACITY.—For purposes of clause (i), the term ‘applicable capacity’ means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

“(iii) MAXIMUM CAPACITY.—The term ‘combined heat and power system property’ shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

“(C) SPECIAL RULES.—

“(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this paragraph, the energy efficiency percentage of a system is the fraction—

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

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

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

“(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term ‘combined heat and power system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

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

Definition.

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

“(ii) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this subparagraph) as the energy efficiency percentage of such system bears to 60 percent.”.

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

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

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

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

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

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

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

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

26 USC 48 note.

SEC. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.

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

“(vi) qualified small wind energy property,”.

(b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking “and” at the end of subclause (II) and by inserting after subclause (III) the following new subclause:

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

(c) **QUALIFIED SMALL WIND ENERGY PROPERTY.**—Section 48(c), as amended by section 103, is amended by adding at the end the following new paragraph:

“(4) **QUALIFIED SMALL WIND ENERGY PROPERTY.**—

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

“(B) **LIMITATION.**—In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to all such property of the taxpayer shall not exceed \$4,000.

“(C) **QUALIFYING SMALL WIND TURBINE.**—The term ‘qualifying small wind turbine’ means a wind turbine which has a nameplate capacity of not more than 100 kilowatts.

“(D) **TERMINATION.**—The term ‘qualified small wind energy property’ shall not include any property for any period after December 31, 2016.”

(d) **CONFORMING AMENDMENT.**—Section 48(a)(1), as amended by section 103, is amended by striking “paragraphs (1)(B), (2)(B), and (3)(B)” and inserting “paragraphs (1)(B), (2)(B), (3)(B), and (4)(B)”.

26 USC 48 note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.

(a) **IN GENERAL.**—Subparagraph (A) of section 48(a)(3), as amended by this Act, is amended by striking “or” at the end of clause (v), by inserting “or” at the end of clause (vi), and by adding at the end the following new clause:

“(vii) equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to periods ending before January 1, 2017.”

26 USC 48 note.

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

SEC. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

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

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

(A) by striking subparagraph (A), and

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

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

(A) by striking clause (i), and

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

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, and”, and by adding at the end the following new paragraph: 26 USC 25D.

“(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.”.

(2) LIMITATION.—Section 25D(b)(1) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

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

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

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

“(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term ‘qualified small wind energy property expenditure’ means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.”.

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

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) \$1,667 in the case of each half kilowatt of capacity (not to exceed \$13,333) of wind turbines for which qualified small wind energy property expenditures are made.”.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

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

“(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.”.

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by adding at the end the following new subparagraph:

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

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

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

“(A) IN GENERAL.—The term ‘qualified geothermal heat pump property expenditure’ means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

“(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term ‘qualified geothermal heat pump property’ means any equipment which—

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

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

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

“(v) \$6,667 in the case of any qualified geothermal heat pump property expenditures.”.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

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

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

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

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

“(2) CARRYFORWARD OF UNUSED CREDIT.—

“(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added

to the credit allowable under subsection (a) for such succeeding taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting “and section 25D” after “this section”. 26 USC 23.

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

(C) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25D”.

(D) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25D”.

(f) EFFECTIVE DATE.—

26 USC 23 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

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

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

SEC. 107. NEW CLEAN RENEWABLE ENERGY BONDS.

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

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

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

“(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

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

“(3) the issuer designates such bond for purposes of this section.

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

“(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

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

“(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of \$800,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

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

“(B) not more than 33 $\frac{1}{3}$ percent thereof may be allocated to qualified projects of governmental bodies, and

“(C) not more than 33 $\frac{1}{3}$ percent thereof may be allocated to qualified projects of cooperative electric companies.

“(3) METHOD OF ALLOCATION.—

“(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—

After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

“(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

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

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

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

“(3) GOVERNMENTAL BODY.—The term ‘governmental body’ means any State or Indian tribal government, or any political subdivision thereof.

“(4) COOPERATIVE ELECTRIC COMPANY.—The term ‘cooperative electric company’ means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

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

“(6) QUALIFIED ISSUER.—The term ‘qualified issuer’ means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.”.

(b) CONFORMING AMENDMENTS.—

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

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

“(A) a qualified forestry conservation bond, or

“(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).”.

26 USC 54A.

Definition.

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows: 26 USC 54A.

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

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

“(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).”.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

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

(c) EXTENSION FOR CLEAN RENEWABLE ENERGY BONDS.—Subsection (m) of section 54 is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 54 note.

SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.

(a) TREATMENT AS REFINED COAL.—

(1) IN GENERAL.—Subparagraph (A) of section 45(c)(7) of the Internal Revenue Code of 1986 (relating to refined coal), as amended by this Act, is amended to read as follows:

“(A) IN GENERAL.—The term ‘refined coal’ means a fuel— Definition.

