TITLE ______—ENERGY PROVISIONS

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Subtitle A—Clean Energy Tax Credits

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Subtitle A—Clean Energy Tax Credits

SEC. _01. CLEAN ENERGY PRODUCTION CREDIT.

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

“SEC. 45S. CLEAN ENERGY PRODUCTION CREDIT.

“(a) AMOUNT OF CREDIT.—

“(1) IN GENERAL.—For purposes of section 38, the clean energy production credit for any taxable year is an amount equal to the product of—

“(A) the applicable credit rate (as determined under paragraph (2)), multiplied by

“(B) the kilowatt hours of electricity—
“(i) produced by the taxpayer at a qualified facility, and

“(ii)(I) sold by the taxpayer to an unrelated person during the taxable year, or

“(II) in the case of a qualified facility which is equipped with a metering device which is owned and operated by an unrelated person, sold, consumed, or stored by the taxpayer during the taxable year.

“(2) APPLICABLE CREDIT RATE.—

“(A) IN GENERAL.—

“(i) MAXIMUM CREDIT RATE.—Except as provided in clause (ii), the applicable credit rate is 1.5 cents.

“(ii) REDUCTION OF CREDIT BASED ON GREENHOUSE GAS EMISSION RATE.—The applicable credit rate shall be reduced (but not below zero) by an amount which bears the same ratio to the amount in effect under clause (i) as the greenhouse gas emissions rate for the qualified facility bears to 372 grams of CO₂e per KWh.

“(B) ROUNDING.—If any amount determined under subparagraph (A)(ii) is not a mul-
multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

“(b) GREENHOUSE GAS EMISSIONS RATE.—

“(1) IN GENERAL.—For purposes of this section, the term ‘greenhouse gas emissions rate’ means the amount of greenhouse gases emitted into the atmosphere by a qualified facility in the production of electricity, expressed as grams of CO$_2$e per KWh.

“(2) NON-FOSSIL FUEL COMBUSTION AND GASIFICATION.—In the case of a qualified facility which produces electricity through combustion or gasification of a non-fossil fuel, the greenhouse gas emissions rate for such facility shall be equal to the net rate of greenhouse gases emitted into the atmosphere by such facility in the production of electricity, expressed as grams of CO$_2$e per KWh.

“(3) ESTABLISHMENT OF SAFE HARBOR FOR QUALIFIED FACILITIES.—

“(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, by regulation, establish safe-harbor greenhouse gas emissions rates for types or categories of qualified facilities, which a taxpayer may elect to use for purposes of this section.
“(B) Special rule for non-fossil combustion facilities.—In establishing the safe-harbor greenhouse gas emissions rates for qualified facilities described in paragraph (2), the Secretary may round such rates to the nearest multiple of 37.2 grams of CO$_2$e per KWh (or, in the case of a greenhouse gas emissions rate which is less than 18.6 grams of CO$_2$e per KWh, by rounding such rate to zero).

“(4) Carbon capture and sequestration equipment.—For purposes of this subsection, the amount of greenhouse gases emitted into the atmosphere by a qualified facility in the production of electricity shall not include any qualified carbon dioxide (as defined in section 48E(c)(3)(A)) that is captured and disposed of by the taxpayer.

“(c) Inflation adjustment.—

“(1) In general.—In the case of a calendar year beginning after 2016, the 1.5 cent amount in clause (i) of subsection (a)(2)(A) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale or use of the electricity occurs. If any amount as increased under the preceding sentence is not a mul-
tiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

“(2) ANNUAL COMPUTATION.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor for such calendar year in accordance with this subsection.

“(3) INFLATION ADJUSTMENT FACTOR.—The term ‘inflation adjustment factor’ means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term ‘GDP implicit price deflator’ means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

“(d) CREDIT PHASE-OUT.—

“(1) IN GENERAL.—If the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines that the annual average greenhouse gas emissions rate for electrical production in the United States is equal to or less than 372 grams of CO₂e
per KWh, the amount of the clean energy production
credit under subsection (a) for any qualified facility
placed in service during a calendar year described in
paragraph (2) shall be equal to the product of—

“(A) the amount of the credit determined
under subsection (a) without regard to this sub-
section, multiplied by

“(B) the phase-out percentage under para-
graph (2).

