

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

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

H. R. 6049

To amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BAUCUS (for
himself, Mr. GRASSLEY, and Mr. REID)

Viz:

1 At the end, insert the following:

1 **DIVISION B—TAX EXTENDERS**
2 **AND ALTERNATIVE MINIMUM**
3 **TAX RELIEF**

4 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**
5 **TABLE OF CONTENTS.**

6 (a) SHORT TITLE.—This division may be cited as the
7 “Tax Extenders and Alternative Minimum Tax Relief Act
8 of 2008”.

9 (b) AMENDMENT OF 1986 CODE.—Except as other-
10 wise expressly provided, whenever in this division an
11 amendment or repeal is expressed in terms of an amend-
12 ment to, or repeal of, a section or other provision, the ref-
13 erence shall be considered to be made to a section or other
14 provision of the Internal Revenue Code of 1986.

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

DIVISION B—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX
RELIEF

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 101. Extension of alternative minimum tax relief for nonrefundable per-
sonal credits.

Sec. 102. Extension of increased alternative minimum tax exemption amount.

Sec. 103. Increase of AMT refundable credit amount for individuals with long-
term unused credits for prior year minimum tax liability, etc.

TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS

Sec. 201. Deduction for State and local sales taxes.

Sec. 202. Deduction of qualified tuition and related expenses.

Sec. 203. Deduction for certain expenses of elementary and secondary school
teachers.

Sec. 204. Additional standard deduction for real property taxes for non-
itemizers.

3

- Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 206. Treatment of certain dividends of regulated investment companies.
- Sec. 207. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 208. Qualified investment entities.

TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

- Sec. 301. Extension and modification of research credit.
- Sec. 302. New markets tax credit.
- Sec. 303. Subpart F exception for active financing income.
- Sec. 304. Extension of look-thru rule for related controlled foreign corporations.
- Sec. 305. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.
- Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 307. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 308. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.
- Sec. 309. Extension of economic development credit for American Samoa.
- Sec. 310. Extension of mine rescue team training credit.
- Sec. 311. Extension of election to expense advanced mine safety equipment.
- Sec. 312. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 313. Qualified zone academy bonds.
- Sec. 314. Indian employment credit.
- Sec. 315. Accelerated depreciation for business property on Indian reservations.
- Sec. 316. Railroad track maintenance.
- Sec. 317. Seven-year cost recovery period for motorsports racing track facility.
- Sec. 318. Expensing of environmental remediation costs.
- Sec. 319. Extension of work opportunity tax credit for Hurricane Katrina employees.
- Sec. 320. Extension of increased rehabilitation credit for structures in the Gulf Opportunity Zone.
- Sec. 321. Enhanced deduction for qualified computer contributions.
- Sec. 322. Tax incentives for investment in the District of Columbia.
- Sec. 323. Enhanced charitable deductions for contributions of food inventory.
- Sec. 324. Extension of enhanced charitable deduction for contributions of book inventory.
- Sec. 325. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.

TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

- Sec. 401. Permanent authority for undercover operations.
- Sec. 402. Permanent authority for disclosure of information relating to terrorist activities.

TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

- Sec. 501. \$8,500 income threshold used to calculate refundable portion of child tax credit.
- Sec. 502. Provisions related to film and television productions.
- Sec. 503. Exemption from excise tax for certain wooden arrows designed for use by children.
- Sec. 504. Income averaging for amounts received in connection with the Exxon Valdez litigation.
- Sec. 505. Certain farming business machinery and equipment treated as 5-year property.
- Sec. 506. Modification of penalty on understatement of taxpayer's liability by tax return preparer.
- Sec. 507. Mental health parity.

TITLE VI—OTHER PROVISIONS

- Sec. 601. Secure rural schools and community self-determination program.
- Sec. 602. Transfer to abandoned mine reclamation fund.

TITLE VII—DISASTER RELIEF

Subtitle A—Heartland Disaster Relief

- Sec. 701. Short title.
- Sec. 702. Temporary tax relief for areas damaged by 2008 Midwestern severe storms, tornados, and flooding.
- Sec. 703. Reporting requirements relating to disaster relief contributions.

Subtitle B—National Disaster Relief

- Sec. 706. Losses attributable to federally declared disasters.
- Sec. 707. Expensing of Qualified Disaster Expenses.
- Sec. 708. Net operating losses attributable to federally declared disasters.
- Sec. 709. Waiver of certain mortgage revenue bond requirements following federally declared disasters.
- Sec. 710. Special depreciation allowance for qualified disaster property.
- Sec. 711. Increased expensing for qualified disaster assistance property.
- Sec. 712. Coordination with Heartland disaster relief.

TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY

- Sec. 801. Nonqualified deferred compensation from certain tax indifferent parties.

1 **TITLE I—ALTERNATIVE**
2 **MINIMUM TAX RELIEF**

3 **SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
4 **LIEF FOR NONREFUNDABLE PERSONAL**
5 **CREDITS.**

6 (a) **IN GENERAL.**—Paragraph (2) of section 26(a)
7 (relating to special rule for taxable years 2000 through
8 2007) is amended—

9 (1) by striking “or 2007” and inserting “2007,
10 or 2008”, and

11 (2) by striking “2007” in the heading thereof
12 and inserting “2008”.

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

16 **SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MIN-**
17 **IMUM TAX EXEMPTION AMOUNT.**

18 (a) **IN GENERAL.**—Paragraph (1) of section 55(d)
19 (relating to exemption amount) is amended—

20 (1) by striking “(\$66,250 in the case of taxable
21 years beginning in 2007)” in subparagraph (A) and
22 inserting “(\$69,950 in the case of taxable years be-
23 ginning in 2008)”, and

24 (2) by striking “(\$44,350 in the case of taxable
25 years beginning in 2007)” in subparagraph (B) and

1 inserting “(\$46,200 in the case of taxable years be-
2 ginning in 2008)”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2007.

6 **SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT**
7 **AMOUNT FOR INDIVIDUALS WITH LONG-**
8 **TERM UNUSED CREDITS FOR PRIOR YEAR**
9 **MINIMUM TAX LIABILITY, ETC.**

10 (a) IN GENERAL.—Paragraph (2) of section 53(e) is
11 amended to read as follows:

12 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
13 For purposes of paragraph (1), the term ‘AMT re-
14 fundable credit amount’ means, with respect to any
15 taxable year, the amount (not in excess of the long-
16 term unused minimum tax credit for such taxable
17 year) equal to the greater of—

18 “(A) 50 percent of the long-term unused
19 minimum tax credit for such taxable year, or

20 “(B) the amount (if any) of the AMT re-
21 fundable credit amount determined under this
22 paragraph for the taxpayer’s preceding taxable
23 year (determined without regard to subsection
24 (f)(2)).”.

1 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
2 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
3 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is
4 amended by adding at the end the following new sub-
5 section:

6 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-
7 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-
8 MENT OF INCENTIVE STOCK OPTIONS.—

9 “(1) ABATEMENT.—Any underpayment of tax
10 outstanding on the date of the enactment of this
11 subsection which is attributable to the application of
12 section 56(b)(3) for any taxable year ending before
13 January 1, 2008, and any interest or penalty with
14 respect to such underpayment which is outstanding
15 on such date of enactment, is hereby abated. The
16 amount determined under subsection (b)(1) shall not
17 include any tax abated under the preceding sentence.

18 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-
19 EST AND PENALTIES ALREADY PAID.—The AMT re-
20 fundable credit amount, and the minimum tax credit
21 determined under subsection (b), for the taxpayer’s
22 first 2 taxable years beginning after December 31,
23 2007, shall each be increased by 50 percent of the
24 aggregate amount of the interest and penalties
25 which were paid by the taxpayer before the date of

1 the enactment of this subsection and which would
2 (but for such payment) have been abated under
3 paragraph (1).”.

4 (c) EFFECTIVE DATE.—

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

9 (2) ABATEMENT.—Section 53(f)(1), as added
10 by subsection (b), shall take effect on the date of the
11 enactment of this Act.

12 **TITLE II—EXTENSION OF**
13 **INDIVIDUAL TAX PROVISIONS**

14 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES**
15 **TAXES.**

16 (a) IN GENERAL.—Subparagraph (I) of section
17 164(b)(5) is amended by striking “January 1, 2008” and
18 inserting “January 1, 2010”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2007.

1 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**
2 **LATED EXPENSES.**

3 (a) IN GENERAL.—Subsection (e) of section 222 (re-
4 lating to termination) is amended by striking “December
5 31, 2007” and inserting “December 31, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2007.

9 **SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**
10 **MENTARY AND SECONDARY SCHOOL TEACH-**
11 **ERS.**

12 (a) IN GENERAL.—Subparagraph (D) of section
13 62(a)(2) (relating to certain expenses of elementary and
14 secondary school teachers) is amended by striking “or
15 2007” and inserting “2007, 2008, or 2009”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to taxable years beginning after
18 December 31, 2007.

19 **SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL**
20 **PROPERTY TAXES FOR NONITEMIZERS.**

21 (a) IN GENERAL.—Subparagraph (C) of section
22 63(c)(1), as added by the Housing Assistance Tax Act of
23 2008, is amended by inserting “or 2009” after “2008”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to taxable years beginning after
26 December 31, 2008.

1 **SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
2 **TIREMENT PLANS FOR CHARITABLE PUR-**
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section
5 408(d)(8) (relating to termination) is amended by striking
6 “December 31, 2007” and inserting “December 31,
7 2009”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to distributions made in taxable
10 years beginning after December 31, 2007.

11 **SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
12 **LATED INVESTMENT COMPANIES.**

13 (a) INTEREST-RELATED DIVIDENDS.—Subpara-
14 graph (C) of section 871(k)(1) (defining interest-related
15 dividend) is amended by striking “December 31, 2007”
16 and inserting “December 31, 2009”.

17 (b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Sub-
18 paragraph (C) of section 871(k)(2) (defining short-term
19 capital gain dividend) is amended by striking “December
20 31, 2007” and inserting “December 31, 2009”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to dividends with respect to taxable
23 years of regulated investment companies beginning after
24 December 31, 2007.

1 **SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING**
2 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

3 (a) IN GENERAL.—Paragraph (3) of section 2105(d)
4 (relating to stock in a RIC) is amended by striking “De-
5 cember 31, 2007” and inserting “December 31, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to decedents dying after December
8 31, 2007.

9 **SEC. 208. QUALIFIED INVESTMENT ENTITIES.**

10 (a) IN GENERAL.—Clause (ii) of section
11 897(h)(4)(A) (relating to termination) is amended by
12 striking “December 31, 2007” and inserting “December
13 31, 2009”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on January 1, 2008.

16 **TITLE III—EXTENSION OF**
17 **BUSINESS TAX PROVISIONS**

18 **SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH**
19 **CREDIT.**

20 (a) EXTENSION.—

21 (1) IN GENERAL.—Section 41(h) (relating to
22 termination) is amended by striking “December 31,
23 2007” and inserting “December 31, 2009” in para-
24 graph (1)(B).

25 (2) CONFORMING AMENDMENT.—Subparagraph
26 (D) of section 45C(b)(1) (relating to special rule) is

1 amended by striking “after December 31, 2007”
2 and inserting “after December 31, 2009”.

3 (b) TERMINATION OF ALTERNATIVE INCREMENTAL
4 CREDIT.—Section 41(h) is amended by redesignating
5 paragraph (2) as paragraph (3), and by inserting after
6 paragraph (1) the following new paragraph:

7 “(2) TERMINATION OF ALTERNATIVE INCRE-
8 MENTAL CREDIT.—No election under subsection
9 (c)(4) shall apply to taxable years beginning after
10 December 31, 2008.”.

11 (c) MODIFICATION OF ALTERNATIVE SIMPLIFIED
12 CREDIT.—Paragraph (5)(A) of section 41(c) (relating to
13 election of alternative simplified credit) is amended by
14 striking “12 percent” and inserting “14 percent (12 per-
15 cent in the case of taxable years ending before January
16 1, 2009)”.

17 (d) TECHNICAL CORRECTION.—Paragraph (3) of sec-
18 tion 41(h) is amended to read as follows:

19 “(2) COMPUTATION FOR TAXABLE YEAR IN
20 WHICH CREDIT TERMINATES.—In the case of any
21 taxable year with respect to which this section ap-
22 plies to a number of days which is less than the total
23 number of days in such taxable year—

24 “(A) the amount determined under sub-
25 section (c)(1)(B) with respect to such taxable

1 year shall be the amount which bears the same
2 ratio to such amount (determined without re-
3 gard to this paragraph) as the number of days
4 in such taxable year to which this section ap-
5 plies bears to the total number of days in such
6 taxable year, and

7 “(B) for purposes of subsection (c)(5), the
8 average qualified research expenses for the pre-
9 ceding 3 taxable years shall be the amount
10 which bears the same ratio to such average
11 qualified research expenses (determined without
12 regard to this paragraph) as the number of
13 days in such taxable year to which this section
14 applies bears to the total number of days in
15 such taxable year.”.

16 (e) EFFECTIVE DATE.—

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

21 (2) EXTENSION.—The amendments made by
22 subsection (a) shall apply to amounts paid or in-
23 curred after December 31, 2007.

1 **SEC. 302. NEW MARKETS TAX CREDIT.**

2 Subparagraph (D) of section 45D(f)(1) (relating to
3 national limitation on amount of investments designated)
4 is amended by striking “and 2008” and inserting “2008,
5 and 2009”.

6 **SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING**
7 **INCOME.**

8 (a) EXEMPT INSURANCE INCOME.—Paragraph (10)
9 of section 953(e) (relating to application) is amended—

10 (1) by striking “January 1, 2009” and insert-
11 ing “January 1, 2010”, and

12 (2) by striking “December 31, 2008” and in-
13 serting “December 31, 2009”.

14 (b) EXCEPTION TO TREATMENT AS FOREIGN PER-
15 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of
16 section 954(h) (relating to application) is amended by
17 striking “January 1, 2009” and inserting “January 1,
18 2010”.

19 **SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED**
20 **CONTROLLED FOREIGN CORPORATIONS.**

21 (a) IN GENERAL.—Subparagraph (B) of section
22 954(c)(6) (relating to application) is amended by striking
23 “January 1, 2009” and inserting “January 1, 2010”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to taxable years of foreign corpora-
26 tions beginning after December 31, 2007, and to taxable

1 years of United States shareholders with or within which
2 such taxable years of foreign corporations end.

3 **SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RE-**
4 **COVERY FOR QUALIFIED LEASEHOLD IM-**
5 **PROVEMENTS AND QUALIFIED RESTAURANT**
6 **IMPROVEMENTS; 15-YEAR STRAIGHT-LINE**
7 **COST RECOVERY FOR CERTAIN IMPROVE-**
8 **MENTS TO RETAIL SPACE.**

9 (a) EXTENSION OF LEASEHOLD AND RESTAURANT
10 IMPROVEMENTS.—

11 (1) IN GENERAL.—Clauses (iv) and (v) of sec-
12 tion 168(e)(3)(E) (relating to 15-year property) are
13 each amended by striking “January 1, 2008” and
14 inserting “January 1, 2010”.

15 (2) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to property placed in
17 service after December 31, 2007.

18 (b) TREATMENT TO INCLUDE NEW CONSTRUC-
19 TION.—

20 (1) IN GENERAL.—Paragraph (7) of section
21 168(e) (relating to classification of property) is
22 amended to read as follows:

23 “(7) QUALIFIED RESTAURANT PROPERTY.—

1 “(A) IN GENERAL.—The term ‘qualified
2 restaurant property’ means any section 1250
3 property which is—

4 “(i) a building, if such building is
5 placed in service after December 31, 2008,
6 and before January 1, 2010, or

7 “(ii) an improvement to a building,
8 if more than 50 percent of the building’s square
9 footage is devoted to preparation of, and seat-
10 ing for on-premises consumption of, prepared
11 meals.

12 “(B) EXCLUSION FROM BONUS DEPRECIA-
13 TION.—Property described in this paragraph
14 shall not be considered qualified property for
15 purposes of subsection (k).”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall apply to property placed in
18 service after December 31, 2008.

19 (c) RECOVERY PERIOD FOR DEPRECIATION OF CER-
20 TAIN IMPROVEMENTS TO RETAIL SPACE.—

21 (1) 15-YEAR RECOVERY PERIOD.—Section
22 168(e)(3)(E) (relating to 15-year property) is
23 amended by striking “and” at the end of clause
24 (vii), by striking the period at the end of clause (viii)

1 and inserting “, and”, and by adding at the end the
2 following new clause:

3 “(ix) any qualified retail improvement
4 property placed in service after December
5 31, 2008, and before January 1, 2010.”.

6 (2) QUALIFIED RETAIL IMPROVEMENT PROP-
7 ERTY.—Section 168(e) is amended by adding at the
8 end the following new paragraph:

9 “(8) QUALIFIED RETAIL IMPROVEMENT PROP-
10 ERTY.—

11 “(A) IN GENERAL.—The term ‘qualified
12 retail improvement property’ means any im-
13 provement to an interior portion of a building
14 which is nonresidential real property if—

15 “(i) such portion is open to the gen-
16 eral public and is used in the retail trade
17 or business of selling tangible personal
18 property to the general public, and

19 “(ii) such improvement is placed in
20 service more than 3 years after the date
21 the building was first placed in service.

22 “(B) IMPROVEMENTS MADE BY OWNER.—
23 In the case of an improvement made by the
24 owner of such improvement, such improvement
25 shall be qualified retail improvement property

1 (if at all) only so long as such improvement is
2 held by such owner. Rules similar to the rules
3 under paragraph (6)(B) shall apply for pur-
4 poses of the preceding sentence.

5 “(C) CERTAIN IMPROVEMENTS NOT IN-
6 CLUDED.—Such term shall not include any im-
7 provement for which the expenditure is attrib-
8 utable to—

9 “(i) the enlargement of the building,

10 “(ii) any elevator or escalator,

11 “(iii) any structural component bene-
12 fitting a common area, or

13 “(iv) the internal structural frame-
14 work of the building.

15 “(D) EXCLUSION FROM BONUS DEPRECI-
16 ATION.—Property described in this paragraph
17 shall not be considered qualified property for
18 purposes of subsection (k).

19 “(E) TERMINATION.—Such term shall not
20 include any improvement placed in service after
21 December 31, 2009.”.

22 (3) REQUIREMENT TO USE STRAIGHT LINE
23 METHOD.—Section 168(b)(3) is amended by adding
24 at the end the following new subparagraph:

1 “(I) Qualified retail improvement property
2 described in subsection (e)(8).”.

3 (4) ALTERNATIVE SYSTEM.—The table con-
4 tained in section 168(g)(3)(B) is amended by insert-
5 ing after the item relating to subparagraph (E)(viii)
6 the following new item:

“(E)(ix) 39”.

7 (5) EFFECTIVE DATE.—The amendments made
8 by this subsection shall apply to property placed in
9 service after December 31, 2008.

10 **SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN**
11 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
12 **NIZATIONS.**

13 (a) IN GENERAL.—Clause (iv) of section
14 512(b)(13)(E) (relating to termination) is amended by
15 striking “December 31, 2007” and inserting “December
16 31, 2009”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to payments received or accrued
19 after December 31, 2007.

20 **SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
21 **TIONS MAKING CHARITABLE CONTRIBU-**
22 **TIONS OF PROPERTY.**

23 (a) IN GENERAL.—The last sentence of section
24 1367(a)(2) (relating to decreases in basis) is amended by

1 striking “December 31, 2007” and inserting “December
2 31, 2009”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to contributions made in taxable
5 years beginning after December 31, 2007.

6 **SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**
7 **CISE TAX TO PUERTO RICO AND THE VIRGIN**
8 **ISLANDS.**

9 (a) IN GENERAL.—Paragraph (1) of section 7652(f)
10 is amended by striking “January 1, 2008” and inserting
11 “January 1, 2010”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to distilled spirits brought into the
14 United States after December 31, 2007.

15 **SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CRED-**
16 **IT FOR AMERICAN SAMOA.**

17 (a) IN GENERAL.—Subsection (d) of section 119 of
18 division A of the Tax Relief and Health Care Act of 2006
19 is amended—

20 (1) by striking “first two taxable years” and in-
21 serting “first 4 taxable years”, and

22 (2) by striking “January 1, 2008” and insert-
23 ing “January 1, 2010”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2007.

4 **SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING**
5 **CREDIT.**

6 Section 45N(e) (relating to termination) is amended
7 by striking “December 31, 2008” and inserting “Decem-
8 ber 31, 2009”.

9 **SEC. 311. EXTENSION OF ELECTION TO EXPENSE AD-**
10 **VANCED MINE SAFETY EQUIPMENT.**

11 Section 179E(g) (relating to termination) is amended
12 by striking “December 31, 2008” and inserting “Decem-
13 ber 31, 2009”.

14 **SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
15 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
16 **DUCTION ACTIVITIES IN PUERTO RICO.**

17 (a) IN GENERAL.—Subparagraph (C) of section
18 199(d)(8) (relating to termination) is amended—

19 (1) by striking “first 2 taxable years” and in-
20 serting “first 4 taxable years”, and

21 (2) by striking “January 1, 2008” and insert-
22 ing “January 1, 2010”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2007.

1 **SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

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

5 **“SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.**

6 “(a) QUALIFIED ZONE ACADEMY BONDS.—For pur-
7 poses of this subchapter, the term ‘qualified zone academy
8 bond’ means any bond issued as part of an issue if—

9 “(1) 100 percent of the available project pro-
10 ceeds of such issue are to be used for a qualified
11 purpose with respect to a qualified zone academy es-
12 tablished by an eligible local education agency,

13 “(2) the bond is issued by a State or local gov-
14 ernment within the jurisdiction of which such acad-
15 emy is located, and

16 “(3) the issuer—

17 “(A) designates such bond for purposes of
18 this section,

19 “(B) certifies that it has written assur-
20 ances that the private business contribution re-
21 quirement of subsection (b) will be met with re-
22 spect to such academy, and

23 “(C) certifies that it has the written ap-
24 proval of the eligible local education agency for
25 such bond issuance.

1 “(b) PRIVATE BUSINESS CONTRIBUTION REQUIRE-
2 MENT.—For purposes of subsection (a), the private busi-
3 ness contribution requirement of this subsection is met
4 with respect to any issue if the eligible local education
5 agency that established the qualified zone academy has
6 written commitments from private entities to make quali-
7 fied contributions having a present value (as of the date
8 of issuance of the issue) of not less than 10 percent of
9 the proceeds of the issue.

10 “(c) LIMITATION ON AMOUNT OF BONDS DES-
11 IGNATED.—

12 “(1) NATIONAL LIMITATION.—There is a na-
13 tional zone academy bond limitation for each cal-
14 endar year. Such limitation is \$400,000,000 for
15 2008 and 2009, and, except as provided in para-
16 graph (4), zero thereafter.

17 “(2) ALLOCATION OF LIMITATION.—The na-
18 tional zone academy bond limitation for a calendar
19 year shall be allocated by the Secretary among the
20 States on the basis of their respective populations of
21 individuals below the poverty line (as defined by the
22 Office of Management and Budget). The limitation
23 amount allocated to a State under the preceding
24 sentence shall be allocated by the State education

1 agency to qualified zone academies within such
2 State.