“(i) which—

“(I) is a liquid, gaseous, or solid fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock,

“(II) is sold by the taxpayer with the reasonable expectation that it will be used for purpose of producing steam,

“(III) is certified by the taxpayer as resulting (when used in the production of steam) in a qualified emission reduction, and

“(IV) is produced in such a manner as to result in an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal, or

“(ii) which is steel industry fuel.”.

(2) STEEL INDUSTRY FUEL DEFINED.—Paragraph (7) of section 45(c) of such Code is amended by adding at the end the following new subparagraph:

“(C) STEEL INDUSTRY FUEL.—

“(i) IN GENERAL.—The term ‘steel industry fuel’ means a fuel which—

“(I) is produced through a process of liquifying coal waste sludge and distributing it on coal, and

“(II) is used as a feedstock for the manufacture of coke.

“(ii) COAL WASTE SLUDGE.—The term ‘coal waste sludge’ means the tar decanter sludge and related

byproducts of the coking process, including such materials that have been stored in ground, in tanks and in lagoons, that have been treated as hazardous wastes under applicable Federal environmental rules absent liquefaction and processing with coal into a feedstock for the manufacture of coke.”

(b) CREDIT AMOUNT.—

Applicability.
26 USC 45.

(1) IN GENERAL.—Paragraph (8) of section 45(e) of the Internal Revenue Code of 1986 (relating to refined coal production facilities) is amended by adding at the end the following new subparagraph

“(D) SPECIAL RULE FOR STEEL INDUSTRY FUEL.—

“(i) IN GENERAL.—In the case of a taxpayer who produces steel industry fuel—

“(I) this paragraph shall be applied separately with respect to steel industry fuel and other refined coal, and

“(II) in applying this paragraph to steel industry fuel, the modifications in clause (ii) shall apply.

“(ii) MODIFICATIONS.—

“(I) CREDIT AMOUNT.—Subparagraph (A) shall be applied by substituting ‘\$2 per barrel-of-oil equivalent’ for ‘\$4.375 per ton’.

“(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the later of the date such facility was originally placed in service, the date the modifications described in clause (iii) were placed in service, or October 1, 2008, and ending on the later of December 31, 2009, or the date which is 1 year after the date such facility or the modifications described in clause (iii) were placed in service.

“(III) NO PHASEOUT.—Subparagraph (B) shall not apply.

“(iii) MODIFICATIONS.—The modifications described in this clause are modifications to an existing facility which allow such facility to produce steel industry fuel.

“(iv) BARREL-OF-OIL EQUIVALENT.—For purposes of this subparagraph, a barrel-of-oil equivalent is the amount of steel industry fuel that has a Btu content of 5,800,000 Btus.”

(2) INFLATION ADJUSTMENT.—Paragraph (2) of section 45(b) of such Code is amended by inserting “the \$3 amount in subsection (e)(8)(D)(ii)(I),” after “subsection (e)(8)(A),”

(c) TERMINATION.—Paragraph (8) of section 45(d) of the Internal Revenue Code of 1986 (relating to refined coal production facility), as amended by this Act, is amended to read as follows:

“(8) REFINED COAL PRODUCTION FACILITY.—In the case of a facility that produces refined coal, the term ‘refined coal production facility’ means—

“(A) with respect to a facility producing steel industry fuel, any facility (or any modification to a facility) which is placed in service before January 1, 2010, and

“(B) with respect to any other facility producing refined coal, any facility placed in service after the date of the enactment of the American Jobs Creation Act of 2004 and before January 1, 2010.”.

(d) **COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**—

(1) **IN GENERAL.**—Subparagraph (B) of section 45(e)(9) of the Internal Revenue Code of 1986 is amended—

26 USC 45.

(A) by striking “The term” and inserting the following:

“(i) **IN GENERAL.**—The term”, and

(B) by adding at the end the following new clause:

“(ii) **EXCEPTION FOR STEEL INDUSTRY COAL.**—In the case of a facility producing steel industry fuel, clause (i) shall not apply to so much of the refined coal produced at such facility as is steel industry fuel.”.

(2) **NO DOUBLE BENEFIT.**—Section 45K(g)(2) of such Code is amended by adding at the end the following new subparagraph:

“(E) **COORDINATION WITH SECTION 45.**—No credit shall be allowed with respect to any qualified fuel which is steel industry fuel (as defined in section 45(c)(7)) if a credit is allowed to the taxpayer for such fuel under section 45.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel produced and sold after September 30, 2008.

26 USC 45 note.

SEC. 109. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) **EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.**—

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

(2) **QUALIFIED ELECTRIC UTILITY.**—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

“(6) **QUALIFIED ELECTRIC UTILITY.**—For purposes of this subsection, the term ‘qualified electric utility’ means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

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

“(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).”.

