

110TH CONGRESS
2D SESSION

H. R. 6899

To advance the national security interests of the United States by reducing its dependency on oil through renewable and clean, alternative fuel technologies while building a bridge to the future through expanded access to Federal oil and natural gas resources, revising the relationship between the oil and gas industry and the consumers who own those resources and deserve a fair return from the development of publicly owned oil and gas, ending tax subsidies for large oil and gas companies, and facilitating energy efficiencies in the building, housing, and transportation sectors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2008

Mr. RAHALL (for himself, Mr. GENE GREEN of Texas, Mr. GEORGE MILLER of California, and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Oversight and Government Reform, the Judiciary, Financial Services, Transportation and Infrastructure, the Budget, Rules, Science and Technology, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To advance the national security interests of the United States by reducing its dependency on oil through renewable and clean, alternative fuel technologies while building a bridge to the future through expanded access to Federal oil and natural gas resources, revising the relationship between the oil and gas industry and the consumers who own those resources and deserve a fair re-

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1 **TITLE I—FEDERAL OIL AND GAS**
2 **LEASING**
3 **Subtitle A—Outer Continental**
4 **Shelf Oil and Gas Leasing**

5 **SEC. 101. PROHIBITION ON LEASING.**

6 (a) PROHIBITION.—The Outer Continental Shelf
7 Lands Act (43 U.S.C. 1331 et seq.) notwithstanding, the
8 Secretary shall not take nor authorize any action related
9 to oil and gas preleasing or leasing of any area of the
10 Outer Continental Shelf that was not available for oil and
11 gas leasing as of July 1, 2008, unless that action is ex-
12 pressly authorized by this subtitle or a statute enacted by
13 Congress after the date of enactment of this Act.

14 (b) TREATMENT OF AREAS IN GULF OF MEXICO.—
15 For purposes of this subtitle, such action with respect to
16 an area referred to in section 104(a) of the Gulf of Mexico
17 Energy Security Act of 2006 (title I of division C of Public
18 Law 109–432; 42 U.S.C. 1331 note) taken or authorized
19 after the period referred to in that section shall be treated
20 as authorized by this subtitle, and such leasing of such
21 area shall be treated as authorized under section 102(a).

22 **SEC. 102. OPENING OF CERTAIN AREAS TO OIL AND GAS**
23 **LEASING.**

24 (a) LEASING AUTHORIZED.—The Secretary may
25 offer for oil and gas leasing, preleasing, or other related

1 activities, in accordance with this section and the Outer
2 Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and
3 subject to subsection (b) of this section, section 103 of
4 this Act, and section 307 of the Coastal Zone Management
5 Act of 1972 (16 U.S.C. 1456), any area—

6 (1) that is in any Outer Continental Shelf Plan-
7 ning Area in the Atlantic Ocean or Pacific Ocean
8 that is located farther than 50 miles from the coast-
9 line; and

10 (2) that was not otherwise available for oil and
11 gas leasing, preleasing, and other related activities
12 as of July 1, 2008.

13 (b) INCLUSION IN LEASING PROGRAM REQUIRED.—
14 An area may be offered for lease under this section only
15 if it has been included in an Outer Continental Shelf leas-
16 ing program approved by the Secretary in accordance with
17 section 18 of the Outer Continental Shelf Lands Act (43
18 U.S.C. 1344).

19 (c) REQUIREMENT TO CONDUCT LEASE SALES.—As
20 soon as practicable, consistent with subsection (b) and sec-
21 tion 103(a), but not later than 3 years after the date of
22 enactment of this Act, and as appropriate thereafter, the
23 Secretary shall conduct oil and gas lease sales under the
24 Outer Continental Shelf lands Act (43 U.S.C. 1331 et

1 seq.) for areas that are made available for leasing by this
2 section.

3 **SEC. 103. COASTAL STATE ROLES AND RESPONSIBILITIES.**

4 (a) STATE APPROVAL OF CERTAIN LEASING RE-
5 QUIRED.—The Secretary may not conduct any oil and gas
6 leasing or preleasing activity in any area made available
7 for oil and gas leasing by section 102(a) that is located
8 within 100 miles from the coastline and within the sea-
9 ward lateral boundaries of an adjacent State, unless the
10 adjacent State has enacted a law approving of the issuance
11 of such leasing by the Secretary.

12 (b) CONSULTATION WITH ADJACENT AND NEIGH-
13 BORING STATES.—

14 (1) IN GENERAL.—In addition to the consulta-
15 tion provided for under section 19 of the Outer Con-
16 tinental Shelf Lands Act (43 U.S.C. 1345), the Gov-
17 ernor of a State that has a coastline within 100
18 miles of an area of the Outer Continental Shelf
19 being considered for oil and gas leasing and made
20 available for such leasing by section 102(a) may sub-
21 mit recommendations to the Secretary with respect
22 to—

23 (A) the size, timing, or location of a pro-
24 posed lease sale; or

1 (B) a proposed development and produc-
2 tion plan.

3 (2) REQUIREMENTS.—Subsections (b), (c), and
4 (d) of section 19 of the Outer Continental Shelf
5 Lands Act (43 U.S.C. 1345) shall apply to the rec-
6 ommendations provided for in paragraph (1).

7 **SEC. 104. PROTECTION OF THE ENVIRONMENT AND CON-**
8 **SERVATION OF THE NATURAL RESOURCES**
9 **OF THE OUTER CONTINENTAL SHELF.**

10 The Secretary—

11 (1) shall ensure that any activity under this
12 subtitle is carried out in a manner that provides for
13 the protection of the coastal environment, marine
14 environment, and human environment of State
15 coastal zones and the Outer Continental Shelf; and

16 (2) shall review all Federal regulations that are
17 otherwise applicable to activities authorized by this
18 subtitle to ensure environmentally sound oil and gas
19 operations on the Outer Continental Shelf.

20 **SEC. 105. LIMITATIONS.**

21 (a) COMPLIANCE WITH MEMORANDUM.—Any oil and
22 gas leasing of areas of the Outer Continental Shelf shall
23 be conducted in accordance with the document entitled
24 “Memorandum of Agreement between the Department of
25 Defense and the Department of the Interior on Mutual

1 Concerns On The Outer Continental Shelf” and dated
2 July 2, 1983, and such revisions thereto as may be agreed
3 to by the Secretary of Defense and the Secretary of the
4 Interior; except that no such revisions may be made prior
5 to January 21, 2009.

6 (b) NATIONAL SECURITY.—Notwithstanding sub-
7 section (a), the United States reserves the right to des-
8 ignate by and through the Secretary of Defense, with the
9 approval of the President, national defense areas on the
10 Outer Continental Shelf pursuant to section 12(d) of the
11 Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

12 **SEC. 106. PROHIBITION ON LEASING IN CERTAIN FEDERAL**
13 **PROTECTED AREAS.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of this or any other Federal law, no lease or other
16 authorization may be issued by the Federal Government
17 that authorizes exploration, development, or production of
18 oil or natural gas in—

19 (1) any marine national monument or national
20 marine sanctuary; or

21 (2) the fishing grounds known as Georges Bank
22 in the waters of the United States, which is one of
23 the largest and historically important fishing
24 grounds of the United States.

1 (b) IDENTIFICATION OF COORDINATES OF GEORGES
2 BANK.—The Secretary of Commerce, after publication of
3 public notice and an opportunity for public comment, shall
4 identify the specific coordinates that delineate Georges
5 Bank in the waters of the United States for purposes of
6 subsection (a).

7 **SEC. 107. NO EFFECT ON APPLICABLE LAW.**

8 Except as otherwise specifically provided in this sub-
9 title, nothing in this subtitle waives or modifies any appli-
10 cable environmental or other law.

11 **SEC. 108. BUY AMERICAN REQUIREMENTS.**

12 (a) IN GENERAL.—It is the intent of Congress that
13 this Act, among other things, result in a healthy and grow-
14 ing American industrial, manufacturing, transportation,
15 and service sector employing the vast talents of America’s
16 workforce to assist in the development of energy from do-
17 mestic sources. Moreover, the Congress intends to monitor
18 the deployment of personnel and material onshore and off-
19 shore to encourage the development of American tech-
20 nology and manufacturing to enable United States work-
21 ers to benefit from this Act by good jobs and careers, as
22 well as the establishment of important industrial facilities
23 to support expanded access to American resources.

24 (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—
25 Section 30(a) of the Outer Continental Shelf Lands Act

1 (43 U.S.C. 1356(a)) is amended in the matter preceding
2 paragraph (1) by striking “regulations which” and insert-
3 ing “regulations that shall be supplemental and com-
4 plimentary with and under no circumstances a substi-
5 tution for the provisions of the Constitution and laws of
6 the United States extended to the subsoil and seabed of
7 the outer Continental Shelf pursuant to section 4 of this
8 Act, except insofar as such laws would otherwise apply to
9 individuals who have extraordinary ability in the sciences,
10 arts, education, or business, which has been demonstrated
11 by sustained national or international acclaim, and that”.

12 **SEC. 109. SMALL, WOMAN-OWNED, AND MINORITY-OWNED**
13 **BUSINESSES.**

14 Section 8 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1337) is amended by adding at the end the
16 following:

17 “(q) OPPORTUNITIES FOR LEASING.—The Secretary
18 shall establish goals to ensure equal opportunity to bid on
19 offshore leases for qualified small, women-owned, and mi-
20 nority-owned exploration and production companies and
21 may implement, where appropriate, outreach programs for
22 qualified historically underutilized exploration and produc-
23 tion companies to participate in the bidding process for
24 offshore leases.”.

1 **SEC. 110. DEFINITIONS.**

2 In this subtitle:

3 (1) **ADJACENT STATE.**—The term “adjacent
4 State” means, with respect to any program, plan,
5 lease sale, leased tract, or other activity, proposed,
6 conducted, or approved in accordance with the Outer
7 Continental Shelf Lands Act (43U.S.C. 1331 et
8 seq.), the State, the laws of which are declared pur-
9 suant to section 4(a)(2) of the Outer Continental
10 Shelf Lands Act (43 U.S.C.1333(a)(2)) to be the
11 law of the United States for the portion of the Outer
12 Continental Shelf on which the program, plan, lease
13 sale, leased tract, or activity is, or is proposed to be,
14 conducted.

15 (2) **COASTAL ENVIRONMENT.**—The term
16 “coastal environment” has the meaning given that
17 term in the Outer Continental Shelf Lands Act (43
18 U.S.C. 1331 et seq.).

19 (3) **COASTAL ZONE.**—The term “coastal zone”
20 has the meaning given that term in the Outer Conti-
21 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

22 (4) **COASTLINE.**—The term “coastline” has the
23 meaning given the term “coast line” under section
24 2 of the Submerged Lands Act (43 U.S.C. 1301).

25 (5) **HUMAN ENVIRONMENT.**—The term “human
26 environment” has the meaning given that term in

1 the Outer Continental Shelf Lands Act (43 U.S.C.
2 1331 et seq.).

3 (6) MARINE ENVIRONMENT.—The term “ma-
4 rine environment” has the meaning given that term
5 in the Outer Continental Shelf Lands Act (43
6 U.S.C. 1331 et seq.).

7 (7) OUTER CONTINENTAL SHELF.—The term
8 “Outer Continental Shelf” has the meaning given
9 the term “outer Continental Shelf” under section 2
10 of the Outer Continental Shelf Lands Act (43
11 U.S.C. 1331).

12 (8) SEAWARD LATERAL BOUNDARY.—The term
13 “seaward lateral boundary” means a boundary
14 drawn by the Minerals Management Service in the
15 Federal Register notice of January 3, 2006 (vol 71,
16 no. 1).

17 (9) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 **Subtitle B—Diligent Development** 20 **of Federal Oil and Gas Leases**

21 **SEC. 121. CLARIFICATION.**

22 The lands subject to each lease that authorizes the
23 exploration for or development or production of oil or nat-
24 ural gas that is issued under a provision of law described
25 in section 122 shall be diligently developed for such pro-

1 duction by the person holding the lease in order to ensure
2 timely production from the lease.

3 **SEC. 122. COVERED PROVISIONS.**

4 The provisions referred to in section 121 are the fol-
5 lowing:

6 (1) Section 17 of the Mineral Leasing Act (30
7 U.S.C. 226).

8 (2) Section 107 of the Naval Petroleum Re-
9 serves Production Act of 1976 (42 U.S.C. 6506a).

10 (3) The Outer Continental Shelf Lands Act (43
11 U.S.C. 1331 et seq.).

12 (4) The Mineral Leasing Act for Acquired
13 Lands (30 U.S.C. 351 et seq.).

14 **SEC. 123. REGULATIONS.**

15 The Secretary shall issue regulations within 180 days
16 after the date of enactment of this Act that establish what
17 constitutes diligently developing for purposes of this sub-
18 title.

19 **SEC. 124. RESOURCE ESTIMATES AND LEASING PROGRAM**
20 **MANAGEMENT INDICATORS.**

21 (a) IN GENERAL.—The Secretary of the Interior shall
22 annually collect and report to Congress—

23 (1) the number of leases and the number of
24 acres of land under Federal onshore oil and gas
25 lease, per State and per year the lease was issued—

1 (A) on which seismic exploration activity is
2 occurring or has occurred;

3 (B) on which permits to drill have been ap-
4 plied for, but not yet awarded;

5 (C) on which permits to drill have been ap-
6 proved, but no drilling has yet occurred;

7 (D) on which wells have been drilled but
8 no production has occurred; and

9 (E) on which production is occurring;

10 (2) resource estimates for and the number of
11 acres of Federal onshore and offshore lands, by
12 State or offshore planning area—

13 (A) under lease, per year the lease was
14 issued;

15 (B) under lease and not producing, per
16 year the lease was issued;

17 (C) under lease and drilled, but not pro-
18 ducing, per year the lease was issued;

19 (D) offered for lease in a lease sale con-
20 ducted during the previous year, but not leased;
21 and

22 (E) available for leasing but not under
23 lease or offered for leasing in the previous year;

1 (3) resource estimates for and the number of
2 acres of unleased Federal onshore and offshore land
3 available for oil and gas leasing;

4 (4) resource estimates for and the number of
5 acres of areas of the Outer Continental Shelf—

6 (A) included in proposed sale areas in the
7 most recent 5-year plan developed by the Sec-
8 retary pursuant to section 18 of the Outer Con-
9 tinental Shelf Lands Act (43 U.S.C. 1344); and

10 (B) available for oil and gas leasing but
11 not included in the 5-year plan;

12 (5) the number of leases and the number of
13 acres of Federal onshore land, per Bureau of Land
14 Management field office, offered in a lease sale con-
15 ducted during the previous year, including data on
16 the number of protests filed and how many lease
17 tracts were withdrawn as a result of such protests,
18 and how many leases were offered and issued with
19 stipulations as a result of those protests, including
20 the name of the entity or entities filing the protests;

21 (6) the number of applications for permits to
22 drill received, approved, pending, and denied, in the
23 previous year per Bureau of Land Management and
24 Minerals Management Service field office;

1 (7) the number of environmental inspections
 2 conducted per State and per Bureau of Land Man-
 3 agement and Minerals Management Service field of-
 4 fice in the previous year; and

5 (8) the number of full time staff equivalent
 6 (FTEs) devoted to permit processing and oversight
 7 per Bureau of Land Management and Minerals
 8 Management Service field office.

9 (b) COVERED PROVISIONS.—Subsection (a) shall
 10 apply with respect to leases and land eligible for leasing
 11 pursuant to—

12 (1) section 17 of the Mineral Leasing Act (30
 13 U.S.C. 226);

14 (2) the Mineral Leasing Act for Acquired
 15 Lands (30 U.S.C. 351 et seq.);

16 (3) section 107 of the Naval Petroleum Re-
 17 serves Production Act of 1976 (42 U.S.C. 6506a);
 18 or

19 (4) the Outer Continental Shelf Lands Act (43
 20 U.S.C. 1331 et seq.).

21 **Subtitle C—Royalties Under** 22 **Offshore Oil and Gas Leases**

23 **SEC. 131. SHORT TITLE.**

24 This subtitle may be cited as the “Royalty Relief for
 25 American Consumers Act of 2008”.

1 **SEC. 132. PRICE THRESHOLDS FOR ROYALTY SUSPENSION**
2 **PROVISIONS.**

3 The Secretary of the Interior shall agree to a request
4 by any lessee to amend any oil and gas lease issued for
5 any Gulf of Mexico tract during the period of January
6 1, 1998, through December 31, 1999, to incorporate price
7 thresholds applicable to royalty suspension provisions, that
8 are equal to or less than the price thresholds described
9 in clauses (v) through (vii) of section 8(a)(3)(C) of the
10 Outer Continental Shelf Lands Act (43 U.S.C.
11 1337(a)(3)(C)). Any amended lease shall impose the new
12 or revised price thresholds effective October 1, 2006. Ex-
13 isting lease provisions shall prevail through September 30,
14 2006.

15 **SEC. 133. CLARIFICATION OF AUTHORITY TO IMPOSE**
16 **PRICE THRESHOLDS FOR CERTAIN LEASE**
17 **SALES.**

18 Congress reaffirms the authority of the Secretary of
19 the Interior under section 8(a)(1)(H) of the Outer Conti-
20 nental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)) to
21 vary, based on the price of production from a lease, the
22 suspension of royalties under any lease subject to section
23 304 of the Outer Continental Shelf Deep Water Royalty
24 Relief Act (Public Law 104–58; 43 U.S.C. 1337 note).

1 **SEC. 134. ELIGIBILITY FOR NEW LEASES AND THE TRANS-**
2 **FER OF LEASES; CONSERVATION OF RE-**
3 **SOURCES FEES.**

4 (a) ISSUANCE OF NEW LEASES.—

5 (1) IN GENERAL.—The Secretary shall not
6 issue any new lease that authorizes the production
7 of oil or natural gas in the Gulf of Mexico under the
8 Outer Continental Shelf Lands Act (43 U.S.C. 1331
9 et seq.) to a person described in paragraph (2) un-
10 less—

11 (A) the person has renegotiated each cov-
12 ered lease with respect to which the person is
13 a lessee, to modify the payment responsibilities
14 of the person to include price thresholds that
15 are equal to or less than the price thresholds
16 described in clauses (v) through (vii) of section
17 8(a)(3)(C) of the Outer Continental Shelf
18 Lands Act (43 U.S.C. 1337(a)(3)(C)); or

19 (B) the person has—

20 (i) paid all fees established by the
21 Secretary under subsection (b) that are
22 due with respect to each covered lease for
23 which the person is a lessee; or

24 (ii) entered into an agreement with
25 the Secretary under which the person is
26 obligated to pay such fees.

1 (2) PERSONS DESCRIBED.—A person referred
2 to in paragraph (1) is a person that—

3 (A) is a lessee that—

4 (i) holds a covered lease on the date
5 on which the Secretary considers the
6 issuance of the new lease; or

7 (ii) was issued a covered lease before
8 the date of enactment of this Act, but
9 transferred the covered lease to another
10 person or entity (including a subsidiary or
11 affiliate of the lessee) after the date of en-
12 actment of this Act; or

13 (B) any other person or entity who has
14 any direct or indirect interest in, or who derives
15 any benefit from, a covered lease;

16 (3) MULTIPLE LESSEES.—

17 (A) IN GENERAL.—For purposes of para-
18 graph (1), if there are multiple lessees that own
19 a share of a covered lease, the Secretary may
20 implement separate agreements with any lessee
21 with a share of the covered lease that modifies
22 the payment responsibilities with respect to the
23 share of the lessee to include price thresholds
24 that are equal to or less than the price thresh-
25 olds described in clauses (v) through (vii) of

1 section 8(a)(3)(C) of the Outer Continental
2 Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

3 (B) TREATMENT OF SHARE AS COVERED
4 LEASE.—Beginning on the effective date of an
5 agreement under subparagraph (A), any share
6 subject to the agreement shall not constitute a
7 covered lease with respect to any lessees that
8 entered into the agreement.

9 (b) CONSERVATION OF RESOURCES FEES.—

10 (1) IN GENERAL.—Not later than 60 days after
11 the date of enactment of this Act, the Secretary of
12 the Interior by regulation shall establish—

13 (A) a conservation of resources fee for pro-
14 ducing Federal oil and gas leases in the Gulf of
15 Mexico; and

16 (B) a conservation of resources fee for
17 nonproducing Federal oil and gas leases in the
18 Gulf of Mexico.

19 (2) PRODUCING LEASE FEE TERMS.—The fee
20 under paragraph (1)(A)—

21 (A) subject to subparagraph (C), shall
22 apply to covered leases that are producing
23 leases;

1 (B) shall be set at \$9 per barrel for oil and
2 \$1.25 per million Btu for gas, respectively, in
3 2005 dollars; and

4 (C) shall apply only to production of oil or
5 gas occurring—

6 (i) in any calendar year in which the
7 arithmetic average of the daily closing
8 prices for light sweet crude oil on the New
9 York Mercantile Exchange (NYMEX) ex-
10 ceeds \$34.73 per barrel for oil and \$4.34
11 per million Btu for gas in 2005 dollars;
12 and

13 (ii) on or after October 1, 2006.

14 (3) NONPRODUCING LEASE FEE TERMS.—The
15 fee under paragraph (1)(B)—

16 (A) subject to subparagraph (C), shall
17 apply to leases that are nonproducing leases;

18 (B) shall be set at \$3.75 per acre per year
19 in 2005 dollars; and

20 (C) shall apply on and after October 1,
21 2006.

22 (4) TREATMENT OF RECEIPTS.—Amounts re-
23 ceived by the United States as fees under this sub-
24 section shall be treated as offsetting receipts.

1 (c) TRANSFERS.—A lessee or any other person who
2 has any direct or indirect interest in, or who derives a
3 benefit from, a lease shall not be eligible to obtain by sale
4 or other transfer (including through a swap, spinoff, serv-
5 icing, or other agreement) any covered lease, the economic
6 benefit of any covered lease, or any other lease for the
7 production of oil or natural gas in the Gulf of Mexico
8 under the Outer Continental Shelf Lands Act (43 U.S.C.
9 1331 et seq.), unless—

10 (1) the lessee or other person has—

11 (A) renegotiated all covered leases of the
12 lessee or other person; and

13 (B) entered into an agreement with the
14 Secretary to modify the terms of all covered
15 leases of the lessee or other person to include
16 limitations on royalty relief based on market
17 prices that are equal to or less than the price
18 thresholds described in clauses (v) through (vii)
19 of section 8(a)(3)(C) of the Outer Continental
20 Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)); or

21 (2) the lessee or other person has—

22 (A) paid all fees established by the Sec-
23 retary under subsection (b) that are due with
24 respect to each covered lease for which the per-
25 son is a lessee; or

1 (B) entered into an agreement with the
2 Secretary under which the person is obligated
3 to pay such fees.

4 (d) DEFINITIONS.—In this section—

5 (1) COVERED LEASE.—The term “covered
6 lease” means a lease for oil or gas production in the
7 Gulf of Mexico that is—

8 (A) in existence on the date of enactment
9 of this Act;

10 (B) issued by the Department of the Inte-
11 rior under section 304 of the Outer Continental
12 Shelf Deep Water Royalty Relief Act (43
13 U.S.C. 1337 note; Public Law 104–58); and

14 (C) not subject to limitations on royalty re-
15 lief based on market price that are equal to or
16 less than the price thresholds described in
17 clauses (v) through (vii) of section 8(a)(3)(C) of
18 the Outer Continental Shelf Lands Act (43
19 U.S.C. 1337(a)(3)(C)).

20 (2) LESSEE.—The term “lessee” includes any
21 person or other entity that controls, is controlled by,
22 or is in or under common control with, a lessee.

23 (3) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior.

1 **SEC. 135. STRATEGIC ENERGY EFFICIENCY AND RENEW-**
2 **ABLES RESERVE.**

3 (a) IN GENERAL.—For budgetary purposes, the net
4 increase in Federal receipts by reason of the enactment
5 of this Act shall be held in a separate account to be known
6 as the “Strategic Energy Efficiency and Renewables Re-
7 serve”. The Strategic Energy Efficiency and Renewables
8 Reserve shall be available to offset the cost of subsequent
9 legislation—

10 (1) to accelerate the use of clean domestic re-
11 newable energy resources and alternative fuels;

12 (2) to promote the utilization of energy-efficient
13 products and practices and energy conservation;

14 (3) to increase research, development, and de-
15 ployment of clean renewable energy and efficiency
16 technologies;

17 (4) to provide increased assistance for low in-
18 come home energy and weatherization programs;

19 (5) to further the purposes set forth in section
20 1(b) of the Land and Water Conservation Fund Act
21 of 1965 (16 U.S.C. 460l–4); and

22 (6) to increase research, development, and dem-
23 onstration of carbon capture and sequestration tech-
24 nologies.

25 (b) PROCEDURE FOR ADJUSTMENTS.—

1 (1) BUDGET COMMITTEE CHAIRMAN.—After the
2 reporting of a bill or joint resolution, or the offering
3 of an amendment thereto or the submission of a con-
4 ference report thereon, providing funding for the
5 purposes set forth in subsection (a) in excess of the
6 amounts provided for those purposes for fiscal year
7 2007, the chairman of the Committee on the Budget
8 of the applicable House of Congress shall make the
9 adjustments set forth in paragraph (2) for the
10 amount of new budget authority and outlays in that
11 measure and the outlays flowing from that budget
12 authority.

13 (2) MATTERS TO BE ADJUSTED.—The adjust-
14 ments referred to in paragraph (1) are to be made
15 to—

16 (A) the discretionary spending limits, if
17 any, set forth in the appropriate concurrent res-
18 olution on the budget;

19 (B) the allocations made pursuant to the
20 appropriate concurrent resolution on the budget
21 pursuant to section 302(a) of Congressional
22 Budget Act of 1974; and

23 (C) the budget aggregates contained in the
24 appropriate concurrent resolution on the budget

1 as required by section 301(a) of Congressional
2 Budget Act of 1974.

3 (3) AMOUNTS OF ADJUSTMENTS.—The adjust-
4 ments referred to in paragraphs (1) and (2) shall
5 not exceed the total of the receipts over a 10-year
6 period, as estimated by the Congressional Budget
7 Office upon the enactment of this Act.

8 **Subtitle D—Accountability and In-**
9 **tegrity in the Federal Energy**
10 **Program**

11 **SEC. 141. ROYALTY IN-KIND.**

12 Section 342(d) of the Energy Policy Act of 2005 (42
13 U.S.C. 15902(d)) is amended to read as follows:

14 “(d) BENEFIT TO THE UNITED STATES RE-
15 QUIRED.—The Secretary may receive oil or gas royalties
16 in-kind only if the Secretary determines that receiving roy-
17 alties in-kind provides benefits to the United States that
18 are greater than or equal to the benefits that would likely
19 be received if the royalties were taken in-value, and if the
20 Secretary determines that receiving royalties in-kind is
21 consistent with the fiduciary duties of the Secretary on
22 behalf of the American people.”.

1 **SEC. 142. FAIR RETURN ON PRODUCTION OF FEDERAL OIL**
2 **AND GAS RESOURCES.**

3 (a) ROYALTY PAYMENTS.—The Secretary of the In-
4 terior shall take all steps necessary to ensure that lessees
5 under leases for exploration, development, and production
6 of oil and natural gas on Federal lands, including leases
7 under the Mineral Leasing Act (30 U.S.C. 181 et seq.),
8 the Mineral Leasing Act for Acquired Lands (30 U.S.C.
9 351 et seq.), the Outer Continental Shelf Lands Act (30
10 U.S.C. 1331 et seq.), and all other mineral leasing laws,
11 are making prompt, transparent, and accurate royalty
12 payments under such leases.

13 (b) RECOMMENDATIONS FOR LEGISLATIVE AC-
14 TION.—In order to facilitate implementation of subsection
15 (a), the Secretary of the Interior shall, within 180 days
16 after the date of enactment of this Act and in consultation
17 with the affected States, prepare and transmit to Congress
18 recommendations for legislative action to improve the ac-
19 curate collection of Federal oil and gas royalties.

20 **SEC. 143. ROYALTY-IN-KIND ETHICS.**

21 (a) GIFT BAN.—

22 (1) PROHIBITION.—No employee of the Min-
23 erals Management Service may—

24 (A) accept gifts of any value from any pro-
25 hibited source; or

1 (B) seek, accept, or hold employment with
2 any prohibited source.

3 (2) PENALTY.—Any person who violates para-
4 graph (1) shall be subject to such penalties as the
5 Secretary of the Interior considers appropriate,
6 which may include suspension without pay or termi-
7 nation.

8 (b) TRAINING.—The Secretary of the Interior shall
9 implement a robust ethics training program for employees
10 of the Royalty-In-Kind division of the Minerals Manage-
11 ment Service that is in addition to the standard ethics
12 training that such employees are already required to at-
13 tend. Such additional training program shall require writ-
14 ten certification by each such employee that the employee
15 knows and understands the ethics requirements by which
16 the employee is bound.

17 (c) CODE OF ETHICS.—The Secretary of the Interior
18 shall promulgate, within 180 days after the date of the
19 enactment of this Act, a code of ethics for all employees
20 of the Minerals Management Service. The code of ethics
21 shall provide clear direction relating to the obligations,
22 prohibitions, and consequences of misconduct.

23 (d) DRUG TESTING.—The Secretary of the Interior
24 shall, within 180 days after the date of the enactment of
25 this Act, implement a random drug testing program for

1 the employees of the royalty-in-kind division of the Min-
2 erals Management Service.

3 (e) DEFINITIONS.—In this section:

4 (1) GIFT.—The term “gift”—

5 (A) includes any gratuity, favor, discount,
6 entertainment, hospitality, loan, forbearance, or
7 other item having monetary value; and

8 (B) includes services as well as gifts of
9 training, transportation, local travel, lodgings
10 and meals, whether provided in-kind, by pur-
11 chase of a ticket, payment in advance, or reim-
12 bursement after the expense has been incurred.

13 (2) PROHIBITED SOURCE.—The term “prohib-
14 ited source” means, with respect to an employee,
15 any person who—

16 (A) is seeking official action by the Min-
17 erals Management Service;

18 (B) does business or seeks to do business
19 with the Minerals Management Service;

20 (C) conducts activities regulated by the
21 Minerals Management Service;

22 (D) has interests that may be substantially
23 affected by performance or nonperformance of
24 the employee’s official duties; or

1 (E) is an organization a majority of whose
 2 members are described in any of subparagraphs
 3 (A) through (D).

4 (f) OTHER ETHICS REQUIREMENTS APPLY.—The
 5 prohibitions and requirements under this section are to be
 6 in addition to any other requirements that apply to em-
 7 ployees of the Minerals Management Service.

8 **SEC. 144. PROHIBITION ON CERTAIN GIFTS.**

9 Section 201 of title 18, United States Code, is
 10 amended—

11 (1) by redesignating subsections (d) and (e) as
 12 subsections (e) and (f); and

13 (2) by inserting after subsection (c) the fol-
 14 lowing new subsection:

15 “(d)(1) Whoever—

16 “(A) seeking or holding one or more leases
 17 of property from the United States, through the
 18 Minerals Management Service of the Depart-
 19 ment of the Interior, for purposes of oil or min-
 20 eral extraction, knowingly engages in a course
 21 of conduct that consists of providing things of
 22 value to a public official of, or person who has
 23 been selected to be a public official of, the Min-
 24 erals Management Service, because of the offi-

1 cial's or person's position in the Minerals Man-
2 agement Service; or

3 “(B) being a public official of, or person
4 who has been selected to be a public official of,
5 the Minerals Management Service of the De-
6 partment of the Interior, knowingly engages in
7 a course of conduct consisting of receiving
8 things of value, knowing that such things of
9 value were provided because of the official's or
10 person's position in the Minerals Management
11 Service, from a person seeking or holding one
12 or more leases of property from the United
13 States, through the Minerals Management Serv-
14 ice, for purposes of oil or mineral extraction;

15 shall be fined under this title, imprisoned for not more
16 than two years, or both, except that a corporation, part-
17 nership, or other organization that violates subparagraph
18 (A) shall be fined \$25,000,000 and an amount equal to
19 its gross revenues arising, during the period in which the
20 course of conduct described in subparagraph (A) occurred,
21 from the lease or leases described in that subparagraph.