3 “(3) DESIGNATION SUBJECT TO LIMITATION
4 AMOUNT.—The maximum aggregate face amount of
5 bonds issued during any calendar year which may be
6 designated under subsection (a) with respect to any
7 qualified zone academy shall not exceed the limita-
8 tion amount allocated to such academy under para-
9 graph (2) for such calendar year.

10 “(4) CARRYOVER OF UNUSED LIMITATION.—

11 “(A) IN GENERAL.—If for any calendar
12 year—

13 “(i) the limitation amount for any
14 State, exceeds

15 “(ii) the amount of bonds issued dur-
16 ing such year which are designated under
17 subsection (a) with respect to qualified
18 zone academies within such State,

19 the limitation amount for such State for the fol-
20 lowing calendar year shall be increased by the
21 amount of such excess.

22 “(B) LIMITATION ON CARRYOVER.—Any
23 carryforward of a limitation amount may be
24 carried only to the first 2 years following the
25 unused limitation year. For purposes of the pre-

1 ceding sentence, a limitation amount shall be
2 treated as used on a first-in first-out basis.

3 “(C) COORDINATION WITH SECTION
4 1397E.—Any carryover determined under sec-
5 tion 1397E(e)(4) (relating to carryover of un-
6 used limitation) with respect to any State to
7 calendar year 2008 or 2009 shall be treated for
8 purposes of this section as a carryover with re-
9 spect to such State for such calendar year
10 under subparagraph (A), and the limitation of
11 subparagraph (B) shall apply to such carryover
12 taking into account the calendar years to which
13 such carryover relates.

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

15 “(1) QUALIFIED ZONE ACADEMY.—The term
16 ‘qualified zone academy’ means any public school (or
17 academic program within a public school) which is
18 established by and operated under the supervision of
19 an eligible local education agency to provide edu-
20 cation or training below the postsecondary level if—

21 “(A) such public school or program (as the
22 case may be) is designed in cooperation with
23 business to enhance the academic curriculum,
24 increase graduation and employment rates, and

1 better prepare students for the rigors of college
2 and the increasingly complex workforce,

3 “(B) students in such public school or pro-
4 gram (as the case may be) will be subject to the
5 same academic standards and assessments as
6 other students educated by the eligible local
7 education agency,

8 “(C) the comprehensive education plan of
9 such public school or program is approved by
10 the eligible local education agency, and

11 “(D)(i) such public school is located in an
12 empowerment zone or enterprise community
13 (including any such zone or community des-
14 ignated after the date of the enactment of this
15 section), or

16 “(ii) there is a reasonable expectation (as
17 of the date of issuance of the bonds) that at
18 least 35 percent of the students attending such
19 school or participating in such program (as the
20 case may be) will be eligible for free or reduced-
21 cost lunches under the school lunch program es-
22 tablished under the National School Lunch Act.

23 “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—

24 For purposes of this section, the term ‘eligible local
25 education agency’ means any local educational agen-

1 cy as defined in section 9101 of the Elementary and
2 Secondary Education Act of 1965.

3 “(3) QUALIFIED PURPOSE.—The term ‘quali-
4 fied purpose’ means, with respect to any qualified
5 zone academy—

6 “(A) rehabilitating or repairing the public
7 school facility in which the academy is estab-
8 lished,

9 “(B) providing equipment for use at such
10 academy,

11 “(C) developing course materials for edu-
12 cation to be provided at such academy, and

13 “(D) training teachers and other school
14 personnel in such academy.

15 “(4) QUALIFIED CONTRIBUTIONS.—The term
16 ‘qualified contribution’ means any contribution (of a
17 type and quality acceptable to the eligible local edu-
18 cation agency) of—

19 “(A) equipment for use in the qualified
20 zone academy (including state-of-the-art tech-
21 nology and vocational equipment),

22 “(B) technical assistance in developing
23 curriculum or in training teachers in order to
24 promote appropriate market driven technology
25 in the classroom,

1 “(C) services of employees as volunteer
2 mentors,

3 “(D) internships, field trips, or other edu-
4 cational opportunities outside the academy for
5 students, or

6 “(E) any other property or service speci-
7 fied by the eligible local education agency.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Paragraph (1) of section 54A(d), as amend-
10 ed by this Act, is amended by striking “or” at the
11 end of subparagraph (B), by inserting “or” at the
12 end of subparagraph (C), and by inserting after sub-
13 paragraph (C) the following new subparagraph:

14 “(D) a qualified zone academy bond,”.

15 (2) Subparagraph (C) of section 54A(d)(2), as
16 amended by this Act, is amended by striking “and”
17 at the end of clause (ii), by striking the period at
18 the end of clause (iii) and inserting “, and”, and by
19 adding at the end the following new clause:

20 “(iv) in the case of a qualified zone
21 academy bond, a purpose specified in sec-
22 tion 54E(a)(1).”.

23 (3) Section 1397E is amended by adding at the
24 end the following new subsection:

1 “(m) TERMINATION.—This section shall not apply to
2 any obligation issued after the date of the enactment of
3 the Tax Extenders and Alternative Minimum Tax Relief
4 Act of 2008.”.

5 (4) The table of sections for subpart I of part
6 IV of subchapter A of chapter 1 is amended by add-
7 ing at the end the following new item:

“Sec. 54E. Qualified zone academy bonds.”.

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

11 **SEC. 314. INDIAN EMPLOYMENT CREDIT.**

12 (a) IN GENERAL.—Subsection (f) of section 45A (re-
13 lating to termination) is amended by striking “December
14 31, 2007” and inserting “December 31, 2009”.

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

18 **SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS**
19 **PROPERTY ON INDIAN RESERVATIONS.**

20 (a) IN GENERAL.—Paragraph (8) of section 168(j)
21 (relating to termination) is amended by striking “Decem-
22 ber 31, 2007” and inserting “December 31, 2009”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to property placed in service after
25 December 31, 2007.

1 **SEC. 316. RAILROAD TRACK MAINTENANCE.**

2 (a) IN GENERAL.—Subsection (f) of section 45G (re-
3 lating to application of section) is amended by striking
4 “January 1, 2008” and inserting “January 1, 2010”.

5 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
6 IMUM TAX.—Subparagraph (B) of section 38(c)(4), as
7 amended by this Act, is amended—

8 (1) by redesignating clauses (v), (vi), and (vii)
9 as clauses (vi), (vii), and (viii), respectively, and

10 (2) by inserting after clause (iv) the following
11 new clause:

12 “(v) the credit determined under sec-
13 tion 45G.”.

14 (c) EFFECTIVE DATES.—

15 (1) The amendment made by subsection (a)
16 shall apply to expenditures paid or incurred during
17 taxable years beginning after December 31, 2007.

18 (2) The amendments made by subsection (b)
19 shall apply to credits determined under section 45G
20 of the Internal Revenue Code of 1986 in taxable
21 years beginning after December 31, 2007, and to
22 carrybacks of such credits.

23 **SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**
24 **TORSPO RTS RACING TRACK FACILITY.**

25 (a) IN GENERAL.—Subparagraph (D) of section
26 168(i)(15) (relating to termination) is amended by strik-

1 ing “December 31, 2007” and inserting “December 31,
2 2009”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to property placed in service after
5 December 31, 2007.

6 **SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION**
7 **COSTS.**

8 (a) IN GENERAL.—Subsection (h) of section 198 (re-
9 lating to termination) is amended by striking “December
10 31, 2007” and inserting “December 31, 2009”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to expenditures paid or incurred
13 after December 31, 2007.

14 **SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT**
15 **FOR HURRICANE KATRINA EMPLOYEES.**

16 (a) IN GENERAL.—Paragraph (1) of section 201(b)
17 of the Katrina Emergency Tax Relief Act of 2005 is
18 amended by striking “2-year” and inserting “4-year”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to individuals hired after August
21 27, 2007.

1 **SEC. 320. EXTENSION OF INCREASED REHABILITATION**
2 **CREDIT FOR STRUCTURES IN THE GULF OP-**
3 **PORTUNITY ZONE.**

4 (a) IN GENERAL.—Subsection (h) of section 1400N
5 is amended by striking “December 31, 2008” and insert-
6 ing “December 31, 2009”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to expenditures paid or incurred
9 after the date of the enactment of this Act.

10 **SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COM-**
11 **PUTER CONTRIBUTIONS.**

12 (a) IN GENERAL.—Subparagraph (G) of section
13 170(e)(6) is amended by striking “December 31, 2007”
14 and inserting “December 31, 2009”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to contributions made during tax-
17 able years beginning after December 31, 2007.

18 **SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
19 **TRICT OF COLUMBIA.**

20 (a) DESIGNATION OF ZONE.—

21 (1) IN GENERAL.—Subsection (f) of section
22 1400 is amended by striking “2007” both places it
23 appears and inserting “2009”.

24 (2) EFFECTIVE DATE.—The amendments made
25 by this subsection shall apply to periods beginning
26 after December 31, 2007.

1 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
2 BONDS.—

3 (1) IN GENERAL.—Subsection (b) of section
4 1400A is amended by striking “2007” and inserting
5 “2009”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by this subsection shall apply to bonds issued after
8 December 31, 2007.

9 (c) ZERO PERCENT CAPITAL GAINS RATE.—

10 (1) IN GENERAL.—Subsection (b) of section
11 1400B is amended by striking “2008” each place it
12 appears and inserting “2010”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 1400B(e)(2) is amended—

15 (i) by striking “2012” and inserting
16 “2014”, and

17 (ii) by striking “2012” in the heading
18 thereof and inserting “2014”.

19 (B) Section 1400B(g)(2) is amended by
20 striking “2012” and inserting “2014”.

21 (C) Section 1400F(d) is amended by strik-
22 ing “2012” and inserting “2014”.

23 (3) EFFECTIVE DATES.—

1 (A) EXTENSION.—The amendments made
2 by paragraph (1) shall apply to acquisitions
3 after December 31, 2007.

4 (B) CONFORMING AMENDMENTS.—The
5 amendments made by paragraph (2) shall take
6 effect on the date of the enactment of this Act.

7 (d) FIRST-TIME HOMEBUYER CREDIT.—

8 (1) IN GENERAL.—Subsection (i) of section
9 1400C is amended by striking “2008” and inserting
10 “2010”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply to property purchased
13 after December 31, 2007.

14 **SEC. 323. ENHANCED CHARITABLE DEDUCTIONS FOR CON-**
15 **TRIBUTIONS OF FOOD INVENTORY.**

16 (a) INCREASED AMOUNT OF DEDUCTION.—

17 (1) IN GENERAL.—Clause (iv) of section
18 170(e)(3)(C) (relating to termination) is amended by
19 striking “December 31, 2007” and inserting “De-
20 cember 31, 2009”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by this subsection shall apply to contributions made
23 after December 31, 2007.

24 (b) TEMPORARY SUSPENSION OF LIMITATIONS ON
25 CHARITABLE CONTRIBUTIONS.—

1 (b) CLERICAL AMENDMENT.—Clause (iii) of section
2 170(e)(3)(D) (relating to certification by donee) is amend-
3 ed by inserting “of books” after “to any contribution”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to contributions made after De-
6 cember 31, 2007.

7 **SEC. 325. EXTENSION AND MODIFICATION OF DUTY SUS-**
8 **PENSION ON WOOL PRODUCTS; WOOL RE-**
9 **SEARCH FUND; WOOL DUTY REFUNDS.**

10 (a) EXTENSION OF TEMPORARY DUTY REDUC-
11 TIONS.—Each of the following headings of the Har-
12 monized Tariff Schedule of the United States is amended
13 by striking the date in the effective period column and
14 inserting “12/31/2014”:

15 (1) Heading 9902.51.11 (relating to fabrics of
16 worsted wool).

17 (2) Heading 9902.51.13 (relating to yarn of
18 combed wool).

19 (3) Heading 9902.51.14 (relating to wool fiber,
20 waste, garnetted stock, combed wool, or wool top).

21 (4) Heading 9902.51.15 (relating to fabrics of
22 combed wool).

23 (5) Heading 9902.51.16 (relating to fabrics of
24 combed wool).

1 (b) EXTENSION OF DUTY REFUNDS AND WOOL RE-
2 SEARCH TRUST FUND.—

3 (1) IN GENERAL.—Section 4002(c) of the Wool
4 Suit and Textile Trade Extension Act of 2004 (Pub-
5 lic Law 108–429; 118 Stat. 2603) is amended—

6 (A) in paragraph (3)(C), by striking
7 “2010” and inserting “2015”; and

8 (B) in paragraph (6)(A), by striking
9 “through 2009” and inserting “through 2014”.

10 (2) SUNSET.—Section 506(f) of the Trade and
11 Development Act of 2000 (Public 106–200; 114
12 Stat. 303 (7 U.S.C. 7101 note)) is amended by
13 striking “2010” and inserting “2015”.

14 **TITLE IV—EXTENSION OF TAX**
15 **ADMINISTRATION PROVISIONS**

16 **SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OP-**
17 **ERATIONS.**

18 (a) IN GENERAL.—Section 7608(c) (relating to rules
19 relating to undercover operations) is amended by striking
20 paragraph (6).

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to operations conducted after the
23 date of the enactment of this Act.

1 **SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF**
2 **INFORMATION RELATING TO TERRORIST AC-**
3 **TIVITIES.**

4 (a) DISCLOSURE OF RETURN INFORMATION TO AP-
5 PRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVI-
6 TIES.—Subparagraph (C) of section 6103(i)(3) is amend-
7 ed by striking clause (iv).

8 (b) DISCLOSURE UPON REQUEST OF INFORMATION
9 RELATING TO TERRORIST ACTIVITIES.—Paragraph (7) of
10 section 6103(i) is amended by striking subparagraph (E).

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

14 **TITLE V—ADDITIONAL TAX RE-**
15 **LIEF AND OTHER TAX PROVI-**
16 **SIONS**

17 **SEC. 501. \$8,500 INCOME THRESHOLD USED TO CALCULATE**
18 **REFUNDABLE PORTION OF CHILD TAX CRED-**
19 **IT.**

20 (a) IN GENERAL.—Section 24(d) is amended by add-
21 ing at the end the following new paragraph:

22 “(4) SPECIAL RULE FOR 2008.—Notwith-
23 standing paragraph (3), in the case of any taxable
24 year beginning in 2008, the dollar amount in effect
25 for such taxable year under paragraph (1)(B)(i)
26 shall be \$8,500.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2007.

4 **SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION**
5 **PRODUCTIONS.**

6 (a) EXTENSION OF EXPENSING RULES FOR QUALI-
7 FIED FILM AND TELEVISION PRODUCTIONS.—Section
8 181(f) (relating to termination) is amended by striking
9 “December 31, 2008” and inserting “December 31,
10 2009”.

11 (b) MODIFICATION OF LIMITATION ON EXPENS-
12 ING.—Subparagraph (A) of section 181(a)(2) is amended
13 to read as follows:

14 “(A) IN GENERAL.—Paragraph (1) shall
15 not apply to so much of the aggregate cost of
16 any qualified film or television production as ex-
17 ceeds \$15,000,000.”.

18 (c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC
19 ACTIVITIES.—

20 (1) DETERMINATION OF W-2 WAGES.—Para-
21 graph (2) of section 199(b) is amended by adding at
22 the end the following new subparagraph:

23 “(D) SPECIAL RULE FOR QUALIFIED
24 FILM.—In the case of a qualified film, such
25 term shall include compensation for services

1 performed in the United States by actors, pro-
2 duction personnel, directors, and producers.”.

3 (2) DEFINITION OF QUALIFIED FILM.—Para-
4 graph (6) of section 199(e) is amended by adding at
5 the end the following: “A qualified film shall include
6 any copyrights, trademarks, or other intangibles
7 with respect to such film. The methods and means
8 of distributing a qualified film shall not affect the
9 availability of the deduction under this section.”.

10 (3) PARTNERSHIPS.—Subparagraph (A) of sec-
11 tion 199(d)(1) is amended by striking “and” at the
12 end of clause (ii), by striking the period at the end
13 of clause (iii) and inserting “, and”, and by adding
14 at the end the following new clause:

15 “(iv) in the case of each partner of a
16 partnership, or shareholder of an S cor-
17 poration, who owns (directly or indirectly)
18 at least 20 percent of the capital interests
19 in such partnership or of the stock of such
20 S corporation—

21 “(I) such partner or shareholder
22 shall be treated as having engaged di-
23 rectly in any film produced by such
24 partnership or S corporation, and

1 “(II) such partnership or S cor-
2 poration shall be treated as having en-
3 gaged directly in any film produced by
4 such partner or shareholder.”.

5 (d) CONFORMING AMENDMENT.—Section
6 181(d)(3)(A) is amended by striking “actors” and all that
7 follows and inserting “actors, production personnel, direc-
8 tors, and producers.”.

9 (e) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to qualified film and tele-
13 vision productions commencing after December 31,
14 2007.

15 (2) DEDUCTION.—The amendments made by
16 subsection (c) shall apply to taxable years beginning
17 after December 31, 2007.

18 **SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN**
19 **WOODEN ARROWS DESIGNED FOR USE BY**
20 **CHILDREN.**

21 (a) IN GENERAL.—Paragraph (2) of section 4161(b)
22 is amended by redesignating subparagraph (B) as sub-
23 paragraph (C) and by inserting after subparagraph (A)
24 the following new subparagraph:

1 “(B) EXEMPTION FOR CERTAIN WOODEN
2 ARROW SHAFTS.—Subparagraph (A) shall not
3 apply to any shaft consisting of all natural
4 wood with no laminations or artificial means of
5 enhancing the spine of such shaft (whether sold
6 separately or incorporated as part of a finished
7 or unfinished product) of a type used in the
8 manufacture of any arrow which after its as-
9 sembly—

10 “(i) measures $\frac{5}{16}$ of an inch or less in
11 diameter, and

12 “(ii) is not suitable for use with a bow
13 described in paragraph (1)(A).”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to shafts first sold after the date
16 of enactment of this Act.

17 **SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN**
18 **CONNECTION WITH THE EXXON VALDEZ LITI-**
19 **GATION.**

20 (a) INCOME AVERAGING OF AMOUNTS RECEIVED
21 FROM THE EXXON VALDEZ LITIGATION.—For purposes
22 of section 1301 of the Internal Revenue Code of 1986—

23 (1) any qualified taxpayer who receives any
24 qualified settlement income in any taxable year shall
25 be treated as engaged in a fishing business (deter-

1 mined without regard to the commercial nature of
2 the business), and

3 (2) such qualified settlement income shall be
4 treated as income attributable to such a fishing busi-
5 ness for such taxable year.

6 (b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RE-
7 TIREMENT ACCOUNTS.—

8 (1) IN GENERAL.—Any qualified taxpayer who
9 receives qualified settlement income during the tax-
10 able year may, at any time before the end of the tax-
11 able year in which such income was received, make
12 one or more contributions to an eligible retirement
13 plan of which such qualified taxpayer is a bene-
14 ficiary in an aggregate amount not to exceed the
15 lesser of—

16 (A) \$100,000 (reduced by the amount of
17 qualified settlement income contributed to an
18 eligible retirement plan in prior taxable years
19 pursuant to this subsection), or

20 (B) the amount of qualified settlement in-
21 come received by the individual during the tax-
22 able year.

23 (2) TIME WHEN CONTRIBUTIONS DEEMED
24 MADE.—For purposes of paragraph (1), a qualified
25 taxpayer shall be deemed to have made a contribu-

1 defined under section 7701(a)(37) of
2 such Code), in a distribution described
3 in section 408(d)(3) of such Code,
4 and

5 (II) in the case of any other eligi-
6 ble retirement plan, in an eligible roll-
7 over distribution (as defined under
8 section 402(f)(2) of such Code), and

9 (ii) as having transferred the amount
10 to the eligible retirement plan in a direct
11 trustee to trustee transfer within 60 days
12 of the distribution,

13 (C) section 408(d)(3)(B) of the Internal
14 Revenue Code of 1986 shall not apply with re-
15 spect to amounts treated as a rollover under
16 this paragraph, and

17 (D) section 408A(c)(3)(B) of the Internal
18 Revenue Code of 1986 shall not apply with re-
19 spect to amounts contributed to a Roth IRA (as
20 defined under section 408A(b) of such Code) or
21 a designated Roth contribution to an applicable
22 retirement plan (within the meaning of section
23 402A of such Code) under this paragraph.

24 (4) SPECIAL RULE FOR ROTH IRAS AND ROTH
25 401(k)s.—For purposes of the Internal Revenue

1 Code of 1986, if a contribution is made pursuant to
2 paragraph (1) with respect to qualified settlement
3 income to a Roth IRA (as defined under section
4 408A(b) of such Code) or as a designated Roth con-
5 tribution to an applicable retirement plan (within
6 the meaning of section 402A of such Code), then—

7 (A) the qualified settlement income shall
8 be includible in taxable income, and

9 (B) for purposes of section 72 of such
10 Code, such contribution shall be considered to
11 be investment in the contract.

12 (5) ELIGIBLE RETIREMENT PLAN.—For pur-
13 pose of this subsection, the term “eligible retirement
14 plan” has the meaning given such term under sec-
15 tion 402(c)(8)(B) of the Internal Revenue Code of
16 1986.

17 (c) TREATMENT OF QUALIFIED SETTLEMENT IN-
18 COME UNDER EMPLOYMENT TAXES.—

19 (1) SECA.—For purposes of chapter 2 of the
20 Internal Revenue Code of 1986 and section 211 of
21 the Social Security Act, no portion of qualified set-
22 tlement income received by a qualified taxpayer shall
23 be treated as self-employment income.

24 (2) FICA.—For purposes of chapter 21 of the
25 Internal Revenue Code of 1986 and section 209 of

1 the Social Security Act, no portion of qualified set-
2 tlement income received by a qualified taxpayer shall
3 be treated as wages.

4 (d) QUALIFIED TAXPAYER.—For purposes of this
5 section, the term “qualified taxpayer” means—

6 (1) any individual who is a plaintiff in the civil
7 action *In re Exxon Valdez*, No. 89–095–CV (HRH)
8 (Consolidated) (D. Alaska); or

9 (2) any individual who is a beneficiary of the
10 estate of such a plaintiff who—

11 (A) acquired the right to receive qualified
12 settlement income from that plaintiff; and

13 (B) was the spouse or an immediate rel-
14 ative of that plaintiff.

15 (e) QUALIFIED SETTLEMENT INCOME.—For pur-
16 poses of this section, the term “qualified settlement in-
17 come” means any interest and punitive damage awards
18 which are—

19 (1) otherwise includible in taxable income, and

20 (2) received (whether as lump sums or periodic
21 payments) in connection with the civil action *In re*
22 *Exxon Valdez*, No. 89–095–CV (HRH) (Consoli-
23 dated) (D. Alaska) (whether pre- or post-judgment
24 and whether related to a settlement or judgment).

1 **SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND**
2 **EQUIPMENT TREATED AS 5-YEAR PROPERTY.**

3 (a) **IN GENERAL.**—Section 168(e)(3)(B) (defining 5-
4 year property) is amended by striking “and” at the end
5 of clause (v), by striking the period at the end of clause
6 (vi)(III) and inserting “, and”, and by inserting after
7 clause (vi) the following new clause:

8 “(vii) any machinery or equipment
9 (other than any grain bin, cotton ginning
10 asset, fence, or other land improvement)
11 which is used in a farming business (as de-
12 fined in section 263A(e)(4)), the original
13 use of which commences with the taxpayer
14 after December 31, 2008, and which is
15 placed in service before January 1, 2010.”.