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

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

“(C) **EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.**—The term ‘exempt utility property’ shall

not include any property which is located outside the United States.”.

26 USC 451 note.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

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

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

Subtitle B—Carbon Mitigation and Coal Provisions

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

26 USC 48A.

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

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

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

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

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

Certification.

“(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

“(i) \$800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

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

“(iii) \$1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).”.

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

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

“(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

“(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.”.

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

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking “and” at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting “; and”, and by adding at the end the following new subparagraph: 26 USC 48A.

“(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project’s total carbon dioxide emissions.”.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking “and” at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.”.

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

“(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).”.

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

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

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

“(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and”.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking “INTEGRATED GASIFICATION COMBINED CYCLE” in the heading and inserting “CERTAIN”.

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

“(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to

26 USC 48A note.

credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

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

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

26 USC 48B.

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

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

“(A) \$350,000,000, plus

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

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

“(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).”.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

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

“(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

“(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).”.

(e) ELIGIBLE PROJECTS INCLUDE TRANSPORTATION GRADE LIQUID FUELS.—Section 48B(c)(7) (defining eligible entity) is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) transportation grade liquid fuels.”.

26 USC 48B note.

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

SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX; FUNDING OF BLACK LUNG DISABILITY TRUST FUND.

(a) EXTENSION OF TEMPORARY INCREASE.—Paragraph (2) of section 4121(e) is amended—

(1) by striking “January 1, 2014” in subparagraph (A) and inserting “December 31, 2018”, and

(2) by striking “January 1 after 1981” in subparagraph (B) and inserting “December 31 after 2007”.

(b) RESTRUCTURING OF TRUST FUND DEBT.—

26 USC 9501
note.

(1) DEFINITIONS.—For purposes of this subsection—

(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—The term “market value of the outstanding repayable advances, plus accrued interest” means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest payments are made on September 30 of the applicable fiscal year.

(B) REFINANCING DATE.—The term “refinancing date” means the date occurring 2 days after the enactment of this Act.

(C) REPAYABLE ADVANCE.—The term “repayable advance” means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

(D) TREASURY RATE.—The term “Treasury rate” means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) TREASURY 1-YEAR RATE.—The term “Treasury 1-year rate” means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and

conditions, including maturity, as the Secretary of the Treasury shall prescribe.

(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

(C) AUTHORITY TO ISSUE OBLIGATIONS.—The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

(3) ONE-TIME APPROPRIATION.—There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

(A) the market value of the outstanding repayable advances, plus accrued interest; and

(B) the proceeds from the obligations issued by the Trust Fund to the Secretary of the Treasury under paragraph (2)(A)(i).

(4) PREPAYMENT OF TRUST FUND OBLIGATIONS.—The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.

26 USC 4121
note.

SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

Deadlines.

Deadline.

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

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

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

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

Deadlines.

Deadline.

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act, then the Secretary shall pay to such exporter an amount equal to \$0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term “settlement with the Federal Government” shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

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

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

(1) COAL PRODUCER.—The term “coal producer” means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term “exporter” means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper’s export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term “a party related to such coal producer” means a person who—

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

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

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

(4) SECRETARY.—The term “Secretary” means the Secretary of Treasury or the Secretary’s designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the

requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) **INTEREST.**—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) **DENIAL OF DOUBLE BENEFIT.**—The payment under subsection (a) with respect to any coal shall not exceed—

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

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

(h) **APPLICATION OF SECTION.**—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) **STANDING NOT CONFERRED.**—

(1) **EXPORTERS.**—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

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

SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

“SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

“(a) **GENERAL RULE.**—For purposes of section 38, the carbon dioxide sequestration credit for any taxable year is an amount equal to the sum of—

“(1) \$20 per metric ton of qualified carbon dioxide which is—

“(A) captured by the taxpayer at a qualified facility, and

“(B) disposed of by the taxpayer in secure geological storage, and

“(2) \$10 per metric ton of qualified carbon dioxide which is—

“(A) captured by the taxpayer at a qualified facility, and

“(B) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

“(b) **QUALIFIED CARBON DIOXIDE.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘qualified carbon dioxide’ means carbon dioxide captured from an industrial source which—

Definition.

“(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and

“(B) is measured at the source of capture and verified at the point of disposal or injection.

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

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

“(1) which is owned by the taxpayer,

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

“(3) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year.

“(d) SPECIAL RULES AND OTHER DEFINITIONS.—For purposes of this section—

“(1) ONLY CARBON DIOXIDE CAPTURED AND DISPOSED OF OR USED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—The credit under this section shall apply only with respect to qualified carbon dioxide the capture and disposal or use of which is within—

“(A) the United States (within the meaning of section 638(1)), or

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

Regulations.

