

**Calendar No. 446**110TH CONGRESS  
1ST SESSION**S. 2242****[Report No. 110-206]**

To amend the Trade Act of 1974 to establish supplemental agricultural disaster assistance and to amend the Internal Revenue Code of 1986 to provide tax incentives for conservation and alternative energy sources and to provide tax relief for farmers, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

OCTOBER 25, 2007

Mr. BAUCUS, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To amend the Trade Act of 1974 to establish supplemental agricultural disaster assistance and to amend the Internal Revenue Code of 1986 to provide tax incentives for conservation and alternative energy sources and to provide tax relief for farmers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO 1986 CODE;**  
 2 **TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
 4 “Heartland, Habitat, Harvest, and Horticulture Act of  
 5 2007”.

6 (b) **AMENDMENTS TO 1986 CODE.**—Except as other-  
 7 wise expressly provided, whenever in this Act an amend-  
 8 ment or repeal is expressed in terms of an amendment  
 9 to, or repeal of, a section or other provision, the reference  
 10 shall be considered to be made to a section or other provi-  
 11 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendments to 1986 Code; table of contents.

**TITLE I—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE  
 FROM THE AGRICULTURE DISASTER RELIEF TRUST FUND**

Sec. 101. Supplemental agriculture disaster assistance.

**TITLE II—CONSERVATION PROVISIONS**

**Subtitle A—Land and Species Preservation Provisions**

Sec. 201. Conservation reserve tax credit.

Sec. 202. Exclusion of Conservation Reserve Program payments from SECA  
 tax for certain individuals.

Sec. 203. Permanent extension of special rule encouraging contributions of cap-  
 ital gain real property for conservation purposes.

Sec. 204. Tax credit for recovery and restoration of endangered species.

Sec. 205. Deduction for endangered species recovery expenditures.

Sec. 206. Exclusion for certain payments and programs relating to fish and  
 wildlife.

Sec. 207. Credit for easements granted under certain Department of Agri-  
 culture conservation programs.

**Subtitle B—Timber Provisions**

Sec. 211. Forest conservation bonds.

Sec. 212. Deduction for qualified timber gain.

Sec. 213. Excise tax not applicable to section 1203 deduction of real estate in-  
 vestment trusts.

- Sec. 214. Timber REIT modernization.
- Sec. 215. Mineral royalty income qualifying income for timber REITs.
- Sec. 216. Modification of taxable REIT subsidiary asset test for timber REITs.
- Sec. 217. Safe harbor for timber property.

### TITLE III—ENERGY PROVISIONS

#### Subtitle A—Electricity Generation

- Sec. 301. Credit for residential and business wind property.
- Sec. 302. Landowner incentive to encourage electric transmission build-out.
- Sec. 303. Exception to reduction of renewable electricity credit.

#### Subtitle B—Alcohol Fuel

- Sec. 311. Expansion of special allowance to cellulosic biomass alcohol fuel plant property.
- Sec. 312. Credit for production of cellulosic biomass alcohol.
- Sec. 313. Extension of small ethanol producer credit.
- Sec. 314. Credit for producers of fossil free alcohol.
- Sec. 315. Modification of alcohol credit.
- Sec. 316. Calculation of volume of alcohol for fuel credits.
- Sec. 317. Ethanol tariff extension.
- Sec. 318. Elimination and reductions of duty drawback on certain imported ethanol.

#### Subtitle C—Biodiesel and Renewable Diesel Fuel

- Sec. 321. Extension and modification of credit for biodiesel and renewable diesel used as fuel.
- Sec. 322. Treatment of qualified alcohol fuel mixtures and qualified biodiesel fuel mixtures as taxable fuels.

#### Subtitle D—Alternative Fuel

- Sec. 331. Extension and modification of alternative fuel credit.
- Sec. 332. Extension of alternative fuel vehicle refueling property credit.

### TITLE IV—AGRICULTURAL PROVISIONS

- Sec. 401. Increase in loan limits on agricultural bonds.
- Sec. 402. Modification of installment sale rules for certain farm property.
- Sec. 403. Allowance of section 1031 treatment for exchanges involving certain mutual ditch, reservoir, or irrigation company stock.
- Sec. 404. Credit to holders of rural renaissance bonds.
- Sec. 405. Agricultural chemicals security credit.
- Sec. 406. Credit for drug safety and effectiveness testing for minor animal species.
- Sec. 407. Certain farming business machinery and equipment treated as 5-year property.
- Sec. 408. Expensing of broadband Internet access expenditures.
- Sec. 409. Credit for energy efficient motors.

### TITLE V—REVENUE RAISING PROVISIONS

#### Subtitle A—Miscellaneous Revenue Provisions

- Sec. 501. Limitation on farming losses of certain taxpayers.

- Sec. 502. Modification to optional method of computing net earnings from self-employment.
- Sec. 503. Information reporting for Commodity Credit Corporation transactions.
- Sec. 504. Modification of section 1031 treatment for certain real estate.
- Sec. 505. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 506. Time for payment of corporate estimated taxes.
- Sec. 507. Ineligibility of collectibles for nontaxable like kind exchange treatment.
- Sec. 508. Denial of deduction for certain fines, penalties, and other amounts.
- Sec. 509. Increase in information return penalties.

Subtitle B—Economic Substance Doctrine

- Sec. 511. Clarification of economic substance doctrine.
- Sec. 512. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 513. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

1 **TITLE I—SUPPLEMENTAL AGRI-**  
 2 **CULTURAL DISASTER ASSIST-**  
 3 **ANCE FROM THE AGRI-**  
 4 **CULTURE DISASTER RELIEF**  
 5 **TRUST FUND**

6 **SEC. 101. SUPPLEMENTAL AGRICULTURE DISASTER AS-**  
 7 **SISTANCE.**

8 (a) IN GENERAL.—The Trade Act of 1974 (19  
 9 U.S.C. 2101 et seq.) is amended by adding at the end  
 10 the following:

11 **“TITLE IX—SUPPLEMENTAL AG-**  
 12 **RICULTURE DISASTER AS-**  
 13 **SISTANCE**

14 **“SEC. 901. PERMANENT AUTHORITY FOR SUPPLEMENTAL**  
 15 **REVENUE ASSISTANCE.**

16 “(a) DEFINITIONS.—In this section:

1           “(1) ACTUAL PRODUCTION HISTORY YIELD.—  
2           The term ‘actual production history yield’ means the  
3           weighted average actual production history for each  
4           insurable commodity or noninsurable commodity, as  
5           calculated under the Federal Crop Insurance Act (7  
6           U.S.C. 1501 et seq.) or the noninsured crop disaster  
7           assistance program, respectively.

8           “(2) COUNTER-CYCLICAL PROGRAM PAYMENT  
9           YIELD.—The term ‘counter-cyclical program pay-  
10          ment yield’ means the weighted average payment  
11          yield established under section 1102 of the Farm Se-  
12          curity and Rural Investment Act of 2002 (7 U.S.C.  
13          7912).

14          “(3) DISASTER COUNTY.—

15               “(A) IN GENERAL.—The term ‘disaster  
16               county’ means a county included in the geo-  
17               graphic area covered by a qualifying natural  
18               disaster declaration.

19               “(B) INCLUSION.—The term ‘disaster  
20               county’ includes—

21                       “(i) a county contiguous to a county  
22                       described in subparagraph (A); and

23                       “(ii) any farm in which, during a cal-  
24                       endar year, the total loss of production of  
25                       the farm relating to weather is greater

1           than 50 percent of the normal production  
2           of the farm, as determined by the Sec-  
3           retary.

4           “(4) ELIGIBLE PRODUCER ON A FARM.—

5           “(A) IN GENERAL.—The term ‘eligible pro-  
6           ducer on a farm’ means an individual or entity  
7           described in subparagraph (B) that, as deter-  
8           mined by the Secretary, assumes the production  
9           and market risks associated with the agricul-  
10          tural production of crops or livestock.

11          “(B) DESCRIPTION.—An individual or en-  
12          tity referred to in subparagraph (A) is—

13                  “(i) a citizen of the United States;

14                  “(ii) a resident alien;

15                  “(iii) a partnership of citizens of the  
16          United States; or

17                  “(iv) a corporation, limited liability  
18          corporation, or other farm organizational  
19          structure organized under State law.

20          “(5) FARM.—

21          “(A) IN GENERAL.—The term ‘farm’  
22          means, in relation to an eligible producer on a  
23          farm, the sum of all crop acreage in all counties  
24          that—

1                   “(i) is used for grazing by the eligible  
2 producer; or

3                   “(ii) is planted or intended to be  
4 planted for harvest by the eligible pro-  
5 ducer.

6                   “(B) AQUACULTURE.—In the case of  
7 aquaculture, the term ‘farm’ means, in relation  
8 to an eligible producer on a farm, all fish being  
9 produced in all counties that are intended to be  
10 harvested for sale by the eligible producer.

11                   “(C) HONEY.—In the case of honey, the  
12 term ‘farm’ means, in relation to an eligible  
13 producer on a farm, all bees and beehives in all  
14 counties that are intended to be harvested for  
15 a honey crop by the eligible producer.

16                   “(6) FARM-RAISED FISH.—The term ‘farm-  
17 raised fish’ means any aquatic species (including any  
18 species of finfish, mollusk, crustacean, or other  
19 aquatic invertebrate, amphibian, reptile, or aquatic  
20 plant) that is propagated and reared in a controlled  
21 or semicontrolled environment.

22                   “(7) INSURABLE COMMODITY.—The term ‘in-  
23 surable commodity’ means an agricultural com-  
24 modity (excluding livestock) for which the producer  
25 on a farm is eligible to obtain a policy or plan of in-

1 surance under the Federal Crop Insurance Act (7  
2 U.S.C. 1501 et seq.).

3 “(8) LIVESTOCK.—The term ‘livestock’ in-  
4 cludes—

5 “(A) cattle (including dairy cattle);

6 “(B) bison;

7 “(C) poultry;

8 “(D) sheep;

9 “(E) swine;

10 “(F) horses; and

11 “(G) other livestock, as determined by the  
12 Secretary.

13 “(9) MOVING 5-YEAR OLYMPIC AVERAGE COUN-  
14 TY YIELD.—The term ‘moving 5-year Olympic aver-  
15 age county yield’ means the weighted average yield  
16 obtained from the 5 most recent years of yield data  
17 provided by the National Agriculture Statistics Serv-  
18 ice obtained from data after dropping the highest  
19 and the lowest yields.

20 “(10) NONINSURABLE COMMODITY.—The term  
21 ‘noninsurable commodity’ means a crop for which  
22 the eligible producers on a farm are eligible to ob-  
23 tain assistance under the noninsured crop assistance  
24 program.

1           “(11) NONINSURED CROP ASSISTANCE PRO-  
2           GRAM.—The term ‘noninsured crop assistance pro-  
3           gram’ means the program carried out under section  
4           196 of the Federal Agriculture Improvement and  
5           Reform Act of 1996 (7 U.S.C. 7333).

6           “(12) QUALIFYING NATURAL DISASTER DEC-  
7           LARATION.—The term ‘qualifying natural disaster  
8           declaration’ means a natural disaster declared by the  
9           Secretary for production losses under section 321(a)  
10          of the Consolidated Farm and Rural Development  
11          Act (7 U.S.C. 1961(a)).

12          “(13) SECRETARY.—The term ‘Secretary’  
13          means the Secretary of Agriculture.

14          “(14) STATE.—The term ‘State’ means—

15                 “(A) a State;

16                 “(B) the District of Columbia;

17                 “(C) the Commonwealth of Puerto Rico;

18                 and

19                 “(D) any other territory or possession of  
20                 the United States.

21          “(15) TRUST FUND.—The term ‘Trust Fund’  
22          means the Agriculture Disaster Relief Trust Fund  
23          established under section 902.

1           “(16) UNITED STATES.—The term ‘United  
2 States’ when used in a geographical sense, means all  
3 of the States.

4           “(b) SUPPLEMENTAL REVENUE ASSISTANCE PAY-  
5 MENTS.—

6           “(1) IN GENERAL.—The Secretary shall use  
7 such sums as are necessary from the Trust Fund to  
8 make crop disaster assistance payments to eligible  
9 producers on farms in disaster counties that have in-  
10 curred crop production losses or crop quality losses,  
11 or both, during the crop year.

12           “(2) AMOUNT.—

13           “(A) IN GENERAL.—Subject to subpara-  
14 graph (B), the Secretary shall provide crop dis-  
15 aster assistance payments under this section to  
16 an eligible producer on a farm in an amount  
17 equal to 52 percent of the difference between—

18           “(i) the disaster assistance program  
19 guarantee, as described in paragraph (3);  
20 and

21           “(ii) the total farm revenue for a  
22 farm, as described in paragraph (4).

23           “(B) LIMITATION.—The disaster assist-  
24 ance program guarantee for a crop used to cal-  
25 culate the payments for a farm under subpara-

1 graph (A)(i) may not be greater than 90 per-  
 2 cent of the sum of the expected revenue, as de-  
 3 scribed in paragraph (5) for each of the crops  
 4 on a farm, as determined by the Secretary.

5 “(3) SUPPLEMENTAL REVENUE ASSISTANCE  
 6 PROGRAM GUARANTEE.—

7 “(A) IN GENERAL.—Except as otherwise  
 8 provided in this paragraph, the supplemental  
 9 assistance program guarantee shall be the sum  
 10 obtained by adding—

11 “(i) for each insurable commodity on  
 12 the farm, the product obtained by multi-  
 13 plying—

14 “(I) the greatest of—

15 “(aa) the actual production  
 16 history yield;

17 “(bb) 85 percent of the mov-  
 18 ing 5-year Olympic average coun-  
 19 ty yield; and

20 “(cc) the counter-cyclical  
 21 program payment yield for each  
 22 crop;

23 “(II) the percentage of the crop  
 24 insurance yield guarantee;

1                   “(III) the percentage of crop in-  
2                   surance price elected by the eligible  
3                   producer;

4                   “(IV) the crop insurance price;  
5                   and

6                   “(V) 115 percent; and

7                   “(ii) for each noninsurable commodity  
8                   on a farm, the product obtained by multi-  
9                   plying—

10                   “(I) the weighted noninsured  
11                   crop assistance program yield guar-  
12                   antee;

13                   “(II) except as provided in sub-  
14                   paragraph (B), 100 percent of the  
15                   noninsured crop assistance program  
16                   established price; and

17                   “(III) 115 percent.

18                   “(B) SUPPLEMENTAL BUY-UP NON-  
19                   INSURED ASSISTANCE PROGRAM.—Beginning on  
20                   the date that the Secretary makes available  
21                   supplemental buy-up coverage under the non-  
22                   insured assistance program in accordance with  
23                   subsection (h), the percentage described in sub-  
24                   clause (II) of subparagraph (A)(ii) shall be  
25                   equal to the percentage of the noninsured as-

1           sistance program price guarantee elected by the  
2           producer.

3           “(C) ADJUSTMENT INSURANCE GUAR-  
4           ANTEE.—Notwithstanding subparagraph (A), in  
5           the case of an insurable commodity for which a  
6           plan of insurance provides for an adjustment in  
7           the guarantee, such as in the case of prevented  
8           planting, the adjusted insurance guarantee shall  
9           be the basis for determining the disaster assist-  
10          ance program guarantee for the insurable com-  
11          modity.

12          “(D) ADJUSTED ASSISTANCE LEVEL.—  
13          Notwithstanding subparagraph (A), in the case  
14          of a noninsurable commodity for which the non-  
15          insured crop assistance program provides for an  
16          adjustment in the level of assistance, such as in  
17          the case of prevented harvesting, the adjusted  
18          assistance level shall be the basis for deter-  
19          mining the disaster assistance program guar-  
20          antee for the noninsurable commodity.

21          “(E) EQUITABLE TREATMENT FOR NON-  
22          YIELD BASED POLICIES.—The Secretary shall  
23          establish equitable treatment for non-yield  
24          based policies and plans of insurance, such as

1 the Adjusted Gross Revenue Lite insurance pro-  
2 gram.

3 “(F) PUBLIC MANAGED LAND.—Notwith-  
4 standing subparagraph (A), if rangeland is  
5 managed by a Federal agency and the carrying  
6 capacity of the managed rangeland is reduced  
7 as a result of a disaster in the preceding year  
8 that was the basis for a qualifying natural dis-  
9 aster declaration—

10 “(i) the calculation for the supple-  
11 mental assistance program guarantee de-  
12 termined under subparagraph (A) as the  
13 guarantee applies to the managed range-  
14 land shall be not less than 75 percent of  
15 the guarantee for the preceding year; and

16 “(ii) the requirement for a designation  
17 by the Secretary for the current year is  
18 waived.

19 “(4) FARM REVENUE.—

20 “(A) IN GENERAL.—For purposes of this  
21 subsection, the total farm revenue for a farm,  
22 shall equal the sum obtained by adding—

23 “(i) the estimated actual value for  
24 grazing and for each crop produced on a

1 farm by using the product obtained by  
2 multiplying—

3 “(I) the actual crop acreage  
4 grazed or harvested by an eligible pro-  
5 ducer on a farm;

6 “(II) the estimated actual yield  
7 of the grazing land or crop produc-  
8 tion; and

9 “(III) subject to subparagraphs  
10 (B) and (C), the average market price  
11 received or value of the production  
12 during the first 5 months of the mar-  
13 keting year for the county in which  
14 the farm or portion of a farm is lo-  
15 cated;

16 “(ii) 20 percent of amount of any di-  
17 rect payments made to the producer under  
18 section 1103 of the Farm Security and  
19 Rural Investment Act of 2002 (7 U.S.C.  
20 7913);

21 “(iii) the amount of payments for pre-  
22 vented planting on a farm;

23 “(iv) the amount of crop insurance in-  
24 demnities received by an eligible producer

1 on a farm for each crop on a farm, includ-  
2 ing indemnities for grazing losses;

3 “(v) the amount of payments an eligi-  
4 ble producer on a farm received under the  
5 noninsured crop assistance program for  
6 each crop on a farm, including grazing  
7 losses; and

8 “(vi) the value of any other natural  
9 disaster assistance payments provided by  
10 the Federal Government to an eligible pro-  
11 ducer on a farm for each crop on a farm  
12 for the same loss for which the eligible pro-  
13 ducer is seeking assistance.

14 “(B) ADJUSTMENT.—The Secretary shall  
15 adjust the average market price received by the  
16 eligible producer on a farm—

17 “(i) to reflect the average quality dis-  
18 counts applied to the local or regional mar-  
19 ket price of a crop, hay, or forage due to  
20 a reduction in the intrinsic characteristics  
21 of the production resulting from adverse  
22 weather, as determined annually by the  
23 State office of the Farm Service Agency;  
24 and

1                   “(ii) to account for a crop the value of  
2                   which is reduced due to excess moisture re-  
3                   sulting from a disaster-related condition.

4                   “(C) MAXIMUM AMOUNT FOR CERTAIN  
5                   CROPS.—With respect to a crop for which an el-  
6                   igible producer on a farm receives assistance  
7                   under the noninsured crop assistance program,  
8                   the average market price received or value of  
9                   the production during the first 5 months of the  
10                  marketing year for the county in which the  
11                  farm or portion of a farm is located shall be an  
12                  amount not more than 100 percent of the price  
13                  of the crop established under the noninsured  
14                  crop assistance program.

15                  “(5) EXPECTED REVENUE.—The expected rev-  
16                  enue for each crop on a farm shall equal the sum  
17                  obtained by adding—

18                         “(A) the expected value of grazing;

19                         “(B) the product obtained by multi-  
20                         plying—

21                                 “(i) the greatest of—

22   “(I) the actual production history  
23   yield of the eligible producer on a  
24   farm;

1                   “(II) the moving 5-year Olympic  
2                   average county yield; and

3                   “(III) the counter-cyclical pro-  
4                   gram payment yield;

5                   “(ii) the acreage planted or intended  
6                   to be planted for each crop; and

7                   “(iii) 100 percent of the insurance  
8                   price guarantee; and

9                   “(C) the product obtained by multi-  
10                  plying—

11                  “(i) 100 percent of the noninsured  
12                  crop assistance program yield; and

13                  “(ii) 100 percent of the noninsured  
14                  crop assistance program price for each of  
15                  the crops on a farm.

16                  “(c) LIVESTOCK INDEMNITY PAYMENTS.—

17                  “(1) IN GENERAL.—The Secretary shall use  
18                  such sums as are necessary from the Trust Fund to  
19                  make livestock indemnity payments to eligible pro-  
20                  ducers on farms that have incurred livestock death  
21                  losses in excess of the normal mortality due to ad-  
22                  verse weather, as determined by the Secretary, dur-  
23                  ing the calendar year, including losses due to hurri-  
24                  canes, floods, blizzards, disease, wildfires, extreme  
25                  heat, and extreme cold.

1           “(2) PAYMENT RATES.—Indemnity payments to  
2           an eligible producer on a farm under paragraph (1)  
3           shall be made at a rate of 75 percent of the market  
4           value of the applicable livestock on the day before  
5           the date of death of the livestock, as determined by  
6           the Secretary.

7           “(d) EMERGENCY ASSISTANCE FOR LIVESTOCK,  
8 HONEY BEES, AND FARM-RAISED FISH.—

9           “(1) IN GENERAL.—The Secretary shall use up  
10          to \$35,000,000 per year from the Trust Fund to  
11          provide emergency relief to eligible producers of live-  
12          stock, honey bees, and farm-raised fish to aid in the  
13          reduction of losses due to adverse weather or other  
14          environmental conditions, such as blizzards and  
15          wildfires, as determined by the Secretary, that are  
16          not covered under the authority of the Secretary to  
17          make qualifying natural disaster declarations.

18          “(2) USE OF FUNDS.—Funds made available  
19          under this subsection shall be used to reduce losses  
20          caused by feed or water shortages, disease, or other  
21          factors as determined by the Secretary.

22          “(3) AVAILABILITY OF FUNDS.—Any funds  
23          made available under this subsection and not used in  
24          a crop year shall remain available until expended.

25          “(e) TREE ASSISTANCE PROGRAM.—

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

2 “(A) ELIGIBLE ORCHARDIST.—The term  
3 ‘eligible orchardist’ means a person that—

4 “(i) produces annual crops from trees  
5 for commercial purposes; or

6 “(ii) produces nursery, ornamental,  
7 fruit, nut, or Christmas trees for commer-  
8 cial sale.

9 “(B) NATURAL DISASTER.—The term ‘nat-  
10 ural disaster’ means plant disease, insect infes-  
11 tation, drought, fire, freeze, flood, earthquake,  
12 lightning, or other occurrence, as determined by  
13 the Secretary.

14 “(C) TREE.—The term ‘tree’ includes a  
15 tree, bush, and vine.

16 “(2) ELIGIBILITY.—

17 “(A) LOSS.—Subject to subparagraph (B),  
18 the Secretary shall provide assistance under  
19 paragraph (3) to eligible orchardists that plant-  
20 ed trees for commercial purposes but lost the  
21 trees as a result of a natural disaster, as deter-  
22 mined by the Secretary.

23 “(B) LIMITATION.—An eligible orchardist  
24 shall qualify for assistance under subparagraph  
25 (A) only if the tree mortality of the eligible or-

1 orchardist, as a result of damaging weather or re-  
 2 lated condition, exceeds 15 percent (adjusted  
 3 for normal mortality).

4 “(3) ASSISTANCE.—The assistance provided by  
 5 the Secretary to eligible orchardists for losses de-  
 6 scribed in paragraph (2) shall consist of—

7 “(A)(i) reimbursement of 75 percent of the  
 8 cost of replanting trees lost due to a natural  
 9 disaster, as determined by the Secretary, in ex-  
 10 cess of 15 percent mortality (adjusted for nor-  
 11 mal mortality); or

12 “(ii) at the option of the Secretary, suffi-  
 13 cient seedlings to reestablish a stand; and

14 “(B) reimbursement of 50 percent of the  
 15 cost of pruning, removal, and other costs in-  
 16 curred by an eligible orchardist to salvage exist-  
 17 ing trees or, in the case of tree mortality, to  
 18 prepare the land to replant trees as a result of  
 19 damage or tree mortality due to a natural dis-  
 20 aster, as determined by the Secretary, in excess  
 21 of 15 percent damage or mortality (adjusted for  
 22 normal tree damage and mortality).

23 “(f) PEST AND DISEASE MANAGEMENT AND DIS-  
 24 ASTER PREVENTION.—

25 “(1) DEFINITIONS.—In this subsection:

1           “(A) EARLY PEST DETECTION AND SUR-  
2           VEILLANCE.—The term ‘early pest detection  
3           and surveillance’ means the full range of activi-  
4           ties undertaken to find newly introduced pests,  
5           whether the pests are new to the United States  
6           or new to certain areas of the United States,  
7           before—

8                   “(i) the pests become established; or

9                   “(ii) the pest infestations become too  
10           large and costly to eradicate or control.

11           “(B) PEST.—The term ‘pest’ has the  
12           meaning given the term ‘plant pest’ in section  
13           403 of the Plant Protection Act (7 U.S.C.  
14           7702).

15           “(C) SPECIALTY CROP.—The term ‘spe-  
16           cialty crop’ has the meaning given the term in  
17           section 3 of the Specialty Crops Competitive-  
18           ness Act of 2004 (7 U.S.C. 1621 note; Public  
19           Law 108–465).

20           “(D) STATE DEPARTMENT OF AGRI-  
21           CULTURE.—The term ‘State department of ag-  
22           riculture’ means an agency of a State that has  
23           a legal responsibility to perform early pest de-  
24           tection and surveillance activities.

1           “(2) ESTABLISHMENT.—The Secretary shall es-  
2       tablish a program—

3           “(A) to conduct early pest detection and  
4       surveillance activities in cooperation with State  
5       departments of agriculture;

6           “(B) to determine and prioritize pest and  
7       disease threats to domestic production of spe-  
8       cialty crops;

9           “(C) to create an audit-based certification  
10      approach to protect against the spread of plant  
11      pests and to facilitate the interstate movement  
12      of plants and plant products; and

13          “(D) to prevent potential damage from  
14      crop disasters caused by pests and diseases.

15          “(3) EARLY PEST DETECTION AND SURVEIL-  
16      LANCE IMPROVEMENT PROGRAM.—

17          “(A) COOPERATIVE AGREEMENTS.—The  
18      Secretary shall enter into cooperative agree-  
19      ments with State departments of agriculture to  
20      provide grants to the State departments of agri-  
21      culture for early pest detection and surveillance  
22      activities.

23          “(B) APPLICATION.—

24              “(i) IN GENERAL.—A State depart-  
25      ment of agriculture seeking to enter into a

1 cooperative agreement under this sub-  
2 section shall submit to the Secretary an  
3 application containing such information as  
4 the Secretary may require.

5 “(ii) NOTIFICATION.—The Secretary  
6 shall notify applicants of—

7 “(I) the requirements to be im-  
8 posed on a State department of agri-  
9 culture for auditing of, and reporting  
10 on, the use of any funds provided by  
11 the Secretary under the cooperative  
12 agreement;

13 “(II) the criteria to be used to  
14 ensure that early pest detection and  
15 surveillance activities supported under  
16 the cooperative agreement are based  
17 on sound scientific data or thorough  
18 risk assessments; and

19 “(III) the means of identifying  
20 pathways of pest introductions.

21 “(C) USE OF FUNDS.—

22 “(i) PEST DETECTION AND SURVEIL-  
23 LANCE ACTIVITIES.—A State department  
24 of agriculture that receives funds under  
25 this subsection shall use the funds to carry

1 out early pest detection and surveillance  
2 activities approved by the Secretary to pre-  
3 vent the introduction or spread of a pest.

4 “(ii) SUBAGREEMENTS.—A State de-  
5 partment of agriculture may use funds re-  
6 ceived under this subsection to enter into  
7 subagreements with political subdivisions  
8 in the State that have legal responsibilities  
9 relating to agricultural pest and disease  
10 surveillance.

11 “(D) SPECIAL FUNDING CONSIDER-  
12 ATIONS.—Subject to the availability of funds  
13 under paragraph (9), the Secretary shall pro-  
14 vide funds to a State department of agriculture  
15 that the Secretary determines is in a State that  
16 has a high risk of being affected by 1 or more  
17 pest, based on—

18 “(i) the number of international air-  
19 ports and maritime facilities in the State;

20 “(ii) the volume of international pas-  
21 senger and cargo entry into the State;

22 “(iii)(I) the geographic location of the  
23 State; and

24 “(II) whether the location is conducive  
25 to agricultural pest and disease establish-

1           ment due to the climate or crop diversity  
2           of the State;

3           “(iv)(I) the types of agricultural com-  
4           modities or plants produced in the State;  
5           and

6           “(II) whether the commodities or  
7           plants produced are conducive to agricul-  
8           tural pest and disease establishment due to  
9           the climate or crop diversity of the State;

10          “(v) whether the Secretary has de-  
11          clared an emergency in the State pursuant  
12          to section 442 of the Plant Protection Act  
13          (7 U.S.C. 7772) due to an agricultural  
14          pest or disease of Federal concern; and

15          “(vi) such other factors as the Sec-  
16          retary considers appropriate.