16 (b) **ALTERNATIVE SYSTEM.**—The table contained in
17 section 168(g)(3)(B) (relating to special rule for certain
18 property assigned to classes) is amended by inserting after
19 the item relating to subparagraph (B)(iii) the following:

(B)(vii) 10”.

20 (c) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to property placed in service after
22 December 31, 2008.

1 **SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATE-**
2 **MENT OF TAXPAYER'S LIABILITY BY TAX RE-**
3 **TURN PREPARER.**

4 (a) IN GENERAL.—Subsection (a) of section 6694 is
5 amended to read as follows:

6 “(a) UNDERSTATEMENT DUE TO UNREASONABLE
7 POSITIONS.—

8 “(1) IN GENERAL.—If a tax return preparer—

9 “(A) prepares any return or claim of re-
10 fund with respect to which any part of an un-
11 derstatement of liability is due to a position de-
12 scribed in paragraph (2), and

13 “(B) knew (or reasonably should have
14 known) of the position,

15 such tax return preparer shall pay a penalty with re-
16 spect to each such return or claim in an amount
17 equal to the greater of \$1,000 or 50 percent of the
18 income derived (or to be derived) by the tax return
19 preparer with respect to the return or claim.

20 “(2) UNREASONABLE POSITION.—

21 “(A) IN GENERAL.—Except as otherwise
22 provided in this paragraph, a position is de-
23 scribed in this paragraph unless there is or was
24 substantial authority for the position.

25 “(B) DISCLOSED POSITIONS.—If the posi-
26 tion was disclosed as provided in section

1 6662(d)(2)(B)(ii)(I) and is not a position to
2 which subparagraph (C) applies, the position is
3 described in this paragraph unless there is a
4 reasonable basis for the position.

5 “(C) TAX SHELTERS AND REPORTABLE
6 TRANSACTIONS.—If the position is with respect
7 to a tax shelter (as defined in section
8 6662(d)(2)(C)(ii)) or a reportable transaction
9 to which section 6662A applies, the position is
10 described in this paragraph unless it is reason-
11 able to believe that the position would more
12 likely than not be sustained on its merits.

13 “(3) REASONABLE CAUSE EXCEPTION.—No
14 penalty shall be imposed under this subsection if it
15 is shown that there is reasonable cause for the un-
16 derstatement and the tax return preparer acted in
17 good faith.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply—

20 (1) in the case of a position other than a posi-
21 tion described in subparagraph (C) of section
22 6694(a)(2) of the Internal Revenue Code of 1986
23 (as amended by this section), to returns prepared
24 after May 25, 2007, and

1 (2) in the case of a position described in such
2 subparagraph (C), to returns prepared for taxable
3 years ending after the date of the enactment of this
4 Act.

5 **SEC. 507. MENTAL HEALTH PARITY.**

6 (a) AMENDMENTS TO ERISA.—Section 712 of the
7 Employee Retirement Income Security Act of 1974 (29
8 U.S.C. 1185a) is amended—

9 (1) in subsection (a), by adding at the end the
10 following:

11 “(3) FINANCIAL REQUIREMENTS AND TREAT-
12 MENT LIMITATIONS.—

13 “(A) IN GENERAL.—In the case of a group
14 health plan (or health insurance coverage of-
15 fered in connection with such a plan) that pro-
16 vides both medical and surgical benefits and
17 mental health or substance use disorder bene-
18 fits, such plan or coverage shall ensure that—

19 “(i) the financial requirements appli-
20 cable to such mental health or substance
21 use disorder benefits are no more restric-
22 tive than the predominant financial re-
23 quirements applied to substantially all
24 medical and surgical benefits covered by
25 the plan (or coverage), and there are no

1 separate cost sharing requirements that
2 are applicable only with respect to mental
3 health or substance use disorder benefits;
4 and

5 “(ii) the treatment limitations applica-
6 ble to such mental health or substance use
7 disorder benefits are no more restrictive
8 than the predominant treatment limita-
9 tions applied to substantially all medical
10 and surgical benefits covered by the plan
11 (or coverage) and there are no separate
12 treatment limitations that are applicable
13 only with respect to mental health or sub-
14 stance use disorder benefits.

15 “(B) DEFINITIONS.—In this paragraph:

16 “(i) FINANCIAL REQUIREMENT.—The
17 term ‘financial requirement’ includes
18 deductibles, copayments, coinsurance, and
19 out-of-pocket expenses, but excludes an ag-
20 gregate lifetime limit and an annual limit
21 subject to paragraphs (1) and (2),

22 “(ii) PREDOMINANT.—A financial re-
23 quirement or treatment limit is considered
24 to be predominant if it is the most com-

1 mon or frequent of such type of limit or
2 requirement.

3 “(iii) TREATMENT LIMITATION.—The
4 term ‘treatment limitation’ includes limits
5 on the frequency of treatment, number of
6 visits, days of coverage, or other similar
7 limits on the scope or duration of treat-
8 ment.

9 “(4) AVAILABILITY OF PLAN INFORMATION.—
10 The criteria for medical necessity determinations
11 made under the plan with respect to mental health
12 or substance use disorder benefits (or the health in-
13 surance coverage offered in connection with the plan
14 with respect to such benefits) shall be made avail-
15 able by the plan administrator (or the health insur-
16 ance issuer offering such coverage) in accordance
17 with regulations to any current or potential partici-
18 pant, beneficiary, or contracting provider upon re-
19 quest. The reason for any denial under the plan (or
20 coverage) of reimbursement or payment for services
21 with respect to mental health or substance use dis-
22 order benefits in the case of any participant or bene-
23 ficiary shall, on request or as otherwise required, be
24 made available by the plan administrator (or the
25 health insurance issuer offering such coverage) to

1 the participant or beneficiary in accordance with
2 regulations.

3 “(5) OUT-OF-NETWORK PROVIDERS.—In the
4 case of a plan or coverage that provides both med-
5 ical and surgical benefits and mental health or sub-
6 stance use disorder benefits, if the plan or coverage
7 provides coverage for medical or surgical benefits
8 provided by out-of-network providers, the plan or
9 coverage shall provide coverage for mental health or
10 substance use disorder benefits provided by out-of-
11 network providers in a manner that is consistent
12 with the requirements of this section.”;

13 (2) in subsection (b), by amending paragraph
14 (2) to read as follows:

15 “(2) in the case of a group health plan (or
16 health insurance coverage offered in connection with
17 such a plan) that provides mental health or sub-
18 stance use disorder benefits, as affecting the terms
19 and conditions of the plan or coverage relating to
20 such benefits under the plan or coverage, except as
21 provided in subsection (a).”;

22 (3) in subsection (c)—

23 (A) in paragraph (1)(B)—

24 (i) by inserting “(or 1 in the case of
25 an employer residing in a State that per-

1 mits small groups to include a single indi-
2 vidual)” after “at least 2” the first place
3 that such appears; and

4 (ii) by striking “and who employs at
5 least 2 employees on the first day of the
6 plan year”; and

7 (B) by striking paragraph (2) and insert-
8 ing the following:

9 “(2) COST EXEMPTION.—

10 “(A) IN GENERAL.—With respect to a
11 group health plan (or health insurance coverage
12 offered in connection with such a plan), if the
13 application of this section to such plan (or cov-
14 erage) results in an increase for the plan year
15 involved of the actual total costs of coverage
16 with respect to medical and surgical benefits
17 and mental health and substance use disorder
18 benefits under the plan (as determined and cer-
19 tified under subparagraph (C)) by an amount
20 that exceeds the applicable percentage described
21 in subparagraph (B) of the actual total plan
22 costs, the provisions of this section shall not
23 apply to such plan (or coverage) during the fol-
24 lowing plan year, and such exemption shall
25 apply to the plan (or coverage) for 1 plan year.

1 An employer may elect to continue to apply
2 mental health and substance use disorder parity
3 pursuant to this section with respect to the
4 group health plan (or coverage) involved regard-
5 less of any increase in total costs.

6 “(B) APPLICABLE PERCENTAGE.—With re-
7 spect to a plan (or coverage), the applicable
8 percentage described in this subparagraph shall
9 be—

10 “(i) 2 percent in the case of the first
11 plan year in which this section is applied;
12 and

13 “(ii) 1 percent in the case of each
14 subsequent plan year.

15 “(C) DETERMINATIONS BY ACTUARIES.—
16 Determinations as to increases in actual costs
17 under a plan (or coverage) for purposes of this
18 section shall be made and certified by a quali-
19 fied and licensed actuary who is a member in
20 good standing of the American Academy of Ac-
21 tuaries. All such determinations shall be in a
22 written report prepared by the actuary. The re-
23 port, and all underlying documentation relied
24 upon by the actuary, shall be maintained by the
25 group health plan or health insurance issuer for

1 a period of 6 years following the notification
2 made under subparagraph (E).

3 “(D) 6-MONTH DETERMINATIONS.—If a
4 group health plan (or a health insurance issuer
5 offering coverage in connection with a group
6 health plan) seeks an exemption under this
7 paragraph, determinations under subparagraph
8 (A) shall be made after such plan (or coverage)
9 has complied with this section for the first 6
10 months of the plan year involved.

11 “(E) NOTIFICATION.—

12 “(i) IN GENERAL.—A group health
13 plan (or a health insurance issuer offering
14 coverage in connection with a group health
15 plan) that, based upon a certification de-
16 scribed under subparagraph (C), qualifies
17 for an exemption under this paragraph,
18 and elects to implement the exemption,
19 shall promptly notify the Secretary, the ap-
20 propriate State agencies, and participants
21 and beneficiaries in the plan of such elec-
22 tion.

23 “(ii) REQUIREMENT.—A notification
24 to the Secretary under clause (i) shall in-
25 clude—

1 “(I) a description of the number
2 of covered lives under the plan (or
3 coverage) involved at the time of the
4 notification, and as applicable, at the
5 time of any prior election of the cost-
6 exemption under this paragraph by
7 such plan (or coverage);

8 “(II) for both the plan year upon
9 which a cost exemption is sought and
10 the year prior, a description of the ac-
11 tual total costs of coverage with re-
12 spect to medical and surgical benefits
13 and mental health and substance use
14 disorder benefits under the plan; and

15 “(III) for both the plan year
16 upon which a cost exemption is sought
17 and the year prior, the actual total
18 costs of coverage with respect to men-
19 tal health and substance use disorder
20 benefits under the plan.

21 “(iii) CONFIDENTIALITY.—A notifica-
22 tion to the Secretary under clause (i) shall
23 be confidential. The Secretary shall make
24 available, upon request and on not more
25 than an annual basis, an anonymous

1 itemization of such notifications, that in-
2 cludes—

3 “(I) a breakdown of States by
4 the size and type of employers submit-
5 ting such notification; and

6 “(II) a summary of the data re-
7 ceived under clause (ii).

8 “(F) AUDITS BY APPROPRIATE AGEN-
9 CIES.—To determine compliance with this para-
10 graph, the Secretary may audit the books and
11 records of a group health plan or health insur-
12 ance issuer relating to an exemption, including
13 any actuarial reports prepared pursuant to sub-
14 paragraph (C), during the 6 year period fol-
15 lowing the notification of such exemption under
16 subparagraph (E). A State agency receiving a
17 notification under subparagraph (E) may also
18 conduct such an audit with respect to an ex-
19 emption covered by such notification.”;

20 (4) in subsection (e), by striking paragraph (4)
21 and inserting the following:

22 “(4) MENTAL HEALTH BENEFITS.—The term
23 ‘mental health benefits’ means benefits with respect
24 to services for mental health conditions, as defined

1 under the terms of the plan and in accordance with
2 applicable Federal and State law.

3 “(5) SUBSTANCE USE DISORDER BENEFITS.—

4 The term ‘substance use disorder benefits’ means
5 benefits with respect to services for substance use
6 disorders, as defined under the terms of the plan
7 and in accordance with applicable Federal and State
8 law.”;

9 (5) by striking subsection (f);

10 (6) by inserting after subsection (e) the fol-
11 lowing:

12 “(f) SECRETARY REPORT.—The Secretary shall, by
13 January 1, 2012, and every two years thereafter, submit
14 to the appropriate committees of Congress a report on
15 compliance of group health plans (and health insurance
16 coverage offered in connection with such plans) with the
17 requirements of this section. Such report shall include the
18 results of any surveys or audits on compliance of group
19 health plans (and health insurance coverage offered in
20 connection with such plans) with such requirements and
21 an analysis of the reasons for any failures to comply.

22 “(g) NOTICE AND ASSISTANCE.—The Secretary, in
23 cooperation with the Secretaries of Health and Human
24 Services and Treasury, as appropriate, shall publish and
25 widely disseminate guidance and information for group

1 health plans, participants and beneficiaries, applicable
2 State and local regulatory bodies, and the National Asso-
3 ciation of Insurance Commissioners concerning the re-
4 quirements of this section and shall provide assistance
5 concerning such requirements and the continued operation
6 of applicable State law. Such guidance and information
7 shall inform participants and beneficiaries of how they
8 may obtain assistance under this section, including, where
9 appropriate, assistance from State consumer and insur-
10 ance agencies.”;

11 (7) by striking “mental health benefits” and in-
12 serting “mental health and substance use disorder
13 benefits” each place it appears in subsections
14 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
15 and

16 (8) by striking “mental health benefits” and in-
17 serting “mental health or substance use disorder
18 benefits” each place it appears (other than in any
19 provision amended by the previous paragraph).

20 (b) AMENDMENTS TO PUBLIC HEALTH SERVICE
21 ACT.—Section 2705 of the Public Health Service Act (42
22 U.S.C. 300gg–5) is amended—

23 (1) in subsection (a), by adding at the end the
24 following:

1 “(3) FINANCIAL REQUIREMENTS AND TREAT-
2 MENT LIMITATIONS.—

3 “(A) IN GENERAL.—In the case of a group
4 health plan (or health insurance coverage of-
5 fered in connection with such a plan) that pro-
6 vides both medical and surgical benefits and
7 mental health or substance use disorder bene-
8 fits, such plan or coverage shall ensure that—

9 “(i) the financial requirements appli-
10 cable to such mental health or substance
11 use disorder benefits are no more restric-
12 tive than the predominant financial re-
13 quirements applied to substantially all
14 medical and surgical benefits covered by
15 the plan (or coverage), and there are no
16 separate cost sharing requirements that
17 are applicable only with respect to mental
18 health or substance use disorder benefits;
19 and

20 “(ii) the treatment limitations applica-
21 ble to such mental health or substance use
22 disorder benefits are no more restrictive
23 than the predominant treatment limita-
24 tions applied to substantially all medical
25 and surgical benefits covered by the plan

1 (or coverage) and there are no separate
2 treatment limitations that are applicable
3 only with respect to mental health or sub-
4 stance use disorder benefits.

5 “(B) DEFINITIONS.—In this paragraph:

6 “(i) FINANCIAL REQUIREMENT.—The
7 term ‘financial requirement’ includes
8 deductibles, copayments, coinsurance, and
9 out-of-pocket expenses, but excludes an ag-
10 gregate lifetime limit and an annual limit
11 subject to paragraphs (1) and (2).

12 “(ii) PREDOMINANT.—A financial re-
13 quirement or treatment limit is considered
14 to be predominant if it is the most com-
15 mon or frequent of such type of limit or
16 requirement.

17 “(iii) TREATMENT LIMITATION.—The
18 term ‘treatment limitation’ includes limits
19 on the frequency of treatment, number of
20 visits, days of coverage, or other similar
21 limits on the scope or duration of treat-
22 ment.

23 “(4) AVAILABILITY OF PLAN INFORMATION.—
24 The criteria for medical necessity determinations
25 made under the plan with respect to mental health

1 or substance use disorder benefits (or the health in-
2 surance coverage offered in connection with the plan
3 with respect to such benefits) shall be made avail-
4 able by the plan administrator (or the health insur-
5 ance issuer offering such coverage) in accordance
6 with regulations to any current or potential partici-
7 pant, beneficiary, or contracting provider upon re-
8 quest. The reason for any denial under the plan (or
9 coverage) of reimbursement or payment for services
10 with respect to mental health or substance use dis-
11 order benefits in the case of any participant or bene-
12 ficiary shall, on request or as otherwise required, be
13 made available by the plan administrator (or the
14 health insurance issuer offering such coverage) to
15 the participant or beneficiary in accordance with
16 regulations.

17 “(5) OUT-OF-NETWORK PROVIDERS.—In the
18 case of a plan or coverage that provides both med-
19 ical and surgical benefits and mental health or sub-
20 stance use disorder benefits, if the plan or coverage
21 provides coverage for medical or surgical benefits
22 provided by out-of-network providers, the plan or
23 coverage shall provide coverage for mental health or
24 substance use disorder benefits provided by out-of-

1 network providers in a manner that is consistent
2 with the requirements of this section.”;

3 (2) in subsection (b), by amending paragraph
4 (2) to read as follows:

5 “(2) in the case of a group health plan (or
6 health insurance coverage offered in connection with
7 such a plan) that provides mental health or sub-
8 stance use disorder benefits, as affecting the terms
9 and conditions of the plan or coverage relating to
10 such benefits under the plan or coverage, except as
11 provided in subsection (a).”;

12 (3) in subsection (c)—

13 (A) in paragraph (1), by inserting before
14 the period the following: “(as defined in section
15 2791(e)(4), except that for purposes of this
16 paragraph such term shall include employers
17 with 1 employee in the case of an employer re-
18 siding in a State that permits small groups to
19 include a single individual)”;

20 (B) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) COST EXEMPTION.—

23 “(A) IN GENERAL.—With respect to a
24 group health plan (or health insurance coverage
25 offered in connection with such a plan), if the

1 application of this section to such plan (or cov-
2 erage) results in an increase for the plan year
3 involved of the actual total costs of coverage
4 with respect to medical and surgical benefits
5 and mental health and substance use disorder
6 benefits under the plan (as determined and cer-
7 tified under subparagraph (C)) by an amount
8 that exceeds the applicable percentage described
9 in subparagraph (B) of the actual total plan
10 costs, the provisions of this section shall not
11 apply to such plan (or coverage) during the fol-
12 lowing plan year, and such exemption shall
13 apply to the plan (or coverage) for 1 plan year.
14 An employer may elect to continue to apply
15 mental health and substance use disorder parity
16 pursuant to this section with respect to the
17 group health plan (or coverage) involved regard-
18 less of any increase in total costs.

19 “(B) APPLICABLE PERCENTAGE.—With re-
20 spect to a plan (or coverage), the applicable
21 percentage described in this subparagraph shall
22 be—

23 “(i) 2 percent in the case of the first
24 plan year in which this section is applied;
25 and

1 “(ii) 1 percent in the case of each
2 subsequent plan year.

3 “(C) DETERMINATIONS BY ACTUARIES.—
4 Determinations as to increases in actual costs
5 under a plan (or coverage) for purposes of this
6 section shall be made and certified by a quali-
7 fied and licensed actuary who is a member in
8 good standing of the American Academy of Ac-
9 tuaries. All such determinations shall be in a
10 written report prepared by the actuary. The re-
11 port, and all underlying documentation relied
12 upon by the actuary, shall be maintained by the
13 group health plan or health insurance issuer for
14 a period of 6 years following the notification
15 made under subparagraph (E).

16 “(D) 6-MONTH DETERMINATIONS.—If a
17 group health plan (or a health insurance issuer
18 offering coverage in connection with a group
19 health plan) seeks an exemption under this
20 paragraph, determinations under subparagraph
21 (A) shall be made after such plan (or coverage)
22 has complied with this section for the first 6
23 months of the plan year involved.

24 “(E) NOTIFICATION.—

1 “(i) IN GENERAL.—A group health
2 plan (or a health insurance issuer offering
3 coverage in connection with a group health
4 plan) that, based upon a certification de-
5 scribed under subparagraph (C), qualifies
6 for an exemption under this paragraph,
7 and elects to implement the exemption,
8 shall promptly notify the Secretary, the ap-
9 propriate State agencies, and participants
10 and beneficiaries in the plan of such elec-
11 tion.

12 “(ii) REQUIREMENT.—A notification
13 to the Secretary under clause (i) shall in-
14 clude—

15 “(I) a description of the number
16 of covered lives under the plan (or
17 coverage) involved at the time of the
18 notification, and as applicable, at the
19 time of any prior election of the cost-
20 exemption under this paragraph by
21 such plan (or coverage);

22 “(II) for both the plan year upon
23 which a cost exemption is sought and
24 the year prior, a description of the ac-
25 tual total costs of coverage with re-

1 spect to medical and surgical benefits
2 and mental health and substance use
3 disorder benefits under the plan; and

4 “(III) for both the plan year
5 upon which a cost exemption is sought
6 and the year prior, the actual total
7 costs of coverage with respect to men-
8 tal health and substance use disorder
9 benefits under the plan.

10 “(iii) CONFIDENTIALITY.—A notifica-
11 tion to the Secretary under clause (i) shall
12 be confidential. The Secretary shall make
13 available, upon request and on not more
14 than an annual basis, an anonymous
15 itemization of such notifications, that in-
16 cludes—

17 “(I) a breakdown of States by
18 the size and type of employers submit-
19 ting such notification; and

20 “(II) a summary of the data re-
21 ceived under clause (ii).

22 “(F) AUDITS BY APPROPRIATE AGEN-
23 CIES.—To determine compliance with this para-
24 graph, the Secretary may audit the books and
25 records of a group health plan or health insur-

1 ance issuer relating to an exemption, including
2 any actuarial reports prepared pursuant to sub-
3 paragraph (C), during the 6 year period fol-
4 lowing the notification of such exemption under
5 subparagraph (E). A State agency receiving a
6 notification under subparagraph (E) may also
7 conduct such an audit with respect to an ex-
8 emption covered by such notification.”;

9 (4) in subsection (e), by striking paragraph (4)
10 and inserting the following:

11 “(4) MENTAL HEALTH BENEFITS.—The term
12 ‘mental health benefits’ means benefits with respect
13 to services for mental health conditions, as defined
14 under the terms of the plan and in accordance with
15 applicable Federal and State law.

16 “(5) SUBSTANCE USE DISORDER BENEFITS.—
17 The term ‘substance use disorder benefits’ means
18 benefits with respect to services for substance use
19 disorders, as defined under the terms of the plan
20 and in accordance with applicable Federal and State
21 law.”;

22 (5) by striking subsection (f);

23 (6) by striking “mental health benefits” and in-
24 serting “mental health and substance use disorder
25 benefits” each place it appears in subsections

1 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
2 and

3 (7) by striking “mental health benefits” and in-
4 sserting “mental health or substance use disorder
5 benefits” each place it appears (other than in any
6 provision amended by the previous paragraph).

7 (c) AMENDMENTS TO INTERNAL REVENUE CODE.—
8 Section 9812 of the Internal Revenue Code of 1986 is
9 amended—

10 (1) in subsection (a), by adding at the end the
11 following:

12 “(3) FINANCIAL REQUIREMENTS AND TREAT-
13 MENT LIMITATIONS.—

14 “(A) IN GENERAL.—In the case of a group
15 health plan that provides both medical and sur-
16 gical benefits and mental health or substance
17 use disorder benefits, such plan shall ensure
18 that—

19 “(i) the financial requirements appli-
20 cable to such mental health or substance
21 use disorder benefits are no more restric-
22 tive than the predominant financial re-
23 quirements applied to substantially all
24 medical and surgical benefits covered by
25 the plan, and there are no separate cost

1 sharing requirements that are applicable
2 only with respect to mental health or sub-
3 stance use disorder benefits; and

4 “(ii) the treatment limitations applica-
5 ble to such mental health or substance use
6 disorder benefits are no more restrictive
7 than the predominant treatment limita-
8 tions applied to substantially all medical
9 and surgical benefits covered by the plan
10 and there are no separate treatment limi-
11 tations that are applicable only with re-
12 spect to mental health or substance use
13 disorder benefits.

