

Wyden Amendment #1

Cosponsor: Senator Hatch

Short Title: Technical correction and conforming amendment to Qualified Zone Academy Bonds (QZABs)

Description of Amendment: Prevents QZABs from having a direct-pay option in years 2014 and 2015.

(1) Clause (iii) of section 6431(f)(3)(A) is amended—

(A) by striking “2011” and inserting “years after 2010”, and

(B) by striking “of such allocation” and inserting “of any such allocation”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 310 of the American Taxpayer Relief Act of 2012.

Offset: Amendment does not reduce revenues or increase outlays.

## Rockefeller/Brown/Cardin Amendment #1 Qualified Zone Academy Bonds

Short Title: Amendment to Reduce the Private Sector Contribution Requirement for QZABs

Description of Amendment: QZABs are tax credit bonds used to finance school renovations. They currently require a 10% match from the private sector, which is an obstacle for some projects, particularly for small and rural school districts. This amendment would lower the requirement to a 5% match to maintain the public-private partnership aspect, but make the requirement more manageable for school districts to meet.

Offset: This amendment will be modified at the appropriate time to provide an offset.

Rockefeller/Cardin/Stabenow Amendment #2 New Markets Tax Credit Allocation

Short Title: Amendment to Increase the Annual Allocation of New Markets Tax Credits

Text of Amendment:

Sec. 1 Extension of New Markets Tax Credit

Subsection (G) Section 45D (f) (1) of the Internal Revenue Code of 1986 is amended by:

(1) adding a new subsection:

“(H) In the case of calendar years 2014 and 2015, the dollar amount in paragraph (1) (G) shall be increased by an amount equal to--

    (i) such dollar amount, multiplied by

    (ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2000’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) ROUNDING RULE- Any increase under subparagraph (1) which is not a multiple of \$1,000,000 shall be rounded to the nearest multiple of \$1,000,000.”

Offset: This amendment will be modified at the appropriate time to provide an offset.

## Rockefeller/Brown/Casey Amendment #3 Steel Industry Fuel

Short Title: Amendment to Reinstate for 2014 and 2015 Calendar Years the Steel Industry Fuel Tax Credit

Description of Amendment: This amendment reinstates the Steel Industry Fuel Tax Credit (IRC § 45(c)(7)(C)) for two years. This tax credit provides an incentive for recycling hazardous byproducts from steel manufacturing. The hazardous waste, known as coal waste sludge, is recycled into a fuel for the coke-making process. Without the Steel Industry Fuel (SIF) process, coal waste sludge must be transported to incinerators to be burned or trucked to land-fills. The SIF credit invests millions of dollars into the American manufacturing sector. This credit is responsible for creating hundreds of new jobs across the country in construction and processing, and maintaining existing jobs in the domestic steel industry. These jobs are often in economically-disadvantaged areas where jobs are already scarce. The SIF credit addresses a legitimate economic, environmental, and strategic need that was recognized by Congress when it was enacted in 2008. Domestic coke production is threatened by imports (mainly from China) and the growing costs of domestic production dictated by an increasing environmental regulatory burden. In recent years significant capacity has been idled or taken offline across the country. The SIF Tax Credit will aid an industry that is vital to the economic and national security interests of the United States. It will spur environmentally beneficial investment and improve our competitiveness.

Offset: This amendment will be modified at the appropriate time to provide an offset.

**Schumer Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Cosponsors: Enzi, Roberts, Warner, Stabenow, Cantwell**

**Short Title:** Startup Innovation Credit—Modification of IRC Section 41

**Description of Amendment:**

This amendment would expand the R&E tax credit to qualifying startup businesses, allowing such company to claim the credit against taxes it pays on employee wages. The benefit is capped at \$250,000 per year and available only to companies less than five years old with less than \$5 million in gross receipts. The amendment is based on the Startup Innovation Credit Act (S. 193).

Offset to be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Schumer Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Cosponsor: Warner**

**Short Title:** Modification of Transportation Fringe Benefit—Bike Share

**Description of Amendment:**

This amendment would modify the qualified transportation benefit in Section 132(f) of the Internal Revenue Code to add expenses associated with the use of a bike sharing program to the list of qualifying expenses.

Offset to be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Schumer Amendment #3 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Cosponsors: Menendez, Bennet, Rockefeller**

**Short Title:** Disaster Tax Relief

**Description of Amendment:**

This amendment would provide tax relief for individuals and businesses impacted by federally declared disasters in 2012, 2013 and 2014. It would reinstate and extend several disaster-specific provisions enacted in previous years, including, but not limited to: deduction for disaster cleanup expenses, increased limits for charitable giving, expanded casualty loss deduction, relaxed retirement plan distribution rules, increased low-income housing tax credit availability, increased rehabilitation tax credit availability, additional New Markets Tax Credit allocation and disaster-specific bond authority.

Offset to be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Schumer Amendment #4 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Cosponsors: Brown, Menendez**

**Short Title:** AOTC Permanence

**Description of Amendment:**

This amendment would make the American Opportunity Tax Credit permanent, increase the maximum value of the credit to \$3,000, expand the AOTC phase-out window to \$80,000-\$100,000 modified AGI for individuals and \$160,000-\$200,000 for joint returns, and make Pell Grants fully excludable from gross income.

Offset to be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]



**Schumer Amendment #5 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Short Title:** Modification of IRA Rollover

**Description of Amendment:**

This amendment would amend the IRA Charitable Rollover so that all public charities and charitable entities that are not private foundations are treated equally for purposes of the rollover. Specifically, the amendment would remove the prohibition for IRA rollover gifts to donor-advised funds and supporting organizations that has been in place since the inception of the IRA rollover in the Pension Protection Act of 2006.

Offset to be provided.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Stabenow Amendment #1 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Burr, Nelson, Warner

**Short Title:** Motorsports Jobs and Fairness Amendment: 7-year depreciation for motorsports entertainment complexes extended for two years.

**Description of Amendment:** This amendment continues the longstanding tax treatment of motorsports entertainment properties. Specifically, the amendment extends the seven-year depreciation period for motorsports entertainment complexes for an additional two years, to apply to property placed in service before January 1, 2016.

**Stabenow Amendment #2 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Roberts, Brown, Rockefeller

**Short Title:** AMT-U.S. Jobs Amendment: Increase in maximum bonus depreciation to 50 percent of pre-2011 AMT credits.

**Description of amendment:** This amendment enhances the investment incentive provided by the election to accelerate AMT credits in lieu of bonus depreciation. Under the Chairman's mark, the "bonus depreciation amount" is limited to the lesser of (1) \$30 million or (2) six percent of pre-2006 AMT credits. Under this amendment, the limitation on the bonus depreciation amount is amended to be fifty percent of pre-2011 AMT credits.

**Stabenow Amendment #3 to the Chairman's Mark of the Expiring Provisions  
Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Hatch, Grassley, Cardin, Cantwell, Bennet, Roberts, Burr

**Short Title:** Conservation Easement Extension Amendment: Two-year extension of increased incentive to make charitable contributions of conservation easements.

**Description of amendment:** This amendment provides a two-year extension of the increased incentive to make charitable contributions of partial interests in real property for conservation purposes. The temporary rules regarding contribution of capital gain real property for conservation purposes are extended to apply to contributions made in taxable years before January 1, 2016.

**Stabenow Amendment #4 to the Chairman's Mark of the Expiring Provisions  
Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Roberts, Bennet

**Short Title:** Conservation Easement Permanency Amendment: Increased incentive to make charitable contributions of conservation easements made permanent.

**Description of amendment:** This amendment makes permanent the increased incentive to make charitable contributions of conservation easements, removing the termination date on the temporary rules regarding contribution of capital gain real property for conservation purposes.

**Offset:** To be provided

**Stabenow Amendment #5 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Two-year extension of Empowerment Zone tax incentives.

**Description of amendment:** The amendment extends for two years, through December 31, 2015, the period for which the designation of an empowerment zone is in effect, thus extending for two years the empowerment zone tax incentives. These incentives include the wage credit, increased section 179 expensing for qualifying equipment, tax-exempt bond financing, and deferral of capital gains tax on sale of qualified assets replaced with other qualified assets. The amendment also provides a two-year extension of the provision providing a partial exclusion of capital gains on certain small business stock.

## **Stabenow Amendment #6 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Tribal General Welfare Exclusion Amendment (incorporating S. 1507)

**Description of amendment:** The amendment would incorporate the provisions of S. 1507, the Tribal General Welfare Exclusion Act (Sens. Moran and Heitkamp), which will provide clarity for Indian tribal governments and the IRS with respect to the taxation of benefits provided by tribal governments to their members.