“(2) PHASE-OUT PERCENTAGE.—The phase-out
percentage under this paragraph is equal to—

“(A) for a facility placed in service during
the first calendar year following the calendar
year in which the determination described in
paragraph (1) is made, 75 percent,

“(B) for a facility placed in service during
the second calendar year following such deter-
mination year, 50 percent,

“(C) for a facility placed in service during
the third calendar year following such deter-
mination year, 25 percent, and

“(D) for a facility placed in service during
any calendar year subsequent to the year de-
described in subparagraph (C), 0 percent.

“(e) DEFINITIONS.—In this section:
“(1) CO\textsubscript{2}e PER KWH.—The term ‘CO\textsubscript{2}e per KWh’ means, with respect to any greenhouse gas, the equivalent carbon dioxide per kilowatt hour of electricity produced.

“(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the same meaning given such term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section.

“(3) QUALIFIED FACILITY.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the term ‘qualified facility’ means a facility which is—

“(i) used for the generation of electricity, and

“(ii) originally placed in service after December 31, 2016.

“(B) 10-YEAR PRODUCTION CREDIT.—For purposes of this section, a facility shall only qualify as a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

“(C) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.—A qualified facility shall include either of the following in connec-
tion with a facility described in subparagraph (A)(i) that was previously placed in service, but only to the extent of the increased amount of electricity produced at the facility by reason of the following:

“(i) A new unit placed in service after December 31, 2016.

“(ii) Any efficiency improvements or additions of capacity placed in service after December 31, 2016.

“(D) COORDINATION WITH CLEAN ENERGY INVESTMENT CREDIT.—The term ‘qualified facility’ shall not include any facility for which a clean energy investment credit determined under section 48E is allowed under section 38 for the taxable year or any prior taxable year.

“(f) FINAL GUIDANCE.—Not later than January 1, 2016, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue final guidance regarding implementation of this section, including calculation of greenhouse gas emission rates for qualified facilities and determination of clean energy production credits under this section.

“(g) SPECIAL RULES.—
“(1) Only production in the United States taken into account.—Consumption or sales shall be taken into account under this section only with respect to electricity the production of which is within—

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

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

“(2) Production attributable to the taxpayer.—In the case of a qualified facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

“(3) Related persons.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity
to an unrelated person if such electricity is sold to such a person by another member of such group.

“(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(5) Allocation of credit to patrons of agricultural cooperative.—

“(A) Election to allocate.—

“(i) In general.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

“(ii) Form and effect of election.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written no-
'“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any patrons under subparagraph (A)—

“(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

“(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit
shown on the return of the cooperative organi-
ization for such year, an amount equal to the ex-
cess of—

“(i) such reduction, over

“(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such in-
crease shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

“(D) Eligible Cooperative Defined.—
For purposes of this section, the term ‘eligible cooperative’ means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricul-
tural producer is one that is more than 50 per-
cent owned by agricultural producers.”.

(b) Conforming Amendments.—

(1) Section 38(b) is amended—

(A) in paragraph (35), by striking “plus” at the end,
(B) in paragraph (36), by striking the period at the end and inserting “, plus”, and

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

“(37) the clean energy production credit.”.

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

“Sec. 45S. Clean energy production credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2016.

SEC. 62. CLEAN ENERGY INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48D the following new section:

“SEC. 48E. CLEAN ENERGY INVESTMENT CREDIT.

“(a) INVESTMENT CREDIT FOR QUALIFIED PROPERTY.—

“(1) IN GENERAL.—For purposes of section 46, the clean energy investment credit for any taxable year is equal to—

“(A) the clean energy percentage of the qualified investment for such taxable year with respect to any qualified facility, plus
“(B) 20 percent of the qualified investment for such taxable year with respect to qualified carbon capture and sequestration equipment.

“(2) Clean energy percentage.—

“(A) In general.—

“(i) Maximum percentage.—Except as provided in clause (ii), the clean energy percentage is 20 percent.

“(ii) Reduction of percentage based on greenhouse gas emissions rate.—The clean energy percentage shall be reduced (but not below zero) by an amount which bears the same ratio to the amount in effect under clause (i) as the anticipated greenhouse gas emissions rate for the qualified facility bears to 372 grams of CO\textsubscript{2}e per KWh.