22 “(2) For purposes of this subsection, the term ‘course
23 of conduct’ means a series of acts over a period of time
24 evidencing a continuity of purpose.

1 “(3)(A) The Attorney General may bring a civil ac-
2 tion in the appropriate United States district court against
3 any corporation, partnership, or other organization that
4 engages in conduct constituting an offense under para-
5 graph (1)(A) and, upon proof of such conduct by a prepon-
6 derance of the evidence, such corporation, partnership, or
7 other organization shall be subject to a civil penalty of
8 not more than \$25,000,000 and an amount equal to its
9 gross revenues arising, during the period in which the
10 course of conduct described in paragraph (1)(A) occurred,
11 from the lease or leases described in that paragraph.

12 “(B) If a corporation, partnership, or other organiza-
13 tion is held liable for a civil penalty under subparagraph
14 (A) for a violation of paragraph (1)(A), the United States
15 may terminate the lease or leases that were the subject
16 to the violation, and the United States shall not be liable
17 for any damages to any party to such lease or leases by
18 reason of such termination.

19 “(C) The imposition of a civil penalty under this
20 paragraph does not preclude any other criminal or civil
21 statutory, common law, or administrative remedy that is
22 available to the United States, or any other person, under
23 this section or any other law.”.

1 **SEC. 145. STRENGTHENING THE ABILITY OF THE INTERIOR**
2 **DEPARTMENT INSPECTOR GENERAL TO SE-**
3 **CURE COOPERATION.**

4 The Inspector General Act of 1978 (5 U.S.C. App.)
5 is amended by inserting after section 8K the following:

6 “SPECIAL PROVISIONS CONCERNING THE DEPARTMENT
7 OF THE INTERIOR

8 “SEC. 8L. Notwithstanding section 6(a)(4), the In-
9 spector General of the Department of the Interior may,
10 in any inquiry or investigation involving leases of property
11 from the United States through the Minerals Management
12 Services for purposes of oil and mineral extraction, require
13 by subpoena the production of all information, documents,
14 reports, answers, records, accounts, papers, and other
15 data in any medium, including electronically stored infor-
16 mation and tangible things, and testimony necessary in
17 the performance of the functions assigned by this Act,
18 which subpoena, in the case of contumacy or refusal to
19 obey, shall be enforceable by order of any appropriate
20 United States district court: *Provided*, that procedures
21 other than subpoenas shall be used by the Inspector Gen-
22 eral to obtain documents, information, or testimony from
23 Federal agencies.”.

1 **Subtitle E—Federal Oil and Gas** 2 **Royalty Reform**

3 **SEC. 151. AMENDMENTS TO DEFINITIONS.**

4 Section 3 of the Federal Oil and Gas Royalty Man-
5 agement Act of 1982 (30 U.S.C. 1702) is amended—

6 (1) in paragraph (20)(A), by striking “: *Pro-*
7 *vided, That*” and all that follows through “subject of
8 the judicial proceeding”;

9 (2) in paragraph (20)(B), by striking “(with
10 written notice to the lessee who designated the des-
11 ignee)”;

12 (3) in paragraph (23)(A), by striking “(with
13 written notice to the lessee who designated the des-
14 ignee)”;

15 (4) by amending paragraph (24) to read as fol-
16 lows:

17 “(24) ‘designee’ means any person who pays,
18 offsets, or credits monies, makes adjustments, re-
19 quests and receives refunds, or submits reports with
20 respect to payments a lessee must make pursuant to
21 section 102(a);”;

22 (5) in paragraph (25)(B), by striking “(subject
23 to the provisions of section 102(a) of this Act)”;

24 (6) in paragraph (26), by striking “(with notice
25 to the lessee who designated the designee)”.

1 **SEC. 152. INTEREST.**

2 (a) ESTIMATED PAYMENTS; INTEREST ON AMOUNT
3 OF UNDERPAYMENT.—Section 111(j) of the Federal Oil
4 and Gas Royalty Management Act of 1982 (30 U.S.C.
5 1721(j)) is amended by striking “If the estimated pay-
6 ment exceeds the actual royalties due, interest is owed on
7 the overpayment.”.

8 (b) OVERPAYMENTS.—Section 111 of the Federal Oil
9 and Gas Royalty Management Act of 1982 (30 U.S.C.
10 1721) is amended by striking subsections (h) and (i).

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall be effective one year after the date of
13 enactment of this Act.

14 **SEC. 153. OBLIGATION PERIOD.**

15 Section 115(c) of the Federal Oil and Gas Royalty
16 Management Act of 1982 (30 U.S.C. 1724(c)) is amended
17 by adding at the end the following:

18 “(3) ADJUSTMENTS.—In the case of an adjust-
19 ment under section 111A(a) (30 U.S.C. 1721a(a)) in
20 which a recoupment by the lessee results in an un-
21 derpayment of an obligation, for purposes of this Act
22 the obligation becomes due on the date the lessee or
23 its designee makes the adjustment.”.

24 **SEC. 154. TOLLING AGREEMENTS AND SUBPOENAS.**

25 (a) TOLLING AGREEMENTS.—Section 115(d)(1) of
26 the Federal Oil and Gas Royalty Management Act of 1982

1 (30 U.S.C. 1724(d)(1)) is amended by striking “(with no-
2 tice to the lessee who designated the designee)”.

3 (b) SUBPOENAS.—Section 115(d)(2)(A) of the Fed-
4 eral Oil and Gas Royalty Management Act of 1982 (30
5 U.S.C. 1724(d)(2)(A)) is amended by striking “(with no-
6 tice to the lessee who designated the designee, which notice
7 shall not constitute a subpoena to the lessee)”.

8 **SEC. 155. LIABILITY FOR ROYALTY PAYMENTS.**

9 Section 102(a) of the Federal Oil and Gas Royalty
10 Management Act of 1982 (30 U.S.C. 1712(a)) is amended
11 to read as follows:

12 “(a) In order to increase receipts and achieve effec-
13 tive collections of royalty and other payments, a lessee who
14 is required to make any royalty or other payment under
15 a lease or under the mineral leasing laws, shall make such
16 payments in the time and manner as may be specified by
17 the Secretary or the applicable delegated State. Any per-
18 son who pays, offsets or credits monies, makes adjust-
19 ments, requests and receives refunds, or submits reports
20 with respect to payments the lessee must make is the les-
21 see’s designee under this Act. Notwithstanding any other
22 provision of this Act to the contrary, a designee shall be
23 liable for any payment obligation of any lessee on whose
24 behalf the designee pays royalty under the lease. The per-
25 son owning operating rights in a lease and a person own-

1 ing legal record title in a lease shall be liable for that per-
 2 son’s pro rata share of payment obligations under the
 3 lease.”.

4 **Subtitle F—National Petroleum** 5 **Reserve in Alaska**

6 **SEC. 161. SHORT TITLE.**

7 This subtitle may be cited as the “Drill Responsibly
 8 in Leased Lands Act of 2008”.

9 **SEC. 162. ACCELERATION OF LEASE SALES FOR NATIONAL** 10 **PETROLEUM RESERVE IN ALASKA.**

11 Section 107(d) of the Naval Petroleum Reserves Pro-
 12 duction Act of 1976 (42 U.S.C. 6506a(d)) is amended—

13 (1) by striking “(d)” and all that follows
 14 through “; first lease sale” and inserting the fol-
 15 lowing:

16 “(d) LEASE SALES.—

17 “(1) FIRST LEASE SALE.—The first lease sale”;
 18 and

19 (2) by adding at the end the following:

20 “(2) SUBSEQUENT LEASE SALES.—The Sec-
 21 retary shall accelerate, to the maximum extent prac-
 22 ticable, competitive and environmentally responsible
 23 leasing of oil and gas in the Reserve in accordance
 24 with this Act and all applicable environmental laws,

1 including at least 1 lease sale during each of cal-
2 endar years 2009 through 2013.”.

3 **SEC. 163. NATIONAL PETROLEUM RESERVE IN ALASKA:**
4 **PIPELINE CONSTRUCTION.**

5 The Federal Energy Regulatory Commission shall fa-
6 cilitate, in an environmentally responsible manner and in
7 coordination with the Secretary of the Interior, the Sec-
8 retary of Transportation, the Secretary of Energy, and the
9 State of Alaska, the construction of pipelines necessary to
10 transport oil and natural gas from or through the National
11 Petroleum Reserve in Alaska to existing transportation or
12 processing infrastructure on the North Slope of Alaska.

13 **SEC. 164. ALASKA NATURAL GAS PIPELINE PROJECT FA-**
14 **CILITATION.**

15 (a) FINDINGS.—Congress finds the following:

16 (1) Over 35 trillion cubic feet of natural gas re-
17 serves have been discovered on Federal and State
18 lands currently open to oil and natural gas leasing
19 on the North Slope of Alaska.

20 (2) These gas supplies could make a significant
21 contribution to meeting the energy needs of the
22 United States, but the lack of a natural gas trans-
23 portation system has prevented these natural gas re-
24 serves from reaching markets in the lower 48 States.

1 (b) FACILITATION BY PRESIDENT.—The President
2 shall, pursuant to the Alaska Natural Gas Pipeline Act
3 (division C of Public Law 108–324; 15 U.S.C. 720 et seq.)
4 and other applicable law, coordinate with producers of nat-
5 ural gas on the North Slope of Alaska, Federal agencies,
6 the State of Alaska, Canadian authorities, pipeline compa-
7 nies, and other interested persons in order to facilitate
8 construction of a natural gas pipeline from Alaska to
9 United States markets as expeditiously as possible.

10 **SEC. 165. PROJECT LABOR AGREEMENTS AND OTHER PIPE-**
11 **LINE REQUIREMENTS.**

12 (a) PROJECT LABOR AGREEMENTS.—The President,
13 as a term and condition of any permit required under Fed-
14 eral law for the pipelines referred to in section 163 and
15 164, and in recognizing the Government’s interest in labor
16 stability and in the ability of construction labor and man-
17 agement to meet the particular needs and conditions of
18 such pipelines to be developed under such permits and the
19 special concerns of the holders of such permits, shall re-
20 quire that the operators of such pipelines and their agents
21 and contractors negotiate to obtain a project labor agree-
22 ment for the employment of laborers and mechanics on
23 production, maintenance, and construction for such pipe-
24 lines.

1 (b) PIPELINE MAINTENANCE.—The Secretary of
 2 Transportation shall require every pipeline operator au-
 3 thorized to transport oil and gas produced under Federal
 4 oil and gas leases in Alaska through the Trans-Alaska
 5 Pipeline, any pipeline constructed pursuant to section 163
 6 or 164 of this Act, or any other federally approved pipeline
 7 transporting oil and gas from the North Slope of Alaska,
 8 to certify to the Secretary of Transportation annually that
 9 such pipeline is being fully maintained and operated in
 10 an efficient manner. The Secretary of Transportation shall
 11 assess appropriate civil penalties for violations of this re-
 12 quirement in the same manner as civil penalties are as-
 13 sessed for violations under section 60122(a)(1) of title 49,
 14 United States Code.

15 **SEC. 166. BAN ON EXPORT OF ALASKAN OIL.**

16 (a) REPEAL OF PROVISION AUTHORIZING EX-
 17 PORTS.—Section 28(s) of the Mineral Leasing Act (30
 18 U.S.C. 185(s)) is repealed.

19 (b) REIMPOSITION OF PROHIBITION ON CRUDE OIL
 20 EXPORTS.—Upon the effective date of this Act, subsection
 21 (d) of section 7 of the Export Administration Act of 1979
 22 (50 U.S.C. App. 2406(d)), shall be effective, and any other
 23 provision of that Act (including sections 11 and 12) shall
 24 be effective to the extent necessary to carry out such sec-
 25 tion 7(d), notwithstanding section 20 of that Act or any

1 other provision of law that would otherwise allow exports
2 of oil to which such section 7(d) applies.

3 **Subtitle G—Oil Shale**

4 **SEC. 171. OIL SHALE LEASING.**

5 (a) REPEAL OF RESTRICTION.—Section 433 of the
6 Department of the Interior, Environment, and Related
7 Agencies Appropriations Act, 2008 (division F of Public
8 Law 110–161; 121 Stat. 2152) is repealed.

9 (b) REQUIREMENT THAT STATE APPROVE OF OIL
10 SHALE LEASING.—Section 369 of the Energy Policy Act
11 of 2005 (42 U.S.C. 15927) is amended by adding at the
12 end the following:

13 “(t) REQUIREMENT THAT STATE APPROVE OF OIL
14 SHALE LEASING.—No lease may be issued under this sec-
15 tion, section 21 of the Mineral Leasing Act (30 U.S.C.
16 241), or any other law, for exploration, research, develop-
17 ment, or production of oil shale on lands located in a
18 State, unless the State has enacted a law approving of
19 Federal oil shale leasing in the State. Nothing in this sub-
20 section shall be construed as preventing the Department
21 of the Interior from preparing an environmental impact
22 statement under the existing authority under the National
23 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
24 seq.) with respect to an individual lease sale proposed

1 under the commercial leasing program established under
2 this section.”.

3 **TITLE II—CONSUMER ENERGY** 4 **SUPPLY**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Consumer Energy
7 Supply Act of 2008”.

8 **SEC. 202. DEFINITIONS.**

9 In this title—

10 (1) the term “light grade petroleum” means
11 crude oil with an API gravity of 30 degrees or high-
12 er;

13 (2) the term “heavy grade petroleum” means
14 crude oil with an API gravity of 26 degrees or lower;
15 and

16 (3) the term “Secretary” means the Secretary
17 of Energy.

18 **SEC. 203. SALE AND REPLACEMENT OF OIL FROM THE** 19 **STRATEGIC PETROLEUM RESERVE.**

20 (a) INITIAL PETROLEUM SALE AND REPLACE-
21 MENT.—Notwithstanding section 161 of the Energy Policy
22 and Conservation Act (42 U.S.C. 6241), the Secretary
23 shall publish a plan not later than 15 days after the date
24 of enactment of this Act to—

1 (1) sell, in the amounts and on the schedule de-
2 scribed in subsection (b), light grade petroleum from
3 the Strategic Petroleum Reserve and acquire an
4 equivalent volume of heavy grade petroleum;

5 (2) deposit the cash proceeds from sales under
6 paragraph (1) into the SPR Petroleum Account es-
7 tablished under section 167 of the Energy Policy
8 and Conservation Act (42 U.S.C. 6247); and

9 (3) from the cash proceeds deposited pursuant
10 to paragraph (2), withdraw the amount necessary to
11 pay for the direct administrative and operational
12 costs of the sale and acquisition.

13 (b) AMOUNTS AND SCHEDULE.—The sale and acqui-
14 sition described in subsection (a) shall require the offer
15 for sale of a total quantity of 70,000,000 barrels of light
16 grade petroleum from the Strategic Petroleum Reserve.
17 The sale shall commence, whether or not a plan has been
18 published under subsection (a), not later than 30 days
19 after the date of enactment of this Act and be completed
20 no more than six months after the date of enactment of
21 this Act, with at least 20,000,000 barrels to be offered
22 for sale within the first 60 days after the date of enact-
23 ment of this Act. In no event shall the Secretary sell bar-
24 rels of oil under subsection (a) that would result in a Stra-
25 tegic Petroleum Reserve that contains fewer than 90 per-

1 cent of the total amount of barrels in the Strategic Petro-
2 leum Reserve as of the date of enactment of this Act.
3 Heavy grade petroleum, to replace the quantities of light
4 grade petroleum sold under this section, shall be obtained
5 through acquisitions which—

6 (1) shall commence no sooner than 6 months
7 after the date of enactment of this Act;

8 (2) shall be completed, at the discretion of the
9 Secretary, not later than 5 years after the date of
10 enactment of this Act;

11 (3) shall be carried out in a manner so as to
12 maximize the monetary value to the Federal Govern-
13 ment; and

14 (4) shall be carried out using the receipts from
15 the sales of light grade petroleum authorized under
16 this section.

17 (c) DEFERRALS.—The Secretary is encouraged to,
18 when economically beneficial and practical, grant requests
19 to defer scheduled deliveries of petroleum to the Reserve
20 under subsection (a) if the deferral will result in a pre-
21 mium paid in additional barrels of oil which will reduce
22 the cost of oil acquisition and increase the volume of oil
23 delivered to the Reserve or yield additional cash bonuses.

TITLE III—PUBLIC TRANSPORTATION

SEC. 301. SHORT TITLE.

This title may be cited as the “Saving Energy Through Public Transportation Act of 2008”.

SEC. 302. FINDINGS.

Congress finds the following:

(1) In 2007, people in the United States took more than 10.3 billion trips using public transportation, the highest level in 50 years.

(2) Public transportation use in the United States is up 32 percent since 1995, a figure that is more than double the growth rate of the Nation’s population and is substantially greater than the growth rate for vehicle miles traveled on the Nation’s highways for that same period.

(3) Public transportation use saves fuel, reduces emissions, and saves money for the people of the United States.

(4) The direct petroleum savings attributable to public transportation use is 1.4 billion gallons per year, and when the secondary effects of transit availability on travel are also taken into account, public transportation use saves the United States the

1 equivalent of 4.2 billion gallons of gasoline per year
2 (more than 11 million gallons of gasoline per day).

3 (5) Public transportation use in the United
4 States is estimated to reduce carbon dioxide emis-
5 sions by 37 million metric tons annually.

6 (6) An individual who commutes to work using
7 a single occupancy vehicle can reduce carbon dioxide
8 emissions by 20 pounds per day (more than 4,800
9 pounds per year) by switching to public transpor-
10 tation.

11 (7) Public transportation use provides an af-
12 fordable alternative to driving, as households that
13 use public transportation save an average of \$6,251
14 every year.

15 (8) Although under existing laws Federal em-
16 ployees in the National Capital Region receive tran-
17 sit benefits, transit benefits should be available to all
18 Federal employees in the United States so that the
19 Federal Government sets a leading example of great-
20 er public transportation use.

21 (9) Public transportation stakeholders should
22 engage and involve local communities in the edu-
23 cation and promotion of the importance of utilizing
24 public transportation.

1 (10) Increasing public transportation use is a
2 national priority.

3 **SEC. 303. GRANTS TO IMPROVE PUBLIC TRANSPORTATION**
4 **SERVICES.**

5 (a) AUTHORIZATIONS OF APPROPRIATIONS.—

6 (1) URBANIZED AREA FORMULA GRANTS.—In
7 addition to amounts allocated under section
8 5338(b)(2)(B) of title 49, United States Code, to
9 carry out section 5307 of such title, there is author-
10 ized to be appropriated \$750,000,000 for each of fis-
11 cal years 2008 and 2009 to carry out such section
12 5307. Such funds shall be apportioned, not later
13 than 7 days after the date on which the funds are
14 appropriated, in accordance with section 5336 (other
15 than subsections (i)(1) and (j)) of such title but may
16 not be combined or commingled with any other
17 funds apportioned under such section 5336.

18 (2) FORMULA GRANTS FOR OTHER THAN UR-
19 BANIZED AREAS.—In addition to amounts allocated
20 under section 5338(b)(2)(G) of title 49, United
21 States Code, to carry out section 5311 of such title,
22 there is authorized to be appropriated \$100,000,000
23 for each of fiscal years 2008 and 2009 to carry out
24 such section 5311. Such funds shall be apportioned,
25 not later than 7 days after the date on which the

1 funds are appropriated, in accordance with such sec-
2 tion 5311 but may not be combined or commingled
3 with any other funds apportioned under such section
4 5311.

5 (b) USE OF FUNDS.—Notwithstanding sections 5307
6 and 5311 of title 49, United States Code, the Secretary
7 of Transportation may make grants under such sections
8 from amounts appropriated under subsection (a) only for
9 one or more of the following:

10 (1) If the recipient of the grant is reducing, or
11 certifies to the Secretary within the time the Sec-
12 retary prescribes that, during the term of the grant,
13 the recipient will reduce one or more fares the re-
14 cipient charges for public transportation, or in the
15 case of subsection (f) of such section 5311, intercity
16 bus service, those operating costs of equipment and
17 facilities being used to provide the public transpor-
18 tation, or in the case of subsection (f) of such sec-
19 tion 5311, intercity bus service, that the recipient is
20 no longer able to pay from the revenues derived
21 from such fare or fares as a result of such reduction.

22 (2) If the recipient of the grant is expanding,
23 or certifies to the Secretary within the time the Sec-
24 retary prescribes that, during the term of the grant,
25 the recipient will expand public transportation serv-

1 ice, or in the case of subsection (f) of such section
2 5311, intercity bus service, those operating and cap-
3 ital costs of equipment and facilities being used to
4 provide the public transportation service, or in the
5 case of subsection (f) of such section 5311, intercity
6 bus service, that the recipient incurs as a result of
7 the expansion of such service.

8 (3) To avoid increases in fares for public trans-
9 portation, or in the case of subsection (f) of such
10 section 5311, intercity bus service, or decreases in
11 current public transportation service, or in the case
12 of subsection (f) of such section 5311, intercity bus
13 service, that would otherwise result from an increase
14 in costs to the public transportation or intercity bus
15 agency for transportation-related fuel or meeting ad-
16 ditional transportation-related equipment or facility
17 maintenance needs, if the recipient of the grant cer-
18 tifies to the Secretary within the time the Secretary
19 prescribes that, during the term of the grant, the re-
20 cipient will not increase the fares that the recipient
21 charges for public transportation, or in the case of
22 subsection (f) of such section 5311, intercity bus
23 service, or, will not decrease the public transpor-
24 tation service, or in the case of subsection (f) of

1 such section 5311, intercity bus service, that the re-
2 cipient provides.

3 (4) If the recipient of the grant is acquiring, or
4 certifies to the Secretary within the time the Sec-
5 retary prescribes that, during the term of the grant,
6 the recipient will acquire, clean fuel or alternative
7 fuel vehicle-related equipment or facilities for the
8 purpose of improving fuel efficiency, the costs of ac-
9 quiring the equipment or facilities.

10 (5) If the recipient of the grant is establishing
11 or expanding, or certifies to the Secretary within the
12 time the Secretary prescribes that, during the term
13 of the grant, the recipient will establish or expand,
14 commuter matching services to provide commuters
15 with information and assistance about alternatives
16 to single occupancy vehicle use, those administrative
17 costs in establishing or expanding such services.

18 (c) FEDERAL SHARE.—Notwithstanding any other
19 provision of law, the Federal share of the costs for which
20 a grant is made under this section shall be 100 percent.

21 (d) PERIOD OF AVAILABILITY.—Funds appropriated
22 under this section shall remain available for a period of
23 2 fiscal years.

1 **SEC. 304. INCREASED FEDERAL SHARE FOR CLEAN AIR ACT**
 2 **COMPLIANCE.**

3 Notwithstanding section 5323(i)(1) of title 49,
 4 United States Code, a grant for a project to be assisted
 5 under chapter 53 of such title during fiscal years 2008
 6 and 2009 that involves acquiring clean fuel or alternative
 7 fuel vehicle-related equipment or facilities for the purposes
 8 of complying with or maintaining compliance with the
 9 Clean Air Act (42 U.S.C. 7401 et seq.) shall be for 100
 10 percent of the net project cost of the equipment or facility
 11 attributable to compliance with that Act unless the grant
 12 recipient requests a lower grant percentage.

13 **SEC. 305. TRANSPORTATION FRINGE BENEFITS.**

14 (a) REQUIREMENT THAT AGENCIES OFFER TRANSIT
 15 PASS TRANSPORTATION FRINGE BENEFITS TO THEIR
 16 EMPLOYEES NATIONWIDE.—

17 (1) IN GENERAL.—Section 3049(a)(1) of the
 18 Safe, Accountable, Flexible, Efficient Transportation
 19 Equity Act: A Legacy for Users (5 U.S.C. 7905
 20 note; 119 Stat. 1711) is amended—

21 (A) by striking “Effective” and all that
 22 follows through “each covered agency” and in-
 23 serting “Each agency”; and

24 (B) by inserting “at a location in an ur-
 25 banized area of the United States that is served

1 by fixed route public transportation” before
2 “shall be offered”.

3 (2) CONFORMING AMENDMENTS.—Section
4 3049(a) of such Act (5 U.S.C. 7905 note; 119 Stat.
5 1711) is amended—

6 (A) in paragraph (3)—

7 (i) by striking subparagraph (A); and

8 (ii) by redesignating subparagraphs

9 (B) through (F) as subparagraphs (A)
10 through (E), respectively; and

11 (B) in paragraph (4) by striking “a cov-
12 ered agency” and inserting “an agency”.

13 (b) BENEFITS DESCRIBED.—Section 3049(a)(2) of
14 such Act (5 U.S.C. 7905 note; 119 Stat. 1711) is amended
15 by striking the period at the end and inserting the fol-
16 lowing: “, except that the maximum level of such benefits
17 shall be the maximum amount which may be excluded
18 from gross income for qualified parking as in effect for
19 a month under section 132(f)(2)(B) of the Internal Rev-
20 enue Code of 1986.”.

21 (c) GUIDANCE.—Section 3049(a) of such Act (5
22 U.S.C. 7905 note; 119 Stat. 1711) is amended by adding
23 at the end the following:

24 “(5) GUIDANCE.—

1 “(A) ISSUANCE.—Not later than 60 days
2 after the date of enactment of this paragraph,
3 the Secretary of Transportation shall issue
4 guidance on nationwide implementation of the
5 transit pass transportation fringe benefits pro-
6 gram under this subsection.

7 “(B) UNIFORM APPLICATION.—

8 “(i) IN GENERAL.—The guidance to
9 be issued under subparagraph (A) shall
10 contain a uniform application for use by all
11 Federal employees applying for benefits
12 from an agency under the program.

13 “(ii) REQUIRED INFORMATION.—As
14 part of such an application, an employee
15 shall provide, at a minimum, the employ-
16 ee’s home and work addresses, a break-
17 down of the employee’s commuting costs,
18 and a certification of the employee’s eligi-
19 bility for benefits under the program.

20 “(iii) WARNING AGAINST FALSE
21 STATEMENTS.—Such an application shall
22 contain a warning against making false
23 statements in the application.

24 “(C) INDEPENDENT VERIFICATION RE-
25 QUIREMENTS.—The guidance to be issued

1 under subparagraph (A) shall contain inde-
2 pendent verification requirements to ensure
3 that, with respect to an employee of an agen-
4 cy—

5 “(i) the eligibility of the employee for
6 benefits under the program is verified by
7 an official of the agency;

8 “(ii) employee commuting costs are
9 verified by an official of the agency; and

10 “(iii) records of the agency are
11 checked to ensure that the employee is not
12 receiving parking benefits from the agency.

13 “(D) PROGRAM IMPLEMENTATION RE-
14 QUIREMENTS.—The guidance to be issued
15 under subparagraph (A) shall contain program
16 implementation requirements applicable to each
17 agency to ensure that—

18 “(i) benefits provided by the agency
19 under the program are adjusted in cases of
20 employee travel, leave, or change of ad-
21 dress;

22 “(ii) removal from the program is in-
23 cluded in the procedures of the agency re-
24 lating to an employee separating from em-
25 ployment with the agency; and

1 “(iii) benefits provided by the agency
2 under the program are made available
3 using an electronic format (rather than
4 using paper fare media) where such a for-
5 mat is available for use.

6 “(E) ENFORCEMENT AND PENALTIES.—
7 The guidance to be issued under subparagraph
8 (A) shall contain a uniform administrative pol-
9 icy on enforcement and penalties. Such policy
10 shall be implemented by each agency to ensure
11 compliance with program requirements, to pre-
12 vent fraud and abuse, and, as appropriate, to
13 penalize employees who have abused or misused
14 the benefits provided under the program.

15 “(F) PERIODIC REVIEWS.—The guidance
16 to be issued under subparagraph (A) shall re-
17 quire each agency, not later than September 1
18 of the first fiscal year beginning after the date
19 of enactment of this paragraph, and every 3
20 years thereafter, to develop and submit to the
21 Secretary a review of the agency’s implementa-
22 tion of the program. Each such review shall
23 contain, at a minimum, the following:

24 “(i) An assessment of the agency’s
25 implementation of the guidance, including

1 a summary of the audits and investiga-
2 tions, if any, of the program conducted by
3 the Inspector General of the agency.

4 “(ii) Information on the total number
5 of employees of the agency that are partici-
6 pating in the program.

7 “(iii) Information on the total number
8 of single occupancy vehicles removed from
9 the roadway network as a result of partici-
10 pation by employees of the agency in the
11 program.

12 “(iv) Information on energy savings
13 and emissions reductions, including reduc-
14 tions in greenhouse gas emissions, result-
15 ing from reductions in single occupancy ve-
16 hicle use by employees of the agency that
17 are participating in the program.

18 “(v) Information on reduced conges-
19 tion and improved air quality resulting
20 from reductions in single occupancy vehicle
21 use by employees of the agency that are
22 participating in the program.

23 “(vi) Recommendations to increase
24 program participation and thereby reduce

1 single occupancy vehicle use by Federal
2 employees nationwide.

3 “(6) REPORTING REQUIREMENTS.—Not later
4 than September 30 of the first fiscal year beginning
5 after the date of enactment of this paragraph, and
6 every 3 years thereafter, the Secretary shall submit
7 to the Committee on Transportation and Infrastruc-
8 ture and the Committee on Oversight and Govern-
9 ment Reform of the House of Representatives and
10 the Committee on Banking, Housing, and Urban Af-
11 fairs of the Senate a report on nationwide implemen-
12 tation of the transit pass transportation fringe bene-
13 fits program under this subsection, including a sum-
14 mary of the information submitted by agencies pur-
15 suant to paragraph (5)(F).”.

16 (d) EFFECTIVE DATE.—Except as otherwise specifi-
17 cally provided, the amendments made by this section shall
18 become effective on the first day of the first fiscal year
19 beginning after the date of enactment of this Act.

20 **SEC. 306. CAPITAL COST OF CONTRACTING VANPOOL**
21 **PILOT PROGRAM.**

22 (a) ESTABLISHMENT.—The Secretary of Transpor-
23 tation shall establish and implement a pilot program to
24 carry out vanpool demonstration projects in not more than

1 3 urbanized areas and not more than 2 other than urban-
2 ized areas.

3 (b) PILOT PROGRAM.—

4 (1) IN GENERAL.—Notwithstanding section
5 5323(i) of title 49, United States Code, for each
6 project selected for participation in the pilot pro-
7 gram, the Secretary shall allow the non-Federal
8 share provided by a recipient of assistance for a cap-
9 ital project under chapter 53 of such title to include
10 the amounts described in paragraph (2).

11 (2) CONDITIONS ON ACQUISITION OF VANS.—

12 The amounts referred to in paragraph (1) are any
13 amounts expended by a private provider of public
14 transportation by vanpool for the acquisition of vans
15 to be used by such private provider in the recipient's
16 service area, excluding any amounts the provider
17 may have received in Federal, State, or local govern-
18 ment assistance for such acquisition, if the private
19 provider enters into a legally binding agreement with
20 the recipient that requires the private provider to
21 use all revenues it receives in providing public trans-
22 portation in such service area, in excess of its oper-
23 ating costs, for the purpose of acquiring vans to be
24 used by the private provider in such service area.

1 (c) PROGRAM TERM.—The Secretary may approve an
2 application for a vanpool demonstration project for fiscal
3 years 2008 through 2009.

4 (d) REPORT TO CONGRESS.—Not later than one year
5 after the date of enactment of this Act, the Secretary shall
6 submit to the Committee on Transportation and Infra-
7 structure of the House of Representatives and the Com-
8 mittee on Banking, Housing, and Urban Affairs of the
9 Senate a report containing an assessment of the costs,
10 benefits, and efficiencies of the vanpool demonstration
11 projects.

12 **SEC. 307. NATIONAL CONSUMER AWARENESS PROGRAM.**

13 (a) IN GENERAL.—The Secretary of Transportation
14 shall carry out a national consumer awareness program
15 to educate the public on the environmental, energy, and
16 economic benefits of public transportation alternatives to
17 the use of single occupancy vehicles.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$1,000,000 for fiscal year 2009. Such sums shall remain
21 available until expended.