17          “(E) COST-SHARE.—

18          “(i) FEDERAL COST SHARE; FORM OF  
19          NON-FEDERAL COST SHARE.—Except as  
20          provided in clause (ii), a cooperative agree-  
21          ment entered into under subparagraph (A)  
22          shall provide that—

23                  “(I) the Federal share of car-  
24                  rying out the cooperative agreement

1 shall not exceed 75 percent of the  
2 total cost;

3 “(II) the non-Federal share of  
4 the cost of carrying out the agreement  
5 may be provided in-kind; and

6 “(III) any in-kind costs may in-  
7 clude indirect costs as considered ap-  
8 propriate by the Secretary.

9 “(ii) ABILITY TO PROVIDE FUNDS.—  
10 The Secretary shall not take the ability to  
11 provide non-Federal costs to carry out a  
12 cooperative agreement entered into under  
13 subparagraph (A) into consideration in de-  
14 ciding whether to enter into a cooperative  
15 agreement with a State department of ag-  
16 riculture.

17 “(iii) SPECIAL FUNDING CONSIDER-  
18 ATIONS.—The non-Federal share of car-  
19 rying out subparagraph (D) shall not ex-  
20 ceed 40 percent of the total costs of car-  
21 rying out that subparagraph.

22 “(F) REPORTING REQUIREMENT.—Not  
23 later than 180 days after the date of completion  
24 of an early pest detection and surveillance activ-  
25 ity conducted by a State department of agri-

1 culture using funds provided under this sub-  
2 section, the State department of agriculture  
3 shall submit to the Secretary a report that de-  
4 scribes the purposes and results of the activi-  
5 ties, including any activities conducted pursuant  
6 to a subagreement referred to in subparagraph  
7 (C)(ii).

8 “(4) THREAT IDENTIFICATION AND MITIGATION  
9 PROGRAM.—

10 “(A) IN GENERAL.—In conducting the pro-  
11 gram established under paragraph (2), the Sec-  
12 retary shall—

13 “(i) develop risk assessments of the  
14 existing and potential threat to the spe-  
15 cialty crop industry in the United States  
16 from pests and disease;

17 “(ii) prepare a list that prioritizes  
18 pest and disease threats to the specialty  
19 crop industry;

20 “(iii) develop action plans, in con-  
21 sultation with State departments of agri-  
22 culture and other State or regional re-  
23 source partnerships, that effectively ad-  
24 dress pest and disease threats to the spe-  
25 cialty crop industry, including pathway

1 analysis, domestic and offshore mitigation  
2 measures, and comprehensive exclusion  
3 measures at ports of entry and other key  
4 distribution centers, in addition to strate-  
5 gies to employ if a pest or disease is intro-  
6 duced;

7 “(iv) implement the action plans as  
8 soon as the action plans are developed to  
9 test the effectiveness of the action plans  
10 and help prevent new foreign and domestic  
11 pest and disease threats from being intro-  
12 duced or widely disseminated in the United  
13 States; and

14 “(v) collaborate with the nursery in-  
15 dustry, research institutions, and other ap-  
16 propriate entities to develop a nursery pest  
17 risk management system—

18 “(I) to identify nursery pests and  
19 diseases;

20 “(II) to prevent the introduction,  
21 establishment, and spread of the pests  
22 and diseases; and

23 “(III) to reduce the risk of,  
24 prioritize, mitigate, and eradicate the  
25 pests and diseases.

1           “(B) REPORTS.—Not later than 1 year  
2           after the date of enactment of this title, and an-  
3           nually thereafter, the Secretary shall update  
4           and submit to Congress the priority list and ac-  
5           tion plans described in subparagraph (A), in-  
6           cluding an accounting of funds expended on the  
7           action plans.

8           “(5) AUDIT-BASED APPROACH TO SPECIALTY  
9           CROP PHYTOSANITARY CERTIFICATION.—In con-  
10          ducting the program established under paragraph  
11          (2), the Secretary shall provide funds and technical  
12          assistance to specialty crop growers, organizations  
13          representing specialty crop growers, and State and  
14          local agencies working with specialty crop growers  
15          and organizations for the development and imple-  
16          mentation of certification systems based on audit-  
17          based approaches (such as best management prac-  
18          tices or nursery pest risk management systems) to  
19          address plant pests and mitigate the risk of plant  
20          pests in the movement of plants and plant products.

21          “(6) COOPERATIVE AGREEMENTS.—The Sec-  
22          retary may enter into cooperative agreements with  
23          other Federal departments or agencies, States or po-  
24          litical subdivisions of States, national governments,  
25          local governments of other nations, domestic or

1 international organizations, domestic or inter-  
 2 national associations, and other persons to carry out  
 3 this subsection.

4 “(7) CONSULTATION.—The Secretary shall con-  
 5 sult with the National Plant Board, State depart-  
 6 ments of agriculture, and specialty crop grower or-  
 7 ganizations to establish funding priorities under this  
 8 subsection for each fiscal year.

9 “(8) ADMINISTRATIVE COSTS.—Not more than  
 10 5 percent of the funds provided under this sub-  
 11 section may be used for administrative costs.

12 “(9) FUNDING.—The Secretary shall use from  
 13 the Trust Fund to carry out this subsection—

14 “(A) \$10,000,000 for fiscal year 2008;

15 “(B) \$15,000,000 for fiscal year 2009;

16 “(C) \$30,000,000 for fiscal year 2010;

17 “(D) \$45,000,000 for fiscal year 2011;

18 and

19 “(E) \$60,000,000 for fiscal year 2012.

20 “(g) RISK MANAGEMENT PURCHASE REQUIRE-  
 21 MENT.—

22 “(1) IN GENERAL.—Except as otherwise pro-  
 23 vided in this subsection, the eligible producers on a  
 24 farm shall not be eligible for assistance under this  
 25 section with respect to losses to an insurable com-

1       modity or noninsurable commodity if the eligible  
2       producers on the farm—

3               “(A) in the case of an insurable com-  
4               modity, did not obtain a policy or plan of insur-  
5               ance for the insurable commodity under the  
6               Federal Crop Insurance Act (7 U.S.C. 1501 et  
7               seq.) (excluding a crop insurance pilot program  
8               under that Act) for the crop incurring the  
9               losses; or

10              “(B) in the case of a noninsurable com-  
11              modity, did not file the required paperwork, and  
12              pay the administrative fee by the applicable  
13              State filing deadline, for the noninsurable com-  
14              modity under the noninsured crop assistance  
15              program for the crop incurring the losses.

16              “(2) MINIMUM.—To be considered to have ob-  
17              tained insurance under paragraph (1), an eligible  
18              producer on a farm shall have obtained a policy or  
19              plan of insurance with not less than 50 percent yield  
20              coverage at 55 percent of the insurable price for  
21              each crop grazed, planted, or intended to be planted  
22              for harvest on a whole farm.

23              “(3) WAIVER.—With respect to eligible pro-  
24              ducers that are limited resource, minority, or begin-

1       ning farmers or ranchers, as determined by the Sec-  
2       retary, the Secretary may—

3               “(A) waive paragraph (1); and

4               “(B) provide disaster assistance under this  
5       section at a level that the Secretary determines  
6       to be equitable and appropriate.

7               “(4) **EQUITABLE RELIEF.**—The Secretary may  
8       provide equitable relief to eligible producers on a  
9       farm that unintentionally fail to meet the require-  
10      ments of paragraph (1) for 1 or more crops on a  
11      farm on a case-by-case basis, as determined by the  
12      Secretary.

13              “(h) **SUPPLEMENTAL BUY-UP NONINSURED ASSIST-**  
14 **ANCE PROGRAM.**—

15              “(1) **IN GENERAL.**—The Secretary shall estab-  
16      lish a program under which eligible producers on a  
17      farm may purchase under the noninsured crop as-  
18      sistance program additional yield and price coverage  
19      for a crop, including a forage, hay, or honey crop,  
20      of—

21              “(A) 60 or 65 percent (as elected by the  
22      producers on the farm) of the yield established  
23      for the crop under the program; and

24              “(B) 100 percent of the price established  
25      for the crop under the program.

1           “(2) FEES.—The Secretary shall establish and  
2           collect fees from eligible producers on a farm partici-  
3           pating in the program established under paragraph  
4           (1) to offset all of the costs of the program, as de-  
5           termined by the Secretary.

6           “(i) PAYMENT LIMITATIONS.—

7           “(1) IN GENERAL.—The total amount of dis-  
8           aster assistance that an eligible producer on a farm  
9           may receive under this section may not exceed  
10          \$100,000.

11          “(2) AGI LIMITATION.—Section 1001D of the  
12          Food Security Act of 1985 (7 U.S.C. 1308–3a or  
13          any successor provision) shall apply with respect to  
14          assistance provided under this section.

15          “(j) PERIOD OF EFFECTIVENESS.—This section shall  
16          be effective only for losses that are incurred as the result  
17          of a disaster, adverse weather, or other environmental con-  
18          dition that occurs on or before September 30, 2012, as  
19          determined by the Secretary.

20          **“SEC. 902. AGRICULTURE DISASTER RELIEF TRUST FUND.**

21          “(a) CREATION OF TRUST FUND.—There is estab-  
22          lished in the Treasury of the United States a trust fund  
23          to be known as the ‘Agriculture Disaster Relief Trust  
24          Fund’, consisting of such amounts as may be appropriated  
25          or credited to such Trust Fund as provided in this section.

1 “(b) TRANSFER TO TRUST FUND.—

2 “(1) IN GENERAL.—There are appropriated to  
3 the Agriculture Disaster Relief Trust Fund amounts  
4 equivalent to 3.34 percent of the amounts received  
5 in the general fund of the Treasury of the United  
6 States during fiscal years 2008 through 2012 attrib-  
7 utable to the duties collected on articles entered, or  
8 withdrawn from warehouse, for consumption under  
9 the Harmonized Tariff Schedule of the United  
10 States.

11 “(2) AMOUNTS BASED ON ESTIMATES.—The  
12 amounts appropriated under this section shall be  
13 transferred at least monthly from the general fund  
14 of the Treasury of the United States to the Agri-  
15 culture Disaster Relief Trust Fund on the basis of  
16 estimates made by the Secretary of the Treasury.  
17 Proper adjustments shall be made in the amounts  
18 subsequently transferred to the extent prior esti-  
19 mates were in excess of or less than the amounts re-  
20 quired to be transferred.

21 “(c) ADMINISTRATION.—

22 “(1) REPORTS.—The Secretary of the Treasury  
23 shall be the trustee of the Agriculture Disaster Re-  
24 lief Trust Fund and shall submit an annual report  
25 to Congress each year on the financial condition and

1 the results of the operations of such Trust Fund  
2 during the preceding fiscal year and on its expected  
3 condition and operations during the 5 fiscal years  
4 succeeding such fiscal year. Such report shall be  
5 printed as a House document of the session of Con-  
6 gress to which the report is made.

7 “(2) INVESTMENT.—

8 “(A) IN GENERAL.—The Secretary of the  
9 Treasury shall invest such portion of the Agri-  
10 culture Disaster Relief Trust Fund as is not in  
11 his judgment required to meet current with-  
12 draws. Such investments may be made only in  
13 interest bearing obligations of the United  
14 States. For such purpose, such obligations may  
15 be acquired—

16 “(i) on original issue at the issue  
17 price, or

18 “(ii) by purchase of outstanding obli-  
19 gations at the market price.

20 “(B) SALE OF OBLIGATIONS.—Any obliga-  
21 tion acquired by the Agriculture Disaster Relief  
22 Trust Fund may be sold by the Secretary of the  
23 Treasury at the market price.

24 “(C) INTEREST ON CERTAIN PROCEEDS.—

25 The interest on, and the proceeds from the sale

1 or redemption of, any obligations held in the  
2 Agriculture Disaster Relief Trust Fund shall be  
3 credited to and form a part of such Trust  
4 Fund.

5 “(d) EXPENDITURES FROM TRUST FUND.—  
6 Amounts in the Agriculture Disaster Relief Trust Fund  
7 shall be available for the purposes of making expenditures  
8 to meet those obligations of the United States incurred  
9 under section 901.

10 “(e) AUTHORITY TO BORROW.—

11 “(1) IN GENERAL.—There are authorized to be  
12 appropriated, and are appropriated, to the Agri-  
13 culture Disaster Relief Trust Fund, as repayable ad-  
14 vances, such sums as may be necessary to carry out  
15 the purposes of such Trust Fund.

16 “(2) REPAYMENT OF ADVANCES.—

17 “(A) IN GENERAL.—Advances made to the  
18 Agriculture Disaster Relief Trust Fund shall be  
19 repaid, and interest on such advances shall be  
20 paid, to the general fund of the Treasury when  
21 the Secretary determines that moneys are avail-  
22 able for such purposes in such Trust Fund.

23 “(B) RATE OF INTEREST.—Interest on ad-  
24 vances made pursuant to this subsection shall  
25 be—

1                   “(i) at a rate determined by the Sec-  
 2                   retary of the Treasury (as of the close of  
 3                   the calendar month preceding the month in  
 4                   which the advance is made) to be equal to  
 5                   the current average market yield on out-  
 6                   standing marketable obligations of the  
 7                   United States with remaining periods to  
 8                   maturity comparable to the anticipated pe-  
 9                   riod during which the advance will be out-  
 10                  standing, and

11                   “(ii) compounded annually.”.

12                  (b) SECRETARIAL DISCRETION.—Section 442(c) of  
 13 the Plant Protection Act (7 U.S.C. 7772(c)) is amended  
 14 by striking “of longer than 60 days”.

15                   **TITLE II—CONSERVATION**  
 16                   **PROVISIONS**  
 17                   **Subtitle A—Land and Species**  
 18                   **Preservation Provisions**

19 **SEC. 201. CONSERVATION RESERVE TAX CREDIT.**

20                  (a) ALLOWANCE OF CREDIT.—Subpart B of part IV  
 21 of subchapter A of chapter 1 is amended by adding at  
 22 the end the following new section:

23 **“SEC. 30D. CONSERVATION RESERVE CREDIT.**

24                  “(a) IN GENERAL.—There shall be allowed as a cred-  
 25 it against the tax imposed by this chapter for the taxable

1 year an amount equal to the rental value of any land en-  
 2 rolled in the conservation reserve program.

3 “(b) LIMITATIONS.—

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

7 “(A) the regular tax liability for the tax-  
 8 able year reduced by the sum of the credits al-  
 9 lowable under subpart A and sections 27, 30,  
 10 30B, and 30C, over

11 “(B) the tentative minimum tax for the  
 12 taxable year.

13 “(2) LIMITATION BASED ON ALLOCATED POR-  
 14 TION OF NATIONAL LIMITATION.—The credit allowed  
 15 under subsection (a) for any taxpayer for any tax-  
 16 able year shall not exceed the excess of—

17 “(A) the amount of the national credit lim-  
 18 itation allocated to such taxpayer under sub-  
 19 section (c) for the fiscal year in which such tax-  
 20 able year ends and all prior fiscal years, over

21 “(B) the credit allowed under subsection  
 22 (a) for all prior taxable years.

23 “(c) CONSERVATION RESERVE CREDIT LIMITA-  
 24 TION.—

1           “(1) IN GENERAL.—There is a conservation re-  
2       serve credit limitation for each fiscal year of the  
3       United States. Such limitation is—

4                   “(A) \$750,000,000 for each of fiscal years  
5       2008 through 2012, and

6                   “(B) zero thereafter.

7           “(2) ALLOCATION.—

8                   “(A) IN GENERAL.—The Secretary, in con-  
9       sultation with the Secretary of Agriculture,  
10      shall allocate the conservation reserve credit  
11      limitation to taxpayers—

12                   “(i) who are owners or operators of  
13      land enrolled in the conservation reserve  
14      program, and

15                   “(ii) who have entered into an agree-  
16      ment with the Secretary of Agriculture to  
17      receive an allocation under this paragraph  
18      in lieu of a rental payment for such year  
19      under section 1234 of the Food Security  
20      Act of 1985.

21                   “(B) ALLOCATION LIMITATION.—The Sec-  
22      retary may not allocate more than \$50,000 to  
23      any 1 taxpayer for any fiscal year.

24           “(3) CARRYFORWARD OF LIMITATION.—

1           “(A) IN GENERAL.—If for any fiscal year  
2           the limitation under paragraph (1) (after the  
3           application of this paragraph) exceeds the  
4           amount allocated to all eligible taxpayers for  
5           such fiscal year, the limitation amount for the  
6           following fiscal year shall be increased by the  
7           amount of such excess.

8           “(B) SPECIAL RULE FOR 2012.—Notwith-  
9           standing subparagraph (A), no amount of the  
10          conservation reserve credit limitation may be  
11          carried to any fiscal year following fiscal year  
12          2012.

13          “(d) CARRYFORWARD.—If the amount of the credit  
14          allowable under subsection (a) for any taxpayer for any  
15          taxable year (determined without regard to subsection  
16          (b)(1)) exceeds the limitation under subsection (b)(1),  
17          such excess may be carried forward to the succeeding tax-  
18          able year and added to the credit allowable under sub-  
19          section (a) for such succeeding taxable year.

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

22                 “(1) CONSERVATION RESERVE PROGRAM.—For  
23                 purposes of this subsection, the term ‘conservation  
24                 reserve program’ means the conservation reserve  
25                 program established under subchapter B of chapter

1 1 of subtitle D of title XII of the Food Security Act  
2 of 1985.

3 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-  
4 tion or other credit shall be allowed under this chap-  
5 ter for any amount with respect to which a credit is  
6 allowed under subsection (a).

7 “(3) RECAPTURE OF ALLOCATION.—If a tax-  
8 payer terminates a contract under the conservation  
9 reserve program before the end of the fiscal year  
10 with respect to which an allocation under subsection  
11 (c)(2) is made, the Secretary shall recapture the  
12 amount of the credit allowed under this section  
13 which bears the same ratio to the amount so allo-  
14 cated as the number of days in the fiscal year during  
15 which the contract was not in effect bears to 365.

16 “(4) TREATMENT OF CREDIT UNDER INCOME  
17 TAX AND SELF-EMPLOYMENT INCOME TAX.—Not-  
18 withstanding any agreement between the taxpayer  
19 and the Secretary of Agriculture, for purposes of  
20 this chapter and chapter 2, the amount of any credit  
21 received under this section shall not be treated as in-  
22 come.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-  
24 tions for subpart B of part IV of subchapter A of chapter

1 1 is amended by inserting after the item relating to section  
 2 30C the following new item:

“Sec. 30D. Conservation reserve credit.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to taxable years ending after the  
 5 date of the enactment of this Act.

6 **SEC. 202. EXCLUSION OF CONSERVATION RESERVE PRO-**  
 7 **GRAM PAYMENTS FROM SECA TAX FOR CER-**  
 8 **TAIN INDIVIDUALS.**

9 (a) INTERNAL REVENUE CODE.—Section 1402(a)(1)  
 10 (defining net earnings from self-employment) is amended  
 11 by inserting “, and including payments under section  
 12 1233(2) of the Food Security Act of 1985 (16 U.S.C.  
 13 3833(2)) to individuals receiving benefits under section  
 14 202 or 223 of the Social Security Act” after “crop  
 15 shares”.

16 (b) SOCIAL SECURITY ACT.—Section 211(a)(1) of  
 17 the Social Security Act is amended by inserting “, and  
 18 including payments under section 1233(2) of the Food Se-  
 19 curity Act of 1985 (16 U.S.C. 3833(2)) to individuals re-  
 20 ceiving benefits under section 202 or 223” after “crop  
 21 shares”.

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

1 **SEC. 203. PERMANENT EXTENSION OF SPECIAL RULE EN-**  
2 **COURAGING CONTRIBUTIONS OF CAPITAL**  
3 **GAIN REAL PROPERTY FOR CONSERVATION**  
4 **PURPOSES.**

5 (a) IN GENERAL.—

6 (1) INDIVIDUALS.—Subparagraph (E) of sec-  
7 tion 170(b)(1) (relating to contributions of qualified  
8 conservation contributions) is amended by striking  
9 clause (vi).

10 (2) CORPORATIONS.—Subparagraph (B) of sec-  
11 tion 170(b)(2) (relating to qualified conservation  
12 contributions by certain corporate farmers and  
13 ranchers) is amended by striking clause (iii).

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

17 **SEC. 204. TAX CREDIT FOR RECOVERY AND RESTORATION**  
18 **OF ENDANGERED SPECIES.**

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

22 **“SEC. 30E. ENDANGERED SPECIES RECOVERY AND RES-**  
23 **TORATION CREDIT.**

24 “(a) IN GENERAL.—In the case of an eligible tax-  
25 payer, there shall be allowed as a credit against the tax

1 imposed by this chapter for the taxable year an amount  
2 equal to the sum of—

3           “(1) the habitat protection easement credit,  
4 plus

5           “(2) the habitat restoration credit.

6           “(b) LIMITATION.—

7           “(1) IN GENERAL.—The credit allowed under  
8 subsection (a) for any taxpayer for any taxable year  
9 shall not exceed the endangered species recovery  
10 credit limitation allocated to the eligible taxpayer  
11 under subsection (f) for the calendar year in which  
12 the taxpayer’s taxable year ends.

13           “(2) CARRYFORWARDS.—

14           “(A) IN GENERAL.—If the amount of the  
15 credit allowable under subsection (a) for any  
16 taxpayer for any taxable year (determined with-  
17 out regard to paragraph (1)) exceeds the en-  
18 dangered species recovery credit limitation allo-  
19 cated under subsection (f) to such taxpayer for  
20 the calendar year in which the taxpayer’s tax-  
21 able year ends, such excess may be carried for-  
22 ward to the next taxable year for which an allo-  
23 cation is made to such taxpayer under sub-  
24 section (f). Any amount carried to another tax-  
25 able year under this subparagraph shall be

1 treated as added to the credit allowable under  
2 subsection (a)(1) or (a)(2), whichever is appro-  
3 priate, for such taxable year.

4 “(B) CARRYFORWARD OF ALLOCATION  
5 AMOUNT.—If the amount of the endangered  
6 species recovery credit limitation allocated to a  
7 taxpayer for any calendar year under subsection  
8 (f) exceeds the amount of the credit allowed to  
9 the taxpayer under subsection (a) for the tax-  
10 able year ending in such calendar year, such ex-  
11 cess may be carried forward to the next taxable  
12 year of the taxpayer. Any amount carried to an-  
13 other taxable year under this subparagraph  
14 shall be treated as allocated to the taxpayer for  
15 use in such taxable year under subsection (f).

16 “(c) ELIGIBLE TAXPAYER; QUALIFIED AGREE-  
17 MENTS.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘eligible taxpayer’  
19 means—

20 “(A) a taxpayer who—

21 “(i) owns real property which contains  
22 the habitat of a qualified species, and

23 “(ii) enters into a qualified perpetual  
24 habitat protection agreement, a qualified  
25 30-year habitat protection agreement, or a

1 qualified habitat protection agreement with  
2 respect to such real property, and

3 “(B) any other taxpayer who—

4 “(i) is a party to a qualified perpetual  
5 habitat protection agreement, a qualified  
6 30-year habitat protection agreement, or a  
7 qualified habitat protection agreement, and

8 “(ii) as part of any such agreement,  
9 agrees to assume responsibility for costs  
10 paid or incurred as a result of imple-  
11 menting such agreement.

12 “(2) QUALIFIED PERPETUAL HABITAT PROTEC-  
13 TION AGREEMENT.—The term ‘qualified perpetual  
14 habitat protection agreement’ means an agree-  
15 ment—

16 “(A) under which a taxpayer described in  
17 paragraph (1)(A) grants to the appropriate Sec-  
18 retary, the Secretary of Agriculture, the Sec-  
19 retary of Defense, or a State an easement in  
20 perpetuity for the protection of the habitat of a  
21 qualified species, and

22 “(B) which meets the requirements of  
23 paragraph (5).

24 “(3) QUALIFIED 30-YEAR HABITAT PROTECTION  
25 AGREEMENT.—The term ‘qualified 30-year habitat

1 protection agreement’ means an agreement not de-  
2 scribed in paragraph (2)—

3 “(A) under which a taxpayer described in  
4 paragraph (1)(A) grants to the appropriate Sec-  
5 retary, the Secretary of Agriculture, the Sec-  
6 retary of Defense, or a State an easement for  
7 a period of 30 years or greater for the protec-  
8 tion of the habitat of a qualified species, and

9 “(B) which meets the requirements of  
10 paragraph (5).

11 “(4) QUALIFIED HABITAT PROTECTION AGREE-  
12 MENT.—The term ‘qualified habitat protection  
13 agreement’ means an agreement—

14 “(A) under which a taxpayer described in  
15 paragraph (1)(A) enters into an agreement not  
16 described in paragraph (2) or (3) with the ap-  
17 propriate Secretary, the Secretary of Agri-  
18 culture, the Secretary of Defense, or a State to  
19 protect the habitat of a qualified species for a  
20 specified period of time, and

21 “(B) which meets the requirements of  
22 paragraph (5).

23 “(5) REQUIREMENTS.—An agreement meets  
24 the requirements of this paragraph if the agree-  
25 ment—

1           “(A) is consistent with any recovery plan  
2 which is applicable and which has been ap-  
3 proved for a qualified species under section 4 of  
4 the Endangered Species Act of 1973,

5           “(B) includes a habitat management plan  
6 agreed to by the appropriate Secretary and the  
7 eligible taxpayer, and

8           “(C) requires that technical assistance  
9 with respect to the duties under the habitat  
10 management plan be provided to the taxpayer  
11 by the appropriate Secretary or an entity ap-  
12 proved by the appropriate Secretary.

13       “(d) HABITAT PROTECTION EASEMENT CREDIT.—

14           “(1) IN GENERAL.—For purposes of subsection  
15 (a)(1), the habitat protection easement credit for  
16 any taxable year is an amount equal to—

17           “(A) in the case of a taxpayer described in  
18 subsection (c)(1)(A) who has entered into a  
19 qualified perpetual habitat protection agreement  
20 during such taxable year, 100 percent of the ex-  
21 cess (if any) of—

22           “(i) the fair market value of the real  
23 property with respect to which the quali-  
24 fied perpetual habitat protection agreement

1 is made, determined on the day before  
2 such agreement is entered into, over

3 “(ii) the fair market value of such  
4 property, determined on the day after such  
5 agreement is entered into,

6 “(B) in the case of a taxpayer described in  
7 subsection (c)(1)(A) who has entered into a  
8 qualified 30-year habitat protection agreement  
9 during such taxable year, 75 percent of such ex-  
10 cess, and

11 “(C) in the case of any other taxpayer,  
12 zero.

13 “(2) REDUCTION FOR AMOUNT RECEIVED FOR  
14 EASEMENT.—The amount determined under para-  
15 graph (1) shall be reduced by any amount received  
16 by the taxpayer in connection with the easement.

17 “(3) LIMITATION BASED ON AMOUNT OF  
18 TAX.—The credit allowed under subsection (a)(1) for  
19 any taxable year shall not exceed the sum of—

20 “(A) the taxpayer’s regular tax liability for  
21 the taxable year reduced by the sum of the  
22 credits allowable under subpart A and sections  
23 27, 30, 30B, 30C, and 30D, and

24 “(B) the tax imposed by section 55(a) for  
25 the taxable year.

1           “(4) CARRYFORWARD OF UNUSED CREDIT.—If  
2           the credit allowable under subsection (a)(1) for any  
3           taxable year exceeds the limitation imposed by para-  
4           graph (3) for such taxable year, such excess shall be  
5           carried to the succeeding taxable year and added to  
6           the credit allowable under subsection (a)(1) for such  
7           succeeding taxable year.

8           “(5) QUALIFIED APPRAISALS REQUIRED.—No  
9           amount shall be taken into account under this sub-  
10          section unless the eligible taxpayer includes with the  
11          taxpayer’s return for the taxable year a qualified ap-  
12          praisal (within the meaning of section  
13          170(f)(11)(E)) of the real property.

14          “(e) HABITAT RESTORATION CREDIT.—

15                 “(1) IN GENERAL.—For purposes of subsection  
16                 (a)(2), the habitat restoration credit for any taxable  
17                 year shall be an amount equal to—

18                         “(A) in the case of a qualified perpetual  
19                         habitat protection agreement, 100 percent of  
20                         the costs paid or incurred by an eligible tax-  
21                         payer during such taxable year pursuant to the  
22                         habitat management plan under such agree-  
23                         ment,

24                         “(B) in the case of a qualified 30-year  
25                         habitat protection agreement, 75 percent of the

1 costs paid or incurred by an eligible taxpayer  
2 during such taxable year pursuant to the habi-  
3 tat management plan under such agreement,  
4 and

5 “(C) in the case of a qualified habitat pro-  
6 tection agreement, 50 percent of the costs paid  
7 or incurred by an eligible taxpayer during such  
8 taxable year pursuant to the habitat manage-  
9 ment plan under such agreement.

10 “(2) LIMITATION BASED ON AMOUNT OF  
11 TAX.—The credit allowed under subsection (a)(2) for  
12 any taxable year shall not exceed the excess (if any)  
13 of—

14 “(A) the regular tax liability for the tax-  
15 able year reduced by the sum of the credits al-  
16 lowable under subpart A, sections 27, 30, 30B,  
17 30C, 30D, and subsection (a)(1), over

18 “(B) the tentative minimum tax for the  
19 taxable year.