“(B) Rounding.—If any amount determined under subparagraph (A)(ii) is not a multiple of 1 percent, such amount shall be rounded to the nearest multiple of 1 percent.

“(3) Coordination with rehabilitation credit.—The clean energy percentage shall not apply to that portion of the basis of any property
which is attributable to qualified rehabilitation expendi-
itures.

“(b) Qualified Investment With Respect to Any Qualified Facility.—

“(1) In General.—For purposes of subsection (a)(1)(A), the qualified investment with respect to any qualified facility for any taxable year is the basis of any qualified property placed in service by the taxpayer during such taxable year which is part of a qualified facility.

“(2) Qualified Property.—The term ‘qualified property’ means property—

“(A) which is—

“(i) tangible personal property, or

“(ii) other tangible property (not including a building or its structural compo-

nents), but only if such property is used as an integral part of the qualified facility,

“(B) with respect to which depreciation (or amortization in lieu of depreciation) is allow-

able,

“(C) which is constructed, reconstructed, erected, or acquired by the taxpayer, and

“(D) the original use of which commences with the taxpayer.
“(3) Qualified Facility.—The term ‘qualified facility’ has the same meaning given such term by section 45S(e)(3) (without regard to subparagraphs (B) and (D) thereof).

“(c) Qualified Investment With Respect to Qualified Carbon Capture and Sequestration Equipment.—

“(1) In General.—For purposes of subsection (a)(1)(B), the qualified investment with respect to qualified carbon capture and sequestration equipment for any taxable year is the basis of any qualified carbon capture and sequestration equipment placed in service by the taxpayer during such taxable year.

“(2) Qualified Carbon Capture and Sequestration Equipment.—The term ‘qualified carbon capture and sequestration equipment’ means equipment—

“(A) installed in a facility placed in service before January 1, 2017, which produces electricity,

“(B) which results in at least a 50 percent reduction in the carbon dioxide emissions rate at the facility, as compared to such rate before installation of such equipment, through the cap-
ture and disposal of qualified carbon dioxide (as defined in paragraph (3)(A)),

“(C) with respect to which depreciation is allowable,

“(D) which is constructed, reconstructed, erected, or acquired by the taxpayer, and

“(E) the original use of which commences with the taxpayer.

“(3) QUALIFIED CARBON DIOXIDE.—

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

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

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

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

“(iv) is captured and disposed of within the United States (within the meaning of section 638(1)) or a possession of the United States (within the meaning of section 638(2)).
“(B) Secure geological storage.—

The term ‘secure geological storage’ has the same meaning given to such term under section 45Q(d)(2).

“(d) Greenhouse gas emissions rate.—For purposes of this section, the term ‘greenhouse gas emissions rate’ has the same meaning given such term under subsection (b) of section 45S.

“(e) Certain progress expenditure rules made applicable.—Rules similar to the rules of subsection (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of subsection (a).

“(f) Credit phase-out.—

“(1) In general.—If the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines that the annual average greenhouse gas emissions rate for electrical production in the United States is equal to or less than 372 grams of CO₂e per KWh, the amount of the clean energy investment credit under subsection (a) for any qualified facility or qualified carbon capture and sequestration equipment placed in service during a calendar year
described in paragraph (2) shall be equal to the product of—

“(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

“(B) the phase-out percentage under paragraph (2).

“(2) PHASE-OUT PERCENTAGE.—The phase-out percentage under this paragraph is equal to—

“(A) for a facility placed in service during the first calendar year following the calendar year in which the determination described in paragraph (1) is made, 75 percent,

“(B) for a facility placed in service during the second calendar year following such determination year, 50 percent,

“(C) for a facility placed in service during the third calendar year following such determination year, 25 percent, and

“(D) for a facility placed in service during any calendar year subsequent to the year described in subparagraph (C), 0 percent.

“(g) DEFINITIONS.—In this section:
“(1) CO$_2$e per kWh.—The term ‘CO$_2$e per kWh’ has the same meaning given such term under section 45S(e)(1).

“(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the same meaning given such term under section 45S(e)(2).