1 **SEC. 308. EXCEPTION TO ALTERNATIVE FUEL PROCURE-**
2 **MENT REQUIREMENT.**

3 Section 526 of the Energy Independence and Security
4 Act of 2007 (Public Law 110–140; 42 U.S. C. 17142)
5 is amended—

6 (1) by striking “No Federal agency” and insert-
7 ing “(a) REQUIREMENT.—Except as provided in
8 subsection (b), no Federal agency”; and

9 (2) by adding at the end the following:

10 “(b) EXCEPTION.—Subsection (a) does not prohibit
11 a Federal agency from entering into a contract to pur-
12 chase a generally available fuel that is not an alternative
13 or synthetic fuel or predominantly produced from a non-
14 conventional petroleum source, if—

15 “(1) the contract does not specifically require
16 the contractor to provide an alternative or synthetic
17 fuel or fuel from a nonconventional petroleum
18 source;

19 “(2) the purpose of the contract is not to obtain
20 an alternative or synthetic fuel or fuel from a non-
21 conventional petroleum source; and

22 “(3) the contract does not provide incentives for
23 a refinery upgrade or expansion to allow a refinery
24 to use or increase its use of fuel from a nonconven-
25 tional petroleum source.”.

1 **TITLE IV—GREATER ENERGY EF-**
 2 **FICIENCY IN BUILDING**
 3 **CODES**

4 **SEC. 401. GREATER ENERGY EFFICIENCY IN BUILDING**
 5 **CODES.**

6 (a) IN GENERAL.—Section 304 of the Energy Con-
 7 servation and Production Act (42 U.S.C. 6833) is amend-
 8 ed to read as follows:

9 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**
 10 **CIENCY CODES.**

11 “(a) UPDATING NATIONAL MODEL BUILDING EN-
 12 ERGY CODES.—(1) The Secretary shall support updating
 13 the national model building energy codes and standards
 14 at least every three years to achieve overall energy savings,
 15 compared to the 2006 IECC for residential buildings and
 16 ASHRAE Standard 90.1–2004 for commercial buildings,
 17 of at least—

18 “(A) 30 percent in editions of each model code
 19 or standard released in or after 2010; and

20 “(B) 50 percent in editions of each model code
 21 or standard released in or after 2020.

22 Targets for specific years shall be set by the Secretary
 23 at least 3 years in advance of each target year, coordinated
 24 with the IECC and ASHRAE Standard 90.1 cycles, at the

1 maximum level of energy efficiency that is technologically
2 feasible and life-cycle cost effective.

3 “(2)(A) Whenever the provisions of the IECC or
4 ASHRAE Standard 90.1 regarding building energy use
5 are revised, the Secretary shall make a preliminary deter-
6 mination not later than 90 days after the date of the revi-
7 sion, and a final determination not later than 12 months
8 after the date of such revision, on—

9 “(i) whether such revision will improve energy
10 efficiency in buildings; and

11 “(ii) whether such revision will meet the targets
12 under paragraph (1).

13 “(B) If the Secretary makes a determination under
14 subparagraph (A)(ii) that a code or standard does not
15 meet the targets under paragraph (1), or if a national
16 model code or standard is not updated for more than three
17 years, then the Secretary shall, within 12 months after
18 such determination, establish a modified code or standard
19 that meets such targets. Any such modified code or stand-
20 ard—

21 “(i) shall achieve the maximum level of energy
22 savings that is technologically feasible and life-cycle
23 cost-effective;

24 “(ii) shall be based on the latest revision of the
25 IECC or ASHRAE Standard 90.1, including any

1 amendments or additions thereto, but may also con-
2 sider other model codes or standards; and

3 “(iii) shall serve as the baseline for the next de-
4 termination under subparagraph (A)(i).

5 “(C) The Secretary shall provide the opportunity for
6 public comment on targets, determinations, and modified
7 codes and standards under this subsection, and shall pub-
8 lish notice of targets, determinations, and modified codes
9 and standards under this subsection in the Federal Reg-
10 ister.

11 “(b) STATE CERTIFICATION OF BUILDING ENERGY
12 CODE UPDATES.—(1) Not later than 2 years after the
13 date of enactment of this subsection, each State shall cer-
14 tify to the Secretary that it has reviewed and updated the
15 provisions of its residential and commercial building codes
16 regarding energy efficiency. Such certification shall in-
17 clude a demonstration that such State’s code provisions
18 meet or exceed the 2006 IECC for residential buildings
19 and the ASHRAE Standard 90.1–2007 for commercial
20 buildings, or achieve equivalent or greater energy savings.

21 “(2)(A) If the Secretary makes an affirmative deter-
22 mination under subsection (a)(2)(A)(i) or establishes a
23 modified code or standard under subsection (a)(2)(B),
24 each State shall, within 2 years after such determination
25 or establishment, certify that it has reviewed and updated

1 the provisions of its building code regarding energy effi-
2 ciency. Such certification shall include a demonstration
3 that such State's code provisions meet or exceed the re-
4 vised code or standard, or achieve equivalent or greater
5 energy savings.

6 “(B) If the Secretary fails to make a determination
7 under subsection (a)(2)(A)(i) by the date specified in sub-
8 section (a)(2), or makes a negative determination, each
9 State shall within 2 years after the specified date or the
10 date of the determination, certify that it has reviewed the
11 revised code or standard, and updated the provisions of
12 its building code regarding energy efficiency to meet or
13 exceed any provisions found to improve energy efficiency
14 in buildings, or to achieve equivalent or greater energy
15 savings in other ways.

16 “(c) STATE CERTIFICATION OF COMPLIANCE WITH
17 BUILDING CODES.—(1) Each State shall, not later than
18 3 years after a certification under subsection (b), certify
19 that it has—

20 “(A) achieved compliance under paragraph (3)
21 with the certified State building energy code or with
22 the associated model code or standard; or

23 “(B) made significant progress under para-
24 graph (4) toward achieving compliance with the cer-

1 tified State building energy code or with the associ-
2 ated model code or standard.

3 If the State certifies progress toward achieving compli-
4 ance, the State shall repeat the certification each year
5 until it certifies that it has achieved compliance.

6 “(2) A certification under paragraph (1) shall include
7 documentation of the rate of compliance based on inde-
8 pendent inspections of a random sample of the new and
9 renovated buildings covered by the code in the preceding
10 year, or based on an alternative method that yields an ac-
11 curate measure of compliance.

12 “(3)(A) A State shall be considered to achieve compli-
13 ance under paragraph (1) if—

14 “(i) at least 90 percent of new and renovated
15 building space covered by the code in the preceding
16 year substantially meets all the requirements of the
17 code regarding energy efficiency, or achieves an
18 equivalent energy savings level; or

19 “(ii) the estimated excess energy use of new
20 and renovated buildings that did not meet the code
21 in the preceding year, compared to a baseline of
22 comparable buildings that meet the code, is not more
23 than 5 percent of the estimated energy use of all
24 new and renovated buildings covered by the code in
25 the preceding year.

1 “(B) Only renovations with building permits are cov-
2 ered under this paragraph. If the Secretary determines the
3 percentage targets under subparagraph (A) are not rea-
4 sonably achievable for renovated residential or commercial
5 buildings, the Secretary may reduce the targets for such
6 renovated buildings to the highest achievable level.

7 “(4)(A) A State shall be considered to have made sig-
8 nificant progress toward achieving compliance for pur-
9 poses of paragraph (1) if the State—

10 “(i) has developed and is implementing a plan
11 for achieving compliance within 8 years, assuming
12 continued adequate funding, including active train-
13 ing and enforcement programs;

14 “(ii) after one or more years of adequate fund-
15 ing, has demonstrated progress, in conformance with
16 the plan described in clause (i), toward compliance;

17 “(iii) after five or more years of adequate fund-
18 ing, meets the requirement in paragraph (3) sub-
19 stituting 80 percent for 90 percent or substituting
20 10 percent for 5 percent; and

21 “(iv) has not had more than 8 years of ade-
22 quate funding.

23 “(B) Funding shall be considered adequate, for pur-
24 poses of this paragraph, when the Federal Government
25 provides to the States at least \$50,000,000 in a year in

1 funding and support for development and implementation
2 of State building energy codes, including for training and
3 enforcement.

4 “(d) FAILURE TO MEET DEADLINES.—(1) A State
5 that has not made a certification required under sub-
6 section (b) or (c) by the applicable deadline shall submit
7 to the Secretary a report on—

8 “(A) the status of the State with respect to
9 meeting the requirements and submitting the certifi-
10 cation; and

11 “(B) a plan for meeting the requirements and
12 submitting the certification.

13 “(2) Any State for which the Secretary has not ac-
14 cepted a certification by a deadline under subsection (b)
15 or (c) of this section is out of compliance with this section.

16 “(3) In any State that is out of compliance with this
17 section, a local government may be in compliance with this
18 section by meeting the certification requirements under
19 subsections (b) and (c) of this section.

20 “(4) The Secretary shall annually submit to Con-
21 gress, and publish in the Federal Register, a report on
22 the status of national model building energy codes and
23 standards, the status of code adoption and compliance in
24 the States, and implementation of this section. The report
25 shall include estimates of impacts of past action under this

1 section and potential impacts of further action on lifetime
2 energy use by buildings and resulting energy costs to indi-
3 viduals and businesses.

4 “(e) TECHNICAL ASSISTANCE.—(1) The Secretary
5 shall on a timely basis provide technical assistance to
6 model code-setting and standard development organiza-
7 tions. This assistance shall include technical assistance as
8 requested by the organizations in evaluating code or
9 standards proposals or revisions, building energy analysis
10 and design tools, building demonstrations, and design as-
11 sistance and training. The Secretary shall submit code and
12 standard amendment proposals, with supporting evidence,
13 sufficient to enable the national model building energy
14 codes and standards to meet the targets in subsection
15 (a)(1).

16 “(2) The Secretary shall provide technical assistance
17 to States to implement the requirements of this section,
18 including procedures for States to demonstrate that their
19 code provisions achieve equivalent or greater energy sav-
20 ings than the national model codes and standards, and to
21 improve and implement State residential and commercial
22 building energy efficiency codes or to otherwise promote
23 the design and construction of energy efficient buildings.

24 “(f) AVAILABILITY OF INCENTIVE FUNDING.—(1)
25 The Secretary shall provide incentive funding to States to

1 implement the requirements of this section, and to im-
2 prove and implement State residential and commercial
3 building energy efficiency codes, including increasing and
4 verifying compliance with such codes. In determining
5 whether, and in what amount, to provide incentive funding
6 under this subsection, the Secretary shall consider the ac-
7 tions proposed by the State to implement the requirements
8 of this section, to improve and implement residential and
9 commercial building energy efficiency codes, and to pro-
10 mote building energy efficiency through the use of such
11 codes.

12 “(2) Additional funding shall be provided under this
13 subsection for implementation of a plan to achieve and
14 document at least a 90 percent rate of compliance with
15 residential and commercial building energy efficiency
16 codes, based on energy performance—

17 “(A) to a State that has adopted and is imple-
18 menting, on a Statewide basis—

19 “(i) a residential building energy efficiency
20 code that meets or exceeds the requirements of
21 the 2006 IECC, or any succeeding version of
22 that code that has received an affirmative de-
23 termination from the Secretary under sub-
24 section (a)(2)(A)(i); and

1 “(ii) a commercial building energy effi-
2 ciency code that meets or exceeds the require-
3 ments of the ASHRAE Standard 90.1–2007, or
4 any succeeding version of that standard that
5 has received an affirmative determination from
6 the Secretary under subsection (a)(2)(A)(i); or

7 “(B) in a State in which there is no Statewide
8 energy code for either residential buildings or com-
9 mercial buildings, or where State codes fail to com-
10 ply with subparagraph (A), to a local government
11 that has adopted and is implementing residential
12 and commercial building energy efficiency codes, as
13 described in subparagraph (A).

14 “(3) Of the amounts made available under this sub-
15 section, the Secretary may use amounts required, not ex-
16 ceeding \$500,000 for each State, to train State and local
17 officials to implement codes described in paragraph (2).

18 “(4) There are authorized to be appropriated to carry
19 out this subsection—

20 “(A) \$70,000,000 for each of fiscal years 2009
21 through 2013; and

22 “(B) such sums as are necessary for fiscal year
23 2014 and each fiscal year thereafter.”.

1 (b) DEFINITION.—Section 303 of the Energy Con-
 2 servation and Production Act (42 U.S.C. 6832) is amend-
 3 ed by adding at the end the following new paragraph:

4 “(17) The term ‘IECC’ means the International
 5 Energy Conservation Code.”.

6 **TITLE V—FEDERAL RENEWABLE** 7 **ELECTRICITY STANDARD**

8 **SEC. 501. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

9 (a) IN GENERAL.—Title VI of the Public Utility Reg-
 10 ulatory Policies Act of 1978 is amended by adding at the
 11 end the following:

12 **“SEC. 610. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

13 “(a) DEFINITIONS.—For purposes of this section:

14 “(1) BIOMASS.—

15 “(A) IN GENERAL.—The term ‘biomass’
 16 means each of the following:

17 “(i) Cellulosic (plant fiber) organic
 18 materials from a plant that is planted for
 19 the purpose of being used to produce en-
 20 ergy.

21 “(ii) Nonhazardous, plant or algal
 22 matter that is derived from any of the fol-
 23 lowing:

24 “(I) An agricultural crop, crop
 25 byproduct or residue resource.

1 “(II) Waste such as landscape or
2 right-of-way trimmings (but not in-
3 cluding municipal solid waste, recycla-
4 ble postconsumer waste paper, paint-
5 ed, treated, or pressurized wood, wood
6 contaminated with plastic or metals).

7 “(iii) Animal waste or animal byprod-
8 ucts.

9 “(iv) Landfill methane.

10 “(B) NATIONAL FOREST LANDS AND CER-
11 TAIN OTHER PUBLIC LANDS.—With respect to
12 organic material removed from National Forest
13 System lands or from public lands administered
14 by the Secretary of the Interior, the term ‘bio-
15 mass’ covers only organic material from (i) eco-
16 logical forest restoration; (ii) pre-commercial
17 thinnings; (iii) brush; (iv) mill residues; and (v)
18 slash.

19 “(C) EXCLUSION OF CERTAIN FEDERAL
20 LANDS.—Notwithstanding subparagraph (B),
21 material or matter that would otherwise qualify
22 as biomass are not included in the term bio-
23 mass if they are located on the following Fed-
24 eral lands:

1 “(i) Federal land containing old
2 growth forest or late successional forest
3 unless the Secretary of the Interior or the
4 Secretary of Agriculture determines that
5 the removal of organic material from such
6 land is appropriate for the applicable forest
7 type and maximizes the retention of late-
8 successional and large and old growth
9 trees, late-successional and old growth for-
10 est structure, and late-successional and old
11 growth forest composition.

12 “(ii) Federal land on which the re-
13 moval of vegetation is prohibited, including
14 components of the National Wilderness
15 Preservation System.

16 “(iii) Wilderness Study Areas.

17 “(iv) Inventoried roadless areas.

18 “(v) Components of the National
19 Landscape Conservation System.

20 “(vi) National Monuments.

21 “(2) ELIGIBLE FACILITY.—The term ‘eligible
22 facility’ means—

23 “(A) a facility for the generation of electric
24 energy from a renewable energy resource that is

1 placed in service on or after January 1, 2001;
2 or

3 “(B) a repowering or cofiring increment.

4 “(3) EXISTING FACILITY.—The term ‘existing
5 facility’ means a facility for the generation of elec-
6 tric energy from a renewable energy resource that is
7 not an eligible facility.

8 “(4) INCREMENTAL HYDROPOWER.—The term
9 ‘incremental hydropower’ means additional genera-
10 tion that is achieved from increased efficiency or ad-
11 ditions of capacity made on or after January 1,
12 2001, or the effective date of an existing applicable
13 State renewable portfolio standard program at a hy-
14 droelectric facility that was placed in service before
15 that date.

16 “(5) INDIAN LAND.—The term ‘Indian land’
17 means—

18 “(A) any land within the limits of any In-
19 dian reservation, pueblo, or rancheria;

20 “(B) any land not within the limits of any
21 Indian reservation, pueblo, or rancheria title to
22 which was on the date of enactment of this
23 paragraph either held by the United States for
24 the benefit of any Indian tribe or individual or
25 held by any Indian tribe or individual subject to

1 restriction by the United States against alien-
2 ation;

3 “(C) any dependent Indian community; or

4 “(D) any land conveyed to any Alaska Na-
5 tive corporation under the Alaska Native
6 Claims Settlement Act.

7 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
8 means any Indian tribe, band, nation, or other orga-
9 nized group or community, including any Alaskan
10 Native village or regional or village corporation as
11 defined in or established pursuant to the Alaska Na-
12 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
13 which is recognized as eligible for the special pro-
14 grams and services provided by the United States to
15 Indians because of their status as Indians.

16 “(7) RENEWABLE ENERGY.—The term ‘renew-
17 able energy’ means electric energy generated by a re-
18 newable energy resource.

19 “(8) RENEWABLE ENERGY RESOURCE.—The
20 term ‘renewable energy resource’ means solar, wind,
21 ocean, tidal, geothermal energy, biomass, landfill
22 gas, incremental hydropower, or hydrokinetic energy.

23 “(9) REPOWERING OR COFIRING INCREMENT.—
24 The term ‘repowering or cofiring increment’
25 means—

1 “(A) the additional generation from a
2 modification that is placed in service on or after
3 January 1, 2001, to expand electricity produc-
4 tion at a facility used to generate electric en-
5 ergy from a renewable energy resource;

6 “(B) the additional generation above the
7 average generation in the 3 years preceding the
8 date of enactment of this section at a facility
9 used to generate electric energy from a renew-
10 able energy resource or to cofire biomass that
11 was placed in service before the date of enact-
12 ment of this section: or

13 “(C) the portion of the electric generation
14 from a facility placed in service on or after Jan-
15 uary 1, 2001, or a modification to a facility
16 placed in service before the date of enactment
17 of this section made on or after January 1,
18 2001, associated with cofiring biomass.

19 “(10) RETAIL ELECTRIC SUPPLIER.—(A) The
20 term ‘retail electric supplier’ means a person that
21 sells electric energy to electric consumers (other
22 than consumers in Hawaii) that sold not less than
23 1,000,000 megawatt-hours of electric energy to elec-
24 tric consumers for purposes other than resale during
25 the preceding calendar year. For purposes of this

1 section, a person that sells electric energy to electric
2 consumers that, in combination with the sales of any
3 affiliate organized after the date of enactment of
4 this section, sells not less than 1,000,000 megawatt
5 hours of electric energy to consumers for purposes
6 other than resale shall qualify as a retail electric
7 supplier. For purposes of this paragraph, sales by
8 any person to a parent company or to other affiliates
9 of such person shall not be treated as sales to elec-
10 tric consumers.

11 “(B) Such term does not include the United
12 States, a State or any political subdivision of a
13 State, or any agency, authority, or instrumentality
14 of any one or more of the foregoing, or a rural elec-
15 tric cooperative, except that a political subdivision of
16 a State, or an agency, authority, or instrumentality
17 of the United States, a State or a political subdivi-
18 sion of a State, or a rural electric cooperative that
19 sells electric energy to electric consumers or any
20 other entity that sells electric energy to electric con-
21 sumers that would not otherwise qualify as a retail
22 electric supplier shall be deemed a retail electric sup-
23 plier if such entity notifies the Secretary that it vol-
24 untarily agrees to participate in the Federal renew-
25 able electricity standard program.

1 “(11) RETAIL ELECTRIC SUPPLIER’S BASE
2 AMOUNT.—The term ‘retail electric supplier’s base
3 amount’ means the total amount of electric energy
4 sold by the retail electric supplier, expressed in
5 terms of kilowatt hours, to electric customers for
6 purposes other than resale during the most recent
7 calendar year for which information is available, ex-
8 cluding—

9 “(A) electric energy that is not incremental
10 hydropower generated by a hydroelectric facil-
11 ity; and

12 “(B) electricity generated through the in-
13 cineration of municipal solid waste.

14 “(b) COMPLIANCE.—For each calendar year begin-
15 ning in calendar year 2010, each retail electric supplier
16 shall meet the requirements of subsection (c) by submit-
17 ting to the Secretary, not later than April 1 of the fol-
18 lowing calendar year, one or more of the following:

19 “(1) Federal renewable energy credits issued
20 under subsection (e).

21 “(2) Federal energy efficiency credits issued
22 under subsection (i), except that Federal energy effi-
23 ciency credits may not be used to meet more than
24 27 percent of the requirements of subsection (c) in
25 any calendar year. Energy efficiency credits may

1 only be used for compliance in a State where the
 2 Governor has petitioned the Secretary pursuant to
 3 subjection (i)(2).

4 “(3) Certification of the renewable energy gen-
 5 erated and electricity savings pursuant to the funds
 6 associated with State compliance payments as speci-
 7 fied in subsection (e)(3)(G).

8 “(4) Alternative compliance payments pursuant
 9 to subsection (j).

10 “(c) REQUIRED ANNUAL PERCENTAGE.—For cal-
 11 endar years 2010 through 2039, the required annual per-
 12 centage of the retail electric supplier’s base amount that
 13 shall be generated from renewable energy resources, or
 14 otherwise credited towards such percentage requirement
 15 pursuant to subsection (d), shall be the percentage speci-
 16 fied in the following table:

“Calendar Years	Required annual percentage
2010	2.75
2011	2.75
2012	3.75
2013	4.5
2014	5.5
2015	6.5
2016	7.5
2017	8.25
2018	10.25
2019	12.25
2020 and thereafter through 2039	15

17 “(d) RENEWABLE ENERGY AND ENERGY EFFI-
 18 CIENCY CREDITS.—(1) A retail electric supplier may sat-

1 isfy the requirements of subsection (b)(1) through the sub-
2 mission of Federal renewable energy credits—

3 “(A) issued to the retail electric supplier under
4 subsection (e);

5 “(B) obtained by purchase or exchange under
6 subsection (f) or (g); or

7 “(C) borrowed under subsection (h).

8 “(2) A retail electric supplier may satisfy the require-
9 ments of subsection (b)(2) through the submission of Fed-
10 eral energy efficiency credits issued to the retail electric
11 supplier obtained by purchase or exchange pursuant to
12 subsection (i).

13 “(3) A Federal renewable energy credit may be
14 counted toward compliance with subsection (b)(1) only
15 once. A Federal energy efficiency credit may be counted
16 toward compliance with subsection (b)(2) only once.

17 “(e) ISSUANCE OF FEDERAL RENEWABLE ENERGY
18 CREDITS.—(1) The Secretary shall establish by rule, not
19 later than 1 year after the date of enactment of this sec-
20 tion, a program to verify and issue Federal renewable en-
21 ergy credits to generators of renewable energy, track their
22 sale, exchange, and retirement and to enforce the require-
23 ments of this section. To the extent possible, in estab-
24 lishing such program, the Secretary shall rely upon exist-

1 ing and emerging State or regional tracking systems that
2 issue and track non-Federal renewable energy credits.

3 “(2) An entity that generates electric energy through
4 the use of a renewable energy resource may apply to the
5 Secretary for the issuance of renewable energy credits.
6 The applicant must demonstrate that the electric energy
7 will be transmitted onto the grid or, in the case of a gen-
8 eration offset, that the electric energy offset would have
9 otherwise been consumed on site. The application shall in-
10 dicate—

11 “(A) the type of renewable energy resource used
12 to produce the electricity;

13 “(B) the location where the electric energy was
14 produced; and

15 “(C) any other information the Secretary deter-
16 mines appropriate.

17 “(3)(A) Except as provided in subparagraphs (B),
18 (C), and (D), the Secretary shall issue to a generator of
19 electric energy one Federal renewable energy credit for
20 each kilowatt hour of electric energy generated by the use
21 of a renewable energy resource at an eligible facility.

22 “(B) For purpose of compliance with this section,
23 Federal renewable energy credits for incremental hydro-
24 power shall be based, on the increase in average annual
25 generation resulting from the efficiency improvements or

1 capacity additions. The incremental generation shall be
2 calculated using the same water flow information used to
3 determine a historic average annual generation baseline
4 for the hydroelectric facility and certified by the Secretary
5 or the Federal Energy Regulatory Commission. The cal-
6 culation of the Federal renewable energy credits for incre-
7 mental hydropower shall not be based on any operational
8 changes at the hydroelectric facility not directly associated
9 with the efficiency improvements or capacity additions.

10 “(C) The Secretary shall issue 2 renewable energy
11 credits for each kilowatt hour of electric energy generated
12 and supplied to the grid in that calendar year through the
13 use of a renewable energy resource at an eligible facility
14 located on Indian land. For purposes of this paragraph,
15 renewable energy generated by biomass cofired with other
16 fuels is eligible for two credits only if the biomass was
17 grown on such land.

18 “(D) For electric energy generated by a renewable
19 energy resource at an on-site eligible facility no larger
20 than one megawatt in capacity and used to offset part or
21 all of the customer’s requirements for electric energy, the
22 Secretary shall issue 3 renewable energy credits to such
23 customer for each kilowatt hour generated.

1 “(E) In the case of an on-site eligible facility on In-
2 dian land no more than 3 credits per kilowatt hour may
3 be issued.

4 “(F) If both a renewable energy resource and a non-
5 renewable energy resource are used to generate the electric
6 energy, the Secretary shall issue the Federal renewable en-
7 ergy credits based on the proportion of the renewable en-
8 ergy resources used.

9 “(G) When a generator has sold electric energy gen-
10 erated through the use of a renewable energy resource to
11 a retail electric supplier under a contract for power from
12 an existing facility, and the contract has not determined
13 ownership of the Federal renewable energy credits associ-
14 ated with such generation, the Secretary shall issue such
15 Federal renewable energy credits to the retail electric sup-
16 plier for the duration of the contract.

17 “(H) Payments made by a retail electricity supplier,
18 directly or indirectly, to a State for compliance with a
19 State renewable portfolio standard program, or for an al-
20 ternative compliance mechanism, shall be valued at one
21 credit per kilowatt hour for the purpose of subsection
22 (b)(2) based on the amount of electric energy generation
23 from renewable resources and electricity savings up to 27
24 percent of the utility’s requirement that results from those
25 payments.

1 “(f) EXISTING FACILITIES.—The Secretary shall en-
2 sure that a retail electric supplier that acquires Federal
3 renewable energy credits associated with the generation of
4 renewable energy from an existing facility may use such
5 credits for purpose of its compliance with subsection
6 (b)(1). Such credits may not be sold, exchanged, or trans-
7 ferred for the purpose of compliance by another retail elec-
8 tric supplier.

9 “(g) RENEWABLE ENERGY CREDIT TRADING.—(1) A
10 Federal renewable energy credit, may be sold, transferred,
11 or exchanged by the entity to whom issued or by any other
12 entity who acquires the Federal renewable energy credit,
13 except for those renewable energy credits from existing fa-
14 cilities. A Federal renewable energy credit for any year
15 that is not submitted to satisfy the minimum renewable
16 generation requirement of subsection (c) for that year may
17 be carried forward for use pursuant to subsection (b)(1)
18 within the next 3 years.

19 “(2) A federally owned or cooperatively owned utility,
20 or a State or subdivision thereof, that is not a retail elec-
21 tric supplier that generates electric energy by the use of
22 a renewable energy resource at an eligible facility may only
23 sell, transfer or exchange a Federal renewable energy
24 credit to a cooperatively owned utility or an agency, au-
25 thority, or instrumentality of a State or political subdivi-

1 sion of a State that is a retail electric supplier that has
 2 acquired the electric energy associated with the credit.

3 “(3) The Secretary may delegate to an appropriate
 4 market-making entity the administration of a national
 5 tradeable renewable energy credit market and a national
 6 energy efficiency credit market for purposes of creating
 7 a transparent national market for the sale or trade of re-
 8 newable energy credits and a transparent national market
 9 for the sale or trade of Federal energy efficiency credits.

10 “(h) RENEWABLE ENERGY CREDIT BORROWING.—
 11 At any time before the end of calendar year 2012, a retail
 12 electric supplier that has reason to believe it will not be
 13 able to fully comply with subsection (b) may—

14 “(1) submit a plan to the Secretary dem-
 15 onstrating that the retail electric supplier will earn
 16 sufficient Federal renewable energy credits and Fed-
 17 eral energy efficiency credits within the next 3 cal-
 18 endar years which, when taken into account, will en-
 19 able the retail electric supplier to meet the require-
 20 ments of subsection (b) for calendar year 2012 and
 21 the subsequent calendar years involved; and

22 “(2) upon the approval of the plan by the Sec-
 23 retary, apply Federal renewable energy credits and
 24 Federal energy efficiency credits that the plan dem-
 25 onstrates will be earned within the next 3 calendar

1 years to meet the requirements of subsection (b) for
 2 each calendar year involved.

3 The retail electric supplier must repay all of the borrowed
 4 Federal renewable energy credits and Federal energy effi-
 5 ciency credits by submitting an equivalent number of Fed-
 6 eral renewable energy credits and Federal energy effi-
 7 ciency credits, in addition to those otherwise required
 8 under subsection (b), by calendar year 2020 or any earlier
 9 deadlines specified in the approved plan. Failure to repay
 10 the borrowed Federal renewable energy credits and Fed-
 11 eral energy efficiency credits shall subject the retail elec-
 12 tric supplier to civil penalties under subsection (i) for vio-
 13 lation of the requirements of subsection (b) for each cal-
 14 endar year involved.

15 “(i) ENERGY EFFICIENCY CREDITS.—

16 “(1) DEFINITIONS.—In this subsection—

17 “(A) CUSTOMER FACILITY SAVINGS.—The
 18 term ‘customer facility savings’ means a reduc-
 19 tion in end-use electricity at a facility of an
 20 end-use consumer of electricity served by a re-
 21 tail electric supplier, as compared to—

22 “(i) consumption at the facility during
 23 a base year;

24 “(ii) in the case of new equipment (re-
 25 gardless of whether the new equipment re-

1 places existing equipment at the end of the
2 useful life of the existing equipment), con-
3 sumption by the new equipment of average
4 efficiency; or

5 “(iii) in the case of a new facility,
6 consumption at a reference facility.

7 “(B) ELECTRICITY SAVINGS.—The term
8 ‘electricity savings’ means—

9 “(i) customer facility savings of elec-
10 tricity consumption adjusted to reflect any
11 associated increase in fuel consumption at
12 the facility;

13 “(ii) reductions in distribution system
14 losses of electricity achieved by a retail
15 electricity distributor, as compared to
16 losses during the base years;

17 “(iii) the output of new combined heat
18 and power systems, to the extent provided
19 under paragraph (5); and

20 “(iv) recycled energy savings.

21 “(C) QUALIFYING ELECTRICITY SAV-
22 INGS.—The term ‘qualifying electricity savings’
23 means electricity savings that meet the meas-
24 urement and verification requirements of para-
25 graph (4).

1 “(D) RECYCLED ENERGY SAVINGS.—The
2 term ‘recycled energy savings’ means a reduc-
3 tion in electricity consumption that is attrib-
4 utable to electrical or mechanical power, or
5 both, produced by modifying an industrial or
6 commercial system that was in operation before
7 July 1, 2007, in order to recapture energy that
8 would otherwise be wasted.

9 “(2) PETITION.—The Governor of a State may
10 petition the Secretary to allow up to 27 percent of
11 the requirements of a retail electric supplier under
12 subsection (c) in the State to be met by submitting
13 Federal energy efficiency credits issued pursuant to
14 this subsection.

15 “(3) ISSUANCE OF CREDITS.—(A) Upon peti-
16 tion by the Governor, the Secretary shall issue en-
17 ergy efficiency credits for electricity savings de-
18 scribed in subparagraph (B) achieved in States de-
19 scribed in paragraph (2) in accordance with this
20 subsection.