14 “(B) DEFINITIONS.—In this paragraph:

15 “(i) FINANCIAL REQUIREMENT.—The
16 term ‘financial requirement’ includes
17 deductibles, copayments, coinsurance, and
18 out-of-pocket expenses, but excludes an ag-
19 gregate lifetime limit and an annual limit
20 subject to paragraphs (1) and (2),

21 “(ii) PREDOMINANT.—A financial re-
22 quirement or treatment limit is considered
23 to be predominant if it is the most com-
24 mon or frequent of such type of limit or
25 requirement.

1 “(iii) TREATMENT LIMITATION.—The
2 term ‘treatment limitation’ includes limits
3 on the frequency of treatment, number of
4 visits, days of coverage, or other similar
5 limits on the scope or duration of treat-
6 ment.

7 “(4) AVAILABILITY OF PLAN INFORMATION.—
8 The criteria for medical necessity determinations
9 made under the plan with respect to mental health
10 or substance use disorder benefits shall be made
11 available by the plan administrator in accordance
12 with regulations to any current or potential partici-
13 pant, beneficiary, or contracting provider upon re-
14 quest. The reason for any denial under the plan of
15 reimbursement or payment for services with respect
16 to mental health or substance use disorder benefits
17 in the case of any participant or beneficiary shall, on
18 request or as otherwise required, be made available
19 by the plan administrator to the participant or bene-
20 ficiary in accordance with regulations.

21 “(5) OUT-OF-NETWORK PROVIDERS.—In the
22 case of a plan that provides both medical and sur-
23 gical benefits and mental health or substance use
24 disorder benefits, if the plan provides coverage for
25 medical or surgical benefits provided by out-of-net-

1 work providers, the plan shall provide coverage for
2 mental health or substance use disorder benefits pro-
3 vided by out-of-network providers in a manner that
4 is consistent with the requirements of this section.”;

5 (2) in subsection (b), by amending paragraph
6 (2) to read as follows:

7 “(2) in the case of a group health plan that
8 provides mental health or substance use disorder
9 benefits, as affecting the terms and conditions of the
10 plan relating to such benefits under the plan, except
11 as provided in subsection (a).”;

12 (3) in subsection (c)—

13 (A) by amending paragraph (1) to read as
14 follows:

15 “(1) SMALL EMPLOYER EXEMPTION.—

16 “(A) IN GENERAL.—This section shall not
17 apply to any group health plan for any plan
18 year of a small employer.

19 “(B) SMALL EMPLOYER.—For purposes of
20 subparagraph (A), the term ‘small employer’
21 means, with respect to a calendar year and a
22 plan year, an employer who employed an aver-
23 age of at least 2 (or 1 in the case of an em-
24 ployer residing in a State that permits small
25 groups to include a single individual) but not

1 more than 50 employees on business days dur-
2 ing the preceding calendar year. For purposes
3 of the preceding sentence, all persons treated as
4 a single employer under subsection (b), (c),
5 (m), or (o) of section 414 shall be treated as 1
6 employer and rules similar to rules of subpara-
7 graphs (B) and (C) of section 4980D(d)(2)
8 shall apply.”; and

9 (B) by striking paragraph (2) and insert-
10 ing the following:

11 “(2) COST EXEMPTION.—

12 “(A) IN GENERAL.—With respect to a
13 group health plan, if the application of this sec-
14 tion to such plan results in an increase for the
15 plan year involved of the actual total costs of
16 coverage with respect to medical and surgical
17 benefits and mental health and substance use
18 disorder benefits under the plan (as determined
19 and certified under subparagraph (C)) by an
20 amount that exceeds the applicable percentage
21 described in subparagraph (B) of the actual
22 total plan costs, the provisions of this section
23 shall not apply to such plan during the fol-
24 lowing plan year, and such exemption shall
25 apply to the plan for 1 plan year. An employer

1 may elect to continue to apply mental health
2 and substance use disorder parity pursuant to
3 this section with respect to the group health
4 plan involved regardless of any increase in total
5 costs.

6 “(B) APPLICABLE PERCENTAGE.—With re-
7 spect to a plan, the applicable percentage de-
8 scribed in this subparagraph shall be—

9 “(i) 2 percent in the case of the first
10 plan year in which this section is applied;
11 and

12 “(ii) 1 percent in the case of each
13 subsequent plan year.

14 “(C) DETERMINATIONS BY ACTUARIES.—
15 Determinations as to increases in actual costs
16 under a plan for purposes of this section shall
17 be made and certified by a qualified and li-
18 censed actuary who is a member in good stand-
19 ing of the American Academy of Actuaries. All
20 such determinations shall be in a written report
21 prepared by the actuary. The report, and all
22 underlying documentation relied upon by the
23 actuary, shall be maintained by the group
24 health plan for a period of 6 years following the
25 notification made under subparagraph (E).

1 “(D) 6-MONTH DETERMINATIONS.—If a
2 group health plan seeks an exemption under
3 this paragraph, determinations under subpara-
4 graph (A) shall be made after such plan has
5 complied with this section for the first 6
6 months of the plan year involved.

7 “(E) NOTIFICATION.—

8 “(i) IN GENERAL.—A group health
9 plan that, based upon a certification de-
10 scribed under subparagraph (C), qualifies
11 for an exemption under this paragraph,
12 and elects to implement the exemption,
13 shall promptly notify the Secretary, the ap-
14 propriate State agencies, and participants
15 and beneficiaries in the plan of such elec-
16 tion.

17 “(ii) REQUIREMENT.—A notification
18 to the Secretary under clause (i) shall in-
19 clude—

20 “(I) a description of the number
21 of covered lives under the plan in-
22 volved at the time of the notification,
23 and as applicable, at the time of any
24 prior election of the cost-exemption
25 under this paragraph by such plan;

1 “(II) for both the plan year upon
2 which a cost exemption is sought and
3 the year prior, a description of the ac-
4 tual total costs of coverage with re-
5 spect to medical and surgical benefits
6 and mental health and substance use
7 disorder benefits under the plan; and

8 “(III) for both the plan year
9 upon which a cost exemption is sought
10 and the year prior, the actual total
11 costs of coverage with respect to men-
12 tal health and substance use disorder
13 benefits under the plan.

14 “(iii) CONFIDENTIALITY.—A notifica-
15 tion to the Secretary under clause (i) shall
16 be confidential. The Secretary shall make
17 available, upon request and on not more
18 than an annual basis, an anonymous
19 itemization of such notifications, that in-
20 cludes—

21 “(I) a breakdown of States by
22 the size and type of employers submit-
23 ting such notification; and

24 “(II) a summary of the data re-
25 ceived under clause (ii).

1 “(F) AUDITS BY APPROPRIATE AGEN-
2 CIES.—To determine compliance with this para-
3 graph, the Secretary may audit the books and
4 records of a group health plan relating to an
5 exemption, including any actuarial reports pre-
6 pared pursuant to subparagraph (C), during
7 the 6 year period following the notification of
8 such exemption under subparagraph (E). A
9 State agency receiving a notification under sub-
10 paragraph (E) may also conduct such an audit
11 with respect to an exemption covered by such
12 notification.”;

13 (4) in subsection (e), by striking paragraph (4)
14 and inserting the following:

15 “(4) MENTAL HEALTH BENEFITS.—The term
16 ‘mental health benefits’ means benefits with respect
17 to services for mental health conditions, as defined
18 under the terms of the plan and in accordance with
19 applicable Federal and State law.

20 “(5) SUBSTANCE USE DISORDER BENEFITS.—
21 The term ‘substance use disorder benefits’ means
22 benefits with respect to services for substance use
23 disorders, as defined under the terms of the plan
24 and in accordance with applicable Federal and State
25 law.”;

1 (5) by striking subsection (f);

2 (6) by striking “mental health benefits” and in-
3 serting “mental health and substance use disorder
4 benefits” each place it appears in subsections
5 (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C);
6 and

7 (7) by striking “mental health benefits” and in-
8 serting “mental health or substance use disorder
9 benefits” each place it appears (other than in any
10 provision amended by the previous paragraph).

11 (d) REGULATIONS.—Not later than 1 year after the
12 date of enactment of this Act, the Secretaries of Labor,
13 Health and Human Services, and the Treasury shall issue
14 regulations to carry out the amendments made by sub-
15 sections (a), (b), and (c), respectively.

16 (e) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply with respect to group health
19 plans for plan years beginning after the date that is
20 1 year after the date of enactment of this Act, re-
21 gardless of whether regulations have been issued to
22 carry out such amendments by such effective date,
23 except that the amendments made by subsections
24 (a)(5), (b)(5), and (c)(5), relating to striking of cer-

1 tain sunset provisions, shall take effect on January
2 1, 2009.

3 (2) SPECIAL RULE FOR COLLECTIVE BAR-
4 GAINING AGREEMENTS.—In the case of a group
5 health plan maintained pursuant to one or more col-
6 lective bargaining agreements between employee rep-
7 resentatives and one or more employers ratified be-
8 fore the date of the enactment of this Act, the
9 amendments made by this section shall not apply to
10 plan years beginning before the later of—

11 (A) the date on which the last of the col-
12 lective bargaining agreements relating to the
13 plan terminates (determined without regard to
14 any extension thereof agreed to after the date
15 of the enactment of this Act), or

16 (B) January 1, 2009.

17 For purposes of subparagraph (A), any plan amend-
18 ment made pursuant to a collective bargaining
19 agreement relating to the plan which amends the
20 plan solely to conform to any requirement added by
21 this section shall not be treated as a termination of
22 such collective bargaining agreement.

23 (f) ASSURING COORDINATION.—The Secretary of
24 Health and Human Services, the Secretary of Labor, and
25 the Secretary of the Treasury may ensure, through the

1 execution or revision of an interagency memorandum of
2 understanding among such Secretaries, that—

3 (1) regulations, rulings, and interpretations
4 issued by such Secretaries relating to the same mat-
5 ter over which two or more such Secretaries have re-
6 sponsibility under this section (and the amendments
7 made by this section) are administered so as to have
8 the same effect at all times; and

9 (2) coordination of policies relating to enforcing
10 the same requirements through such Secretaries in
11 order to have a coordinated enforcement strategy
12 that avoids duplication of enforcement efforts and
13 assigns priorities in enforcement.

14 (g) CONFORMING CLERICAL AMENDMENTS.—

15 (1) ERISA HEADING.—

16 (A) IN GENERAL.—The heading of section
17 712 of the Employee Retirement Income Secu-
18 rity Act of 1974 is amended to read as follows:

19 **“SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE**
20 **USE DISORDER BENEFITS.”.**

21 (B) CLERICAL AMENDMENT.—The table of
22 contents in section 1 of such Act is amended by
23 striking the item relating to section 712 and in-
24 serting the following new item:

“Sec. 712. Parity in mental health and substance use disorder benefits.”.

1 (2) PHSA HEADING.—The heading of section
2 2705 of the Public Health Service Act is amended
3 to read as follows:

4 **“SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE**
5 **USE DISORDER BENEFITS.”.**

6 (3) IRC HEADING.—

7 (A) IN GENERAL.—The heading of section
8 9812 of the Internal Revenue Code of 1986 is
9 amended to read as follows:

10 **“SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE**
11 **USE DISORDER BENEFITS.”.**

12 (B) CLERICAL AMENDMENT.—The table of
13 sections for subchapter B of chapter 100 of
14 such Code is amended by striking the item re-
15 lating to section 9812 and inserting the fol-
16 lowing new item:

 “Sec. 9812. Parity in mental health and substance use disorder benefits.”.

17 (h) GAO STUDY ON COVERAGE AND EXCLUSION OF
18 MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAG-
19 NOSES.—

20 (1) IN GENERAL.—The Comptroller General of
21 the United States shall conduct a study that ana-
22 lyzes the specific rates, patterns, and trends in cov-
23 erage and exclusion of specific mental health and
24 substance use disorder diagnoses by health plans

1 and health insurance. The study shall include an
2 analysis of—

3 (A) specific coverage rates for all mental
4 health conditions and substance use disorders;

5 (B) which diagnoses are most commonly
6 covered or excluded;

7 (C) whether implementation of this Act
8 has affected trends in coverage or exclusion of
9 such diagnoses; and

10 (D) the impact of covering or excluding
11 specific diagnoses on participants' and enroll-
12 ees' health, their health care coverage, and the
13 costs of delivering health care.

14 (2) REPORTS.—Not later than 3 years after the
15 date of the enactment of this Act, and 2 years after
16 the date of submission the first report under this
17 paragraph, the Comptroller General shall submit to
18 Congress a report on the results of the study con-
19 ducted under paragraph (1).

20 **TITLE VI—OTHER PROVISIONS**

21 **SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF- 22 DETERMINATION PROGRAM.**

23 (a) REAUTHORIZATION OF THE SECURE RURAL
24 SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT
25 OF 2000.—The Secure Rural Schools and Community

1 Self-Determination Act of 2000 (16 U.S.C. 500 note; Pub-
2 lic Law 106–393) is amended by striking sections 1
3 through 403 and inserting the following:

4 **“SECTION 1. SHORT TITLE.**

5 “This Act may be cited as the ‘Secure Rural Schools
6 and Community Self-Determination Act of 2000’.

7 **“SEC. 2. PURPOSES.**

8 “The purposes of this Act are—

9 “(1) to stabilize and transition payments to
10 counties to provide funding for schools and roads
11 that supplements other available funds;

12 “(2) to make additional investments in, and
13 create additional employment opportunities through,
14 projects that—

15 “(A)(i) improve the maintenance of exist-
16 ing infrastructure;

17 “(ii) implement stewardship objectives that
18 enhance forest ecosystems; and

19 “(iii) restore and improve land health and
20 water quality;

21 “(B) enjoy broad-based support; and

22 “(C) have objectives that may include—

23 “(i) road, trail, and infrastructure
24 maintenance or obliteration;

25 “(ii) soil productivity improvement;

1 “(iii) improvements in forest eco-
2 system health;

3 “(iv) watershed restoration and main-
4 tenance;

5 “(v) the restoration, maintenance, and
6 improvement of wildlife and fish habitat;

7 “(vi) the control of noxious and exotic
8 weeds; and

9 “(vii) the reestablishment of native
10 species; and

11 “(3) to improve cooperative relationships
12 among—

13 “(A) the people that use and care for Fed-
14 eral land; and

15 “(B) the agencies that manage the Federal
16 land.

17 **“SEC. 3. DEFINITIONS.**

18 “In this Act:

19 “(1) ADJUSTED SHARE.—The term ‘adjusted
20 share’ means the number equal to the quotient ob-
21 tained by dividing—

22 “(A) the number equal to the quotient ob-
23 tained by dividing—

24 “(i) the base share for the eligible
25 county; by

1 “(ii) the income adjustment for the el-
2 igible county; by

3 “(B) the number equal to the sum of the
4 quotients obtained under subparagraph (A) and
5 paragraph (8)(A) for all eligible counties.

6 “(2) BASE SHARE.—The term ‘base share’
7 means the number equal to the average of—

8 “(A) the quotient obtained by dividing—

9 “(i) the number of acres of Federal
10 land described in paragraph (7)(A) in each
11 eligible county; by

12 “(ii) the total number acres of Fed-
13 eral land in all eligible counties in all eligi-
14 ble States; and

15 “(B) the quotient obtained by dividing—

16 “(i) the amount equal to the average
17 of the 3 highest 25-percent payments and
18 safety net payments made to each eligible
19 State for each eligible county during the
20 eligibility period; by

21 “(ii) the amount equal to the sum of
22 the amounts calculated under clause (i)
23 and paragraph (9)(B)(i) for all eligible
24 counties in all eligible States during the
25 eligibility period.

1 “(3) COUNTY PAYMENT.—The term ‘county
2 payment’ means the payment for an eligible county
3 calculated under section 101(b).

4 “(4) ELIGIBLE COUNTY.—The term ‘eligible
5 county’ means any county that—

6 “(A) contains Federal land (as defined in
7 paragraph (7)); and

8 “(B) elects to receive a share of the State
9 payment or the county payment under section
10 102(b).

11 “(5) ELIGIBILITY PERIOD.—The term ‘eligi-
12 bility period’ means fiscal year 1986 through fiscal
13 year 1999.

14 “(6) ELIGIBLE STATE.—The term ‘eligible
15 State’ means a State or territory of the United
16 States that received a 25-percent payment for 1 or
17 more fiscal years of the eligibility period.

18 “(7) FEDERAL LAND.—The term ‘Federal land’
19 means—

20 “(A) land within the National Forest Sys-
21 tem, as defined in section 11(a) of the Forest
22 and Rangeland Renewable Resources Planning
23 Act of 1974 (16 U.S.C. 1609(a)) exclusive of
24 the National Grasslands and land utilization
25 projects designated as National Grasslands ad-

1 ministered pursuant to the Act of July 22,
2 1937 (7 U.S.C. 1010–1012); and

3 “(B) such portions of the revested Oregon
4 and California Railroad and reconveyed Coos
5 Bay Wagon Road grant land as are or may
6 hereafter come under the jurisdiction of the De-
7 partment of the Interior, which have heretofore
8 or may hereafter be classified as timberlands,
9 and power-site land valuable for timber, that
10 shall be managed, except as provided in the
11 former section 3 of the Act of August 28, 1937
12 (50 Stat. 875; 43 U.S.C. 1181c), for permanent
13 forest production.

14 “(8) 50-PERCENT ADJUSTED SHARE.—The
15 term ‘50-percent adjusted share’ means the number
16 equal to the quotient obtained by dividing—

17 “(A) the number equal to the quotient ob-
18 tained by dividing—

19 “(i) the 50-percent base share for the
20 eligible county; by

21 “(ii) the income adjustment for the el-
22 igible county; by

23 “(B) the number equal to the sum of the
24 quotients obtained under subparagraph (A) and
25 paragraph (1)(A) for all eligible counties.

1 “(9) 50-PERCENT BASE SHARE.—The term ‘50-
2 percent base share’ means the number equal to the
3 average of—

4 “(A) the quotient obtained by dividing—

5 “(i) the number of acres of Federal
6 land described in paragraph (7)(B) in each
7 eligible county; by

8 “(ii) the total number acres of Fed-
9 eral land in all eligible counties in all eligi-
10 ble States; and

11 “(B) the quotient obtained by dividing—

12 “(i) the amount equal to the average
13 of the 3 highest 50-percent payments made
14 to each eligible county during the eligibility
15 period; by

16 “(ii) the amount equal to the sum of
17 the amounts calculated under clause (i)
18 and paragraph (2)(B)(i) for all eligible
19 counties in all eligible States during the
20 eligibility period.

21 “(10) 50-PERCENT PAYMENT.—The term ‘50-
22 percent payment’ means the payment that is the
23 sum of the 50-percent share otherwise paid to a
24 county pursuant to title II of the Act of August 28,
25 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f),

1 and the payment made to a county pursuant to the
2 Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43
3 U.S.C. 1181f–1 et seq.).

4 “(11) FULL FUNDING AMOUNT.—The term ‘full
5 funding amount’ means—

6 “(A) \$500,000,000 for fiscal year 2008;

7 and

8 “(B) for fiscal year 2009 and each fiscal
9 year thereafter, the amount that is equal to 90
10 percent of the full funding amount for the pre-
11 ceding fiscal year.

12 “(12) INCOME ADJUSTMENT.—The term ‘in-
13 come adjustment’ means the square of the quotient
14 obtained by dividing—

15 “(A) the per capita personal income for
16 each eligible county; by

17 “(B) the median per capita personal in-
18 come of all eligible counties.

19 “(13) PER CAPITA PERSONAL INCOME.—The
20 term ‘per capita personal income’ means the most
21 recent per capita personal income data, as deter-
22 mined by the Bureau of Economic Analysis.

23 “(14) SAFETY NET PAYMENTS.—The term
24 ‘safety net payments’ means the special payment
25 amounts paid to States and counties required by

1 section 13982 or 13983 of the Omnibus Budget
2 Reconciliation Act of 1993 (Public Law 103–66; 16
3 U.S.C. 500 note; 43 U.S.C. 1181f note).

4 “(15) SECRETARY CONCERNED.—The term
5 ‘Secretary concerned’ means—

6 “(A) the Secretary of Agriculture or the
7 designee of the Secretary of Agriculture with
8 respect to the Federal land described in para-
9 graph (7)(A); and

10 “(B) the Secretary of the Interior or the
11 designee of the Secretary of the Interior with
12 respect to the Federal land described in para-
13 graph (7)(B).

14 “(16) STATE PAYMENT.—The term ‘State pay-
15 ment’ means the payment for an eligible State cal-
16 culated under section 101(a).

17 “(17) 25-PERCENT PAYMENT.—The term ‘25-
18 percent payment’ means the payment to States re-
19 quired by the sixth paragraph under the heading of
20 ‘FOREST SERVICE’ in the Act of May 23, 1908
21 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the
22 Act of March 1, 1911 (36 Stat. 963; 16 U.S.C.
23 500).

1 **“TITLE I—SECURE PAYMENTS**
2 **FOR STATES AND COUNTIES**
3 **CONTAINING FEDERAL LAND**

4 **“SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING**
5 **FEDERAL LAND.**

6 “(a) STATE PAYMENT.—For each of fiscal years
7 2008 through 2011, the Secretary of Agriculture shall cal-
8 culate for each eligible State an amount equal to the sum
9 of the products obtained by multiplying—

10 “(1) the adjusted share for each eligible county
11 within the eligible State; by

12 “(2) the full funding amount for the fiscal year.

13 “(b) COUNTY PAYMENT.—For each of fiscal years
14 2008 through 2011, the Secretary of the Interior shall cal-
15 culate for each eligible county that received a 50-percent
16 payment during the eligibility period an amount equal to
17 the product obtained by multiplying—

18 “(1) the 50-percent adjusted share for the eligi-
19 ble county; by

20 “(2) the full funding amount for the fiscal year.

21 **“SEC. 102. PAYMENTS TO STATES AND COUNTIES.**

22 “(a) PAYMENT AMOUNTS.—Except as provided in
23 section 103, the Secretary of the Treasury shall pay to—

24 “(1) a State or territory of the United States
25 an amount equal to the sum of the amounts elected

1 under subsection (b) by each county within the State
2 or territory for—

3 “(A) if the county is eligible for the 25-
4 percent payment, the share of the 25-percent
5 payment; or

6 “(B) the share of the State payment of the
7 eligible county; and

8 “(2) a county an amount equal to the amount
9 elected under subsection (b) by each county for—

10 “(A) if the county is eligible for the 50-
11 percent payment, the 50-percent payment; or

12 “(B) the county payment for the eligible
13 county.