“(h) RECAPTURE OF CREDIT.—For purposes of section 50, if the Administrator of the Environmental Protection Agency determines that—

“(1) the greenhouse gas emissions rate for a qualified facility is significantly higher than the anticipated greenhouse gas emissions rate claimed by the taxpayer for purposes of the clean energy investment credit under this section, or

“(2) with respect to any qualified carbon capture and sequestration equipment installed in a facility, the carbon dioxide emissions from such facility cease to be captured or disposed of in a manner consistent with the requirements of subsection (c),

the facility or equipment shall cease to be investment credit property in the taxable year in which the determination is made.

“(i) FINAL GUIDANCE.—Not later than January 1, 2016, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue
final guidance regarding implementation of this section, including calculation of greenhouse gas emission rates for qualified facilities and determination of clean energy investment credits under this section.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 46 is amended by inserting a comma at the end of paragraph (4), by striking “and” at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting “, and”, and by adding at the end the following new paragraph:

“(7) the clean energy investment credit.”.

(2) Section 49(a)(1)(C) is amended by striking “and” at the end of clause (v), by striking the period at the end of clause (vi) and inserting a comma, and by adding at the end the following new clauses:

“(vii) the basis of any qualified property which is part of a qualified facility under section 48E, and

“(viii) the basis of any qualified carbon capture and sequestration equipment under section 48E.”.

(3) Section 50(a)(2)(E) is amended by inserting “or 48E(e)” after “section 48(b)”. 
(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48D the following new item:

"48E. Clean energy investment credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2016, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. __03. EXTENSIONS, MODIFICATIONS, AND REPEALS OF VARIOUS ENERGY PROVISIONS.

(a) ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.—Section 45 is amended—

(1) in subsection (d)—

(A) in paragraph (1), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”,

(B) in paragraph (2)(A)—

(i) in clause (i), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”,

(ii) in clause (ii), by striking “2014” and inserting “2017”, and
(iii) by striking the last sentence,

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i)(I), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”, and

(II) in clause (ii), by striking “the construction of which begins before January 1, 2014” and inserting “is originally placed in service before January 1, 2017”, and

(ii) in subparagraph (B), by inserting “and before January 1, 2017,” after “the date of the enactment of this subparagraph”,

(D) in paragraph (4)(B), by striking “the construction of which begins before January 1, 2014” and inserting “is placed in service before January 1, 2017”,

(E) in paragraph (6), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”,

(F) in paragraph (7), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”,

(G) in paragraph (9)—

(i) in subparagraph (A)—

(I) in clause (i), by striking “2014” and inserting “2017”, and

(II) in clause (ii), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”, and

(ii) by striking subparagraph (C), and

(H) in paragraph (11)(B), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”.

(b) CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.—Section 45J(d)(1)(B) is amended by striking “2021” and inserting “2017”.

(c) CREDIT FOR CARBON DIOXIDE SEQUESTRATION.—Section 45Q(e) is amended—

(1) in paragraph (2), by striking “and” at the end,

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

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

(d) ENERGY CREDIT.—Section 48(a) is amended—

(1) in paragraph (3)(A)—

(A) in clause (i), by inserting “but only with respect to periods ending before January 1, 2017,” after “swimming pool,” and

(B) in clause (iii), by inserting “with respect to periods ending before January 1, 2017, and” after “but only”, and

(2) in paragraph (5)(C)(ii), by striking “the construction of which begins before January 1, 2014” and inserting “before January 1, 2017”.

(e) QUALIFYING ADVANCED COAL PROJECT CREDIT.—Section 48A is amended by adding at the end the following new subsection:

“(j) TERMINATION.—No credit shall be allowed under this section with respect to any period after December 31, 2016.”.

(f) QUALIFYING GASIFICATION PROJECT CREDIT.—

Section 48B is amended by adding at the end the following new subsection:
“(g) **TERMINATION.**—No credit shall be allowed under this section with respect to any period after December 31, 2016.”.

(g) **QUALIFYING ADVANCED ENERGY PROJECT CREDIT.**—Section 48C is amended by adding at the end the following new subsection:

“(f) **TERMINATION.**—No credit shall be allowed under this section with respect to any period after December 31, 2016.”.

(h) **NEW CLEAN RENEWABLE ENERGY BONDS.**—Section 54C(a)(2) is amended by inserting “before January 1, 2017” after “qualified issuer”.

(i) **QUALIFIED ENERGY CONSERVATION BONDS.**—Section 54D(a)(2) is amended by inserting “before January 1, 2017” after “local government”.