“(2) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seams under such conditions as the Secretary may determine under such regulations.

“(3) TERTIARY INJECTANT.—The term ‘tertiary injectant’ has the same meaning as when used within section 193(b)(1).

“(4) QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.—The term ‘qualified enhanced oil or natural gas recovery project’ has the meaning given the term ‘qualified enhanced oil recovery project’ by section 43(c)(2), by substituting ‘crude oil or natural gas’ for ‘crude oil’ in subparagraph (A)(i) thereof.

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

Regulations.

“(6) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon dioxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

“(7) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, there shall be substituted for each dollar amount contained in subsection

(a) an amount equal to the product of—

“(A) such dollar amount, multiplied by

“(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting ‘2008’ for ‘1990’.

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

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus”, and by adding at the end of following new paragraph:

26 USC 38.

“(34) the carbon dioxide sequestration credit determined under section 45Q(a).”.

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

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

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

26 USC 38 note.

SEC. 116. CERTAIN INCOME AND GAINS RELATING TO INDUSTRIAL SOURCE CARBON DIOXIDE TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1) (defining qualifying income) is amended by inserting “or industrial source carbon dioxide” after “timber”.

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

26 USC 7704 note.

SEC. 117. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

Contracts.

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

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,500,000 for the period of fiscal years 2009 and 2010.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

SEC. 201. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

26 USC 168.

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

“(3) **CELLULOSIC BIOFUEL.**—The term ‘cellulosic biofuel’ means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.”.

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

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

(2) by striking “CELLULOSIC BIOMASS ETHANOL” in the heading of such subsection and inserting “CELLULOSIC BIOFUEL”, and

(3) by striking “CELLULOSIC BIOMASS ETHANOL” in the heading of paragraph (2) thereof and inserting “CELLULOSIC BIOFUEL”.

Applicability.
26 USC 168 note.

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

SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

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

(b) **INCREASE IN RATE OF CREDIT.**—

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

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

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

(3) **CONFORMING AMENDMENTS.**—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

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

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

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

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

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

(1) by striking “diesel fuel” and inserting “liquid fuel”,

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

and

(3) by inserting “, or other equivalent standard approved by the Secretary” after “D396”.

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

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

26 USC 40A.

Definition.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking “(as defined in section 45K(c)(3))”.

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Subsection (f) of section 40A (relating to renewable diesel) is amended by adding at the end the following new paragraph:

“(4) CERTAIN AVIATION FUEL.—

“(A) IN GENERAL.—Except as provided in the last 3 sentences of paragraph (3), the term ‘renewable diesel’ shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.

“(B) APPLICATION OF MIXTURE CREDITS.—In the case of fuel which is treated as renewable diesel solely by reason of subparagraph (A), subsection (b)(1) and section 6426(c) shall be applied with respect to such fuel by treating kerosene as though it were diesel fuel.”

(f) MODIFICATION RELATING TO DEFINITION OF AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (relating to agri-biodiesel) is amended by striking “and mustard seeds” and inserting “mustard seeds, and camelina”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

Applicability.
26 USC 40A note.

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

SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:

“(7) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term ‘United States’ includes any possession of the United States.”.

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

“(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States.

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

(c) EXCISE TAX CREDIT.—

26 USC 6426.

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

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

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

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

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

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

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

Applicability.
26 USC 40 note.

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

SEC. 204. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL CREDIT.

(a) EXTENSION.—

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

(2) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) (relating to alternative fuel mixture credit) is amended by striking “September 30, 2009” and inserting “December 31, 2009”.

(3) PAYMENTS.—Subparagraph (C) of section 6427(e)(5) (relating to termination) is amended by striking “September 30, 2009” and inserting “December 31, 2009”.

(b) MODIFICATIONS.—

(1) ALTERNATIVE FUEL TO INCLUDE COMPRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph (2) of section 6426(d) (relating to alternative fuel credit) is amended by striking “and” at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

“(F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and”.

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

(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN FUELS.—

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

“(4) CARBON CAPTURE REQUIREMENT.—

“(A) IN GENERAL.—The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility’s total carbon dioxide emissions.

Certification.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

“(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and

“(ii) 75 percent in the case of fuel produced after December 30, 2009.”.

(2) CONFORMING AMENDMENT.—Subparagraph (E) of section 6426(d)(2) is amended by inserting “which meets the requirements of paragraph (4) and which is” after “any liquid fuel”.

26 USC 6426.

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

26 USC 6426 note.

SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

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

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

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

“(A) \$2,500, plus

“(B) \$417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours.

“(b) LIMITATIONS.—

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

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

“(B) \$10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,

“(C) \$12,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight

rating of more than 14,000 pounds but not more than 26,000 pounds, and

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

“(2) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—

“(A) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

“(B) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2008, is at least 250,000.