The amendment excludes from gross income for income tax purposes the value of an Indian general welfare benefit. "Indian general welfare benefit" is defined as any payment made or services provided to or on behalf of a member of an Indian tribe (or a spouse or dependent) under an Indian tribal government program if (1) such program is administered under specified guidelines and does not discriminate in favor of members of the governing body of the Indian tribe; and (2) the program benefits are available to any tribal member who meets the guidelines for the benefit, are for the promotion of general welfare, are not lavish or extravagant, and are not compensation for services. Items of cultural significance, reimbursement of costs, and cash honorarium for participation in cultural activities are not compensation for services. A program shall not fail to be an Indian tribal government solely by reason of the program being established by tribal custom or government practice. The amendment includes a standard of construction providing that deference is to be given to Indian tribal governments.

The amendment Directs the Secretary of the Treasury to: (1) establish a Tribal Advisory Committee to advise the Secretary on the taxation of Indians, (2) establish and require training and education for IRS field agents on federal Indian law and the implementation of this amendment, and (3) suspend audits and examinations of Indian tribal governments and members of Indian tribes until such training occurs and authorizes the Secretary to waive any interest or tax penalties related to the exclusion from gross income of Indian general welfare benefits.

The amendment shall not be construed as superseding current law, including IRS guidance, with respect to items that are excludable from gross income under the general welfare exception (or any other provision of law), except to the extent the amendment provides for a broader exclusion from income.

**Effective date:** The amendment would generally be effective for periods for which the period of limitation on refunds or credits has not expired. A one year extension of such period is provided based on the date of enactment.

**Offset:** JCT has estimated that the House companion legislation (H.R. 3043) would have a negligible federal revenue effect.

**Stabenow Amendment #7 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Refinement to Mortgage Forgiveness Tax Relief Act.

**Description of Amendment:** The Chairman's mark includes a two-year extension of the Mortgage Forgiveness Tax Relief Act: It excludes from gross income the discharge of qualified principal residence indebtedness for discharges incurred before January 1, 2016. The amendment would refine the extension of the Mortgage Forgiveness Tax Relief Act to provide that mortgage debt discharged pursuant to arrangements entered into and evidenced in writing before January 1, 2016, would be eligible for the exclusion.

**Offset:** To be provided.



**Stabenow Amendment #8 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.**

**Cosponsor:** Thune

**Short Title:** Charitable Agricultural Research Act (incorporating S. 1280)

**Description of Amendment:** This amendment incorporates the provisions of S. 1280, the Charitable Agricultural Research Act (Sens. Stabenow and Thune), or CARA. The purpose of the amendment is to help American agriculture meet the serious challenges facing it in the 21<sup>st</sup> century by promoting philanthropic support of agricultural research. CARA establishes agricultural research organizations (AROs) as section 501(c)(3) public charities, modeled after medical research organizations (MROs). An ARO is defined as an organization directly engaged in the continuous active conduct of agricultural research in conjunction with a land-grant college or university or a non-land-grant college of agriculture.

**Offset:** To be provided.

**Stabenow Amendment #9 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.**

**Short Title:** Extension of the special rule for electric transmission sales to implement FERC or State electric restructuring.

**Description of Amendment:** Extends through December 31, 2015, the Sec. 451(i) rule for the sales of qualified electric transmission property. Section 451(i) allows an electric utility to elect to recognize gain from a qualifying sale of electric transmission assets ratably over an eight-year period if (1) the sale is made to an independent transmission company and (2) the amount realized from the sale is used to purchase exempt utility property within four years. Without the rule, the recognized gain from the sale would be subject to current income tax. The rule is intended to encourage the sale of transmission property from electric utilities to independent transmission companies to improve transmission management and facilitate competitive transmission markets.

**Offset:** JCT has scored the extension as having no cost.

**Stabenow Amendment #10 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.**

**Short Title:** Modification of the special depreciation allowance for second generation biofuel plant property to include property for renewable chemicals produced from biomass.

**Description of Amendment:** The amendment is intended to help spur new investment in the production of chemicals using biomass as a feedstock in order to reduce the use of petroleum in chemical production. The amendment modifies Sec. 168(l) to allow renewable chemicals property with a depreciable life of 20 years or less to receive the 50 percent bonus depreciation available to second generation biofuel plant property. It defines renewable chemicals as those with a biobased content of at least 25 percent. It excludes any chemical that is used for the production of food, feed, or fuel, if the chemical is composed of other renewable chemicals produced at eligible plant property, or is produced in quantities of more than 200 million pounds per year by the taxpayer.

**Offset:** To be provided.

## **CANTWELL-ROBERTS AMENDMENT #1**

**Cantwell & Roberts Amendment #1** to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

**Cosponsors:** Schumer, Brown, Rockefeller, Stabenow, Cardin, and Menendez

**Short Title:** Extend the LIHTC minimum low-income housing tax credit rate at 4% for the acquisition of existing property to complement the extension of the 9% minimum rate for new construction.

**Description of Amendment:** LIHTC is a policy that effectively and efficiently promotes job creation while providing an affordable place for people to live. This tax credit is important to those in the housing industry, including: architects, plumbers, electricians, carpenters, concrete fabricators, bricklayers, roofers and other specialties.

The tax extenders bill will be extending the expired 9% minimum rate for newly constructed affordable rental housing building and substantial rehabilitation expenditures. Establishing a minimum 4% credit for the acquisition of affordable existing property compliments these efforts and is the same part of the tax code. Making this simple change would implement essentially the same policy as the 9% rate extension. This amendment would permit additional investor equity to be contributed to this housing by the private sector, which capital is often necessary in order for the preservation of existing affordable housing to be financially feasible, while still keeping within the scope of the tax extenders bill. It allows this private capital to play a greater role in the housing finance system. This minimum credit rate would only apply to the acquisition of existing properties that receive credit allocations from state housing credit agencies and would not apply to properties which are financed with the proceeds of tax-exempt private activity bonds.

The credit rate is determined by a formula in the tax code which is based on the federal cost of borrowing. Over the past few years, as the federal cost of borrowing has declined, so has the amount of tax credits that can be used to build new LIHTC property or preserve an existing affordable housing development. Financing projects remains a challenge and many states looking to renovate and preserve older properties use the 4% credit. However, the credit for existing housing continues to float and is only 3.25% for April 2014. A higher rate could result in approximately 25% more available equity capital to preserve these properties but state housing credit agencies would still need to determine, as they do under current law, that the additional credit is necessary for the project to be financially feasible. Without this additional financing, many worthwhile properties cannot be preserved and this loss of affordable rental housing only exacerbates the current critical shortage of this precious housing resource. Both the 9% and 4% credit have a strong multiplier effect and strengthen local economies across the nation, including many rural areas.

**Offset:** TBD

## **Cantwell –Thune Amendment # 2**

**Cantwell-Thune Amendment #2** to Chairman’s Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

**Cosponsors:** Cornyn, Nelson

**Short Title:** To make permanent the state and local sales tax deduction

**Description of Amendment:** Under current law, taxpayers in states with an income tax are provided with a permanent deduction for state and local income taxes, but the deduction for state and local sales taxes is a temporary part of the tax code that has had to be extended every year since 2004. This amendment would make the state and local sales tax deduction a permanent part of the tax code and would ensure tax fairness for taxpayers in states without a state income tax. Making this deduction permanent would end the uncertainty of extension each year and provide certainty to taxpayers in all states without a state income tax.

In 2011, over 11 million taxpayers claimed the state and local sales tax deduction and reduced their taxable income by 17.4 billion with the deduction.

**Offset:** TBD

### **CANTWELL AMENDMENT #3**

**Cantwell #3** to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

**Cosponsors:** Bennet, Brown, Menendez

**Short Title:** Modify the extension of the beginning-of-construction date for Sec. 45 Production Tax Credit or Investment Credit in lieu of the production credit to include solar projects

**Description of Amendment:**

As we move to allow facilities qualifying for the production tax credit to elect to take the investment tax credit in lieu of the production tax credit for facilities that begin construction by the end of 2015, it is important to extend eligible property to solar facilities. Under current law, solar facilities placed in service before January 1, 2006 qualify for the credit. This amendment would simply adjust the date to fit within the context of the EXPIRE Act and ensure that it is germane to the bill under discussion.

Specifically, the amendment would adjust IRC 45 (d) (4) (A) to read:

- “(A) in the case of a facility using solar energy, is placed in service before January 1, 2006 ***or the construction of which occurs between January 1, 2014 and December 31, 2015,***” or

**Offset:** TBD

#### **CANTWELL AMENDMENT #4**

**Cantwell #4** to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

**Short Title:** Provide disaster assistance to those impacted by mudslide in Oso, Washington and surrounding counties

**Description of Amendment:**

Provide a temporary retention tax credit for businesses operating in, or directly impact by, the disaster area that continued to pay wages and retain their employees after the mudslide. Eligible employees are those whose principal place of employment was in the applicable disaster area.