14 “(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

15 “(1) ELECTION; SUBMISSION OF RESULTS.—

16 “(A) IN GENERAL.—The election to receive
17 a share of the State payment, the county pay-
18 ment, a share of the State payment and the
19 county payment, a share of the 25-percent pay-
20 ment, the 50-percent payment, or a share of the
21 25-percent payment and the 50-percent pay-
22 ment, as applicable, shall be made at the discre-
23 tion of each affected county by August 1, 2008
24 (or as soon thereafter as the Secretary con-
25 cerned determines is practicable), and August 1

1 of each second fiscal year thereafter, in accord-
2 ance with paragraph (2), and transmitted to
3 the Secretary concerned by the Governor of
4 each eligible State.

5 “(B) FAILURE TO TRANSMIT.—If an elec-
6 tion for an affected county is not transmitted to
7 the Secretary concerned by the date specified
8 under subparagraph (A), the affected county
9 shall be considered to have elected to receive a
10 share of the State payment, the county pay-
11 ment, or a share of the State payment and the
12 county payment, as applicable.

13 “(2) DURATION OF ELECTION.—

14 “(A) IN GENERAL.—A county election to
15 receive a share of the 25-percent payment or
16 50-percent payment, as applicable, shall be ef-
17 fective for 2 fiscal years.

18 “(B) FULL FUNDING AMOUNT.—If a coun-
19 ty elects to receive a share of the State payment
20 or the county payment, the election shall be ef-
21 fective for all subsequent fiscal years through
22 fiscal year 2011.

23 “(3) SOURCE OF PAYMENT AMOUNTS.—The
24 payment to an eligible State or eligible county under
25 this section for a fiscal year shall be derived from—

1 “(A) any amounts that are appropriated to
2 carry out this Act;

3 “(B) any revenues, fees, penalties, or mis-
4 cellaneous receipts, exclusive of deposits to any
5 relevant trust fund, special account, or perma-
6 nent operating funds, received by the Federal
7 Government from activities by the Bureau of
8 Land Management or the Forest Service on the
9 applicable Federal land; and

10 “(C) to the extent of any shortfall, out of
11 any amounts in the Treasury of the United
12 States not otherwise appropriated.

13 “(c) DISTRIBUTION AND EXPENDITURE OF PAY-
14 MENTS.—

15 “(1) DISTRIBUTION METHOD.—A State that re-
16 ceives a payment under subsection (a) for Federal
17 land described in section 3(7)(A) shall distribute the
18 appropriate payment amount among the appropriate
19 counties in the State in accordance with—

20 “(A) the Act of May 23, 1908 (16 U.S.C.
21 500); and

22 “(B) section 13 of the Act of March 1,
23 1911 (36 Stat. 963; 16 U.S.C. 500).

24 “(2) EXPENDITURE PURPOSES.—Subject to
25 subsection (d), payments received by a State under

1 subsection (a) and distributed to counties in accord-
2 ance with paragraph (1) shall be expended as re-
3 quired by the laws referred to in paragraph (1).

4 “(d) EXPENDITURE RULES FOR ELIGIBLE COUN-
5 TIES.—

6 “(1) ALLOCATIONS.—

7 “(A) USE OF PORTION IN SAME MANNER
8 AS 25-PERCENT PAYMENT OR 50-PERCENT PAY-
9 MENT, AS APPLICABLE.—Except as provided in
10 paragraph (3)(B), if an eligible county elects to
11 receive its share of the State payment or the
12 county payment, not less than 80 percent, but
13 not more than 85 percent, of the funds shall be
14 expended in the same manner in which the 25-
15 percent payments or 50-percent payment, as
16 applicable, are required to be expended.

17 “(B) ELECTION AS TO USE OF BAL-
18 ANCE.—Except as provided in subparagraph
19 (C), an eligible county shall elect to do 1 or
20 more of the following with the balance of any
21 funds not expended pursuant to subparagraph
22 (A):

23 “(i) Reserve any portion of the bal-
24 ance for projects in accordance with title
25 II.

1 ticable), and each September 30 thereafter
2 for each succeeding fiscal year.

3 “(ii) FAILURE TO ELECT.—Except as
4 provided in subparagraph (B), if the eligi-
5 ble county fails to make an election by the
6 date specified in clause (i), the eligible
7 county shall—

8 “(I) be considered to have elected
9 to expend 85 percent of the funds in
10 accordance with paragraph (1)(A);
11 and

12 “(II) return the balance to the
13 Treasury of the United States.

14 “(B) COUNTIES WITH MINOR DISTRIBUTI-
15 TIONS.—In the case of each eligible county to
16 which less than \$100,000 is distributed for any
17 fiscal year pursuant to either or both of para-
18 graphs (1)(B) and (2)(B) of subsection (a), the
19 eligible county may elect to expend all the funds
20 in the same manner in which the 25-percent
21 payments or 50-percent payments, as applica-
22 ble, are required to be expended.

23 “(e) TIME FOR PAYMENT.—The payments required
24 under this section for a fiscal year shall be made as soon
25 as practicable after the end of that fiscal year.

1 **“SEC. 103. TRANSITION PAYMENTS TO STATES.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADJUSTED AMOUNT.—The term ‘adjusted
4 amount’ means, with respect to a covered State—

5 “(A) for fiscal year 2008, 90 percent of—

6 “(i) the sum of the amounts paid for
7 fiscal year 2006 under section 102(a)(2)
8 (as in effect on September 29, 2006) for
9 the eligible counties in the covered State
10 that have elected under section 102(b) to
11 receive a share of the State payment for
12 fiscal year 2008; and

13 “(ii) the sum of the amounts paid for
14 fiscal year 2006 under section 103(a)(2)
15 (as in effect on September 29, 2006) for
16 the eligible counties in the State of Oregon
17 that have elected under section 102(b) to
18 receive the county payment for fiscal year
19 2008;

20 “(B) for fiscal year 2009, 81 percent of—

21 “(i) the sum of the amounts paid for
22 fiscal year 2006 under section 102(a)(2)
23 (as in effect on September 29, 2006) for
24 the eligible counties in the covered State
25 that have elected under section 102(b) to

1 receive a share of the State payment for
2 fiscal year 2009; and

3 “(ii) the sum of the amounts paid for
4 fiscal year 2006 under section 103(a)(2)
5 (as in effect on September 29, 2006) for
6 the eligible counties in the State of Oregon
7 that have elected under section 102(b) to
8 receive the county payment for fiscal year
9 2009; and

10 “(C) for fiscal year 2010, 73 percent of—

11 “(i) the sum of the amounts paid for
12 fiscal year 2006 under section 102(a)(2)
13 (as in effect on September 29, 2006) for
14 the eligible counties in the covered State
15 that have elected under section 102(b) to
16 receive a share of the State payment for
17 fiscal year 2010; and

18 “(ii) the sum of the amounts paid for
19 fiscal year 2006 under section 103(a)(2)
20 (as in effect on September 29, 2006) for
21 the eligible counties in the State of Oregon
22 that have elected under section 102(b) to
23 receive the county payment for fiscal year
24 2010.

1 “(2) COVERED STATE.—The term ‘covered
2 State’ means each of the States of California, Lou-
3 isiana, Oregon, Pennsylvania, South Carolina, South
4 Dakota, Texas, and Washington.

5 “(b) TRANSITION PAYMENTS.—For each of fiscal
6 years 2008 through 2010, in lieu of the payment amounts
7 that otherwise would have been made under paragraphs
8 (1)(B) and (2)(B) of section 102(a), the Secretary of the
9 Treasury shall pay the adjusted amount to each covered
10 State and the eligible counties within the covered State,
11 as applicable.

12 “(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Ex-
13 cept as provided in subsection (d), it is the intent of Con-
14 gress that the method of distributing the payments under
15 subsection (b) among the counties in the covered States
16 for each of fiscal years 2008 through 2010 be in the same
17 proportion that the payments were distributed to the eligi-
18 ble counties in fiscal year 2006.

19 “(d) DISTRIBUTION OF PAYMENTS IN CALI-
20 FORNIA.—The following payments shall be distributed
21 among the eligible counties in the State of California in
22 the same proportion that payments under section
23 102(a)(2) (as in effect on September 29, 2006) were dis-
24 tributed to the eligible counties for fiscal year 2006:

1 “(1) Payments to the State of California under
2 subsection (b).

3 “(2) The shares of the eligible counties of the
4 State payment for California under section 102 for
5 fiscal year 2011.

6 “(e) TREATMENT OF PAYMENTS.—For purposes of
7 this Act, any payment made under subsection (b) shall be
8 considered to be a payment made under section 102(a).

9 **“TITLE II—SPECIAL PROJECTS**
10 **ON FEDERAL LAND**

11 **“SEC. 201. DEFINITIONS.**

12 “In this title:

13 “(1) PARTICIPATING COUNTY.—The term ‘par-
14 ticipating county’ means an eligible county that
15 elects under section 102(d) to expend a portion of
16 the Federal funds received under section 102 in ac-
17 cordance with this title.

18 “(2) PROJECT FUNDS.—The term ‘project
19 funds’ means all funds an eligible county elects
20 under section 102(d) to reserve for expenditure in
21 accordance with this title.

22 “(3) RESOURCE ADVISORY COMMITTEE.—The
23 term ‘resource advisory committee’ means—

24 “(A) an advisory committee established by
25 the Secretary concerned under section 205; or

1 “(B) an advisory committee determined by
2 the Secretary concerned to meet the require-
3 ments of section 205.

4 “(4) RESOURCE MANAGEMENT PLAN.—The
5 term ‘resource management plan’ means—

6 “(A) a land use plan prepared by the Bu-
7 reau of Land Management for units of the Fed-
8 eral land described in section 3(7)(B) pursuant
9 to section 202 of the Federal Land Policy and
10 Management Act of 1976 (43 U.S.C. 1712); or

11 “(B) a land and resource management
12 plan prepared by the Forest Service for units of
13 the National Forest System pursuant to section
14 6 of the Forest and Rangeland Renewable Re-
15 sources Planning Act of 1974 (16 U.S.C.
16 1604).

17 **“SEC. 202. GENERAL LIMITATION ON USE OF PROJECT**
18 **FUNDS.**

19 “(a) LIMITATION.—Project funds shall be expended
20 solely on projects that meet the requirements of this title.

21 “(b) AUTHORIZED USES.—Project funds may be
22 used by the Secretary concerned for the purpose of enter-
23 ing into and implementing cooperative agreements with
24 willing Federal agencies, State and local governments, pri-
25 vate and nonprofit entities, and landowners for protection,

1 restoration, and enhancement of fish and wildlife habitat,
2 and other resource objectives consistent with the purposes
3 of this Act on Federal land and on non-Federal land where
4 projects would benefit the resources on Federal land.

5 **“SEC. 203. SUBMISSION OF PROJECT PROPOSALS.**

6 “(a) SUBMISSION OF PROJECT PROPOSALS TO SEC-
7 RETARY CONCERNED.—

8 “(1) PROJECTS FUNDED USING PROJECT
9 FUNDS.—Not later than September 30 for fiscal
10 year 2008 (or as soon thereafter as the Secretary
11 concerned determines is practicable), and each Sep-
12 tember 30 thereafter for each succeeding fiscal year
13 through fiscal year 2011, each resource advisory
14 committee shall submit to the Secretary concerned a
15 description of any projects that the resource advi-
16 sory committee proposes the Secretary undertake
17 using any project funds reserved by eligible counties
18 in the area in which the resource advisory committee
19 has geographic jurisdiction.

20 “(2) PROJECTS FUNDED USING OTHER
21 FUNDS.—A resource advisory committee may submit
22 to the Secretary concerned a description of any
23 projects that the committee proposes the Secretary
24 undertake using funds from State or local govern-
25 ments, or from the private sector, other than project

1 funds and funds appropriated and otherwise avail-
2 able to do similar work.

3 “(3) JOINT PROJECTS.—Participating counties
4 or other persons may propose to pool project funds
5 or other funds, described in paragraph (2), and
6 jointly propose a project or group of projects to a re-
7 source advisory committee established under section
8 205.

9 “(b) REQUIRED DESCRIPTION OF PROJECTS.—In
10 submitting proposed projects to the Secretary concerned
11 under subsection (a), a resource advisory committee shall
12 include in the description of each proposed project the fol-
13 lowing information:

14 “(1) The purpose of the project and a descrip-
15 tion of how the project will meet the purposes of this
16 title.

17 “(2) The anticipated duration of the project.

18 “(3) The anticipated cost of the project.

19 “(4) The proposed source of funding for the
20 project, whether project funds or other funds.

21 “(5)(A) Expected outcomes, including how the
22 project will meet or exceed desired ecological condi-
23 tions, maintenance objectives, or stewardship objec-
24 tives.

1 “(B) An estimate of the amount of any timber,
2 forage, and other commodities and other economic
3 activity, including jobs generated, if any, anticipated
4 as part of the project.

5 “(6) A detailed monitoring plan, including
6 funding needs and sources, that—

7 “(A) tracks and identifies the positive or
8 negative impacts of the project, implementation,
9 and provides for validation monitoring; and

10 “(B) includes an assessment of the fol-
11 lowing:

12 “(i) Whether or not the project met or
13 exceeded desired ecological conditions; cre-
14 ated local employment or training opportu-
15 nities, including summer youth jobs pro-
16 grams such as the Youth Conservation
17 Corps where appropriate.

18 “(ii) Whether the project improved
19 the use of, or added value to, any products
20 removed from land consistent with the pur-
21 poses of this title.

22 “(7) An assessment that the project is to be in
23 the public interest.

24 “(c) AUTHORIZED PROJECTS.—Projects proposed
25 under subsection (a) shall be consistent with section 2.

1 **“SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY**
2 **SECRETARY CONCERNED.**

3 “(a) **CONDITIONS FOR APPROVAL OF PROPOSED**
4 **PROJECT.**—The Secretary concerned may make a decision
5 to approve a project submitted by a resource advisory com-
6 mittee under section 203 only if the proposed project satis-
7 fies each of the following conditions:

8 “(1) The project complies with all applicable
9 Federal laws (including regulations).

10 “(2) The project is consistent with the applica-
11 ble resource management plan and with any water-
12 shed or subsequent plan developed pursuant to the
13 resource management plan and approved by the Sec-
14 retary concerned.

15 “(3) The project has been approved by the re-
16 source advisory committee in accordance with sec-
17 tion 205, including the procedures issued under sub-
18 section (e) of that section.

19 “(4) A project description has been submitted
20 by the resource advisory committee to the Secretary
21 concerned in accordance with section 203.

22 “(5) The project will improve the maintenance
23 of existing infrastructure, implement stewardship ob-
24 jectives that enhance forest ecosystems, and restore
25 and improve land health and water quality.

26 “(b) **ENVIRONMENTAL REVIEWS.**—

1 “(1) REQUEST FOR PAYMENT BY COUNTY.—

2 The Secretary concerned may request the resource
3 advisory committee submitting a proposed project to
4 agree to the use of project funds to pay for any envi-
5 ronmental review, consultation, or compliance with
6 applicable environmental laws required in connection
7 with the project.

8 “(2) CONDUCT OF ENVIRONMENTAL REVIEW.—

9 If a payment is requested under paragraph (1) and
10 the resource advisory committee agrees to the ex-
11 penditure of funds for this purpose, the Secretary
12 concerned shall conduct environmental review, con-
13 sultation, or other compliance responsibilities in ac-
14 cordance with Federal laws (including regulations).

15 “(3) EFFECT OF REFUSAL TO PAY.—

16 “(A) IN GENERAL.—If a resource advisory
17 committee does not agree to the expenditure of
18 funds under paragraph (1), the project shall be
19 deemed withdrawn from further consideration
20 by the Secretary concerned pursuant to this
21 title.

22 “(B) EFFECT OF WITHDRAWAL.—A with-
23 drawal under subparagraph (A) shall be deemed
24 to be a rejection of the project for purposes of
25 section 207(c).

1 “(c) DECISIONS OF SECRETARY CONCERNED.—

2 “(1) REJECTION OF PROJECTS.—

3 “(A) IN GENERAL.—A decision by the Sec-
4 retary concerned to reject a proposed project
5 shall be at the sole discretion of the Secretary
6 concerned.

7 “(B) NO ADMINISTRATIVE APPEAL OR JU-
8 DICIAL REVIEW.—Notwithstanding any other
9 provision of law, a decision by the Secretary
10 concerned to reject a proposed project shall not
11 be subject to administrative appeal or judicial
12 review.

13 “(C) NOTICE OF REJECTION.—Not later
14 than 30 days after the date on which the Sec-
15 retary concerned makes the rejection decision,
16 the Secretary concerned shall notify in writing
17 the resource advisory committee that submitted
18 the proposed project of the rejection and the
19 reasons for rejection.

20 “(2) NOTICE OF PROJECT APPROVAL.—The
21 Secretary concerned shall publish in the Federal
22 Register notice of each project approved under sub-
23 section (a) if the notice would be required had the
24 project originated with the Secretary.

1 “(d) SOURCE AND CONDUCT OF PROJECT.—Once the
2 Secretary concerned accepts a project for review under
3 section 203, the acceptance shall be deemed a Federal ac-
4 tion for all purposes.

5 “(e) IMPLEMENTATION OF APPROVED PROJECTS.—

6 “(1) COOPERATION.—Notwithstanding chapter
7 63 of title 31, United States Code, using project
8 funds the Secretary concerned may enter into con-
9 tracts, grants, and cooperative agreements with
10 States and local governments, private and nonprofit
11 entities, and landowners and other persons to assist
12 the Secretary in carrying out an approved project.

13 “(2) BEST VALUE CONTRACTING.—

14 “(A) IN GENERAL.—For any project in-
15 volving a contract authorized by paragraph (1)
16 the Secretary concerned may elect a source for
17 performance of the contract on a best value
18 basis.

19 “(B) FACTORS.—The Secretary concerned
20 shall determine best value based on such factors
21 as—

22 “(i) the technical demands and com-
23 plexity of the work to be done;

24 “(ii)(I) the ecological objectives of the
25 project; and

1 “(II) the sensitivity of the resources
2 being treated;

3 “(iii) the past experience by the con-
4 tractor with the type of work being done,
5 using the type of equipment proposed for
6 the project, and meeting or exceeding de-
7 sired ecological conditions; and

8 “(iv) the commitment of the con-
9 tractor to hiring highly qualified workers
10 and local residents.

11 “(3) MERCHANTABLE TIMBER CONTRACTING
12 PILOT PROGRAM.—

13 “(A) ESTABLISHMENT.—The Secretary
14 concerned shall establish a pilot program to im-
15 plement a certain percentage of approved
16 projects involving the sale of merchantable tim-
17 ber using separate contracts for—

18 “(i) the harvesting or collection of
19 merchantable timber; and

20 “(ii) the sale of the timber.

21 “(B) ANNUAL PERCENTAGES.—Under the
22 pilot program, the Secretary concerned shall en-
23 sure that, on a nationwide basis, not less than
24 the following percentage of all approved projects

1 involving the sale of merchantable timber are
2 implemented using separate contracts:

3 “(i) For fiscal year 2008, 35 percent.

4 “(ii) For fiscal year 2009, 45 percent.

5 “(iii) For each of fiscal years 2010
6 and 2011, 50 percent.

7 “(C) INCLUSION IN PILOT PROGRAM.—The
8 decision whether to use separate contracts to
9 implement a project involving the sale of mer-
10 chantable timber shall be made by the Sec-
11 retary concerned after the approval of the
12 project under this title.

13 “(D) ASSISTANCE.—

14 “(i) IN GENERAL.—The Secretary
15 concerned may use funds from any appro-
16 priated account available to the Secretary
17 for the Federal land to assist in the ad-
18 ministration of projects conducted under
19 the pilot program.

20 “(ii) MAXIMUM AMOUNT OF ASSIST-
21 ANCE.—The total amount obligated under
22 this subparagraph may not exceed
23 \$1,000,000 for any fiscal year during
24 which the pilot program is in effect.

25 “(E) REVIEW AND REPORT.—

1 “(i) INITIAL REPORT.—Not later than
2 September 30, 2010, the Comptroller Gen-
3 eral shall submit to the Committees on Ag-
4 riculture, Nutrition, and Forestry and En-
5 ergy and Natural Resources of the Senate
6 and the Committees on Agriculture and
7 Natural Resources of the House of Rep-
8 resentatives a report assessing the pilot
9 program.

10 “(ii) ANNUAL REPORT.—The Sec-
11 retary concerned shall submit to the Com-
12 mittees on Agriculture, Nutrition, and For-
13 estry and Energy and Natural Resources
14 of the Senate and the Committees on Agri-
15 culture and Natural Resources of the
16 House of Representatives an annual report
17 describing the results of the pilot program.

18 “(f) REQUIREMENTS FOR PROJECT FUNDS.—The
19 Secretary shall ensure that at least 50 percent of all
20 project funds be used for projects that are primarily dedi-
21 cated—

22 “(1) to road maintenance, decommissioning, or
23 obliteration; or

24 “(2) to restoration of streams and watersheds.

1 **“SEC. 205. RESOURCE ADVISORY COMMITTEES.**

2 “(a) ESTABLISHMENT AND PURPOSE OF RESOURCE
3 ADVISORY COMMITTEES.—

4 “(1) ESTABLISHMENT.—The Secretary con-
5 cerned shall establish and maintain resource advi-
6 sory committees to perform the duties in subsection
7 (b), except as provided in paragraph (4).

8 “(2) PURPOSE.—The purpose of a resource ad-
9 visory committee shall be—

10 “(A) to improve collaborative relationships;
11 and

12 “(B) to provide advice and recommenda-
13 tions to the land management agencies con-
14 sistent with the purposes of this title.

15 “(3) ACCESS TO RESOURCE ADVISORY COMMIT-
16 TEES.—To ensure that each unit of Federal land
17 has access to a resource advisory committee, and
18 that there is sufficient interest in participation on a
19 committee to ensure that membership can be bal-
20 anced in terms of the points of view represented and
21 the functions to be performed, the Secretary con-
22 cerned may, establish resource advisory committees
23 for part of, or 1 or more, units of Federal land.

24 “(4) EXISTING ADVISORY COMMITTEES.—

25 “(A) IN GENERAL.—An advisory com-
26 mittee that meets the requirements of this sec-

1 tion, a resource advisory committee established
2 before September 29, 2006, or an advisory com-
3 mittee determined by the Secretary concerned
4 before September 29, 2006, to meet the re-
5 quirements of this section may be deemed by
6 the Secretary concerned to be a resource advi-
7 sory committee for the purposes of this title.

8 “(B) CHARTER.—A charter for a com-
9 mittee described in subparagraph (A) that was
10 filed on or before September 29, 2006, shall be
11 considered to be filed for purposes of this Act.

12 “(C) BUREAU OF LAND MANAGEMENT AD-
13 VISORY COMMITTEES.—The Secretary of the In-
14 terior may deem a resource advisory committee
15 meeting the requirements of subpart 1784 of
16 part 1780 of title 43, Code of Federal Regula-
17 tions, as a resource advisory committee for the
18 purposes of this title.

19 “(b) DUTIES.—A resource advisory committee
20 shall—

21 “(1) review projects proposed under this title by
22 participating counties and other persons;

23 “(2) propose projects and funding to the Sec-
24 retary concerned under section 203;

1 “(3) provide early and continuous coordination
2 with appropriate land management agency officials
3 in recommending projects consistent with purposes
4 of this Act under this title;

5 “(4) provide frequent opportunities for citizens,
6 organizations, tribes, land management agencies,
7 and other interested parties to participate openly
8 and meaningfully, beginning at the early stages of
9 the project development process under this title;

10 “(5)(A) monitor projects that have been ap-
11 proved under section 204; and

12 “(B) advise the designated Federal official on
13 the progress of the monitoring efforts under sub-
14 paragraph (A); and

15 “(6) make recommendations to the Secretary
16 concerned for any appropriate changes or adjust-
17 ments to the projects being monitored by the re-
18 source advisory committee.