“(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

“(i) 50 percent for the first 2 calendar quarters of the phaseout period,

“(ii) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

“(iii) 0 percent for each calendar quarter thereafter.

“(D) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

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

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

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

“(3) which, in the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

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

“(B) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

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

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

“(6) which is made by a manufacturer.

“(d) APPLICATION WITH OTHER CREDITS.—

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

“(2) PERSONAL CREDIT.—

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

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

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

“(2) OTHER TERMS.—The terms ‘passenger automobile’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

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

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

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

“(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

“(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a)

with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

Regulations.

“(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

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

“(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

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

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

“(f) REGULATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

“(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

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

26 USC 30B.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

“(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (d) thereof) shall not be taken into account under this section.”

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting “plus”, and by adding at the end the following new paragraph:

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

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 106, is amended by striking “and 25D” and inserting “25D, and 30D”.

(B) Section 25(e)(1)(C)(ii) is amended by inserting “30D,” after “25D.”

(C) Section 25B(g)(2), as amended by section 106, is amended by striking “and 25D” and inserting “, 25D, and 30D”.

(D) Section 26(a)(1), as amended by section 106, is amended by striking “and 25D” and inserting “25D, and 30D”.

(E) Section 1400C(d)(2) is amended by striking “and 25D” and inserting “25D, and 30D”. 26 USC 1400C.

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

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

(3) Section 6501(m) is amended by inserting “30D(e)(9),” after “30C(e)(5).”

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

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

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

Applicability.
26 USC 24 note.

(f) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

26 USC 24 note.

SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

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

“(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

“(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

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

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

Applicability.
26 USC 4053
note.

SEC. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) INCLUSION OF ELECTRICITY AS A CLEAN-BURNING FUEL.—Section 30C(c)(2) is amended by adding at the end the following new subparagraph:

“(C) Electricity.”

Applicability.
26 USC 30C note.

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

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.

26 USC 7704.

(a) **IN GENERAL.**—Subparagraph (E) of section 7704(d)(1), as amended by this Act, is amended by striking “or industrial source carbon dioxide” and inserting “, industrial source carbon dioxide, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)” after “timber”.

26 USC 7704
note.

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

SEC. 209. EXTENSION AND MODIFICATION OF ELECTION TO EXPENSE CERTAIN REFINERIES.

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

(1) by striking “January 1, 2012” in subparagraph (B) and inserting “January 1, 2014”, and

(2) by striking “January 1, 2008” each place it appears in subparagraph (F) and inserting “January 1, 2010”.

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

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

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

Applicability.
26 USC 179C
note.

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

SEC. 210. EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

Subparagraph (H) of section 613A(c)(6) (relating to oil and gas produced from marginal properties) is amended by striking “for any taxable year” and all that follows and inserting “for any taxable year—

“(i) beginning after December 31, 1997, and before January 1, 2008, or

“(ii) beginning after December 31, 2008, and before January 1, 2010.”.

SEC. 211. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

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

“(D) Any qualified bicycle commuting reimbursement.”.

(b) **LIMITATION ON EXCLUSION.**—Paragraph (2) of section 132(f) is amended by striking “and” at the end of subparagraph (A),

by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.”.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) is amended by adding at the end the following: 26 USC 132.

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

“(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term ‘qualified bicycle commuting reimbursement’ means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee’s residence and place of employment.

“(ii) APPLICABLE ANNUAL LIMITATION.—The term ‘applicable annual limitation’ means, with respect to any employee for any calendar year, the product of \$20 multiplied by the number of qualified bicycle commuting months during such year.

“(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term ‘qualified bicycle commuting month’ means, with respect to any employee, any month during which such employee—

“(I) regularly uses the bicycle for a substantial portion of the travel between the employee’s residence and place of employment, and

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

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting “(other than a qualified bicycle commuting reimbursement)” after “qualified transportation fringe”.

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

Applicability.
26 USC 132 note.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 107, is amended by adding at the end the following new section:

“SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

“(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term ‘qualified energy conservation bond’ means any bond issued as part of an issue if—

“(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

“(2) the bond is issued by a State or local government, and

“(3) the issuer designates such bond for purposes of this section.

“(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

“(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

“(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of \$800,000,000.

“(e) ALLOCATIONS.—

“(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

“(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

“(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State’s allocation which bears the same ratio to the State’s allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

“(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

“(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term ‘large local government’ means any municipality or county if such municipality or county has a population of 100,000 or more.