**Offset:** TBD

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **Nelson Amendment #1 to Expiring Provisions Improvement Reform and Efficient (EXPIRE) Act**

**Short Title:** New Market Tax Credit Improvement for Underserved States

### **Description of Amendment:**

This amendment would provide bonus points in the application process for investors who commit to NMTC projects in states that have historically been underserved by the NMTC tax credit program. An underserved state would be one that has a share of the nation's population in poverty that is greater than the state's share of NMTC investment over the previous 5 years. Currently this could include the following states: Pennsylvania, Florida, Kansas, Texas, Utah, West Virginia, Wyoming, Colorado, Georgia, Idaho, North Carolina, Alabama, Arizona, Arkansas, California, Hawaii, Illinois, Indiana, Kentucky, Montana, Nebraska, Nevada, New Mexico, South Carolina and Tennessee.

Offset: N/A There is no cost



## **Nelson Amendment #2 to Expiring Provisions Improvement Reform and Efficient (EXPIRE) Act**

**Short Title:** A clarification of the applicable placed-in service date for Difficult Development Areas for the Low-Income Housing Tax Credit

### **Description of Amendment:**

This amendment would clarify that projects that qualified as being in a GO Zone Difficult Development Areas (DDA) ((IRC 1400N(c)(3)) and would have also qualified to be in a regular DDA under the HUD designation (IRC 42(d)(5)) but for the enactment of the Go Zone legislation are eligible to have the 365-Day place-in-service rules applicable to regular DDAs, rather than the shorter time period available to GO Zone DDAs. This would be effective as if it were included in the original GO Zone Legislation.

Offset: TBD

**Menendez/Toomey Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency  
(EXPIRE) Act of 2014**

Short Title: Small Business Inflation Protection Amendment

Description of Amendment: This amendment would increase the effectiveness of Section 179 for small businesses by counteracting the negative impact of inflation on the limits and phaseouts of this important small business tax provision. Specifically the amendment would:

- Increase the expensing limit and phase-out threshold for Sec. 179 to inflation:
  - Amendment would multiply the \$500,000 expensing amount and the \$2 million phase-out threshold by CPI-U.
- Be offset by indexing all penalties for inflation, per the President's 2015 Revenue Proposals.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Menendez/Toomey Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency  
(EXPIRE) Act of 2014**

Short Title: Expansion of Small Business Capital Gains Exemption

Description of Amendment: This amendment would increase the effectiveness of Section 1202 for small businesses by the threshold of this important small business tax provision. Specifically the amendment would:

- Increase the asset size threshold in Section 1202 from \$50 million dollar threshold to \$75 million.

Offset to be provided upon consideration.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Menendez/Toomey Amendment #3 to the to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Small Business R&D Partnerships Amendment

Cosponsor: Carper

Description of Amendment:

This amendment would ensure that the R&D credit works for small businesses and start ups by creating R&D partnerships as described in S. 1658. These partnerships would exempt investments in specified high tech pass-thru entities from application of the passive activity loss rules.

Currently, many investors in pass-through R&D partnerships cannot claim losses during a company's "pre-revenue" phase until the company earns a profit. Many innovative companies spend years developing their product. Existing passive activity loss rules prevent losses from flowing through to passive investors during this time, discouraging investment in groundbreaking research.

By modifying Sec. 469 rules, the amendment would allow pre-revenue companies to flow tax assets such as the R&D tax credit to investors, making investments in these businesses more attractive and creating more parity in the tax code. The proposal identifies specific characteristics for small high tech pass through entities:

- a minimum percentage of expenditures incurred in connection with research and development ("R&D"), and
- either less than 250 employees or less than \$150 million in gross assets (excluding specified intangible assets and follow-on investments).

Pre-revenue companies that meet these requirements will be able to pass their tax assets through to their investors.

Offset to be provided upon consideration.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Menendez/Enzi Amendment #4 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Real Estate Investment and Jobs Amendment

Cosponsors: Schumer, Isakson, Carper, Cardin, Brown, Bennet, Casey, Warner

Description of Amendment: Amendment would reform FIRPTA tax rules to encourage more equity investment in U.S. real estate as laid out in S. 1181, the Real Estate Investment and Jobs Act.

The bipartisan Real Estate Investment and Jobs Act would implement efficient and meaningful reform of FIRPTA tax rules to encourage more equity investment in U.S. real estate. These reforms would attract investment to create jobs and economic opportunities in every region in the country. That's why reform of FIRPTA laws has attracted bipartisan support in both chambers of Congress and the administration. S. 1181 currently has 39 cosponsors, including 20 out of 24 Members of the Senate Finance Committee.

By increasing investment in commercial real estate, reform will jumpstart construction and real estate modernization projects and generate a need to build up surrounding infrastructure, including new sidewalks, roads and light rail projects. It will create a virtuous cycle creating American jobs not just for investments in the real estate sector but also business operations and surrounding infrastructure.

Offset to be provided upon consideration.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Menendez Amendment #5 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act  
of 2014**

Short Title: Clarification of Present Law to Ensure Exemption of Orphan Drugs from Pharmaceutical Manufacturers Fee

Description of Amendment: Amendment would clarify that the pharmaceutical fee exemption created in P.L. 111-148 include drugs that are designated as orphan drugs by the Food and Drug Administration (FDA).

When the Finance committee imposed a fee on branded prescription drugs during the creation of the Affordable Care Act, drugs used to specifically treat orphan diseases were excluded. The intent was to protect the current incentives in law which encourage innovation in the development of treatments for rare diseases. However, the IRS has interpreted the exemption from the pharmaceutical fee to be contingent only upon receipt of the Orphan Drug Tax Credit (ODTC) for that particular brand name product.

Therefore, a product could be designated by the FDA as an orphan drug but could still be subject to the fee if it did not specifically claim the ODTC. There are a variety of reasons why this may be the case. For instance, some orphan drug manufacturers eligible for the ODTC may have chosen to forego it years ago in lieu of another tax credit, such as the R&D credit. These orphan drugs would then be subject to the fee.

The orphan exemption from the pharmaceutical fee should logically be based on a drug's designation and not just its tax status. Therefore, this amendment would clarify the law to ensure that orphan drugs are exempt from the fee if they have been designated as such by the FDA and for which the ODTC was allowable for any tax year.

This amendment would be revenue neutral.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

## **Menendez Amendment #6 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Amendment to support essential government operations in the United States Virgin Islands and Puerto Rico

Description of Amendment:

Under current law, most of the revenue generated from the federal excise tax on rum sold in the U.S. is given—“covered over”—to the treasuries of Puerto Rico and the U.S. Virgin Islands. The purpose of the cover-over program is to provide budgetary support to the territories for essential public infrastructure and services.

The funds are important sources of revenue for both governments, but there is controversy over the governments agreeing to increase subsidies to rum producers. The recent deals that first saw Diageo strike a deal to take nearly half of the subsidies for their corporate profits has now exploded to include major subsidies for every major rum maker in both Puerto Rico and the USVI.

At a time when both territories are experiencing significant budget difficulties, reform is needed to protect the integrity of the program, end the major market distortions created by the corporate subsidies, and bolster the budgets of the territories.

To respond to these concerns, this proposal to reform the program would:

- Require cover-over funds to be kept in separate funds instead of being comingled in each territory’s general funds.
- Direct Puerto Rico and the United States Virgin Islands to use amounts of the cover-over “fund” for public infrastructure and other essential government services.
  - This directive would require the territories use at least 85 percent of the cover-over monies for public infrastructure and other essential government services.
- Require annual reports to Treasury and Department of the Interior on how the cover-over funds are used and authorizes reduction of next-year cover-over if the funds are spent on items other than designated purposes.
- Establish a floor and ceiling on the allocation of total cover over funds: 65-70% to Puerto Rico, and 30-35% to the Virgin Islands to remove the incentive for the two governments to increase subsidies to capture additional production.
- Prohibit cover-over payments for rum that is redistilled into cane neutral spirits that is then used to make other products, a potential loophole that could cost the Treasury millions.

This amendment has no negative revenue impact.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Menendez Amendment #7 to the to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Short Title:** Extension of Section 45 Production Tax Credit (“PTC”) for Certain Facilities

**Description of Amendment:**

- Allow qualified open-loop biomass and waste-to-energy facilities placed in service before date of enactment to claim the Section 45 PTC for production occurring after December 31, 2013 and prior to January 1, 2016. Qualifying facilities would be prohibited from claiming an aggregate stream of credits totaling more than 10 years.



**Carper-Brown-Cardin-Menendez Amendment #1 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Incentivizing Offshore Wind Power Amendment

**Description of Amendment:** Amends Section 48 of the Internal Revenue Code of 1986 by creating a 30% investment offshore wind tax credit for the first 3,000 MW offshore wind facilities placed into service.

The amendment mirrors S.401 by requiring the Secretary of Treasury to consult with the Secretaries of Energy and the Interior when establishing this credit. However, the Secretary of Treasury makes the final decision on who is awarded the tax credit. Once awarded a tax credit, companies have up to 5 years to install the offshore wind facility. Companies cannot receive other production or investment tax credits in addition to the offshore wind investment tax credit. Amendment defines offshore facility as any facility located in the inland navigable waters of the United States, including the Great Lakes, or in the coastal waters of the United States, including the territorial seas of the United States, the exclusive economic zone of United States, and the outer Continental Shelf of the United States.