19 “(c) APPOINTMENT BY THE SECRETARY.—

20 “(1) APPOINTMENT AND TERM.—

21 “(A) IN GENERAL.—The Secretary con-
22 cerned, shall appoint the members of resource
23 advisory committees for a term of 4 years be-
24 ginning on the date of appointment.

1 “(B) REAPPOINTMENT.—The Secretary
2 concerned may reappoint members to subse-
3 quent 4-year terms.

4 “(2) BASIC REQUIREMENTS.—The Secretary
5 concerned shall ensure that each resource advisory
6 committee established meets the requirements of
7 subsection (d).

8 “(3) INITIAL APPOINTMENT.—Not later than
9 180 days after the date of the enactment of this Act,
10 the Secretary concerned shall make initial appoint-
11 ments to the resource advisory committees.

12 “(4) VACANCIES.—The Secretary concerned
13 shall make appointments to fill vacancies on any re-
14 source advisory committee as soon as practicable
15 after the vacancy has occurred.

16 “(5) COMPENSATION.—Members of the re-
17 source advisory committees shall not receive any
18 compensation.

19 “(d) COMPOSITION OF ADVISORY COMMITTEE.—

20 “(1) NUMBER.—Each resource advisory com-
21 mittee shall be comprised of 15 members.

22 “(2) COMMUNITY INTERESTS REPRESENTED.—
23 Committee members shall be representative of the
24 interests of the following 3 categories:

25 “(A) 5 persons that—

1 “(i) represent organized labor or non-
2 timber forest product harvester groups;

3 “(ii) represent developed outdoor
4 recreation, off highway vehicle users, or
5 commercial recreation activities;

6 “(iii) represent—

7 “(I) energy and mineral develop-
8 ment interests; or

9 “(II) commercial or recreational
10 fishing interests;

11 “(iv) represent the commercial timber
12 industry; or

13 “(v) hold Federal grazing or other
14 land use permits, or represent nonindus-
15 trial private forest land owners, within the
16 area for which the committee is organized.

17 “(B) 5 persons that represent—

18 “(i) nationally recognized environ-
19 mental organizations;

20 “(ii) regionally or locally recognized
21 environmental organizations;

22 “(iii) dispersed recreational activities;

23 “(iv) archaeological and historical in-
24 terests; or

1 “(v) nationally or regionally recog-
2 nized wild horse and burro interest groups,
3 wildlife or hunting organizations, or water-
4 shed associations.

5 “(C) 5 persons that—

6 “(i) hold State elected office (or a
7 designee);

8 “(ii) hold county or local elected of-
9 fice;

10 “(iii) represent American Indian
11 tribes within or adjacent to the area for
12 which the committee is organized;

13 “(iv) are school officials or teachers;
14 or

15 “(v) represent the affected public at
16 large.

17 “(3) BALANCED REPRESENTATION.—In ap-
18 pointing committee members from the 3 categories
19 in paragraph (2), the Secretary concerned shall pro-
20 vide for balanced and broad representation from
21 within each category.

22 “(4) GEOGRAPHIC DISTRIBUTION.—The mem-
23 bers of a resource advisory committee shall reside
24 within the State in which the committee has juris-
25 diction and, to extent practicable, the Secretary con-

1 cerned shall ensure local representation in each cat-
2 egory in paragraph (2).

3 “(5) CHAIRPERSON.—A majority on each re-
4 source advisory committee shall select the chair-
5 person of the committee.

6 “(e) APPROVAL PROCEDURES.—

7 “(1) IN GENERAL.—Subject to paragraph (3),
8 each resource advisory committee shall establish pro-
9 cedures for proposing projects to the Secretary con-
10 cerned under this title.

11 “(2) QUORUM.—A quorum must be present to
12 constitute an official meeting of the committee.

13 “(3) APPROVAL BY MAJORITY OF MEMBERS.—
14 A project may be proposed by a resource advisory
15 committee to the Secretary concerned under section
16 203(a), if the project has been approved by a major-
17 ity of members of the committee from each of the
18 3 categories in subsection (d)(2).

19 “(f) OTHER COMMITTEE AUTHORITIES AND RE-
20 QUIREMENTS.—

21 “(1) STAFF ASSISTANCE.—A resource advisory
22 committee may submit to the Secretary concerned a
23 request for periodic staff assistance from Federal
24 employees under the jurisdiction of the Secretary.

1 “(2) MEETINGS.—All meetings of a resource
2 advisory committee shall be announced at least 1
3 week in advance in a local newspaper of record and
4 shall be open to the public.

5 “(3) RECORDS.—A resource advisory committee
6 shall maintain records of the meetings of the com-
7 mittee and make the records available for public in-
8 spection.

9 **“SEC. 206. USE OF PROJECT FUNDS.**

10 “(a) AGREEMENT REGARDING SCHEDULE AND COST
11 OF PROJECT.—

12 “(1) AGREEMENT BETWEEN PARTIES.—The
13 Secretary concerned may carry out a project sub-
14 mitted by a resource advisory committee under sec-
15 tion 203(a) using project funds or other funds de-
16 scribed in section 203(a)(2), if, as soon as prac-
17 ticable after the issuance of a decision document for
18 the project and the exhaustion of all administrative
19 appeals and judicial review of the project decision,
20 the Secretary concerned and the resource advisory
21 committee enter into an agreement addressing, at a
22 minimum, the following:

23 “(A) The schedule for completing the
24 project.

1 “(B) The total cost of the project, includ-
2 ing the level of agency overhead to be assessed
3 against the project.

4 “(C) For a multiyear project, the esti-
5 mated cost of the project for each of the fiscal
6 years in which it will be carried out.

7 “(D) The remedies for failure of the Sec-
8 retary concerned to comply with the terms of
9 the agreement consistent with current Federal
10 law.

11 “(2) LIMITED USE OF FEDERAL FUNDS.—The
12 Secretary concerned may decide, at the sole discre-
13 tion of the Secretary concerned, to cover the costs
14 of a portion of an approved project using Federal
15 funds appropriated or otherwise available to the Sec-
16 retary for the same purposes as the project.

17 “(b) TRANSFER OF PROJECT FUNDS.—

18 “(1) INITIAL TRANSFER REQUIRED.—As soon
19 as practicable after the agreement is reached under
20 subsection (a) with regard to a project to be funded
21 in whole or in part using project funds, or other
22 funds described in section 203(a)(2), the Secretary
23 concerned shall transfer to the applicable unit of Na-
24 tional Forest System land or Bureau of Land Man-

1 agement District an amount of project funds equal
2 to—

3 “(A) in the case of a project to be com-
4 pleted in a single fiscal year, the total amount
5 specified in the agreement to be paid using
6 project funds, or other funds described in sec-
7 tion 203(a)(2); or

8 “(B) in the case of a multiyear project, the
9 amount specified in the agreement to be paid
10 using project funds, or other funds described in
11 section 203(a)(2) for the first fiscal year.

12 “(2) CONDITION ON PROJECT COMMENCE-
13 MENT.—The unit of National Forest System land or
14 Bureau of Land Management District concerned,
15 shall not commence a project until the project funds,
16 or other funds described in section 203(a)(2) re-
17 quired to be transferred under paragraph (1) for the
18 project, have been made available by the Secretary
19 concerned.

20 “(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR
21 PROJECTS.—

22 “(A) IN GENERAL.—For the second and
23 subsequent fiscal years of a multiyear project to
24 be funded in whole or in part using project
25 funds, the unit of National Forest System land

1 or Bureau of Land Management District con-
2 cerned shall use the amount of project funds re-
3 quired to continue the project in that fiscal year
4 according to the agreement entered into under
5 subsection (a).

6 “(B) SUSPENSION OF WORK.—The Sec-
7 retary concerned shall suspend work on the
8 project if the project funds required by the
9 agreement in the second and subsequent fiscal
10 years are not available.

11 **“SEC. 207. AVAILABILITY OF PROJECT FUNDS.**

12 “(a) SUBMISSION OF PROPOSED PROJECTS TO OBLI-
13 GATE FUNDS.—By September 30, 2008 (or as soon there-
14 after as the Secretary concerned determines is prac-
15 ticable), and each September 30 thereafter for each suc-
16 ceeding fiscal year through fiscal year 2011, a resource
17 advisory committee shall submit to the Secretary con-
18 cerned pursuant to section 203(a)(1) a sufficient number
19 of project proposals that, if approved, would result in the
20 obligation of at least the full amount of the project funds
21 reserved by the participating county in the preceding fiscal
22 year.

23 “(b) USE OR TRANSFER OF UNOBLIGATED
24 FUNDS.—Subject to section 208, if a resource advisory
25 committee fails to comply with subsection (a) for a fiscal

1 year, any project funds reserved by the participating coun-
2 ty in the preceding fiscal year and remaining unobligated
3 shall be available for use as part of the project submissions
4 in the next fiscal year.

5 “(c) EFFECT OF REJECTION OF PROJECTS.—Subject
6 to section 208, any project funds reserved by a partici-
7 pating county in the preceding fiscal year that are unobli-
8 gated at the end of a fiscal year because the Secretary
9 concerned has rejected one or more proposed projects shall
10 be available for use as part of the project submissions in
11 the next fiscal year.

12 “(d) EFFECT OF COURT ORDERS.—

13 “(1) IN GENERAL.—If an approved project
14 under this Act is enjoined or prohibited by a Federal
15 court, the Secretary concerned shall return the un-
16 obligated project funds related to the project to the
17 participating county or counties that reserved the
18 funds.

19 “(2) EXPENDITURE OF FUNDS.—The returned
20 funds shall be available for the county to expend in
21 the same manner as the funds reserved by the coun-
22 ty under subparagraph (B) or (C)(i) of section
23 102(d)(1).

1 **“SEC. 208. TERMINATION OF AUTHORITY.**

2 “(a) IN GENERAL.—The authority to initiate projects
3 under this title shall terminate on September 30, 2011.

4 “(b) DEPOSITS IN TREASURY.—Any project funds
5 not obligated by September 30, 2012, shall be deposited
6 in the Treasury of the United States.

7 **“TITLE III—COUNTY FUNDS**

8 **“SEC. 301. DEFINITIONS.**

9 “In this title:

10 “(1) COUNTY FUNDS.—The term ‘county funds’
11 means all funds an eligible county elects under sec-
12 tion 102(d) to reserve for expenditure in accordance
13 with this title.

14 “(2) PARTICIPATING COUNTY.—The term ‘par-
15 ticipating county’ means an eligible county that
16 elects under section 102(d) to expend a portion of
17 the Federal funds received under section 102 in ac-
18 cordance with this title.

19 **“SEC. 302. USE.**

20 “(a) AUTHORIZED USES.—A participating county,
21 including any applicable agencies of the participating
22 county, shall use county funds, in accordance with this
23 title, only—

24 “(1) to carry out activities under the Firewise
25 Communities program to provide to homeowners in
26 fire-sensitive ecosystems education on, and assist-

1 ance with implementing, techniques in home siting,
2 home construction, and home landscaping that can
3 increase the protection of people and property from
4 wildfires;

5 “(2) to reimburse the participating county for
6 search and rescue and other emergency services, in-
7 cluding firefighting, that are—

8 “(A) performed on Federal land after the
9 date on which the use was approved under sub-
10 section (b);

11 “(B) paid for by the participating county;
12 and

13 “(3) to develop community wildfire protection
14 plans in coordination with the appropriate Secretary
15 concerned.

16 “(b) PROPOSALS.—A participating county shall use
17 county funds for a use described in subsection (a) only
18 after a 45-day public comment period, at the beginning
19 of which the participating county shall—

20 “(1) publish in any publications of local record
21 a proposal that describes the proposed use of the
22 county funds; and

23 “(2) submit the proposal to any resource advi-
24 sory committee established under section 205 for the
25 participating county.

1 **“SEC. 303. CERTIFICATION.**

2 “(a) IN GENERAL.—Not later than February 1 of the
3 year after the year in which any county funds were ex-
4 pended by a participating county, the appropriate official
5 of the participating county shall submit to the Secretary
6 concerned a certification that the county funds expended
7 in the applicable year have been used for the uses author-
8 ized under section 302(a), including a description of the
9 amounts expended and the uses for which the amounts
10 were expended.

11 “(b) REVIEW.—The Secretary concerned shall review
12 the certifications submitted under subsection (a) as the
13 Secretary concerned determines to be appropriate.

14 **“SEC. 304. TERMINATION OF AUTHORITY.**

15 “(a) IN GENERAL.—The authority to initiate projects
16 under this title terminates on September 30, 2011.

17 “(b) AVAILABILITY.—Any county funds not obligated
18 by September 30, 2012, shall be returned to the Treasury
19 of the United States.

20 **“TITLE IV—MISCELLANEOUS**
21 **PROVISIONS**

22 **“SEC. 401. REGULATIONS.**

23 “The Secretary of Agriculture and the Secretary of
24 the Interior shall issue regulations to carry out the pur-
25 poses of this Act.

1 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such sums
3 as are necessary to carry out this Act for each of fiscal
4 years 2008 through 2011.

5 **“SEC. 403. TREATMENT OF FUNDS AND REVENUES.**

6 “(a) RELATION TO OTHER APPROPRIATIONS.—
7 Funds made available under section 402 and funds made
8 available to a Secretary concerned under section 206 shall
9 be in addition to any other annual appropriations for the
10 Forest Service and the Bureau of Land Management.

11 “(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—
12 All revenues generated from projects pursuant to title II,
13 including any interest accrued from the revenues, shall be
14 deposited in the Treasury of the United States.”.

15 (b) FOREST RECEIPT PAYMENTS TO ELIGIBLE
16 STATES AND COUNTIES.—

17 (1) ACT OF MAY 23, 1908.—The sixth paragraph
18 under the heading “FOREST SERVICE” in the Act
19 of May 23, 1908 (16 U.S.C. 500) is amended in the
20 first sentence by striking “twenty-five percentum”
21 and all that follows through “shall be paid” and in-
22 serting the following: “an amount equal to the an-
23 nual average of 25 percent of all amounts received
24 for the applicable fiscal year and each of the pre-
25 ceding 6 fiscal years from each national forest shall
26 be paid”.

1 (2) WEEKS LAW.—Section 13 of the Act of
2 March 1, 1911 (commonly known as the “Weeks
3 Law”) (16 U.S.C. 500) is amended in the first sen-
4 tence by striking “twenty-five percentum” and all
5 that follows through “shall be paid” and inserting
6 the following: “an amount equal to the annual aver-
7 age of 25 percent of all amounts received for the ap-
8 plicable fiscal year and each of the preceding 6 fiscal
9 years from each national forest shall be paid”.

10 (c) PAYMENTS IN LIEU OF TAXES.—

11 (1) IN GENERAL.—Section 6906 of title 31,
12 United States Code, is amended to read as follows:

13 **“§ 6906. Funding**

14 “For each of fiscal years 2008 through 2012—

15 “(1) each county or other eligible unit of local
16 government shall be entitled to payment under this
17 chapter; and

18 “(2) sums shall be made available to the Sec-
19 retary of the Interior for obligation or expenditure in
20 accordance with this chapter.”.

21 (2) CONFORMING AMENDMENT.—The table of
22 sections for chapter 69 of title 31, United States
23 Code, is amended by striking the item relating to
24 section 6906 and inserting the following:

“6906. Funding.”.

25 (3) BUDGET SCOREKEEPING.—

1 (A) IN GENERAL.—Notwithstanding the
2 Budget Scorekeeping Guidelines and the accom-
3 panying list of programs and accounts set forth
4 in the joint explanatory statement of the com-
5 mittee of conference accompanying Conference
6 Report 105–217, the section in this title re-
7 garding Payments in Lieu of Taxes shall be
8 treated in the baseline for purposes of section
9 257 of the Balanced Budget and Emergency
10 Deficit Control Act of 1985 (as in effect prior
11 to September 30, 2002), and by the Chairmen
12 of the House and Senate Budget Committees,
13 as appropriate, for purposes of budget enforce-
14 ment in the House and Senate, and under the
15 Congressional Budget Act of 1974 as if Pay-
16 ment in Lieu of Taxes (14–1114–0–1–806)
17 were an account designated as Appropriated
18 Entitlements and Mandatories for Fiscal Year
19 1997 in the joint explanatory statement of the
20 committee of conference accompanying Con-
21 ference Report 105–217.

22 (B) EFFECTIVE DATE.—This paragraph
23 shall remain in effect for the fiscal years to
24 which the entitlement in section 6906 of title

1 31, United States Code (as amended by para-
2 graph (1)), applies.

3 **SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION**
4 **FUND.**

5 Subparagraph (C) of section 402(i)(1) of the Surface
6 Mining Control and Reclamation Act of 1977 (30 U.S.C.
7 1232(i)(1)) is amended by striking “and \$9,000,000 on
8 October 1, 2009” and inserting “\$9,000,000 on October
9 1, 2009, and \$9,000,000 on October 1, 2010”.

10 **TITLE VII—DISASTER RELIEF**
11 **Subtitle A—Heartland Disaster**
12 **Relief**

13 **SEC. 701. SHORT TITLE.**

14 This subtitle may be cited as the “Heartland Disaster
15 Tax Relief Act of 2008”.

16 **SEC. 702. TEMPORARY TAX RELIEF FOR AREAS DAMAGED**
17 **BY 2008 MIDWESTERN SEVERE STORMS, TOR-**
18 **NADOS, AND FLOODING.**

19 (a) IN GENERAL.—Subject to the modifications de-
20 scribed in this section, the following provisions of or relat-
21 ing to the Internal Revenue Code of 1986 shall apply to
22 any Midwestern disaster area in addition to the areas to
23 which such provisions otherwise apply:

24 (1) GO ZONE BENEFITS.—

1 (A) Section 1400N (relating to tax bene-
2 fits) other than subsections (b), (d), (e), (i), (j),
3 (m), and (o) thereof.

4 (B) Section 1400O (relating to education
5 tax benefits).

6 (C) Section 1400P (relating to housing tax
7 benefits).

8 (D) Section 1400Q (relating to special
9 rules for use of retirement funds).

10 (E) Section 1400R(a) (relating to em-
11 ployee retention credit for employers).

12 (F) Section 1400S (relating to additional
13 tax relief) other than subsection (d) thereof.

14 (G) Section 1400T (relating to special
15 rules for mortgage revenue bonds).

16 (2) OTHER BENEFITS INCLUDED IN KATRINA
17 EMERGENCY TAX RELIEF ACT OF 2005.—Sections
18 302, 303, 304, 401, and 405 of the Katrina Emer-
19 gency Tax Relief Act of 2005.

20 (b) MIDWESTERN DISASTER AREA.—

21 (1) IN GENERAL.—For purposes of this section
22 and for applying the substitutions described in sub-
23 sections (d) and (e), the term “Midwestern disaster
24 area” means an area—

1 (A) with respect to which a major disaster
2 has been declared by the President on or after
3 May 20, 2008, and before August 1, 2008,
4 under section 401 of the Robert T. Stafford
5 Disaster Relief and Emergency Assistance Act
6 by reason of severe storms, tornados, or flood-
7 ing occurring in any of the States of Arkansas,
8 Illinois, Indiana, Iowa, Kansas, Michigan, Min-
9 nesota, Missouri, Nebraska, and Wisconsin, and

10 (B) determined by the President to war-
11 rant individual or individual and public assist-
12 ance from the Federal Government under such
13 Act with respect to damages attributable to
14 such severe storms, tornados, or flooding.

15 (2) CERTAIN BENEFITS AVAILABLE TO AREAS
16 ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For pur-
17 poses of applying this section to benefits under the
18 following provisions, paragraph (1) shall be applied
19 without regard to subparagraph (B):

20 (A) Sections 1400Q, 1400S(b), and
21 1400S(d) of the Internal Revenue Code of
22 1986.

23 (B) Sections 302, 401, and 405 of the
24 Katrina Emergency Tax Relief Act of 2005.

25 (c) REFERENCES.—

1 (1) AREA.—Any reference in such provisions to
2 the Hurricane Katrina disaster area or the Gulf Op-
3 portunity Zone shall be treated as a reference to any
4 Midwestern disaster area and any reference to the
5 Hurricane Katrina disaster area or the Gulf Oppor-
6 tunity Zone within a State shall be treated as a ref-
7 erence to all Midwestern disaster areas within the
8 State.

9 (2) ITEMS ATTRIBUTABLE TO DISASTER.—Any
10 reference in such provisions to any loss, damage, or
11 other item attributable to Hurricane Katrina shall
12 be treated as a reference to any loss, damage, or
13 other item attributable to the severe storms, tor-
14 nados, or flooding giving rise to any Presidential
15 declaration described in subsection (b)(1)(A).

16 (3) APPLICABLE DISASTER DATE.—For pur-
17 poses of applying the substitutions described in sub-
18 sections (d) and (e), the term “applicable disaster
19 date” means, with respect to any Midwestern dis-
20 aster area, the date on which the severe storms, tor-
21 nados, or flooding giving rise to the Presidential dec-
22 laration described in subsection (b)(1)(A) occurred.

23 (d) MODIFICATIONS TO 1986 CODE.—The following
24 provisions of the Internal Revenue Code of 1986 shall be
25 applied with the following modifications:

1 (1) TAX-EXEMPT BOND FINANCING.—Section
2 1400N(a)—

3 (A) by substituting “qualified Midwestern
4 disaster area bond” for “qualified Gulf Oppor-
5 tunity Zone Bond” each place it appears, except
6 that in determining whether a bond is a quali-
7 fied Midwestern disaster area bond—

8 (i) paragraph (2)(A)(i) shall be ap-
9 plied by only treating costs as qualified
10 project costs if—

11 (I) in the case of a project involv-
12 ing a private business use (as defined
13 in section 141(b)(6)), either the per-
14 son using the property suffered a loss
15 in a trade or business attributable to
16 the severe storms, tornados, or flood-
17 ing giving rise to any Presidential dec-
18 laration described in subsection
19 (b)(1)(A) or is a person designated for
20 purposes of this section by the Gov-
21 ernor of the State in which the project
22 is located as a person carrying on a
23 trade or business replacing a trade or
24 business with respect to which another
25 person suffered such a loss, and

1 (II) in the case of a project relat-
2 ing to public utility property, the
3 project involves repair or reconstruc-
4 tion of public utility property dam-
5 aged by such severe storms, tornados,
6 or flooding, and

7 (ii) paragraph (2)(A)(ii) shall be ap-
8 plied by treating an issue as a qualified
9 mortgage issue only if 95 percent or more
10 of the net proceeds (as defined in section
11 150(a)(3)) of the issue are to be used to
12 provide financing for mortgagors who suf-
13 fered damages to their principal residences
14 attributable to such severe storms, tor-
15 nados, or flooding.