“(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

“(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified conservation purpose’ means any of the following:

“(A) Capital expenditures incurred for purposes of—

“(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

“(ii) implementing green community programs,

“(iii) rural development involving the production of electricity from renewable energy resources, or

“(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

“(B) Expenditures with respect to research facilities, and research grants, to support research in—

“(i) development of cellulosic ethanol or other non-fossil fuels,

“(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

“(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

“(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

“(v) technologies to reduce energy use in buildings.

“(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

“(D) Demonstration projects designed to promote the commercialization of—

“(i) green building technology,

“(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

“(iii) advanced battery manufacturing technologies,

“(iv) technologies to reduce peak use of electricity, or

“(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

“(E) Public education campaigns to promote energy efficiency.

“(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term ‘qualified conservation purposes’ shall not include any expenditure which is not a capital expenditure.

“(g) POPULATION.—

“(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

“(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

“(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

“(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

“(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended to read as follows:

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

“(A) a qualified forestry conservation bond,

“(B) a new clean renewable energy bond, or

“(C) a qualified energy conservation bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).”.

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, is amended to read as follows:

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

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

“(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

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

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 54D. Qualified energy conservation bonds.”.

Applicability.
26 USC 54A note.

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

SEC. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking “placed in service after December 31, 2007” and inserting “placed in service—

“(1) after December 31, 2007, and before January 1, 2009, or

“(2) after December 31, 2009.”.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking “and” at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.”.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

“(6) BIOMASS FUEL.—The term ‘biomass fuel’ means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.”.

(c) MODIFICATION OF WATER HEATER REQUIREMENTS.—Section 25C(d)(3)(E) is amended by inserting “or a thermal efficiency of at least 90 percent” after “0.80”.

(d) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) **IN GENERAL.**—Paragraph (3) of section 25C(d), as amended by subsections (b) and (c), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) **CONFORMING AMENDMENT.**—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

“(C) **REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.**—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

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

“(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.”

Public information.

(e) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

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

26 USC 25C.

(2) **BUILDING ENVELOPE COMPONENT.**—Subparagraph (D) of section 25C(c)(2) is amended—

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

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

(f) EFFECTIVE DATES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2008.

Applicability.
26 USC 25C note.

(2) **MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.**—The amendments made by subsection (e) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

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

“(b) **APPLICABLE AMOUNT.**—For purposes of subsection (a)—
“(1) **DISHWASHERS.**—The applicable amount is—

“(A) \$45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no

more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

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

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

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

“(B) \$125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

“(C) \$150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

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

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

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

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

“(C) \$100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

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

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection

(c) of section 45M is amended—

(A) by striking paragraph (2),

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

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

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

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking “3-calendar year” and inserting “2-calendar year”.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M is amended to read as follows:

26 USC 45M.

“(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

- “(1) dishwashers described in subsection (b)(1),
- “(2) clothes washers described in subsection (b)(2), and
- “(3) refrigerators described in subsection (b)(3).”.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

“(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.”.

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

“(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).”.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

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

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

- “(A) any dishwasher described in subsection (b)(1),
- “(B) any clothes washer described in subsection (b)(2),

and

- “(C) any refrigerator described in subsection (b)(3).”.

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting “commercial” before “residential” the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

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

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

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

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

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

“(10) WATER CONSUMPTION FACTOR.—The term ‘water consumption factor’ means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.”.

Applicability.
26 USC 45M
note.

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

SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

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

“(iii) any qualified smart electric meter, and

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

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

“(18) QUALIFIED SMART ELECTRIC METERS.—

“(A) IN GENERAL.—The term ‘qualified smart electric meter’ means any smart electric meter which—

“(i) is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

“(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

“(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term ‘smart electric meter’ means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

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

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

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

“(iv) provides net metering.

“(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

“(A) IN GENERAL.—The term ‘qualified smart electric grid system’ means any smart grid property which—

“(i) is used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

“(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

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

“(i) sensing, collecting, and monitoring data of or from all portions of a utility’s electric distribution grid,

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

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

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking “or” at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

26 USC 168.

“(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or”

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

Applicability.
26 USC 168 note.

SEC. 307. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking “September 30, 2009” and inserting “September 30, 2012”.

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

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking “issuance,” and inserting “issuance of the last issue with respect to such project.”

26 USC 142 note.

SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.

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

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

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

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

“(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

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

“(i) to which this section applies,

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

“(iii) the original use of which commences with the taxpayer after August 31, 2008, and

Effective date.

- Effective dates. “(iv) which is—
“(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or
- Effective date. “(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008.
- “(B) EXCEPTIONS.—
“(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (k).—The term ‘qualified reuse and recycling property’ shall not include any property to which section 168(k) applies.
“(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified reuse and recycling property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).
“(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.
- Effective date. “(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—
In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.
- “(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.
- “(3) DEFINITIONS.—For purposes of this subsection—
“(A) REUSE AND RECYCLING PROPERTY.—
“(i) IN GENERAL.—The term ‘reuse and recycling property’ means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.
“(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.
“(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—
“(i) IN GENERAL.—The term ‘qualified reuse and recyclable materials’ means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.
“(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term ‘electronic scrap’ means—

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

“(II) any central processing unit.