**Offset:** Offset to be determined.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Carper Amendment #2 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Increase and Simplification of the R&D Credit

**Description of Amendment:** Amends Section 41 of the Internal Revenue Code of 1986 to increase the alternative simplified research credit rate from the current 14 percent to 25 percent. The traditional research credit remains expired.

This amendment to modify Section 41 applies retroactively to taxable years beginning after December 31, 2013.

**Offset:** Partial offset amends section 41(b) of the Internal Revenue Code of 1986 to disallow spending on supplies as a qualifying research expense. This modification results in qualifying research expenditures primarily consisting of wages. Furthermore, this amendment caps the amount of wages qualifying for the research credit to \$1 million per employee. Remainder of offset to be determined.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **Carper Amendment #3 to the Chairman’s Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Incentivizing Additional Contract Research

**Description of Amendment:** Amends section 41(b)(3) of the Internal Revenue Code of 1986 to split the full (100 percent) value of the credit for “contract” research expenses. (Under current law, 100 percent of qualified research expenditures (QRE) conducted in-house qualifies for the R&D credit, but if a taxpayer (“payor”) contracts with another taxpayer (“payee”) to do research, then only 65 percent of that research spending qualifies for the research credit on the payor’s tax return; no taxpayer may claim the other 35 percent of qualifying research spending against the R&D credit.) This amendment allows a payee for contract research to claim the research credit for the remaining, unused 35 percent of qualifying research expenditures.

Amends section 41(b) of the Internal Revenue Code of 1986 to treat all contract research payments to universities to conduct basic research as qualifying research expenditures by taxpayers for purposes of the research credit.

This amendment applies retroactively to taxable years beginning after December 31, 2013.

**Offset:** Offset to be determined.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **Carper Amendment #4 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Enhanced Credit for Highly Innovative Research

**Description of Amendment:** Amends Section 41 of the Internal Revenue Code to establish a new 10 percentage-point "Enhanced Credit for Highly Innovative Research." This bonus Enhanced Credit is an addition to a taxpayer's claim for either the 20% traditional R&D credit (for a total 30% credit) or the 14% alternative simplified research credit (for a total 24% credit).

The intent of this amendment is to boost the after-tax return for investing in transformative and revolutionary research, rather than incremental upgrades of existing technology. "Qualifying highly innovative research projects" are those that: (a) otherwise qualify for the traditional R&D credit or simplified credit, and (b) have received certification by the National Science Foundation (NSF) or National Institutes of Health (NIH) as "highly innovative new products" or "significant improvements in existing products." *New* products may qualify for certification if the product has not previously been produced by the taxpayer and if it incorporates functions that are substantially different from other products produced by the taxpayer. *Existing* product technology may qualify as a "significant improvement" only if such technology enhances a product in such a way that (1) requires the use of new techniques or design methods to achieve the enhancement and (2) represents a significant advance in the product's performance, energy consumption, environmental benefit, public health impact, cost, or size.

Under this amendment, NSF and NIH have authority to approve or deny certification such that only the highest-value research projects are certified for purposes of claiming the Enhanced Credit, and are required to provide full confidentiality and proprietary protection for taxpayers' research. To target the Enhanced Credit toward groundbreaking research, this amendment imposes a total cap on the amount of qualifying research expenditures that may be certified each year. The NSF and NIH *each* are permitted to issue certifications for no more than \$2 billion worth of Highly Innovative qualifying research expenditures for purposes of the 10% Enhanced Credit in calendar year 2017—subsequently indexed annually to inflation.

To provide additional certainty for multiyear research planning purposes, taxpayers applying for certification from NSF or NIH have a voluntary option to obtain "advance certification" up to three years prior to the calendar year in which the taxpayer actually spends qualifying research dollars and claims the Enhanced Credit. The duration of any certification is seven consecutive years, ensuring that taxpayers are not required to re-obtain certification annually for multiyear projects. Firms also have the option to modify and reapply if NSF or NIH denies certification.

The un-scored estimated cost for this amendment is roughly \$3.4 billion over ten years, plus costs. This amendment applies to taxable years beginning after December 31, 2016.

**Offset:** To be determined.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Carper-Cardin Amendment #5 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Investment Tax Credits for Waste Heat to Power Technology

**Description of Amendment:** Amends Section 48 of the Internal Revenue Code of 1986 to include waste heat to power technology as eligible technology for the investment tax credit.

Waste heat to power property is defined as property comprising a system which generates electricity through the recovery of a qualified waste heat resource. A qualified waste heat resource includes:

- (i) Exhaust heat from any industrial process that does not have, as its primary purpose, the production of electricity; and
- (ii) A pressure drop in any gas for an industrial or commercial process.

Similar to the combined heat and power system property investment tax credits, the maximum capacity cannot be in excess of 50 megawatts and must be placed in service before January 1, 2017.

**Offset:** To be determined.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

## **Carper Amendment #6 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Short Title:** Taxpayer Advocacy and Government Accountability Promotion (TAX GAP) Amdt

**Description of Amendment:** Amends the Internal Revenue Code of 1986 to reduce the tax gap and improve compliance:

Amends Section 6331(h)(2) and (h)(3) of the Internal Revenue Code of 1986 to provide levy authority for payments to Medicare providers with delinquent tax debt. This proposal would be effective for payments made after the date of enactment.

Amends Section 3406(a) of the Internal Revenue Code of 1986 to require federal contractors receiving payments of \$600 or more in a calendar year from a particular business to furnish to the business (on Form W-9) the contractor's certified Taxpayer Identification Number (TIN). A business would be required to verify the contractor's TIN with IRS, which would be authorized to disclose, solely for this purpose, whether the certified TIN-name combination matches IRS records. If a contractor failed to furnish an accurate certified TIN, the business would be required to withhold a flat-rate percentage of gross payments.

Amends Section 6331(h)(2) of the Internal Revenue Code of 1986 to authorize a continuous levy on payments to Medicaid providers and suppliers.

Amends Section 351 of the Internal Revenue Code of 1986 to repeal the designation of nonqualified preferred stock. Effective for stock issued after December 31, 2014.

Amends Section 6050H(b)(2) of the Internal Revenue Code of 1986 to require IRS to revise Form 1098 to require third parties to provide additional information on returns relating to mortgage interest, including: (a) unpaid balance with respect to the taxpayer's mortgage, (b) address of the property securing such mortgage, and (c) information on whether the mortgage was refinanced in the current year.

Amends Section 6049(a) of the Internal Revenue Code of 1986 to improve information reporting on unreported and underreported financial accounts. Requires financial institutions to report on the existence, but not the dollar value, of all financial accounts. This amendment (a) eliminates the reporting exception for accounts paying less than \$10 (\$0.01 through \$9.99) in interest per year, and (b) enacts an equivalent reporting requirement for accounts that pay zero interest (\$0.00) per year. The term "reportable deposit" is defined broadly to include any bank, building and loan association, homestead association, credit union, industrial loan association, or broker.

Based on a 2011 estimate, this amendment increases revenues by \$1.6 billion over ten years. Except where otherwise noted, this amendment applies to tax years after December 31, 2014.

**Offset:** Not applicable.

[NOTE – Sponsor reserves right to modify amendment for technical, revenue, or other purposes.]

## **Cardin Amendment #1 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Warner, Bennet

**Short Title:** Extension and improvement of the section 179D tax deduction for energy efficient commercial and multifamily buildings

**Description of Amendment:** This amendment, based on the modifications in Title I of the Cardin-Feinstein-Schatz Energy Efficiency Tax Incentives Act (S. 2189) would extend the tax deduction for energy efficient commercial and larger multifamily buildings until December 31, 2015, and would incorporate the modifications of Title I of S. 2189, including the following:

- For new construction, increase the “whole building deduction” amount to \$3.00/sf, the “partial deduction” amount to \$1.00/sf, and allow for a “multiple systems” deduction of \$2.20/sf.
- Allow an alternative path to incentivize existing building retrofits based on measured and verified improvements over a structure’s own energy consumption baseline, and offer the incentive based on a sliding scale (starting at 20% energy improvement) that increases in amounts as correlated to higher levels of building energy performance due to a retrofit.
- Enable private sector and non-profit building owners – like public building owners – to allocate the deduction to third parties responsible for an energy efficient building project. For new construction, allow the owner to allocate the deduction to the building designer (consistent with current law) and a building tenant. For existing building retrofits, allow the owner to allocate the deduction to an expanded group of recipients who design, underwrite, occupy and are otherwise responsible for the particular retrofit project.
- Allow for clarifying provisions and special rules so that partnerships, S corporations, real estate investment trusts, and other entities can receive the economic value of a deduction, whether retained by the owner or allocated by the owner (at its discretion) to a third party responsible for the project.
- Provide for automatic increases in the energy performance standards used to calculate the deduction.