20 “(3) CARRYFORWARD OF UNUSED CREDIT.—If  
21 the credit allowable under subsection (a)(2) for any  
22 taxable year exceeds the limitation imposed by para-  
23 graph (2) for such taxable year, such excess shall be  
24 carried to the succeeding taxable year and added to

1 the credit allowable under subsection (a)(2) for such  
2 succeeding taxable year.

3 “(4) SPECIAL RULES.—

4 “(A) CERTAIN COSTS NOT INCLUDED.—No  
5 amount shall be taken into account with respect  
6 to any cost which is paid or incurred by a tax-  
7 payer to comply with any requirement of a Fed-  
8 eral, State, or local government (other than  
9 costs required under an agreement described in  
10 subsection (c)).

11 “(B) SUBSIDIZED FINANCING.—For pur-  
12 poses of paragraph (1), the amount of costs  
13 paid or incurred by an eligible taxpayer pursu-  
14 ant to any habitat management plan described  
15 in subsection (c)(5)(B) shall be reduced by the  
16 amount of any financing provided under any  
17 Federal or State program a principal purpose  
18 of which is to subsidize financing for the con-  
19 servation of the habitat of a qualified species.

20 “(f) ENDANGERED SPECIES RECOVERY CREDIT LIM-  
21 ITATION.—

22 “(1) IN GENERAL.—There is an endangered  
23 species recovery credit limitation for each calendar  
24 year. Such limitation is—

1           “(A) for 2008, 2009, 2010, 2011, and  
2           2012—

3           “(i) with respect to allocations de-  
4           scribed in paragraph (2)(A)—

5           “(I) \$5,000,000 with respect to  
6           qualified perpetual habitat protection  
7           agreements,

8           “(II) \$2,000,000 with respect to  
9           qualified 30-year habitat protection  
10          agreements, and

11          “(III) \$1,000,000 with respect to  
12          qualified habitat protection agree-  
13          ments, and

14          “(ii) with respect to allocations de-  
15          scribed in paragraph (2)(B)—

16          “(I) \$290,000,000 with respect  
17          to qualified perpetual habitat protec-  
18          tion agreements,

19          “(II) \$55,000,000 with respect to  
20          qualified 30-year habitat protection  
21          agreements, and

22          “(III) \$35,000,000 with respect  
23          to qualified habitat protection agree-  
24          ments, and

1           “(B) except as provided in paragraph (3),  
2 zero thereafter.

3           “(2) ALLOCATION OF LIMITATION.—

4           “(A) ALLOCATIONS IN COORDINATION  
5 WITH THE SECRETARY OF AGRICULTURE.—The  
6 limitations described in paragraph (1)(A)(i)  
7 shall be allocated to eligible taxpayers by the  
8 Secretary in consultation with the Secretary of  
9 Agriculture.

10          “(B) OTHER ALLOCATIONS.—

11           “(i) IN GENERAL.—The limitations  
12 described in paragraph (1)(A)(ii) shall be  
13 allocated to eligible taxpayers in consulta-  
14 tion with the Secretary of the Interior and  
15 the Secretary of Commerce.

16           “(ii) ESTABLISHMENT OF ALLOCA-  
17 TION PROGRAM.—Not later than 180 days  
18 after the date of the enactment of this Act,  
19 the Secretary, in consultation with the Sec-  
20 retary of the Interior and the Secretary of  
21 Commerce, shall, by regulation, establish a  
22 program to process applications from eligi-  
23 ble taxpayers and to determine how to best  
24 allocate the credit limitations under clause

1 (i) taking into account the considerations  
2 described in clause (iii).

3 “(iii) CONSIDERATIONS.—In accepting  
4 applications to make allocations to eligible  
5 taxpayers under this section, priority shall  
6 be given to taxpayers with agreements—

7 “(I) relating to habitats that will  
8 significantly increase the likelihood of  
9 recovering and delisting a species as  
10 an endangered species or a threatened  
11 species (as defined under section 2 of  
12 the Endangered Species Act of 1973),

13 “(II) that are cost-effective and  
14 maximize the benefits to a qualified  
15 species per dollar expended,

16 “(III) relating to habitats of spe-  
17 cies which have a federally approved  
18 recovery plan pursuant to section 4 of  
19 the Endangered Species Act of 1973,

20 “(IV) relating to habitats with  
21 the potential to contribute signifi-  
22 cantly to the improvement of the sta-  
23 tus of a qualified species,

24 “(V) relating to habitats with the  
25 potential to contribute significantly to

1 the eradication or control of invasive  
2 species that are imperiling a qualified  
3 species,

4 “(VI) with habitat management  
5 plans that will manage multiple quali-  
6 fied species,

7 “(VII) with habitat management  
8 plans that will create adjacent or  
9 proximate habitat for the recovery of  
10 a qualified species,

11 “(VIII) relating to habitats for  
12 qualified species with an urgent need  
13 for protection,

14 “(IX) with habitat management  
15 plans that assist in preventing the  
16 listing of a species as endangered or  
17 threatened under the Endangered  
18 Species Act of 1973 or a similar State  
19 law,

20 “(X) with habitat management  
21 plans that may resolve conflicts be-  
22 tween the protection of qualified spe-  
23 cies and otherwise lawful human ac-  
24 tivities, and

1                   “(XI) with habitat management  
2                   plans that may resolve conflicts be-  
3                   tween the protection of a qualified  
4                   species and military training or other  
5                   military operations.

6                   “(3) CARRYOVER OF UNUSED LIMITATION.—If  
7                   for any calendar year any of the limitations under  
8                   paragraph (1) (after the application of this para-  
9                   graph) exceeds the amount allocated to eligible tax-  
10                  payers for such calendar year, such limitation  
11                  amount for the following calendar year shall be in-  
12                  creased by the amount of such excess.

13                  “(g) OTHER DEFINITIONS AND SPECIAL RULES.—

14                  “(1) APPROPRIATE SECRETARY.—The term ‘ap-  
15                  propriate Secretary’ has the meaning given to the  
16                  term ‘Secretary’ under section 3(15) of the Endan-  
17                  gered Species Act of 1973.

18                  “(2) HABITAT MANAGEMENT PLAN.—The term  
19                  ‘habitat management plan’ means, with respect to  
20                  any habitat, a plan which—

21                         “(A) identifies one or more qualified spe-  
22                         cies to which the plan applies,

23                         “(B) is designed to—

24                                 “(i) restore or enhance the habitat of  
25                                 the qualified species, or

1                   “(ii) reduce threats to the qualified  
2                   species through the management of the  
3                   habitat,

4                   “(C) describes the current condition of the  
5                   habitat to be restored or enhanced,

6                   “(D) describes the threats to the qualified  
7                   species that are intended to be reduced through  
8                   the plan,

9                   “(E) describes the management practices  
10                  to be undertaken by the taxpayer,

11                  “(F) provides a schedule of deadlines for  
12                  undertaking such management practices and  
13                  the expected responses of the habitat and the  
14                  species,

15                  “(G) requires monitoring of the manage-  
16                  ment practices and the status of the qualified  
17                  species and its habitat, and

18                  “(H) describes the technical assistance to  
19                  be provided to the taxpayer and identifies the  
20                  entity that will provide such assistance.

21                  “(3) QUALIFIED SPECIES.—The term ‘qualified  
22                  species’ means—

23                         “(A) any species listed as an endangered  
24                         species or threatened species under the Endan-  
25                         gered Species Act of 1973, or

1           “(B) any species for which a finding has  
2           been made under section 4(b)(3) of the Endan-  
3           gered Species Act of 1973 that listing under  
4           such Act may be warranted.

5           “(4) TAKING.—The term ‘taking’ has the  
6           meaning given to such term under the Endangered  
7           Species Act of 1973.

8           “(5) REDUCTION IN BASIS.—For purposes of  
9           this subtitle—

10           “(A) HABITAT PROTECTION EASEMENT  
11           CREDIT.—The basis of any property for which  
12           a credit is allowed under subsection (a)(1) shall  
13           be reduced by the amount of basis which is allo-  
14           cated, under regulations prescribed by the Sec-  
15           retary, to the easement granted as part of a  
16           qualified perpetual habitat protection agreement  
17           or a qualified 30-year habitat protection agree-  
18           ment.

19           “(B) HABITAT RESTORATION CREDIT.—If  
20           a credit is allowed under subsection (a)(2) for  
21           any expenditure with respect to any property,  
22           the increase in the basis of such property which  
23           would (but for this subparagraph) result from  
24           such expenditure shall be reduced by the  
25           amount of the credit so allowed.

1           “(6) DENIAL OF DOUBLE BENEFIT.—No deduc-  
2           tion or other credit shall be allowed under this chap-  
3           ter for any amount with respect to which a credit is  
4           allowed under subsection (a).

5           “(7) CERTIFICATION.—No credit shall be al-  
6           lowed under subsection (a) unless the appropriate  
7           Secretary certifies that any agreement described in  
8           subsection (c) will contribute to the recovery of a  
9           qualified species.

10           “(8) REQUEST FOR AUTHORIZATION OF INCI-  
11           DENTAL TAKINGS.—The Secretary shall request the  
12           appropriate Secretary to consider whether to author-  
13           ize under the Endangered Species Act of 1973  
14           takings by an eligible taxpayer of a qualified species  
15           to which an agreement described in subsection (c)  
16           relates if the takings are incidental to—

17                   “(A) the restoration, enhancement, or  
18                   management of the habitat pursuant to the  
19                   habitat management plan under the agreement,  
20                   or

21                   “(B) the use of the property to which the  
22                   agreement pertains at any time after the expi-  
23                   ration of the easement or the specified period  
24                   described in subsection (c)(4)(A), but only if  
25                   such use will leave the qualified species at least

1 as well off on the property as it was before the  
2 agreement was made.

3 “(9) RECAPTURE.—The Secretary shall, by reg-  
4 ulations, provide for recapturing the benefit under  
5 any credit allowable under subsection (a) if the Sec-  
6 retary determines that—

7 “(A) the taxpayer has failed to carry out  
8 the duties of the taxpayer under the terms of  
9 a qualified perpetual habitat protection agree-  
10 ment, a qualified 30-year habitat protection  
11 agreement, or a qualified habitat protection  
12 agreement, and

13 “(B) there are no other available means to  
14 remediate such failure.”.

15 (b) GAO STUDY.—

16 (1) IN GENERAL.—The Comptroller General of  
17 the United States shall undertake a study on the ef-  
18 fectiveness of the credit allowed under section 30E  
19 of the Internal Revenue Code of 1986 (as added by  
20 this Act).

21 (2) ISSUES TO BE STUDIED.—The study under  
22 paragraph (1) shall—

23 (A) evaluate—

24 (i) the contributions that habitat man-  
25 agement plans established under such

1 credit have made in restoring or enhancing  
2 species habitat and reducing threats to  
3 species, and

4 (ii) the implementation of the credit  
5 allocation program established in section  
6 30E(f)(2) of such Code (as so added), and

7 (B) include recommendations for improv-  
8 ing the effectiveness of such credit.

9 (3) REPORTS.—

10 (A) INTERIM REPORT.—Not later than 3  
11 years after the date of the enactment of this  
12 Act, the Comptroller General of the United  
13 States shall submit to Congress an interim re-  
14 port on the study conducted under paragraph  
15 (1).

16 (B) FINAL REPORT.—Not later than 5  
17 years after the date of the enactment of this  
18 Act, the Comptroller General of the United  
19 States shall submit to Congress a final report  
20 on the study conducted under paragraph (1).

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 1016(a) is amended by striking  
23 “and” at the end of paragraph (36), by striking the  
24 period at the end of paragraph (37) and inserting “,

1 and”, and by inserting after paragraph (37) the fol-  
2 lowing new paragraph:

3 “(38) to the extent provided in section  
4 30E(g)(5).”.

5 (2) The table of sections for subpart B of part  
6 IV of subchapter A of chapter 1, as amended by this  
7 Act, is amended by inserting after the item relating  
8 to section 30D the following new item:

“Sec. 30E. Endangered species recovery and restoration credit.”.

9 (d) **EFFECTIVE DATE.**—The amendments made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2007.

12 **SEC. 205. DEDUCTION FOR ENDANGERED SPECIES RECOV-**  
13 **ERY EXPENDITURES.**

14 (a) **DEDUCTION FOR ENDANGERED SPECIES RECOV-**  
15 **ERY EXPENDITURES.**—

16 (1) **IN GENERAL.**—Paragraph (1) of section  
17 175(c) (relating to definitions) is amended by insert-  
18 ing after the first sentence the following new sen-  
19 tence: “Such term shall include expenditures paid or  
20 incurred for the purpose of achieving site-specific  
21 management actions recommended in recovery plans  
22 approved pursuant to the Endangered Species Act of  
23 1973.”.

24 (2) **CONFORMING AMENDMENTS.**—

1 (A) Section 175 is amended by inserting “,  
2 or for endangered species recovery” after “pre-  
3 vention of erosion of land used in farming”  
4 each place it appears in subsections (a) and (c).

5 (B) The heading of section 175 is amended  
6 by inserting “; **ENDANGERED SPECIES RE-**  
7 **COVERY EXPENDITURES**” before the period.

8 (C) The item relating to section 175 in the  
9 table of sections for part VI of subchapter B of  
10 chapter 1 is amended by inserting “; endan-  
11 gered species recovery expenditures” before the  
12 period.

13 (b) LIMITATIONS.—Paragraph (3) of section 175(c)  
14 (relating to additional limitations) is amended—

15 (1) in the heading, by inserting “OR ENDAN-  
16 GERED SPECIES RECOVERY PLAN” after “CONSERVA-  
17 TION PLAN”, and

18 (2) in subparagraph (A)(i), by inserting “or the  
19 recovery plan approved pursuant to the Endangered  
20 Species Act of 1973” after “Department of Agri-  
21 culture”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to expenditures paid or incurred  
24 after the date of the enactment of this Act.

1 **SEC. 206. EXCLUSION FOR CERTAIN PAYMENTS AND PRO-**  
2 **GRAMS RELATING TO FISH AND WILDLIFE.**

3 (a) IN GENERAL.—Subsection (a) of section 126 (re-  
4 lating to certain cost-sharing payments) is amended by re-  
5 designating paragraph (10) as paragraph (13) and by in-  
6 serting after paragraph (9) the following new paragraphs:

7 “(10) The Partners for Fish and Wildlife Pro-  
8 gram authorized by the Partners for Fish and Wild-  
9 life Act.

10 “(11) The Landowner Incentive Program, the  
11 State Wildlife Grants Program, and the Private  
12 Stewardship Grants Program authorized by the Fish  
13 and Wildlife Act of 1956.

14 “(12) The Forest Health Protection Program  
15 and the program related to integrated pest manage-  
16 ment authorized by the Cooperative Forestry Assist-  
17 ance Act of 1978.”.

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

21 **SEC. 207. CREDIT FOR EASEMENTS GRANTED UNDER CER-**  
22 **TAIN DEPARTMENT OF AGRICULTURE CON-**  
23 **SERVATION PROGRAMS.**

24 (a) IN GENERAL.—Subpart B of part IV of sub-  
25 chapter A of chapter 1, as amended by this Act, is amend-  
26 ed by adding at the end the following new section:

1 **“SEC. 30F. AGRICULTURE CONSERVATION EASEMENT**  
 2 **CREDIT.**

3 “(a) IN GENERAL.—There shall be allowed as a cred-  
 4 it against the tax imposed by this chapter for the taxable  
 5 year an amount equal to the sum of—

6 “(1) the wetlands reserve conservation credit,  
 7 plus

8 “(2) the working grassland protection credit.

9 “(b) LIMITATIONS.—

10 “(1) LIMITATION BASED ON AMOUNT OF  
 11 TAX.—The credit allowed under this section for any  
 12 taxable year shall not exceed the excess of—

13 “(A) the regular tax liability for the tax-  
 14 able year reduced by the sum of the credits al-  
 15 lowable under subpart A and sections 27, 30,  
 16 30B, 30C, 30D, 30E(a)(1), and 30E(a)(2),  
 17 over

18 “(B) the tentative minimum tax for the  
 19 taxable year.

20 “(2) LIMITATION BASED ON ALLOCATED POR-  
 21 TION OF NATIONAL LIMITATION.—The credit allowed  
 22 under subsection (a) for any taxpayer for any tax-  
 23 able year shall not exceed the excess of—

24 “(A) the amount of the national credit lim-  
 25 itation allocated to such taxpayer under sub-

1 section (e) for such taxable year and all prior  
2 taxable years, over

3 “(B) the credit allowed under subsection  
4 (a) for all prior taxable years.

5 “(c) WETLANDS RESERVE CONSERVATION CRED-  
6 IT.—

7 “(1) IN GENERAL.—For purposes of subsection  
8 (a)(1), in the case of a wetlands reserve eligible tax-  
9 payer, the wetlands reserve conservation credit for  
10 any taxable year is an amount equal to the applica-  
11 ble percentage of the wetlands reserve easement  
12 value.

13 “(2) WETLANDS RESERVE ELIGIBLE TAX-  
14 PAYER.—For purposes of this section, the term ‘wet-  
15 lands reserve eligible taxpayer’ means any taxpayer  
16 who—

17 “(A) has granted an easement to the Sec-  
18 retary of Agriculture under the wetlands reserve  
19 program, and

20 “(B) who has entered into an agreement  
21 with the Secretary of Agriculture to receive an  
22 allocation under subsection (e)(2) in lieu of a  
23 payment under section 1237A(f) of the Food  
24 Security Act of 1985.

1           “(3) APPLICABLE PERCENTAGE.—For purposes  
2 of paragraph (1), the term ‘applicable percentage’  
3 means the percentage equal to—

4                   “(A) 100 percent, minus

5                   “(B) the highest percentage of tax which  
6 would apply under section 1 or 11 with respect  
7 to the taxpayer if the taxable income of the tax-  
8 payer were increased by an amount equal to the  
9 wetlands reserve easement value.

10           “(4) WETLANDS RESERVE EASEMENT VALUE.—  
11 For purposes of this section, the term ‘wetlands re-  
12 serve easement value’ means the lesser of—

13                   “(A) the product of—

14                           “(i) the wetlands reserve geographic  
15 area rate for the area in which the real  
16 property to which the easement pertains is  
17 located, and

18                           “(ii) the number of acres to which the  
19 easement applies, or

20                   “(B) the value of any payment to which  
21 the taxpayer would be entitled with respect to  
22 such easement under section 1237A(f) of the  
23 Food Security Act of 1985 if the taxpayer had  
24 not entered into an agreement described in  
25 paragraph (2)(B).

1           “(5) WETLANDS RESERVE GEOGRAPHIC AREA  
2 RATE.—For purposes of paragraph (4)(A)(i), the  
3 wetlands reserve geographic area rate shall be the  
4 rate per acre, determined by the Secretary in con-  
5 sultation with the Secretary of Agriculture, appro-  
6 priate for easements granted under the wetlands re-  
7 serve program in different geographic areas.

8           “(d) WORKING GRASSLAND PROTECTION CREDIT.—

9           “(1) IN GENERAL.—For purposes of subsection  
10 (a)(2), in the case of any working grassland eligible  
11 taxpayer, the working grassland protection credit for  
12 any taxable year is an amount equal to the applica-  
13 ble percentage of the working grassland easement  
14 value.

15           “(2) WORKING GRASSLAND ELIGIBLE TAX-  
16 PAYER.—For purposes of this section, the term  
17 ‘working grassland eligible taxpayer’ means any tax-  
18 payer who—

19           “(A) has granted an easement under the  
20 working grassland protection program to an eli-  
21 gible easement holder, and

22           “(B) who has entered into an agreement  
23 with the Secretary of Agriculture to receive an  
24 allocation under subsection (e)(2) in lieu of a

1 payment under section 1238P(b) of the Food  
2 Security Act of 1985.

3 “(3) APPLICABLE PERCENTAGE.—For purposes  
4 of paragraph (1), the term ‘applicable percentage’  
5 means the percentage equal to—

6 “(A) 100 percent, minus

7 “(B) the highest percentage of tax which  
8 would apply under section 1 or 11 with respect  
9 to the taxpayer if the taxable income of the tax-  
10 payer were increased by an amount equal to the  
11 working grassland easement value.

12 “(4) WORKING GRASSLAND EASEMENT  
13 VALUE.—For purposes of this section, the term  
14 ‘working grassland easement value’ means—

15 “(A) in the case of a permanent conserva-  
16 tion easement (within the meaning of section  
17 1238N of the Food Security Act of 1985), the  
18 lesser of—

19 “(i) the product of—

20 “(I) the working grassland pro-  
21 tection geographic area rate for the  
22 area in which the real property to  
23 which the easement pertains is lo-  
24 cated, and

1                   “(II) the number of acres to  
2                   which the easement applies, or

3                   “(ii) the value of any payment to  
4                   which the taxpayer would be entitled in re-  
5                   turn for such easement under section  
6                   1238P(b)(1)(A)(i) of the Food Security  
7                   Act of 1985 if the taxpayer had not en-  
8                   tered into an agreement described in para-  
9                   graph (2)(B), and

10                  “(B) in the case of a 30-year conservation  
11                  easement (within the meaning of section 1238N  
12                  of such Act), the lesser of—

13                         “(i) 30 percent of the lesser of the  
14                         amount determined under clause (i) or (ii)  
15                         of subparagraph (A), or

16                         “(ii) the value of any payment to  
17                         which the taxpayer would be entitled in re-  
18                         turn for such easement under section  
19                         1238P(b)(1)(A)(ii) of such Act if the tax-  
20                         payer had not entered into an agreement  
21                         described in paragraph (2)(B).

22                  “(5) WORKING GRASSLAND PROTECTION GEO-  
23                  GRAPHIC AREA RATE.—For purposes of paragraph  
24                  (4)(A)(i)(I), the working grassland protection geo-  
25                  graphic area rate shall be the rate, determined by

1 the Secretary in consultation with the Secretary of  
2 Agriculture, appropriate for easements granted  
3 under the working grassland protection program in  
4 different geographic areas.

5 “(e) NATIONAL CONSERVATION CREDIT LIMITA-  
6 TION.—

7 “(1) IN GENERAL.—The aggregate credits al-  
8 lowed under subsection (a) for all taxpayers shall  
9 not exceed \$1,000,000,000.

10 “(2) ALLOCATION.—The Secretary, in consulta-  
11 tion with the Secretary of Agriculture, shall allocate  
12 the credit limitation under paragraph (1) to tax-  
13 payers who grant easements under the wetlands re-  
14 serve program and the working grassland protection  
15 program.

16 “(3) LIMITATION ON ALLOCATION.—No amount  
17 of the credit limitation may be allocated to any tax-  
18 payer for any taxable year which ends after Sep-  
19 tember 30, 2012.

20 “(f) CARRYFORWARD.—If the amount of the credit  
21 allowable under subsection (a) for any taxpayer for any  
22 taxable year (determined without regard to subsection  
23 (b)(1)) exceeds the limitation under subsection (b)(1),  
24 such excess may be carried forward to the succeeding tax-

1 able year and added to the credit allowable under sub-  
2 section (a) for such succeeding taxable year.

3 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) WETLANDS RESERVE PROGRAM.—The  
6 term ‘wetlands reserve program’ means the wetlands  
7 reserve program established under subchapter C of  
8 chapter 1 of subtitle D of title XII of the Food Se-  
9 curity Act of 1985.

10 “(2) WORKING GRASSLAND PROTECTION PRO-  
11 GRAM.—The term ‘working grassland protection pro-  
12 gram’ means the grassland reserve program estab-  
13 lished under subchapter C of chapter 2 of subtitle D  
14 of title XII of the Food Security Act of 1985.

15 “(3) ELIGIBLE EASEMENT HOLDER.—The term  
16 ‘eligible easement holder’ means the Secretary of Ag-  
17 riculture or a State.

18 “(4) DENIAL OF DOUBLE BENEFIT.—No deduc-  
19 tion or other credit shall be allowed under this chap-  
20 ter for any amount with respect to which a credit is  
21 allowed under subsection (a).

22 “(5) REDUCTION IN BASIS.—For purposes of  
23 this subtitle, the basis of any property for which a  
24 credit is allowed under subsection (a) shall be re-  
25 duced by the amount of basis which is allocated,

1 under regulations prescribed by the Secretary, to the  
2 easement granted under the wetlands reserve pro-  
3 gram or the working grassland protection program.

4 “(6) RECAPTURE.—The Secretary shall, by reg-  
5 ulations, provide for recapturing the benefit of any  
6 credit allowable under subsection (a) if the Sec-  
7 retary, in consultation with the Secretary of Agri-  
8 culture, determines that—

9 “(A) the eligible taxpayer has failed to  
10 carry out the duties of the taxpayer under the  
11 terms of the easement, and

12 “(B) there are no other available means to  
13 remediate such failure.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 1016(a), as amended by this Act, is  
16 amended by striking “and” at the end of paragraph  
17 (37), by striking the period at the end of paragraph  
18 (38) and inserting “, and”, and by inserting after  
19 paragraph (38) the following new paragraph:

20 “(39) to the extent provided in section  
21 30F(g)(5).”.

22 (2) The table of sections for subpart B of part  
23 IV of subchapter A of chapter 1, as amended by this  
24 Act, is amended by inserting after the item relating  
25 to section 30E the following new item:

“Sec. 30F. Agriculture conservation easement credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to easements granted after Sep-  
 3 tember 30, 2007, in taxable years ending after such date.

## 4 **Subtitle B—Timber Provisions**

### 5 **SEC. 211. FOREST CONSERVATION BONDS.**

6 (a) TAX-EXEMPT BOND FINANCING.—

7 (1) IN GENERAL.—For purposes of the Internal  
 8 Revenue Code of 1986, any qualified forest con-  
 9 servation bond shall be treated as an exempt facility  
 10 bond under section 142 of such Code.

11 (2) QUALIFIED FOREST CONSERVATION  
 12 BOND.—For purposes of this section, the term  
 13 “qualified forest conservation bond” means any bond  
 14 issued as part of an issue if—

15 (A) 95 percent or more of the net proceeds  
 16 (as defined in section 150(a)(3) of such Code)  
 17 of such issue are to be used for qualified project  
 18 costs, and

19 (B) such bond is issued before the date  
 20 which is 36 months after the date of the enact-  
 21 ment of this Act.

22 (3) LIMITATION ON AGGREGATE AMOUNT  
 23 ISSUED.—

24 (A) IN GENERAL.—The maximum aggre-  
 25 gate face amount of bonds which may be issued

1 under this subsection shall not exceed  
2 \$1,500,000,000 for all projects (excluding re-  
3 funding bonds).

4 (B) ENFORCEMENT OF LIMITATION.—An  
5 issue shall not be treated as an issue described  
6 in paragraph (2) if the aggregate face amount  
7 of bonds issued pursuant to such issue for any  
8 qualified projects costs (when added to the ag-  
9 gregate face amount of bonds previously so  
10 issued for such costs) exceeds the amount allo-  
11 cated under subparagraph (C).

12 (C) INITIAL ALLOCATION OF LIMITA-  
13 TION.—The limitation described in subpara-  
14 graph (A) shall be allocated by the Secretary of  
15 the Treasury among qualified organizations as  
16 follows:

17 (i) 35 percent for qualified project  
18 costs with respect to the cost of acquisition  
19 by any qualified organization in the Pacific  
20 Northwest region.

21 (ii) 30 percent for qualified project  
22 costs with respect to the cost of acquisition  
23 by any qualified organization in the West-  
24 ern region.

1 (iii) 17.5 percent for qualified project  
2 costs with respect to the cost of acquisition  
3 by any qualified organization in the South-  
4 east region.

5 (iv) 17.5 percent for qualified project  
6 costs with respect to the cost of acquisition  
7 by any qualified organization in the North-  
8 east region.

9 (D) SECONDARY ALLOCATION PROCEDURE.—If for the period ending on the last day  
10 of the 24th month after the date of the enact-  
11 ment of this Act, the limitation amount for any  
12 region under subparagraph (C) exceeds the  
13 amount of bonds allocated by the Secretary of  
14 the Treasury during such period, the Secretary  
15 of the Treasury may allocate such excess among  
16 qualified organizations in any other region in  
17 such manner as the Secretary of the Treasury  
18 determines appropriate.  
19

20 (E) REGIONS.—For purposes of this para-  
21 graph—

22 (i) PACIFIC NORTHWEST REGION.—  
23 The term “Pacific Northwest region”  
24 means Region 6 as defined by the United  
25 States Forest Service of the Department of

1 Agriculture under section 200.2 of title 36,  
2 Code of Federal Regulations.

3 (ii) WESTERN REGION.—The term  
4 “Western region” means Regions 1, 2, 3,  
5 4, 5, and 10 (as so defined).

6 (iii) SOUTHEAST REGION.—The term  
7 “Southeast region” means Region 8 (as so  
8 defined).

9 (iv) NORTHEAST REGION.—The term  
10 “Northeast region” means Region 9 (as so  
11 defined).