**Subtitle B—Clean Fuel Tax Credits**

**SEC. 11. CLEAN FUEL PRODUCTION CREDIT.**

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1, as amended by section __.01, is amended by adding at the end the following new section:

“**SEC. 45T. CLEAN FUEL PRODUCTION CREDIT.**

“(a) **AMOUNT OF CREDIT.**—

“(1) **IN GENERAL.**—For purposes of section 38, the clean fuel production credit for any taxable year is an amount equal to the product of—
“(A) $1.00,

“(B) the total number of gallons of transportation fuel—

“(i) produced by the taxpayer at a qualified facility, and

“(ii) sold or used by the taxpayer in a manner described in paragraph (2),

“(C) the BTU factor for such fuel (as determined under subsection (b)(1)), and

“(D) the emissions factor for such fuel (as determined under subsection (b)(2)).

“(2) Sale or use.—For purposes of paragraph (1)(B)(ii), the transportation fuel is sold or used in a manner described in this paragraph if such fuel is—

“(A) sold by the taxpayer to an unrelated person—

“(i) for use by such person in the production of a fuel mixture that will be used as a transportation fuel,

“(ii) for use by such person as a transportation fuel in a trade or business,
“(iii) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person, or

“(B) used or sold by the taxpayer for any purpose described in subparagraph (A).

“(3) Rounding.—If any amount determined under paragraph (1) is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

“(b) BTU and Emissions Factors.—

“(1) BTU Factor.—

“(A) In general.—The BTU factor of a transportation fuel shall be an amount equal to the quotient of—

“(i) an amount equal to the total BTU per gallon of such fuel, divided by

“(ii) 115,000.

“(B) Rounding.—If any amount determined under subparagraph (A) is not a multiple of 0.001, such amount shall be rounded to the nearest multiple of 0.001.

“(2) Emissions Factor.—

“(A) In general.—The emissions factor of a transportation fuel shall be an amount equal to the quotient of—
“(i) an amount (not less than zero) equal to —

“(I) 77.23, minus

“(II) the emissions rate for such fuel, divided by

“(ii) 77.23.

“(B) Establishment of emissions rate.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish the emissions rate of a transportation fuel based on the amount of lifecycle greenhouse gas emissions (as described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of the enactment of this section) for such fuel, expressed as kilograms of CO$_2$e per mmBTU.

“(C) Rounding of emissions rate.—The Secretary may round the emissions rates under subparagraph (B) to the nearest multiple of 7.723 kilograms of CO$_2$e per mmBTU, except that, in the case of an emissions rate that is less than 3.862 kilograms of CO$_2$e per mmBTU, the Secretary may round such rate to zero.
“(D) Provisional emissions rate.—

“(i) In general.—In the case of any transportation fuel for which an emissions rate has not been established by the Secretary, a taxpayer producing such fuel may file a petition with the Secretary for determination of the emissions rate with respect to such fuel.

“(ii) Establishment of provisional and final emissions rate.—In the case of a transportation fuel for which a petition described in clause (i) has been filed, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall—

“(I) not later than 12 months after the date on which the petition was filed, provide a provisional emissions rate for such fuel which a taxpayer may use for purposes of this section, and

“(II) not later than 24 months after the date on which the petition was filed, establish the emissions rate for such fuel.
“(E) Rounding.—If any amount determined under subparagraph (A) is not a multiple of 0.1, such amount shall be rounded to the nearest multiple of 0.1.

“(3) Publishing BTU factor and emissions rate.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall publish a table that sets forth the BTU factor and emissions rate (as established pursuant to paragraph (2)) for types and categories of transportation fuels.

“(c) Inflation Adjustment.—

“(1) In general.—In the case of calendar years beginning after 2017, the $1.00 amount in subsection (a)(1)(A) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale or use of the transportation fuel occurs. If any amount as increased under the preceding sentence is not a multiple of 1 cent, such amount shall be rounded to the nearest multiple of 1 cent.

“(2) Inflation adjustment factor.—For purposes of paragraph (1), the inflation adjustment factor shall be the inflation adjustment factor determined and published by the Secretary pursuant to
section 45S(c), determined by substituting ‘calendar year 2016’ for ‘calendar year 1992’ in paragraph (3) thereof.