“(C) RECYCLING OR RECYCLE.—The term ‘recycling’ or ‘recycle’ means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after August 31, 2008.

Applicability.
26 USC 168 note.

TITLE IV—REVENUE PROVISIONS

SEC. 401. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

26 USC 199.

“(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

“(A) IN GENERAL.—If a taxpayer has oil related qualified production activities income for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under subsection (a) shall be reduced by 3 percent of the least of—

“(i) the oil related qualified production activities income of the taxpayer for the taxable year,

“(ii) the qualified production activities income of the taxpayer for the taxable year, or

“(iii) taxable income (determined without regard to this section).

“(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this paragraph, the term ‘oil related qualified production activities income’ means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.

“(C) PRIMARY PRODUCT.—For purposes of this paragraph, the term ‘primary product’ has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.”

(b) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking “subsection (a)(1)(B)” and inserting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

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

Applicability.
26 USC 199 note.

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.

26 USC 907.

(a) **IN GENERAL.**—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

“(a) **REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.**—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

“(1) the amount of the combined foreign oil and gas income for the taxable year,

“(2) multiplied by—

“(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

“(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer’s entire taxable income.

“(b) **COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.**—For purposes of this section—

“(1) **COMBINED FOREIGN OIL AND GAS INCOME.**—The term ‘combined foreign oil and gas income’ means, with respect to any taxable year, the sum of—

“(A) foreign oil and gas extraction income, and

“(B) foreign oil related income.

“(2) **FOREIGN OIL AND GAS TAXES.**—The term ‘foreign oil and gas taxes’ means, with respect to any taxable year, the sum of—

“(A) oil and gas extraction taxes, and

“(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.”.

(b) **RECAPTURE OF FOREIGN OIL AND GAS LOSSES.**—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

“(4) **RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.**—

“(A) **IN GENERAL.**—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

“(i) first by the amount determined under subparagraph (B), and

“(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

“(B) REDUCTION FOR PRE-2009 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

“(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

“(ii) the excess of—

Effective dates.

“(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2009, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Improvement and Extension Act of 2008) for preceding taxable years beginning after December 31, 1982.

“(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

“(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

“(ii) the excess of—

Effective dates.

“(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

“(D) FOREIGN OIL AND GAS LOSS DEFINED.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘foreign oil and gas loss’ means the amount by which—

“(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

“(II) the sum of the deductions properly apportioned or allocated thereto.

“(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

“(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

“(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

“(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

Effective date.

“(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Improvement and Extension Act of 2008.”

26 USC 907.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking “oil and gas extraction taxes” each place it appears and inserting “foreign oil and gas taxes”, and

(2) by adding at the end the following new paragraph:

“(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

“(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

“(i) by substituting ‘oil and gas extraction taxes’ for ‘foreign oil and gas taxes’ each place it appears in paragraphs (1), (2), and (3), and

“(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting ‘foreign oil and gas extraction income’ for ‘foreign oil and gas income’ in subsection (a).

Effective date.

“(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Energy Improvement and Extension Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.”

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking “oil and gas extraction taxes” and inserting “foreign oil and gas taxes”.

26 USC 907 note.

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

SEC. 403. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 is amended by adding at the end the following new subsection:

“(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS, ETC.—

“(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

“(2) ADDITIONAL INFORMATION REQUIRED.—

“(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer’s adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

“(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The customer’s adjusted basis shall be determined—

“(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

“(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker’s default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

“(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer’s adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

“(3) COVERED SECURITY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘covered security’ means any specified security acquired on or after the applicable date if such security—

“(i) was acquired through a transaction in the account in which such security is held, or

“(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

“(B) SPECIFIED SECURITY.—The term ‘specified security’ means—

“(i) any share of stock in a corporation,

“(ii) any note, bond, debenture, or other evidence of indebtedness,

“(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

“(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

“(C) APPLICABLE DATE.—The term ‘applicable date’ means—

“(i) January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

“(ii) January 1, 2012, in the case of any stock for which an average basis method is permissible under section 1012, and

“(iii) January 1, 2013, or such later date determined by the Secretary in the case of any other specified security.

“(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

“(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.”

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection: “(h) APPLICATION TO OPTIONS ON SECURITIES.—

“(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

“(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

“(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2013.

“(4) DEFINITIONS.—For purposes of this subsection, the terms ‘covered security’ and ‘specified security’ shall have the meanings given such terms in subsection (g)(3).”