12 (4) QUALIFIED PROJECT COSTS.—For purposes  
13 of this subsection, the term “qualified project costs”  
14 means the costs of acquisition by a qualified organi-  
15 zation from an unrelated person of forests and forest  
16 land which, at the time of acquisition or immediately  
17 thereafter, are subject to a conservation restriction  
18 described in subsection (c)(2).

19 (5) SPECIAL RULES.—In applying the Internal  
20 Revenue Code of 1986 to any qualified forest con-  
21 servation bond, the following modifications shall  
22 apply:

23 (A) Section 146 of such Code (relating to  
24 volume cap) shall not apply.

1           (B) For purposes of section 147(b) of such  
2 Code (relating to maturity may not exceed 120  
3 percent of economic life), the land and standing  
4 timber acquired with proceeds of qualified for-  
5 est conservation bonds shall have an economic  
6 life of 35 years.

7           (C) Subsections (c) and (d) of section 147  
8 of such Code (relating to limitations on acquisi-  
9 tion of land and existing property) shall not  
10 apply.

11           (6) TREATMENT OF CURRENT REFUNDING  
12 BONDS.—Paragraphs (2)(B) and (3) shall not apply  
13 to any bond (or series of bonds) issued to refund a  
14 qualified forest conservation bond issued before the  
15 date which is 36 months after the date of the enact-  
16 ment of this Act, if—

17           (A) the average maturity date of the issue  
18 of which the refunding bond is a part is not  
19 later than the average maturity date of the  
20 bonds to be refunded by such issue,

21           (B) the amount of the refunding bond does  
22 not exceed the outstanding amount of the re-  
23 funded bond, and

24           (C) the net proceeds of the refunding bond  
25 are used to redeem the refunded bond not later

1           than 90 days after the date of the issuance of  
2           the refunding bond.

3           For purposes of subparagraph (A), average maturity  
4           shall be determined in accordance with section  
5           147(b)(2)(A) of such Code.

6           (7) EFFECTIVE DATE.—This subsection shall  
7           apply to obligations issued on or after the date  
8           which is 180 days after the date of the enactment  
9           of this Act.

10          (b) ITEMS FROM QUALIFIED HARVESTING ACTIVI-  
11 TIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

12           (1) IN GENERAL.—Income, gains, deductions,  
13           losses, or credits from a qualified harvesting activity  
14           conducted by a qualified organization shall not be  
15           subject to tax or taken into account under subtitle  
16           A of the Internal Revenue Code of 1986.

17           (2) LIMITATION.—The amount of income ex-  
18           cluded from gross income under paragraph (1) for  
19           any taxable year shall not exceed the amount used  
20           by the qualified organization to make debt service  
21           payments during such taxable year for qualified for-  
22           est conservation bonds.

23           (3) QUALIFIED HARVESTING ACTIVITY.—For  
24           purposes of paragraph (1)—

1 (A) IN GENERAL.—The term “qualified  
2 harvesting activity” means the sale, lease, or  
3 harvesting, of standing timber—

4 (i) on land owned by a qualified orga-  
5 nization which was acquired with proceeds  
6 of qualified forest conservation bonds, and

7 (ii) pursuant to a qualified conserva-  
8 tion plan adopted by the qualified organi-  
9 zation.

10 (B) EXCEPTIONS.—

11 (i) CESSATION AS QUALIFIED ORGANI-  
12 ZATION.—The term “qualified harvesting  
13 activity” shall not include any sale, lease,  
14 or harvesting for any period during which  
15 the organization ceases to qualify as a  
16 qualified organization.

17 (ii) EXCEEDING LIMITS ON HAR-  
18 VESTING.—The term “qualified harvesting  
19 activity” shall not include any sale, lease,  
20 or harvesting of standing timber on land  
21 acquired with proceeds of qualified forest  
22 conservation bonds to the extent that—

23 (I) the average annual area of  
24 timber harvested from such land ex-

1                   ceeds 2.5 percent of the total area of  
2                   such land, or

3                   (II) the quantity of timber re-  
4                   moved from such land exceeds the  
5                   quantity which can be removed from  
6                   such land annually in perpetuity on a  
7                   sustained-yield basis with respect to  
8                   such land.

9                   The limitations under subclauses (I) and  
10                  (II) shall not apply to post-fire restoration  
11                  and rehabilitation or sanitation harvesting  
12                  of timber stands which are substantially  
13                  damaged by fire, windthrow, or other ca-  
14                  tastrophes, or which are in imminent dan-  
15                  ger from insect or disease attack.

16                  (4) TERMINATION.—This subsection shall not  
17                  apply to any qualified harvesting activity of a quali-  
18                  fied organization occurring after the date on  
19                  which—

20                         (A) there is no outstanding qualified forest  
21                         conservation bond with respect to such qualified  
22                         organization, or

23                         (B) any such bond ceases to be a tax-ex-  
24                         empt bond.

1           (5) PARTIAL RECAPTURE OF BENEFITS IF HAR-  
2           VESTING LIMIT EXCEEDED.—If, as of the date that  
3           this subsection ceases to apply under paragraph  
4           (4)(B), the average annual area of timber harvested  
5           from the land exceeds the requirement of subclause  
6           (I) or (II) of paragraph (3)(B)(ii), the tax imposed  
7           by chapter 1 of the Internal Revenue Code of 1986  
8           shall be increased, under rules prescribed by the  
9           Secretary of the Treasury, by the sum of the tax  
10          benefits attributable to such excess and interest at  
11          the underpayment rate under section 6621 of such  
12          Code for the period of the underpayment.

13          (c) DEFINITIONS.—For purposes of this section—

14           (1) QUALIFIED CONSERVATION PLAN.—The  
15           term “qualified conservation plan” means a multiple  
16           land use program or plan which—

17                   (A) is designed and administered primarily  
18                   for the purposes of protecting and enhancing  
19                   wildlife and fish, timber, scenic attributes,  
20                   recreation, and soil and water quality of the  
21                   forest and forest land,

22                   (B) mandates that conservation of forest  
23                   and forest land is the single-most significant  
24                   use of the forest and forest land, and

1 (C) requires that timber harvesting be con-  
2 sistent with—

3 (i) restoring and maintaining ref-  
4 erence conditions for the region's ecotype,

5 (ii) restoring and maintaining a rep-  
6 resentative sample of young, mid, and late  
7 successional forest age classes,

8 (iii) maintaining or restoring the re-  
9 sources' ecological health for purposes of  
10 preventing damage from fire, insect, or dis-  
11 ease,

12 (iv) maintaining or enhancing wildlife  
13 or fish habitat, or

14 (v) enhancing research opportunities  
15 in sustainable renewable resource uses.

16 (2) CONSERVATION RESTRICTION.—The con-  
17 servation restriction described in this paragraph is a  
18 restriction which—

19 (A) is granted in perpetuity to an unre-  
20 lated person which is described in section  
21 170(h)(3) of such Code and which, in the case  
22 of a nongovernmental unit, is organized and op-  
23 erated for conservation purposes,

1 (B) meets the requirements of clause (ii)  
2 or (iii)(II) of section 170(h)(4)(A) of such  
3 Code,

4 (C) obligates the qualified organization to  
5 pay the costs incurred by the holder of the con-  
6 servation restriction in monitoring compliance  
7 with such restriction, and

8 (D) requires an increasing level of con-  
9 servation benefits to be provided whenever cir-  
10 cumstances allow it.

11 (3) QUALIFIED ORGANIZATION.—The term  
12 “qualified organization” means a nonprofit organiza-  
13 tion—

14 (A) substantially all the activities of which  
15 are charitable, scientific, or educational, includ-  
16 ing acquiring, protecting, restoring, managing,  
17 and developing forest lands and other renewable  
18 resources for the long-term charitable, edu-  
19 cational, scientific, and public benefit,

20 (B) which periodically conducts educational  
21 programs designed to inform the public of envi-  
22 ronmentally sensitive forestry management and  
23 conservation techniques,

24 (C) which has at all times a board of direc-  
25 tors—

1 (i) at least 20 percent of the members  
2 of which are representatives of the con-  
3 servation community,

4 (ii) at least 20 percent of the mem-  
5 bers of which are public officials, and

6 (iii) not more than one-third of the  
7 members of which are individuals who are  
8 or were at any time within 5 years before  
9 the beginning of a term of membership on  
10 the board, an employee of, independent  
11 contractor with respect to, officer of, direc-  
12 tor of, or held a material financial interest  
13 in, a commercial forest products enterprise  
14 with which the qualified organization has a  
15 contractual or other financial arrangement,

16 (D) the bylaws of which require at least  
17 two-thirds of the members of the board of direc-  
18 tors to vote affirmatively to approve the quali-  
19 fied conservation plan and any change thereto,  
20 and

21 (E) upon dissolution, is required to dedi-  
22 cate its assets to—

23 (i) an organization described in sec-  
24 tion 501(c)(3) of such Code which is orga-

1 nized and operated for conservation pur-  
2 poses, or

3 (ii) a governmental unit described in  
4 section 170(c)(1) of such Code.

5 (4) UNRELATED PERSON.—The term “unre-  
6 lated person” means a person who is not a related  
7 person.

8 (5) RELATED PERSON.—A person shall be  
9 treated as related to another person if—

10 (A) such person bears a relationship to  
11 such other person described in section 267(b)  
12 (determined without regard to paragraph (9)  
13 thereof), or 707(b)(1), of such Code, deter-  
14 mined by substituting “25 percent” for “50  
15 percent” each place it appears therein, and

16 (B) in the case such other person is a non-  
17 profit organization, if such person controls di-  
18 rectly or indirectly more than 25 percent of the  
19 governing body of such organization.

20 **SEC. 212. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

21 (a) IN GENERAL.—Part I of subchapter P of chapter  
22 1 is amended by adding at the end the following new sec-  
23 tion:

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

2 “(a) IN GENERAL.—In the case of a taxpayer which  
3 elects the application of this section for a taxable year,  
4 there shall be allowed a deduction against gross income  
5 in an amount equal to 60 percent of the lesser of—

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

8 “(2) the taxpayer’s net capital gain for such  
9 year.

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

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

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

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

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

25 “(2) In the case of any qualified timber gain of  
26 a real estate investment trust, the election under

1 this section shall be made by the real estate invest-  
2 ment trust.

3 “(d) ELECTION.—An election under this section may  
4 be made only with respect to the first taxable year begin-  
5 ning after the date of the enactment of this section.”.

6 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS  
7 RATES.—

8 (1) TAXPAYERS OTHER THAN CORPORA-  
9 TIONS.—Paragraph (2) of section 1(h) is amended  
10 to read as follows:

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

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

18 “(B) in the case of a taxable year with re-  
19 spect to which an election is in effect under sec-  
20 tion 1203, the lesser of—

21 “(i) the amount described in para-  
22 graph (1) of section 1203(a), or

23 “(ii) the amount described in para-  
24 graph (2) of such section.”.

1           (2) CORPORATIONS.—Section 1201 is amended  
2           by redesignating subsection (b) as subsection (c) and  
3           inserting after subsection (a) the following new sub-  
4           section:

5           “(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO  
6 ACCOUNT.—For purposes of this section, in the case of  
7 a corporation with respect to which an election is in effect  
8 under section 1203, the net capital gain for any taxable  
9 year shall be reduced (but not below zero) by the corpora-  
10 tion’s qualified timber gain (as defined in section  
11 1203(b)).”.

12          (c) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
13 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
14 of section 62 is amended by inserting before the last sen-  
15 tence the following new paragraph:

16           “(22) QUALIFIED TIMBER GAINS.—The deduc-  
17 tion allowed by section 1203.”.

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

22                   “(vii) DEDUCTION FOR QUALIFIED  
23 TIMBER GAIN.—Clause (i) shall not apply  
24 to any deduction allowed under section  
25 1203.”.

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

5 “(iv) The deduction allowed under  
6 section 1203.”.

7 (f) TREATMENT OF QUALIFIED TIMBER GAIN OF  
8 REAL ESTATE INVESTMENT TRUSTS.—Paragraph (3) of  
9 section 857(b) is amended by inserting after subparagraph  
10 (F) the following new subparagraph:

11 “(G) TREATMENT OF QUALIFIED TIMBER  
12 GAIN.—For purposes of this part, in the case of  
13 a real estate investment trust with respect to  
14 which an election is in effect under section  
15 1203—

16 “(i) REDUCTION OF NET CAPITAL  
17 GAIN.—The net capital gain of the real es-  
18 tate investment trust for any taxable year  
19 shall be reduced (but not below zero) by  
20 the real estate investment trust’s qualified  
21 timber gain (as defined in section  
22 1203(b)).

23 “(ii) ADJUSTMENT TO SHARE-  
24 HOLDER’S BASIS ATTRIBUTABLE TO DE-

1                    D U C T I O N     F O R     Q U A L I F I E D     T I M B E R  
2                    G A I N S . —

3                    “(I) IN GENERAL.—The adjusted  
4                    basis of shares in the hands of the  
5                    shareholder shall be increased by the  
6                    amount of the deduction allowable  
7                    under section 1203(a) as provided in  
8                    subclauses (II) and (III).

9                    “(II) ALLOCATION OF BASIS IN-  
10                    C R E A S E   F O R   D I S T R I B U T I O N S   M A D E  
11                    D U R I N G   T A X A B L E   Y E A R . — F o r   a n y  
12                    taxable year of a real estate invest-  
13                    ment trust for which an election is in  
14                    effect under section 1203, in the case  
15                    of a distribution made with respect to  
16                    shares during such taxable year of  
17                    amounts attributable to the deduction  
18                    allowable under section 1203(a), the  
19                    adjusted basis of such shares shall be  
20                    increased by the amount of such dis-  
21                    tributions.

22                    “(III) ALLOCATION OF EX-  
23                    C E S S . — I f   t h e   d e d u c t i o n   a l l o w a b l e  
24                    under section 1203(a) for a taxable  
25                    year exceeds the amount of distribu-

1           tions described in subclause (II), the  
2           excess shall be allocated to every  
3           shareholder of the real estate invest-  
4           ment trust at the close of the trust's  
5           taxable year in the same manner as if  
6           a distribution of such excess were  
7           made with respect to such shares.

8           “(IV) DESIGNATIONS.—To the  
9           extent provided in regulations, a real  
10          estate investment trust shall designate  
11          the amounts described in subclauses  
12          (II) and (III) in a manner similar to  
13          the designations provided with respect  
14          to capital gains described in subpara-  
15          graphs (C) and (D).

16          “(V) DEFINITIONS.—As used in  
17          this subparagraph, the terms ‘share’  
18          and ‘shareholder’ shall include bene-  
19          ficial interests and holders of bene-  
20          ficial interests, respectively.

21          “(iii) EARNINGS AND PROFITS DEDUC-  
22          TION FOR QUALIFIED TIMBER GAINS.—The  
23          deduction allowable under section 1203(a)  
24          for a taxable year shall be allowed as a de-  
25          duction in computing the earnings and

1 profits of the real estate investment trust  
2 for such taxable year. The earnings and  
3 profits of any such shareholder which is a  
4 corporation shall be appropriately adjusted  
5 in accordance with regulations prescribed  
6 by the Secretary.”.

7 (g) LOSS ATTRIBUTABLE TO BASIS ADJUSTMENT  
8 FOR DEDUCTION FOR QUALIFIED TIMBER GAIN OF REAL  
9 ESTATE INVESTMENT TRUSTS.—

10 (1) Section 857(b)(8) is amended by redesignig-  
11 nating subparagraphs (B) and (C) as subparagraphs  
12 (C) and (D), respectively, and by inserting after sub-  
13 paragraph (A) the following new subparagraph:

14 “(B) LOSS ATTRIBUTABLE TO BASIS AD-  
15 JUSTMENT FOR DEDUCTION FOR QUALIFIED  
16 TIMBER GAIN.—If—

17 “(i) a shareholder of a real estate in-  
18 vestment trust receives a basis adjustment  
19 provided under subsection (b)(3)(G)(ii),  
20 and

21 “(ii) the taxpayer has held such share  
22 or interest for 6 months or less,  
23 then any loss on the sale or exchange of such  
24 share or interest shall, to the extent of the  
25 amount described in clause (i), be disallowed.”.

1           (2) Subparagraph (D) of section 857(b)(8), as  
2           redesignated by paragraph (1), is amended by strik-  
3           ing “subparagraph (A)” and inserting “subpara-  
4           graphs (A) and (B)”.

5           (h) CONFORMING AMENDMENTS.—

6           (1) Subparagraph (B) of section 172(d)(2) is  
7           amended to read as follows:

8                   “(B) the exclusion under section 1202, and  
9                   the deduction under section 1203, shall not be  
10                  allowed.”.

11          (2) Paragraph (4) of section 642(c) is amended  
12          by striking the first sentence and inserting “To the  
13          extent that the amount otherwise allowable as a de-  
14          duction under this subsection consists of gain de-  
15          scribed in section 1202(a) or qualified timber gain  
16          (as defined in section 1203(b)), proper adjustment  
17          shall be made for any exclusion allowable to the es-  
18          tate or trust under section 1202 and for any deduc-  
19          tion allowable to the estate or trust under section  
20          1203.”

21          (3) Paragraph (3) of section 643(a) is amended  
22          by striking the last sentence and inserting “The ex-  
23          clusion under section 1202 and the deduction under  
24          section 1203 shall not be taken into account.”.

1           (4) Subparagraph (C) of section 643(a)(6) is  
2 amended to read as follows:

3           “(C) Paragraph (3) shall not apply to a  
4 foreign trust. In the case of such a trust—

5                   “(i) there shall be included gains from  
6 the sale or exchange of capital assets, re-  
7 duced by losses from such sales or ex-  
8 changes to the extent such losses do not  
9 exceed gains from such sales or exchanges,  
10 and

11                   “(ii) the deduction under section 1203  
12 shall not be taken into account.”.

13           (5) Paragraph (4) of section 691(c) is amended  
14 by inserting “1203,” after “1202,”.

15           (6) Paragraph (2) of section 871(a) is amended  
16 by inserting “or 1203,” after “1202,”.

17           (7) The table of sections for part I of sub-  
18 chapter P of chapter 1 is amended by adding at the  
19 end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

20           (i) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 the date of the enactment of this Act.

1 **SEC. 213. EXCISE TAX NOT APPLICABLE TO SECTION 1203**  
2 **DEDUCTION OF REAL ESTATE INVESTMENT**  
3 **TRUSTS.**

4 (a) IN GENERAL.—

5 (1) ORDINARY INCOME.—Subparagraph (B) of  
6 section 4981(e)(1) is amended to read as follows:

7 “(B) by not taking into account—

8 “(i) any gain or loss from the sale or  
9 exchange of capital assets (determined  
10 without regard to any reduction that would  
11 be applied for purposes of section  
12 857(b)(3)(G)(i)), and

13 “(ii) any deduction allowable under  
14 section 1203, and”.

15 (2) CAPITAL GAIN NET INCOME.—Section  
16 4981(e)(2) is amended by adding at the end the fol-  
17 lowing new subparagraph:

18 “(D) QUALIFIED TIMBER GAIN.—The  
19 amount determined under subparagraph (A)  
20 shall be determined without regard to any re-  
21 duction that would be applied for purposes of  
22 section 857(b)(3)(G)(i) but shall be reduced for  
23 any deduction allowable under section 1203 for  
24 such calendar year.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 214. TIMBER REIT MODERNIZATION.**

5 (a) IN GENERAL.—Section 856(c)(5) is amended by  
6 adding after subparagraph (G) the following new subpara-  
7 graph:

8 “(H) TREATMENT OF TIMBER GAINS.—

9 “(i) IN GENERAL.—Gain from the sale  
10 of real property described in paragraph  
11 (2)(D) and (3)(C) shall include gain which  
12 is—

13 “(I) recognized by an election  
14 under section 631(a) from timber  
15 owned by the real estate investment  
16 trust, the cutting of which is provided  
17 by a taxable REIT subsidiary of the  
18 real estate investment trust;

19 “(II) recognized under section  
20 631(b); or

21 “(III) income which would con-  
22 stitute gain under subclause (I) or  
23 (II) but for the failure to meet the 1-  
24 year holding period requirement.

25 “(ii) SPECIAL RULES.—

1           “(I) For purposes of this subtitle,  
2           cut timber, the gain of which is recog-  
3           nized by a real estate investment trust  
4           pursuant to an election under section  
5           631(a) described in clause (i)(I) or so  
6           much of clause (i)(III) as relates to  
7           clause (i)(I), shall be deemed to be  
8           sold to the taxable REIT subsidiary of  
9           the real estate investment trust on the  
10          first day of the taxable year.

11           “(II) For purposes of this sub-  
12          title, income described in this sub-  
13          paragraph shall not be treated as gain  
14          from the sale of property described in  
15          section 1221(a)(1).

16           “(iii) TERMINATION.—This subpara-  
17          graph shall not apply to dispositions after  
18          the termination date.”.

19          (b) TERMINATION DATE.—Subsection (c) of section  
20          856 is amended by adding at the end the following new  
21          paragraph:

22           “(8) TERMINATION DATE.—For purposes of  
23          this subsection, the term ‘termination date’ means  
24          the last day of the first taxable year beginning after  
25          the date of the enactment of this paragraph.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to dispositions in taxable years  
3 beginning after the date of the enactment of this Act.

4 **SEC. 215. MINERAL ROYALTY INCOME QUALIFYING INCOME**  
5 **FOR TIMBER REITS.**

6 (a) IN GENERAL.—Section 856(c)(2) is amended by  
7 striking “and” at the end of subparagraph (G), by insert-  
8 ing “and” at the end of subparagraph (H), and by adding  
9 after subparagraph (H) the following new subparagraph:

10 “(I) mineral royalty income earned in the  
11 first taxable year beginning after the date of  
12 the enactment of this subparagraph from real  
13 property owned by a timber real estate invest-  
14 ment trust held, or once held, in connection  
15 with the trade or business of producing timber  
16 by such real estate investment trust;”.

17 (b) TIMBER REAL ESTATE INVESTMENT TRUST.—  
18 Section 856(c)(5), as amended by this Act, is amended  
19 by adding after subparagraph (H) the following new sub-  
20 paragraph:

21 “(I) TIMBER REAL ESTATE INVESTMENT  
22 TRUST.—The term ‘timber real estate invest-  
23 ment trust’ means a real estate investment  
24 trust in which more than 50 percent in value of  
25 its total assets consists of real property held in

1 connection with the trade or business of pro-  
 2 ducing timber.”.

3 (c) EFFECTIVE DATE.—The amendments by this sec-  
 4 tion shall apply to taxable years beginning after the date  
 5 of the enactment of this Act.

6 **SEC. 216. MODIFICATION OF TAXABLE REIT SUBSIDIARY**  
 7 **ASSET TEST FOR TIMBER REITS.**

8 (a) IN GENERAL.—Section 856(c)(4)(B)(ii) is  
 9 amended by inserting “(in the case of a quarter which  
 10 closes on or before the termination date, 25 percent in  
 11 the case of a timber real estate investment trust)” after  
 12 “not more than 20 percent of the value of its total assets  
 13 is represented by securities of one or more taxable REIT  
 14 subsidiaries”.

15 (b) EFFECTIVE DATE.—The amendment made by  
 16 this section shall apply to taxable years beginning after  
 17 the date of the enactment of this Act.

18 **SEC. 217. SAFE HARBOR FOR TIMBER PROPERTY.**

19 (a) IN GENERAL.—Section 857(b)(6) (relating to in-  
 20 come from prohibited transactions) is amended by adding  
 21 at the end the following new subparagraph:

22 “(G) SPECIAL RULES FOR SALES TO  
 23 QUALIFIED ORGANIZATIONS.—

24 “(i) IN GENERAL.—In the case of sale  
 25 of a real estate asset (as defined in section

1           856(c)(5)(B)) to a qualified organization  
2           (as defined in section 170(h)(3)) exclu-  
3           sively for conservation purposes (within the  
4           meaning of section 170(h)(1)(C)), subpara-  
5           graph (D) shall be applied—

6                           “(I) by substituting ‘2 years’ for  
7                           ‘4 years’ in clause (i), and

8                           “(II) by substituting ‘2-year pe-  
9                           riod’ for ‘4-year period’ in clauses (ii)  
10                          and (iii).

11                         “(ii) TERMINATION.—This subpara-  
12                         graph shall not apply to sales after the ter-  
13                         mination date.”.

14           (b)         PROHIBITED         TRANSACTIONS.—Section  
15     857(b)(6)(D)(v) is amended by inserting “or, in the case  
16     of a sale on or before the termination date, a taxable  
17     REIT subsidiary” after “independent contractor (as de-  
18     fined in section 856(d)(3)) from whom the trust itself does  
19     not derive or receive any income”.

20           (c)     SALES THAT ARE NOT PROHIBITED TRANS-  
21     ACTIONS.—Section 857(b)(6), as amended by subsection  
22     (a), is amended by adding at the end the following new  
23     subparagraph:

24                           “(H) SALES OF PROPERTY THAT ARE NOT  
25                         A PROHIBITED TRANSACTION.—In the case of a

1 sale on or before the termination date, the sale  
 2 of property which is not a prohibited trans-  
 3 action through application of subparagraph (D)  
 4 shall be considered property held for investment  
 5 or for use in a trade or business and not prop-  
 6 erty described in section 1221(a)(1) for all pur-  
 7 poses of this subtitle.”.

8 (d) TERMINATION DATE.—Section 857(b)(6), as  
 9 amended by subsections (a) and (c), is amended by adding  
 10 at the end the following new subparagraph:

11 “(I) TERMINATION DATE.—For purposes  
 12 of this paragraph, the term ‘termination date’  
 13 means the last day of the first taxable year be-  
 14 ginning after the date of the enactment of this  
 15 subparagraph.”.

16 (e) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to dispositions in taxable years be-  
 18 ginning after the date of the enactment of this Act.

19 **TITLE III—ENERGY PROVISIONS**  
 20 **Subtitle A—Electricity Generation**

21 **SEC. 301. CREDIT FOR RESIDENTIAL AND BUSINESS WIND**  
 22 **PROPERTY.**

23 (a) RESIDENTIAL WIND PROPERTY.—

24 (1) IN GENERAL.—Section 25D(a) (relating to  
 25 allowance of credit) is amended by striking “and” at

1 the end of paragraph (2), by striking the period at  
2 the end of paragraph (3) and inserting “, and”, and  
3 by adding at the end the following new paragraph:

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

7 (2) LIMITATION.—Section 25D(b)(1) (relating  
8 to maximum credit) is amended by striking “and” at  
9 the end of subparagraph (B), by striking the period  
10 at the end of subparagraph (C) and inserting “,  
11 and”, and by adding at the end the following new  
12 subparagraph:

13 “(D) \$4,000 with respect to any qualified  
14 small wind energy property expenditures.”.

15 (3) QUALIFIED SMALL WIND ENERGY PROP-  
16 erty EXPENDITURES.—

17 (A) IN GENERAL.—Section 25D(d) (relat-  
18 ing to definitions) is amended by adding at the  
19 end the following new paragraph:

20 “(4) QUALIFIED SMALL WIND ENERGY PROP-  
21 erty EXPENDITURE.—The term ‘qualified small  
22 wind energy property expenditure’ means an expend-  
23 iture for qualified small wind energy property (as  
24 defined in section 48(c)(3)(A)) installed on or in

1 connection with a dwelling unit located in the United  
2 States and used as a residence by the taxpayer.”.

3 (B) NO DOUBLE BENEFIT.—Section  
4 45(d)(1) (relating to wind facility) is amended  
5 by adding at the end the following new sen-  
6 tence: “Such term shall not include any facility  
7 with respect to which any qualified small wind  
8 energy property expenditure (as defined in sub-  
9 section (d)(4) of section 25D) is taken into ac-  
10 count in determining the credit under such sec-  
11 tion.”.

12 (4) MAXIMUM EXPENDITURES IN CASE OF  
13 JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating  
14 to maximum expenditures) is amended by striking  
15 “and” at the end of clause (ii), by striking the pe-  
16 riod at the end of clause (iii) and inserting “, and”,  
17 and by adding at the end the following new clause:

18 “(iv) \$1,667 in the case of wind tur-  
19 bines for which qualified small wind energy  
20 property expenditures are made.”.

21 (b) BUSINESS WIND PROPERTY.—

22 (1) IN GENERAL.—Section 48(a)(3)(A) (defin-  
23 ing energy property) is amended by striking “or” at  
24 the end of clause (iii), by adding “or” at the end of

1 clause (iv), and by inserting after clause (iv) the fol-  
 2 lowing new clause:

3 “(v) qualified small wind energy prop-  
 4 erty,”.

5 (2) 30 PERCENT CREDIT.—Section  
 6 48(a)(2)(A)(i) is amended by striking “and” at the  
 7 end of subclause (II) and by inserting after sub-  
 8 clause (III) the following new subclause:

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

11 (3) QUALIFIED SMALL WIND ENERGY PROP-  
 12 erty.—Section 48(c) is amended—

13 (A) by inserting “; QUALIFIED SMALL  
 14 WIND ENERGY PROPERTY” after “QUALIFIED  
 15 MICROTURBINE PROPERTY” in the heading,

16 (B) by striking “For purposes of this sub-  
 17 section” and inserting “For purposes of this  
 18 section”,

19 (C) by striking “paragraph (1)” in para-  
 20 graphs (1)(B) and (2)(B) and inserting “sub-  
 21 section (a)(1)”, and

22 (D) by adding at the end the following new  
 23 paragraph:

24 “(3) QUALIFIED SMALL WIND ENERGY PROP-  
 25 erty.—

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

5           “(B) LIMITATION.—In the case of quali-  
6           fied small wind energy property placed in serv-  
7           ice during the taxable year, the credit otherwise  
8           determined under subsection (a)(1) for such  
9           year with respect to such property shall not ex-  
10          ceed \$4,000 with respect to any taxpayer.