Currently, Section 179D provides a tax deduction for energy efficiency improvements in commercial buildings. The maximum incentive amount is \$1.80/square foot of a building that is designed to achieve a 50% improvement in energy performance over the ASHRAE 90.1 (year 2001) standard, which applies to energy efficiency in commercial and larger multifamily structures. A “partial deduction” in the

amount of \$.60/square foot is also allowed, based on performance targets for specific building systems (lighting, heating and cooling, envelope, and water heating) as developed by the Treasury Secretary in consultation with the Energy Secretary.

Section 179D allows public building owners – which cannot benefit from tax incentives – to allocate the deduction to the entity primarily responsible for the design of the building.

The current incentive amounts of \$1.80/sf (full deduction) and \$.60/sf (partial deduction) have not encouraged widespread market uptake of section 179D, considering the high costs borne by building owners with regard to heating, cooling, and envelope equipment and components. Modest increases in these incentive amounts will encourage greater energy efficiency construction projects.

The current law incentive, which pegs the maximum incentive to 50% improvements over an ASHRAE 90.1 model building, has been successful, particularly in the context of new construction and public buildings with decades-long service lives and ownership horizons. The amendment proposes to strengthen the incentive, especially for existing building “retrofit” projects for structures held by private sector and non-profit entities.

In the case of such energy improvements for existing buildings as a result of a retrofit upgrade, the amendment would allow measuring energy improvements against the structure’s own measured and verifiable “baseline” benchmark rather than the ASHRAE benchmark that is more appropriate for new construction. Additionally, 50% improvements in a building’s energy performance – while not impossible – could be resource prohibitive in many existing buildings. This is especially the case for larger buildings with multiple uses and occupants in our nation’s urban and suburban growth centers. Instead, the amendment would adopt a more meaningful approach to incentivize building efficiency by providing a sliding scale that provides greater deduction amounts as correlated to higher levels of actual and verified energy performance.

The current law’s allocation provision, which allows public building owners to allocate the energy efficient commercial deduction, has increased federal, state, and local government investment in energy efficiency by lowering the project costs for the government entity. Other real estate holding structures (such as certain partnerships, real estate investment trusts, and non-profits) are similarly situated to public owners, insofar as they do not have the income or entity-level tax liability to benefit from a tax deduction. The amendment would further increase the effectiveness of the incentive by making the deduction allocable by public, private, and non-profit building owners alike. It would also clarify that partnerships, S corporations, real estate investment trusts, and other entities can receive the economic value of a deduction.

**Offset:** To be provided.



## **Cardin Amendment #2 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Warner, Bennet

**Short Title:** Extension and improved utilization of the section 179D deduction for energy efficient commercial and multifamily buildings

**Description of amendment:** This amendment would extend the tax deduction for energy efficient commercial and larger multifamily buildings until December 31, 2015. In addition, it would strengthen deduction by enabling non-profit building owners and tribal government building owners to better use deduction by allowing such owners to allocate the incentive (as federal, state, and local government building owners are already permitted to do).

The amendment would also allow S corporations, partnerships, and REITs to utilize the full economic value of the deduction. Under current 179D, S corporations, partnerships, and REITs may take or receive an allocation of the 179D deduction. However, rules regarding basis adjustments with respect to partnership interests and S corporation shares, and earnings and profits rules with respect to REITs, have unexpectedly limited the ability of these entities to receive the full value of the deduction. To cure this unexpected result, the amendment provides provisions that provide for earnings and profits conformity for non-captive REITs, and allows partners and S corporation shareholders to take the 179D deduction at the shareholder or partner level. Many of these entities are small and medium-sized businesses; this solution will encourage these entities to be able to better take advantage of the 179D deduction and properly incentivize commercial design and implementation of energy efficient measures.

**Offset:** To be provided.

**Cardin-Isakson Amendment #3 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Isakson, Schumer, Nelson, Stabenow

**Short Title:** Extension of section 181 expensing for certain qualified film, television, and theatrical productions.

**Description:** This amendment extends section 181 expensing for certain qualified film and television productions through December 31, 2015. It would also amend the definition of qualifying expenses to include live theatrical productions (based on the bipartisan Schumer-Blunt STAGE Act, S. 2180).

**Offset:** To be provided.

**Cardin Amendment #4 to the Chairman's Mark of the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act**

**Cosponsors:** Portman, Bennet, Schumer, Casey

**Short Title:** Small BREW Act

**Description of amendment:** This amendment is identical to S. 917, the Cardin-Collins Small Brewer Reinvestment and Expanding Workforce Act of 2013 ("Small BREW Act"). The Small BREW Act seeks to reduce the small brewer rate on the first 60,000 barrels by 50 percent (from \$7.00 to \$3.50/barrel) and institute a new rate \$16.00 per barrel on beer production above 60,000 barrels up to 2 million barrels. Breweries with an annual production of 6 million barrels or less would qualify for these tax rates.

**Offset:** To be provided.

**Brown/Rockefeller/Portman/Casey/Schumer/Stabenow Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Extension of Health Coverage for Displaced Workers

Description of Amendment: Amendment would extend the Health Coverage Tax Credit (HCTC), Sections 35 and 7527, for two years.

The HCTC is available to laid-off employees receiving TAA benefits, and retirees who receive pension payments through the Pension Benefit Guaranty Corporation. The HCTC provides a 72.5 percent refundable tax credit to eligible workers enrolled in a qualified health plan.

Offset: This amendment is an extension of a provision that expired on December 31, 2013.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Brown/Rockefeller/Bennet/Schumer/Casey/Menendez/Stabenow/Cardin Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Indexing the Child Tax Credit

Description of Amendment: Amends Section 24 of the Internal Revenue Code of 1986 so that allowance of the credit (24(a)) of the credit and the income threshold (24(b)) shall each be increased by the cost-of-living adjustment.

Currently the allowance of the Child Tax Credit and the AGI threshold where the credit phases out are not indexed for inflation. Without indexing both the purchasing power of the credit and the number of families who will be eligible will drop precipitously over the next few years.

Offset: TBD

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Brown/Rockefeller/Schumer/Casey/Menendez/Stabenow/Cardin Amendment #3 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Making the EITC and the CTC Permanent

Description of Amendment: Amendment will permanently changes to the EITC and CTC which expire at the end of 2017 under the “American Taxpayer Relief Act of 2012.” First, the increased credit percentage of the EITC for families with 3 or more children and the increase in the joint filer phase-out levels. Second, the \$3,000 earnings threshold for the additional child tax credit.

Offset: TBD

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Brown/Rockefeller Amendment #4 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: The Fair Playing Field Act

Description of Amendment: Amendment would end the moratorium on IRS guidance addressing worker classification. Amendment would require the Secretary of the Treasury to issue guidance clarifying the employment status of individuals for Federal employment tax purposes.

Amendment will continue to allow the 530 safe harbor to be available to employers with respect to the treatment of an individual for Federal employment tax purposes until that employee has a reclassification date. The reclassification date is the earlier of the following two dates: (1) the first day of the first calendar quarter beginning more than 180 days after the date of an “employee classification determination: with respect to such an individual; or (2) the effective date of the “first application final regulation” issued by the Secretary of the Treasury with respect to such individual. Amendment amends the provisions of the Internal Revenue Code that provide for reduced penalties for failure to deduct and withhold income taxes and employee’s share of FICA taxes where there is noncompliance with the guidance issued by the Secretary of the Treasury. Amendment requires persons who contract independent contractors on a regular basis to provide each independent contractor with a written statement of the Federal tax obligations of independent contractors, the labor and employment law protections that do not apply to independent contractors and the right of independent contractors to seek a status determination from the IRS.

Offset: TBD

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Brown Amendment #5 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Motion to Strike CFC Look-Through

Description of Amendment: Motion to strike the “Look-Through Rule”, Section 954(c)(6).

Current law allows deferral for certain payments (interest, dividends, rents and royalties) between commonly controlled foreign corporations (CFC). This provision allows U.S. taxpayers to deploy capital from one CFC to another without triggering U.S. tax.

Offset: This amendment would raise \$2.45 billion.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes



**Brown Amendment #6 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Motion to Strike the Active Financing Exception

Description of Amendment: Motion to strike the Exceptions under subpart F for active financing income, Section 953(e), 954(h)(9) and 954(i). The U.S. parent of a foreign subsidiary engaged in a banking, financing, or similar business is eligible for deferral of tax on such subsidiary's earnings if the subsidiary is predominantly engaged in such business and conducts substantial activity with respect to such business. The subsidiary must pass an entity level income test to demonstrate that the income is active income and not passive income.

Offset: This amendment would raise \$10.37 billion.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Brown Amendment #7 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

Short Title: Manufacturing Communities Tax Credit

Description of Amendment: This amendment would claw back unused New Markets Tax Credits and use them to finance a Manufacturing Communities Tax Credit. This credit would be allocated by CDFI to CDEs for manufacturing investments in communities that have experienced a major job loss event.