21 “(B) In accordance with regulations promul-
22 gated by the Secretary, the Secretary shall issue
23 credits for—

1 “(i) qualified electricity savings achieved
2 by a retail electric supplier in a calendar year;
3 and

4 “(ii) qualified electricity savings achieved
5 by other entities if—

6 “(I) the measures used to achieve the
7 qualifying electricity savings were installed
8 or placed in operation by the entity seeking
9 the credit or the designated agent of the
10 entity; and

11 “(II) no retail electric supplier paid a
12 substantial portion of the cost of achieving
13 the qualified electricity savings (unless the
14 retail electric supplier has waived any enti-
15 tlement to the credit).

16 “(4) MEASUREMENT AND VERIFICATION OF
17 ELECTRICITY SAVINGS.—Not later than June 30,
18 2009, the Secretary shall promulgate regulations re-
19 garding the measurement and verification of elec-
20 tricity savings under this subsection, including regu-
21 lations covering—

22 “(A) procedures and standards for defining
23 and measuring electricity savings that will be
24 eligible to receive credits under paragraph (3),
25 which shall—

1 “(i) specify the types of energy effi-
2 ciency and energy conservation that will be
3 eligible for the credits;

4 “(ii) require that energy consumption
5 for customer facilities or portions of facili-
6 ties in the applicable base and current
7 years be adjusted, as appropriate, to ac-
8 count for changes in weather, level of pro-
9 duction, and building area;

10 “(iii) account for the useful life of
11 electricity savings measures;

12 “(iv) include specified electricity sav-
13 ings values for specific, commonly-used ef-
14 ficiency measures;

15 “(v) specify the extent to which elec-
16 tricity savings attributable to measures
17 carried out before the date of enactment of
18 this section are eligible to receive credits
19 under this subsection; and

20 “(vi) exclude electricity savings that
21 (I) are not properly attributable to meas-
22 ures carried out by the entity seeking the
23 credit; or (II) have already been credited
24 under this section to another entity;

1 “(B) procedures and standards for third-
2 party verification of reported electricity savings;
3 and

4 “(C) such requirements for information,
5 reports, and access to facilities as may be nec-
6 essary to carry out this subsection.

7 “(5) COMBINED HEAT AND POWER.—Under
8 regulations promulgated by the Secretary, the incre-
9 ment of electricity output of a new combined heat
10 and power system that is attributable to the higher
11 efficiency of the combined system (as compared to
12 the efficiency of separate production of the electric
13 and thermal outputs), shall be considered electricity
14 savings under this subsection.

15 “(j) ENFORCEMENT.—A retail electric supplier that
16 does not comply with subsection (b) shall be liable for the
17 payment of a civil penalty. That penalty shall be calculated
18 on the basis of the number of kilowatt-hours represented
19 by the retail electric supplier’s failure to comply with sub-
20 section (b), multiplied by the lesser of 4.5 cents (adjusted
21 for inflation for such calendar year, based on the Gross
22 Domestic Product Implicit Price Deflator) or 300 percent
23 of the average market value of Federal renewable energy
24 credits and energy efficiency credits for the compliance pe-
25 riod. Any such penalty shall be due and payable without

1 demand to the Secretary as provided in the regulations
2 issued under subsection (e).

3 “(k) ALTERNATIVE COMPLIANCE PAYMENTS.—The
4 Secretary shall accept payment equal to the lesser of:

5 “(1) 200 percent of the average market value of
6 Federal renewable energy credits and Federal energy
7 efficiency credits for the applicable compliance pe-
8 riod; or

9 “(2) 2.5 cents per kilowatt hour adjusted on
10 January 1 of each year following calendar year 2006
11 based on the Gross Domestic Product Implicit Price
12 Deflator,

13 as a means of compliance under subsection (b)(4)

14 “(l) INFORMATION COLLECTION.—The Secretary
15 may collect the information necessary to verify and
16 audit—

17 “(1) the annual renewable energy generation of
18 any retail electric supplier, Federal renewable energy
19 credits submitted by a retail electric supplier pursu-
20 ant to subsection (b)(1) and Federal energy effi-
21 ciency credits submitted by a retail electric supplier
22 pursuant to subsection (b)(2);

23 “(2) annual electricity savings achieved pursu-
24 ant to subsection (i);

1 “(3) the validity of Federal renewable energy
2 credits submitted for compliance by a retail electric
3 supplier to the Secretary; and

4 “(4) the quantity of electricity sales of all retail
5 electric suppliers.

6 “(m) ENVIRONMENTAL SAVINGS CLAUSE.—Incre-
7 mental hydropower shall be subject to all applicable envi-
8 ronmental laws and licensing and regulatory requirements.

9 “(n) STATE PROGRAMS.—(1) Nothing in this section
10 diminishes any authority of a State or political subdivision
11 of a State to—

12 “(A) adopt or enforce any law or regulation re-
13 specting renewable energy or energy efficiency, in-
14 cluding but not limited to programs that exceed the
15 required amount of renewable energy or energy effi-
16 ciency under this section, or

17 “(B) regulate the acquisition and disposition of
18 Federal renewable energy credits and Federal energy
19 efficiency credits by retail electric suppliers.

20 No law or regulation referred to in subparagraph
21 (A) shall relieve any person of any requirement oth-
22 erwise applicable under this section. The Secretary,
23 in consultation with States having renewable energy
24 programs and energy efficiency programs, shall pre-
25 serve the integrity of such State programs, including

1 programs that exceed the required amount of renew-
2 able energy and energy efficiency under this section,
3 and shall facilitate coordination between the Federal
4 program and State programs.

5 “(2) In the rule establishing the program under this
6 section, the Secretary shall incorporate common elements
7 of existing renewable energy and energy efficiency pro-
8 grams, including State programs, to ensure administrative
9 ease, market transparency, and effective enforcement. The
10 Secretary shall work with the States to minimize adminis-
11 trative burdens and costs to retail electric suppliers.

12 “(o) RECOVERY OF COSTS.—An electric utility whose
13 sales of electric energy are subject to rate regulation, in-
14 cluding any utility whose rates are regulated by the Com-
15 mission and any State regulated electric utility, shall not
16 be denied the opportunity to recover the full amount of
17 the prudently incurred incremental cost of renewable en-
18 ergy and energy efficiency obtained to comply with the re-
19 quirements of subsection (b). For purposes of this sub-
20 section, the definitions in section 3 of this Act shall apply
21 to the terms electric utility, State regulated electric utility,
22 State agency, Commission, and State regulatory authority.

23 “(p) PROGRAM REVIEW.—The Secretary shall enter
24 into a contract with the National Academy of Sciences to
25 conduct a comprehensive evaluation of all aspects of the

1 program established under this section, within 8 years of
2 enactment of this section. The study shall include an eval-
3 uation of—

4 “(1) the effectiveness of the program in increas-
5 ing the market penetration and lowering the cost of
6 the eligible renewable energy and energy efficiency
7 technologies;

8 “(2) the opportunities for any additional tech-
9 nologies and sources of renewable energy and energy
10 efficiency emerging since enactment of this section;

11 “(3) the impact on the regional diversity and
12 reliability of supply sources, including the power
13 quality benefits of distributed generation;

14 “(4) the regional resource development relative
15 to renewable potential and reasons for any under in-
16 vestment in renewable resources; and

17 “(5) the net cost/benefit of the renewable elec-
18 tricity standard to the national and State economies,
19 including retail power costs, economic development
20 benefits of investment, avoided costs related to envi-
21 ronmental and congestion mitigation investments
22 that would otherwise have been required, impact on
23 natural gas demand and price, effectiveness of green
24 marketing programs at reducing the cost of renew-
25 able resources.

1 The Secretary shall transmit the results of the evaluation
2 and any recommendations for modifications and improve-
3 ments to the program to Congress not later than January
4 1, 2016.

5 “(q) STATE RENEWABLE ENERGY AND ENERGY EF-
6 FICIENCY ACCOUNT PROGRAM.—(1) There is established
7 in the Treasury a State renewable energy and energy effi-
8 ciency account program.

9 “(2) All money collected by the Secretary from the
10 alternative compliance payments under subsection (k)
11 shall be deposited into the State renewable energy and en-
12 ergy efficiency account established pursuant to this sub-
13 section.

14 “(3) Proceeds deposited in the State renewable en-
15 ergy and energy efficiency account shall be used by the
16 Secretary, subject to annual appropriations, for a program
17 to provide grants to the State agency responsible for ad-
18 ministering a fund to promote renewable energy genera-
19 tion and energy efficiency for customers of the State, or
20 an alternative agency designated by the State, or if no
21 such agency exists, to the State agency developing State
22 energy conservation plans under section 363 of the Energy
23 Policy and Conservation Act (42 U.S.C. 6322) for the pur-
24 poses of promoting renewable energy production and pro-

1 viding energy assistance and weatherization services to
2 low-income consumers.

3 “(4) The Secretary may issue guidelines and criteria
4 for grants awarded under this subsection. At least 75 per-
5 cent of the funds provided to each State shall be used for
6 promoting renewable energy production and energy effi-
7 ciency through grants, production incentives or other
8 state-approved funding mechanisms. The funds shall be
9 allocated to the States on the basis of retail electric sales
10 subject to the Renewable electricity Standard under this
11 section or through voluntary participation. State agencies
12 receiving grants under this section shall maintain such
13 records and evidence of compliance as the Secretary may
14 require.”.

15 (b) TABLE OF CONTENTS.—The table of contents for
16 such title is amended by adding the following new item
17 at the end:

“Sec. 610. Federal renewable electricity standard.”.

18 (c) SUNSET.—Section 610 of such title and the item
19 relating to such section 610 in the table of contents for
20 such title are each repealed as of December 31, 2039.

1 **TITLE VI—GREEN RESOURCES**
2 **FOR ENERGY EFFICIENT**
3 **NEIGHBORHOODS**

4 **SEC. 601. SHORT TITLE AND TABLE OF CONTENTS.**

5 This title may be cited as the “Green Resources for
6 Energy Efficient Neighborhoods Act of 2008” or the
7 “GREEN Act of 2008”.

8 **SEC. 602. DEFINITIONS.**

9 For purposes of this title, the following definitions
10 shall apply:

11 (1) GREEN BUILDING STANDARDS.—The term
12 “green building standards” means standards to re-
13 quire use of sustainable design principles to reduce
14 the use of nonrenewable resources, encourage en-
15 ergy-efficient construction and rehabilitation and the
16 use of renewable energy resources, minimize the im-
17 pact of development on the environment, and im-
18 prove indoor air quality.

19 (2) HUD.—The term “HUD” means the De-
20 partment of Housing and Urban Development.

21 (3) HUD ASSISTANCE.—The term “HUD as-
22 sistance” means financial assistance that is awarded,
23 competitively or noncompetitively, allocated by for-
24 mula, or provided by HUD through loan insurance
25 or guarantee.

1 (4) NONRESIDENTIAL STRUCTURE.—The term
2 “nonresidential structures” means only nonresiden-
3 tial structures that are appurtenant to single family
4 or multifamily housing residential structures, or
5 those that are funded by the Secretary of Housing
6 and Urban Development through the HUD Commu-
7 nity Development Block Grant program.

8 (5) SECRETARY.—The term “Secretary”, unless
9 otherwise specified, means the Secretary of Housing
10 and Urban Development.

11 **SEC. 603. IMPLEMENTATION OF ENERGY EFFICIENCY PAR-**
12 **TICIPATION INCENTIVES FOR HUD PRO-**
13 **GRAMS.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of the enactment of this Act, the Secretary shall issue
16 such regulations as may be necessary to establish annual
17 energy efficiency participation incentives to encourage par-
18 ticipants in programs administered by the Secretary, in-
19 cluding recipients under programs for which HUD assist-
20 ance is provided, to achieve substantial improvements in
21 energy efficiency.

22 (b) REQUIREMENT FOR APPROPRIATION OF
23 FUNDS.—The requirement under subsection (a) for the
24 Secretary to provide annual energy efficiency participation

1 incentives pursuant to the provisions of this title shall be
2 subject to the annual appropriation of necessary funds.

3 **SEC. 604. MINIMUM HUD ENERGY EFFICIENCY STANDARDS**
4 **AND STANDARDS FOR ADDITIONAL CREDIT.**

5 (a) MINIMUM HUD STANDARD.—

6 (1) RESIDENTIAL STRUCTURES.—A residential
7 single family or multifamily structure shall be con-
8 sidered to comply with the energy efficiency require-
9 ments under this subsection if—

10 (A) the structure complies with the appli-
11 cable provisions of the American Society of
12 Heating, Refrigerating, and Air-Conditioning
13 Engineers Standard 90.1–2007, as such stand-
14 ard or successor standard is in effect for pur-
15 poses of this section pursuant subsection (c);

16 (B) the structure complies with the appli-
17 cable provisions of the 2006 International En-
18 ergy Conservation Code, as such standard or
19 successor standard is in effect for purposes of
20 this section pursuant subsection (c);

21 (C) in the case only of an existing struc-
22 ture, where determined cost effective, the struc-
23 ture has undergone rehabilitation or improve-
24 ments, completed after the date of the enact-
25 ment of this Act, and the energy consumption

1 for the structure has been reduced by at least
2 20 percent from the previous level of consump-
3 tion, as determined in accordance with energy
4 audits performed both before and after any re-
5 habilitation or improvements undertaken to re-
6 duce such consumption; or

7 (D) the structure complies with the appli-
8 cable provisions of such other energy efficiency
9 requirements, standards, checklists, or ratings
10 systems as the Secretary may adopt and apply
11 by regulation, as may be necessary, for pur-
12 poses of this section for specific types of resi-
13 dential single family or multifamily structures
14 or otherwise, except that the Secretary shall
15 make a determination regarding whether to
16 adopt and apply any such requirements, stand-
17 ards, checklists, or rating system for purposes
18 of this section not later than the expiration of
19 the 180-day period beginning upon the date of
20 receipt of any written request, made in such
21 form as the Secretary shall provide, for such
22 adoption and application.

23 In addition to compliance with any of subparagraphs
24 (A) through (D), the Secretary shall by regulation
25 require, for any newly constructed residential single

1 family or multifamily structure to be considered to
2 comply with the energy efficiency requirements
3 under this subsection, that the structure have appro-
4 priate electrical outlets with the facility and capacity
5 to recharge a standard electric passenger vehicle, in-
6 cluding an electric hybrid vehicle, where such vehicle
7 would normally be parked.

8 (2) NONRESIDENTIAL STRUCTURES.—For pur-
9 poses of this section, the Secretary shall identify and
10 adopt by regulation, as may be necessary, energy ef-
11 ficiency requirements, standards, checklists, or rat-
12 ing systems applicable to nonresidential structures
13 that are constructed or rehabilitated with HUD as-
14 sistance. A nonresidential structure shall be consid-
15 ered to comply with the energy efficiency require-
16 ments under this subsection if the structure complies
17 with the applicable provisions of any such energy ef-
18 ficiency requirements, standards, checklist, or rating
19 systems identified and adopted by the Secretary pur-
20 suant to this paragraph, as such standards are in ef-
21 fect for purposes of this section pursuant to sub-
22 section (c).

23 (b) ADDITIONAL CREDIT FOR COMPLIANCE WITH
24 ENHANCED ENERGY EFFICIENCY STANDARDS.—

1 (1) IN GENERAL.—In addition to compliance
2 with the energy efficiency requirements under sub-
3 section (a), a residential or nonresidential structure
4 shall be considered to comply with the enhanced en-
5 ergy efficiency and conservation standards or the
6 green building standards under this subsection, to
7 the extent that such structure complies with the ap-
8 plicable provisions of the standards under paragraph
9 (2) or (3), respectively (as such standards are in ef-
10 fect for purposes of this section, pursuant to sub-
11 section (c)), in a manner that is not required for
12 compliance with the energy efficiency requirements
13 under subsection (a) and subject to the Secretary's
14 determination of which standards are applicable to
15 which structures.

16 (2) ENERGY EFFICIENCY AND CONSERVATION
17 STANDARDS.—The energy efficiency and conserva-
18 tion standards under this paragraph are as follows:

19 (A) RESIDENTIAL STRUCTURES.—With re-
20 spect to residential structures:

21 (i) NEW CONSTRUCTION.—For new
22 construction, the Energy Star standards
23 established by the Environmental Protec-
24 tion Agency, as such standards are in ef-

fect for purposes of this subsection pursuant to subsection (c);

(ii) EXISTING STRUCTURES.—For existing structures, a reduction in energy consumption from the previous level of consumption for the structure, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption, that exceeds the reduction necessary for compliance with the energy efficiency requirement under subsection (a)(1)(C).

(B) NONRESIDENTIAL STRUCTURES.—

With respect to nonresidential structures, such energy efficiency and conservation requirements, standards, checklists, or rating systems for nonresidential structures as the Secretary shall identify and adopt by regulation, as may be necessary, for purposes of this paragraph.

(3) GREEN BUILDING STANDARDS.—The green building standards under this paragraph are as follows:

(A) The national Green Communities criteria checklist for residential construction that

1 provides criteria for the design, development,
2 and operation of affordable housing, as such
3 checklist or successor checklist is in effect for
4 purposes of this section pursuant to subsection
5 (c).

6 (B) The gold certification level for the
7 LEED for New Construction rating system, the
8 LEED for Homes rating system, the LEED for
9 Core and Shell rating system, as applicable, as
10 such systems or successor systems are in effect
11 for purposes of this section pursuant to sub-
12 section (c).

13 (C) The Green Globes assessment and rat-
14 ing system of the Green Buildings Initiative.

15 (D) For manufactured housing, energy
16 star rating with respect to fixtures, appliances,
17 and equipment in such housing, as such stand-
18 ard or successor standard is in effect for pur-
19 poses of this section pursuant to subsection (c).

20 (E) The National Green Building Stand-
21 ard, but such standard shall apply for purposes
22 of this paragraph only—

23 (i) if such standard is ratified under
24 the American National Standards Institute
25 process;

1 (ii) upon expiration of the 180-day pe-
2 riod beginning upon such ratification; and

3 (iii) if, during such 180-day period,
4 the Secretary of Housing and Urban De-
5 velopment does not reject the applicability
6 of such standard for purposes of this para-
7 graph.

8 (F) Any other requirements, standards,
9 checklists, or rating systems for green building
10 or sustainability as the Secretary may identify
11 and adopt by regulation, as may be necessary
12 for purposes of this paragraph, except that the
13 Secretary shall make a determination regarding
14 whether to adopt and apply any such require-
15 ments, standards, checklist, or rating system
16 for purposes of this section not later than the
17 expiration of the 180-day period beginning upon
18 date of receipt of any written request, made in
19 such form as the Secretary shall provide, for
20 such adoption and application.

21 (4) GREEN BUILDING.—For purposes of this
22 subsection, the term “green building” means, with
23 respect to standards for structures, standards to re-
24 quire use of sustainable design principles to reduce
25 the use of nonrenewable resources, minimize the im-

1 pact of development on the environment, and to im-
2 prove indoor air quality.

3 (5) ENERGY AUDITS.—The Secretary shall es-
4 tablish standards and requirements for energy au-
5 dits for purposes of paragraph (2)(A)(ii) and, in es-
6 tablishing such standards, may consult with any ad-
7 visory committees established pursuant to section
8 605(c)(2) of this title.

9 (c) APPLICABILITY AND UPDATING OF STAND-
10 ARDS.—

11 (1) APPLICABILITY.—Except as provided in
12 paragraph (2), the requirements, standards, check-
13 lists, and rating systems referred to in subsections
14 (a) and (b) that are in effect for purposes of this
15 section are such requirements, standards, checklists,
16 and systems are as in existence upon the date of the
17 enactment of this Act.

18 (2) UPDATING.—For purposes of this section,
19 the Secretary may adopt and apply by regulation, as
20 may be necessary, future amendments and supple-
21 ments to, and editions of, the requirements, stand-
22 ards, checklists, and rating systems referred to in
23 subsections (a) and (b).

1 **SEC. 605. ENERGY EFFICIENCY AND CONSERVATION DEM-**
2 **ONSTRATION PROGRAM FOR MULTIFAMILY**
3 **HOUSING PROJECTS ASSISTED WITH**
4 **PROJECT-BASED RENTAL ASSISTANCE.**

5 (a) **AUTHORITY.**—For multifamily housing projects
6 for which project-based rental assistance is provided under
7 a covered multifamily assistance program, the Secretary
8 shall, subject to the availability of amounts provided in
9 advance in appropriation Acts, carry out a program to
10 demonstrate the effectiveness of funding a portion of the
11 costs of meeting the enhanced energy efficiency standards
12 under section 604(b). At the discretion of the Secretary,
13 the demonstration program may include incentives for
14 housing that is assisted with Indian housing block grants
15 provided pursuant to the Native American Housing Assist-
16 ance and Self-Determination Act of 1996, but only to the
17 extent that such inclusion does not violate such Act, its
18 regulations, and the goal of such Act of tribal self-deter-
19 mination.

20 (b) **GOALS.**—The demonstration program under this
21 section shall be carried out in a manner that—

22 (1) protects the financial interests of the Fed-
23 eral Government;

24 (2) reduces the proportion of funds provided by
25 the Federal Government and by owners and resi-

1 dents of multifamily housing projects that are used
2 for costs of utilities for the projects;

3 (3) encourages energy efficiency and conserva-
4 tion by owners and residents of multifamily housing
5 projects and installation of renewable energy im-
6 provements, such as improvements providing for use
7 of solar, wind, geothermal, or biomass energy
8 sources;

9 (4) creates incentives for project owners to
10 carry out such energy efficiency renovations and im-
11 provements by allowing a portion of the savings in
12 operating costs resulting from such renovations and
13 improvements to be retained by the project owner,
14 notwithstanding otherwise applicable limitations on
15 dividends;

16 (5) promotes the installation, in existing resi-
17 dential buildings, of energy-efficient and cost-effec-
18 tive improvements and renewable energy improve-
19 ments, such as improvements providing for use of
20 solar, wind, geothermal, or biomass energy sources;

21 (6) tests the efficacy of a variety of energy effi-
22 ciency measures for multifamily housing projects of
23 various sizes and in various geographic locations;

24 (7) tests methods for addressing the various,
25 and often competing, incentives that impede owners

1 and residents of multifamily housing projects from
2 working together to achieve energy efficiency or con-
3 servation; and

4 (8) creates a database of energy efficiency and
5 conservation, and renewable energy, techniques, en-
6 ergy savings management practices, and energy effi-
7 ciency and conservation financing vehicles.

8 (c) APPROACHES.—In carrying out the demonstra-
9 tion program under this section, the Secretary may—

10 (1) enter into agreements with the Building
11 America Program of the Department of Energy and
12 other consensus committees under which such pro-
13 grams, partnerships, or committees assume some or
14 all of the functions, obligations, and benefits of the
15 Secretary with respect to energy savings;

16 (2) establish advisory committees to advise the
17 Secretary and any such third party partners on tech-
18 nological and other developments in the area of en-
19 ergy efficiency and the creation of an energy effi-
20 ciency and conservation credit facility and other fi-
21 nancing opportunities, which committees shall in-
22 clude representatives of homebuilders, realtors, ar-
23 chitects, nonprofit housing organizations, environ-
24 mental protection organizations, renewable energy
25 organizations, and advocacy organizations for the el-

1 derly and persons with disabilities; any advisory
2 committees established pursuant to this paragraph
3 shall not be subject to the Federal Advisory Com-
4 mittee Act (5 U.S.C. App.);

5 (3) approve, for a period not to exceed 10
6 years, additional adjustments in the maximum
7 monthly rents or additional project rental assistance,
8 or additional Indian housing block grant funds
9 under the Native American Housing Assistance and
10 Self-Determination Act of 1996, as applicable, for
11 dwelling units in multifamily housing projects that
12 are provided project-based rental assistance under a
13 covered multifamily assistance program, in such
14 amounts as may be necessary to amortize a portion
15 of the cost of energy efficiency and conservation
16 measures for such projects;

17 (4) develop a competitive process for the award
18 of such additional assistance for multifamily housing
19 projects seeking to implement energy efficiency, re-
20 newable energy sources, or conservation measures;
21 and

22 (5) waive or modify any existing statutory or
23 regulatory provision that would otherwise impair the
24 implementation or effectiveness of the demonstration
25 program under this section, including provisions re-

1 lating to methods for rent adjustments, com-
2 parability standards, maximum rent schedules, and
3 utility allowances; notwithstanding the preceding
4 provisions of this paragraph, the Secretary may not
5 waive any statutory requirement relating to fair
6 housing, nondiscrimination, labor standards, or the
7 environment, except pursuant to existing authority
8 to waive non-statutory environmental and other ap-
9 plicable requirements.

10 (d) REQUIREMENT.—During the 4-year period begin-
11 ning 12 months after the date of the enactment of this
12 Act, the Secretary shall carry out demonstration programs
13 under this section with respect to not fewer than 50,000
14 dwelling units.

15 (e) SELECTION.—

16 (1) SCOPE.—In order to provide a broad and
17 representative profile for use in designing a program
18 which can become operational and effective nation-
19 wide, the Secretary shall carry out the demonstra-
20 tion program under this section with respect to
21 dwelling units located in a wide variety of geographic
22 areas and project types assisted by the various cov-
23 ered multifamily assistance programs and using a
24 variety of energy efficiency and conservation and
25 funding techniques to reflect differences in climate,

1 types of dwelling units and technical and scientific
2 methodologies, and financing options. The Secretary
3 shall ensure that the geographic areas included in
4 the demonstration program include dwelling units on
5 Indian lands (as such term is defined in section
6 2601 of the Energy Policy Act of 1992 (25 U.S.C.
7 3501), to the extent that dwelling units on Indian
8 land have the type of residential structures that are
9 the focus of the demonstration program.

10 (2) PRIORITY.—The Secretary shall provide pri-
11 ority for selection for participation in the program
12 under this section based on the extent to which, as
13 a result of assistance provided, the project will com-
14 ply with the energy efficiency standards under sub-
15 section (a), (b), or (c) of section 604 of this title.

16 (f) USE OF EXISTING PARTNERSHIPS.—To the ex-
17 tent feasible, the Secretary shall—

18 (1) utilize the Partnership for Advancing Tech-
19 nology in Housing of the Department of Housing
20 and Urban Development to assist in carrying out the
21 requirements of this section and to provide education
22 and outreach regarding the demonstration program
23 authorized under this section; and

24 (2) consult with the Secretary of Energy, the
25 Administrator of the Environmental Protection

1 Agency, and the Secretary of the Army regarding
2 utilizing the Building America Program of the De-
3 partment of Energy, the Energy Star Program, and
4 the Army Corps of Engineers, respectively, to deter-
5 mine the manner in which they might assist in car-
6 rying out the goals of this section and providing edu-
7 cation and outreach regarding the demonstration
8 program authorized under this section.

9 (g) REPORTS.—

10 (1) ANNUAL.—Not later than the expiration of
11 the 2-year beginning upon the date of the enactment
12 of this Act, and for each year thereafter during the
13 term of the demonstration program, the Secretary
14 shall submit a report to the Congress annually that
15 describes and assesses the demonstration program
16 under this section.

17 (2) FINAL.—Not later than six months after
18 the expiration of the 4-year period described in sub-
19 section (d), the Secretary shall submit a final report
20 to the Congress assessing the demonstration pro-
21 gram, which—

22 (A) shall assess the potential for expanding
23 the demonstration program on a nationwide
24 basis; and

25 (B) shall include descriptions of—

1 (i) the size of each multifamily hous-
2 ing project for which assistance was pro-
3 vided under the program;

4 (ii) the geographic location of each
5 project assisted, by State and region;

6 (iii) the criteria used to select the
7 projects for which assistance is provided
8 under the program;

9 (iv) the energy efficiency and con-
10 servation measures and financing sources
11 used for each project that is assisted under
12 the program;

13 (v) the difference, before and during
14 participation in the demonstration pro-
15 gram, in the amount of the monthly assist-
16 ance payments under the covered multi-
17 family assistance program for each project
18 assisted under the program;

19 (vi) the average length of the term of
20 the such assistance provided under the
21 program for a project;

22 (vii) the aggregate amount of savings
23 generated by the demonstration program
24 and the amount of savings expected to be

1 generated by the program over time on a
2 per-unit and aggregate program basis;

3 (viii) the functions performed in con-
4 nection with the implementation of the
5 demonstration program that were trans-
6 ferred or contracted out to any third par-
7 ties;

8 (ix) an evaluation of the overall suc-
9 cesses and failures of the demonstration
10 program; and

11 (x) recommendations for any actions
12 to be taken as a result of the such suc-
13 cesses and failures.

14 (3) CONTENTS.—Each annual report pursuant
15 to paragraph (1) and the final report pursuant to
16 paragraph (2) shall include—

17 (A) a description of the status of each mul-
18 tifamily housing project selected for participa-
19 tion in the demonstration program under this
20 section; and

21 (B) findings from the program and rec-
22 ommendations for any legislative actions.

23 (h) COVERED MULTIFAMILY ASSISTANCE PRO-
24 GRAM.—For purposes of this section, the term “covered
25 multifamily assistance program” means—

1 (1) the program under section 8 of the United
2 States Housing Act of 1937 (42 U.S.C. 1437f) for
3 project-based rental assistance;

4 (2) the program under section 202 of the Hous-
5 ing Act of 1959 (12 U.S.C. 1701q) for assistance
6 for supportive housing for the elderly;

7 (3) the program under section 811 of the Cran-
8 ston-Gonzalez National Affordable Housing Act (42
9 U.S.C. 8013) for supportive housing for persons
10 with disabilities; and

11 (4) the program for assistance under the Native
12 American Housing Assistance and Self-Determina-
13 tion Act of 1996 (25 U.S.C. 4111).

14 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out this section
16 \$50,000,000 for each fiscal year in which the demonstra-
17 tion program under this section is carried out.

18 (j) REGULATIONS.—Not later than the expiration of
19 the 180-day period beginning on the date of the enactment
20 of this Act, the Secretary shall issue any regulations nec-
21 essary to carry out this section.

1 **SEC. 606. ADDITIONAL CREDIT FOR FANNIE MAE AND**
2 **FREDDIE MAC HOUSING GOALS FOR ENERGY**
3 **EFFICIENT MORTGAGES.**

4 Section 1336(a) of the Housing and Community De-
5 velopment Act of 1992 (12 U.S.C. 4566(a)), as amended
6 by the Federal Housing Finance Regulatory Reform Act
7 of 2008 (Public Law 110–289; 122 Stat. 2654), is amend-
8 ed—

9 (1) in paragraph (2), by striking “paragraph
10 (5)” and inserting “paragraphs (5) and (6)”; and

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

13 “(6) ADDITIONAL CREDIT.—

14 “(A) IN GENERAL.—In assigning credit to-
15 ward achievement under this section of the
16 housing goals for mortgage purchase activities
17 of the enterprises, the Director shall assign—

18 “(i) more than 125 percent credit, for
19 such purchases that both—

20 “(I) comply with the require-
21 ments of such goals; and

22 “(II) support housing that meets
23 the energy efficiency standards under
24 section 604(a) of the Green Resources
25 for Energy Efficient Neighborhoods
26 Act of 2008; and

1 “(ii) credit in addition to credit under
2 clause (i), for purchases that both—

3 “(I) comply with the require-
4 ments of such goals, and

5 “(II) support housing that com-
6 plies with the enhanced energy effi-
7 ciency and conservation standards, or
8 the green building standards, under
9 section 604(b) of such Act, or both,
10 and such additional credit shall be given
11 based on the extent to which the housing
12 supported with such purchases complies
13 with such standards.

14 “(B) TREATMENT OF ADDITIONAL CRED-
15 IT.—The availability of additional credit under
16 this paragraph shall not be used to increase any
17 housing goal, subgoal, or target established
18 under this subpart.”.