11          “(C) QUALIFYING SMALL WIND TUR-  
12          BINE.—The term ‘qualifying small wind tur-  
13          bine’ means a wind turbine which—

14                 “(i) has a nameplate capacity of not  
15                 more than 100 kilowatts, and

16                 “(ii) meets the performance standards  
17                 of the American Wind Energy Association.

18          “(D) TERMINATION.—The term ‘qualified  
19          small wind energy property’ shall not include  
20          any property for any period after December 31,  
21          2008.”.

22          (4) CONFORMING AMENDMENT.—Section  
23          48(a)(1) is amended by striking “paragraphs (1)(B)  
24          and (2)(B)” and inserting “paragraphs (1)(B),  
25          (2)(B), and (3)(B)”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to expenditures after December 31,  
 3 2007.

4 **SEC. 302. LANDOWNER INCENTIVE TO ENCOURAGE ELEC-**  
 5 **TRIC TRANSMISSION BUILD-OUT.**

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

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

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

14 “(b) QUALIFIED ELECTRIC TRANSMISSION EASE-  
 15 MENT PAYMENT.—For purposes of this section, the term  
 16 ‘qualified electric transmission payment’ means any pay-  
 17 ment which is made—

18 “(1) by an electric utility or electric trans-  
 19 mission entity pursuant to an easement or other  
 20 agreement granted by the payee (or any predecessor  
 21 of such payee), and

22 “(2) for the right of such entity (or any succes-  
 23 sors of such entity) to locate on such payee’s prop-  
 24 erty transmission lines and equipment used to trans-  
 25 mit electricity at 230 or more kilovolts, primarily

1 from qualified facilities described in section 45(d)  
2 (without regard to any placed in service date or the  
3 last sentence of paragraph (4) thereof) or energy  
4 property (as defined in section 48(a)(3)) placed in  
5 service after the date of the enactment of this sec-  
6 tion.

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

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

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

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

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

1 **SEC. 303. EXCEPTION TO REDUCTION OF RENEWABLE**  
 2 **ELECTRICITY CREDIT.**

3 (a) IN GENERAL.—Section 45(b)(3) (relating to cred-  
 4 it reduced for grants, tax-exempt bonds, subsidized energy  
 5 financing, and other credits) is amended by adding after  
 6 the last sentence the following: “This paragraph shall not  
 7 apply with respect to any loans, loan guarantees, or grants  
 8 issued by the Secretary of Agriculture under authority  
 9 granted by section 9006 of the Farm Security and Rural  
 10 Investment Act of 2002.”

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

14 **Subtitle B—Alcohol Fuel**

15 **SEC. 311. EXPANSION OF SPECIAL ALLOWANCE TO CEL-**  
 16 **LULOSIC BIOMASS ALCOHOL FUEL PLANT**  
 17 **PROPERTY.**

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

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

26 (b) CONFORMING AMENDMENTS.—



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

4           “(6) SMALL CELLULOSIC ALCOHOL PRODUCER  
5 CREDIT.—

6           “(A) IN GENERAL.—In addition to any  
7 other credit allowed under this section, there  
8 shall be allowed as a credit against the tax im-  
9 posed by this chapter for the taxable year an  
10 amount equal to the applicable amount for each  
11 gallon of not more than 60,000,000 gallons of  
12 qualified cellulosic alcohol production.

13           “(B) APPLICABLE AMOUNT.—For purposes  
14 of subparagraph (A), the applicable amount  
15 means the excess of—

16                   “(i) \$1.28, over

17                   “(ii) the sum of—

18                           “(I) the amount of the credit in  
19 effect for alcohol which is ethanol  
20 under subsection (b)(1) (without re-  
21 gard to subsection (b)(3)) at the time  
22 of the qualified cellulosic alcohol pro-  
23 duction, plus

1                   “(II) the amount of the credit in  
2                   effect under subsection (b)(4) at the  
3                   time of such production.

4                   “(C) QUALIFIED CELLULOSIC ALCOHOL  
5                   PRODUCTION.—For purposes of this section,  
6                   the term ‘qualified cellulosic alcohol production’  
7                   means any cellulosic biomass alcohol which is  
8                   produced by an eligible small cellulosic alcohol  
9                   producer and which during the taxable year—

10                   “(i) is sold by the taxpayer to another  
11                   person—

12                   “(I) for use by such other person  
13                   in the production of a qualified alco-  
14                   hol mixture in such other person’s  
15                   trade or business (other than casual  
16                   off-farm production),

17                   “(II) for use by such other per-  
18                   son as a fuel in a trade or business,  
19                   or

20                   “(III) who sells such cellulosic  
21                   biomass alcohol at retail to another  
22                   person and places such cellulosic bio-  
23                   mass alcohol in the fuel tank of such  
24                   other person, or

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

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

10                   “(E) APPLICATION OF PARAGRAPH.—This  
11                   paragraph shall apply with respect to qualified  
12                   cellulosic alcohol production after December 31,  
13                   2007, and before April 1, 2015.”.

14                   (2) TERMINATION DATE NOT TO APPLY.—Sub-  
15                   section (e) of section 40 (relating to termination) is  
16                   amended—

17                   (A) by inserting “or subsection (b)(6)(E)”  
18                   after “by reason of paragraph (1)” in para-  
19                   graph (2), and

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

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

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

4 “(i) DEFINITIONS AND SPECIAL RULES FOR SMALL  
5 CELLULOSIC ALCOHOL PRODUCER.—For purposes of this  
6 section—

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

12 “(2) CELLULOSIC BIOMASS ALCOHOL.—

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

17 “(B) DETERMINATION OF PROOF.—The  
18 determination of the proof of any alcohol shall  
19 be made without regard to any added dena-  
20 turants.

21 “(3) AGGREGATION RULE.—For purposes of  
22 the 60,000,000 gallon limitation under paragraph  
23 (1) and subsection (b)(6)(A), all members of the  
24 same controlled group of corporations (within the  
25 meaning of section 267(f)) and all persons under

1 common control (within the meaning of section  
2 52(b) but determined by treating an interest of more  
3 than 50 percent as a controlling interest) shall be  
4 treated as 1 person.

5 “(4) PARTNERSHIP, S CORPORATIONS, AND  
6 OTHER PASS-THRU ENTITIES.—In the case of a  
7 partnership, trust, S corporation, or other pass-thru  
8 entity, the limitation contained in paragraph (1)  
9 shall be applied at the entity level and at the partner  
10 or similar level.

11 “(5) ALLOCATION.—For purposes of this sub-  
12 section, in the case of a facility in which more than  
13 1 person has an interest, productive capacity shall  
14 be allocated among such persons in such manner as  
15 the Secretary may prescribe.

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

23 “(7) ALLOCATION OF SMALL CELLULOSIC PRO-  
24 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

1 Rules similar to the rules under subsection (g)(6)  
2 shall apply for purposes of this subsection.”.

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

4 (1) IN GENERAL.—Paragraph (3) of section  
5 40(d) is amended by redesignating subparagraph  
6 (D) as subparagraph (E) and by inserting after sub-  
7 paragraph (C) the following new subparagraph:

8 “(D) SMALL CELLULOSIC ALCOHOL PRO-  
9 DUCER CREDIT.—If—

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

12 “(ii) any person does not use such  
13 fuel for a purpose described in subsection  
14 (b)(6)(C),

15 then there is hereby imposed on such person a  
16 tax equal to the applicable amount for each gal-  
17 lon of such cellulosic biomass alcohol.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Subparagraph (C) of section 40(d)(3)  
20 is amended by striking “PRODUCER” in the  
21 heading and inserting “SMALL ETHANOL PRO-  
22 DUCER”.

23 (B) Subparagraph (E) of section 40(d)(3),  
24 as redesignated by paragraph (1), is amended

1           by striking “or (C)” and inserting “(C), or  
2           (D)”.

3           (e) ALCOHOL PRODUCED IN THE UNITED STATES.—  
4 Section 40(d), as amended by this section, is amended by  
5 adding at the end the following new paragraph:

6           “(6) SPECIAL RULE FOR SMALL CELLULOSIC  
7 ALCOHOL PRODUCERS.—No small cellulosic alcohol  
8 producer credit shall be determined under subsection  
9 (a) with respect to any alcohol unless such alcohol  
10 is produced in the United States.”.

11          (f) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to fuel produced after December  
13 31, 2007.

14 **SEC. 313. EXTENSION OF SMALL ETHANOL PRODUCER**  
15 **CREDIT.**

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

18           (1) in subparagraph (A), by inserting “(Decem-  
19 ber 31, 2012, in the case of the credit allowed by  
20 reason of subsection (a)(3))” after “December 31,  
21 2010”, and

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

1 **SEC. 314. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCO-**  
 2 **HOL.**

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

9 “(5) the small fossil free alcohol producer cred-  
 10 it.”.

11 (b) SMALL FOSSIL FREE ALCOHOL PRODUCER  
 12 CREDIT.—Subsection (b) of section 40, as amended by  
 13 this Act, is amended by adding at the end the following  
 14 new paragraph:

15 “(7) SMALL FOSSIL FREE ALCOHOL PRODUCER  
 16 CREDIT.—

17 “(A) IN GENERAL.—In addition to any  
 18 other credit allowed under this section, there  
 19 shall be allowed as a credit against the tax im-  
 20 posed by this chapter for the taxable year an  
 21 amount equal to 25 cents for each gallon of not  
 22 more than 60,000,000 gallons of qualified fossil  
 23 free alcohol production.

24 “(B) QUALIFIED FOSSIL FREE ALCOHOL  
 25 PRODUCTION.—For purposes of this section,  
 26 the term ‘qualified fossil free alcohol produc-

1           tion’ means alcohol which is produced by an eli-  
2           gible small fossil free alcohol producer at a fos-  
3           sil free alcohol production facility and which  
4           during the taxable year—

5                   “(i) is sold by the taxpayer to another  
6                   person—

7                           “(I) for use by such other person  
8                           in the production of a qualified alco-  
9                           hol mixture in such other person’s  
10                          trade or business (other than casual  
11                          off-farm production),

12                          “(II) for use by such other per-  
13                          son as a fuel in a trade or business,  
14                          or

15                          “(III) who sells such alcohol at  
16                          retail to another person and places  
17                          such alcohol in the fuel tank of such  
18                          other person, or

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

21                          “(C)   ADDITIONAL   DISTILLATION   EX-  
22                          CLUDED.—The qualified fossil free alcohol pro-  
23                          duction of any taxpayer for any taxable year  
24                          shall not include any alcohol which is purchased  
25                          by the taxpayer and with respect to which such

1 producer increases the proof of the alcohol by  
2 additional distillation.”.

3 (c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRO-  
4 DUCER.—Section 40, as amended by this Act, is amended  
5 by adding at the end the following new subsection:

6 “(j) DEFINITIONS AND SPECIAL RULES FOR SMALL  
7 FOSSIL FREE ALCOHOL PRODUCER.—For purposes of  
8 this section—

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

15 “(2) FOSSIL FREE ALCOHOL PRODUCTION FA-  
16 CILITY.—The term ‘fossil free alcohol production fa-  
17 cility’ means any facility at which 90 percent of the  
18 energy used in the production of alcohol is produced  
19 from biomass (as defined in section 45K(c)(3)).

20 “(3) AGGREGATION RULE.—For purposes of  
21 the 60,000,000 gallon limitation under paragraph  
22 (1) and subsection (b)(7)(A), all members of the  
23 same controlled group of corporations (within the  
24 meaning of section 267(f)) and all persons under  
25 common control (within the meaning of section

1 52(b) but determined by treating an interest of more  
2 than 50 percent as a controlling interest) shall be  
3 treated as 1 person.

4 “(4) PARTNERSHIP, S CORPORATIONS, AND  
5 OTHER PASS-THRU ENTITIES.—In the case of a  
6 partnership, trust, S corporation, or other pass-thru  
7 entity, the limitation contained in paragraph (1)  
8 shall be applied at the entity level and at the partner  
9 or similar level.

10 “(5) ALLOCATION.—For purposes of this sub-  
11 section, in the case of a facility in which more than  
12 1 person has an interest, productive capacity shall  
13 be allocated among such persons in such manner as  
14 the Secretary may prescribe.

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

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

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

2 (1) IN GENERAL.—Paragraph (3) of section  
3 40(d), as amended by this Act, is amended by redesi-  
4 gnating subparagraph (E) as subparagraph (F) and  
5 by inserting after subparagraph (D) the following  
6 new subparagraph:

7 “(E) SMALL FOSSIL FREE ALCOHOL PRO-  
8 DUCER CREDIT.—If—

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

11 “(ii) any person does not use such  
12 fuel for a purpose described in subsection  
13 (b)(7)(B),

14 then there is hereby imposed on such person a  
15 tax equal to 25 cents for each gallon of such al-  
16 cohol.”.

17 (2) CONFORMING AMENDMENT.—Subparagraph  
18 (F) of section 40(d)(3), as redesignated by para-  
19 graph (1) and amended by this Act, is amended by  
20 striking “or (D)” and inserting “(D), or (E)”.

21 (e) ALCOHOL PRODUCED IN THE UNITED STATES.—  
22 Section 40(d)(6), as added by section 312 of this Act, is  
23 amended—

1           (1) by inserting “or small fossil free alcohol  
2 producer credit” after “cellulosic alcohol producer  
3 credit”, and

4           (2) by inserting “**AND FOSSIL FREE**” after  
5 “**CELLULOSIC**” in the heading.

6           (f) **TERMINATION.**—Paragraph (1) of section 40(e),  
7 as amended by this Act, is amended—

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

14           (2) in subparagraph (B), by striking “(January  
15 1, 2013, in the case of the credit allowed by reason  
16 of subsection (a)(3))” and inserting “(January 1,  
17 2013, in the case of the credits allowed by reason of  
18 paragraphs (3) and (5) of subsection (a))”.

19           (g) **EFFECTIVE DATE.**—The amendments made by  
20 this section shall apply to fuel produced after December  
21 31, 2007.

22 **SEC. 315. MODIFICATION OF ALCOHOL CREDIT.**

23           (a) **INCOME TAX CREDIT.**—Subsection (h) of section  
24 40 (relating to reduced credit for ethanol blenders) is

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

3 “(3) REDUCED AMOUNT AFTER SALE OF  
4 7,500,000,000 GALLONS.—

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

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

19 (b) EXCISE TAX CREDIT.—

20 (1) IN GENERAL.—Paragraph (2) of section  
21 6426(b) (relating to alcohol fuel mixture credit) is  
22 amended by adding at the end the following new  
23 subparagraph:

24 “(C) REDUCED AMOUNT AFTER SALE OF  
25 7,500,000,000 GALLONS.—In the case of any alco-





1 (b) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-  
2 BACKS.—Section 313 of the Tariff Act of 1930 (19 U.S.C.  
3 1313) is amended by adding at the end the following new  
4 subsection:

5 “(z) LIMITATIONS ON, AND REDUCTIONS OF, DRAW-  
6 BACKS.—

7 “(1) LIMITATIONS.—

8 “(A) IN GENERAL.—Ethyl alcohol or mix-  
9 ture containing ethyl alcohol described in sub-  
10 paragraph (B) may be treated as being of the  
11 same kind and quality under subsection (b) of  
12 this section or may be treated as being commer-  
13 cially interchangeable with any other ethyl alco-  
14 hol or mixture containing ethyl alcohol under  
15 subsection (j)(2) of this section, only if the  
16 other ethyl alcohol or mixture—

17 “(i) if imported, is subject to the addi-  
18 tional duty under subheading 9901.00.50  
19 of the Harmonized Tariff Schedule of the  
20 United States; or

21 “(ii) if domestic, is subject to Federal  
22 excise tax under section 4041 or 4081 of  
23 the Internal Revenue Code of 1986 in an  
24 amount equal to or greater than the  
25 amount of drawback claimed.

1           “(B) ETHYL ALCOHOL OR MIXTURE CON-  
2           TAINING ETHYL ALCOHOL DESCRIBED.—Ethyl  
3           alcohol or mixture containing ethyl alcohol de-  
4           scribed in this subparagraph means—

5                   “(i) ethyl alcohol classifiable under  
6                   subheading 2207.10.60 or 2207.20.00 of  
7                   the Harmonized Tariff Schedule of the  
8                   United States, or

9                   “(ii) a mixture containing ethyl alco-  
10                  hol classifiable under heading 2710 or  
11                  3824 of the Harmonized Tariff Schedule of  
12                  the United States,

13                  which, if imported would be subject to addi-  
14                  tional duty under subheading 9901.00.50 of  
15                  such Schedule.

16           “(2) REDUCTION OF DRAWBACK.—For pur-  
17           poses of subsections (b), (j)(2), and (p) of this sec-  
18           tion, the amount of the refund as drawback under  
19           this section shall be reduced by an amount equal to  
20           any Federal tax credit or refund of any Federal tax  
21           paid on the merchandise with respect to which the  
22           drawback is claimed.”.

23           (c) EFFECTIVE DATE.—The amendments made by  
24           this section apply to articles exported on or after the date

1 that is 15 days after the date of the enactment of this  
2 Act.

3 **Subtitle C—Biodiesel and**  
4 **Renewable Diesel Fuel**

5 **SEC. 321. EXTENSION AND MODIFICATION OF CREDIT FOR**  
6 **BIODIESEL AND RENEWABLE DIESEL USED**  
7 **AS FUEL.**

8 (a) EXTENSION.—

9 (1) INCOME TAX CREDITS FOR BIODIESEL AND  
10 RENEWABLE DIESEL AND SMALL AGRI-BIODIESEL  
11 PRODUCER CREDIT.—Section 40A(g) (relating to  
12 termination) is amended by striking “December 31,  
13 2008” and inserting “December 31, 2010 (Decem-  
14 ber 31, 2012, in the case of the credit allowed by  
15 reason of subsection (a)(3))”.

16 (2) EXCISE TAX CREDIT.—Section 6426(e)(6)  
17 (relating to termination) is amended by striking  
18 “2008” and inserting “2010”.

19 (3) FUELS NOT USED FOR TAXABLE PUR-  
20 POSES.—Section 6427(e)(5)(B) (relating to termi-  
21 nation) is amended by striking “2008” and inserting  
22 “2010”.

23 (b) MODIFICATION OF CREDIT FOR RENEWABLE  
24 DIESEL.—Section 40A(f) (relating to renewable diesel) is



1 (A) by striking “and” at the end of sub-  
2 paragraph (A),

3 (B) by redesignating subparagraph (B) as  
4 subparagraph (C), and

5 (C) by inserting after subparagraph (A)  
6 the following new subparagraph:

7 “(B) includes any qualified mixture (as de-  
8 fined in section 40(b)(1)(B)), and”.

9 (2) QUALIFIED BIODIESEL FUEL MIXTURES.—

10 Subparagraph (A) of section 4083(a)(3) (relating to  
11 diesel fuel) is amended by striking “and” at the end  
12 of clause (ii), by redesignating clause (iii) as clause  
13 (iv), and inserting after clause (ii) the following new  
14 clause:

15 “(iii) any qualified biodiesel mixture  
16 (as defined in section 40A(b)(1)(B)), and”.

17 (b) MODIFICATION OF BIODIESEL CERTIFICATION  
18 REQUIREMENT.—Paragraph (4) of section 40A(b) is  
19 amended by striking “which identifies” and all that fol-  
20 lows and inserting “which—

21 “(A) identifies the product produced and  
22 the percentage of biodiesel and agri-biodiesel in  
23 the product, and

1           “(B) documents that the biodiesel was  
2           independently tested and meets the require-  
3           ments of ASTM D6751.”.

4           (c) INFORMATION REPORTING REQUIREMENT FOR  
5 PRODUCERS OF QUALIFIED MIXTURES.—Section 4101(d)  
6 (relating to information reporting) is amended to read as  
7 follows:

8           “(d) INFORMATION REPORTING.—The Secretary—

9           “(1) may require—

10           “(A) information reporting by any person  
11           registered under this section, and

12           “(B) information reporting by such other  
13           persons as the Secretary deems necessary to  
14           carry out this part, and

15           “(2) shall require information reporting by any  
16           person registered under this section and producing  
17           any qualified mixture (as defined in section  
18           40(b)(1)(B)) or any qualified biodiesel mixture (as  
19           defined in section 40A(b)(1)(B)).

20 Any person who is required to report under this subsection  
21 and who has 25 or more reportable transactions in a  
22 month shall file such report in electronic format.”.

23           (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to fuels removed, entered, or sold  
25 after December 31, 2007.

## 1           **Subtitle D—Alternative Fuel**

### 2   **SEC. 331. EXTENSION AND MODIFICATION OF ALTER-** 3           **NATIVE FUEL CREDIT.**

4           (a) EXTENSION.—

5                 (1) ALTERNATIVE FUEL CREDIT.—Paragraph  
6                 (4) of section 6426(d) (relating to alternative fuel  
7                 credit) is amended by striking “September 30,  
8                 2009” and inserting “December 31, 2010”.

9                 (2) ALTERNATIVE FUEL MIXTURE CREDIT.—  
10                Paragraph (3) of section 6426(e) (relating to alter-  
11                native fuel mixture credit) is amended by striking  
12                “September 30, 2009” and inserting “December 31,  
13                2010”.

14               (3) PAYMENTS.—Subparagraph (C) of section  
15                6427(e)(5) (relating to termination) is amended by  
16                striking “September 30, 2009” and inserting “De-  
17                cember 31, 2010”.

18           (b) MODIFICATIONS.—

19                 (1) ALTERNATIVE FUEL TO INCLUDE COM-  
20                 PRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph  
21                 (2) of section 6426(d) (relating to alternative fuel  
22                 credit) is amended by striking “and” at the end of  
23                 subparagraph (E), by redesignating subparagraph  
24                 (F) as subparagraph (G), and by inserting after sub-  
25                 paragraph (E) the following new subparagraph:

1           “(F) compressed or liquefied biomass gas,  
2           and”.

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

7           (c) CARBON CAPTURE REQUIREMENT FOR CERTAIN  
8           FUELS.—

9           (1) IN GENERAL.—Subsection (d) of section  
10          6426, as amended by subsection (a), is amended by  
11          redesignating paragraph (4) as paragraph (5) and  
12          by inserting after paragraph (3) the following new  
13          paragraph:

14          “(4) CARBON CAPTURE REQUIREMENT.—

15                 “(A) IN GENERAL.—The requirements of  
16                 this paragraph are met if the fuel is certified,  
17                 under such procedures as required by the Sec-  
18                 retary, as having been derived from coal pro-  
19                 duced at a gasification facility which separates  
20                 and sequesters not less than the applicable per-  
21                 centage of such facility’s total carbon dioxide  
22                 emissions.

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

1           “(i) 50 percent in the case of fuel pro-  
2           duced after the date of the enactment of  
3           this paragraph and on or before the earlier  
4           of—

5                   “(I) the date the Secretary  
6                   makes a determination under sub-  
7                   paragraph (C), or

8                   “(II) December 30, 2010, and

9           “(ii) 75 percent in the case of fuel  
10           produced after the date on which the appli-  
11           cable percentage under clause (i) ceases to  
12           apply.

13           “(C) DETERMINATION TO INCREASE AP-  
14           PLICABLE PERCENTAGE BEFORE DECEMBER 31,  
15           2010.—If the Secretary, after considering the  
16           recommendations of the Carbon Sequestration  
17           Capability Panel, finds that the applicable per-  
18           centage under subparagraph (B) should be 75  
19           percent for fuel produced before December 31,  
20           2010, the Secretary shall make a determination  
21           under this subparagraph. Any determination  
22           made under this subparagraph shall be made  
23           not later than 30 days after the Secretary re-  
24           ceives from the Carbon Sequestration Panel the  
25           report required under section 331(c)(3)(D) of

1 the Heartland, Habitat, Harvest, and Horti-  
2 culture Act of 2007.”.

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

7 (3) CARBON SEQUESTRATION CAPABILITY  
8 PANEL.—

9 (A) ESTABLISHMENT OF PANEL.—There is  
10 established a panel to be known as the “Carbon  
11 Sequestration Capability Panel” (hereafter in  
12 this paragraph referred to as the “Panel”).

13 (B) MEMBERSHIP.—The Panel shall be  
14 composed of—

15 (i) 1 individual appointed by the Na-  
16 tional Academy of Sciences,

17 (ii) 1 individual appointed by the  
18 Chairman of the Committee on Finance of  
19 the Senate, in consultation with the Rank-  
20 ing Member of the Committee, and

21 (iii) 1 individual appointed jointly by  
22 the individuals appointed under clauses (i)  
23 and (ii).

24 (C) STUDY.—The Panel shall study the  
25 appropriate percentage of carbon dioxide for

1 separation and sequestration under section  
2 6426(d)(4) of the Internal Revenue Code of  
3 1986 consistent with the purposes of such sec-  
4 tion. The panel shall consider—

5 (i) whether it is feasible to separate  
6 and sequester 75 percent of the carbon di-  
7 oxide emissions of a facility, and

8 (ii) costs and other factors associated  
9 with separating and sequestering such per-  
10 centage of carbon dioxide emissions.

11 (D) REPORT.—Not later than 6 months  
12 after the date of the enactment of this Act, the  
13 Panel shall report to the Secretary of Treasury,  
14 the Committee on Finance of the Senate, and  
15 the Committee on Ways and Means of the  
16 House of Representatives on the study under  
17 subparagraph (C) .

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

21 **SEC. 332. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**  
22 **FUELING PROPERTY CREDIT.**

23 Paragraph (2) of section 30C(g) (relating to termi-  
24 nation) is amended by striking “December 31, 2009” and  
25 inserting “December 31, 2010”.

1           **TITLE IV—AGRICULTURAL**  
2                           **PROVISIONS**

3   **SEC. 401. INCREASE IN LOAN LIMITS ON AGRICULTURAL**  
4                           **BONDS.**

5           (a) IN GENERAL.—Subparagraph (A) of section  
6 147(c)(2) (relating to exception for first-time farmers) is  
7 amended by striking “\$250,000” and inserting  
8 “\$450,000”.

9           (b) INFLATION ADJUSTMENT.—Section 147(c)(2) is  
10 amended by adding at the end the following new subpara-  
11 graph:

12                           “(H) ADJUSTMENTS FOR INFLATION.—In  
13 the case of any calendar year after 2008, the  
14 dollar amount in subparagraph (A) shall be in-  
15 creased by an amount equal to—

16                                   “(i) such dollar amount, multiplied by

17                                   “(ii) the cost-of-living adjustment de-  
18 termined under section 1(f)(3) for the cal-  
19 endar year, determined by substituting  
20 ‘calendar year 2007’ for ‘calendar year  
21 1992’ in subparagraph (B) thereof.

22           If any amount as increased under the preceding  
23 sentence is not a multiple of \$100, such amount  
24 shall be rounded to the nearest multiple of  
25 \$100.”.

1 (c) MODIFICATION OF SUBSTANTIAL FARMLAND  
 2 DEFINITION.—Section 147(c)(2)(E) (defining substantial  
 3 farmland) is amended by striking “unless” and all that  
 4 follows through the period and inserting “unless such par-  
 5 cel is smaller than 30 percent of the median size of a farm  
 6 in the county in which such parcel is located.”.

7 (d) CONFORMING AMENDMENT.—Section  
 8 147(c)(2)(C)(i)(II) is amended by striking “\$250,000”  
 9 and inserting “the amount in effect under subparagraph  
 10 (A)”.

11 (e) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to bonds issued after the date of  
 13 the enactment of this Act.

14 **SEC. 402. MODIFICATION OF INSTALLMENT SALE RULES**  
 15 **FOR CERTAIN FARM PROPERTY.**

16 (a) IN GENERAL.—Section 453(i) (relating to rec-  
 17 ognition of recapture income in year of disposition) is  
 18 amended by adding at the end the following new para-  
 19 graph:

20 “(3) EXCEPTION FOR CERTAIN FARM PROP-  
 21 erty.—Paragraph (1) shall not apply to any install-  
 22 ment sale of any single purpose agricultural or horti-  
 23 cultural structure or any tree or vine bearing fruit  
 24 or nuts eligible for classification as 10-year property  
 25 under section 168(e)(3)(D).”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to installment sales occurring after  
 3 the date of the enactment of this Act.