“(d) CREDIT PHASE-OUT.—

“(1) IN GENERAL.—If the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines that the average emissions rate (as determined under subsection (b)(2)(B)) for the total amount of transportation fuel produced and sold at retail annually in the United States is less than 77.23 kilograms of CO$_2$e per mmBTU, the amount of the clean fuel production credit under this section for any qualified facility placed in service during a calendar year described in paragraph (2) shall be equal to the product of—

“(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

“(B) the phase-out percentage under paragraph (2).

“(2) PHASE-OUT PERCENTAGE.—The phase-out percentage under this paragraph is equal to—

“(A) for a facility placed in service during the first calendar year following the calendar
year in which the determination described in paragraph (1) is made, 75 percent,

“(B) for a facility placed in service during
the second calendar year following such determination year, 50 percent,

“(C) for a facility placed in service during
the third calendar year following such determination year, 25 percent, and

“(D) for a facility placed in service during
any calendar year subsequent to the year described in subparagraph (C), 0 percent.

“(e) DEFINITIONS.—In this section:

“(1) BTU; mmBTU.—The terms ‘BTU’ and ‘mmBTU’ mean British thermal unit and 1,000,000 British thermal units, respectively.

“(2) CO$_2$e.—The term ‘CO$_2$e’ means, with respect to any greenhouse gas, the equivalent carbon dioxide.

“(3) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the same meaning given that term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section.

“(4) QUALIFIED FACILITY.—
“(A) In general.—Subject to subparagraphs (B) and (C), the term ‘qualified facility’ means a facility used for the production of transportation fuels.

“(B) 10-year production credit.—For purposes of this section, a facility shall only qualify as a qualified facility for the 10-year period beginning on the date the facility is originally placed in service (or, if less, the portion of such 10-year period occurring after December 31, 2016).

“(C) Coordination with clean fuel investment credit.—The term ‘qualified facility’ shall not include any facility for which a credit is determined under section 48F for the taxable year or any prior taxable year.

“(5) Transportation fuel.—The term ‘transportation fuel’ means a fuel which is suitable for use as a fuel in a highway vehicle or aircraft.

“(f) Final guidance.—Not later than January 1, 2016, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue final guidance regarding implementation of this section, including calculation of BTU and emissions factors for transportation fuel, the table described in subsection
(b)(3), and the determination of clean fuel production credits under this section.

“(g) Special Rules.—

“(1) Only registered production and use in the United States taken into account.—

“(A) In general.—No clean fuel production credit shall be determined under subsection (a) with respect to any transportation fuel unless—

“(i) the taxpayer is registered as a producer of clean fuel under section 4101 at the time of production, and

“(ii) such fuel is produced in the United States and used as a fuel in the United States.

“(B) United States.—For purposes of this paragraph, the term ‘United States’ includes any possession of the United States.

“(2) Production attributable to the taxpayer.—In the case of a facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective
ownership interests in the gross sales from such facility.

“(3) Related Persons.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling fuel to an unrelated person if such fuel is sold to such a person by another member of such group.

“(4) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(5) Allocation of Credit to Patrons of Agricultural Cooperative.—

“(A) Election to Allocate.—

“(i) In General.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the
basis of the amount of business done by
the patrons during the taxable year.

“(ii) Form and effect of election.—An election under clause (i) for any
taxable year shall be made on a timely
filed return for such year. Such election,
one once made, shall be irrevocable for such
taxable year. Such election shall not take
effect unless the organization designates
the apportionment as such in a written no-
tice mailed to its patrons during the pay-
ment period described in section 1382(d).

“(B) Treatment of organizations and
patrons.—The amount of the credit apportioned to any patrons under subparagraph
(A)—

“(i) shall not be included in the
amount determined under subsection (a)
with respect to the organization for the
taxable year, and

“(ii) shall be included in the amount
determined under subsection (a) for the
first taxable year of each patron ending on
or after the last day of the payment period
(as defined in section 1382(d)) for the tax-
able year of the organization or, if earlier,
for the taxable year of each patron ending
on or after the date on which the patron
receives notice from the cooperative of the
apportionment.