19 **SEC. 607. DUTY TO SERVE UNDERSERVED MARKETS FOR**
20 **ENERGY-EFFICIENT AND LOCATION-EFFI-**
21 **CIENT MORTGAGES.**

22 Section 1335 of Federal Housing Enterprises Finan-
23 cial Safety and Soundness Act of 1992 (12 U.S.C. 4565),
24 as amended by the Federal Housing Finance Regulatory

1 Reform Act of 2008 (Public Law 110–289; 122 Stat.
2 2654), is amended—

3 (1) in subsection (a)(1), by adding at the end
4 the following new subparagraph:

5 “(D) MARKETS FOR ENERGY-EFFICIENT
6 AND LOCATION-EFFICIENT MORTGAGES.—

7 “(i) DUTY.—Subject to clause (ii), the
8 enterprise shall develop loan products and
9 flexible underwriting guidelines to facilitate
10 a secondary market for energy-efficient
11 and location-efficient mortgages on hous-
12 ing for very low-, low-, and moderate in-
13 come families, and for second and junior
14 mortgages made for purposes of energy ef-
15 ficiency or renewable energy improvements,
16 or both.

17 “(ii) AUTHORITY TO SUSPEND.—Not-
18 withstanding any other provision of this
19 section, the Director may suspend the ap-
20 plicability of the requirement under clause
21 (i) with respect to an enterprise, for such
22 period as is necessary, if the Director de-
23 termines that exigent circumstances exist
24 and such suspension is appropriate to en-

1 sure the safety and soundness of the port-
2 folio holdings of the enterprise.”;

3 (2) by adding at the end the following new sub-
4 section:

5 “(e) DEFINITIONS.—For purposes of this section, the
6 following definitions shall apply:

7 “(1) ENERGY-EFFICIENT MORTGAGE.—The
8 term ‘energy efficient mortgage’ means a mortgage
9 loan under which the income of the borrower, for
10 purposes of qualification for such loan, is considered
11 to be increased by not less than \$1 for each \$1 of
12 savings projected to be realized by the borrower as
13 a result of cost-effective energy saving design, con-
14 struction or improvements (including use of renew-
15 able energy sources, such as solar, geothermal, bio-
16 mass, and wind, super-insulation, energy-saving win-
17 dows, insulating glass and film, and radiant barrier)
18 for the home for which the loan is made.

19 “(2) LOCATION-EFFICIENT MORTGAGE.—The
20 term ‘location efficient mortgage’ means a mortgage
21 loan under which—

22 “(A) the income of the borrower, for pur-
23 poses of qualification for such loan, is consid-
24 ered to be increased by not less than \$1 for
25 each \$1 of savings projected to be realized by

1 the borrower because the location of the home
 2 for which loan is made will result in decreased
 3 transportation costs for the household of the
 4 borrower; or

5 “(B) the sum of the principal, interest,
 6 taxes, and insurance due under the mortgage
 7 loan is decreased by not less than \$1 for each
 8 \$1 of savings projected to be realized by the
 9 borrower because the location of the home for
 10 which loan is made will result in decreased
 11 transportation costs for the household of the
 12 borrower.”.

13 **SEC. 608. CONSIDERATION OF ENERGY EFFICIENCY UNDER**
 14 **FHA MORTGAGE INSURANCE PROGRAMS AND**
 15 **NATIVE AMERICAN AND NATIVE HAWAIIAN**
 16 **LOAN GUARANTEE PROGRAMS.**

17 (a) FHA MORTGAGE INSURANCE.—

18 (1) REQUIREMENT.—Title V of the National
 19 Housing Act is amended by adding after section 542
 20 (12 U.S.C. 1735f–20) the following new section:

21 **“SEC. 543. CONSIDERATION OF ENERGY EFFICIENCY.**

22 “(a) UNDERWRITING STANDARDS.—The Secretary
 23 shall establish a method to consider, in its underwriting
 24 standards for mortgages on single-family housing meeting
 25 the energy efficiency standards under section 604(a) of

1 the Green Resources for Energy Efficient Neighborhoods
2 Act of 2008 that are insured under this Act, the impact
3 that savings on utility costs has on the income of the mort-
4 gator.

5 “(b) GOAL.—It is the sense of the Congress that, in
6 carrying out this Act, the Secretary should endeavor to
7 insure mortgages on single-family housing meeting the en-
8 ergy efficiency standards under section 604(a) of the
9 Green Resources for Energy Efficient Neighborhoods Act
10 of 2008 such that at least 50,000 such mortgages are in-
11 sured during the period beginning upon the date of the
12 enactment of such Act and ending on December 31,
13 2012.”.

14 (2) REPORTING ON DEFAULTS.—Section 540(b)
15 of the National Housing Act (12 U.S.C. 1735f–
16 18(b)) is amended by adding at the end the fol-
17 lowing new paragraph:

18 “(3) With respect to each collection period that
19 commences after December 31, 2011, the total num-
20 ber of mortgages on single-family housing meeting
21 the energy efficiency standards under section 604(a)
22 of the Green Resources for Energy Efficient Neigh-
23 borhoods Act of 2008 that are insured by the Sec-
24 retary during the applicable collection period, the
25 number of defaults and foreclosures occurring on

1 such mortgages during such period, the percentage
2 of the total of such mortgages insured during such
3 period on which defaults and foreclosure occurred,
4 and the rate for such period of defaults and fore-
5 closures on such mortgages compared to the overall
6 rate for such period of defaults and foreclosures on
7 mortgages for single-family housing insured under
8 this Act by the Secretary.”.

9 (b) INDIAN HOUSING LOAN GUARANTEES.—

10 (1) REQUIREMENT.—Section 184 of the Hous-
11 ing and Community Development Act of 1992 (12
12 U.S.C. 1715z–13a) is amended—

13 (A) by redesignating subsection (l) as sub-
14 section (m); and

15 (B) by inserting after subsection (k) the
16 following new subsection:

17 “(l) CONSIDERATION OF ENERGY EFFICIENCY.—The
18 Secretary shall establish a method to consider, in its un-
19 derwriting standards for loans for single-family housing
20 meeting the energy efficiency standards under section
21 604(a) of the Green Resources for Energy Efficient
22 Neighborhoods Act of 2008 that are guaranteed under
23 this section, the impact that savings on utility costs has
24 on the income of the borrower.”.

1 (2) REPORTING ON DEFAULTS.—Section 540(b)
2 of the National Housing Act (12 U.S.C. 1735f–
3 18(b)), as amended by subsection (a)(2) of this sec-
4 tion, is further amended by adding at the end the
5 following new paragraph:

6 “(4) With respect to each collection period that
7 commences after December 31, 2011, the total num-
8 ber of loans guaranteed under section 184 of the
9 Housing and Community Development Act of 1992
10 (12 U.S.C. 1715z–13a) on single-family housing
11 meeting the enhanced energy efficiency standards
12 under section 604(a) of the Green Resources for En-
13 ergy Efficient Neighborhoods Act of 2008 that are
14 guaranteed by the Secretary during the applicable
15 collection period, the number of defaults and fore-
16 closures occurring on such loans during such period,
17 the percentage of the total of such loans guaranteed
18 during such period on which defaults and foreclosure
19 occurred, and the rate for such period of defaults
20 and foreclosures on such loans compared to the over-
21 all rate for such period of defaults and foreclosures
22 on loans for single-family housing guaranteed under
23 such section 184 by the Secretary.”.

24 (c) NATIVE HAWAIIAN HOUSING LOAN GUARAN-
25 TEES.—

1 (1) REQUIREMENT.—Section 184A of the
2 Housing and Community Development Act of 1992
3 (12 U.S.C. 1715z–13b) is amended by inserting
4 after subsection (l) the following new subsection:

5 “(m) ENERGY-EFFICIENT HOUSING REQUIRE-
6 MENT.—The Secretary shall establish a method to con-
7 sider, in its underwriting standards for loans for single-
8 family housing meeting the energy efficiency standards
9 under section 604(a) of the Green Resources for Energy
10 Efficient Neighborhoods Act of 2008 that are guaranteed
11 under this section, the impact that savings on utility costs
12 has on the income of the borrower.”.

13 (2) REPORTING ON DEFAULTS.—Section 540(b)
14 of the National Housing Act (12 U.S.C. 1735f–
15 18(b)), as amended by the preceding provisions of
16 this section, is further amended by adding at the
17 end the following new paragraph:

18 “(5) With respect to each collection period that
19 commences after December 31, 2011, the total num-
20 ber of loans guaranteed under section 184A of the
21 Housing and Community Development Act of 1992
22 (12 U.S.C. 1715z–13b) on single-family housing
23 meeting the enhanced energy efficiency standards
24 under section 604(a) of the Green Resources for En-
25 ergy Efficient Neighborhoods Act of 2008 that are

1 guaranteed by the Secretary during the applicable
 2 collection period, the number of defaults and fore-
 3 closures occurring on such loans during such period,
 4 the percentage of the total of such loans guaranteed
 5 during such period on which defaults and foreclosure
 6 occurred, and the rate for such period of defaults
 7 and foreclosures on such loans compared to the over-
 8 all rate for such period of defaults and foreclosures
 9 on loans for single-family housing guaranteed under
 10 such section 184A by the Secretary.”.

11 **SEC. 609. ENERGY EFFICIENT MORTGAGES EDUCATION**
 12 **AND OUTREACH CAMPAIGN.**

13 Section 106 of the Energy Policy Act of 1992 (12
 14 U.S.C. 1701z–16) is amended by adding at the end the
 15 following new subsection:

16 “(g) EDUCATION AND OUTREACH CAMPAIGN.—

17 “(1) DEVELOPMENT OF ENERGY-EFFICIENT
 18 MORTGAGE OUTREACH PROGRAM.—

19 “(A) COMMISSION.—The Secretary, in con-
 20 sultation and coordination with the Secretary of
 21 Energy, the Secretary of Education, the Sec-
 22 retary of Agriculture, and the Administrator of
 23 the Environmental Protection Agency, shall es-
 24 tablish a commission to develop and recommend
 25 model mortgage products and underwriting

1 guidelines that provide market-based incentives
2 to prospective home buyers, lenders, and sellers
3 to incorporate energy efficiency upgrades in
4 new mortgage loan transactions.

5 “(B) REPORT.—Not later than 24 months
6 after the date of the enactment of the Green
7 Resources for Energy Efficient Neighborhoods
8 Act of 2008, the Secretary shall provide a writ-
9 ten report to the Congress on the results of
10 work of the commission established pursuant to
11 subparagraph (A) and that identifies model
12 mortgage products and underwriting guidelines
13 that may encourage energy efficiency.

14 “(2) IMPLEMENTATION.—After submission of
15 the report under paragraph (1)(B), the Secretary, in
16 consultation and coordination with the Secretary of
17 Energy, the Secretary of Education, and the Admin-
18 istrator of the Environmental Protection Agency,
19 shall carry out a public awareness, education, and
20 outreach campaign based on the findings of the com-
21 mission established pursuant to paragraph (1) to in-
22 form and educate residential lenders and prospective
23 borrowers regarding the availability, benefits, advan-
24 tages, and terms of energy efficient mortgages made
25 available pursuant to this section, energy efficient

1 mortgages that meet the requirements of section
2 1335 of the Housing and Community Development
3 Act of 1992 (42 U.S.C. 4565), and other mortgages,
4 including mortgages for multifamily housing, that
5 have energy improvement features and to publicize
6 such availability, benefits, advantages, and terms.
7 Such actions may include entering into a contract
8 with an appropriate entity to publicize and market
9 such mortgages through appropriate media.

10 “(3) RENEWABLE ENERGY HOME PRODUCT
11 EXPOS.—The Congress hereby encourages the Sec-
12 retary of Housing and Urban Development to work
13 with appropriate entities to organize and hold renew-
14 able energy expositions that provide an opportunity
15 for the public to view and learn about renewable en-
16 ergy products for the home that are currently on the
17 market.

18 “(4) AUTHORIZATION OF APPROPRIATIONS.—
19 There is authorized to be appropriated to the Sec-
20 retary to carry out this subsection \$5,000,000 for
21 each of fiscal years 2009 through 2012.”.

1 **SEC. 610. COLLECTION OF INFORMATION ON ENERGY-EFFI-**
2 **CIENT AND LOCATION EFFICIENT MORT-**
3 **GAGES THROUGH HOME MORTGAGE DISCLO-**
4 **SURE ACT.**

5 (a) IN GENERAL.—Section 304(b) of the Home Mort-
6 gage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is
7 amended—

8 (1) in paragraph (3), by striking “and” at the
9 end;

10 (2) in paragraph (4), by striking the period at
11 the end and inserting a semicolon; and

12 (3) by adding at the end the following new
13 paragraphs:

14 “(5) the number and dollar amount of mort-
15 gage loans for single-family housing and for multi-
16 family housing that are energy-efficient mortgages
17 (as such term is defined in section 1335 of Housing
18 and Community Development Act of 1992); and

19 “(6) the number and dollar amount of mort-
20 gage loans for single-family housing and for multi-
21 family housing that are location-efficient mortgages
22 (as such term is defined in section 1335 of Housing
23 and Community Development Act of 1992).”.

24 (b) APPLICABILITY.—The amendment made by sub-
25 section (a) shall apply with respect to the first calendar

1 year that begins after the expiration of the 30-day period
2 beginning on the date of the enactment of this Act.

3 **SEC. 611. ENSURING AVAILABILITY OF HOMEOWNERS IN-**
4 **SURANCE FOR HOMES NOT CONNECTED TO**
5 **ELECTRICITY GRID.**

6 (a) IN GENERAL.—In the case of any covered struc-
7 ture (as such term is defined in subsection (d)), it shall
8 be unlawful for any insurer to deny homeowners insurance
9 coverage for the structure, or to otherwise discriminate in
10 the issuance, cancellation, amount of such coverage, or
11 conditions of such coverage for the structure, based solely
12 and without any additional actuarial risks upon the fact
13 that the structure is not connected to, or able to receive
14 electricity service from, any wholesale or retail electric
15 power provider.

16 (b) CONSIDERATION OF ACTUARIAL RISK.—Sub-
17 section (a) may not be construed to prevent any insurer
18 from charging rates for homeowners insurance coverage
19 for a structure that are based on a good faith actuarial
20 analysis of the risk associated with the structure not being
21 connected to, or able to receive electricity service from, any
22 wholesale or retail electric power provide. Any good faith
23 analysis of such risk shall include analysis of the manner
24 in which electric power for the structure is provided.

1 (c) INSURING HOMES AND RELATED PROPERTY IN
 2 INDIAN AREAS.—Notwithstanding any other provision of
 3 law, covered structures located in Indian areas (as such
 4 term is defined in section 4 of the Native American Hous-
 5 ing Assistance and Self-Determination Act of 1996 (25
 6 U.S.C. 4103)) and constructed or maintained using assist-
 7 ance, loan guarantees, or other authority under the Native
 8 American Housing Assistance and Self-Determination Act
 9 of 1996 may be insured by any tribally owned self-insur-
 10 ance risk pool approved by the Secretary of Housing and
 11 Urban Development.

12 (d) COVERED STRUCTURE.—For purposes of this
 13 section, the term “covered structure” means a residential
 14 structure that—

- 15 (1) consists of one to four dwelling units;
- 16 (2) is provided power, heat, or electricity from
 17 renewable energy sources (such as solar, wind, geo-
 18 thermal, or biomass) or a fuel cell; and
- 19 (3) is not connected to any wholesale or retail
 20 electrical power grid.

21 **SEC. 612. MORTGAGE INCENTIVES FOR ENERGY-EFFICIENT**
 22 **MULTIFAMILY HOUSING.**

23 (a) IN GENERAL.—The Secretary of Housing and
 24 Urban Development shall establish incentives for increas-
 25 ing the energy efficiency of multifamily housing that is

1 subject to a mortgage to be insured under title II of the
2 National Housing Act (12 U.S.C. 1707 et seq.) so that
3 the housing meets the energy efficiency standards under
4 section 604(a) of this title and incentives to encourage
5 compliance of such housing with the energy efficiency and
6 conservation standards, and the green building standards,
7 under section 604(b) of this title, to the extent that such
8 incentives are based on the impact that savings on utility
9 costs has on the operating costs of the housing, as deter-
10 mined by the Secretary.

11 (b) INCENTIVES.—Such incentives may include, for
12 any such multifamily housing that complies with the en-
13 ergy efficiency standards under section 604(a)—

14 (1) providing a discount on the chargeable pre-
15 miums for the mortgage insurance for such housing
16 from the amount otherwise chargeable for such
17 mortgage insurance;

18 (2) allowing mortgages to exceed the dollar
19 amount limits otherwise applicable under law to the
20 extent such additional amounts are used to finance
21 improvements or measures designed to meet the
22 standards referred to in subsection (a); and

23 (3) reducing the amount that the owner of such
24 multifamily housing meeting the standards referred
25 to in subsection (a) is required to contribute.

1 **SEC. 613. ENERGY EFFICIENCY CERTIFICATIONS FOR**
2 **HOUSING WITH MORTGAGES INSURED BY**
3 **FHA.**

4 Section 526 of the National Housing Act (12 U.S.C.
5 1735f-4(a)) is amended—

6 (1) in subsection (a)—

7 (A) by striking “, other than manufactured
8 homes,” each place such term appears;

9 (B) by inserting after the period at the end
10 the following: “The energy performance require-
11 ments developed and established by the Sec-
12 retary under this section for manufactured
13 homes shall require energy star rating for wall
14 fixtures, appliances, and equipment in such
15 housing.”;

16 (C) by inserting “(1)” after “(a)”; and

17 (D) by adding at the end the following new
18 paragraphs:

19 “(2) The Secretary shall require, with respect to any
20 single- or multi-family residential housing subject to a
21 mortgage insured under this Act, that any approval or cer-
22 tification of the housing for meeting any energy efficiency
23 or conservation criteria, standards, or requirements pursu-
24 ant to this title and any approval or certification required
25 pursuant to this title with respect to energy conserving
26 improvements or any renewable energy sources, such as

1 wind, solar energy geothermal, or biomass, shall be con-
 2 ducted only by an individual certified by a home energy
 3 rating system provider who has been accredited to conduct
 4 such ratings by the Home Energy Ratings System Coun-
 5 cil, the Residential Energy Services Network, or such
 6 other appropriate national organization, as the Secretary
 7 may provide, or by licensed professional architect or engi-
 8 neer. If any organization makes a request to the Secretary
 9 for approval to accredit individuals to conduct energy effi-
 10 ciency or conservation ratings, the Secretary shall review
 11 and approve or disapprove such request not later than the
 12 expiration of the 6-month period beginning upon receipt
 13 of such request.

14 “(3) The Secretary shall periodically examine the
 15 method used to conduct inspections for compliance with
 16 the requirements under this section, analyze various other
 17 approaches for conducting such inspections, and review
 18 the costs and benefits of the current method compared
 19 with other methods.”; and

20 (2) in subsection (b), by striking “, other than
 21 a manufactured home,”.

22 **SEC. 614. ASSISTED HOUSING ENERGY LOAN PILOT PRO-**
 23 **GRAM.**

24 (a) **AUTHORITY.**—Not later than the expiration of
 25 the 12-month period beginning on the date of the enact-

1 ment of this Act, the Secretary shall develop and imple-
2 ment a pilot program under this section to facilitate the
3 financing of cost-effective capital improvements for cov-
4 ered assisted housing projects to improve the energy effi-
5 ciency and conservation of such projects.

6 (b) LOANS.—The pilot program under this section
7 shall involve not less than three and not more than five
8 lenders, and shall provide for a privately financed loan to
9 be made for a covered assisted housing project, which
10 shall—

11 (1) finance capital improvements for the project
12 that meet such requirements as the Secretary shall
13 establish, and may involve contracts with third par-
14 ties to perform such capital improvements, including
15 the design of such improvements by licensed profes-
16 sional architects or engineers;

17 (2) have a term to maturity of not more than
18 20 years, which shall be based upon the duration
19 necessary to realize cost savings sufficient to repay
20 the loan;

21 (3) be secured by a mortgage subordinate to the
22 mortgage for the project that is insured under the
23 National Housing Act; and

24 (4) provide for a reduction in the remaining
25 principal obligation under the loan based on the ac-

1 tual resulting cost savings realized from the capital
2 improvements financed with the loan.

3 (c) UNDERWRITING STANDARDS.—The Secretary
4 shall establish underwriting requirements for loans made
5 under the pilot program under this section, which shall—

6 (1) require the cost savings projected to be real-
7 ized from the capital improvements financed with
8 the loan, during the term of the loan, to exceed the
9 costs of repaying the loan;

10 (2) allow the designer or contractor involved in
11 designing capital improvements to be financed with
12 a loan under the program to carry out such capital
13 improvements; and

14 (3) include such energy, audit, property, finan-
15 cial, ownership, and approval requirements as the
16 Secretary considers appropriate.

17 (d) TREATMENT OF SAVINGS.—The pilot program
18 under this section shall provide that the project owner
19 shall receive the full financial benefit from any reduction
20 in the cost of utilities resulting from capital improvements
21 financed with a loan made under the program.

22 (e) COVERED ASSISTED HOUSING PROJECTS.—For
23 purposes of this section, the term “covered assisted hous-
24 ing project” means a housing project that—

25 (1) is financed by a loan or mortgage that is—

1 (A) insured by the Secretary under sub-
 2 section (d)(3) or (d)(4) of section 221 of the
 3 National Housing Act (12 U.S.C. 1715l), and
 4 bears interest at a rate determined under the
 5 proviso of section 221(d)(5) of such Act; or

6 (B) insured or assisted under section 236
 7 of the National Housing Act (12 U.S.C. 1715z–
 8 1);

9 (2) at the time a loan under this section is
 10 made, is provided project-based rental assistance
 11 under section 8 of the United States Housing Act of
 12 1937 (42 U.S.C. 1437f) for 50 percent or more of
 13 the dwelling units in the project; and

14 (3) is not a housing project owned or held by
 15 the Secretary, or subject to a mortgage held by the
 16 Secretary.

17 **SEC. 615. RESIDENTIAL ENERGY EFFICIENCY BLOCK**
 18 **GRANT PROGRAM.**

19 Title I of the Housing and Community Development
 20 Act of 1974 (42 U.S.C. 5301 et seq.) is amended by add-
 21 ing at the end the following new section:

22 **“SEC. 123. RESIDENTIAL ENERGY EFFICIENCY BLOCK**
 23 **GRANT PROGRAM.**

24 “(a) IN GENERAL.—To the extent amounts are made
 25 available for grants under this section, the Secretary shall

1 make grants under this section to States, metropolitan cit-
2 ies and urban counties, Indian tribes, and insular areas
3 to carry out energy efficiency improvements in new and
4 existing single-family and multifamily housing.

5 “(b) ALLOCATIONS.—

6 “(1) IN GENERAL.—Of the total amount made
7 available for each fiscal year for grants under this
8 section that remains after reserving amounts pursu-
9 ant to paragraph (2), the Secretary shall allocate for
10 insular areas, for metropolitan cities and urban
11 counties, and for States, an amount that bears the
12 same ratio to such total amount as the amount allo-
13 cated for such fiscal year under section 106 for In-
14 dian tribes, for insular areas, for metropolitan cities
15 and urban counties, and for States, respectively,
16 bears to the total amount made available for such
17 fiscal year for grants under section 106.

18 “(2) SET ASIDE FOR INDIAN TRIBES.—Of the
19 total amount made available for each fiscal year for
20 grants under this section, the Secretary shall allo-
21 cate not less than one percent to Indian tribes.

22 “(c) GRANT AMOUNTS.—

23 “(1) ENTITLEMENT COMMUNITIES.—From the
24 amounts allocated pursuant to subsection (b) for
25 metropolitan cities and urban counties for each fiscal

1 year, the Secretary shall make a grant for such fis-
2 cal year to each metropolitan city and urban county
3 that complies with the requirement under subsection
4 (d), in the amount that bears the same ratio such
5 total amount so allocated as the amount of the grant
6 for such fiscal year under section 106 for such met-
7 ropolitan city or urban county bears to the aggre-
8 gate amount of all grants for such fiscal year under
9 section 106 for all metropolitan cities and urban
10 counties.

11 “(2) STATES.—From the amounts allocated
12 pursuant to subsection (b) for States for each fiscal
13 year, the Secretary shall make a grant for such fis-
14 cal year to each State that complies with the re-
15 quirement under subsection (d), in the amount that
16 bears the same ratio such total amount so allocated
17 as the amount of the grant for such fiscal year
18 under section 106 for such State bears to the aggre-
19 gate amount of all grants for such fiscal year under
20 section 106 for all States. Grant amounts received
21 by a State shall be used only for eligible activities
22 under subsection (e) carried out in nonentitlement
23 areas of the State.

24 “(3) INDIAN TRIBES.—From the amounts allo-
25 cated pursuant to subsection (b) for Indian tribes,

1 the Secretary shall make grants to Indian tribes that
2 comply with the requirement under subsection (d) on
3 the basis of a competition conducted pursuant to
4 specific criteria, as the Secretary shall establish by
5 regulation, for the selection of Indian tribes to re-
6 ceive such amount.

7 “(4) INSULAR AREAS.—From the amounts allo-
8 cated pursuant to subsection (b) for insular areas,
9 the Secretary shall make a grant to each insular
10 area that complies with the requirement under sub-
11 section (d) on the basis of the ratio of the population
12 of the insular area to the aggregate population of all
13 insular areas. In determining the distribution of
14 amounts to insular areas, the Secretary may also in-
15 clude other statistical criteria as data become avail-
16 able from the Bureau of Census of the Department
17 of Labor, but only if such criteria are set forth by
18 regulation issued after notice and an opportunity for
19 comment.

20 “(d) STATEMENT OF ACTIVITIES.—

21 “(1) REQUIREMENT.—Before receipt the re-
22 ceipt in any fiscal year of a grant under subsection
23 (c) by any grantee, the grantee shall have prepared
24 a final statement of housing energy efficiency objec-
25 tives and projected use of funds as the Secretary

1 shall require and shall have provided the Secretary
2 with such certifications regarding such objectives
3 and use as the Secretary may require. In the case
4 of metropolitan cities, urban counties, units of gen-
5 eral local government, and insular areas receiving
6 grants, the statement of projected use of funds shall
7 consist of proposed housing energy efficiency activi-
8 ties. In the case of States receiving grants, the state-
9 ment of projected use of funds shall consist of the
10 method by which the States will distribute funds to
11 units of general local government.

12 “(2) PUBLIC PARTICIPATION.—The Secretary
13 may establish requirements to ensure the public
14 availability of information regarding projected use of
15 grant amounts and public participation in deter-
16 mining such projected use.

17 “(e) ELIGIBLE ACTIVITIES.—

18 “(1) REQUIREMENT.—Amounts from a grant
19 under this section may be used only to carry out ac-
20 tivities for single-family or multifamily housing that
21 are designed to improve the energy efficiency of the
22 housing so that the housing complies with the en-
23 ergy efficiency standard under section 604(a) of the
24 Green Resources for Energy Efficient Neighbor-
25 hoods Act of 2008, including such activities to pro-

1 vide energy for such housing from renewable
2 sources, such as wind, waves, solar, biomass, and
3 geothermal sources.

4 “(2) PREFERENCE FOR COMPLIANCE BEYOND
5 MINIMUM REQUIREMENTS.—In selecting activities to
6 be funded with amounts from a grant under this
7 section, a grantee shall give more preference to ac-
8 tivities based on the extent to which the activities
9 will result in compliance by the housing with the en-
10 hanced energy efficiency and conservation standards,
11 and the green building standards, under section
12 604(b) of such Act.

13 “(f) REPORTS.—Each grantee of a grant under this
14 section for a fiscal year shall submit to the Secretary, at
15 a time determined by the Secretary, a performance and
16 evaluation report concerning the use of grant amounts,
17 which shall contain an assessment by the grantee of the
18 relationship of such use to the objectives identified in the
19 grantees statement under subsection (d).

20 “(g) APPLICABILITY OF CDBG PROVISIONS.—Sec-
21 tions 109, 110, and 111 of the Housing and Community
22 Development Act of 1974 (42 U.S.C. 5309, 5310, 5311)
23 shall apply to assistance received under this section to the
24 same extent and in the same manner that such sections
25 apply to assistance received under title I of such Act.

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated for grants under this sec-
3 tion \$2,500,000,000 for fiscal year 2009 and such sums
4 as may be necessary for each fiscal year thereafter.”.

5 **SEC. 616. INCLUDING SUSTAINABLE DEVELOPMENT IN**
6 **COMPREHENSIVE HOUSING AFFORDABILITY**
7 **STRATEGIES.**

8 Section 105(b) of the Cranston-Gonzalez National
9 Affordable Housing Act (42 U.S.C. 12705(b)) is amend-
10 ed—

11 (1) by striking “and” at the end of paragraph
12 (19);

13 (2) by striking the period at the end of para-
14 graph (20) and inserting “; and”;

15 (3) and by inserting after paragraph (20) the
16 following:

17 “(21) describe the jurisdiction’s strategies to
18 encourage sustainable development for affordable
19 housing, including single-family and multifamily
20 housing, as measured by—

21 “(A) greater energy efficiency and use of
22 renewable energy sources, including any strate-
23 gies regarding compliance with the energy effi-
24 ciency requirements under section 604(a) of the
25 Green Resources for Energy Efficient Neigh-

1 borhoods Act of 2008 and with the enhanced
2 energy efficiency and conservation standards,
3 and the green building standards, under section
4 604(b) of such Act;

5 “(B) increased conservation, recycling, and
6 reuse of resources;

7 “(C) more effective use of existing infra-
8 structure;

9 “(D) use of building materials and meth-
10 ods that are healthier for residents of the hous-
11 ing, including use of building materials that are
12 free of added known carcinogens that are classi-
13 fied as Group 1 Known Carcinogens by the
14 International Agency for Research on Cancer;
15 and

16 “(E) such other criteria as the Secretary
17 determines, in consultation with the Secretary
18 of Energy, the Secretary of Agriculture, and the
19 Administrator of the Environmental Protection
20 Agency, are in accordance with the purposes of
21 this paragraph.”.

1 **SEC. 617. GRANT PROGRAM TO INCREASE SUSTAINABLE**
2 **LOW-INCOME COMMUNITY DEVELOPMENT**
3 **CAPACITY.**

4 (a) IN GENERAL.—The Secretary may make grants
5 to nonprofit organizations to use for any of the following
6 purposes:

7 (1) Training, educating, supporting, or advising
8 an eligible community development organization or
9 qualified youth service and conservation corps in im-
10 proving energy efficiency, resource conservation and
11 reuse, design strategies to maximize energy effi-
12 ciency, installing or constructing renewable energy
13 improvements (such as wind, wave, solar, biomass,
14 and geothermal energy sources), and effective use of
15 existing infrastructure in affordable housing and
16 economic development activities in low-income com-
17 munities, taking into consideration energy efficiency
18 requirements under section 604(a) of this title and
19 with the enhanced energy efficiency and conservation
20 standards, and the green building standards, under
21 section 604(b) of this title.

22 (2) Providing loans, grants, or predevelopment
23 assistance to eligible community development organi-
24 zations or qualified youth service and conservation
25 corps to carry out energy efficiency improvements
26 that comply with the energy efficiency requirements

1 under section 604(a) of this title, resource conserva-
2 tion and reuse, and effective use of existing infra-
3 structure in affordable housing and economic devel-
4 opment activities in low-income communities. In pro-
5 viding assistance under this paragraph, the Sec-
6 retary shall give more preference to activities based
7 on the extent to which the activities will result in
8 compliance with the enhanced energy efficiency and
9 conservation standards, and the green building
10 standards, under section 604(b) of this title.

11 (3) Such other purposes as the Secretary deter-
12 mines are in accordance with the purposes of this
13 subsection.

14 (b) APPLICATION REQUIREMENT.—To be eligible for
15 a grant under this section, a nonprofit organization shall
16 prepare and submit to the Secretary an application at
17 such time, in such manner, and containing such informa-
18 tion as the Secretary may require.

19 (c) AWARD OF CONTRACTS.—Contracts for architec-
20 tural or engineering services funded with amounts from
21 grants made under this section shall be awarded in accord-
22 ance with chapter 11 of title 40, United States Code (re-
23 lating to selection of architects and engineers).

24 (d) MATCHING REQUIREMENT.—A grant made under
25 this section may not exceed the amount that the nonprofit

1 organization receiving the grant certifies, to the Secretary,
2 will be provided (in cash or in kind) from non-govern-
3 mental sources to carry out the purposes for which the
4 grant is made.