4 **SEC. 403. ALLOWANCE OF SECTION 1031 TREATMENT FOR**  
 5 **EXCHANGES INVOLVING CERTAIN MUTUAL**  
 6 **DITCH, RESERVOIR, OR IRRIGATION COM-**  
 7 **PANY STOCK.**

8 (a) IN GENERAL.—Section 1031 (relating to ex-  
 9 change of property held for productive use or investment)  
 10 is amended by adding at the end the following new sub-  
 11 section:

12 “(i) SPECIAL RULES FOR MUTUAL DITCH, RES-  
 13 ERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes  
 14 of subsection (a)(2)(B), the term ‘stocks’ shall not include  
 15 shares in a mutual ditch, reservoir, or irrigation company  
 16 if at the time of the exchange—

17 “(1) the mutual ditch, reservoir, or irrigation  
 18 company is an organization described in section  
 19 501(c)(12)(A) (determined without regard to the  
 20 percentage of its income that is collected from its  
 21 members for the purpose of meeting losses and ex-  
 22 penses), and

23 “(2) the shares in such company have been rec-  
 24 ognized by the highest court of the State in which  
 25 such company was organized or by applicable State

1 statute as constituting or representing real property  
2 or an interest in real property.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to exchanges completed after the  
5 date of the enactment of this Act.

6 **SEC. 404. CREDIT TO HOLDERS OF RURAL RENAISSANCE**  
7 **BONDS.**

8 (a) **IN GENERAL.**—Subpart H of part IV of sub-  
9 chapter A of chapter 1 (relating to credits against tax)  
10 is amended by adding at the end the following new section:

11 **“SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE**  
12 **BONDS.**

13 “(a) **ALLOWANCE OF CREDIT.**—In the case of a tax-  
14 payer who holds a rural renaissance bond on 1 or more  
15 credit allowance dates of the bond occurring during any  
16 taxable year, there shall be allowed as a credit against the  
17 tax imposed by this chapter for the taxable year an  
18 amount equal to the sum of the credits determined under  
19 subsection (b) with respect to such dates.

20 “(b) **AMOUNT OF CREDIT.**—

21 “(1) **IN GENERAL.**—The amount of the credit  
22 determined under this subsection with respect to any  
23 credit allowance date for a rural renaissance bond is  
24 25 percent of the annual credit determined with re-  
25 spect to such bond.

1           “(2) ANNUAL CREDIT.—The annual credit de-  
2           termined with respect to any rural renaissance bond  
3           is the product of—

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

7                   “(B) the outstanding face amount of the  
8                   bond.

9           “(3) DETERMINATION.—For purposes of para-  
10           graph (2), with respect to any rural renaissance  
11           bond, the Secretary shall determine daily or caused  
12           to be determined daily a credit rate which shall  
13           apply to the first day on which there is a binding,  
14           written contract for the sale or exchange of the  
15           bond. The credit rate for any day is the credit rate  
16           which the Secretary or the Secretary’s designee esti-  
17           mates will permit the issuance of rural renaissance  
18           bonds with a specified maturity or redemption date  
19           without discount and without interest cost to the  
20           qualified issuer.

21           “(4) CREDIT ALLOWANCE DATE.—For purposes  
22           of this section, the term ‘credit allowance date’  
23           means—

24                   “(A) March 15,

25                   “(B) June 15,

1           “(C) September 15, and

2           “(D) December 15.

3       Such term also includes the last day on which the  
4       bond is outstanding.

5           “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
6       DEMPTION.—In the case of a bond which is issued  
7       during the 3-month period ending on a credit allow-  
8       ance date, the amount of the credit determined  
9       under this subsection with respect to such credit al-  
10      lowance date shall be a ratable portion of the credit  
11      otherwise determined based on the portion of the 3-  
12      month period during which the bond is outstanding.  
13      A similar rule shall apply when the bond is redeemed  
14      or matures.

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

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

21           “(2) the sum of the credits allowable under this  
22      part (other than subpart C, section 1400N(l), and  
23      this section).

24          “(d) RURAL RENAISSANCE BOND.—For purposes of  
25      this section—

1           “(1) IN GENERAL.—The term ‘rural renaissance bond’ means any bond issued as part of an  
2           issue if—  
3

4                   “(A) the bond is issued by a qualified  
5           issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national rural renaissance bond limitation under  
6           subsection (f)(2),  
7

8                   “(B) 95 percent or more of the proceeds  
9           from the sale of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects,  
10  
11

12                   “(C) the qualified issuer designates such  
13           bond for purposes of this section and the bond is in registered form,  
14  
15

16                   “(D) the issue meets the requirements of  
17           subsection (h), and

18                   “(E) such bond is not a federally guaranteed bond (within the meaning of section  
19           149(b)(2)).  
20

21           “(2) QUALIFIED PROJECT; SPECIAL USE  
22           RULES.—

23                   “(A) IN GENERAL.—The term ‘qualified  
24           project’ means 1 or more projects described in subparagraph (B) located in a rural area.  
25

1           “(B) PROJECTS DESCRIBED.—A project  
2 described in this subparagraph is a project eli-  
3 gible for assistance under—

4           “(i) the utilities programs described in  
5 section 381E(d)(2) of the Consolidated  
6 Farm and Rural Development Act (7  
7 U.S.C. 2009d(d)(2)),

8           “(ii) the distance learning or telemedi-  
9 cine programs authorized pursuant to  
10 chapter 1 of subtitle D of title XXIII of  
11 the Food, Agriculture, Conservation, and  
12 Trade Act of 1990 (7 U.S.C. 950aaa et  
13 seq.),

14           “(iii) the rural electric programs au-  
15 thorized pursuant to the Rural Electrifica-  
16 tion Act of 1936 (7 U.S.C. 901 et seq.),

17           “(iv) the rural telephone programs au-  
18 thorized pursuant to the Rural Electrifica-  
19 tion Act of 1936 (7 U.S.C. 901 et seq.),

20           “(v) the broadband access programs  
21 authorized pursuant to title VI of the  
22 Rural Electrification Act of 1936 (7  
23 U.S.C. 950bb et seq.), and

24           “(vi) the rural community facility pro-  
25 grams as described in section 381E(d)(1)

1 of the Consolidated Farm and Rural De-  
2 velopment Act (7 U.S.C. 2009d(d)(1)).

3 “(C) REFINANCING RULES.—For purposes  
4 of paragraph (1)(B), a qualified project may be  
5 refinanced with proceeds of a rural renaissance  
6 bond only if the indebtedness being refinanced  
7 (including any obligation directly or indirectly  
8 refinanced by such indebtedness) was originally  
9 incurred by a qualified borrower after the date  
10 of the enactment of this section.

11 “(D) REIMBURSEMENT.—For purposes of  
12 paragraph (1)(B), a rural renaissance bond  
13 may be issued to reimburse a qualified borrower  
14 for amounts paid after the date of the enact-  
15 ment of this section with respect to a qualified  
16 project, but only if—

17 “(i) prior to the payment of the origi-  
18 nal expenditure, the qualified borrower de-  
19 clared its intent to reimburse such expendi-  
20 ture with the proceeds of a rural renais-  
21 sance bond,

22 “(ii) not later than 60 days after pay-  
23 ment of the original expenditure, the quali-  
24 fied issuer adopts an official intent to re-

1           imburse the original expenditure with such  
2           proceeds, and

3           “(iii) the reimbursement is made not  
4           later than 18 months after the date the  
5           original expenditure is paid.

6           “(E) TREATMENT OF CHANGES IN USE.—

7           For purposes of paragraph (1)(B), the proceeds  
8           of an issue shall not be treated as used for a  
9           qualified project to the extent that a qualified  
10          borrower or qualified issuer takes any action  
11          within its control which causes such proceeds  
12          not to be used for a qualified project. The Sec-  
13          retary shall prescribe regulations specifying re-  
14          medial actions that may be taken (including  
15          conditions to taking such remedial actions) to  
16          prevent an action described in the preceding  
17          sentence from causing a bond to fail to be a  
18          rural renaissance bond.

19          “(F) TREATMENT OF OTHER SUBSIDIES.—

20          For purposes of subparagraph (B), a qualified  
21          project does not include any portion of a project  
22          financed by grants or subsidized financing pro-  
23          vided (directly or indirectly) under a Federal  
24          program, including any State or local obligation  
25          used to provide financing for such portion the

1 interest on which is exempt from tax under sec-  
2 tion 103.

3 “(e) MATURITY LIMITATIONS.—

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

9 “(2) MAXIMUM TERM.—During each calendar  
10 month, the Secretary shall determine the maximum  
11 term permitted under this paragraph for bonds  
12 issued during the following calendar month. Such  
13 maximum term shall be the term which the Sec-  
14 retary estimates will result in the present value of  
15 the obligation to repay the principal on the bond  
16 being equal to 50 percent of the face amount of such  
17 bond. Such present value shall be determined with-  
18 out regard to the requirements of paragraph (3) and  
19 using as a discount rate the average annual interest  
20 rate of tax-exempt obligations having a term of 10  
21 years or more which are issued during the month. If  
22 the term as so determined is not a multiple of a  
23 whole year, such term shall be rounded to the next  
24 highest whole year.

1           “(3) RATABLE PRINCIPAL AMORTIZATION RE-  
2           QUIRED.—A bond shall not be treated as a rural  
3           renaissance bond unless it is part of an issue which  
4           provides for an equal amount of principal to be paid  
5           by the qualified issuer during each calendar year  
6           that the issue is outstanding.

7           “(f) LIMITATION ON AMOUNT OF BONDS DES-  
8           IGNATED.—

9           “(1) NATIONAL LIMITATION.—There is a na-  
10          tional rural renaissance bond limitation of  
11          \$400,000,000.

12          “(2) ALLOCATION BY SECRETARY.—

13                 “(A) IN GENERAL.—In accordance with  
14                 subparagraph (B), the Secretary shall allocate  
15                 the amount described in paragraph (1) among  
16                 at least 20 qualified projects, or such lesser  
17                 number of qualified projects with proper appli-  
18                 cations filed after 12 months after the adoption  
19                 of the selection process under subparagraph  
20                 (B).

21                 “(B) SELECTION PROCESS.—In consulta-  
22                 tion with the Secretary of Agriculture, the Sec-  
23                 retary shall adopt a process to select projects  
24                 described in subparagraph (A). Under such  
25                 process, the Secretary shall not allocate more

1           than 15 percent of the allocation under sub-  
2           paragraph (A) to qualified projects within a sin-  
3           gle State.

4           “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross  
5 income includes the amount of the credit allowed to the  
6 taxpayer under this section (determined without regard to  
7 subsection (c)) and the amount so included shall be treat-  
8 ed as interest income.

9           “(h) SPECIAL RULES RELATING TO EXPENDI-  
10 TURES.—

11           “(1) IN GENERAL.—An issue shall be treated as  
12 meeting the requirements of this subsection if, as of  
13 the date of issuance, the qualified issuer reasonably  
14 expects—

15           “(A) at least 95 percent of the proceeds  
16 from the sale of the issue are to be spent for  
17 1 or more qualified projects within the 5-year  
18 period beginning on the date of issuance of the  
19 rural renaissance bond,

20           “(B) a binding commitment with a third  
21 party to spend at least 10 percent of the pro-  
22 ceeds from the sale of the issue will be incurred  
23 within the 6-month period beginning on the  
24 date of issuance of the rural renaissance bond  
25 or, in the case of a rural renaissance bond the

1           proceeds of which are to be loaned to 2 or more  
2           qualified borrowers, such binding commitment  
3           will be incurred within the 6-month period be-  
4           ginning on the date of the loan of such proceeds  
5           to a qualified borrower, and

6           “(C) such projects will be completed with  
7           due diligence and the proceeds from the sale of  
8           the issue will be spent with due diligence.

9           “(2) EXTENSION OF PERIOD.—Upon submis-  
10          sion of a request prior to the expiration of the period  
11          described in paragraph (1)(A), the Secretary may  
12          extend such period if the qualified issuer establishes  
13          that the failure to satisfy the 5-year requirement is  
14          due to reasonable cause and the related projects will  
15          continue to proceed with due diligence.

16          “(3) FAILURE TO SPEND REQUIRED AMOUNT  
17          OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
18          tent that less than 95 percent of the proceeds of  
19          such issue are expended by the close of the 5-year  
20          period beginning on the date of issuance (or if an  
21          extension has been obtained under paragraph (2), by  
22          the close of the extended period), the qualified issuer  
23          shall redeem all of the nonqualified bonds within 90  
24          days after the end of such period. For purposes of  
25          this paragraph, the amount of the nonqualified

1 bonds required to be redeemed shall be determined  
2 in the same manner as under section 142.

3 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A  
4 bond which is part of an issue shall not be treated as a  
5 rural renaissance bond unless, with respect to the issue  
6 of which the bond is a part, the qualified issuer satisfies  
7 the arbitrage requirements of section 148 with respect to  
8 proceeds of the issue.

9 “(j) DEFINITIONS AND SPECIAL RULES RELATING  
10 TO ISSUERS AND BORROWERS.—For purposes of this sec-  
11 tion—

12 “(1) QUALIFIED ISSUER.—The term ‘qualified  
13 issuer’ means—

14 “(A) a rural renaissance bond lender,

15 “(B) a cooperative electric company, or

16 “(C) a governmental body.

17 “(2) QUALIFIED BORROWER.—The term ‘quali-  
18 fied borrower’ means—

19 “(A) a mutual or cooperative electric com-  
20 pany described in section 501(c)(12) or  
21 1381(a)(2)(C), or

22 “(B) a governmental body.

23 “(3) RURAL RENAISSANCE BOND LENDER.—  
24 The term ‘rural renaissance bond lender’ means a  
25 lender which is a cooperative which is owned by, or

1 has outstanding loans to, 100 or more cooperative  
2 electric companies and is in existence on February  
3 1, 2002, and shall include any affiliated entity which  
4 is controlled by such lender.

5 “(4) COOPERATIVE ELECTRIC COMPANY.—The  
6 term ‘cooperative electric company’ means a mutual  
7 or cooperative electric company described in section  
8 501(c)(12) or section 1381(a)(2)(C), or a not-for-  
9 profit electric utility which has received a loan or  
10 loan guarantee under the Rural Electrification Act.

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

16 “(k) SPECIAL RULES RELATING TO POOL BONDS.—  
17 No portion of a pooled financing bond may be allocable  
18 to loan unless the borrower has entered into a written loan  
19 commitment for such portion prior to the issue date of  
20 such issue.

21 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—  
22 For purposes of this section—

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

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

4           “(3) RURAL AREA.—The term ‘rural area’ shall  
5           have the meaning given such term by section  
6           1393(a)(2).

7           “(4) PARTNERSHIP; S CORPORATION; AND  
8           OTHER PASS-THRU ENTITIES.—

9                   “(A) IN GENERAL.—Under regulations  
10                   prescribed by the Secretary, in the case of a  
11                   partnership, trust, S corporation, or other pass-  
12                   thru entity, rules similar to the rules of section  
13                   41(g) shall apply with respect to the credit al-  
14                   lowable under subsection (a).

15                   “(B) NO BASIS ADJUSTMENT.—In the case  
16                   of a bond held by a partnership or an S cor-  
17                   poration, rules similar to the rules under sec-  
18                   tion 1397E(i) shall apply.

19           “(5) BONDS HELD BY REGULATED INVEST-  
20           MENT COMPANIES.—If any rural renaissance bond is  
21           held by a regulated investment company, the credit  
22           determined under subsection (a) shall be allowed to  
23           shareholders of such company under procedures pre-  
24           scribed by the Secretary.

1           “(6) REPORTING.—Issuers of rural renaissance  
2 bonds shall submit reports similar to the reports re-  
3 quired under section 149(e).

4           “(7) TERMINATION.—This section shall not  
5 apply with respect to any bond issued after Decem-  
6 ber 31, 2008.”.

7           (b) REPORTING.—Subsection (d) of section 6049 (re-  
8 lating to returns regarding payments of interest) is  
9 amended by adding at the end the following new para-  
10 graph:

11           “(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

12           “(A) IN GENERAL.—For purposes of sub-  
13 section (a), the term ‘interest’ includes amounts  
14 includible in gross income under section 54A(g)  
15 and such amounts shall be treated as paid on  
16 the credit allowance date (as defined in section  
17 54A(b)(4)).

18           “(B) REPORTING TO CORPORATIONS,  
19 ETC.—Except as otherwise provided in regula-  
20 tions, in the case of any interest described in  
21 subparagraph (A), subsection (b)(4) shall be  
22 applied without regard to subparagraphs (A),  
23 (H), (I), (J), (K), and (L)(i) of such subsection.  
24

1           “(C) REGULATORY AUTHORITY.—The Sec-  
2           retary may prescribe such regulations as are  
3           necessary or appropriate to carry out the pur-  
4           poses of this paragraph, including regulations  
5           which require more frequent or more detailed  
6           reporting.”.

7           (c) CONFORMING AMENDMENTS.—

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

          “Sec. 54A. Credit to holders of rural renaissance bonds.”.

11          (2) Section 54(c)(2) is amended by inserting  
12          “section 54A,” after “subpart C,”.

13          (d) ISSUANCE OF REGULATIONS.—The Secretary of  
14          Treasury shall issue regulations required under section  
15          54A (as added by this section) not later than 120 days  
16          after the date of the enactment of this Act.

17          (e) EFFECTIVE DATE.—The amendments made by  
18          this section shall apply to bonds issued after the date of  
19          the enactment of this Act.

20          **SEC. 405. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

21          (a) IN GENERAL.—Subpart D of part IV of sub-  
22          chapter A of chapter 1 (relating to business related cred-  
23          its) is amended by adding at the end the following new  
24          section:

1 **“SEC. 450. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

2       “(a) IN GENERAL.—For purposes of section 38, in  
3 the case of an eligible agricultural business, the agricul-  
4 tural chemicals security credit determined under this sec-  
5 tion for the taxable year is 30 percent of the qualified se-  
6 curity expenditures for the taxable year.

7       “(b) FACILITY LIMITATION.—The amount of the  
8 credit determined under subsection (a) with respect to any  
9 facility for any taxable year shall not exceed—

10               “(1) \$100,000, reduced by

11               “(2) the aggregate amount of credits deter-  
12 mined under subsection (a) with respect to such fa-  
13 cility for the 5 prior taxable years.

14       “(c) ANNUAL LIMITATION.—The amount of the cred-  
15 it determined under subsection (a) with respect to any tax-  
16 payer for any taxable year shall not exceed \$2,000,000.

17       “(d) QUALIFIED CHEMICAL SECURITY EXPENDI-  
18 TURE.—For purposes of this section, the term ‘qualified  
19 chemical security expenditure’ means, with respect to any  
20 eligible agricultural business for any taxable year, any  
21 amount paid or incurred by such business during such tax-  
22 able year for—

23               “(1) employee security training and background  
24 checks,

1           “(2) limitation and prevention of access to con-  
2           trols of specified agricultural chemicals stored at the  
3           facility,

4           “(3) tagging, locking tank valves, and chemical  
5           additives to prevent the theft of specified agricul-  
6           tural chemicals or to render such chemicals unfit for  
7           illegal use,

8           “(4) protection of the perimeter of specified ag-  
9           ricultural chemicals,

10           “(5) installation of security lighting, cameras,  
11           recording equipment, and intrusion detection sen-  
12           sors,

13           “(6) implementation of measures to increase  
14           computer or computer network security,

15           “(7) conducting a security vulnerability assess-  
16           ment,

17           “(8) implementing a site security plan, and

18           “(9) such other measures for the protection of  
19           specified agricultural chemicals as the Secretary may  
20           identify in regulation.

21 Amounts described in the preceding sentence shall be  
22 taken into account only to the extent that such amounts  
23 are paid or incurred for the purpose of protecting specified  
24 agricultural chemicals.

1       “(e) ELIGIBLE AGRICULTURAL BUSINESS.—For pur-  
2 poses of this section, the term ‘eligible agricultural busi-  
3 ness’ means any person in the trade or business of—

4           “(1) selling agricultural products, including  
5 specified agricultural chemicals, at retail predomi-  
6 nantly to farmers and ranchers, or

7           “(2) manufacturing, formulating, distributing,  
8 or aerially applying specified agricultural chemicals.

9       “(f) SPECIFIED AGRICULTURAL CHEMICAL.—For  
10 purposes of this section, the term ‘specified agricultural  
11 chemical’ means—

12           “(1) any fertilizer commonly used in agricul-  
13 tural operations which is listed under—

14           “(A) section 302(a)(2) of the Emergency  
15 Planning and Community Right-to-Know Act of  
16 1986,

17           “(B) section 101 of part 172 of title 49,  
18 Code of Federal Regulations, or

19           “(C) part 126, 127, or 154 of title 33,  
20 Code of Federal Regulations, and

21           “(2) any pesticide (as defined in section 2(u) of  
22 the Federal Insecticide, Fungicide, and Rodenticide  
23 Act), including all active and inert ingredients there-  
24 of, which is customarily used on crops grown for  
25 food, feed, or fiber.

1       “(g) CONTROLLED GROUPS.—Rules similar to the  
2 rules of paragraphs (1) and (2) of section 41(f) shall apply  
3 for purposes of this section.

4       “(h) REGULATIONS.—The Secretary may prescribe  
5 such regulations as may be necessary or appropriate to  
6 carry out the purposes of this section, including regula-  
7 tions which—

8               “(1) provide for the proper treatment of  
9 amounts which are paid or incurred for purpose of  
10 protecting any specified agricultural chemical and  
11 for other purposes, and

12               “(2) provide for the treatment of related prop-  
13 erties as one facility for purposes of subsection (b).

14       “(i) TERMINATION.—This section shall not apply to  
15 any amount paid or incurred after December 31, 2012.”.

16       (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
17 NESS CREDIT.—Section 38(b) is amended by striking  
18 “plus” at the end of paragraph (30), by striking the period  
19 at the end of paragraph (31) and inserting “, plus”, and  
20 by adding at the end the following new paragraph:

21               “(32) in the case of an eligible agricultural  
22 business (as defined in section 45O(e)), the agricul-  
23 tural chemicals security credit determined under sec-  
24 tion 45O(a).”.

1 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C is  
 2 amended by adding at the end the following new sub-  
 3 section:

4 “(f) CREDIT FOR SECURITY OF AGRICULTURAL  
 5 CHEMICALS.—No deduction shall be allowed for that por-  
 6 tion of the expenses otherwise allowable as a deduction  
 7 taken into account in determining the credit under section  
 8 450 for the taxable year which is equal to the amount  
 9 of the credit determined for such taxable year under sec-  
 10 tion 450(a).”.

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

“Sec. 450. Agricultural chemicals security credit.”.

14 (e) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to amounts paid or incurred after  
 16 the date of the enactment of this Act.

17 **SEC. 406. CREDIT FOR DRUG SAFETY AND EFFECTIVENESS**  
 18 **TESTING FOR MINOR ANIMAL SPECIES.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-  
 20 chapter A of chapter 1 (relating to business related cred-  
 21 its), as amended by this Act, is amended by adding at  
 22 the end the following new section:

1 **“SEC. 45P. DRUG SAFETY AND EFFECTIVENESS TESTING**  
2 **FOR MINOR ANIMAL SPECIES.**

3 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
4 tion 38, in the case of an eligible taxpayer, the drug safety  
5 and effectiveness testing for minor animal species credit  
6 determined under this section for the taxable year shall  
7 be an amount equal to 50 percent of the qualified safety  
8 and effectiveness testing expenses paid or incurred by the  
9 taxpayer during the taxable year.

10 “(b) ELIGIBLE TAXPAYER.—For purposes of this  
11 section, the term ‘eligible taxpayer’ any taxpayer—

12 “(1) which—

13 “(A) applies for the designation of a new  
14 animal drug for use on a minor animal species  
15 under section 573 of the Federal Food, Drug,  
16 and Cosmetic Act, or

17 “(B) owns animals which are the subject  
18 of safety and effectiveness testing, and

19 “(2) which elects the application of this section  
20 for the taxable year.

21 “(c) QUALIFIED SAFETY AND EFFECTIVENESS  
22 TESTING EXPENSES.—For purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified safety  
24 and effectiveness testing expenses’ means the sum of  
25 the following amounts which are paid or incurred by

1 the eligible taxpayer during the taxable year in car-  
2 rying on any trade or business of such taxpayer:

3 “(A) In-house safety and effectiveness test-  
4 ing expenses.

5 “(B) Contract safety and effectiveness  
6 testing expenses.

7 Such term does not include any amount to the ex-  
8 tent such amount is funded by any grant, contract,  
9 or otherwise by another person (or any governmental  
10 entity).

11 “(2) IN-HOUSE SAFETY AND EFFECTIVENESS  
12 TESTING EXPENSES.—

13 “(A) IN GENERAL.—The term ‘in-house  
14 safety and effectiveness testing expenses’  
15 means—

16 “(i) any wages paid or incurred to an  
17 employee for qualified services performed  
18 by such employee,

19 “(ii) any amount paid or incurred for  
20 supplies used in the conduct of safety and  
21 effectiveness testing, and

22 “(iii) under regulations prescribed by  
23 the Secretary, any amount paid or in-  
24 curred to another person for the right to

1           use computers in the conduct of safety and  
2           effectiveness testing.

3           Clause (iii) shall not apply to any amount to  
4           the extent that the taxpayer (or any person  
5           with whom the taxpayer must aggregate ex-  
6           penditures under rules specified under sub-  
7           section (f)(2)) receives or accrues any amount  
8           from any other person for the right to use sub-  
9           stantially identical personal property.

10           “(B) QUALIFIED SERVICES.—The term  
11           ‘qualified services’ means services consisting  
12           of—

13                   “(i) engaging in safety and effective-  
14                   ness testing, or

15                   “(ii) engaging in the direct super-  
16                   vision or direct support of such testing.

17           If substantially all of the services performed by  
18           an individual for the taxpayer during the tax-  
19           able year consists of services meeting the re-  
20           quirements of clause (i) or (ii), the term ‘quali-  
21           fied services’ means all of the services per-  
22           formed by such individual for the taxpayer dur-  
23           ing the taxable year.

1           “(C) WAGES AND SUPPLIES.—The terms  
2           ‘wages’ and ‘supplies’ have the meanings given  
3           such terms by section 41(b).

4           “(3) CONTRACT SAFETY AND EFFECTIVENESS  
5           TESTING EXPENSES.—

6           “(A) IN GENERAL.—The term ‘contract  
7           safety and effectiveness testing expenses’ means  
8           any amount paid or incurred by the taxpayer to  
9           any person (other than an employee of the tax-  
10          payer) for safety and effectiveness testing.

11          “(B) PREPAID AMOUNTS.—If any contract  
12          safety and effectiveness testing expenses paid or  
13          incurred during any taxable year are attrib-  
14          utable to safety and effectiveness testing to be  
15          conducted after the close of such taxable year,  
16          such amount shall be treated as paid or in-  
17          curred during the period during which the safe-  
18          ty and effectiveness testing is conducted.

19          “(d) SAFETY AND EFFECTIVENESS TESTING.—For  
20          purposes of this section—

21          “(1) IN GENERAL.—The term ‘safety and effec-  
22          tiveness testing’ means any testing which—

23                  “(A) is related to the use of a new animal  
24                  drug for use on a minor animal species for

1 which it was designated under section 573 of  
2 the Federal Food, Drug, and Cosmetic Act,

3 “(B) is carried out under an exemption for  
4 such new animal drug under section 512(j) of  
5 such Act (or regulations issued under such sec-  
6 tion),

7 “(C) occurs—

8 “(i) after the date on which the appli-  
9 cation for designation of such new animal  
10 drug under section 573 of such Act is  
11 filed, and

12 “(ii) before the date on which such  
13 application is approved under section  
14 512(e) of such Act, and

15 “(D) which is conducted by or on behalf of  
16 an eligible taxpayer.

17 “(2) MINOR ANIMAL SPECIES.—

18 “(A) IN GENERAL.—The term ‘minor ani-  
19 mal species’ means animals, other than hu-  
20 mans, which are not major animal species.

21 “(B) MAJOR ANIMAL SPECIES.—The term  
22 ‘major animal species’ means cattle, horses,  
23 swine, chickens, turkeys, dogs, cats, and any  
24 other species as determined by the Secretary,

1           after consultation with the Secretary of Agri-  
2           culture.

3           “(e) TREATMENT OF QUALIFIED SAFETY AND EF-  
4 FECTIVENESS TESTING EXPENSES.—

5           “(1) IN GENERAL.—Except as provided in para-  
6 graph (2), any qualified safety and effectiveness  
7 testing expenses for a taxable year to which an elec-  
8 tion under this section applies shall not be taken  
9 into account for purposes of determining the credit  
10 allowable under section 41 for such taxable year.

11           “(2) TREATED AS BASE PERIOD RESEARCH EX-  
12 PENSES.—Any qualified safe and effectiveness test-  
13 ing expenses for any taxable year which are qualified  
14 research expenses (within the meaning of section  
15 41(b)) shall be taken into account in determining  
16 base period research expenses for purposes of apply-  
17 ing section 41 to subsequent taxable years.

18           “(f) SPECIAL RULES.—

19           “(1) LIMITATION.—No credit shall be allowed  
20 under this section with respect to any safety and ef-  
21 fectiveness testing conducted by a corporation to  
22 which an election under section 936 applies.

23           “(2) AGGREGATION OF EXPENDITURES AND AL-  
24 LOCATIONS OF CREDIT.—Rules similar to the rules

1 of paragraphs (1) and (2) of section 41(f) and sec-  
2 tion 41(g) shall apply for purposes of this section.”.