“(C) Special rules for decrease in
credits for taxable year.—If the amount
of the credit of a cooperative organization de-
determined under subsection (a) for a taxable
year is less than the amount of such credit
shown on the return of the cooperative organi-
ization for such year, an amount equal to the
excess of—

“(i) such reduction, over
“(ii) the amount not apportioned to
such patrons under subparagraph (A) for
the taxable year,
shall be treated as an increase in tax imposed
by this chapter on the organization. Such in-
crease shall not be treated as tax imposed by
this chapter for purposes of determining the
amount of any credit under this chapter.

“(D) Eligible cooperative defined.—
For purposes of this section the term ‘eligible
cooperative’ means a cooperative organization
described in section 1381(a) which is owned
more than 50 percent by agricultural producers
or by entities owned by agricultural producers.
For this purpose an entity owned by an agricul-
tural producer is one that is more than 50 per-
cent owned by agricultural producers.”.

(b) Conforming Amendments.—

(1) Section 38(b), as amended by section __01,
is amended—

(A) in paragraph (36), by striking “plus”
at the end,

(B) in paragraph (37), by striking the pe-
riod at the end and inserting “, plus”, and

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

“(38) the clean fuel production credit.”.

(2) The table of sections for subpart D of part
IV of subchapter A of chapter 1, as amended by sec-
section __01, is amended by adding at the end the fol-
lowing new item:

“Sec. 45T. Clean fuel production credit.”.

(3) Section 4101(a)(1) is amended by inserting
“every person producing a fuel eligible for the clean
fuel production credit (pursuant to section 45T),”
after “section 6426(b)(4)(A)),”.
(c) **Effective Date.**—The amendments made by this section shall apply to transportation fuel produced after December 31, 2016.

SEC. 12. **CLEAN FUEL INVESTMENT CREDIT.**

(a) **In General.**—Subpart E of part IV of subchapter A of chapter 1, as amended by section 102, is amended by inserting after section 48E the following new section:

“SEC. 48F. **CLEAN FUEL INVESTMENT CREDIT.**

“(a) **Investment Credit for Qualified Property.**—

“(1) **In General.**—For purposes of section 46, the clean fuel investment credit for any taxable year is equal to the clean fuel percentage of the qualified investment for such taxable year with respect to any qualified facility.

“(2) **Clean Fuel Percentage.**—

“(A) **In General.**—For purposes of paragraph (1), the clean fuel percentage is equal to the product of—

“(i) 20 percent,

“(ii) the BTU factor for the transportation fuel produced by the taxpayer at the qualified facility (as determined under paragraph (3)), and
“(iii) the emissions factor for such
fuel (as determined under paragraph (4)).

“(B) Rounding.—If any clean fuel per-
centage determined under this paragraph is not
a multiple of 1 percent, such amount shall be
rounded to the nearest multiple of 1 percent.

“(b) Qualified Investment With Respect To
Any Qualified Facility.—

“(1) In General.—For purposes of subsection
(a)(1), the qualified investment with respect to any
qualified facility for any taxable year is the basis of
any qualified property placed in service by the tax-
payer during such taxable year which is part of a
qualified facility.

“(2) Qualified Property.—The term ‘quali-
fied property’ has the same meaning given such
term under section 48E(b)(2).

“(3) Qualified Facility.—The term ‘quali-
fied facility’ has the same meaning given such term
under section 45T(e)(4) (without regard to subpara-
graphs (B) and (C) thereof).

“(c) BTU and Emissions Factors.—For purposes
of this section, the BTU factor and emissions factor of
a transportation fuel shall be determined in the same man-
ner as under section 45T(b).
“(d) Certain Progress Expenditure Rules Made Applicable.—Rules similar to the rules of subsection (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of subsection (a).

“(e) Credit Phase-out.—

“(1) In general.—If the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines that the average emissions rate of the total amount of transportation fuel produced and sold at retail annually in the United States is less than 77.23 kilograms of CO$_2$e per mmBTU, the amount of the clean fuel investment credit under this section for any qualified facility placed in service during a calendar year described in paragraph (2) shall be equal to the product of—

“(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

“(B) the phase-out percentage under paragraph (2).

“(2) Phase-out percentage.—The phase-out percentage under this paragraph is equal to—
“(A) for a facility placed in service during the first calendar year following the calendar year in which the determination described in paragraph (1) is made, 75 percent,

“(B) for a facility placed in service during the second calendar year following such determination year, 50 percent,

“(C) for a facility placed in service during the third calendar year following such determination year, 25 percent, and

“(D) for a facility placed in service during any calendar year subsequent to the year described in subparagraph (C), 0 percent.