5 (e) DEFINITIONS.—For purposes of this section, the
6 following definitions shall apply:

7 (1) The term “nonprofit organization” has the
8 meaning given such term in section 104 of the Cran-
9 ston-Gonzalez National Affordable Housing Act (42
10 U.S.C. 12704).

11 (2) The term “eligible community development
12 organization” means—

13 (A) a unit of general local government (as
14 defined in section 104 of the Cranston-Gonzalez
15 National Affordable Housing Act (42 U.S.C.
16 12704));

17 (B) a community housing development or-
18 ganization (as defined in section 104 of the
19 Cranston-Gonzalez National Affordable Hous-
20 ing Act (42 U.S.C. 12704));

21 (C) an Indian tribe or tribally designated
22 housing entity (as such terms are defined in
23 section 4 of the Native American Housing As-
24 sistance and Self-Determination Act of 1996
25 (25 U.S.C. 4103)); or

1 (D) a public housing agency, as such term
 2 is defined in section 3(b) of the United States
 3 Housing Act of 1937 (42 U.S.C. 1437(b)).

4 (3) The term “low-income community” means a
 5 census tract in which 50 percent or more of the
 6 households have an income which is less than 80
 7 percent of the greater of—

8 (A) the median gross income for such year
 9 for the area in which such census tract is lo-
 10 cated; or

11 (B) the median gross income for such year
 12 for the State in which such census tract is lo-
 13 cated.

14 (f) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated to the Secretary to carry
 16 out this section \$10,000,000 for each of fiscal years 2008
 17 through 2012.

18 **SEC. 618. UTILIZATION OF ENERGY PERFORMANCE CON-**
 19 **TRACTS IN HOPE VI.**

20 Section 24(d) of the United States Housing Act of
 21 1937 (42 U.S.C. 1437v(d)) is amended by adding at the
 22 end the following new paragraph:

23 “(3) ENERGY PERFORMANCE CONTRACTS.—

24 “(A) IN GENERAL.—The Secretary shall
 25 provide that a public housing agency shall re-

1 ceive the full financial benefit, as determined by
2 the Secretary, from any reduction in the cost of
3 utilities resulting from any contract with a
4 third party to undertake energy conservation
5 improvements in connection with a revitaliza-
6 tion plan under this section.

7 “(B) THIRD PARTY CONTRACTS.—Con-
8 tracts described in subparagraph (A) may in-
9 clude contracts for equipment conversions to
10 less costly utility sources, projects with resi-
11 dent-paid utilities, and adjustments to frozen
12 base year consumption, including systems re-
13 paired to meet applicable building and safety
14 codes and adjustments for occupancy rates in-
15 creased by rehabilitation.

16 “(C) TERM OF CONTRACT.—The total
17 term of a contract described in subparagraph
18 (A) shall not exceed 20 years to allow longer
19 payback periods for retrofits, including win-
20 dows, heating system replacements, wall insula-
21 tion, site-based generation, advanced energy
22 savings technologies, including renewable en-
23 ergy generation, and other such retrofits.”.

1 **SEC. 619. HOPE VI GREEN DEVELOPMENTS REQUIREMENT.**

2 (a) MANDATORY COMPONENT.—Section 24(e) of the
3 United States Housing Act of 1937 (42 U.S.C. 1437v(e))
4 is amended by adding at the end the following new para-
5 graph:

6 “(4) GREEN DEVELOPMENTS REQUIREMENT.—

7 “(A) REQUIREMENT.—The Secretary may
8 not make a grant under this section to an appli-
9 cant unless the proposed revitalization plan of
10 the applicant to be carried out with such grant
11 amounts meets the following requirements:

12 “(i) GREEN COMMUNITIES CRITERIA
13 CHECKLIST.—All residential construction
14 under the proposed plan complies with the
15 national Green Communities criteria
16 checklist for residential construction that
17 provides criteria for the design, develop-
18 ment, and operation of affordable housing,
19 as such checklist is in effect for purposes
20 of this paragraph pursuant to subpara-
21 graph (D) at the date of the application
22 for the grant, or any substantially equiva-
23 lent standard or standards as determined
24 by the Secretary, as follows:

25 “(I) The proposed plan shall
26 comply with all items of the national

1 Green Communities criteria checklist
2 for residential construction that are
3 identified as mandatory.

4 “(II) The proposed plan shall
5 comply with such other nonmandatory
6 items of such national Green Commu-
7 nities criteria checklist so as to result
8 in a cumulative number of points at-
9 tributable to such nonmandatory
10 items under such checklist of not less
11 than—

12 “(aa) 25 points, in the case
13 of any proposed plan (or portion
14 thereof) consisting of new con-
15 struction; and

16 “(bb) 20 points, in the case
17 of any proposed plan (or portion
18 thereof) consisting of rehabilita-
19 tion.

20 “(ii) GREEN BUILDINGS CERTIFI-
21 CATION SYSTEM.—All non-residential con-
22 struction under the proposed plan complies
23 with all minimum required levels of the
24 green building rating systems and levels
25 identified by the Secretary pursuant to

1 subparagraph (C), as such systems and
2 levels are in effect for purposes of this
3 paragraph pursuant to subparagraph (D)
4 at the time of the application for the
5 grant.

6 “(B) VERIFICATION.—

7 “(i) IN GENERAL.—The Secretary
8 shall verify, or provide for verification, suf-
9 ficient to ensure that each proposed revi-
10 talization plan carried out with amounts
11 from a grant under this section complies
12 with the requirements under subparagraph
13 (A) and that the revitalization plan is car-
14 ried out in accordance with such require-
15 ments and plan.

16 “(ii) TIMING.—In providing for such
17 verification, the Secretary shall establish
18 procedures to ensure such compliance with
19 respect to each grantee, and shall report to
20 the Congress with respect to the compli-
21 ance of each grantee, at each of the fol-
22 lowing times:

23 “(I) Not later than 6 months
24 after execution of the grant agreement
25 under this section for the grantee.

1 “(II) Upon completion of the re-
2 vitalization plan of the grantee.

3 “(C) IDENTIFICATION OF GREEN BUILD-
4 INGS RATING SYSTEMS AND LEVELS.—

5 “(i) IN GENERAL.—For purposes of
6 this paragraph, the Secretary shall identify
7 rating systems and levels for green build-
8 ings that the Secretary determines to be
9 the most likely to encourage a comprehen-
10 sive and environmentally-sound approach
11 to ratings and standards for green build-
12 ings. The identification of the ratings sys-
13 tems and levels shall be based on the cri-
14 teria specified in clause (ii), shall identify
15 the highest levels the Secretary determines
16 are appropriate above the minimum levels
17 required under the systems selected. With-
18 in 90 days of the completion of each study
19 required by clause (iii), the Secretary shall
20 review and update the rating systems and
21 levels, or identify alternative systems and
22 levels for purposes of this paragraph, tak-
23 ing into account the conclusions of such
24 study.

1 “(ii) CRITERIA.—In identifying the
2 green rating systems and levels, the Sec-
3 retary shall take into consideration—

4 “(I) the ability and availability of
5 assessors and auditors to independ-
6 ently verify the criteria and measure-
7 ment of metrics at the scale necessary
8 to implement this paragraph;

9 “(II) the ability of the applicable
10 ratings system organizations to collect
11 and reflect public comment;

12 “(III) the ability of the standards
13 to be developed and revised through a
14 consensus-based process;

15 “(IV) An evaluation of the
16 robustness of the criteria for a high-
17 performance green building, which
18 shall give credit for promoting—

19 “(aa) efficient and sustain-
20 able use of water, energy, and
21 other natural resources;

22 “(bb) use of renewable en-
23 ergy sources;

24 “(cc) improved indoor and
25 outdoor environmental quality

1 through enhanced indoor and
2 outdoor air quality, thermal com-
3 fort, acoustics, outdoor noise pol-
4 lution, day lighting, pollutant
5 source control, sustainable land-
6 scaping, and use of building sys-
7 tem controls and low- or no-emis-
8 sion materials, including pref-
9 erence for materials with no
10 added carcinogens that are classi-
11 fied as Group 1 Known Carcino-
12 gens by the International Agency
13 for Research on Cancer; and

14 “(dd) such other criteria as
15 the Secretary determines to be
16 appropriate; and

17 “(V) national recognition within
18 the building industry.

19 “(iii) 5-YEAR EVALUATION.—At least
20 once every five years, the Secretary shall
21 conduct a study to evaluate and compare
22 available third-party green building rating
23 systems and levels, taking into account the
24 criteria listed in clause (ii).

1 “(D) APPLICABILITY AND UPDATING OF
2 STANDARDS.—

3 “(i) APPLICABILITY.—Except as pro-
4 vided in clause (ii) of this subparagraph,
5 the national Green Communities criteria
6 checklist and green building rating systems
7 and levels referred to in clauses (i) and (ii)
8 of subparagraph (A) that are in effect for
9 purposes of this paragraph are such check-
10 list systems, and levels as in existence
11 upon the date of the enactment of the
12 Green Resources for Energy Efficient
13 Neighborhoods Act of 2008.

14 “(ii) UPDATING.—The Secretary may,
15 by regulation, adopt and apply, for pur-
16 poses of this paragraph, future amend-
17 ments and supplements to, and editions of,
18 the national Green Communities criteria
19 checklist, any standard or standards that
20 the Secretary has determined to be sub-
21 stantially equivalent to such checklist, and
22 the green building ratings systems and lev-
23 els identified by the Secretary pursuant to
24 subparagraph (C).”.

1 (b) SELECTION CRITERIA; GRADED COMPONENT.—
2 Section 24(e)(2) of the United States Housing Act of
3 1937 (42 U.S.C. 1437v(e)(2)) is amended—

4 (1) in subparagraph (K), by striking “and” at
5 the end;

6 (2) by redesignating subparagraph (L) as sub-
7 paragraph (M); and

8 (3) by inserting after subparagraph (K) the fol-
9 lowing new subparagraph:

10 “(L) the extent to which the proposed revi-
11 talization plan—

12 “(i) in the case of residential con-
13 struction, complies with the nonmandatory
14 items of the national Green Communities
15 criteria checklist identified in paragraph
16 (4)(A)(i), or any substantially equivalent
17 standard or standards as determined by
18 the Secretary, but only to the extent such
19 compliance exceeds the compliance nec-
20 essary to accumulate the number of points
21 required under such paragraph; and

22 “(ii) in the case of non-residential
23 construction, complies with the components
24 of the green building rating systems and
25 levels identified by the Secretary pursuant

to paragraph (4)(C), but only to the extent such compliance exceeds the minimum level required under such systems and levels; and”.

SEC. 620. CONSIDERATION OF ENERGY-EFFICIENCY IMPROVEMENTS IN APPRAISALS.

(a) APPRAISALS IN CONNECTION WITH FEDERALLY RELATED TRANSACTIONS.—

(1) REQUIREMENT.—Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

(A) in paragraph (1), by striking “and” at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) that such appraisals be performed in accordance with appraisal standards that require, in determining the value of a property, consideration of any renewable energy sources for, or energy-efficiency or energy-conserving improvements or features of, the property; and”.

(2) REVISION OF APPRAISAL STANDARDS.—
Each Federal financial institutions regulatory agen-

1 cy shall, not later than 6 months after the date of
2 the enactment of this Act, revise its standards for
3 the performance of real estate appraisals in connec-
4 tion with federally related transactions under the ju-
5 risdiction of the agency to comply with the require-
6 ment under the amendments made by paragraph (1)
7 of this subsection.

8 (b) APPRAISER CERTIFICATION AND LICENSING RE-
9 QUIREMENTS.—Section 1116 of the Financial Institutions
10 Reform, Recovery, and Enforcement Act of 1989 (12
11 U.S.C. 3345) is amended—

12 (1) in subsection (a), by inserting before the pe-
13 riod at the end the following: “, and meets the re-
14 quirements established pursuant to subsection (f) for
15 qualifications regarding consideration of any renew-
16 able energy sources for, or energy-efficiency or en-
17 ergy-conserving improvements or features of, the
18 property”;

19 (2) in subsection (c), by inserting before the pe-
20 riod at the end the following: “, which shall include
21 compliance with the requirements established pursu-
22 ant to subsection (f) regarding consideration of any
23 renewable energy sources for, or energy-efficiency or
24 energy-conserving improvements or features of, the
25 property”;

1 (3) in subsection (e), by striking “The” and in-
2 serting “Except as provided in subsection (f), the”;
3 and

4 (4) by adding at the end the following new sub-
5 section:

6 “(f) REQUIREMENTS FOR APPRAISERS REGARDING
7 ENERGY-EFFICIENCY FEATURES.—The Appraisal Sub-
8 committee shall establish requirements for State certifi-
9 cation of State certified real estate appraisers and for
10 State licensing of State licensed appraisers, to ensure that
11 appraisers consider and are qualified to consider, in deter-
12 mining the value of a property, any renewable energy
13 sources for, or energy-efficiency or energy-conserving im-
14 provements or features of, the property.”.

15 (c) GUIDELINES FOR APPRAISING PHOTOVOLTAIC
16 MEASURES AND TRAINING OF APPRAISERS.—Section
17 1122 of the Financial Institutions Reform, Recovery, and
18 Enforcement Act of 1989 (12 U.S.C. 3351) is amended
19 by adding at the end the following new subsection:

20 “(g) GUIDELINES FOR APPRAISING PHOTOVOLTAIC
21 MEASURES AND TRAINING OF APPRAISERS.—The Ap-
22 praisal Subcommittee shall, in consultation with the Sec-
23 retary of Housing and Urban Development, the Federal
24 National Mortgage Association, and the Federal Home

1 Loan Mortgage Corporation, establish specific guidelines
2 for—

3 “(1) appraising off- and on-grid photovoltaic
4 measures for compliance with the appraisal stand-
5 ards prescribed pursuant to section 1110(2);

6 “(2) requirements under section 1116(f) for
7 certification of State certified real estate appraisers
8 and for State licensing of State licensed appraisers,
9 to ensure that appraisers consider, and are qualified
10 to consider, such photovoltaic measures in deter-
11 mining the value of a property; and

12 “(3) training of appraisers to meet the require-
13 ments established pursuant to paragraph (2) of this
14 subsection.”.

15 **SEC. 621. ASSISTANCE FOR HOUSING ASSISTANCE COUN-**
16 **CIL.**

17 The Secretary shall require the Housing Assistance
18 Council—

19 (1) to encourage each organization that receives
20 assistance from the Council with any amounts made
21 available from the Secretary to provide that any
22 structures and buildings developed or assisted under
23 projects, programs, and activities funded with such
24 amounts complies with the enhanced energy effi-

1 ciency requirements under section 604(a) of this
2 title; and

3 (2) to establish incentives to encourage each
4 such organization to provide that any such struc-
5 tures and buildings comply with the energy effi-
6 ciency and conservation standards, and the green
7 building standards, under section 604(b) of this
8 title.

9 **SEC. 622. RURAL HOUSING AND ECONOMIC DEVELOPMENT**

10 **ASSISTANCE.**

11 The Secretary shall—

12 (1) encourage each tribe, agency, organization,
13 corporation, and other entity that receives any as-
14 sistance from the Office of Rural Housing and Eco-
15 nomic Development of the Department of Housing
16 and Urban Development to provide that any struc-
17 tures and buildings developed or assisted under ac-
18 tivities funded with such amounts complies with the
19 energy efficiency requirements under section 604(a)
20 of this title; and

21 (2) establish incentives to encourage each such
22 tribe, agency, organization, corporation, and other
23 entity to provide that any such structures and build-
24 ings comply with the enhanced energy efficiency and

1 conservation standards, and the green building
2 standards, under section 604(b) of this title.

3 **SEC. 623. LOANS TO STATES AND INDIAN TRIBES TO CARRY**
4 **OUT RENEWABLE ENERGY SOURCES ACTIVITIES.**
5

6 (a) ESTABLISHMENT OF FUND.—There is estab-
7 lished in the Treasury of the United States a fund, to be
8 known as the “Alternative Energy Sources State Loan
9 Fund”.

10 (b) EXPENDITURES.—

11 (1) IN GENERAL.—Subject to paragraph (2), on
12 request by the Secretary, the Secretary of the Treas-
13 ury shall transfer from the Fund to the Secretary
14 such amounts as the Secretary determines are nec-
15 essary to provide loans under subsection (c)(1).

16 (2) ADMINISTRATIVE EXPENSES.—Of the
17 amounts in the Fund, not more than 5 percent shall
18 be available for each fiscal year to pay the adminis-
19 trative expenses of the Department of Housing and
20 Urban Development to carry out this section.

21 (c) LOANS TO STATES AND INDIAN TRIBES.—

22 (1) IN GENERAL.—The Secretary shall use
23 amounts in the Fund to provide loans to States and
24 Indian tribes to provide incentives to owners of sin-

1 gle-family and multifamily housing, commercial
2 properties, and public buildings to provide—

3 (A) renewable energy sources for such
4 structures, such as wind, wave, solar, biomass,
5 or geothermal energy sources, including incen-
6 tives to companies and business to change their
7 source of energy to such renewable energy
8 sources and for changing the sources of energy
9 for public buildings to such renewable energy
10 sources;

11 (B) energy efficiency and energy con-
12 serving improvements and features for such
13 structures; or

14 (C) infrastructure related to the delivery of
15 electricity and hot water for structures lacking
16 such amenities.

17 (2) ELIGIBILITY.—To be eligible to receive a
18 loan under this subsection, a State or Indian tribe,
19 directly or through an appropriate State or tribal
20 agency, shall submit to the Secretary an application
21 at such time, in such manner, and containing such
22 information as the Secretary may require.

23 (3) CRITERIA FOR APPROVAL.—The Secretary
24 may approve an application of a State or Indian
25 tribe under paragraph (2) only if the Secretary de-

1 termines that the State or tribe will use the funds
2 from the loan under this subsection to carry out a
3 program to provide incentives described in para-
4 graph (1) that—

5 (A) requires that any such renewable en-
6 ergy sources, and energy efficiency and energy
7 conserving improvements and features, devel-
8 oped pursuant to assistance under the program
9 result in compliance of the structure so im-
10 proved with the energy efficiency requirements
11 under section 604(a) of this title; and

12 (B) includes such compliance and audit re-
13 quirements as the Secretary determines are nec-
14 essary to ensure that the program is operated
15 in a sound and effective manner.

16 (4) PREFERENCE.—In making loans during
17 each fiscal year, the Secretary shall give preference
18 to States and Indian tribes that have not previously
19 received a loan under this subsection.

20 (5) MAXIMUM AMOUNT.—The aggregate out-
21 standing principal amount from loans under this
22 subsection to any single State or Indian tribe may
23 not exceed \$500,000,000.

24 (6) LOAN TERMS.—Each loan under this sub-
25 section shall have a term to maturity of not more

1 than 10 years and shall bear interest at annual rate,
2 determined by the Secretary, that shall not exceed
3 interest rate charged by the Federal Reserve Bank
4 of New York to commercial banks and other deposi-
5 tory institutions for very short-term loans under the
6 primary credit program, as most recently published
7 in the Federal Reserve Statistical Release on se-
8 lected interest rates (daily or weekly), and commonly
9 referred to as the H.15 release, preceding the date
10 of a determination for purposes of applying this
11 paragraph.

12 (7) LOAN REPAYMENT.—The Secretary shall
13 require full repayment of each loan made under this
14 section.

15 (d) INVESTMENT OF AMOUNTS.—

16 (1) IN GENERAL.—The Secretary of the Treas-
17 ury shall invest such amounts in the Fund that are
18 not, in the judgment of the Secretary of the Treas-
19 ury, required to meet needs for current withdrawals.

20 (2) OBLIGATIONS OF UNITED STATES.—Invest-
21 ments may be made only in interest-bearing obliga-
22 tions of the United States.

23 (e) REPORTS.—

24 (1) REPORTS TO SECRETARY.—For each year
25 during the term of a loan made under subsection

1 (c), the State or Indian tribe that received the loan
2 shall submit to the Secretary a report describing the
3 State or tribal alternative energy sources program
4 for which the loan was made and the activities con-
5 ducted under the program using the loan funds dur-
6 ing that year.

7 (2) REPORT TO CONGRESS.—Not later than
8 September 30 of each year that loans made under
9 subsection (c) are outstanding, the Secretary shall
10 submit a report to the Congress describing the total
11 amount of such loans provided under subsection (c)
12 to each eligible State and Indian tribe during the fis-
13 cal year ending on such date, and an evaluation on
14 effectiveness of the Fund.

15 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated to the Fund
17 \$5,000,000,000.

18 (g) DEFINITIONS.—For purposes of this section, the
19 following definitions shall apply:

20 (1) INDIAN TRIBE.—The term “Indian tribe”
21 has the meaning given such term in section 4 of the
22 Native American Housing Assistance and Self-De-
23 termination Act of 1996 (25 U.S.C. 4103).

24 (2) STATE.—The term “State” means each of
25 the several States, the Commonwealth of Puerto

1 Rico, the District of Columbia, the Commonwealth
2 of the Northern Mariana Islands, Guam, the Virgin
3 Islands, American Samoa, the Trust Territories of
4 the Pacific, or any other possession of the United
5 States.

6 **SEC. 624. GREEN BANKING CENTERS.**

7 (a) INSURED DEPOSITORY INSTITUTIONS.—Section 8
8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)
9 is amended by adding at the end the following new sub-
10 section:

11 “(x) ‘GREEN BANKING’ CENTERS.—

12 “(1) IN GENERAL.—The Federal banking agen-
13 cies shall prescribe guidelines encouraging the estab-
14 lishment and maintenance of ‘green banking’ centers
15 by insured depository institutions to provide any
16 consumer who seeks information on obtaining a
17 mortgage, home improvement loan, or home equity
18 loan with additional information on—

19 “(A) obtaining an home energy rating or
20 audit for the residence for which such mortgage
21 or loan is sought;

22 “(B) obtaining financing for cost-effective
23 energy-saving improvements to such property;
24 and

1 “(C) obtaining beneficial terms for any
2 mortgage or loan, or qualifying for a larger
3 mortgage or loan, secured by a residence which
4 meets or will meet energy-efficiency standards.

5 “(2) INFORMATION AND REFERRALS.—The in-
6 formation made available to consumers under para-
7 graph (1) may include—

8 “(A) information on obtaining a home en-
9 ergy rating and contact information on quali-
10 fied energy raters in the area of the residence;

11 “(B) information on the secondary market
12 guidelines that permit lenders to provide more
13 favorable terms by allowing lenders to increase
14 the ratio on debt-to-income requirements or to
15 use the projected utility savings as a compen-
16 sating factor;

17 “(C) information including eligibility infor-
18 mation about, and contact information for, any
19 conservation or renewable energy programs,
20 grants, or loans offered by the Secretary of
21 Housing and Urban Development, including the
22 Energy Efficient Mortgage Program;

23 “(D) information including eligibility infor-
24 mation about, and contact information for, any
25 conservation or renewable energy programs,

1 grants, or loans offered for qualified military
2 personal, reservists, and veterans by the Sec-
3 retary of Veterans Affairs;

4 “(E) information about, and contact infor-
5 mation for, the Office of Efficiency and Renew-
6 able Energy at the Department of Energy, in-
7 cluding the weatherization assistance program;

8 “(F) information about, and contact infor-
9 mation for, the Energy Star Program of the
10 Environmental Protection Agency;

11 “(G) information from, and contact infor-
12 mation for, the Federal Citizen Information
13 Center of the General Services Administration
14 on energy efficient mortgages and loans, home
15 energy rating systems, and the availability of
16 energy efficient mortgage information from a
17 variety of Federal agencies; and

18 “(H) such other information as the agen-
19 cies or the insured depository institution may
20 determine to be appropriate or useful.”.

21 (b) INSURED CREDIT UNIONS.—Section 206 of the
22 Federal Credit Union Act (12 U.S.C. 1786) is amended
23 by adding at the end the following new subsection:

24 “(x) ‘GREEN BANKING’ CENTERS.—

1 “(1) IN GENERAL.—The Board shall prescribe
2 guidelines encouraging the establishment and main-
3 tenance of ‘green banking’ centers by insured credit
4 unions to provide any member who seeks informa-
5 tion on obtaining a mortgage, home improvement
6 loan, or home equity loan with additional informa-
7 tion on—

8 “(A) obtaining an home energy rating or
9 audit for the residence for which such mortgage
10 or loan is sought;

11 “(B) obtaining financing for cost-effective
12 energy-saving improvements to such property;
13 and

14 “(C) obtaining beneficial terms for any
15 mortgage or loan, or qualifying for a larger
16 mortgage or loan, secured by a residence which
17 meets or will meet energy-efficiency standards.

18 “(2) INFORMATION AND REFERRALS.—The in-
19 formation made available to members under para-
20 graph (1) may include—

21 “(A) information on obtaining a home en-
22 ergy rating and contact information on quali-
23 fied energy raters in the area of the residence;

24 “(B) information on the secondary market
25 guidelines that permit lenders to provide more

1 favorable terms by allowing lenders to increase
2 the ratio on debt-to-income requirements or to
3 use the projected utility savings as a compen-
4 sating factor;

5 “(C) information including eligibility infor-
6 mation about, and contact information for, any
7 conservation or renewable energy programs,
8 grants, or loans offered by the Secretary of
9 Housing and Urban Development, including the
10 Energy Efficient Mortgage Program;

11 “(D) information including eligibility infor-
12 mation about, and contact information for, any
13 conservation or renewable energy programs,
14 grants, or loans offered for qualified military
15 personal, reservists, and veterans by the Sec-
16 retary of Veterans Affairs;

17 “(E) information about, and contact infor-
18 mation for, the Office of Efficiency and Renew-
19 able Energy at the Department of Energy, in-
20 cluding the weatherization assistance program;

21 “(F) information from, and contact infor-
22 mation for, the Federal Citizen Information
23 Center of the General Services Administration
24 on energy efficient mortgages and loans, home
25 energy rating systems, and the availability of

1 energy efficient mortgage information from a
2 variety of Federal agencies; and

3 “(G) such other information as the Board
4 or the insured credit union may determine to be
5 appropriate or useful.”.

6 **SEC. 625. PUBLIC HOUSING ENERGY COST REPORT.**

7 (a) COLLECTION OF INFORMATION BY HUD.—The
8 Secretary of Housing and Urban Development shall obtain
9 from each public housing agency, by such time as may
10 be necessary to comply with the reporting requirement
11 under subsection (b), information regarding the energy
12 costs for public housing administered or operated by the
13 agency. For each public housing agency, such information
14 shall include the monthly energy costs associated with
15 each separate building and development of the agency, for
16 the most recently completed 12-month period for which
17 such information is available, and such other information
18 as the Secretary determines is appropriate in determining
19 which public housing buildings and developments are most
20 in need of repairs and improvements to reduce energy
21 needs and costs and become more energy efficient.

22 (b) REPORT.—Not later than the expiration of the
23 12-month period beginning on the date of the enactment
24 of this Act, the Secretary of Housing and Urban Develop-

1 ment shall submit a report to the Congress setting forth
2 the information collected pursuant to subsection (a).

3 **TITLE VII—MISCELLANEOUS**
4 **PROVISIONS**

5 **SEC. 701. ALTERNATIVE FUEL PUMPS.**

6 (a) REQUIREMENT.—Not later than January 1,
7 2018, each retail automotive fueling station owned by a
8 major integrated oil company shall have at least 1 alter-
9 native fuel pump (and necessary infrastructure and stor-
10 age facilities) available to dispense for automotive pur-
11 poses a fuel referred to in subparagraph (A), (B), (C),
12 or (D) of subsection (c)(2) .

13 (b) PENALTY.—A major integrated oil company that
14 has failed to comply with subsection (a) as of January 1
15 of any calendar year beginning with 2018 shall be liable
16 for a civil penalty in the amount of \$100,000 for each
17 automotive fueling station owned by such company that
18 is not in compliance. Any such penalty may be assessed
19 and collected by the Secretary of Energy by order. The
20 Secretary may bring an action in the appropriate United
21 States District court to require the payment of civil pen-
22 alties imposed under this subsection, and such court shall
23 have jurisdiction to enforce any order of the Secretary
24 under this subsection.

25 (c) DEFINITIONS.—For purposes of this section:

1 (1) The term “major integrated oil company”
2 has the meaning given that term in section
3 167(h)(5)(B) of the Internal Revenue Code of 1986.

4 (2) The term “alternative fuel pump” means a
5 fuel pump that dispenses as a fuel for automotive
6 purposes—

7 (A) natural gas;

8 (B) any fuel at least 85 percent of the vol-
9 ume of which consists of ethanol;

10 (C) any mixture of biodiesel and diesel or
11 renewable diesel (as defined in regulations
12 under section 211(o) of the Clean Air Act), de-
13 termined without regard to any use of kerosene
14 and containing at least 20 percent biodiesel or
15 renewable diesel; or

16 (D) hydrogen.

17 (d) REGULATIONS.—The Secretary of Energy shall
18 promulgate such regulations as may be necessary to carry
19 out this section.

20 **SEC. 702. NATIONAL ENERGY CENTER OF EXCELLENCE.**

21 (a) ESTABLISHMENT.—The Secretary of Energy
22 shall award a grant on a competitive basis to one consor-
23 tium of institutions of higher education (as such term is
24 defined in section 102 of the Higher Education Act of
25 1965) for the establishment of a National Energy Center

1 of Excellence to conduct research and education activities
2 in geological and geothermal sciences, renewable energy
3 and energy efficiency (including energy technology using
4 clean coal, solar, wind, oil, natural gas, hydroelectric,
5 biofuels, ethanol, and other energy alternatives), and en-
6 ergy conservation, including a special emphasis on envi-
7 ronmentally safe energy.

8 (b) CONSORTIUM.—The consortium shall include at
9 least two institutions of higher education, one of which
10 must be eligible to receive assistance under part A or B
11 of title III or title V of the Higher Education Act of 1965.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$25,000,000 for each of the fiscal years 2009 through
15 2013.

16 **SEC. 703. SENSE OF CONGRESS REGARDING RENEWABLE**
17 **BIOMASS.**

18 It is the sense of Congress that—

19 (1) in order to fulfill the commitment of the
20 United States to energy security and independence,
21 the current definition of renewable biomass in the
22 Renewable Fuel Standard (RFS) could be improved;
23 (2) in order to meet the United States' energy
24 challenges in an environmentally responsible way,
25 the RFS should be as inclusive as possible to better

1 reflect the realities of our Nation’s resources, to en-
2 courage investment, and to help us meet the con-
3 gressional mandate for advanced biofuels;

4 (3) Congress recognizes that renewable fuels
5 are important to our climate and energy security
6 strategy, as well as the rural communities they sup-
7 port; and

8 (4) cellulosic biofuels can and should be pro-
9 duced from a highly diverse array of feedstocks, al-
10 lowing every region of the country to be a potential
11 producer of this fuel.

12 **TITLE VIII—ENERGY TAX** 13 **INCENTIVES**

14 **SEC. 800. SHORT TITLE, ETC.**

15 (a) SHORT TITLE.—This title may be cited as the
16 “Energy Tax Incentives Act of 2008”.

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

**Subtitle A—Energy Production
Incentives**

PART 1—RENEWABLE ENERGY INCENTIVES

SEC. 801. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking “January 1, 2009” and inserting “January 1, 2010”.

(2) 3-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, 2012”:

(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 CREDIT PHASEOUT.—

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

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

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

6 (2) LIMITATION BASED ON INVESTMENT IN FA-
7 CILITY.—Subsection (b) of section 45 is amended by
8 inserting before paragraph (2) the following new
9 paragraph:

10 “(1) LIMITATION BASED ON INVESTMENT IN
11 FACILITY.—

12 “(A) IN GENERAL.—In the case of any
13 qualified facility originally placed in service
14 after December 31, 2009, the amount of the
15 credit determined under subsection (a) for any
16 taxable year with respect to electricity produced
17 at such facility shall not exceed the product
18 of—

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

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

22 “(B) CARRYFORWARD OF UNUSED LIMITA-
23 TION AND EXCESS CREDIT.—

24 “(i) UNUSED LIMITATION.—If the
25 limitation imposed under subparagraph (A)

1 with respect to any facility for any taxable
2 year exceeds the prelimitation credit for
3 such facility for such taxable year, the lim-
4 itation imposed under subparagraph (A)
5 with respect to such facility for the suc-
6 ceeding taxable year shall be increased by
7 the amount of such excess.