3 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
4 NESS CREDIT.—Section 38(b), as amended by this Act,  
5 is amended by striking “plus” at the end of paragraph  
6 (31), by striking the period at the end of paragraph (32)  
7 and inserting “, plus”, and by adding at the end the fol-  
8 lowing new paragraph:

9 “(33) the drug safety and effectiveness testing  
10 for minor animal species credit determined under  
11 section 45P(a).”.

12 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C,  
13 as amended by this Act, is amended by adding at the end  
14 the following new subsection:

15 “(g) DRUG SAFETY AND EFFECTIVENESS TESTING  
16 FOR MINOR ANIMAL SPECIES CREDIT.—

17 “(1) IN GENERAL.—No deduction shall be al-  
18 lowed for that portion of the qualified safety and ef-  
19 fectiveness testing expenses (as defined in section  
20 45P(e)(1)) otherwise allowable as a deduction for  
21 the taxable year which is equal to the amount of the  
22 credit determined for such taxable year under sec-  
23 tion 45P(a).

24 “(2) SIMILAR RULE WHERE TAXPAYER CAP-  
25 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—



1 (vi)(III) and inserting “, and”, and by inserting after  
2 clause (vi) the following new clause:

3 “(vii) any machinery or equipment  
4 (other than any grain bin, cotton ginning  
5 asset, fence, or other land improvement)  
6 which is used in a farming business (as de-  
7 fined in section 263A(e)(4)), the original  
8 use of which commences with the taxpayer  
9 after the date of the enactment of this  
10 clause, and which is placed in service be-  
11 fore January 1, 2010.”.

12 (b) ALTERNATIVE SYSTEM.—The table contained in  
13 section 168(g)(3)(B) (relating to special rule for certain  
14 property assigned to classes) is amended by inserting after  
15 the item relating to subparagraph (B)(iii) the following:

“(B)(vii) ..... 10”.

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

19 **SEC. 408. EXPENSING OF BROADBAND INTERNET ACCESS**  
20 **EXPENDITURES.**

21 (a) IN GENERAL.—Part VI of subchapter B of chap-  
22 ter 1 (relating to itemized deductions for individuals and

1 corporations) is amended by inserting after section 190  
2 the following new section:

3 **“SEC. 191. BROADBAND EXPENDITURES.**

4 “(a) TREATMENT OF EXPENDITURES.—

5 “(1) IN GENERAL.—A taxpayer may elect to  
6 treat any qualified broadband expenditure which is  
7 paid or incurred by the taxpayer as an expense  
8 which is not chargeable to a capital account. Any ex-  
9 penditure which is so treated shall be allowed as a  
10 deduction.

11 “(2) ELECTION.—An election under paragraph  
12 (1) shall be made at such time and in such manner  
13 as the Secretary may prescribe by regulation.

14 “(b) QUALIFIED BROADBAND EXPENDITURES.—For  
15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified  
17 broadband expenditure’ means, with respect to any  
18 taxable year, any direct or indirect costs incurred  
19 after the date of the enactment of this section, and  
20 on or before the first December 31 which is 3 years  
21 after such date, and properly taken into account  
22 with respect to—

23 “(A) the purchase or installation of quali-  
24 fied equipment (including any upgrades there-  
25 to), and

1           “(B) the connection of such qualified  
2           equipment to any qualified subscriber.

3           “(2) CERTAIN SATELLITE EXPENDITURES EX-  
4           CLUDED.—Such term shall not include any costs in-  
5           curred with respect to the launching of any satellite  
6           equipment.

7           “(3) LEASED EQUIPMENT.—Such term shall in-  
8           clude so much of the purchase price paid by the les-  
9           sor of qualified equipment subject to a lease de-  
10          scribed in subsection (c)(2)(B) as is attributable to  
11          expenditures incurred by the lessee which would oth-  
12          erwise be described in paragraph (1).

13          “(4) LIMITATION WITH REGARD TO CURRENT  
14          GENERATION BROADBAND SERVICES.—Only 50 per-  
15          cent of the amounts taken into account under para-  
16          graph (1) with respect to qualified equipment  
17          through which current generation broadband serv-  
18          ices are provided shall be treated as qualified  
19          broadband expenditures.

20          “(c) WHEN EXPENDITURES TAKEN INTO AC-  
21          COUNT.—For purposes of this section—

22                 “(1) IN GENERAL.—Qualified broadband ex-  
23                 penditures with respect to qualified equipment shall  
24                 be taken into account with respect to the first tax-  
25                 able year in which—

1           “(A) current generation broadband services  
2 are provided through such equipment to quali-  
3 fied subscribers, or

4           “(B) next generation broadband services  
5 are provided through such equipment to quali-  
6 fied subscribers.

7           “(2) LIMITATION.—

8           “(A) IN GENERAL.—Qualified expenditures  
9 shall be taken into account under paragraph (1)  
10 only with respect to qualified equipment—

11           “(i) the original use of which com-  
12 mences with the taxpayer, and

13           “(ii) which is placed in service after  
14 the date of the enactment of this Act.

15           “(B) SALE-LEASEBACKS.—For purposes of  
16 subparagraph (A), if property—

17           “(i) is originally placed in service  
18 after the date of the enactment of this Act  
19 by any person, and

20           “(ii) sold and leased back by such per-  
21 son within 3 months after the date such  
22 property was originally placed in service,  
23 such property shall be treated as originally  
24 placed in service not earlier than the date on

1           which such property is used under the leaseback  
2           referred to in clause (ii).

3           “(d) SPECIAL ALLOCATION RULES.—

4           “(1) CURRENT GENERATION BROADBAND SERV-  
5           ICES.—For purposes of determining the amount of  
6           qualified broadband expenditures under subsection  
7           (a)(1) with respect to qualified equipment through  
8           which current generation broadband services are  
9           provided, if the qualified equipment is capable of  
10          serving both qualified subscribers and other sub-  
11          scribers, the qualified broadband expenditures shall  
12          be multiplied by a fraction—

13                 “(A) the numerator of which is the sum of  
14                 the number of potential qualified subscribers  
15                 within the rural areas and the underserved  
16                 areas which the equipment is capable of serving  
17                 with current generation broadband services, and

18                 “(B) the denominator of which is the total  
19                 potential subscriber population of the area  
20                 which the equipment is capable of serving with  
21                 current generation broadband services.

22           “(2) NEXT GENERATION BROADBAND SERV-  
23           ICES.—For purposes of determining the amount of  
24           qualified broadband expenditures under subsection  
25           (a)(1) with respect to qualified equipment through

1 which next generation broadband services are pro-  
2 vided, if the qualified equipment is capable of serv-  
3 ing both qualified subscribers and other subscribers,  
4 the qualified broadband expenditures shall be multi-  
5 plied by a fraction—

6 “(A) the numerator of which is the sum  
7 of—

8 “(i) the number of potential qualified  
9 subscribers within the rural areas and un-  
10 derserved areas, plus

11 “(ii) the number of potential qualified  
12 subscribers within the area consisting only  
13 of residential subscribers not described in  
14 clause (i),

15 which the equipment is capable of serving with  
16 next generation broadband services, and

17 “(B) the denominator of which is the total  
18 potential subscriber population of the area  
19 which the equipment is capable of serving with  
20 next generation broadband services.

21 “(e) DEFINITIONS.—For purposes of this section—

22 “(1) ANTENNA.—The term ‘antenna’ means  
23 any device used to transmit or receive signals  
24 through the electromagnetic spectrum, including sat-  
25 ellite equipment.

1           “(2) CABLE OPERATOR.—The term ‘cable oper-  
2           ator’ has the meaning given such term by section  
3           602(5) of the Communications Act of 1934 (47  
4           U.S.C. 522(5)).

5           “(3) COMMERCIAL MOBILE SERVICE CAR-  
6           RIER.—The term ‘commercial mobile service carrier’  
7           means any person authorized to provide commercial  
8           mobile radio service as defined in section 20.3 of  
9           title 47, Code of Federal Regulations.

10           “(4) CURRENT GENERATION BROADBAND SERV-  
11           ICE.—The term ‘current generation broadband serv-  
12           ice’ means the transmission of signals at a rate of  
13           at least 5,000,000 bits per second to the subscriber  
14           and at least 1,000,000 bits per second from the sub-  
15           scriber.

16           “(5) MULTIPLEXING OR DEMULTIPLEXING.—  
17           The term ‘multiplexing’ means the transmission of 2  
18           or more signals over a single channel, and the term  
19           ‘demultiplexing’ means the separation of 2 or more  
20           signals previously combined by compatible multi-  
21           plexing equipment.

22           “(6) NEXT GENERATION BROADBAND SERV-  
23           ICE.—The term ‘next generation broadband service’  
24           means the transmission of signals at a rate of at  
25           least 100,000,000 bits per second to the subscriber

1 and at least 20,000,000 bits per second from the  
2 subscriber.

3 “(7) NONRESIDENTIAL SUBSCRIBER.—The  
4 term ‘nonresidential subscriber’ means any person  
5 who purchases broadband services which are deliv-  
6 ered to the permanent place of business of such per-  
7 son.

8 “(8) OPEN VIDEO SYSTEM OPERATOR.—The  
9 term ‘open video system operator’ means any person  
10 authorized to provide service under section 653 of  
11 the Communications Act of 1934 (47 U.S.C. 573).

12 “(9) OTHER WIRELESS CARRIER.—The term  
13 ‘other wireless carrier’ means any person (other than  
14 a telecommunications carrier, commercial mobile  
15 service carrier, cable operator, open video system op-  
16 erator, or satellite carrier) providing current genera-  
17 tion broadband services or next generation  
18 broadband service to subscribers through the radio  
19 transmission of energy.

20 “(10) PACKET SWITCHING.—The term ‘packet  
21 switching’ means controlling or routing the path of  
22 any digitized transmission signal which is assembled  
23 into packets or cells.

24 “(11) PROVIDER.—The term ‘provider’ means,  
25 with respect to any qualified equipment—

- 1           “(A) a cable operator,
- 2           “(B) a commercial mobile service carrier,
- 3           “(C) an open video system operator,
- 4           “(D) a satellite carrier,
- 5           “(E) a telecommunications carrier, or
- 6           “(F) any other wireless carrier,

7           providing current generation broadband services or  
8           next generation broadband services to subscribers  
9           through such qualified equipment.

10           “(12) PROVISION OF SERVICES.—A provider  
11           shall be treated as providing services to 1 or more  
12           subscribers if—

13                   “(A) such a subscriber has been passed by  
14                   the provider’s equipment and can be connected  
15                   to such equipment for a standard connection  
16                   fee,

17                   “(B) the provider is physically able to de-  
18                   liver current generation broadband services or  
19                   next generation broadband services, as applica-  
20                   ble, to such a subscriber without making more  
21                   than an insignificant investment with respect to  
22                   such subscriber,

23                   “(C) the provider has made reasonable ef-  
24                   forts to make such subscribers aware of the  
25                   availability of such services,

1           “(D) such services have been purchased by  
2           1 or more such subscribers, and

3           “(E) such services are made available to  
4           such subscribers at average prices comparable  
5           to those at which the provider makes available  
6           similar services in any areas in which the pro-  
7           vider makes available such services.

8           “(13) QUALIFIED EQUIPMENT.—

9           “(A) IN GENERAL.—The term ‘qualified  
10          equipment’ means equipment which provides  
11          current generation broadband services or next  
12          generation broadband services—

13                 “(i) at least a majority of the time  
14                 during periods of maximum demand to  
15                 each subscriber who is utilizing such serv-  
16                 ices, and

17                 “(ii) in a manner substantially the  
18                 same as such services are provided by the  
19                 provider to subscribers through equipment  
20                 with respect to which no deduction is al-  
21                 lowed under subsection (a)(1).

22           “(B) ONLY CERTAIN INVESTMENT TAKEN  
23          INTO ACCOUNT.—Except as provided in sub-  
24          paragraph (C) or (D), equipment shall be taken

1 into account under subparagraph (A) only to  
2 the extent it—

3 “(i) extends from the last point of  
4 switching to the outside of the unit, build-  
5 ing, dwelling, or office owned or leased by  
6 a subscriber in the case of a telecommuni-  
7 cations carrier or broadband-over-powerline  
8 operator,

9 “(ii) extends from the customer side  
10 of the mobile telephone switching office to  
11 a transmission/receive antenna (including  
12 such antenna) owned or leased by a sub-  
13 scriber in the case of a commercial mobile  
14 service carrier,

15 “(iii) extends from the customer side  
16 of the headend to the outside of the unit,  
17 building, dwelling, or office owned or  
18 leased by a subscriber in the case of a  
19 cable operator or open video system oper-  
20 ator, or

21 “(iv) extends from a transmission/re-  
22 ceive antenna (including such antenna)  
23 which transmits and receives signals to or  
24 from multiple subscribers, to a trans-  
25 mission/receive antenna (including such

1 antenna) on the outside of the unit, build-  
2 ing, dwelling, or office owned or leased by  
3 a subscriber in the case of a satellite car-  
4 rier or other wireless carrier, unless such  
5 other wireless carrier is also a tele-  
6 communications carrier.

7 “(C) PACKET SWITCHING EQUIPMENT.—  
8 Packet switching equipment, regardless of loca-  
9 tion, shall be taken into account under subpara-  
10 graph (A) only if it is deployed in connection  
11 with equipment described in subparagraph (B)  
12 and is uniquely designed to perform the func-  
13 tion of packet switching for current generation  
14 broadband services or next generation  
15 broadband services, but only if such packet  
16 switching is the last in a series of such func-  
17 tions performed in the transmission of a signal  
18 to a subscriber or the first in a series of such  
19 functions performed in the transmission of a  
20 signal from a subscriber.

21 “(D) MULTIPLEXING AND  
22 DEMULTIPLEXING EQUIPMENT.—Multiplexing  
23 and demultiplexing equipment shall be taken  
24 into account under subparagraph (A) only to  
25 the extent it is deployed in connection with

1 equipment described in subparagraph (B) and  
2 is uniquely designed to perform the function of  
3 multiplexing and demultiplexing packets or cells  
4 of data and making associated application  
5 adaptations, but only if such multiplexing or  
6 demultiplexing equipment is located between  
7 packet switching equipment described in sub-  
8 paragraph (C) and the subscriber's premises.

9 “(14) QUALIFIED SUBSCRIBER.—The term  
10 ‘qualified subscriber’ means—

11 “(A) with respect to the provision of cur-  
12 rent generation broadband services—

13 “(i) any nonresidential subscriber  
14 maintaining a permanent place of business  
15 in a rural area or underserved area, or

16 “(ii) any residential subscriber resid-  
17 ing in a dwelling located in a rural area or  
18 underserved area which is not a saturated  
19 market, and

20 “(B) with respect to the provision of next  
21 generation broadband services—

22 “(i) any nonresidential subscriber  
23 maintaining a permanent place of business  
24 in a rural area or underserved area, or

25 “(ii) any residential subscriber.

1           “(15) RESIDENTIAL SUBSCRIBER.—The term  
2           ‘residential subscriber’ means any individual who  
3           purchases broadband services which are delivered to  
4           such individual’s dwelling.

5           “(16) RURAL AREA.—The term ‘rural area’  
6           means any census tract which—

7                   “(A) is not within 10 miles of any incor-  
8                   porated or census designated place containing  
9                   more than 25,000 people, and

10                   “(B) is not within a county or county  
11                   equivalent which has an overall population den-  
12                   sity of more than 500 people per square mile of  
13                   land.

14           “(17) RURAL SUBSCRIBER.—The term ‘rural  
15           subscriber’ means any residential subscriber residing  
16           in a dwelling located in a rural area or nonresiden-  
17           tial subscriber maintaining a permanent place of  
18           business located in a rural area.

19           “(18) SATELLITE CARRIER.—The term ‘sat-  
20           ellite carrier’ means any person using the facilities  
21           of a satellite or satellite service licensed by the Fed-  
22           eral Communications Commission and operating in  
23           the Fixed-Satellite Service under part 25 of title 47  
24           of the Code of Federal Regulations or the Direct  
25           Broadcast Satellite Service under part 100 of title

1 47 of such Code to establish and operate a channel  
2 of communications for distribution of signals, and  
3 owning or leasing a capacity or service on a satellite  
4 in order to provide such point-to-multipoint distribu-  
5 tion.

6 “(19) SATURATED MARKET.—The term ‘satu-  
7 rated market’ means any census tract in which, as  
8 of the date of the enactment of this section—

9 “(A) current generation broadband services  
10 have been provided by a single provider to 85  
11 percent or more of the total number of potential  
12 residential subscribers residing in dwellings lo-  
13 cated within such census tract, and

14 “(B) such services can be utilized—

15 “(i) at least a majority of the time  
16 during periods of maximum demand by  
17 each such subscriber who is utilizing such  
18 services, and

19 “(ii) in a manner substantially the  
20 same as such services are provided by the  
21 provider to subscribers through equipment  
22 with respect to which no deduction is al-  
23 lowed under subsection (a)(1).

24 “(20) SUBSCRIBER.—The term ‘subscriber’  
25 means any person who purchases current generation

1 broadband services or next generation broadband  
2 services.

3 “(21) TELECOMMUNICATIONS CARRIER.—The  
4 term ‘telecommunications carrier’ has the meaning  
5 given such term by section 3(44) of the Communica-  
6 tions Act of 1934 (47 U.S.C. 153(44)), but—

7 “(A) includes all members of an affiliated  
8 group of which a telecommunications carrier is  
9 a member, and

10 “(B) does not include a commercial mobile  
11 service carrier.

12 “(22) TOTAL POTENTIAL SUBSCRIBER POPU-  
13 LATION.—The term ‘total potential subscriber popu-  
14 lation’ means, with respect to any area and based on  
15 the most recent census data, the total number of po-  
16 tential residential subscribers residing in dwellings  
17 located in such area and potential nonresidential  
18 subscribers maintaining permanent places of busi-  
19 ness located in such area.

20 “(23) UNDERSERVED AREA.—The term ‘under-  
21 served area’ means—

22 “(A) any census tract which is located in—

23 “(i) an empowerment zone or enter-  
24 prise community designated under section  
25 1391, or

1           “(ii) the District of Columbia Enter-  
2           prise Zone established under section 1400,  
3           or

4           “(B) any census tract—

5           “(i) the poverty level of which is at  
6           least 30 percent (based on the most recent  
7           census data), and

8           “(ii) the median family income of  
9           which does not exceed—

10           “(I) in the case of a census tract  
11           located in a metropolitan statistical  
12           area, 70 percent of the greater of the  
13           metropolitan area median family in-  
14           come or the statewide median family  
15           income, and

16           “(II) in the case of a census tract  
17           located in a nonmetropolitan statis-  
18           tical area, 70 percent of the non-  
19           metropolitan statewide median family  
20           income.

21           “(24) UNDERSERVED SUBSCRIBER.—The term  
22           ‘underserved subscriber’ means any residential sub-  
23           scriber residing in a dwelling located in an under-  
24           served area or nonresidential subscriber maintaining

1 a permanent place of business located in an under-  
2 served area.

3 “(f) SPECIAL RULES.—

4 “(1) PROPERTY USED OUTSIDE THE UNITED  
5 STATES, ETC., NOT QUALIFIED.—No expenditures  
6 shall be taken into account under subsection (a)(1)  
7 with respect to the portion of the cost of any prop-  
8 erty referred to in section 50(b) or with respect to  
9 the portion of the cost of any property specified in  
10 an election under section 179.

11 “(2) BASIS REDUCTION.—

12 “(A) IN GENERAL.—For purposes of this  
13 title, the basis of any property shall be reduced  
14 by the portion of the cost of such property  
15 taken into account under subsection (a)(1).

16 “(B) ORDINARY INCOME RECAPTURE.—

17 For purposes of section 1245, the amount of  
18 the deduction allowable under subsection (a)(1)  
19 with respect to any property which is of a char-  
20 acter subject to the allowance for depreciation  
21 shall be treated as a deduction allowed for de-  
22 preciation under section 167.

23 “(3) COORDINATION WITH SECTION 38.—No  
24 credit shall be allowed under section 38 with respect

1 to any amount for which a deduction is allowed  
2 under subsection (a)(1).”.

3 (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE  
4 TELEPHONE COMPANIES.—Section 512(b) (relating to  
5 modifications) is amended by adding at the end the fol-  
6 lowing new paragraph:

7 “(20) SPECIAL RULE FOR MUTUAL OR COOPER-  
8 ATIVE TELEPHONE COMPANIES.—A mutual or coop-  
9 erative telephone company which for the taxable year  
10 satisfies the requirements of section 501(c)(12)(A)  
11 may elect to reduce its unrelated business taxable in-  
12 come for such year, if any, by an amount that does  
13 not exceed the qualified broadband expenditures  
14 which would be taken into account under section  
15 191 for such year by such company if such company  
16 was not exempt from taxation. Any amount which is  
17 allowed as a deduction under this paragraph shall  
18 not be allowed as a deduction under section 191 and  
19 the basis of any property to which this paragraph  
20 applies shall be reduced under section  
21 1016(a)(40).”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 263(a)(1) (relating to capital ex-  
24 penditures) is amended by striking “or” at the end  
25 of subparagraph (J), by striking the period at the

1 end of subparagraph (K) and inserting “, or”, and  
2 by adding at the end the following new subpara-  
3 graph:

4 “(L) expenditures for which a deduction is  
5 allowed under section 191.”.

6 (2) Section 1016(a), as amended by this Act, is  
7 amended by striking “and” at the end of paragraph  
8 (38), by striking the period at the end of paragraph  
9 (39) and inserting “, and”, and by adding at the  
10 end the following new paragraph:

11 “(40) to the extent provided in section  
12 191(f)(2).”.

13 (3) The table of sections for part VI of sub-  
14 chapter A of chapter 1 is amended by inserting after  
15 the item relating to section 190 the following new  
16 item:

“Sec. 191. Broadband expenditures.”.

17 (d) DESIGNATION OF CENSUS TRACTS.—

18 (1) IN GENERAL.—The Secretary of the Treas-  
19 ury shall, not later than 90 days after the date of  
20 the enactment of this Act, designate and publish  
21 those census tracts meeting the criteria described in  
22 paragraphs (16), (22), and (23) of section 191(e) of  
23 the Internal Revenue Code of 1986 (as added by  
24 this section). In making such designations, the Sec-  
25 retary of the Treasury shall consult with such other

1 departments and agencies as the Secretary deter-  
2 mines appropriate.

3 (2) SATURATED MARKET.—

4 (A) IN GENERAL.—For purposes of desig-  
5 nating and publishing those census tracts meet-  
6 ing the criteria described in subsection (e)(19)  
7 of such section 191—

8 (i) the Secretary of the Treasury shall  
9 prescribe not later than 30 days after the  
10 date of the enactment of this Act the form  
11 upon which any provider which takes the  
12 position that it meets such criteria with re-  
13 spect to any census tract shall submit a  
14 list of such census tracts (and any other  
15 information required by the Secretary) not  
16 later than 60 days after the date of the  
17 publication of such form, and

18 (ii) the Secretary of the Treasury  
19 shall publish an aggregate list of such cen-  
20 sus tracts and the applicable providers not  
21 later than 30 days after the last date such  
22 submissions are allowed under clause (i).

23 (B) NO SUBSEQUENT LISTS REQUIRED.—

24 The Secretary of the Treasury shall not be re-  
25 quired to publish any list of census tracts meet-

1           ing such criteria subsequent to the list de-  
2           scribed in subparagraph (A)(ii).

3           (e) OTHER REGULATORY MATTERS.—

4           (1) PROHIBITION.—No Federal or State agency  
5           or instrumentality shall adopt regulations or rate-  
6           making procedures that would have the effect of  
7           eliminating or reducing any deduction or portion  
8           thereof allowed under section 191 of the Internal  
9           Revenue Code of 1986 (as added by this section) or  
10          otherwise subverting the purpose of this section.

11          (2) TREASURY REGULATORY AUTHORITY.—It is  
12          the intent of Congress in providing the election to  
13          deduct qualified broadband expenditures under sec-  
14          tion 191 of the Internal Revenue Code of 1986 (as  
15          added by this section) to provide incentives for the  
16          purchase, installation, and connection of equipment  
17          and facilities offering expanded broadband access to  
18          the Internet for users in certain low income and  
19          rural areas of the United States, as well as to resi-  
20          dential users nationwide, in a manner that main-  
21          tains competitive neutrality among the various class-  
22          es of providers of broadband services. Accordingly,  
23          the Secretary of the Treasury shall prescribe such  
24          regulations as may be necessary or appropriate to

1 carry out the purposes of section 191 of such Code,  
2 including—

3 (A) regulations to determine how and when  
4 a taxpayer that incurs qualified broadband ex-  
5 penditures satisfies the requirements of section  
6 191 of such Code to provide broadband serv-  
7 ices, and

8 (B) regulations describing the information,  
9 records, and data taxpayers are required to pro-  
10 vide the Secretary to substantiate compliance  
11 with the requirements of section 191 of such  
12 Code.

13 **SEC. 409. CREDIT FOR ENERGY EFFICIENT MOTORS.**

14 (a) IN GENERAL.—Subpart D of part IV of sub-  
15 chapter A of chapter 1 (relating to business related cred-  
16 its), as amended by this Act, is amended by inserting at  
17 the end the following new section:

18 **“SEC. 45Q. CREDIT FOR ENERGY EFFICIENT MOTORS.**

19 “(a) IN GENERAL.—For purposes of section 38, the  
20 energy efficient motors credit determined under this sec-  
21 tion for any taxable year is an amount equal to the lesser  
22 of —

23 “(1) \$15 per horsepower generated by qualified  
24 energy efficient motors the original use of which be-  
25 gins with the taxpayer during such taxable year, or

1           “(2) \$1,250,000.

2           “(b) QUALIFIED ENERGY EFFICIENT MOTOR.—The  
3 term ‘qualified energy efficient motor’ means a general-  
4 or definite-purpose electric motor of 500 horsepower or  
5 less which meets or exceeds the efficiency levels specified  
6 in Tables 12–12 or 12–13 of the National Electrical Man-  
7 ufacturers Association MG–1 (2006).

8           “(c) SPECIAL RULES.—

9           “(1) BASIS REDUCTION.—The basis of any  
10 property for which a credit is allowable under sub-  
11 section (a) shall be reduced by the amount of such  
12 credit.

13           “(2) RECAPTURE.—The Secretary shall, by reg-  
14 ulations, provide for recapturing the benefit of any  
15 credit allowable under subsection (a) with respect to  
16 any property which ceases to be property eligible for  
17 such credit.

18           “(3) PROPERTY USED OUTSIDE UNITED  
19 STATES, ETC., CERTAIN DEPRECIABLE PROPERTY  
20 NOT QUALIFIED.—No credit shall be allowed under  
21 subsection (a) with respect to any property referred  
22 to in section 50(b) or with respect to the portion of  
23 the cost of any property taken into account under  
24 section 179.

1       “(d) TERMINATION.—This section shall not apply to  
2 any property placed in service after the date which is 3  
3 years after the date of the enactment of this section.”.

4       (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
5 NESS CREDIT.—Section 38(b), as amended by this Act,  
6 is amended by striking “plus” at the end of paragraph  
7 (32), by striking the period at the end of paragraph (33)  
8 and inserting “, plus”, and by adding at the end the fol-  
9 lowing new paragraph:

10           “(34) the credit for energy efficient motors de-  
11 termined under section 45Q(a).”.

12       (c) CONFORMING AMENDMENTS.—

13           (1) Section 1016(a), as amended by this Act, is  
14 amended by striking “and” at the end of paragraph  
15 (39), by striking the period at the end of paragraph  
16 (40) and inserting “, and”, and by adding at the  
17 end the following new paragraph:

18           “(41) to the extent provided in section  
19 45Q(c)(1).”.

20           (2) The table of sections for subpart D of part  
21 IV of subchapter A of chapter 1, as amended by this  
22 Act, is amended by adding at the end the following  
23 new item:

“Sec. 45Q. Credit for energy efficient motors.”.

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

4 **TITLE V—REVENUE RAISING**  
 5 **PROVISIONS**  
 6 **Subtitle A—Miscellaneous Revenue**  
 7 **Provisions**

8 **SEC. 501. LIMITATION ON FARMING LOSSES OF CERTAIN**  
 9 **TAXPAYERS.**

10 (a) IN GENERAL.—Section 461 (relating to general  
 11 rule for taxable year of deduction) is amended by adding  
 12 at the end the following new subsection:

13 “(j) LIMITATION ON FARMING LOSSES OF CERTAIN  
 14 TAXPAYERS.—

15 “(1) IN GENERAL.—If an applicable taxpayer  
 16 has a farming loss for the taxable year, such loss  
 17 shall be allowed for such taxable year only to the ex-  
 18 tent such loss does not exceed \$200,000.

19 “(2) FARMING LOSS.—For purposes of this  
 20 subsection, the term ‘farming loss’ means the excess  
 21 of the deductions of the taxpayer for the taxable  
 22 year which are attributable to farming businesses  
 23 (as defined in section 263A(e)(4)) of such taxpayer  
 24 over income or gain of such taxpayer for the taxable  
 25 year which is attributable to such deductions.