Legislative Text: MODIFICATION TO NEW MARKETS TAX CREDIT. (a) ALLOCATIONS DESIGNATED FOR AREAS IMPACTED BY DECLINE IN MANUFACTURING.—Paragraph (3) of section 45D(f) of the Internal Revenue Code of 1986 is amended— (1) by striking “If the new markets tax credit limitation” and inserting the following: “(A) IN GENERAL.—If the new markets tax credit limitation”, (2) by striking “No” in the last sentence and inserting “Except as provided in subparagraph (B), no”, and (3) by adding at the end, the following new sub - paragraph:

“(B) CERTAIN AMOUNTS AVAILABLE FOR AREAS IMPACTED BY DECLINE IN MANUFACTURING.— Any amount carried to a calendar year after the year described in the second sentence of subparagraph (A) shall be available only for allocation to qualified community development entities a significant mission of which is providing investments and services to persons in the trade or business of manufacturing products in communities which have suffered major manufacturing job losses or a major manufacturing job loss event, as designated by the Secretary.” (b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2013.

Offset: This amendment is expected to be revenue neutral within the budget window.

NOTE – Amendment sponsor reserves the right to modify the amendment for technical or other purposes

**Bennet Amendment #1 to an original bill entitled “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.”**

Cosponsors: Brown, Menendez, Carper, Stabenow, Cardin

Short Title: Commence Construction Modification for Section 48 ITC technologies.

Description of Amendment: This amendment, based on S. 2003 (Bennet/Heller), would allow technologies qualifying for the Section 48 Investment Tax Credit (ITC) to claim the incentive provided they have “commenced construction” on their project before the credit’s expiration.

Offset: TBD

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Bennet Amendment #2 to an original bill entitled “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.”**

Short Title: Liquefied Natural Gas Excise Tax Equalization

Description of Amendment: This amendment, based on S. 1103 (Bennet/Burr), would structure the federal excise tax on liquefied natural gas (LNG) to be based on an energy content basis, rather than a volumetric one (as is currently the case). LNG is a transportation fuel source used for large trucks and some marine and rail vessels. Currently, the excise tax rate for both LNG and Diesel Fuel is set at 24.3 cents per gallon. However, LNG produces less energy per gallon than diesel fuel. It takes about 1.7 gallons of LNG to equal the energy in 1 gallon of diesel fuel, resulting in LNG being taxed at 170% of the rate of diesel fuel on an energy equivalent basis. The current tax system can result in thousands of dollars of additional cost for companies choosing to utilize LNG. For example, if a diesel truck travels 100,000 miles at 5 miles per gallon it consumes 20,000 gallons of diesel fuel. An identical LNG truck, however, would require 34,000 gallons of LNG to travel the same distance. The current tax system would result in the LNG truck paying an additional \$3,402 in taxes because of the 14,000 gallons more of fuel.

Offset: TBD

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Bennet Amendment #3 to an original bill entitled “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act.”**

Short Title: An amendment to clarify the tax treatment of mutual ditch and irrigation companies.

Description of Amendment: Mutual ditch and irrigation companies are non-profit entities that provide water for agricultural purposes. Under the current law, mutual ditch and irrigation companies are tax-exempt so long as at least 85% of their income is derived from their members. The amendment would permit these companies to receive a greater percentage of non-member income provided that the proceeds are used for the operations, maintenance and capital improvements of the irrigation and ditch systems. The freestanding bill is S. 1441.

Second, the amendment clarifies that mutual ditch and irrigation companies can continue their one-share, one-vote structure without jeopardizing their tax exempt status. In September 2013, the Joint Committee on Taxation scored the amendment (as a freestanding bill) at \$36 million.

Offset: TBD

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

**Casey/ Rockefeller Amendment # 1 to the Expiring Provisions Improvement Reform and Efficiency  
(EXPIRE) Act of 2014**

**Short Title:** Adoption Tax Credit Refundability Act

**Description of Amendment:** This amendment would make the Adoption Tax Credit fully refundable.

The Adoption Tax Credit was made permanent in the American Taxpayer Relief Act in January 2013. However, that law did not extend the refundability provisions that applied to the adoption tax credit in 2010 and 2011. The Adoption Tax Credit Refundability Act will restore the refundable portion of this critical support for families wishing to adopt.

**Offset:** To be determined.

**Casey/ Cornyn Amendment # 2 to the Expiring Provisions Improvement Reform and Efficiency  
(EXPIRE) Act of 2014**

**Short Title:** Make Permanent 15-Year Cost Recovery for Improvements to Leaseholds, Restaurants and Retail Facilities

**Description of Amendment:** This amendment would make permanent 15-year cost recovery for improvements to leaseholds, restaurants and retail facilities.

One of the proposed extender provisions establishes 15-year cost recovery for improvements to leaseholds, restaurants and retail facilities through 2015. This amendment simply makes that proposed temporary provision permanent. Without this amendment, taxpayers will have to recover such improvement costs over much longer periods, if and when the proposed temporary provision expires.

**Offset:** To be determined.

**Casey Amendment # 3 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014**

**Short Title:** Small Business Start Up and Cash-Basis Accounting

**Description of Amendment:** This amendment would (1) permanently double the deductions for start-up expenses, organizational expenses and syndication fees, and (2) clarify cash accounting rules for small businesses.

Under current law, taxpayers can generally deduct up to \$5,000 of qualifying start-up expenditures, organizational expenditures, or organization and syndication fees, less any amount by which the expenditures exceed \$50,000. Current law also prevents small businesses with over \$5 million in gross receipts from using the cash method of accounting, and requires certain taxpayers to use inventories.

To provide small business owners with much needed tax and financial relief, this amendment would:

- Raise the ceiling on start-up expenditures, organizational expenditures, and organization and syndication fees to \$10,000, less the amount by which such expenditures exceed \$60,000.
- Permit businesses with gross receipts of up to \$10 million to use the cash method of accounting, and index the \$10 million figure for inflation.
- Eliminate the requirement that certain taxpayers use inventories.

**Offset:** To be determined.



**Casey/ Stabenow Amendment # 4 to the Expiring Provisions Improvement Reform and Efficiency  
(EXPIRE) Act**

**Short Title:** Revising the Inland Waterways Trust Fund Financing Rate

**Description:** The Amendment would revise the Inland Waterways Trust Fund financing rate to 29 cents per gallon.

The Inland Waterways Trust Fund was created in 1978 as part of an authorization to replace Locks and Dam 26 on the Upper Mississippi River. The trust was funded through an initial levy of 4 cents per gallon on fuel used by commercial vessels operating on the inland waterways of the United States. The 1986 Water Resources Development Act increased that levy to 20 cents per gallon which is still in effect today.

This amendment would go into effect 60 days after the enactment of this legislation.

**Offset:** To be determined.

## **WARNER Energy Amendment 1**

Warner Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act-

Cosponsor: Cardin

Short Title: Authorization 25 (C) Tax Credit for Energy Efficiency Improvements to Existing Homes

Description of Amendment: Extend Sec. 25C credit for non-business energy efficient property to December 31, 2015, with the following modifications:

- Adjust qualification standards for windows, doors, and skylights so they must meet Energy Star v.6.0 standards (code sec. 25C(c)(1)).
- Differentiate between storage and tankless water heaters (code sec. 25C(d)(3)(D)). Natural gas, propane, and oil storage water heaters must have an energy factor of 0.80, or thermal efficiency of 90 percent.
- Storage water heaters defined as having water storage capacity of greater than 20 gallons but less than or equal to 55 gallons. Tankless natural gas, propane, and oil water heaters must have an energy factor of 0.90 or thermal efficiency of 90 percent.
- Adjust testing standards for stoves (code sec. 25C(d)(3)(E)) to have a thermal efficiency of 75 percent using the higher heating value, and tested in accordance with CSA Standard B415.1.
- Differentiate oil hot water boilers (code sec. 25C(d)(4)), to have an annual fuel utilization efficiency not less than 90.
- Current law specifies pigmented metal roofs and asphalt roofs with cooling granules. Update this language to “roof and roof products that meet Energy Star program guidelines” (code sec. 25C(c)(1) and sec. 25C(c)(2)(D)).
- Installation costs should be included in the cost of the measure.

Background: According to the Energy Information Administration, about half of energy consumption in the U.S. is attributed to residential buildings. Section 25C provides a 10% tax credit for the purchase of certain energy efficient materials up to \$500. Since its passage in 2005, this tax credit has been an incentive for homeowners to choose energy-efficient products over less-expensive and less-efficient alternatives. This amendment will update 25c to make it more efficient. The current efficiency levels in the code are out of date and thus the current incentive rewards many “free riders” (tax credit recipients who would have made the same purchase decision even if no tax credit were available).