8 “(ii) EXCESS CREDIT.—If the
9 prelimitation credit with respect to any fa-
10 cility for any taxable year exceeds the limi-
11 tation imposed under subparagraph (A)
12 with respect to such facility for such tax-
13 able year, the credit determined under sub-
14 section (a) with respect to such facility for
15 the succeeding taxable year (determined
16 before the application of subparagraph (A)
17 for such succeeding taxable year) shall be
18 increased by the amount of such excess.
19 With respect to any facility, no amount
20 may be carried forward under this clause
21 to any taxable year beginning after the 10-
22 year period described in subsection
23 (a)(2)(A)(ii) with respect to such facility.

24 “(iii) PRELIMITATION CREDIT.—The
25 term ‘prelimitation credit’ with respect to

1 any facility for a taxable year means the
2 credit determined under subsection (a)
3 with respect to such facility for such tax-
4 able year, determined without regard to
5 subparagraph (A) and after taking into ac-
6 count any increase for such taxable year
7 under clause (ii).

8 “(C) APPLICABLE PERCENTAGE.—For
9 purposes of this paragraph—

10 “(i) IN GENERAL.—The term ‘applica-
11 ble percentage’ means, with respect to any
12 facility, the appropriate percentage pre-
13 scribed by the Secretary for the month in
14 which such facility is originally placed in
15 service.

16 “(ii) METHOD OF PRESCRIBING AP-
17 PPLICABLE PERCENTAGE.—The applicable
18 percentage prescribed by the Secretary for
19 any month under clause (i) shall be the
20 percentage which yields over a 10-year pe-
21 riod amounts of limitation under subpara-
22 graph (A) which have a present value
23 equal to 35 percent of the eligible basis of
24 the facility.

1 “(iii) METHOD OF DISCOUNTING.—

2 The present value under clause (ii) shall be
3 determined—

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

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

14 “(III) by taking into account the
15 limitation under subparagraph (A) for
16 any year on the last day of such year.

17 “(D) ELIGIBLE BASIS.—For purposes of
18 this paragraph—

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

22 “(I) the basis of such facility de-
23 termined as of the time that such fa-
24 cility is originally placed in service,
25 and

1 “(II) the portion of the basis of
2 any shared qualified property which is
3 properly allocable to such facility
4 under clause (ii).

5 “(ii) RULES FOR ALLOCATION.—For
6 purposes of subclause (II) of clause (i), the
7 basis of shared qualified property shall be
8 allocated among all qualified facilities
9 which are projected to be placed in service
10 and which require utilization of such prop-
11 erty in proportion to projected generation
12 from such facilities.

13 “(iii) SHARED QUALIFIED PROP-
14 ERTY.—For purposes of this paragraph,
15 the term ‘shared qualified property’ means,
16 with respect to any facility, any property
17 described in section 168(e)(3)(B)(vi)—

18 “(I) which a qualified facility will
19 require for utilization of such facility,
20 and

21 “(II) which is not a qualified fa-
22 cility.

23 “(iv) SPECIAL RULE RELATING TO
24 GEOTHERMAL FACILITIES.—In the case of
25 any qualified facility using geothermal en-

1 ergy to produce electricity, the basis of
2 such facility for purposes of this paragraph
3 shall be determined as though intangible
4 drilling and development costs described in
5 section 263(c) were capitalized rather than
6 expensed.

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

19 “(F) ELECTION TO TREAT ALL FACILITIES
20 PLACED IN SERVICE IN A YEAR AS 1 FACIL-
21 ITY.—At the election of the taxpayer, all quali-
22 fied facilities which are part of the same project
23 and which are originally placed in service dur-
24 ing the same calendar year shall be treated for
25 purposes of this section as 1 facility which is

1 originally placed in service at the mid-point of
2 such year or the first day of the following cal-
3 endar year.”.

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

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

9 (2) by striking “COMBUSTION”.

10 (d) EXPANSION OF BIOMASS FACILITIES.—

11 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-
12 graph (3) of section 45(d) is amended by redesign-
13 ating subparagraph (B) as subparagraph (C) and
14 by inserting after subparagraph (A) the following
15 new subparagraph:

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

23 (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-
24 graph (2) of section 45(d) is amended by redesign-
25 ating subparagraph (B) as subparagraph (C) and

1 inserting after subparagraph (A) the following new
2 subparagraph:

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

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

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

16 “(i) the hydroelectric project installed
17 on the nonhydroelectric dam is licensed by
18 the Federal Energy Regulatory Commis-
19 sion and meets all other applicable environ-
20 mental, licensing, and regulatory require-
21 ments,

22 “(ii) the nonhydroelectric dam was
23 placed in service before the date of the en-
24 actment of this paragraph and operated
25 for flood control, navigation, or water sup-

1 ply purposes and did not produce hydro-
2 electric power on the date of the enactment
3 of this paragraph, and

4 “(iii) the hydroelectric project is oper-
5 ated so that the water surface elevation at
6 any given location and time that would
7 have occurred in the absence of the hydro-
8 electric project is maintained, subject to
9 any license requirements imposed under
10 applicable law that change the water sur-
11 face elevation for the purpose of improving
12 environmental quality of the affected wa-
13 terway.

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

23 (f) EFFECTIVE DATE.—

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

1 this section shall apply to property originally placed
2 in service after December 31, 2008.

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

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

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

14 (5) EXPANSION OF BIOMASS FACILITIES.—The
15 amendments made by subsection (d) shall apply to
16 property placed in service after the date of the en-
17 actment of this Act.

18 **SEC. 802. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
19 **DUCED FROM MARINE RENEWABLES.**

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

1 “(I) marine and hydrokinetic renewable en-
2 ergy.”.

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

6 “(10) MARINE AND HYDROKINETIC RENEW-
7 ABLE ENERGY.—

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

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

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

15 “(iii) free flowing water in an irriga-
16 tion system, canal, or other man-made
17 channel, including projects that utilize non-
18 mechanical structures to accelerate the
19 flow of water for electric power production
20 purposes, or

21 “(iv) differentials in ocean tempera-
22 ture (ocean thermal energy conversion).

23 “(B) EXCEPTIONS.—Such term shall not
24 include any energy which is derived from any
25 source which utilizes a dam, diversionary struc-

1 ture (except as provided in subparagraph
2 (A)(iii)), or impoundment for electric power
3 production purposes.”.

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

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

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

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

17 (d) CREDIT RATE.—Subparagraph (A) of section
18 45(b)(4) is amended by striking “or (9)” and inserting
19 “(9), or (11)”.

20 (e) COORDINATION WITH SMALL IRRIGATION
21 POWER.—Paragraph (5) of section 45(d), as amended by
22 section 801, is amended by striking “January 1, 2012”
23 and inserting “the date of the enactment of paragraph
24 (11)”.

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

5 **SEC. 803. ENERGY CREDIT.**

6 (a) EXTENSION OF CREDIT.—

7 (1) SOLAR ENERGY PROPERTY.—Paragraphs

8 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each
 9 amended by striking “January 1, 2009” and insert-
 10 ing “January 1, 2017”.

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

14 (3) MICROTURBINE PROPERTY.—Subparagraph
 15 (E) of section 48(c)(2) is amended by striking “De-
 16 cember 31, 2008” and inserting “December 31,
 17 2016”.

18 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
 19 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
 20 38(c)(4) is amended by striking “and” at the end of clause
 21 (iii), by redesignating clauses (v) and (vi) as clauses (vi)
 22 and (vii), respectively, and by inserting after clause (iv)
 23 the following new clause:

24 “(v) the credit determined under sec-
 25 tion 46 to the extent that such credit is at-

1 tributable to the energy credit determined
2 under section 48, and”.

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

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

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

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

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

17 “(1) COMBINED HEAT AND POWER SYSTEM
18 PROPERTY.—The term ‘combined heat and power
19 system property’ means property comprising a sys-
20 tem—

21 “(A) which uses the same energy source
22 for the simultaneous or sequential generation of
23 electrical power, mechanical shaft power, or
24 both, in combination with the generation of

1 steam or other forms of useful thermal energy
2 (including heating and cooling applications),

3 “(B) which produces—

4 “(i) at least 20 percent of its total
5 useful energy in the form of thermal en-
6 ergy which is not used to produce electrical
7 or mechanical power (or combination
8 thereof), and

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

12 “(C) the energy efficiency percentage of
13 which exceeds 60 percent, and

14 “(D) which is placed in service before Jan-
15 uary 1, 2017.

16 “(2) LIMITATION.—

17 “(A) IN GENERAL.—In the case of com-
18 bined heat and power system property with an
19 electrical capacity in excess of the applicable ca-
20 pacity placed in service during the taxable year,
21 the credit under subsection (a)(1) (determined
22 without regard to this paragraph) for such year
23 shall be equal to the amount which bears the
24 same ratio to such credit as the applicable ca-
25 pacity bears to the capacity of such property.

1 “(B) APPLICABLE CAPACITY.—For pur-
2 poses of subparagraph (A), the term ‘applicable
3 capacity’ means 15 megawatts or a mechanical
4 energy capacity of more than 20,000 horse-
5 power or an equivalent combination of electrical
6 and mechanical energy capacities.

7 “(C) MAXIMUM CAPACITY.—The term
8 ‘combined heat and power system property’
9 shall not include any property comprising a sys-
10 tem if such system has a capacity in excess of
11 50 megawatts or a mechanical energy capacity
12 in excess of 67,000 horsepower or an equivalent
13 combination of electrical and mechanical energy
14 capacities.

15 “(3) SPECIAL RULES.—

16 “(A) ENERGY EFFICIENCY PERCENT-
17 AGE.—For purposes of this subsection, the en-
18 ergy efficiency percentage of a system is the
19 fraction—

20 “(i) the numerator of which is the
21 total useful electrical, thermal, and me-
22 chanical power produced by the system at
23 normal operating rates, and expected to be
24 consumed in its normal application, and

1 “(ii) the denominator of which is the
2 lower heating value of the fuel sources for
3 the system.

4 “(B) DETERMINATIONS MADE ON BTU
5 BASIS.—The energy efficiency percentage and
6 the percentages under paragraph (1)(B) shall
7 be determined on a Btu basis.

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

14 “(4) SYSTEMS USING BIOMASS.—If a system is
15 designed to use biomass (within the meaning of
16 paragraphs (2) and (3) of section 45(c) without re-
17 gard to the last sentence of paragraph (3)(A)) for at
18 least 90 percent of the energy source—

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

20 “(B) the amount of credit determined
21 under subsection (a) with respect to such sys-
22 tem shall not exceed the amount which bears
23 the same ratio to such amount of credit (deter-
24 mined without regard to this paragraph) as the

1 energy efficiency percentage of such system
2 bears to 60 percent.”.

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

6 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-
7 COUNT.—

8 (1) IN GENERAL.—Paragraph (3) of section
9 48(a) is amended by striking the second sentence
10 thereof.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Paragraph (1) of section 48(c) is
13 amended by striking subparagraph (D) and re-
14 designating subparagraph (E) as subparagraph
15 (D).

16 (B) Paragraph (2) of section 48(c) is
17 amended by striking subparagraph (D) and re-
18 designating subparagraph (E) as subparagraph
19 (D).

20 (f) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the amendments made by
23 this section shall take effect on the date of the en-
24 actment of this Act.

1 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
2 IMUM TAX.—The amendments made by subsection
3 (b) shall apply to credits determined under section
4 46 of the Internal Revenue Code of 1986 in taxable
5 years beginning after the date of the enactment of
6 this Act and to carrybacks of such credits.

7 (3) COMBINED HEAT AND POWER AND FUEL
8 CELL PROPERTY.—The amendments made by sub-
9 sections (c) and (d) shall apply to periods after the
10 date of the enactment of this Act, in taxable years
11 ending after such date, under rules similar to the
12 rules of section 48(m) of the Internal Revenue Code
13 of 1986 (as in effect on the day before the date of
14 the enactment of the Revenue Reconciliation Act of
15 1990).

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

1 **SEC. 804. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
2 **PROPERTY.**

3 (a) EXTENSION.—Section 25D(g) is amended by
4 striking “December 31, 2008” and inserting “December
5 31, 2016”.

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

8 (1) IN GENERAL.—Section 25D(b)(1)(A) is
9 amended by striking “\$2,000” and inserting
10 “\$4,000”.

11 (2) CONFORMING AMENDMENT.—Section
12 25D(e)(4)(A)(i) is amended by striking “\$6,667”
13 and inserting “\$13,333”.

14 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

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

20 “(4) 30 percent of the qualified small wind en-
21 ergy property expenditures made by the taxpayer
22 during such year.”.

23 (2) LIMITATION.—Section 25D(b)(1) is amend-
24 ed by striking “and” at the end of subparagraph
25 (B), by striking the period at the end of subpara-

graph (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

1 25D) is taken into account in determining the
2 credit under such section.”.

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

9 “(iv) \$1,667 in the case of each half
10 kilowatt of capacity (not to exceed
11 \$13,333) of wind turbines for which quali-
12 fied small wind energy property expendi-
13 tures are made.”.

14 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-
15 TEMS.—

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

21 “(5) 30 percent of the qualified geothermal
22 heat pump property expenditures made by the tax-
23 payer during such year.”.

24 (2) LIMITATION.—Section 25D(b)(1), as
25 amended by subsection (c), is amended by striking

1 “and” at the end of subparagraph (C), by striking
 2 the period at the end of subparagraph (D) and in-
 3 serting “, and”, and by adding at the end the fol-
 4 lowing new subparagraph:

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

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

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

13 “(A) IN GENERAL.—The term ‘qualified
 14 geothermal heat pump property expenditure’
 15 means an expenditure for qualified geothermal
 16 heat pump property installed on or in connec-
 17 tion with a dwelling unit located in the United
 18 States and used as a residence by the taxpayer.

19 “(B) QUALIFIED GEOTHERMAL HEAT
 20 PUMP PROPERTY.—The term ‘qualified geo-
 21 thermal heat pump property’ means any equip-
 22 ment which—

23 “(i) uses the ground or ground water
 24 as a thermal energy source to heat the
 25 dwelling unit referred to in subparagraph

1 (A) or as a thermal energy sink to cool
 2 such dwelling unit, and

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

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

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

16 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 17 IMUM TAX.—

18 (1) IN GENERAL.—Subsection (c) of section
 19 25D is amended to read as follows:

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

22 “(1) LIMITATION BASED ON AMOUNT OF
 23 TAX.—In the case of a taxable year to which section
 24 26(a)(2) does not apply, the credit allowed under

1 subsection (a) for the taxable year shall not exceed
2 the excess of—

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

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

9 “(2) CARRYFORWARD OF UNUSED CREDIT.—

10 “(A) RULE FOR YEARS IN WHICH ALL
11 PERSONAL CREDITS ALLOWED AGAINST REG-
12 ULAR AND ALTERNATIVE MINIMUM TAX.—In
13 the case of a taxable year to which section
14 26(a)(2) applies, if the credit allowable under
15 subsection (a) exceeds the limitation imposed by
16 section 26(a)(2) for such taxable year reduced
17 by the sum of the credits allowable under this
18 subpart (other than this section), such excess
19 shall be carried to the succeeding taxable year
20 and added to the credit allowable under sub-
21 section (a) for such succeeding taxable year.

22 “(B) RULE FOR OTHER YEARS.—In the
23 case of a taxable year to which section 26(a)(2)
24 does not apply, if the credit allowable under
25 subsection (a) exceeds the limitation imposed by

1 paragraph (1) for such taxable year, such ex-
 2 cess shall be carried to the succeeding taxable
 3 year and added to the credit allowable under
 4 subsection (a) for such succeeding taxable
 5 year.”.

6 (2) CONFORMING AMENDMENTS.—

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

9 (B) Section 24(b)(3)(B) is amended by
 10 striking “and 25B” and inserting “, 25B, and
 11 25D”.

12 (C) Section 25B(g)(2) is amended by strik-
 13 ing “section 23” and inserting “sections 23 and
 14 25D”.

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

17 (f) EFFECTIVE DATE.—

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

21 (2) APPLICATION OF EGTRRA SUNSET.—The
 22 amendments made by subparagraphs (A) and (B) of
 23 subsection (e)(2) shall be subject to title IX of the
 24 Economic Growth and Tax Relief Reconciliation Act

1 of 2001 in the same manner as the provisions of
2 such Act to which such amendments relate.

3 **SEC. 805. SPECIAL RULE TO IMPLEMENT FERC AND STATE**
4 **ELECTRIC RESTRUCTURING POLICY.**

5 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-
6 TIES.—

7 (1) IN GENERAL.—Paragraph (3) of section
8 451(i) is amended by inserting “(before January 1,
9 2010, in the case of a qualified electric utility)”
10 after “January 1, 2008”.

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

16 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-
17 poses of this subsection, the term ‘qualified electric
18 utility’ means a person that, as of the date of the
19 qualifying electric transmission transaction, is
20 vertically integrated, in that it is both—

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

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

4 (b) EXTENSION OF PERIOD FOR TRANSFER OF
 5 OPERATIONAL CONTROL AUTHORIZED BY FERC.—
 6 Clause (ii) of section 451(i)(4)(B) is amended by striking
 7 “December 31, 2007” and inserting “the date which is
 8 4 years after the close of the taxable year in which the
 9 transaction occurs”.

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

14 “(C) EXCEPTION FOR PROPERTY LOCATED
 15 OUTSIDE THE UNITED STATES.—The term ‘ex-
 16 empt utility property’ shall not include any
 17 property which is located outside the United
 18 States.”.

19 (d) EFFECTIVE DATES.—

20 (1) EXTENSION.—The amendments made by
 21 subsection (a) shall apply to transactions after De-
 22 cember 31, 2007.

23 (2) TRANSFERS OF OPERATIONAL CONTROL.—
 24 The amendment made by subsection (b) shall take

1 effect as if included in section 909 of the American
2 Jobs Creation Act of 2004.

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

7 **SEC. 806. NEW CLEAN RENEWABLE ENERGY BONDS.**

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

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

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

16 “(1) 100 percent of the available project pro-
17 ceeds of such issue are to be used for capital expend-
18 itures incurred by public power providers or coopera-
19 tive electric companies for one or more qualified re-
20 newable energy facilities,

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

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

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

5 “(c) LIMITATION ON AMOUNT OF BONDS DES-
6 IGNATED.—

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

12 “(2) NATIONAL LIMITATION ON AMOUNT OF
13 BONDS DESIGNATED.—There is a national new clean
14 renewable energy bond limitation of \$1,750,000,000
15 which shall be allocated by the Secretary as provided
16 in paragraph (3), except that—

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

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

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

1 “(3) METHOD OF ALLOCATION.—

2 “(A) ALLOCATION AMONG PUBLIC POWER
3 PROVIDERS.—After the Secretary determines
4 the qualified projects of public power providers
5 which are appropriate for receiving an alloca-
6 tion of the national new clean renewable energy
7 bond limitation, the Secretary shall, to the max-
8 imum extent practicable, make allocations
9 among such projects in such manner that the
10 amount allocated to each such project bears the
11 same ratio to the cost of such project as the
12 limitation under paragraph (2)(A) bears to the
13 cost of all such projects.

14 “(B) ALLOCATION AMONG GOVERNMENTAL
15 BODIES AND COOPERATIVE ELECTRIC COMPA-
16 NIES.—The Secretary shall make allocations of
17 the amount of the national new clean renewable
18 energy bond limitation described in paragraphs
19 (2)(B) and (2)(C) among qualified projects of
20 governmental bodies and cooperative electric
21 companies, respectively, in such manner as the
22 Secretary determines appropriate.

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

24 “(1) QUALIFIED RENEWABLE ENERGY FACIL-
25 ITY.—The term ‘qualified renewable energy facility’

1 means a qualified facility (as determined under sec-
2 tion 45(d) without regard to paragraphs (8) and
3 (10) thereof and to any placed in service date)
4 owned by a public power provider, a governmental
5 body, or a cooperative electric company.

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

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

14 “(4) COOPERATIVE ELECTRIC COMPANY.—The
15 term ‘cooperative electric company’ means a mutual
16 or cooperative electric company described in section
17 501(c)(12) or section 1381(a)(2)(C).

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

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

7 (b) CONFORMING AMENDMENTS.—

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

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

12 “(A) a qualified forestry conservation
13 bond, or

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

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

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

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

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

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

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

7 (c) APPLICATION OF CERTAIN LABOR STANDARDS
 8 ON PROJECTS FINANCED UNDER TAX CREDIT BONDS.—
 9 Subchapter IV of chapter 31 of title 40, United States
 10 Code, shall apply to projects financed with the proceeds
 11 of any tax credit bond (as defined in section 54A of the
 12 Internal Revenue Code of 1986) other than qualified for-
 13 esty conservation bonds (as defined in section 54B of
 14 such Code).

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

18 **PART 2—CARBON MITIGATION PROVISIONS**

19 **SEC. 811. EXPANSION AND MODIFICATION OF ADVANCED** 20 **COAL PROJECT INVESTMENT CREDIT.**

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

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

4 (b) EXPANSION OF AGGREGATE CREDITS.—Section
5 48A(d)(3)(A) is amended by striking “\$1,300,000,000”
6 and inserting “\$2,250,000,000”.

7 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

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

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

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

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

22 “(iii) \$950,000,000 for advanced coal-
23 based generation technology projects the
24 application for which is submitted during

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (ii),

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

16 (iv), and

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

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

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

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

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

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

11 (e) EFFECTIVE DATES.—

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

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

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

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

3 **SEC. 812. EXPANSION AND MODIFICATION OF COAL GASIFI-**
4 **CATION INVESTMENT CREDIT.**

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

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

13 “(A) \$350,000,000, plus

14 “(B) \$150,000,000 for qualifying gasifi-
15 cation projects that include equipment which
16 separates and sequesters at least 75 percent of
17 such project’s total carbon dioxide emissions.”.

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

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

tain 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) 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. 813. TEMPORARY INCREASE IN COAL EXCISE TAX.

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

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

1 (2) by striking “January 1 after 1981” in sub-
2 paragraph (B) and inserting “December 31 after
3 2007”.

4 **SEC. 814. SPECIAL RULES FOR REFUND OF THE COAL EX-**
5 **CISE TAX TO CERTAIN COAL PRODUCERS**
6 **AND EXPORTERS.**

7 (a) REFUND.—

8 (1) COAL PRODUCERS.—

9 (A) IN GENERAL.—Notwithstanding sub-
10 sections (a)(1) and (c) of section 6416 and sec-
11 tion 6511 of the Internal Revenue Code of
12 1986, if—

13 (i) a coal producer establishes that
14 such coal producer, or a party related to
15 such coal producer, exported coal produced
16 by such coal producer to a foreign country
17 or shipped coal produced by such coal pro-
18 ducer to a possession of the United States,
19 or caused such coal to be exported or
20 shipped, the export or shipment of which
21 was other than through an exporter who
22 meets the requirements of paragraph (2),

23 (ii) such coal producer filed an excise
24 tax return on or after October 1, 1990,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (i) STANDING NOT CONFERRED.—

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

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

19 **SEC. 815. CARBON AUDIT OF THE TAX CODE.**

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

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

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

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$1,500,000 for the period of fiscal years 2009 and 2010.

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

12 **SEC. 821. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS** 13 **DEPRECIATION FOR BIOMASS ETHANOL** 14 **PLANT PROPERTY.**

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

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

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

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

3 (3) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

17 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Sub-
18 section (f) of section 40A (relating to renewable diesel)
19 is amended by adding at the end the following new para-
20 graph:

21 “(4) CERTAIN AVIATION FUEL.—

22 “(A) IN GENERAL.—Except as provided in
23 the last three sentences of paragraph (3), the
24 term ‘renewable diesel’ shall include fuel derived
25 from biomass which meets the requirements of

1 a Department of Defense specification for mili-
2 tary jet fuel or an American Society of Testing
3 and Materials specification for aviation turbine
4 fuel.

5 “(B) APPLICATION OF MIXTURE CRED-
6 ITS.—In the case of fuel which is treated as re-
7 newable diesel solely by reason of subparagraph
8 (A), subsection (b)(1) and section 6426(c) shall
9 be applied with respect to such fuel by treating
10 kerosene as though it were diesel fuel.”.

11 (f) EFFECTIVE DATE.—

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

16 (2) COPRODUCTION OF RENEWABLE DIESEL
17 WITH PETROLEUM FEEDSTOCK.—The amendments
18 made by subsection (c) shall apply to fuel produced,
19 and sold or used, after February 13, 2008.

20 **SEC. 823. CLARIFICATION THAT CREDITS FOR FUEL ARE**
21 **DESIGNED TO PROVIDE AN INCENTIVE FOR**
22 **UNITED STATES PRODUCTION.**

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

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

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

11 “(5) LIMITATION TO BIODIESEL WITH CONNEC-
12 TION TO THE UNITED STATES.—No credit shall be
13 determined under this section with respect to any
14 biodiesel which is produced outside the United
15 States for use as a fuel outside the United States.
16 For purposes of this paragraph, the term ‘United
17 States’ includes any possession of the United
18 States.”.

19 (c) EXCISE TAX CREDIT.—

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

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

24 “(1) ALCOHOL.—No credit shall be determined
25 under this section with respect to any alcohol which

1 is produced outside the United States for use as a
2 fuel outside the United States.

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

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

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

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

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

1 **SEC. 824. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**
2 **DRIVE MOTOR VEHICLES.**

3 (a) IN GENERAL.—Section 30 is amended to read as
4 follows:

5 **“SEC. 30. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**
6 **MOTOR VEHICLES.**

7 “(a) ALLOWANCE OF CREDIT.—There shall be al-
8 lowed as a credit against the tax imposed by this chapter
9 for the taxable year an amount equal to the sum of the
10 credit amounts determined under subsection (b) with re-
11 spect to each new qualified plug-in electric drive motor ve-
12 hicle placed in service by the taxpayer during the taxable
13 year.

14 “(b) PER VEHICLE DOLLAR LIMITATION.—

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

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

22 “(3) BATTERY CAPACITY.—In the case of a ve-
23 hicle which draws propulsion energy from a battery
24 with not less than 5 kilowatt hours of capacity, the
25 amount determined under this paragraph is \$200,
26 plus \$200 for each kilowatt hour of capacity in ex-

cess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed \$2,000.

“(c) 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—

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

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

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

10 “(1) IN GENERAL.—The term ‘new qualified
11 plug-in electric drive motor vehicle’ means a motor
12 vehicle—

13 “(A) the original use of which commences
14 with the taxpayer,

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

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

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

20 “(E) which has received a certificate of
21 conformity under the Clean Air Act and meets
22 or exceeds the Bin 5 Tier II emission standard
23 established in regulations prescribed by the Ad-
24 ministrator of the Environmental Protection

1 Agency under section 202(i) of the Clean Air
2 Act for that make and model year vehicle, and

3 “(F) which is propelled to a significant ex-
4 tent by an electric motor which draws electricity
5 from a battery which—

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

8 “(ii) is capable of being recharged
9 from an external source of electricity.

10 “(2) EXCEPTION.—The term ‘new qualified
11 plug-in electric drive motor vehicle’ shall not include
12 any vehicle which is not a passenger automobile or
13 light truck if such vehicle has a gross vehicle weight
14 rating of less than 8,500 pounds.

15 “(3) MOTOR VEHICLE.—The term ‘motor vehi-
16 cle’ means any vehicle which is manufactured pri-
17 marily for use on public streets, roads, and highways
18 (not including a vehicle operated exclusively on a rail
19 or rails) and which has at least 4 wheels.

20 “(4) OTHER TERMS.—The terms ‘passenger
21 automobile’, ‘light truck’, and ‘manufacturer’ have
22 the meanings given such terms in regulations pre-
23 scribed by the Administrator of the Environmental
24 Protection Agency for purposes of the administra-

1 tion of title II of the Clean Air Act (42 U.S.C. 7521
2 et seq.).

3 “(5) BATTERY CAPACITY.—The term ‘capacity’
4 means, with respect to any battery, the quantity of
5 electricity which the battery is capable of storing, ex-
6 pressed in kilowatt hours, as measured from a 100
7 percent state of charge to a 0 percent state of
8 charge.

9 “(e) LIMITATION ON NUMBER OF NEW QUALIFIED
10 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE
11 FOR CREDIT.—

12 “(1) IN GENERAL.—In the case of a new quali-
13 fied plug-in electric drive motor vehicle sold during
14 the phaseout period, only the applicable percentage
15 of the credit otherwise allowable under subsection
16 (a) shall be allowed.

17 “(2) PHASEOUT PERIOD.—For purposes of this
18 subsection, the phaseout period is the period begin-
19 ning with the second calendar quarter following the
20 calendar quarter which includes the first date on
21 which the number of new qualified plug-in electric
22 drive motor vehicles manufactured by the manufac-
23 turer of the vehicle referred to in paragraph (1) sold
24 for use in the United States after the date of the en-
25 actment of this section, is at least 60,000.

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

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

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

7 “(C) 0 percent for each calendar quarter
8 thereafter.

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

12 “(f) SPECIAL RULES.—

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

17 “(2) RECAPTURE.—The Secretary shall, by reg-
18 ulations, provide for recapturing the benefit of any
19 credit allowable under subsection (a) with respect to
20 any property which ceases to be property eligible for
21 such credit.

22 “(3) PROPERTY USED OUTSIDE UNITED
23 STATES, ETC., NOT QUALIFIED.—No credit shall be
24 allowed under subsection (a) with respect to any
25 property referred to in section 50(b)(1) or with re-

1 spect to the portion of the cost of any property
2 taken into account under section 179.

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

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

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

15 “(D) EXCLUSION OF PLUG-IN VEHICLES.—
16 Any vehicle with respect to which a credit is al-
17 lowable under section 30 (determined without
18 regard to subsection (c) thereof) shall not be
19 taken into account under this section.”.

20 (c) CREDIT MADE PART OF GENERAL BUSINESS
21 CREDIT.—Section 38(b) is amended by striking “plus” at
22 the end of paragraph (32), by striking the period at the
23 end of paragraph (33) and inserting “, plus”, and by add-
24 ing at the end the following new paragraph:

1 “(34) the portion of the new qualified plug-in
2 electric drive motor vehicle credit to which section
3 30(c)(1) applies.”.

4 (d) CONFORMING AMENDMENTS.—

5 (1)(A) Section 24(b)(3)(B), as amended by sec-
6 tion 804, is amended by striking “and 25D” and in-
7 serting “25D, and 30”.

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

10 (C) Section 25B(g)(2), as amended by section
11 804, is amended by striking “and 25D” and insert-
12 ing “, 25D, and 30”.

13 (D) Section 26(a)(1), as amended by section
14 804, is amended by striking “and 25D” and insert-
15 ing “25D, and 30”.

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

18 (2) Section 30B(h)(1) is amended by striking
19 “section 30(c)(2)” and inserting “section 30(d)(3)”.

20 (3)(A) Section 53(d)(1)(B) is amended by strik-
21 ing clause (iii) and redesignating clause (iv) as
22 clause (iii).

23 (B) Subclause (II) of section 53(d)(1)(B)(iii),
24 as so redesignated, is amended by striking “in-
25 creased in the manner provided in clause (iii)”.

1 (4) Section 55(c)(3) is amended by striking
2 “30(b)(3),”.

3 (5) Section 1016(a)(25) is amended by striking
4 “section 30(d)(1)” and inserting “section 30(f)(1)”.

5 (6) Section 6501(m) is amended by striking
6 “section 30(d)(4)” and inserting “section 30(f)(4)”.