1           (2) DEFINITIONS.—Section 1402 is amended by  
2           adding at the end the following new subsection:

3           “(1) UPPER AND LOWER LIMITS.—For purposes of  
4 subsection (a)—

5           “(1) LOWER LIMIT.—The lower limit for any  
6 taxable year is the sum of the amounts required  
7 under section 213(d) of the Social Security Act for  
8 a quarter of coverage in effect with respect to each  
9 calendar quarter ending with or within such taxable  
10 year.

11           “(2) UPPER LIMIT.—The upper limit for any  
12 taxable year is the amount equal to 150 percent of  
13 the lower limit for such taxable year.”.

14           (b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

15           (1) IN GENERAL.—The matter following para-  
16 graph (16) of section 211(a) of the Social Security  
17 Act is amended—

18           (A) by striking “\$2,400” each place it ap-  
19 pears and inserting “the upper limit”, and

20           (B) by striking “\$1,600” each place it ap-  
21 pears and inserting “the lower limit”.

22           (2) DEFINITIONS.—Section 211 of such Act is  
23 amended by adding at the end the following new  
24 subsection:

1 “Upper and Lower Limits

2 “(k) For purposes of subsection (a)—

3 “(1) The lower limit for any taxable year is the  
4 sum of the amounts required under section 213(d)  
5 for a quarter of coverage in effect with respect to  
6 each calendar quarter ending with or within such  
7 taxable year.

8 “(2) The upper limit for any taxable year is the  
9 amount equal to 150 percent of the lower limit for  
10 such taxable year.”.

11 (3) CONFORMING AMENDMENT.—Section 212  
12 of such Act is amended—

13 (A) in subsection (b), by striking “For”  
14 and inserting “Except as provided in subsection  
15 (c), for”; and

16 (B) by adding at the end the following new  
17 subsection:

18 “(c) For the purpose of determining average indexed  
19 monthly earnings, average monthly wage, and quarters of  
20 coverage in the case of any individual who elects the option  
21 described in clause (ii) or (iv) in the matter following sec-  
22 tion 211(a)(16) for any taxable year that does not begin  
23 with or during a particular calendar year and end with  
24 or during such year, the self-employment income of such  
25 individual deemed to be derived during such taxable year

1 shall be allocated to the two calendar years, portions of  
2 which are included within such taxable year, in the same  
3 proportion to the total of such deemed self-employment  
4 income as the sum of the amounts applicable under section  
5 213(d) for the calendar quarters ending with or within  
6 each such calendar year bears to the lower limit for such  
7 taxable year specified in section 211(k)(1).”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2007.

11 **SEC. 503. INFORMATION REPORTING FOR COMMODITY**  
12 **CREDIT CORPORATION TRANSACTIONS.**

13 (a) IN GENERAL.—Subpart A of part III of sub-  
14 chapter A of chapter 61 (relating to information con-  
15 cerning persons subject to special provisions) is amended  
16 by inserting after section 6039I the following new section:

17 **“SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO**  
18 **COMMODITY CREDIT CORPORATION TRANS-**  
19 **ACTIONS.**

20 “(a) REQUIREMENT OF REPORTING.—The Com-  
21 modity Credit Corporation, through the Secretary of Agri-  
22 culture, shall make a return, according to the forms and  
23 regulations prescribed by the Secretary of the Treasury,  
24 setting forth any market gain realized by a taxpayer dur-  
25 ing the taxable year in relation to the repayment of a loan

1 issued by the Commodity Credit Corporation, without re-  
2 gard to the manner in which such loan was repaid.

3 “(b) STATEMENTS TO BE FURNISHED TO PERSONS  
4 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—  
5 The Secretary of Agriculture shall furnish to each person  
6 whose name is required to be set forth in a return required  
7 under subsection (a) a written statement showing the  
8 amount of market gain reported in such return.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
10 for subpart A of part III of subchapter A of chapter 61  
11 is amended by inserting after the item relating to section  
12 6039I the following new item:

“Sec. 6039J. Information reporting with respect to Commodity Credit Corpora-  
tion transactions.”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to loans repaid on or after January  
15 1, 2007.

16 **SEC. 504. MODIFICATION OF SECTION 1031 TREATMENT**  
17 **FOR CERTAIN REAL ESTATE.**

18 (a) IN GENERAL.—Section 1031 (relating to ex-  
19 change of property held for productive use or investment),  
20 as amended by this Act, is amended by adding at the end  
21 the following new subsection:

22 “(j) SPECIAL RULE FOR AGRICULTURAL REAL  
23 PROPERTY.—

1           “(1) IN GENERAL.—Unimproved agricultural  
2 real property and improved real property are not  
3 property of a like kind.

4           “(2) UNIMPROVED AGRICULTURAL REAL PROP-  
5 ERTY.—For purposes of this subsection, the term  
6 ‘unimproved agricultural real property’ means real  
7 property—

8                   “(A) which is unimproved;

9                   “(B) which is used for farming purposes  
10 (within the meaning of section 2032A(e)(5));  
11 and

12                   “(C) with respect to which a taxpayer re-  
13 ceives, in the taxable year in which an exchange  
14 of such property is made, any agriculture pro-  
15 gram payments or Commodity Credit Corpora-  
16 tion loans.

17           “(3) EXCEPTION.—Paragraph (1) shall not  
18 apply with respect to any unimproved agricultural  
19 real property which, not later than the date of the  
20 exchange, is permanently retired from any program  
21 under which any payment, loan, or benefit described  
22 in paragraph (2)(C) is made.”.

23           (b) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to exchanges completed after the  
25 date of the enactment of this Act.

1 **SEC. 505. MODIFICATION OF EFFECTIVE DATE OF LEASING**  
2 **PROVISIONS OF THE AMERICAN JOBS CRE-**  
3 **ATION ACT OF 2004.**

4 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)  
5 of the American Jobs Creation Act of 2004 is amended  
6 by adding at the end the following new paragraph:

7 “(5) LEASES TO FOREIGN ENTITIES.—In the  
8 case of tax-exempt use property leased to a tax-ex-  
9 empt entity which is a foreign person or entity, the  
10 amendments made by this part shall apply to taxable  
11 years beginning after December 31, 2006, with re-  
12 spect to leases entered into on or before March 12,  
13 2004.”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall take effect as if included in the enact-  
16 ment of the American Jobs Creation Act of 2004.

17 **SEC. 506. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
18 **TAXES.**

19 The percentage under subparagraph (B) of section  
20 401(1) of the Tax Increase Prevention and Reconciliation  
21 Act of 2005 in effect on the date of the enactment of this  
22 Act is increased by 7.00 percentage points.

23 **SEC. 507. INELIGIBILITY OF COLLECTIBLES FOR NON-**  
24 **TAXABLE LIKE KIND EXCHANGE TREATMENT.**

25 (a) IN GENERAL.—Section 1031(a)(2) (relating to  
26 exception) is amended by striking “or” at the end of sub-

1 paragraph (E), by striking the period at the end of sub-  
2 paragraph (F) and inserting “, or”, and by inserting after  
3 subparagraph (F) the following new subparagraph:

4                   “(G) collectibles (as defined in section  
5                   408(m)(2)).”.

6           (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to exchanges completed after the  
8 date of the enactment of this Act.

9   **SEC. 508. DENIAL OF DEDUCTION FOR CERTAIN FINES,**  
10                   **PENALTIES, AND OTHER AMOUNTS.**

11           (a) IN GENERAL.—Subsection (f) of section 162 (re-  
12 lating to trade or business expenses) is amended to read  
13 as follows:

14           “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

15                   “(1) IN GENERAL.—Except as provided in para-  
16 graph (2), no deduction otherwise allowable shall be  
17 allowed under this chapter for any amount paid or  
18 incurred (whether by suit, agreement, or otherwise)  
19 to, or at the direction of, a government or entity de-  
20 scribed in paragraph (4) in relation to—

21                           “(A) the violation of any law, or

22                           “(B) an investigation or inquiry into the  
23 potential violation of any law which is initiated  
24 by such government or entity.

1           “(2) EXCEPTION FOR AMOUNTS CONSTITUTING  
2 RESTITUTION OR PAID TO COME INTO COMPLIANCE  
3 WITH LAW.—Paragraph (1) shall not apply to any  
4 amount which—

5                   “(A) the taxpayer establishes—

6                           “(i) constitutes restitution (or remedi-  
7 ation of property) for damage or harm  
8 caused by, or which may be caused by, the  
9 violation of any law or the potential viola-  
10 tion of any law, or

11                           “(ii) is paid to come into compliance  
12 with any law which was violated or in-  
13 volved in the investigation or inquiry, and

14                   “(B) is identified as an amount described  
15 in clause (i) or (ii) of subparagraph (A), as the  
16 case may be, in the court order or settlement  
17 agreement, except that the requirement of this  
18 subparagraph shall not apply in the case of any  
19 settlement agreement which requires the tax-  
20 payer to pay or incur an amount not greater  
21 than \$1,000,000.

22           A taxpayer shall not meet the requirements of sub-  
23 paragraph (A) solely by reason of an identification  
24 under subparagraph (B). This paragraph shall not  
25 apply to any amount paid or incurred as reimburse-

1 ment to the government or entity for the costs of  
2 any investigation or litigation unless such amount is  
3 paid or incurred for a cost or fee regularly charged  
4 for any routine audit or other customary review per-  
5 formed by the government or entity.

6 “(3) EXCEPTION FOR AMOUNTS PAID OR IN-  
7 CURRED AS THE RESULT OF CERTAIN COURT OR-  
8 DERS.—Paragraph (1) shall not apply to any  
9 amount paid or incurred by order of a court in a  
10 suit in which no government or entity described in  
11 paragraph (4) is a party.

12 “(4) CERTAIN NONGOVERNMENTAL REGU-  
13 LATORY ENTITIES.—An entity is described in this  
14 paragraph if it is—

15 “(A) a nongovernmental entity which exer-  
16 cises self-regulatory powers (including imposing  
17 sanctions) in connection with a qualified board  
18 or exchange (as defined in section 1256(g)(7)),  
19 or

20 “(B) to the extent provided in regulations,  
21 a nongovernmental entity which exercises self-  
22 regulatory powers (including imposing sanc-  
23 tions) as part of performing an essential gov-  
24 ernmental function.



1 of coming into compliance with any law which  
2 was violated or involved in the investigation or  
3 inquiry.

4 “(2) SUIT OR AGREEMENT DESCRIBED.—

5 “(A) IN GENERAL.—A suit or agreement is  
6 described in this paragraph if—

7 “(i) it is—

8 “(I) a suit with respect to a vio-  
9 lation of any law over which the gov-  
10 ernment or entity has authority and  
11 with respect to which there has been  
12 a court order, or

13 “(II) an agreement which is en-  
14 tered into with respect to a violation  
15 of any law over which the government  
16 or entity has authority, or with re-  
17 spect to an investigation or inquiry by  
18 the government or entity into the po-  
19 tential violation of any law over which  
20 such government or entity has author-  
21 ity, and

22 “(ii) the aggregate amount involved in  
23 all court orders and agreements with re-  
24 spect to the violation, investigation, or in-  
25 quiry is \$600 or more.

1           “(B) ADJUSTMENT OF REPORTING  
2 THRESHOLD.—The Secretary may adjust the  
3 \$600 amount in subparagraph (A)(ii) as nec-  
4 essary in order to ensure the efficient adminis-  
5 tration of the internal revenue laws.

6           “(3) TIME OF FILING.—The return required  
7 under this subsection shall be filed not later than—

8           “(A) 30 days after the date on which a  
9 court order is issued with respect to the suit or  
10 the date the agreement is entered into, as the  
11 case may be, or

12           “(B) the date specified by the Secretary.

13           “(b) STATEMENTS TO BE FURNISHED TO INDIVID-  
14 UALS INVOLVED IN THE SETTLEMENT.—Every person re-  
15 quired to make a return under subsection (a) shall furnish  
16 to each person who is a party to the suit or agreement  
17 a written statement showing—

18           “(1) the name of the government or entity, and

19           “(2) the information supplied to the Secretary  
20 under subsection (a)(1).

21 The written statement required under the preceding sen-  
22 tence shall be furnished to the person at the same time  
23 the government or entity provides the Secretary with the  
24 information required under subsection (a).

1       “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-  
 2 poses of this section, the term ‘appropriate official’ means  
 3 the officer or employee having control of the suit, inves-  
 4 tigation, or inquiry or the person appropriately designated  
 5 for purposes of this section.”.

6           (2) CONFORMING AMENDMENT.—The table of  
 7 sections for subpart B of part III of subchapter A  
 8 of chapter 61 is amended by inserting after the item  
 9 relating to section 6050V the following new item:

“Sec. 6050W. Information with respect to certain fines, penalties, and other  
 amounts.”.

10       (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to amounts paid or incurred on  
 12 or after the date of the enactment of this Act, except that  
 13 such amendments shall not apply to amounts paid or in-  
 14 curred under any binding order or agreement entered into  
 15 before such date. Such exception shall not apply to an  
 16 order or agreement requiring court approval unless the ap-  
 17 proval was obtained before such date.

18 **SEC. 509. INCREASE IN INFORMATION RETURN PENALTIES.**

19       (a) FAILURE TO FILE CORRECT INFORMATION RE-  
 20 TURNS.—

21           (1) IN GENERAL.—Section 6721(a)(1) is  
 22 amended—

23               (A) by striking “\$50” and inserting  
 24 “\$250”, and

1 (B) by striking “\$250,000” and inserting  
2 “\$3,000,000”.

3 (2) REDUCTION WHERE CORRECTION IN SPECI-  
4 FIED PERIOD.—

5 (A) CORRECTION WITHIN 30 DAYS.—Sec-  
6 tion 6721(b)(1) is amended—

7 (i) by striking “\$15” and inserting  
8 “\$50”,

9 (ii) by striking “\$50” and inserting  
10 “\$250”, and

11 (iii) by striking “\$75,000” and insert-  
12 ing “\$500,000”.

13 (B) FAILURES CORRECTED ON OR BEFORE  
14 AUGUST 1.—Section 6721(b)(2) is amended—

15 (i) by striking “\$30” and inserting  
16 “\$100”,

17 (ii) by striking “\$50” and inserting  
18 “\$250”, and

19 (iii) by striking “\$150,000” and in-  
20 serting “\$1,500,000”.

21 (3) LOWER LIMITATION FOR PERSONS WITH  
22 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—  
23 Section 6721(d)(1) is amended—

24 (A) in subparagraph (A)—

1 (i) by striking “\$100,000” and insert-  
2 ing “\$1,000,000”, and

3 (ii) by striking “\$250,000” and in-  
4 sserting “\$3,000,000”,

5 (B) in subparagraph (B)—

6 (i) by striking “\$25,000” and insert-  
7 ing “\$175,000”, and

8 (ii) by striking “\$75,000” and insert-  
9 ing “\$500,000”, and

10 (C) in subparagraph (C)—

11 (i) by striking “\$50,000” and insert-  
12 ing “\$500,000”, and

13 (ii) by striking “\$150,000” and in-  
14 sserting “\$1,500,000”.

15 (4) PENALTY IN CASE OF INTENTIONAL DIS-  
16 REGARD.—Section 6721(e) is amended—

17 (A) by striking “\$100” in paragraph (2)  
18 and inserting “\$500”, and

19 (B) by striking “\$250,000” in paragraph  
20 (3)(A) and inserting “\$3,000,000”.

21 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-  
22 MENTS.—

23 (1) IN GENERAL.—Section 6722(a) is amend-  
24 ed—

1 (A) by striking “\$50” and inserting  
2 “\$250”, and

3 (B) by striking “\$100,000” and inserting  
4 “\$1,000,000”.

5 (2) PENALTY IN CASE OF INTENTIONAL DIS-  
6 REGARD.—Section 6722(c) is amended—

7 (A) by striking “\$100” in paragraph (1)  
8 and inserting “\$500”, and

9 (B) by striking “\$100,000” in paragraph  
10 (2)(A) and inserting “\$1,000,000”.

11 (c) FAILURE TO COMPLY WITH OTHER INFORMA-  
12 TION REPORTING REQUIREMENTS.—Section 6723 is  
13 amended—

14 (1) by striking “\$50” and inserting “\$250”,  
15 and

16 (2) by striking “\$100,000” and inserting  
17 “\$1,000,000”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply with respect to information returns  
20 required to be filed on or after January 1, 2008.

1     **Subtitle B—Economic Substance**  
 2                     **Doctrine**

3     **SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**  
 4                     **TRINE.**

5             (a) IN GENERAL.—Section 7701 is amended by re-  
 6     designating subsection (p) as subsection (q) and by insert-  
 7     ing after subsection (o) the following new subsection:

8             “(p) CLARIFICATION OF ECONOMIC SUBSTANCE  
 9     DOCTRINE; ETC.—

10             “(1) GENERAL RULES.—

11             “(A) IN GENERAL.—In any case in which  
 12             a court determines that the economic substance  
 13             doctrine is relevant for purposes of this title to  
 14             a transaction (or series of transactions), such  
 15             transaction (or series of transactions) shall have  
 16             economic substance only if the requirements of  
 17             this paragraph are met.

18             “(B) DEFINITION OF ECONOMIC SUB-  
 19             STANCE.—For purposes of subparagraph (A)—

20             “(i) IN GENERAL.—A transaction has  
 21             economic substance only if—

22             “(I) the transaction changes in a  
 23             meaningful way (apart from Federal  
 24             tax effects) the taxpayer’s economic  
 25             position, and

1           “(II) subject to clause (iii), the  
2 taxpayer has a substantial purpose  
3 (other than a Federal tax purpose) for  
4 entering into such transaction.

5           “(ii) SPECIAL RULE WHERE TAX-  
6 PAYER RELIES ON PROFIT POTENTIAL.—A  
7 transaction shall not be treated as having  
8 economic substance solely by reason of  
9 having a potential for profit unless the  
10 present value of the reasonably expected  
11 pre-Federal tax profit from the transaction  
12 is substantial in relation to the present  
13 value of the expected net Federal tax bene-  
14 fits that would be allowed if the trans-  
15 action were respected. In determining pre-  
16 Federal tax profit, there shall be taken  
17 into account fees and other transaction ex-  
18 penses and to the extent provided by the  
19 Secretary, foreign taxes.

20           “(iii) SPECIAL RULES FOR DETER-  
21 MINING WHETHER NON-FEDERAL TAX  
22 PURPOSE.—For purposes of clause  
23 (i)(II)—

24           “(I) a purpose of achieving a fi-  
25 nancial accounting benefit shall not be

1 taken into account in determining  
2 whether a transaction has a substan-  
3 tial purpose (other than a Federal tax  
4 purpose) if the origin of such financial  
5 accounting benefit is a reduction of  
6 Federal tax, and

7 “(II) the taxpayer shall not be  
8 treated as having a substantial pur-  
9 pose (other than a Federal tax pur-  
10 pose) with respect to a transaction if  
11 the only such purpose is the reduction  
12 of non-Federal taxes and the trans-  
13 action will result in a reduction of  
14 Federal taxes substantially equal to,  
15 or greater than, the reduction in non-  
16 Federal taxes because of similarities  
17 between the laws imposing the taxes.

18 “(2) DEFINITIONS AND SPECIAL RULES.—For  
19 purposes of this subsection—

20 “(A) ECONOMIC SUBSTANCE DOCTRINE.—

21 The term ‘economic substance doctrine’ means  
22 the common law doctrine under which tax bene-  
23 fits under subtitle A with respect to a trans-  
24 action are not allowable if the transaction does

1 not have economic substance or lacks a business  
2 purpose.

3 “(B) EXCEPTION FOR PERSONAL TRANS-  
4 ACTIONS OF INDIVIDUALS.—In the case of an  
5 individual, this subsection shall apply only to  
6 transactions entered into in connection with a  
7 trade or business or an activity engaged in for  
8 the production of income.

9 “(3) OTHER PROVISIONS NOT AFFECTED.—Ex-  
10 cept as specifically provided in this subsection, the  
11 provisions of this subsection shall not be construed  
12 as altering or supplanting any other rule of law or  
13 provision of this title, and the requirements of this  
14 subsection shall be construed as being in addition to  
15 any such other rule of law or provision of this title.

16 “(4) REGULATIONS.—The Secretary shall pre-  
17 scribe such regulations as may be necessary or ap-  
18 propriate to carry out the purposes of this sub-  
19 section. Such regulations may include exemptions  
20 from the application of this subsection.”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to transactions entered into after  
23 the date of the enactment of this Act.

1 **SEC. 512. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
2 **UTABLE TO TRANSACTIONS LACKING ECO-**  
3 **NOMIC SUBSTANCE, ETC.**

4 (a) IN GENERAL.—Subchapter A of chapter 68 is  
5 amended by inserting after section 6662A the following  
6 new section:

7 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
8 **UTABLE TO TRANSACTIONS LACKING ECO-**  
9 **NOMIC SUBSTANCE, ETC.**

10 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an  
11 noneconomic substance transaction understatement for  
12 any taxable year, there shall be added to the tax an  
13 amount equal to 30 percent of the amount of such under-  
14 statement.

15 “(b) REDUCTION OF PENALTY FOR DISCLOSED  
16 TRANSACTIONS.—Subsection (a) shall be applied by sub-  
17 stituting ‘20 percent’ for ‘30 percent’ with respect to the  
18 portion of any noneconomic substance transaction under-  
19 statement with respect to which the relevant facts affect-  
20 ing the tax treatment of the item are adequately disclosed  
21 in the return or a statement attached to the return.

22 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-  
23 DERSTATEMENT.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘noneconomic  
25 substance transaction understatement’ means any  
26 amount which would be an understatement under

1 section 6662A(b)(1) if section 6662A were applied  
2 by taking into account items attributable to non-  
3 economic substance transactions rather than items  
4 to which section 6662A would apply without regard  
5 to this paragraph.

6 “(2) NONECONOMIC SUBSTANCE TRANS-  
7 ACTION.—The term ‘noneconomic substance trans-  
8 action’ means any transaction if there is a lack of  
9 economic substance (within the meaning of section  
10 7701(p)(1)(B)) for the transaction giving rise to the  
11 claimed benefit.

12 “(d) RULES APPLICABLE TO ASSERTION, COM-  
13 PROMISE, AND COLLECTION OF PENALTY.—

14 “(1) IN GENERAL.—Only the Chief Counsel for  
15 the Internal Revenue Service may assert a penalty  
16 imposed under this section or may compromise all or  
17 any portion of such penalty. The Chief Counsel may  
18 delegate the authority under this paragraph only to  
19 an individual holding the position of chief of a  
20 branch within the Office of the Chief Counsel for the  
21 Internal Revenue Service.

22 “(2) SPECIFIC REQUIREMENTS.—

23 “(A) ASSERTION OF PENALTY.—The Chief  
24 Counsel for the Internal Revenue Service (or  
25 the Chief Counsel’s delegate under paragraph

1 (1)) shall not assert a penalty imposed under  
2 this section unless, before the assertion of the  
3 penalty, the taxpayer is provided—

4 “(i) a notice of intent to assert the  
5 penalty, and

6 “(ii) an opportunity to provide to the  
7 Commissioner (or the Chief Counsel’s dele-  
8 gate under paragraph (1)) a written re-  
9 sponse to the proposed penalty within a  
10 reasonable period of time after such notice.

11 “(B) COMPROMISE OF PENALTY.—A com-  
12 promise shall not result in a reduction in the  
13 penalty imposed by this section in an amount  
14 greater than the amount which bears the same  
15 ratio to the amount of the penalty determined  
16 without regard to the compromise as—

17 “(i) the reduction under the com-  
18 promise in the noneconomic substance  
19 transaction understatement to which the  
20 penalty relates, bears to

21 “(ii) the amount of the noneconomic  
22 substance transaction understatement de-  
23 termined without regard to the com-  
24 promise.

1           “(3) RULES RELATING TO RELEVANCY RE-  
2           QUIREMENT.—

3           “(A) DETERMINATION OF RELEVANCE BY  
4           CHIEF COUNSEL.—The Chief Counsel for the  
5           Internal Revenue Service (or the Chief Coun-  
6           sel’s delegate under paragraph (1)) may assert,  
7           compromise, or collect a penalty imposed by  
8           this section with respect to a noneconomic sub-  
9           stance transaction even if there has not been a  
10          court determination that the economic sub-  
11          stance doctrine was relevant for purposes of  
12          this title to the transaction if the Chief Counsel  
13          (or delegate) determines that either was so rel-  
14          evant.

15          “(B) FINAL ORDER OF COURT.—If there is  
16          a final order of a court that determines that the  
17          economic substance doctrine was not relevant  
18          for purposes of this title to a transaction (or se-  
19          ries of transactions), any penalty imposed under  
20          this section with respect to the transaction (or  
21          series of transactions) shall be rescinded.

22          “(4) APPLICABLE RULES.—The rules of para-  
23          graphs (2) and (3) of section 6707A(d) shall apply  
24          to a compromise under paragraph (1).

1       “(e) COORDINATION WITH OTHER PENALTIES.—EX-  
 2 cept as otherwise provided in this part, the penalty im-  
 3 posed by this section shall be in addition to any other pen-  
 4 alty imposed by this title.

5       “(f) CROSS REFERENCES.—

      “(1) For coordination of penalty with understatements  
 under section 6662 and other special rules, see section  
 6662A(e).

      “(2) For reporting of penalty imposed under this section  
 to the Securities and Exchange Commission, see section  
 6707A(e).”.

6       (b) COORDINATION WITH OTHER UNDERSTATE-  
 7 MENTS AND PENALTIES.—

8           (1) The second sentence of section  
 9 6662(d)(2)(A) is amended by inserting “and without  
 10 regard to items with respect to which a penalty is  
 11 imposed by section 6662B” before the period at the  
 12 end.

13           (2) Subsection (e) of section 6662A is amend-  
 14 ed—

15           (A) in paragraph (1), by inserting “and  
 16 noneconomic substance transaction understate-  
 17 ments” after “reportable transaction under-  
 18 statements” both places it appears,

19           (B) in paragraph (2)(A)—

20           (i) by inserting “6662B or” before  
 21 “6663” in the text, and

1 (ii) by striking “PENALTY” in the  
2 heading and inserting “AND ECONOMIC  
3 SUBSTANCE PENALTIES”,

4 (C) in paragraph (2)(B)—

5 (i) by inserting “and section 6662B”  
6 after “This section”, and

7 (ii) by striking “PENALTY” in the  
8 heading and inserting “AND ECONOMIC  
9 SUBSTANCE PENALTIES”,

10 (D) in paragraph (3), by inserting “or  
11 noneconomic substance transaction understatement”  
12 after “reportable transaction understatement”,  
13 and

14 (E) by adding at the end the following new  
15 paragraph:

16 “(4) NONECONOMIC SUBSTANCE TRANSACTION  
17 UNDERSTATEMENT.—For purposes of this sub-  
18 section, the term ‘noneconomic substance trans-  
19 action understatement’ has the meaning given such  
20 term by section 6662B(c).”.

21 (3) Subsection (e) of section 6707A is amend-  
22 ed—

23 (A) by striking “or” at the end of subpara-  
24 graph (B), and

1 (B) by striking subparagraph (C) and in-  
2 serting the following new subparagraphs:

3 “(C) is required to pay a penalty under  
4 section 6662B with respect to any noneconomic  
5 substance transaction, or

6 “(D) is required to pay a penalty under  
7 section 6662(h) with respect to any transaction  
8 and would (but for section 6662A(e)(2)(B))  
9 have been subject to penalty under section  
10 6662A at a rate prescribed under section  
11 6662A(c) or to penalty under section 6662B.”.

12 (c) CLERICAL AMENDMENT.—The table of sections  
13 for part II of subchapter A of chapter 68 is amended by  
14 inserting after the item relating to section 6662A the fol-  
15 lowing new item:

“Sec. 6662B. Penalty for understatements attributable to transactions lacking  
economic substance, etc.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to transactions entered into after  
18 the date of the enactment of this Act.

19 **SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UN-**  
20 **DERPAYMENTS ATTRIBUTABLE TO NON-**  
21 **ECONOMIC SUBSTANCE TRANSACTIONS.**

22 (a) IN GENERAL.—Section 163(m) (relating to inter-  
23 est on unpaid taxes attributable to nondisclosed reportable  
24 transactions) is amended—

1           (1) by striking “attributable” and all that fol-  
2           lows and inserting the following: “attributable to—

3           “(1) the portion of any reportable transaction  
4           understatement (as defined in section 6662A(b))  
5           with respect to which the requirement of section  
6           6664(d)(2)(A) is not met, or

7           “(2) any noneconomic substance transaction  
8           understatement (as defined in section 6662B(c)).”,  
9           and

10           (2) by inserting “AND NONECONOMIC SUB-  
11           STANCE TRANSACTIONS” in the heading thereof  
12           after “TRANSACTIONS”.

13           (b) EFFECTIVE DATE.—The amendments made by  
14           this section shall apply to transactions after the date of  
15           the enactment of this Act in taxable years ending after  
16           such date.



Calendar No. 446

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 2242**

[Report No. 110-206]

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## **A BILL**

To amend the Trade Act of 1974 to establish supplemental agricultural disaster assistance and to amend the Internal Revenue Code of 1986 to provide tax incentives for conservation and alternative energy sources and to provide tax relief for farmers, and for other purposes.

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OCTOBER 25, 2007

Read twice and placed on the calendar