25C should be used as a transition to or a companion to a multi-year performance-based tax credit, “25E” to be given to homeowners who make energy efficiency improvements. Few tax credits under consideration provide tax relief to the average American homeowner. As a performance-based incentive, 25E would reward energy saving levels rather than specific products, thus aligning taxpayer dollars directly with public policy objectives, creating significant energy savings and job creation. The 25E tax credit would help create a market for energy efficiency and an incentive for sound, efficient construction by trained contractors.

Offset: To be determined.

## **Hatch, Carper, Crapo, Roberts, Thune, Isakson, & Portman Amendment #1 to the Expiring Provisions Improvement Reform & Efficiency Act**

**Short Title:** Extend the Section 954(c)(6) CFC Look Thru Exception from Subpart F

**Description of Amendment:** The CFC look-thru rule has been in the law since the end of 2005. CFC look-thru provides an exception from the subpart F regime.

US corporations pay US income tax on their worldwide income. However, if a US parent corporation's foreign subsidiary (or "Controlled Foreign Corporation" or CFC) earns income, the US parent will not owe US income tax on such income unless and until such income is repatriated from the CFC back to the US by means of a dividend. There is "deferral" of US tax.

However, under the subpart F rules (enacted in 1962), certain passive or mobile types of income (such as interest, dividends, royalties, etc.) earned by a CFC are subject to immediate US tax, whether or not actually repatriated to the US parent.

To summarize: Active income (from sales, for example) is allowed deferral, but passive income is subject to immediate US tax under the subpart F rules. This compromise is sound: Active income is earned overseas generally from non-tax motivations, whereas there often may be a tax-avoidance motivation for earning passive/mobile income offshore.

But what if US Parent (USP) owns CFC1 (in high-tax country) and CFC2 (in low-tax country)? If CFC1 earns active income, then there is no immediate US tax. But what if CFC1 pays interest or royalties, say, to CFC2? Interest and royalties are generally subpart F income, thus subject to immediate US tax. However, the "CFC look thru" rule says that even though CFC2 receives passive income, it is not subject to immediate US tax because the income was first earned by the worldwide group as active income. Allowing the money to be transferred from one CFC to another should not subject it to immediate US tax.

With CFC look-thru expired, US multinationals will be limited in their ability to deploy cash from one subsidiary to another. With CFC look-thru extended, it is possible for US multinationals to deploy earnings and manage cash more effectively and efficiently.

Note that the CFC look-thru rule also allows US multinationals to minimize their foreign taxes. That is, by CFC1 paying deductible payments to CFC2, CFC1 minimizes its taxable income in its high-tax country. In fact, the CFC look-thru rule is really more about helping US multinationals reduce their foreign taxes than it is about helping them reduce their US tax.

**Offset:** Not necessary

## **Hatch Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency Act**

**Short Title:** Short-term extension of the applicable period to comply with the Ultra-Low Sulfur Diesel EPA mandate in order to qualify for the Low-Sulfur Diesel tax credit and deduction.

**Description of Amendment:** This amendment would extend the applicable period to June 1, 2010 to comply with the EPA standards of Ultra Low Sulfur Diesel in order to qualify for Sec. 45H, the Low-Sulfur Diesel Tax Credit, and Sec. 179B, the deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.

**Offset:** Recession of unspent federal funds.

## GRASSLEY-CANTWELL AMENDMENT

**Grassley-Cantwell Amendment #1** to the *Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act*

**Cosponsors:** Brown, Bennet, Cardin, Carper, Menendez, Nelson, and Stabenow

**Short Title:** Extension of the Beginning-Of-Construction Date for the Sec. 45 Production Tax Credit or Investment Credit in Lieu of the Production Credit for Wind and other Qualified Facilities

**Description of Amendment:**

- Extend for two years, through December 31, 2015, the production tax credit for wind and other qualified facilities by replacing January 1, 2014, everywhere it appears in IRC Section 45 with January 1, 2016.
- Extend for two years, through December 31, 2015, the investment tax credit in lieu of the production tax credit for wind and other qualified facilities by replacing January 1, 2014, in IRC Section 48(5) with January 1, 2016.

**Offset:** Not Necessary

## **GRASSLEY AMENDMENT**

**Grassley Amendment #2** to the *Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act*

**Short Title:** Increase the Accessibility and use of the Research and Development Credit by Small Businesses

**Description of Amendment:** Amend the R&D tax credit to clarify that small businesses may claim the Alternative Simplified Credit on amended tax returns and permit small business owners to take the R&D credit against the Alternative Minimum Tax.

**Offset:** To be provided.

**Roberts Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014**

Cosponsors: Hatch, Grassley, Crapo, Enzi, Cornyn, Thune, Burr, Isakson, Portman

Short Title: Stop Targeting of Political Beliefs by the IRS Act of 2014

Description of Amendment: The amendment would prevent further IRS targeting of conservative 501(c)(4)s by reverting back to the IRS standards and definitions that were in place on January 1, 2010 and suspend for one year any IRS rulemaking related to 501(c)(4)s, including the new candidate-related political activity definition

Offset: No offset required.

**Roberts Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014**

Short Title: Innovators Job Creation Act

Description of Amendment: This amendment would allow an offset of the Research & Development Credit against liability for the alternative minimum tax.

Offset: To be determined



**Roberts Amendment #3 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014**

Cosponsors: Thune, Isakson

Short Title: Restoring Access to Medication Act

Description of the Amendment: This amendment would repeal Sec. 9003 of the Patient Protection and Affordable Care Act to restore the ability of plan participants to use the funds in their FSA, HRA, HAS, or Archer MSA to purchase over-the-counter medications.

Offset: To be determined

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue neutrality, or other purposes.]

**Roberts Amendment #4 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014**

Cosponsors: Isakson

Short Title: Health Insurance Tax Repeal

Description of Amendment: This amendment would repeal Sec. 9010(b) of the Patient Protection and Affordable Care Act of 2010.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue neutrality, or other purposes.]

Offset: To be determined

**Roberts Amendment #5 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014**

Cosponsors: Isakson

Short Title: Health Insurance Tax Delay

Description of Amendment: The health insurance premium tax included in Sec. 9010 of the Affordable Care Act is restructured so that while the tax is not imposed until January 1, 2016, the overall original savings are still achieved as prescribed. This shall be done by evenly distributing the in-year taxes originally attributed in Sec. 9010 to Years 2014 and 2015 to Years 2016 through 2019. As such, this amendment delays by 2 years the implementation of the ACA's annual fee on health insurance providers by taking the annual fee amounts for 2014 and 2015 and adding them to the years 2016-2019 by evenly distributing the dollars such that the fee amount for the years 2016-2019. Year 2020 would revert back to the premium growth factor as in the original statute.

Offset: To be determined

## Enzi Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014

Short Title: Tax Return Due Date Simplification and Modernization

Description of Amendment: This amendment would provide for the logical flow of return information between partnerships, corporations, trusts, estates, and individuals to better enable each party to submit timely, accurate returns and reduce the need for extended and amended returns, to provide for modified due dates by regulation, and to conform the automatic corporate extension period to longstanding regulatory rule. The amendment does NOT change tax policy; rather, it provides for better tax compliance and tax administration. The text of the amendment is the same as S. 420 (Tax Return Due Date Simplification and Modernization Act of 2013), introduced February 28, 2013.

Offset:

Enzi Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014

Short Title: To strike the “Mortgage Debt Relief” Provision

Description of Amendment: This provision provides that up to \$2 million of forgiven debt is eligible to be excluded from income (\$1 million if married filing separately) through tax year 2015. This amendment would strike that provision from the bill.

Offset: N/A

Enzi Amendment #3 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014

Short Title: To strike the “Parity for Exclusion from Income for Employer-provided Mass Transit and Parking Benefits” Provision

Description of Amendment: This provision increases the monthly exclusion for employer-provided transit and vanpool benefits from \$125 to \$240 through tax year 2015. This amendment would strike the provision from the bill.

Offset: N/A

Enzi Amendment #4 to the Expiring Provisions Improvement Reform and Efficiency Act of 2014

Short Title: To support the development advanced supercritical coal-fired power plants in the United States

Description of Amendment: The amendment modifies Section 48 of the tax code by creating a 30 percent investment tax credit for supercritical coal facilities. It would be capped at \$1.25 billion. The amendment defines such projects as including a coal-fired boiler that reaches an electricity generating efficiency of at least 36 percent, and operates at a minimum pressure of 3,200 pounds per square inch.

Offset:

Cornyn Amendment # 1 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

Cosponsor(s): Senator Cantwell

Short title: The amendment excludes grants awarded under the Clean Coal Power Initiative from the gross income of non-corporate recipients and requires them to pay an upfront interest charge based on the value of the award.

Description: The amendment excludes any grant, award, or allowance made pursuant to Section 402 of the Energy Policy Act of 2005 (Clean Coal Power Initiative) from gross income even if otherwise includable as determined under section 61 of the Internal Revenue Code, and from alternative minimum taxable income under section 55 of the Code. The proposal requires that, to the extent the grant, award or allowance relates to depreciable property, the adjusted basis is reduced by the amount excluded from income under the proposal.