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking “January 31” and inserting “February 15”.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking “at such time and”, and

(ii) by inserting after “other item.” the following new sentence: “The written statement required under the preceding sentence shall be furnished on or before

Deadline.

February 15 of the year following the calendar year in which the payment was made.”.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: “In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.”.

26 USC 6045.

Deadline.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 is amended—

(1) by striking “The basis of property” and inserting the following:

“(a) IN GENERAL.—The basis of property”,

(2) by striking “The cost of real property” and inserting the following:

“(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property”, and

(3) by adding at the end the following new subsections:

“(c) DETERMINATIONS BY ACCOUNT.—

“(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

“(2) APPLICATION TO CERTAIN FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any stock for which an average basis method is permissible under section 1012 which is acquired before January 1, 2012, shall be treated as a separate account from any such stock acquired on or after such date.

“(B) ELECTION FUND FOR TREATMENT AS SINGLE ACCOUNT.—If a fund described in subparagraph (A) elects to have this subparagraph apply with respect to one or more of its stockholders—

“(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

“(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding such stock as a nominee.

“(3) DEFINITIONS.—For purposes of this section, the terms ‘specified security’ and ‘applicable date’ shall have the meaning given such terms in section 6045(g).

“(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

“(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan

shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

“(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

Applicability.

“(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

“(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘dividend reinvestment plan’ means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

“(B) INITIAL STOCK ACQUISITION TREATED AS ACQUIRED IN CONNECTION WITH PLAN.—Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.”.

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.

“(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

“(b) APPLICABLE PERSON.—For purposes of subsection (a), the term ‘applicable person’ means—

“(1) any broker (as defined in section 6045(c)(1)), and

“(2) any other person as provided by the Secretary in regulations.

“(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.”.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating subparagraphs (I) through (DD) as subparagraphs (J) through (EE), respectively, and by inserting after subparagraph (H) the following new subparagraph:

Ante, p. 2911.

“(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended

by inserting after the item relating to section 6045 the following new item:

“Sec. 6045A. Information required in connection with transfers of covered securities to brokers.”.

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.

“(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

“(1) a description of any organizational action which affects the basis of such specified security of such issuer,

“(2) the quantitative effect on the basis of such specified security resulting from such action, and

“(3) such other information as the Secretary may prescribe.

“(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

“(1) 45 days after the date of the action described in subsection (a), or

“(2) January 15 of the year following the calendar year during which such action occurred.

“(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

“(1) the name, address, and phone number of the information contact of the person required to make such return,

“(2) the information required to be shown on such return with respect to such security, and

“(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

“(d) SPECIFIED SECURITY.—For purposes of this section, the term ‘specified security’ has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

“(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

“(1) the name, address, phone number, and email address of the information contact of such person, and

“(2) the information described in paragraphs (1), (2), and (3) of subsection (a).”.

Regulations.

Deadline.

(2) ASSESSABLE PENALTIES.—

26 USC 6724.

(A) Subparagraph (B) of section 6724(d)(1), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xxiii), respectively, and by inserting after clause (iii) the following new clause:

“(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),”.

(B) Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008 and by subsection (c)(2), is amended by redesignating subparagraphs (J) through (EE) as subparagraphs (K) through (FF), respectively, and by inserting after subparagraph (I) the following new subparagraph:

“(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securities.”.

26 USC 1012
note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2011.

Applicability.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

SEC. 404. 0.2 PERCENT FUTA SURTAX.

26 USC 3301.

(a) IN GENERAL.—Section 3301 (relating to rate of tax) is amended—

(1) by striking “through 2008” in paragraph (1) and inserting “through 2009”, and

(2) by striking “calendar year 2009” in paragraph (2) and inserting “calendar year 2010”.

26 USC 3301
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2008.

SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) INCREASE IN RATE.—

(1) IN GENERAL.—Section 4611(c)(2)(B) (relating to rates) is amended by striking “is 5 cents a barrel.” and inserting “is—

“(i) in the case of crude oil received or petroleum products entered before January 1, 2017, 8 cents a barrel, and

“(ii) in the case of crude oil received or petroleum products entered after December 31, 2016, 9 cents a barrel.”.

26 USC 4611
note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

(b) EXTENSION.—

(1) IN GENERAL.—Section 4611(f) (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (2) and (3) and inserting the following new paragraph: 26 USC 4611.

“(2) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2017.”.

(2) CONFORMING AMENDMENT.—Section 4611(f)(1) is amended by striking “paragraphs (2) and (3)” and inserting “paragraph (2)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 4611 note.

DIVISION C—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF

Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Tax Extenders and Alternative Minimum Tax Relief Act of 2008”. 26 USC 1 note.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of 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 personal 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.

Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.

Sec. 204. Additional standard deduction for real property taxes for nonitemizers.

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.