“(f) Definitions.—In this section, the terms ‘BTU’, ‘mmBTU’, ‘CO₂’, and ‘transportation fuel’ have the same meaning given such terms under section 45T(e).

“(g) Recapture of Credit for Significantly Lower BTU or Emissions Factor.—For purposes of section 50, if the Administrator of the Environmental Protection Agency determines that the BTU factor or emissions factor for transportation fuel produced at a qualified facility is significantly lower than the BTU factor or emissions factor claimed by the taxpayer for purposes of the clean fuel investment credit under this section, then the
facility shall cease to be investment credit property in the taxable year in which the determination is made.

“(h) GUIDANCE.—Not later than January 1, 2016, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue a final guidance document regarding implementation of this section, which shall include calculation of BTU and emissions factors for transportation fuel and determination of clean fuel production credits under this section.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 46, as amended by section _02, is amended by inserting a comma at the end of paragraph (5), by striking “and” at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting “, and”, and by adding at the end the following new paragraph:

“(8) the clean fuel investment credit.”.

(2) Section 49(a)(1)(C), as amended by section _02, is amended by striking “and” at the end of clause (vi), by striking the period at the end of clause (vii) and inserting “, and”, and by adding at the end the following new clause:

“(viii) the basis of any qualified facility under section 48F.”.
(3) Section 50(a)(2)(E), as amended by section _02, is amended by striking “or 48E(e)” and inserting “48E(e), or 48F(d)”.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section _02, is amended by inserting after the item relating to section 48E the following new item:

“48F. Clean fuel investment credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2016, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. _13. TEMPORARY EXTENSION OF EXISTING FUEL INCENTIVES.

(a) SECOND GENERATION BIOFUEL PRODUCER CREDIT.—Section 40(b)(6) is amended—

(1) in subparagraph (E)(i)—

(A) in subclause (I), by striking “and” at the end,

(B) in subclause (II), by striking the period at the end and inserting “, and”, and

(C) by inserting at the end the following new subclause:
“(III) qualifies as a transportation fuel (as defined in section 45T(e)(5)).”

(2) in subparagraph (J)(i), by striking “2014” and inserting “2017”.

(b) BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Section 40A is amended—

(1) in subsection (f)(3)(B), by striking “or D396”, and

(2) in subsection (g), by striking “2013” and inserting “2016”.

(c) CREDIT FOR BIODIESEL AND ALTERNATIVE FUEL MIXTURES.—Section 6426 is amended—

(1) in subsection (e)(6), by striking “2013” and inserting “2016”,

(2) in subsection (d)—

(A) in paragraph (1), by striking “motor vehicle” and inserting “highway vehicle”, and

(B) in paragraph (5), by striking “December 31, 2013” and all that follows through the period and inserting “December 31, 2016.”,

and

(3) in subsection (e), by amending paragraph (3) to read as follows:
“(3) **Termination.**—This subsection shall not apply to any sale or use for any period after—

“(A) in the case of any alternative fuel mixture sold or used by the taxpayer for the purposes described in subsection (d)(1), December 31, 2016,

“(B) in the case of any sale or use involving liquefied hydrogen that is not for the purposes described in subsection (d)(1), December 31, 2016, and

“(C) in the case of any sale or use not described in subparagraph (A) or (B), December 31, 2013.”.

**(d) Biodiesel, Biodiesel Mixtures, and Alternative Fuels.**—Section 6427(e)(6) is amended—

(1) in subparagraph (B), by striking “2013” and inserting “2016”,

(2) in subparagraph (C), by striking “2013” and inserting “2016”, and

(3) in subparagraph (D), by striking “September 30, 2014” and inserting “December 31, 2016”.

SEC. 14. REPEAL OF OIL PRODUCTION INCENTIVES.

(a) Enhanced Oil Recovery Credit.—Section 43 is amended by adding at the end the following new subsection:

“(f) Termination.—No credit shall be determined under this section with respect to any costs paid or incurred after December 31, 2016.”.

(b) Credit for Producing Oil and Gas From Marginal Wells.—Section 45I is amended by adding at the end the following new subsection:

“(e) Termination.—No credit shall be determined under this section with respect to any qualified crude oil production or qualified natural gas production after December 31, 2016.”.