7 (7) The item in the table of sections for subpart
8 B of part IV of subchapter A of chapter 1 is amend-
9 ed to read as follows:

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

10 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE
11 CREDIT AS A PERSONAL CREDIT.—

12 (1) IN GENERAL.—Paragraph (2) of section
13 30B(g) is amended to read as follows:

14 “(2) PERSONAL CREDIT.—The credit allowed
15 under subsection (a) for any taxable year (after ap-
16 plication of paragraph (1)) shall be treated as a
17 credit allowable under subpart A for such taxable
18 year.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Subparagraph (A) of section 30C(d)(2)
21 is amended by striking “sections 27, 30, and
22 30B” and inserting “section 27”.

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

25 (f) EFFECTIVE DATE.—

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

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

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

14 **SEC. 825. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**
 15 **REDUCTION UNITS AND ADVANCED INSULA-**
 16 **TION.**

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

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

21 “(A) is designed to provide to a vehicle
 22 those services (such as heat, air conditioning, or
 23 electricity) that would otherwise require the op-
 24 eration of the main drive engine while the vehi-
 25 cle is temporarily parked or remains stationary

1 using one or more devices affixed to a tractor,
 2 and

3 “(B) is determined by the Administrator of
 4 the Environmental Protection Agency, in con-
 5 sultation with the Secretary of Energy and the
 6 Secretary of Transportation, to reduce idling of
 7 such vehicle at a motor vehicle rest stop or
 8 other location where such vehicles are tempo-
 9 rarily parked or remain stationary.

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

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

15 **SEC. 826. RESTRUCTURING OF NEW YORK LIBERTY ZONE**
 16 **TAX CREDITS.**

17 (a) IN GENERAL.—Part I of subchapter Y of chapter
 18 1 is amended by redesignating section 1400L as section
 19 1400K and by adding at the end the following new section:

20 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

21 “(a) IN GENERAL.—In the case of a New York Lib-
 22 erty Zone governmental unit, there shall be allowed as a
 23 credit against any taxes imposed for any payroll period
 24 by section 3402 for which such governmental unit is liable
 25 under section 3403 an amount equal to so much of the

1 portion of the qualifying project expenditure amount allo-
 2 cated under subsection (b)(3) to such governmental unit
 3 for the calendar year as is allocated by such governmental
 4 unit to such period under subsection (b)(4).

5 “(b) QUALIFYING PROJECT EXPENDITURE
 6 AMOUNT.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘qualifying
 8 project expenditure amount’ means, with respect to
 9 any calendar year, the sum of—

10 “(A) the total expenditures paid or in-
 11 curred during such calendar year by all New
 12 York Liberty Zone governmental units and the
 13 Port Authority of New York and New Jersey
 14 for any portion of qualifying projects located
 15 wholly within the City of New York, New York,
 16 and

17 “(B) any such expenditures—

18 “(i) paid or incurred in any preceding
 19 calendar year which begins after the date
 20 of enactment of this section, and

21 “(ii) not previously allocated under
 22 paragraph (3).

23 “(2) QUALIFYING PROJECT.—The term ‘quali-
 24 fying project’ means any transportation infrastruc-
 25 ture project, including highways, mass transit sys-

1 tems, railroads, airports, ports, and waterways, in or
2 connecting with the New York Liberty Zone (as de-
3 fined in section 1400K(h)), which is designated as a
4 qualifying project under this section jointly by the
5 Governor of the State of New York and the Mayor
6 of the City of New York, New York.

7 “(3) GENERAL ALLOCATION.—

8 “(A) IN GENERAL.—The Governor of the
9 State of New York and the Mayor of the City
10 of New York, New York, shall jointly allocate to
11 each New York Liberty Zone governmental unit
12 the portion of the qualifying project expenditure
13 amount which may be taken into account by
14 such governmental unit under subsection (a) for
15 any calendar year in the credit period.

16 “(B) AGGREGATE LIMIT.—The aggregate
17 amount which may be allocated under subpara-
18 graph (A) for all calendar years in the credit
19 period shall not exceed \$2,000,000,000.

20 “(C) ANNUAL LIMIT.—The aggregate
21 amount which may be allocated under subpara-
22 graph (A) for any calendar year in the credit
23 period shall not exceed the sum of—

1 “(i) \$115,000,000 (\$425,000,000 in
2 the case of the last 2 years in the credit
3 period), plus

4 “(ii) the aggregate amount authorized
5 to be allocated under this paragraph for all
6 preceding calendar years in the credit pe-
7 riod which was not so allocated.

8 “(D) UNALLOCATED AMOUNTS AT END OF
9 CREDIT PERIOD.—If, as of the close of the cred-
10 it period, the amount under subparagraph (B)
11 exceeds the aggregate amount allocated under
12 subparagraph (A) for all calendar years in the
13 credit period, the Governor of the State of New
14 York and the Mayor of the City of New York,
15 New York, may jointly allocate to New York
16 Liberty Zone governmental units for any cal-
17 endar year in the 5-year period following the
18 credit period an amount equal to—

19 “(i) the lesser of—

20 “(I) such excess, or

21 “(II) the qualifying project ex-
22 penditure amount for such calendar
23 year, reduced by

1 “(ii) the aggregate amount allocated
2 under this subparagraph for all preceding
3 calendar years.

4 “(4) ALLOCATION TO PAYROLL PERIODS.—
5 Each New York Liberty Zone governmental unit
6 which has been allocated a portion of the qualifying
7 project expenditure amount under paragraph (3) for
8 a calendar year may allocate such portion to payroll
9 periods beginning in such calendar year as such gov-
10 ernmental unit determines appropriate.

11 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), if the amount allocated under subsection
14 (b)(3) to a New York Liberty Zone governmental
15 unit for any calendar year exceeds the aggregate
16 taxes imposed by section 3402 for which such gov-
17 ernmental unit is liable under section 3403 for peri-
18 ods beginning in such year, such excess shall be car-
19 ried to the succeeding calendar year and added to
20 the allocation of such governmental unit for such
21 succeeding calendar year.

22 “(2) REALLOCATION.—If a New York Liberty
23 Zone governmental unit does not use an amount al-
24 located to it under subsection (b)(3) within the time
25 prescribed by the Governor of the State of New York

1 and the Mayor of the City of New York, New York,
2 then such amount shall after such time be treated
3 for purposes of subsection (b)(3) in the same man-
4 ner as if it had never been allocated.

5 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
6 poses of this section—

7 “(1) CREDIT PERIOD.—The term ‘credit period’
8 means the 12-year period beginning on January 1,
9 2009.

10 “(2) NEW YORK LIBERTY ZONE GOVERN-
11 MENTAL UNIT.—The term ‘New York Liberty Zone
12 governmental unit’ means—

13 “(A) the State of New York,

14 “(B) the City of New York, New York, and

15 “(C) any agency or instrumentality of such
16 State or City.

17 “(3) TREATMENT OF FUNDS.—Any expenditure
18 for a qualifying project taken into account for pur-
19 poses of the credit under this section shall be consid-
20 ered State and local funds for the purpose of any
21 Federal program.

22 “(4) TREATMENT OF CREDIT AMOUNTS FOR
23 PURPOSES OF WITHHOLDING TAXES.—For purposes
24 of this title, a New York Liberty Zone governmental
25 unit shall be treated as having paid to the Secretary,

1 on the day on which wages are paid to employees,
2 an amount equal to the amount of the credit allowed
3 to such entity under subsection (a) with respect to
4 such wages, but only if such governmental unit de-
5 ducts and withholds wages for such payroll period
6 under section 3401 (relating to wage withholding).

7 “(e) REPORTING.—The Governor of the State of New
8 York and the Mayor of the City of New York, New York,
9 shall jointly submit to the Secretary an annual report—

10 “(1) which certifies—

11 “(A) the qualifying project expenditure
12 amount for the calendar year, and

13 “(B) the amount allocated to each New
14 York Liberty Zone governmental unit under
15 subsection (b)(3) for the calendar year, and

16 “(2) includes such other information as the
17 Secretary may require to carry out this section.

18 “(f) GUIDANCE.—The Secretary may prescribe such
19 guidance as may be necessary or appropriate to ensure
20 compliance with the purposes of this section.”.

21 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-
22 PENSING.—Subparagraph (A) of section 1400K(b)(2), as
23 redesignated by subsection (a), is amended by striking the
24 parenthetical therein and inserting “(in the case of non-
25 residential real property and residential rental property,

1 the date of the enactment of the Energy Tax Incentives
 2 Act of 2008 or, if acquired pursuant to a binding contract
 3 in effect on such enactment date, December 31, 2009)’’.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 38(c)(3)(B) is amended by striking
 6 “section 1400L(a)” and inserting “section
 7 1400K(a)”.

8 (2) Section 168(k)(2)(D)(ii) is amended by
 9 striking “section 1400L(c)(2)” and inserting “sec-
 10 tion 1400K(c)(2)”.

11 (3) The table of sections for part I of sub-
 12 chapter Y of chapter 1 is amended by redesignating
 13 the item relating to section 1400L as an item relat-
 14 ing to section 1400K and by inserting after such
 15 item the following new item:

“Sec. 1400L. New York Liberty Zone tax credits.”.

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

19 **SEC. 827. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**
 20 **COMMUTERS.**

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

23 “(D) Any qualified bicycle commuting re-
 24 imbursement.”.

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 828. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
2 **ERTY CREDIT.**

3 (a) INCREASE IN CREDIT AMOUNT.—Section 30C is
4 amended—

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

7 (2) by striking “\$30,000” in subsection (b)(1)
8 and inserting “\$50,000”, and

9 (3) by striking “\$1,000” in subsection (b)(2)
10 and inserting “\$2,000”.

11 (b) EXTENSION OF CREDIT.—Subsection (g) of sec-
12 tion 30C is amended—

13 (1) by redesignating paragraphs (1) and (2) as
14 paragraphs (2) and (3) and inserting before para-
15 graph (2) (as so redesignated) the following new
16 paragraph:

17 “(1) in the case of property relating to natural
18 gas, compressed natural gas, or liquified natural gas,
19 and which is not of a character subject to an allow-
20 ance for depreciation, December 31, 2017,” and

21 (2) by striking “December 31, 2009” in para-
22 graph (3) (as so redesignated) and inserting “De-
23 cember 31, 2010”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to property placed in service after

1 the date of the enactment of this Act, in taxable years
2 ending after such date.

3 **SEC. 829. ENERGY SECURITY BONDS.**

4 (a) IN GENERAL.—Subpart I of part IV of sub-
5 chapter A of chapter 1, as amended by sections 806 and
6 841, is amended by adding at the end the following new
7 section:

8 **“SEC. 54E. ENERGY SECURITY BONDS.**

9 “(a) ENERGY SECURITY BOND.—For purposes of
10 this subchapter, the term ‘energy security bond’ means
11 any bond issued as part of an issue if—

12 “(1) 100 percent of the available project pro-
13 ceeds of such issue are to be used for qualified pur-
14 poses,

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

16 “(3) the issuer designates such bond for pur-
17 poses of this section, and

18 “(4) repayments of principal and applicable in-
19 terest on financing provided by the issue are used
20 not later than the close of the 3-month period begin-
21 ning on the date the repayment (or complete repay-
22 ment) is received—

23 “(A) to redeem bonds which are part of
24 the issue, or

25 “(B) for any qualified purpose.

1 For purposes of paragraph (4), the term ‘applicable inter-
2 est’ means so much of the interest on any loan as exceeds
3 the amount payable at a 1 percent rate.

4 “(b) QUALIFIED PURPOSE.—For purposes of this
5 section—

6 “(1) IN GENERAL.—The term ‘qualified pur-
7 pose’ means the making of grants and low-interest
8 loans for the purpose of placing in service natural
9 gas refueling property at retail motor fuel stations
10 located in the United States.

11 “(2) LIMITATION ON LOANS.—Such term shall
12 not include—

13 “(A) any loan of more than \$200,000 for
14 property located at any one retail motor fuel
15 station, and

16 “(B) any loan for more than 50 percent of
17 the cost of such property and its installation.

18 “(3) NATURAL GAS REFUELING PROPERTY.—
19 The term ‘natural gas refueling property’ means
20 qualified clean-fuel refueling property (as defined in
21 section 179A(d)) which is described in section
22 179A(d)(3) with respect to natural gas fuel.

23 “(4) LOW-INTEREST LOAN.—The term ‘low-in-
24 terest loan’ means any loan the rate of interest on
25 which does not exceed the applicable Federal rate in

1 effect under section 1288(b)(1) determined as of the
2 issuance of the loan.

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

8 “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS
9 DESIGNATED.—There is a national energy security bond
10 limitation of \$1,750,000,000.

11 “(e) ALLOCATION.—

12 “(1) IN GENERAL.—The Secretary shall make
13 allocations of the amount of the national energy se-
14 curity bond limitation under subsection (d) among
15 qualified issuers in such manner as the Secretary de-
16 termines appropriate.

17 “(2) RESERVATION FOR PROPERTY IN METRO-
18 POLITAN AREA.—50 percent of the national energy
19 security bond limitation under subsection (d) may be
20 allocated only for loans to provide natural gas refuel-
21 ing property located in metropolitan statistical areas
22 (within the meaning of section 143(k)(2)(B)).

23 “(3) PERCENTAGE OF STATIONS RECEIVING
24 LOANS.—In making allocations under paragraph (1),
25 the Secretary shall attempt to ensure that at least

1 10 percent of the retail motor fuel stations in the
2 United States received loans from the proceeds of
3 energy security bonds.

4 “(f) QUALIFIED ISSUER.—For purposes of this sec-
5 tion, the term ‘qualified issuer’ means any State or any
6 political subdivision or instrumentality thereof.

7 “(g) TERMINATION.—This section shall not apply
8 with respect to any bond issued after December 31,
9 2017.”.

10 (b) COORDINATION WITH REFUELING PROPERTY
11 CREDIT.—Subsection (e) of section 30C of such Code is
12 amended by adding at the end the following new para-
13 graph:

14 “(6) COORDINATION WITH ENERGY SECURITY
15 BONDS.—The cost otherwise taken into account
16 under this section with respect to any property shall
17 be reduced by the portion of such cost which is fi-
18 nanced by any loan provided from the proceeds of
19 any energy security bond (as defined in section
20 54E).”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Paragraph (1) of section 54A(d), as amend-
23 ed by sections 806 and 841, is amended by striking
24 “or” at the end of subparagraph (B), by adding
25 “or” at the end of subparagraph (C), and by insert-

1 ing after subparagraph (C) the following new sub-
2 paragraph:

3 “(D) an energy security bond,”.

4 (2) Subparagraph (C) of section 54A(d)(2), as
5 amended by sections 806 and 841, is amended by
6 striking “and” at the end of clause (ii), by striking
7 the period at the end of clause (iii) and inserting
8 “and”, and by adding at the end the following new
9 clause:

10 “(iv) in the case of an energy security
11 bond, a purpose specified in section
12 54E(b).”.

13 (3) The table of sections for subpart I of part
14 IV of subchapter A of chapter 1, as amended by sec-
15 tions 806 and 841, is amended by adding at the end
16 the following new item:

 “Sec. 54E. Energy security bonds.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to obligations issued after Decem-
19 ber 31, 2008.

1 **SEC. 830. CERTAIN INCOME AND GAINS RELATING TO AL-**
 2 **COHOL FUELS AND MIXTURES, BIODIESEL**
 3 **FUELS AND MIXTURES, AND ALTERNATIVE**
 4 **FUELS AND MIXTURES TREATED AS QUALI-**
 5 **FYING INCOME FOR PUBLICLY TRADED**
 6 **PARTNERSHIPS.**

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

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall apply to taxable years beginning after
 15 the date of the enactment of this Act.

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

18 **SEC. 841. QUALIFIED ENERGY CONSERVATION BONDS.**

19 (a) IN GENERAL.—Subpart I of part IV of sub-
 20 chapter A of chapter 1, as amended by section 806, is
 21 amended by adding at the end the following new section:

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

23 **“(a) QUALIFIED ENERGY CONSERVATION BOND.—**
 24 **For purposes of this subchapter, the term ‘qualified en-**
 25 **ergy conservation bond’ means any bond issued as part**
 26 **of an issue if—**

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

4 “(2) the bond is issued by a State or local gov-
5 ernment, and

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

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

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

18 “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS
19 DESIGNATED.—There is a national qualified energy con-
20 servation bond limitation of \$2,625,000,000.

21 “(e) ALLOCATIONS.—

22 “(1) IN GENERAL.—The limitation applicable
23 under subsection (d) shall be allocated by the Sec-
24 retary among the States in proportion to the popu-
25 lation of the States.

1 “(2) ALLOCATIONS TO LARGEST LOCAL GOV-
2 ERNMENTS.—

3 “(A) IN GENERAL.—In the case of any
4 State in which there is a large local govern-
5 ment, each such local government shall be allo-
6 cated a portion of such State’s allocation which
7 bears the same ratio to the State’s allocation
8 (determined without regard to this subpara-
9 graph) as the population of such large local
10 government bears to the population of such
11 State.

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

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

22 “(3) ALLOCATION TO ISSUERS; RESTRICTION
23 ON PRIVATE ACTIVITY BONDS.—Any allocation
24 under this subsection to a State or large local gov-
25 ernment shall be allocated by such State or large

1 local government to issuers within the State in a
2 manner that results in not less than 70 percent of
3 the allocation to such State or large local govern-
4 ment being used to designate bonds which are not
5 private activity bonds.

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

8 “(1) IN GENERAL.—The term ‘qualified con-
9 servation purpose’ means any of the following:

10 “(A) Capital expenditures incurred for
11 purposes of—

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

15 “(ii) implementing green community
16 programs,

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

20 “(iv) any qualified facility (as deter-
21 mined under section 45(d) without regard
22 to paragraphs (8) and (10) thereof and
23 without regard to any placed in service
24 date).

1 “(B) Expenditures with respect to research
2 facilities, and research grants, to support re-
3 search in—

4 “(i) development of cellulosic ethanol
5 or other nonfossil fuels,

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

9 “(iii) increasing the efficiency of exist-
10 ing technologies for producing nonfossil
11 fuels,

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

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

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

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

23 “(i) green building technology,

1 “(ii) conversion of agricultural waste
2 for use in the production of fuel or other-
3 wise,

4 “(iii) advanced battery manufacturing
5 technologies,

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

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

12 “(E) Public education campaigns to pro-
13 mote energy efficiency.

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

19 “(g) POPULATION.—

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

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

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

12 “(1) an Indian tribal government shall be treat-
13 ed for purposes of subsection (e) as located within
14 a State to the extent of so much of the population
15 of such government as resides within such State,
16 and

17 “(2) any bond issued by an Indian tribal gov-
18 ernment shall be treated as a qualified energy con-
19 servation bond only if issued as part of an issue the
20 available project proceeds of which are used for pur-
21 poses for which such Indian tribal government could
22 issue bonds to which section 103(a) applies.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Paragraph (1) of section 54A(d), as amend-
25 ed by section 806, is amended by striking “or” at

1 the end of subparagraph (A), by adding “or” at the
 2 end of subparagraph (B), and by inserting after sub-
 3 paragraph (B) the following new subparagraph:

4 “(C) a qualified energy conservation
 5 bond,”.

6 (2) Subparagraph (C) of section 54A(d)(2), as
 7 amended by section 806, is amended by striking
 8 “and” at the end of clause (i), by striking the period
 9 at the end of clause (ii) and inserting “and”, and by
 10 adding at the end the following new clause:

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

14 (3) The table of sections for subpart I of part
 15 IV of subchapter A of chapter 1, as amended by sec-
 16 tion 806, is amended by adding at the end the fol-
 17 lowing new item:

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

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

21 **SEC. 842. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

22 (a) EXTENSION OF CREDIT.—Section 25C(g) is
 23 amended by striking “December 31, 2007” and inserting
 24 “December 31, 2008”.

25 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

1 (1) IN GENERAL.—Section 25C(d)(3) is amend-
2 ed—

3 (A) by striking “and” at the end of sub-
4 paragraph (D),

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

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

9 “(F) a stove which uses the burning of bio-
10 mass fuel to heat a dwelling unit located in the
11 United States and used as a residence by the
12 taxpayer, or to heat water for use in such a
13 dwelling unit, and which has a thermal effi-
14 ciency rating of at least 75 percent.”.

15 (2) BIOMASS FUEL.—Section 25C(d) is amend-
16 ed by adding at the end the following new para-
17 graph:

18 “(6) BIOMASS FUEL.—The term ‘biomass fuel’
19 means any plant-derived fuel available on a renew-
20 able or recurring basis, including agricultural crops
21 and trees, wood and wood waste and residues (in-
22 cluding wood pellets), plants (including aquatic
23 plants), grasses, residues, and fibers.”.

24 (c) COORDINATION WITH CREDIT FOR QUALIFIED
25 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 25C(d), as amended by subsection (b), is amended
3 by striking subparagraph (C) and by redesignating
4 subparagraphs (D), (E), and (F) as subparagraphs
5 (C), (D), and (E), respectively.

6 (2) CONFORMING AMENDMENT.—Subparagraph
7 (C) of section 25C(d)(2) is amended to read as fol-
8 lows:

9 “(C) REQUIREMENTS AND STANDARDS
10 FOR AIR CONDITIONERS AND HEAT PUMPS.—
11 The standards and requirements prescribed by
12 the Secretary under subparagraph (B) with re-
13 spect to the energy efficiency ratio (EER) for
14 central air conditioners and electric heat
15 pumps—

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

20 “(ii) may be based on the certified
21 data of the Air Conditioning and Refrig-
22 eration Institute that are prepared in part-
23 nership with the Consortium for Energy
24 Efficiency.”.

1 (d) EFFECTIVE DATE.—The amendments made this
 2 section shall apply to expenditures made after December
 3 31, 2007.

4 **SEC. 843. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
 5 **DUCTION.**

6 Subsection (h) of section 179D is amended by strik-
 7 ing “December 31, 2008” and inserting “December 31,
 8 2013”.

9 **SEC. 844. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**
 10 **ANCE CREDIT FOR APPLIANCES PRODUCED**
 11 **AFTER 2007.**

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

14 “(b) APPLICABLE AMOUNT.—For purposes of sub-
 15 section (a)—

16 “(1) DISHWASHERS.—The applicable amount
 17 is—

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

22 “(B) \$75 in the case of a dishwasher
 23 which is manufactured in calendar year 2008,
 24 2009, or 2010 and which uses no more than
 25 307 kilowatt hours per year and 5.0 gallons per

1 cycle (5.5 gallons per cycle for dishwashers de-
2 signed for greater than 12 place settings).

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

5 “(A) \$75 in the case of a residential top-
6 loading clothes washer manufactured in cal-
7 endar year 2008 which meets or exceeds a 1.72
8 modified energy factor and does not exceed a
9 8.0 water consumption factor,

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

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

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

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

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

8 “(B) \$75 in the case of a refrigerator
9 which is manufactured in calendar year 2008 or
10 2009, and consumes at least 23 percent but no
11 more than 24.9 percent less kilowatt hours per
12 year than the 2001 energy conservation stand-
13 ards,

14 “(C) \$100 in the case of a refrigerator
15 which is manufactured in calendar year 2008,
16 2009, or 2010, and consumes at least 25 per-
17 cent but not more than 29.9 percent less kilo-
18 watt hours per year than the 2001 energy con-
19 servation standards, and

20 “(D) \$200 in the case of a refrigerator
21 manufactured in calendar year 2008, 2009, or
22 2010 and which consumes at least 30 percent
23 less energy than the 2001 energy conservation
24 standards.”.

25 (b) ELIGIBLE PRODUCTION.—

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

4 (A) by striking paragraph (2),

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

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

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

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

18 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
19 Subsection (d) of section 45M (defining types of energy
20 efficient appliances) is amended to read as follows:

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

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

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

3 “(3) refrigerators described in subsection
4 (b)(3).”.

5 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

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

8 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

9 The aggregate amount of credit allowed under sub-
10 section (a) with respect to a taxpayer for any tax-
11 able year shall not exceed \$75,000,000 reduced by
12 the amount of the credit allowed under subsection
13 (a) to the taxpayer (or any predecessor) for all prior
14 taxable years beginning after December 31, 2007.”.

15 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
16 AND CLOTHES WASHERS.—Paragraph (2) of section
17 45M(e) is amended to read as follows:

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

23 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 45M(f) (defining qualified energy efficient appliance)
3 is amended to read as follows:

4 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
5 ANCE.—The term ‘qualified energy efficient appli-
6 ance’ means—

7 “(A) any dishwasher described in sub-
8 section (b)(1),

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

11 “(C) any refrigerator described in sub-
12 section (b)(3).”.

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

16 (3) TOP-LOADING CLOTHES WASHER.—Sub-
17 section (f) of section 45M is amended by redesign-
18 nating paragraphs (4), (5), (6), and (7) as para-
19 graphs (5), (6), (7), and (8), respectively, and by in-
20 serting after paragraph (3) the following new para-
21 graph:

22 “(4) TOP-LOADING CLOTHES WASHER.—The
23 term ‘top-loading clothes washer’ means a clothes
24 washer which has the clothes container compartment

1 access located on the top of the machine and which
2 operates on a vertical axis.”.

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

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

11 (5) GALLONS PER CYCLE; WATER CONSUMP-
12 TION FACTOR.—Section 45M(f), as amended by
13 paragraph (3), is amended by adding at the end the
14 following:

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

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

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

4 **SEC. 845. ACCELERATED RECOVERY PERIOD FOR DEPRE-**
 5 **CIATION OF SMART METERS AND SMART**
 6 **GRID SYSTEMS.**

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

11 “(iii) any qualified smart electric
 12 meter, and

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

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

17 “(18) QUALIFIED SMART ELECTRIC METERS.—

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

23 “(B) SMART ELECTRIC METER.—For pur-
 24 poses of subparagraph (A), the term ‘smart
 25 electric meter’ means any time-based meter and

1 related communication equipment which is ca-
2 pable of being used by the taxpayer as part of
3 a system that—

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

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

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

17 “(iv) provides net metering.

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

20 “(A) IN GENERAL.—The term ‘qualified
21 smart electric grid system’ means any smart
22 grid property used as part of a system for elec-
23 tric distribution grid communications, moni-
24 toring, and management placed in service by a

1 taxpayer who is a supplier of electric energy or
2 a provider of electric energy services.

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

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

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

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

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

24 “(C) any property (other than property de-
25 scribed in paragraph (3)) which is a qualified

1 smart electric meter or qualified smart electric
2 grid system, or”.

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

6 **SEC. 846. QUALIFIED GREEN BUILDING AND SUSTAINABLE**
7 **DESIGN PROJECTS.**

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

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

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

19 **Subtitle D—Revenue Provisions**

20 **SEC. 851. LIMITATION OF DEDUCTION FOR INCOME AT-**
21 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**
22 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

23 (a) DENIAL OF DEDUCTION FOR SPECIFIED OIL
24 COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC
25 PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS

1 THEREOF.—Subparagraph (B) of section 199(c)(4) (re-
 2 lating to exceptions) is amended by striking “or” at the
 3 end of clause (ii), by striking the period at the end of
 4 clause (iii) and inserting “, or”, and by inserting after
 5 clause (iii) the following new clause:

6 “(iv) in the case of any specified oil
 7 company (as defined in subsection (d)(9)),
 8 the production, refining, processing, trans-
 9 portation, or distribution of oil, gas, or any
 10 primary product thereof.”.

11 (b) LIMITATION ON OIL RELATED QUALIFIED PRO-
 12 DUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER
 13 THAN SPECIFIED OIL COMPANIES.—

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

18 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL
 19 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-
 20 COME.—

21 “(A) IN GENERAL.—If a taxpayer (other
 22 than a specified oil company) has oil related
 23 qualified production activities income for any
 24 taxable year beginning after 2009, the amount
 25 otherwise allowable as a deduction under sub-

1 section (a) shall be reduced by 3 percent of the
2 least of—

3 “(i) the oil related qualified produc-
4 tion activities income of the taxpayer for
5 the taxable year,

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

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

11 “(B) OIL RELATED QUALIFIED PRODUC-
12 TION ACTIVITIES INCOME.—For purposes of
13 this section, the term ‘oil related qualified pro-
14 duction activities income’ means for any taxable
15 year the qualified production activities income
16 which is attributable to the production, refining,
17 processing, transportation, or distribution of oil,
18 gas, or any primary product thereof during
19 such taxable year.

20 “(C) SPECIFIED OIL COMPANY.—For pur-
21 poses of this section, the term ‘specified oil
22 company’ means—

23 “(i) any major integrated oil company
24 (as defined in section 167(h)(5)(B)), and

1 “(ii) any entity in which a foreign
2 government holds (directly or indirectly)—

3 “(I) any interest which (by value
4 or voting interest) is 50 percent or
5 more of the total of such interests in
6 such entity, or

7 “(II) any other interest which
8 provides the foreign government with
9 effective control of such entity.

10 “(D) PRIMARY PRODUCT.—For purposes
11 of this section, the term ‘primary product’ has
12 the same meaning as when used in section
13 927(a)(2)(C), as in effect before its repeal.”.

14 (2) CONFORMING AMENDMENT.—Section
15 199(d)(2) (relating to application to individuals) is
16 amended by striking “subsection (a)(1)(B)” and in-
17 serting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

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

21 **SEC. 852. CLARIFICATION OF DETERMINATION OF FOREIGN**
22 **OIL AND GAS EXTRACTION INCOME.**

23 (a) IN GENERAL.—Paragraph (1) of section 907(c)
24 is amended by redesignating subparagraph (B) as sub-
25 paragraph (C), by striking “or” at the end of subpara-

1 graph (A), and by inserting after subparagraph (A) the
2 following new subparagraph:

3 “(B) so much of any transportation of
4 such minerals as occurs before the fair market
5 value event, or”.

6 (b) FAIR MARKET VALUE EVENT.—Subsection (c) of
7 section 907 is amended by adding at the end the following
8 new paragraph:

9 “(6) FAIR MARKET VALUE EVENT.—For pur-
10 poses of this section, the term ‘fair market value
11 event’ means, with respect to any mineral, the first
12 point in time at which such mineral—

13 “(A) has a fair market value which can be
14 determined on the basis of a transfer, which is
15 an arm’s length transaction, of such mineral
16 from the taxpayer to a person who is not re-
17 lated (within the meaning of section 482) to
18 such taxpayer, or

19 “(B) is at a location at which the fair mar-
20 ket value is readily ascertainable by reason of
21 transactions among unrelated third parties with
22 respect to the same mineral (taking into ac-
23 count source, location, quality, and chemical
24 composition).”.

1 (c) SPECIAL RULE FOR CERTAIN PETROLEUM
2 TAXES.—Subsection (c) of section 907, as amended by
3 subsection (b), is amended to by adding at the end the
4 following new paragraph:

5 “(7) OIL AND GAS TAXES.—In the case of any
6 tax imposed by a foreign country which is limited in
7 its application to taxpayers engaged in oil or gas ac-
8 tivities—

9 “(A) the term ‘oil and gas extraction taxes’
10 shall include such tax,

11 “(B) the term ‘foreign oil and gas extrac-
12 tion income’ shall include any taxable income
13 which is taken into account in determining such
14 tax (or is directly attributable to the activity to
15 which such tax relates), and

16 “(C) the term ‘foreign oil related income’
17 shall not include any taxable income which is
18 treated as foreign oil and gas extraction income
19 under subparagraph (B).”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (C) of section 907(c)(1), as
22 redesignated by this section, is amended by inserting
23 “or used by the taxpayer in the activity described in
24 subparagraph (B)” before the period at the end.

1 (2) Subparagraph (B) of section 907(c)(2) is
2 amended to read as follows:

3 “(B) so much of the transportation of such
4 minerals or primary products as is not taken
5 into account under paragraph (1)(B),”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 the date of the enactment of this Act.

9 **SEC. 853. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
10 **TAXES.**

11 In the case of a corporation—

12 (1) to which paragraph (1) of section 401 of
13 the Tax Increase Prevention and Reconciliation Act
14 of 2005 applies, and

15 (2) which had any significant income for the
16 preceding taxable year referred to in such paragraph
17 from extraction, production, processing, refining,
18 transportation, distribution, or retail sale, of any
19 fuel or electricity,

20

21 the percentage under subparagraph (C) of such paragraph
22 (as in effect on the date of the enactment of this Act)
23 is increased by 40 percentage points.

○