16 (B) by substituting “any State in which a
17 Midwestern disaster area is located” for “the
18 State of Alabama, Louisiana, or Mississippi” in
19 paragraph (2)(B),

20 (C) by substituting “designated for pur-
21 poses of this section (on the basis of providing
22 assistance to areas in the order in which such
23 assistance is most needed)” for “designated for
24 purposes of this section” in paragraph (2)(C),

1 (D) by substituting “January 1, 2013” for
2 “January 1, 2011” in paragraph (2)(D),

3 (E) in paragraph (3)(A)—

4 (i) by substituting “\$1,000” for
5 “\$2,500”, and

6 (ii) by substituting “before the ear-
7 liest applicable disaster date for Mid-
8 western disaster areas within the State”
9 for “before August 28, 2005”,

10 (F) by substituting “qualified Midwestern
11 disaster area repair or construction” for “quali-
12 fied GO Zone repair or construction” each place
13 it appears,

14 (G) by substituting “after the date of the
15 enactment of the Heartland Disaster Tax Relief
16 Act of 2008 and before January 1, 2013” for
17 “after the date of the enactment of this para-
18 graph and before January 1, 2011” in para-
19 graph (7)(C), and

20 (H) by disregarding paragraph (8) thereof.

21 (2) LOW-INCOME HOUSING CREDIT.—Section
22 1400N(c)—

23 (A) only with respect to calendar years
24 2008, 2009, and 2010,

1 (B) by substituting “Disaster Recovery As-
2 sistance housing amount” for “Gulf Oppor-
3 tunity housing amount”,

4 (C) in paragraph (1)(B)—

5 (i) by substituting “\$8.00” for
6 “\$18.00”, and

7 (ii) by substituting “before the ear-
8 liest applicable disaster date for Mid-
9 western disaster areas within the State”
10 for “before August 28, 2005” , and

11 (D) determined without regard to para-
12 graphs (2), (3), (4), (5), and (6) thereof.

13 (3) EXPENSING FOR CERTAIN DEMOLITION AND
14 CLEAN-UP COSTS.—Section 1400N(f)—

15 (A) by substituting “qualified Disaster Re-
16 covery Assistance clean-up cost” for “qualified
17 Gulf Opportunity Zone clean-up cost” each
18 place it appears,

19 (B) by substituting “beginning on the ap-
20 plicable disaster date and ending on December
21 31, 2010” for “beginning on August 28, 2005,
22 and ending on December 31, 2007” in para-
23 graph (2), and

24 (C) by treating costs as qualified Disaster
25 Recovery Assistance clean-up costs only if the

1 removal of debris or demolition of any structure
2 was necessary due to damage attributable to
3 the severe storms, tornados, or flooding giving
4 rise to any Presidential declaration described in
5 subsection (b)(1)(A).

6 (4) EXTENSION OF EXPENSING FOR ENVIRON-
7 MENTAL REMEDIATION COSTS.—Section 1400N(g)—

8 (A) by substituting “the applicable disaster
9 date” for “August 28, 2005” each place it ap-
10 pears,

11 (B) by substituting “January 1, 2011” for
12 “January 1, 2008” in paragraph (1),

13 (C) by substituting “December 31, 2010”
14 for “December 31, 2007” in paragraph (1), and

15 (D) by treating a site as a qualified con-
16 taminated site only if the release (or threat of
17 release) or disposal of a hazardous substance at
18 the site was attributable to the severe storms,
19 tornados, or flooding giving rise to any Presi-
20 dential declaration described in subsection
21 (b)(1)(A).

22 (5) INCREASE IN REHABILITATION CREDIT.—
23 Section 1400N(h), as amended by this Act—

24 (A) by substituting “the applicable disaster
25 date” for “August 28, 2005”,

1 (B) by substituting “December 31, 2011”
2 for “December 31, 2009” in paragraph (1), and

3 (C) by only applying such subsection to
4 qualified rehabilitation expenditures with re-
5 spect to any building or structure which was
6 damaged or destroyed as a result of the severe
7 storms, tornados, or flooding giving rise to any
8 Presidential declaration described in subsection
9 (b)(1)(A).

10 (6) TREATMENT OF NET OPERATING LOSSES
11 ATTRIBUTABLE TO DISASTER LOSSES.—Section
12 1400N(k)—

13 (A) by substituting “qualified Disaster Re-
14 covery Assistance loss” for “qualified Gulf Op-
15 portunity Zone loss” each place it appears,

16 (B) by substituting “after the day before
17 the applicable disaster date, and before January
18 1, 2011” for “after August 27, 2005, and be-
19 fore January 1, 2008” each place it appears,

20 (C) by substituting “the applicable disaster
21 date” for “August 28, 2005” in paragraph
22 (2)(B)(ii)(I),

23 (D) by substituting “qualified Disaster Re-
24 covery Assistance property” for “qualified Gulf

1 Opportunity Zone property” in paragraph
2 (2)(B)(iv), and

3 (E) by substituting “qualified Disaster Re-
4 covery Assistance casualty loss” for “qualified
5 Gulf Opportunity Zone casualty loss” each
6 place it appears.

7 (7) CREDIT TO HOLDERS OF TAX CREDIT
8 BONDS.—Section 1400N(l)—

9 (A) by substituting “Midwestern tax credit
10 bond” for “Gulf tax credit bond” each place it
11 appears,

12 (B) by substituting “any State in which a
13 Midwestern disaster area is located or any in-
14 strumentality of the State” for “the State of
15 Alabama, Louisiana, or Mississippi” in para-
16 graph (4)(A)(i),

17 (C) by substituting “after December 31,
18 2008 and before January 1, 2010” for “after
19 December 31, 2005, and before January 1,
20 2007”,

21 (D) by substituting “shall not exceed
22 \$100,000,000 for any State with an aggregate
23 population located in all Midwestern disaster
24 areas within the State of at least 2,000,000,
25 \$50,000,000 for any State with an aggregate

1 population located in all Midwestern disaster
2 areas within the State of at least 1,000,000 but
3 less than 2,000,000, and zero for any other
4 State. The population of a State within any
5 area shall be determined on the basis of the
6 most recent census estimate of resident popu-
7 lation released by the Bureau of Census before
8 the earliest applicable disaster date for Mid-
9 western disaster areas within the State.” for
10 “shall not exceed” and all that follows in para-
11 graph (4)(C), and

12 (E) by substituting “the earliest applicable
13 disaster date for Midwestern disaster areas
14 within the State” for “August 28, 2005” in
15 paragraph (5)(A).

16 (8) EDUCATION TAX BENEFITS.—Section
17 1400O, by substituting “2008 or 2009” for “2005
18 or 2006”.

19 (9) HOUSING TAX BENEFITS.—Section 1400P,
20 by substituting “the applicable disaster date” for
21 “August 28, 2005” in subsection (c)(1).

22 (10) SPECIAL RULES FOR USE OF RETIREMENT
23 FUNDS.—Section 1400Q—

1 (A) by substituting “qualified Disaster Re-
2 covery Assistance distribution” for “qualified
3 hurricane distribution” each place it appears,

4 (B) by substituting “on or after the appli-
5 cable disaster date and before January 1,
6 2010” for “on or after August 25, 2005, and
7 before January 1, 2007” in subsection
8 (a)(4)(A)(i),

9 (C) by substituting “the applicable disaster
10 date” for “August 28, 2005” in subsections
11 (a)(4)(A)(i) and (c)(3)(B),

12 (D) by disregarding clauses (ii) and (iii) of
13 subsection (a)(4)(A) thereof,

14 (E) by substituting “qualified storm dam-
15 age distribution” for “qualified Katrina dis-
16 tribution” each place it appears,

17 (F) by substituting “after the date which
18 is 6 months before the applicable disaster date
19 and before the date which is the day after the
20 applicable disaster date” for “after February
21 28, 2005, and before August 29, 2005” in sub-
22 section (b)(2)(B)(ii),

23 (G) by substituting “the Midwestern dis-
24 aster area, but not so purchased or constructed
25 on account of severe storms, tornados, or flood-

1 ing giving rise to the designation of the area as
2 a disaster area” for “the Hurricane Katrina
3 disaster area, but not so purchased or con-
4 structed on account of Hurricane Katrina” in
5 subsection (b)(2)(B)(iii),

6 (H) by substituting “beginning on the ap-
7 plicable disaster date and ending on the date
8 which is 5 months after the date of the enact-
9 ment of the Heartland Disaster Tax Relief Act
10 of 2008” for “beginning on August 25, 2005,
11 and ending on February 28, 2006” in sub-
12 section (b)(3)(A),

13 (I) by substituting “qualified storm dam-
14 age individual” for “qualified Hurricane
15 Katrina individual” each place it appears,

16 (J) by substituting “December 31, 2009”
17 for “December 31, 2006” in subsection
18 (c)(2)(A),

19 (K) by disregarding subparagraphs (C)
20 and (D) of subsection (c)(3) thereof,

21 (L) by substituting “beginning on the date
22 of the enactment of the Heartland Disaster Tax
23 Relief Act of 2008 and ending on December 31,
24 2009” for “beginning on September 24, 2005,

1 and ending on December 31, 2006” in sub-
2 section (c)(4)(A)(i),

3 (M) by substituting “the applicable dis-
4 aster date” for “August 25, 2005” in sub-
5 section (c)(4)(A)(ii), and

6 (N) by substituting “January 1, 2010” for
7 “January 1, 2007” in subsection (d)(2)(A)(ii).

8 (11) EMPLOYEE RETENTION CREDIT FOR EM-
9 PLOYERS AFFECTED BY SEVERE STORMS, TOR-
10 NADOS, AND FLOODING.—Section 1400R(a)—

11 (A) by substituting “the applicable disaster
12 date” for “August 28, 2005” each place it ap-
13 pears,

14 (B) by substituting “January 1, 2009” for
15 “January 1, 2006” both places it appears, and

16 (C) only with respect to eligible employers
17 who employed an average of not more than 200
18 employees on business days during the taxable
19 year before the applicable disaster date.

20 (12) TEMPORARY SUSPENSION OF LIMITATIONS
21 ON CHARITABLE CONTRIBUTIONS.—Section
22 1400S(a), by substituting the following paragraph
23 for paragraph (4) thereof:

24 “(4) QUALIFIED CONTRIBUTIONS.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the term ‘qualified contribution’
3 means any charitable contribution (as defined
4 in section 170(c)) if—

5 “(i) such contribution—

6 “(I) is paid during the period be-
7 ginning on the earliest applicable dis-
8 aster date for all States and ending
9 on December 31, 2008, in cash to an
10 organization described in section
11 170(b)(1)(A), and

12 “(II) is made for relief efforts in
13 1 or more Midwestern disaster areas,

14 “(ii) the taxpayer obtains from such
15 organization contemporaneous written ac-
16 knowledgment (within the meaning of sec-
17 tion 170(f)(8)) that such contribution was
18 used (or is to be used) for relief efforts in
19 1 or more Midwestern disaster areas, and

20 “(iii) the taxpayer has elected the ap-
21 plication of this subsection with respect to
22 such contribution.

23 “(B) EXCEPTION.—Such term shall not in-
24 clude a contribution by a donor if the contribu-
25 tion is—

1 “(i) to an organization described in
2 section 509(a)(3), or

3 “(ii) for establishment of a new, or
4 maintenance of an existing, donor advised
5 fund (as defined in section 4966(d)(2)).

6 “(C) APPLICATION OF ELECTION TO PART-
7 NERSHIPS AND S CORPORATIONS.—In the case
8 of a partnership or S corporation, the election
9 under subparagraph (A)(iii) shall be made sepa-
10 rately by each partner or shareholder.”.

11 (13) SUSPENSION OF CERTAIN LIMITATIONS ON
12 PERSONAL CASUALTY LOSSES.—Section
13 1400S(b)(1), by substituting “the applicable disaster
14 date” for “August 25, 2005”.

15 (14) SPECIAL RULE FOR DETERMINING
16 EARNED INCOME.—Section 1400S(d)—

17 (A) by treating an individual as a qualified
18 individual if such individual’s principal place of
19 abode on the applicable disaster date was lo-
20 cated in a Midwestern disaster area,

21 (B) by treating the applicable disaster date
22 with respect to any such individual as the appli-
23 cable date for purposes of such subsection, and

24 (C) by treating an area as described in
25 paragraph (2)(B)(ii) thereof if the area is a

1 Midwestern disaster area only by reason of sub-
2 section (b)(2) of this section (relating to areas
3 eligible only for public assistance).

4 (15) ADJUSTMENTS REGARDING TAXPAYER AND
5 DEPENDENCY STATUS.—Section 1400S(e), by sub-
6 stituting “2008 or 2009” for “2005 or 2006”.

7 (e) MODIFICATIONS TO KATRINA EMERGENCY TAX
8 RELIEF ACT OF 2005.—The following provisions of the
9 Katrina Emergency Tax Relief Act of 2005 shall be ap-
10 plied with the following modifications:

11 (1) ADDITIONAL EXEMPTION FOR HOUSING DIS-
12 PLACED INDIVIDUAL.—Section 302—

13 (A) by substituting “2008 or 2009” for
14 “2005 or 2006” in subsection (a) thereof,

15 (B) by substituting “Midwestern displaced
16 individual” for “Hurricane Katrina displaced
17 individual” each place it appears, and

18 (C) by treating an area as a core disaster
19 area for purposes of applying subsection (c)
20 thereof if the area is a Midwestern disaster area
21 without regard to subsection (b)(2) of this sec-
22 tion (relating to areas eligible only for public
23 assistance).

24 (2) INCREASE IN STANDARD MILEAGE RATE.—
25 Section 303, by substituting “beginning on the ap-

1 applicable disaster date and ending on December 31,
2 2008” for “beginning on August 25, 2005, and end-
3 ing on December 31, 2006”.

4 (3) MILEAGE REIMBURSEMENTS FOR CHARIT-
5 TABLE VOLUNTEERS.—Section 304—

6 (A) by substituting “beginning on the ap-
7 plicable disaster date and ending on December
8 31, 2008” for “beginning on August 25, 2005,
9 and ending on December 31, 2006” in sub-
10 section (a), and

11 (B) by substituting “the applicable disaster
12 date” for “August 25, 2005” in subsection (a).

13 (4) EXCLUSION OF CERTAIN CANCELLATION OF
14 INDEBTEDNESS INCOME.—Section 401—

15 (A) by treating an individual whose prin-
16 cipal place of abode on the applicable disaster
17 date was in a Midwestern disaster area (deter-
18 mined without regard to subsection (b)(2) of
19 this section) as an individual described in sub-
20 section (b)(1) thereof, and by treating an indi-
21 vidual whose principal place of abode on the ap-
22 plicable disaster date was in a Midwestern dis-
23 aster area solely by reason of subsection (b)(2)
24 of this section as an individual described in sub-
25 section (b)(2) thereof,

1 (B) by substituting “the applicable disaster
2 date” for “August 28, 2005” both places it ap-
3 pears, and

4 (C) by substituting “January 1, 2010” for
5 “January 1, 2007” in subsection (e).

6 (5) EXTENSION OF REPLACEMENT PERIOD FOR
7 NONRECOGNITION OF GAIN.—Section 405, by sub-
8 stituting “on or after the applicable disaster date”
9 for “on or after August 25, 2005”.

10 **SEC. 703. REPORTING REQUIREMENTS RELATING TO DIS-**
11 **ASTER RELIEF CONTRIBUTIONS.**

12 (a) IN GENERAL.—Section 6033(b) (relating to re-
13 turns of certain organizations described in section
14 501(c)(3)) is amended by striking “and” at the end of
15 paragraph (13), by redesignating paragraph (14) as para-
16 graph (15), and by adding after paragraph (13) the fol-
17 lowing new paragraph:

18 “(14) such information as the Secretary may
19 require with respect to disaster relief activities, in-
20 cluding the amount and use of qualified contribu-
21 tions to which section 1400S(a) applies, and”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to returns the due date for which
24 (determined without regard to any extension) occurs after
25 December 31, 2008.

1 **Subtitle B—National Disaster**
2 **Relief**

3 **SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
4 **CLARED DISASTERS.**

5 (a) WAIVER OF ADJUSTED GROSS INCOME LIMITA-
6 TION.—

7 (1) IN GENERAL.—Subsection (h) of section
8 165 is amended by redesignating paragraphs (3) and
9 (4) as paragraphs (4) and (5), respectively, and by
10 inserting after paragraph (2) the following new
11 paragraph:

12 “(3) SPECIAL RULE FOR LOSSES IN FEDERALLY
13 DECLARED DISASTERS.—

14 “(A) IN GENERAL.—If an individual has a
15 net disaster loss for any taxable year, the
16 amount determined under paragraph (2)(A)(ii)
17 shall be the sum of—

18 “(i) such net disaster loss, and

19 “(ii) so much of the excess referred to
20 in the matter preceding clause (i) of para-
21 graph (2)(A) (reduced by the amount in
22 clause (i) of this subparagraph) as exceeds
23 10 percent of the adjusted gross income of
24 the individual.

1 “(B) NET DISASTER LOSS.—For purposes
2 of subparagraph (A), the term ‘net disaster
3 loss’ means the excess of—

4 “(i) the personal casualty losses—

5 “(I) attributable to a federally
6 declared disaster occurring before
7 January 1, 2010, and

8 “(II) occurring in a disaster
9 area, over

10 “(ii) personal casualty gains.

11 “(C) FEDERALLY DECLARED DISASTER.—

12 For purposes of this paragraph—

13 “(i) FEDERALLY DECLARED DIS-
14 ASTER.—The term ‘federally declared dis-
15 aster’ means any disaster subsequently de-
16 termined by the President of the United
17 States to warrant assistance by the Fed-
18 eral Government under the Robert T. Staf-
19 ford Disaster Relief and Emergency Assist-
20 ance Act.

21 “(ii) DISASTER AREA.—The term ‘dis-
22 aster area’ means the area so determined
23 to warrant such assistance.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Section 165(h)(4)(B) (as so redesignig-
2 nated) is amended by striking “paragraph (2)”
3 and inserting “paragraphs (2) and (3)”.

4 (B) Section 165(i)(1) is amended by strik-
5 ing “loss” and all that follows through “Act”
6 and inserting “loss occurring in a disaster area
7 (as defined by clause (ii) of subsection
8 (h)(3)(C)) and attributable to a federally de-
9 clared disaster (as defined by clause (i) of such
10 subsection)”.

11 (C) Section 165(i)(4) is amended by strik-
12 ing “Presidentially declared disaster (as defined
13 by section 1033(h)(3))” and inserting “federally
14 declared disaster (as defined by subsection
15 (h)(3)(C)(i)”.

16 (D)(i) So much of subsection (h) of section
17 1033 as precedes subparagraph (A) of para-
18 graph (1) thereof is amended to read as follows:

19 “(h) SPECIAL RULES FOR PROPERTY DAMAGED BY
20 FEDERALLY DECLARED DISASTERS.—

21 “(1) PRINCIPAL RESIDENCES.—If the tax-
22 payer’s principal residence or any of its contents is
23 located in a disaster area and is compulsorily or in-
24 voluntarily converted as a result of a federally de-
25 clared disaster—”.

1 (ii) Paragraph (2) of section 1033(h) is
2 amended by striking “investment” and all that
3 follows through “disaster” and inserting “in-
4 vestment located in a disaster area and
5 compulsorily or involuntarily converted as a re-
6 sult of a federally declared disaster”.

7 (iii) Paragraph (3) of section 1033(h) is
8 amended to read as follows:

9 “(3) **FEDERALLY DECLARED DISASTER; DIS-**
10 **ASTER AREA.**—The terms “federally declared dis-
11 aster” and “disaster area” shall have the respective
12 meaning given such terms by section 165(h)(3)(C).”.

13 (iv) Section 139(c)(2) is amended to read
14 as follows:

15 “(2) federally declared disaster (as defined by
16 section 165(h)(3)(C)(i)),”.

17 (v) Subclause (II) of section
18 172(b)(1)(F)(ii) is amended by striking “Presi-
19 dentially declared disasters (as defined in sec-
20 tion 1033(h)(3))” and inserting “federally de-
21 clared disasters (as defined by subsection
22 (h)(3)(C)(i))”.

23 (vi) Subclause (III) of section
24 172(b)(1)(F)(ii) is amended by striking “Presi-

1 dentially declared disasters” and inserting “fed-
2 erally declared disasters”.

3 (vii) Subsection (a) of section 7508A is
4 amended by striking “Presidentially declared
5 disaster (as defined in section 1033(h)(3))” and
6 inserting “federally declared disaster (as de-
7 fined by section 165(h)(3)(C)(i))”.

8 (b) INCREASE IN STANDARD DEDUCTION BY DIS-
9 ASTER CASUALTY LOSS.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 63(c), as amended by the Housing Assistance Tax
12 Act of 2008, is amended by striking “and” at the
13 end of subparagraph (B), by striking the period at
14 the end of subparagraph (C) and inserting “, and”,
15 and by adding at the end the following new subpara-
16 graph:

17 “(D) the disaster loss deduction.”.

18 (2) DISASTER LOSS DEDUCTION.—Subsection
19 (c) of section 63, as amended by the Housing Assist-
20 ance Tax Act of 2008, is amended by adding at the
21 end the following new paragraph:

22 “(8) DISASTER LOSS DEDUCTION.—For the
23 purposes of paragraph (1), the term ‘disaster loss
24 deduction’ means the net disaster loss (as defined in
25 section 165(h)(3)(B)).”.

1 (3) ALLOWANCE IN COMPUTING ALTERNATIVE
2 MINIMUM TAXABLE INCOME.—Subparagraph (E) of
3 section 56(b)(1) is amended by adding at the end
4 the following new sentence: “The preceding sentence
5 shall not apply to so much of the standard deduction
6 as is determined under section 63(c)(1)(D).”.

7 (c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS
8 PER CASUALTY.—Paragraph (1) of section 165(h) is
9 amended by striking “\$100” and inserting “\$500 (\$100
10 for taxable years beginning after December 31, 2009)”.

11 (d) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided by para-
13 graph (2), the amendments made by this section
14 shall apply to disasters declared in taxable years be-
15 ginning after December 31, 2007.

16 (2) INCREASE IN LIMITATION ON INDIVIDUAL
17 LOSS PER CASUALTY.—The amendment made by
18 subsection (c) shall apply to taxable years beginning
19 after December 31, 2008.

20 **SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

21 (a) IN GENERAL.—Part VI of subchapter B of chap-
22 ter 1 is amended by inserting after section 198 the fol-
23 lowing new section:

1 **“SEC. 198A. EXPENSING OF QUALIFIED DISASTER EX-**
2 **PENSES.**

3 “(a) IN GENERAL.—A taxpayer may elect to treat
4 any qualified disaster expenses which are paid or incurred
5 by the taxpayer as an expense which is not chargeable to
6 capital account. Any expense which is so treated shall be
7 allowed as a deduction for the taxable year in which it
8 is paid or incurred.

9 “(b) QUALIFIED DISASTER EXPENSE.—For purposes
10 of this section, the term ‘qualified disaster expense’ means
11 any expenditure—

12 “(1) which is paid or incurred in connection
13 with a trade or business or with business-related
14 property,

15 “(2) which is—

16 “(A) for the abatement or control of haz-
17 arduous substances that were released on ac-
18 count of a federally declared disaster occurring
19 before January 1, 2010,

20 “(B) for the removal of debris from, or the
21 demolition of structures on, real property which
22 is business-related property damaged or de-
23 stroyed as a result of a federally declared dis-
24 aster occurring before such date, or

1 “(C) for the repair of business-related
2 property damaged as a result of a federally de-
3 clared disaster occurring before such date, and
4 “(3) which is otherwise chargeable to capital ac-
5 count.

6 “(c) OTHER DEFINITIONS.—For purposes of this
7 section—

8 “(1) BUSINESS-RELATED PROPERTY.—The
9 term ‘business-related property’ means property—

10 “(A) held by the taxpayer for use in a
11 trade or business or for the production of in-
12 come, or

13 “(B) described in section 1221(a)(1) in the
14 hands of the taxpayer.

15 “(2) FEDERALLY DECLARED DISASTER.—The
16 term ‘federally declared disaster’ has the meaning
17 given such term by section 165(h)(3)(C)(i).

18 “(d) DEDUCTION RECAPTURED AS ORDINARY IN-
19 COME ON SALE, ETC.—Solely for purposes of section
20 1245, in the case of property to which a qualified disaster
21 expense would have been capitalized but for this section—

22 “(1) the deduction allowed by this section for
23 such expense shall be treated as a deduction for de-
24 preciation, and

1 case of a taxpayer who has a qualified disaster
2 loss (as defined in subsection (j)), such loss
3 shall be a net operating loss carryback to each
4 of the 5 taxable years preceding the taxable
5 year of such loss.”.

6 (b) QUALIFIED DISASTER LOSS.—Section 172 is
7 amended by redesignating subsections (j) and (k) as sub-
8 sections (k) and (l), respectively, and by inserting after
9 subsection (i) the following new subsection:

10 “(j) RULES RELATING TO QUALIFIED DISASTER
11 LOSSES.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified dis-
13 aster loss’ means the lesser of—

14 “(A) the sum of—

15 “(i) the losses allowable under section
16 165 for the taxable year—

17 “(I) attributable to a federally
18 declared disaster (as defined in sec-
19 tion 165(h)(3)(C)(i)) occurring before
20 January 1, 2010, and

21 “(II) occurring in a disaster area
22 (as defined in section
23 165(h)(3)(C)(ii)), and

24 “(ii) the deduction for the taxable
25 year for qualified disaster expenses which

1 is allowable under section 198A(a) or
2 which would be so allowable if not other-
3 wise treated as an expense, or

4 “(B) the net operating loss for such tax-
5 able year.

6 “(2) COORDINATION WITH SUBSECTION
7 (b)(2).—For purposes of applying subsection (b)(2),
8 a qualified disaster loss for any taxable year shall be
9 treated in a manner similar to the manner in which
10 a specified liability loss is treated.

11 “(3) ELECTION.—Any taxpayer entitled to a 5-
12 year carryback under subsection (b)(1)(J) from any
13 loss year may elect to have the carryback period
14 with respect to such loss year determined without re-
15 gard to subsection (b)(1)(J). Such election shall be
16 made in such manner as may be prescribed by the
17 Secretary and shall be made by the due date (includ-
18 ing extensions of time) for filing the taxpayer’s re-
19 turn for the taxable year of the net operating loss.
20 Such election, once made for any taxable year, shall
21 be irrevocable for such taxable year.

22 “(4) EXCLUSION.—The term ‘qualified disaster
23 loss’ shall not include any loss with respect to any
24 property described in section 1400N(p)(3).”.

1 (c) LOSS DEDUCTION ALLOWED IN COMPUTING AL-
2 TERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d)
3 of section 56 is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(3) NET OPERATING LOSS ATTRIBUTABLE TO
6 FEDERALLY DECLARED DISASTERS.—In the case of
7 a taxpayer which has a qualified disaster loss (as de-
8 fined by section 172(b)(1)(J)) for the taxable year,
9 paragraph (1) shall be applied by increasing the
10 amount determined under subparagraph (A)(ii)(I)
11 thereof by the sum of the carrybacks and carryovers
12 of such loss.”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Clause (ii) of section 172(b)(1)(F) is
15 amended by inserting “or qualified disaster loss (as
16 defined in subsection (j))” before the period at the
17 end of the last sentence.

18 (2) Paragraph (1) of section 172(i) is amended
19 by adding at the end the following new flush sen-
20 tence:

21 “Such term shall not include any qualified disaster
22 loss (as defined in subsection (j)).”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to losses arising in taxable years

1 beginning after December 31, 2007, in connection with
2 disasters declared after such date.

3 **SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**
4 **REQUIREMENTS FOLLOWING FEDERALLY DE-**
5 **CLARED DISASTERS.**

6 (a) IN GENERAL.—Subsection (k) of section 143 is
7 amended by adding at the end the following new para-
8 graph:

9 “(12) SPECIAL RULES FOR RESIDENCES DE-
10 STROYED IN FEDERALLY DECLARED DISASTERS.—

11 “(A) PRINCIPAL RESIDENCE DE-
12 STROYED.—At the election of the taxpayer, if
13 the principal residence (within the meaning of
14 section 121) of such taxpayer is—

15 “(i) rendered unsafe for use as a resi-
16 dence by reason of a federally declared dis-
17 aster occurring before January 1, 2010, or

18 “(ii) demolished or relocated by rea-
19 son of an order of the government of a
20 State or political subdivision thereof on ac-
21 count of a federally declared disaster oc-
22 ccurring before such date,

23 then, for the 2-year period beginning on the
24 date of the disaster declaration, subsection
25 (d)(1) shall not apply with respect to such tax-

1 payer and subsection (e) shall be applied by
2 substituting ‘110’ for ‘90’ in paragraph (1)
3 thereof.

4 “(B) PRINCIPAL RESIDENCE DAMAGED.—

5 “(i) IN GENERAL.—At the election of
6 the taxpayer, if the principal residence
7 (within the meaning of section 121) of
8 such taxpayer was damaged as the result
9 of a federally declared disaster occurring
10 before January 1, 2010, any owner-financ-
11 ing provided in connection with the repair
12 or reconstruction of such residence shall be
13 treated as a qualified rehabilitation loan.

14 “(ii) LIMITATION.—The aggregate
15 owner-financing to which clause (i) applies
16 shall not exceed the lesser of—

17 “(I) the cost of such repair or re-
18 construction, or

19 “(II) \$150,000.

20 “(C) FEDERALLY DECLARED DISASTER.—

21 For purposes of this paragraph, the term ‘fed-
22 erally declared disaster’ has the meaning given
23 such term by section 165(h)(3)(C)(i).

24 “(D) ELECTION; DENIAL OF DOUBLE BEN-
25 EFIT.—

1 “(i) ELECTION.—An election under
2 this paragraph may not be revoked except
3 with the consent of the Secretary.

4 “(ii) DENIAL OF DOUBLE BENEFIT.—
5 If a taxpayer elects the application of this
6 paragraph, paragraph (11) shall not apply
7 with respect to the purchase or financing
8 of any residence by such taxpayer.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to disasters occurring after De-
11 cember 31, 2007.

12 **SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**
13 **FIED DISASTER PROPERTY.**

14 (a) IN GENERAL.—Section 168, as amended by this
15 Act, is amended by adding at the end the following new
16 subsection:

17 “(n) SPECIAL ALLOWANCE FOR QUALIFIED DIS-
18 ASTER ASSISTANCE PROPERTY.—

19 “(1) IN GENERAL.—In the case of any qualified
20 disaster assistance property—

21 “(A) the depreciation deduction provided
22 by section 167(a) for the taxable year in which
23 such property is placed in service shall include
24 an allowance equal to 50 percent of the ad-

1 justed basis of the qualified disaster assistance
2 property, and

3 “(B) the adjusted basis of the qualified
4 disaster assistance property shall be reduced by
5 the amount of such deduction before computing
6 the amount otherwise allowable as a depreci-
7 ation deduction under this chapter for such tax-
8 able year and any subsequent taxable year.

9 “(2) QUALIFIED DISASTER ASSISTANCE PROP-
10 PERTY.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘qualified
12 disaster assistance property’ means any prop-
13 erty—

14 “(i)(I) which is described in sub-
15 section (k)(2)(A)(i), or

16 “(II) which is nonresidential real
17 property or residential rental property,

18 “(ii) substantially all of the use of
19 which is—

20 “(I) in a disaster area with re-
21 spect to a federally declared disaster
22 occurring before January 1, 2010,
23 and

1 “(II) in the active conduct of a
2 trade or business by the taxpayer in
3 such disaster area,

4 “(iii) which—

5 “(I) rehabilitates property dam-
6 aged, or replaces property destroyed
7 or condemned, as a result of such fed-
8 erally declared disaster, except that,
9 for purposes of this clause, property
10 shall be treated as replacing property
11 destroyed or condemned if, as part of
12 an integrated plan, such property re-
13 places property which is included in a
14 continuous area which includes real
15 property destroyed or condemned, and

16 “(II) is similar in nature to, and
17 located in the same county as, the
18 property being rehabilitated or re-
19 placed,

20 “(iv) the original use of which in such
21 disaster area commences with an eligible
22 taxpayer on or after the applicable disaster
23 date,

24 “(v) which is acquired by such eligible
25 taxpayer by purchase (as defined in section

1 179(d)) on or after the applicable disaster
2 date, but only if no written binding con-
3 tract for the acquisition was in effect be-
4 fore such date, and

5 “(vi) which is placed in service by
6 such eligible taxpayer on or before the date
7 which is the last day of the third calendar
8 year following the applicable disaster date
9 (the fourth calendar year in the case of
10 nonresidential real property and residential
11 rental property).

12 “(B) EXCEPTIONS.—

13 “(i) OTHER BONUS DEPRECIATION
14 PROPERTY.—The term ‘qualified disaster
15 assistance property’ shall not include—

16 “(I) any property to which sub-
17 section (k) (determined without re-
18 gard to paragraph (4)), (l), or (m) ap-
19 plies,

20 “(II) any property to which sec-
21 tion 1400N(d) applies, and

22 “(III) any property described in
23 section 1400N(p)(3).

24 “(ii) ALTERNATIVE DEPRECIATION
25 PROPERTY.—The term ‘qualified disaster

1 assistance property’ shall not include any
2 property to which the alternative deprecia-
3 tion system under subsection (g) applies,
4 determined without regard to paragraph
5 (7) of subsection (g) (relating to election to
6 have system apply).

7 “(iii) TAX-EXEMPT BOND FINANCED
8 PROPERTY.—Such term shall not include
9 any property any portion of which is fi-
10 nanced with the proceeds of any obligation
11 the interest on which is exempt from tax
12 under section 103.

13 “(iv) QUALIFIED REVITALIZATION
14 BUILDINGS.—Such term shall not include
15 any qualified revitalization building with
16 respect to which the taxpayer has elected
17 the application of paragraph (1) or (2) of
18 section 1400I(a).

19 “(v) ELECTION OUT.—If a taxpayer
20 makes an election under this clause with
21 respect to any class of property for any
22 taxable year, this subsection shall not
23 apply to all property in such class placed
24 in service during such taxable year.

1 “(C) SPECIAL RULES.—For purposes of
2 this subsection, rules similar to the rules of
3 subparagraph (E) of subsection (k)(2) shall
4 apply, except that such subparagraph shall be
5 applied—

6 “(i) by substituting ‘the applicable
7 disaster date’ for ‘December 31, 2007’
8 each place it appears therein,

9 “(ii) without regard to ‘and before
10 January 1, 2009’ in clause (i) thereof, and

11 “(iii) by substituting ‘qualified dis-
12 aster assistance property’ for ‘qualified
13 property’ in clause (iv) thereof.

14 “(D) ALLOWANCE AGAINST ALTERNATIVE
15 MINIMUM TAX.—For purposes of this sub-
16 section, rules similar to the rules of subsection
17 (k)(2)(G) shall apply.

18 “(3) OTHER DEFINITIONS.—For purposes of
19 this subsection—

20 “(A) APPLICABLE DISASTER DATE.—The
21 term ‘applicable disaster date’ means, with re-
22 spect to any federally declared disaster, the
23 date on which such federally declared disaster
24 occurs.

1 “(B) FEDERALLY DECLARED DISASTER.—

2 The term ‘federally declared disaster’ has the
3 meaning given such term under section
4 165(h)(3)(C)(i).

5 “(C) DISASTER AREA.—The term ‘disaster
6 area’ has the meaning given such term under
7 section 165(h)(3)(C)(ii).

8 “(D) ELIGIBLE TAXPAYER.—The term ‘eli-
9 gible taxpayer’ means a taxpayer who has suf-
10 fered an economic loss attributable to a feder-
11 ally declared disaster.

12 “(4) RECAPTURE.—For purposes of this sub-
13 section, rules similar to the rules under section
14 179(d)(10) shall apply with respect to any qualified
15 disaster assistance property which ceases to be quali-
16 fied disaster assistance property.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to property placed in service after
19 December 31, 2007, with respect disasters declared after
20 such date.

21 **SEC. 711. INCREASED EXPENSING FOR QUALIFIED DIS-**
22 **ASTER ASSISTANCE PROPERTY.**

23 (a) IN GENERAL.—Section 179 is amended by adding
24 at the end the following new subsection:

1 “(e) SPECIAL RULES FOR QUALIFIED DISASTER AS-
2 SISTANCE PROPERTY.—

3 “(1) IN GENERAL.—For purposes of this sec-
4 tion—

5 “(A) the dollar amount in effect under
6 subsection (b)(1) for the taxable year shall be
7 increased by the lesser of—

8 “(i) \$100,000, or

9 “(ii) the cost of qualified section 179
10 disaster assistance property placed in serv-
11 ice during the taxable year, and

12 “(B) the dollar amount in effect under
13 subsection (b)(2) for the taxable year shall be
14 increased by the lesser of—

15 “(i) \$600,000, or

16 “(ii) the cost of qualified section 179
17 disaster assistance property placed in serv-
18 ice during the taxable year.

19 “(2) QUALIFIED SECTION 179 DISASTER ASSIST-
20 ANCE PROPERTY.—For purposes of this subsection,
21 the term ‘qualified section 179 disaster assistance
22 property’ means section 179 property (as defined in
23 subsection (d)) which is qualified disaster assistance
24 property (as defined in section 168(n)(2)).

1 “(3) COORDINATION WITH EMPOWERMENT
2 ZONES AND RENEWAL COMMUNITIES.—For purposes
3 of sections 1397A and 1400J, qualified section 179
4 disaster assistance property shall not be treated as
5 qualified zone property or qualified renewal prop-
6 erty, unless the taxpayer elects not to take such
7 qualified section 179 disaster assistance property
8 into account for purposes of this subsection.

9 “(4) RECAPTURE.—For purposes of this sub-
10 section, rules similar to the rules under subsection
11 (d)(10) shall apply with respect to any qualified sec-
12 tion 179 disaster assistance property which ceases to
13 be qualified section 179 disaster assistance prop-
14 erty.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to property placed in service after
17 December 31, 2007, with respect to disasters declared after
18 such date.

19 **SEC. 712. COORDINATION WITH HEARTLAND DISASTER RE-**
20 **LIEF.**

21 The amendments made by this subtitle, other than
22 the amendments made by sections 706(a)(2), 710, and
23 711, shall not apply to any disaster described in section
24 702(c)(1)(A), or to any expenditure or loss resulting from
25 such disaster.

1 **TITLE VIII—SPENDING REDUC-**
2 **TIONS AND APPROPRIATE**
3 **REVENUE RAISERS FOR NEW**
4 **TAX RELIEF POLICY**

5 **SEC. 801. NONQUALIFIED DEFERRED COMPENSATION**
6 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

7 (a) IN GENERAL.—Subpart B of part II of sub-
8 chapter E of chapter 1 is amended by inserting after sec-
9 tion 457 the following new section:

10 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**
11 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

12 “(a) IN GENERAL.—Any compensation which is de-
13 ferred under a nonqualified deferred compensation plan of
14 a nonqualified entity shall be includible in gross income
15 when there is no substantial risk of forfeiture of the rights
16 to such compensation.

17 “(b) NONQUALIFIED ENTITY.—For purposes of this
18 section, the term ‘nonqualified entity’ means—

19 “(1) any foreign corporation unless substan-
20 tially all of its income is—

21 “(A) effectively connected with the conduct
22 of a trade or business in the United States, or

23 “(B) subject to a comprehensive foreign in-
24 come tax, and

1 “(2) any partnership unless substantially all of
2 its income is allocated to persons other than—

3 “(A) foreign persons with respect to whom
4 such income is not subject to a comprehensive
5 foreign income tax, and

6 “(B) organizations which are exempt from
7 tax under this title.

8 “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-
9 TION.—

10 “(1) IN GENERAL.—If the amount of any com-
11 pensation is not determinable at the time that such
12 compensation is otherwise includible in gross income
13 under subsection (a)—

14 “(A) such amount shall be so includible in
15 gross income when determinable, and

16 “(B) the tax imposed under this chapter
17 for the taxable year in which such compensation
18 is includible in gross income shall be increased
19 by the sum of—

20 “(i) the amount of interest determined
21 under paragraph (2), and

22 “(ii) an amount equal to 20 percent of
23 the amount of such compensation.

24 “(2) INTEREST.—For purposes of paragraph
25 (1)(B)(i), the interest determined under this para-

1 graph for any taxable year is the amount of interest
2 at the underpayment rate under section 6621 plus
3 1 percentage point on the underpayments that would
4 have occurred had the deferred compensation been
5 includible in gross income for the taxable year in
6 which first deferred or, if later, the first taxable year
7 in which such deferred compensation is not subject
8 to a substantial risk of forfeiture.

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

10 For purposes of this section—

11 “(1) SUBSTANTIAL RISK OF FORFEITURE.—

12 “(A) IN GENERAL.—The rights of a person
13 to compensation shall be treated as subject to
14 a substantial risk of forfeiture only if such per-
15 son’s rights to such compensation are condi-
16 tioned upon the future performance of substan-
17 tial services by any individual.

18 “(B) EXCEPTION FOR COMPENSATION
19 BASED ON GAIN RECOGNIZED ON AN INVEST-
20 MENT ASSET.—

21 “(i) IN GENERAL.—To the extent pro-
22 vided in regulations prescribed by the Sec-
23 retary, if compensation is determined solely
24 by reference to the amount of gain recog-
25 nized on the disposition of an investment

1 asset, such compensation shall be treated
2 as subject to a substantial risk of for-
3 feiture until the date of such disposition.

4 “(ii) INVESTMENT ASSET.—For pur-
5 poses of clause (i), the term ‘investment
6 asset’ means any single asset (other than
7 an investment fund or similar entity)—

8 “(I) acquired directly by an in-
9 vestment fund or similar entity,

10 “(II) with respect to which such
11 entity does not (nor does any person
12 related to such entity) participate in
13 the active management of such asset
14 (or if such asset is an interest in an
15 entity, in the active management of
16 the activities of such entity), and

17 “(III) substantially all of any
18 gain on the disposition of which (other
19 than such deferred compensation) is
20 allocated to investors in such entity.

21 “(iii) COORDINATION WITH SPECIAL
22 RULE.—Paragraph (3)(B) shall not apply
23 to any compensation to which clause (i)
24 applies.

1 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

2 The term ‘comprehensive foreign income tax’ means,
3 with respect to any foreign person, the income tax
4 of a foreign country if—

5 “(A) such person is eligible for the benefits
6 of a comprehensive income tax treaty between
7 such foreign country and the United States, or

8 “(B) such person demonstrates to the sat-
9 isfaction of the Secretary that such foreign
10 country has a comprehensive income tax.

11 “(3) NONQUALIFIED DEFERRED COMPENSA-
12 TION PLAN.—

13 “(A) IN GENERAL.—The term ‘non-
14 qualified deferred compensation plan’ has the
15 meaning given such term under section
16 409A(d), except that such term shall include
17 any plan that provides a right to compensation
18 based on the appreciation in value of a specified
19 number of equity units of the service recipient.

20 “(B) EXCEPTION.—Compensation shall
21 not be treated as deferred for purposes of this
22 section if the service provider receives payment
23 of such compensation not later than 12 months
24 after the end of the taxable year of the service
25 recipient during which the right to the payment

1 of such compensation is no longer subject to a
2 substantial risk of forfeiture.

3 “(4) EXCEPTION FOR CERTAIN COMPENSATION
4 WITH RESPECT TO EFFECTIVELY CONNECTED IN-
5 COME.—In the case a foreign corporation with in-
6 come which is taxable under section 882, this section
7 shall not apply to compensation which, had such
8 compensation had been paid in cash on the date that
9 such compensation ceased to be subject to a sub-
10 stantial risk of forfeiture, would have been deduct-
11 ible by such foreign corporation against such income.

12 “(5) APPLICATION OF RULES.—Rules similar to
13 the rules of paragraphs (5) and (6) of section
14 409A(d) shall apply.

15 “(e) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be necessary or appropriate to
17 carry out the purposes of this section, including regula-
18 tions disregarding a substantial risk of forfeiture in cases
19 where necessary to carry out the purposes of this sec-
20 tion.”.

21 (b) CONFORMING AMENDMENT.—Section 26(b)(2),
22 as amended by the Housing Assistance Tax Act of 2008,
23 is amended by striking “and” at the end of subparagraph
24 (V), by striking the period at the end of subparagraph

1 (W) and inserting “, and”, and by adding at the end the
2 following new subparagraph:

3 “(X) section 457A(c)(1)(B) (relating to de-
4 terminability of amounts of compensation).”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 of subpart B of part II of subchapter E of chapter 1 is
7 amended by inserting after the item relating to section
8 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent
parties.”.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to amounts deferred which
13 are attributable to services performed after Decem-
14 ber 31, 2008.

15 (2) APPLICATION TO EXISTING DEFERRALS.—
16 In the case of any amount deferred to which the
17 amendments made by this section do not apply solely
18 by reason of the fact that the amount is attributable
19 to services performed before January 1, 2009, to the
20 extent such amount is not includible in gross income
21 in a taxable year beginning before 2018, such
22 amounts shall be includible in gross income in the
23 later of—

1 (A) the last taxable year beginning before
2 2018, or

3 (B) the taxable year in which there is no
4 substantial risk of forfeiture of the rights to
5 such compensation (determined in the same
6 manner as determined for purposes of section
7 457A of the Internal Revenue Code of 1986, as
8 added by this section).

9 (3) ACCELERATED PAYMENTS.—No later than
10 120 days after the date of the enactment of this Act,
11 the Secretary shall issue guidance providing a lim-
12 ited period of time during which a nonqualified de-
13 ferred compensation arrangement attributable to
14 services performed on or before December 31, 2008,
15 may, without violating the requirements of section
16 409A(a) of the Internal Revenue Code of 1986, be
17 amended to conform the date of distribution to the
18 date the amounts are required to be included in in-
19 come.

20 (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—
21 If the taxpayer is also a service recipient and main-
22 tains one or more nonqualified deferred compensa-
23 tion arrangements for its service providers under
24 which any amount is attributable to services per-
25 formed on or before December 31, 2008, the guid-

1 ance issued under paragraph (4) shall permit such
2 arrangements to be amended to conform the dates of
3 distribution under such arrangement to the date
4 amounts are required to be included in the income
5 of such taxpayer under this subsection.

6 (5) ACCELERATED PAYMENT NOT TREATED AS
7 MATERIAL MODIFICATION.—Any amendment to a
8 nonqualified deferred compensation arrangement
9 made pursuant to paragraph (4) or (5) shall not be
10 treated as a material modification of the arrange-
11 ment for purposes of section 409A of the Internal
12 Revenue Code of 1986.