The proposal also requires eligible taxpayers to pay an upfront interest charge to the federal government equal to 1.18 percent of the value of the award.

The exclusion applies to any eligible non-corporate recipient, defined as:

- any recipient (other than a corporation) of any grant, award, or allowance made pursuant to Section 402 of the Energy Policy Act of 2005,
- if the 1.18 percent interest charge is paid and;
- the grant, award, or allowance would have been excluded from income because of section 118 of the Code (“Contributions to the Capital of a Corporation”) if the taxpayer had been a corporation.

The amendment applies to payments received in taxable years beginning after December 31, 2011 and assumes a date of enactment of July 1, 2013.

Score: +\$4 million over ten years.



Cornyn Amendment #2 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

Cosponsor(s): Senators Portman, Roberts, Thune

Short Title: Protect Americans from Internal Revenue Service abuses related to implementation of the individual mandate and other provisions of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010

Description of Amendment: This amendment would prohibit the Secretary of the Treasury from enforcing the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010.

Cornyn Amendment #3 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

Short Title: Increasing the \$250 above-the-line deduction for teacher classroom expenses.

Description of Amendment: This amendment would increase the \$250 above-the-line deduction for teacher classroom expenses.

Offset: To be provided.

**Thune Amendment #1 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Cosponsors: Portman, Roberts

Short Title: To Express Support for Comprehensive Tax Reform

Description of Amendment: The legislation before the committee would extend on a short-term basis a number of tax credits, deductions and exclusions. This amendment would express the sense of the committee that:

- 1). Comprehensive tax reform should commence next Congress and conclude before the current tax extenders have expired;
- 2). Congress should endeavor, as part of tax reform, to eliminate temporary provisions from the tax code, thus making permanent those provisions that merit such treatment and allowing others to expire;
- 3). A major focus of tax reform should be fostering economic growth and lowering tax rates by broadening the tax base; and
- 4). The chairman and ranking member of the Finance Committee should consult with the chairman and ranking member of the Budget Committee so as to ensure that an appropriate baseline is used during tax reform.

An offset is not required.

**Thune Amendment #2 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Short Title: To responsibly phase-out the Section 45 production tax credit (PTC) as it relates to electricity from wind.

Description of Amendment: The amendment would provide wind energy producers, utilities and electricity consumers greater certainty by extending the wind credit through December 31, 2018 while providing taxpayers certainty that the federal tax subsidy for electricity from wind will not be permanent. Specifically, the amendment would provide 100% of the PTC for electricity from wind in 2014, 90% of credit in year 2015, 80% of credit in year 2016, 70% of credit in year 2017, 60% of credit in year 2018 and allow the PTC to permanently expire thereafter. The proposal would also return to a “placed in service” rule and eliminate the inflation adjustment to the credit for new projects placed in service after date of enactment.

Based on an estimate from JCT provided October 29, 2013, this approach would reduce the cost of the wind PTC by more than \$7 billion relative to a 2-year extension of current law.

**Thune Amendment #3 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Cosponsor: Roberts

Short Title: To make permanent the existing moratorium on state and local taxes on internet access scheduled to expire on November 1, 2014.

Description of Amendment: The amendment would make permanent the tax moratorium on internet access set to expire on November 1st of this year. The amendment would also make permanent the existing moratorium on multiple or discriminatory taxes on electronic commerce. This amendment reflects S. 1431, the *Internet Tax Freedom Forever Act* introduced by Senator Wyden and Thune last year.

This amendment is not expected to have an impact on federal revenue.

**Thune Amendment #4 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Cosponsor: Toomey

Short Title: To make permanent the Section 179 small business expensing limits at \$500,000 / \$2M that expired at the end of 2013.

Description of Amendment: The amendment would make permanent the higher limits on the amount that a business can expense in a given year. The amendment would make permanent 2013 law that allowed a business to expense up to \$500,000 of qualifying property and would phase out this treatment for those businesses with more than \$2M in qualifying property placed in service. The amendment would also make permanent the provisions allowing off-the-shelf software and qualified real property to qualify. Under current law, the amount that a business will be able to expense in 2014 and subsequent years is \$25,000, phasing out for businesses with more than \$200,000 of qualifying property placed in service.

Offset: To be provided.

**Thune Amendment #5 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Short Title: To promote neutrality, simplicity, and fairness in the taxation of digital goods and digital services.

Description of Amendment: The amendment would clarify sourcing rules and other rules regarding state and local taxation of digital goods and services, such as music and movie downloads. The amendment reflects S. 1364, the *Digital Goods and Services Tax Fairness Act* introduced last year by Senators Wyden and Thune. Specifically, the amendment prohibits a state or local jurisdiction from imposing multiple or discriminatory taxes on the sale or use of a digital good or service delivered or transferred electronically to a customer. Among other provisions, the amendment sources taxation of a digital good or service to a state or local jurisdiction whose territorial limits encompass a customer’s tax address.

The amendment is not expected to have an impact on federal revenue.

**Thune Amendment #6 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Cosponsor: Schumer

Short Title: To exclude from gross income medals and awards won in Olympic competition.

Description of Amendment: The amendment would exclude from gross income any prizes or awards won in competition in the Olympic Games or the Paralympic Games. Under current law, U.S. Olympic athletes may find themselves facing a significant tax bill based upon successfully winning an Olympic medal and the accompanying cash award from the U.S. Olympic Committee. The amendment reflects S. 2026.

Offset: To be provided.



**Thune Amendment #7 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Short Title: To amend the Internal Revenue Code of 1986 to clarify the treatment of general welfare benefits provided by Indian tribes.

Description of Amendment: The amendment would clarify that the general welfare exclusion applies to benefits provided by Indian Tribes. The amendment would provide tax treatment parity between benefits offered by other governmental units and those offered by tribes. The amendment reflects S. 1507, the *Tribal General Welfare Exclusion Act of 2013* introduced by Senator Moran and Senator Heitkamp.

The Joint Committee on Taxation has estimated that this legislation would have a negligible impact on revenues.

**Thune Amendment #8 to the “Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act of 2014”**

Cosponsor: Toomey

Short Title: To repeal the federal estate tax.

Description of Amendment: The amendment would fully repeal the federal estate tax and the generation skipping tax (GST). The amendment would make permanent, indexed for inflation, the current \$5 million exemption for gift tax purposes. The amendment will provide peace of mind to farmers, ranchers, business owners and entrepreneurs who have worked their whole lives to build a business – and paid income taxes along the way – only to see have the federal government apply another layer of tax at death. The amendment reflects S. 1183, the *Death Tax Repeal Act of 2013*.

Offset: To be provided.

Burr Amendment #1 to the Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act

*Cosponsors:* Senator Hatch

*Short Title:* To make modifications to the Alternative Fuels Tax Credit and Excise Tax for LNG.

*Description of Amendment:* This amendment modifies the alternative fuel tax credit for LNG to be calculated on a per gallon energy equivalent basis with a gallon of diesel. It also modifies the current excise tax on LNG to be calculated on a per diesel gallon equivalent basis. This amendment is based on legislation introduced by Senators Bennet and Burr (S. 1103).

*Offset:* JCT is currently determining whether the reduction in the Alternative Fuel Tax Credit will offset the modification to the excise tax on LNG

## Extend WOTC to Long-Term Unemployed

Portman Amendment #1 to the Expiring Provisions Improvement Reform & Efficiency (EXPIRE) Act

Cosponsors: Sens. Cardin & Warner

Short Title: To open up the Work Opportunity Tax Credit (WOTC) to the long-term unemployed.

Description of Amendment: The Work Opportunity Tax Credit (WOTC) provides a tax credit of between \$1,200 and \$9,600 per employee for hiring and retaining members of vulnerable groups. Eligible groups currently include: veterans, TANF, SNAP, and SSI recipients, ex-felons, the disabled, and summer youth employees. This amendment would add the long-term unemployed to the list of eligible populations. An employer hiring someone who has exhausted their 26 weeks of regular unemployment benefits would be eligible for a 40 percent credit on the first 6,000 of wages paid that first year, or a maximum credit of \$2,400 per employee.

Offset: TBD

## 179D Extension

Portman Amendment #2 to the Expiring Provisions Improvement Reform & Efficiency (EXPIRE) Act

Short Title: Extend the 179D tax deduction for energy efficient commercial and multifamily buildings and to change the baseline.

Description of Amendment: Section 179D provides a tax deduction for energy efficiency improvements in commercial buildings. The maximum incentive amount is \$1.80/square foot of a building that is designed to achieve a 50% improvement in energy performance over the ASHRAE 90.1 (year 2001) standard, which applies to energy efficiency in commercial and larger multifamily structures. A “partial deduction” in the amount of \$.60/square foot is also allowed, based on performance targets for specific building systems (lighting, heating and cooling, envelope, and water heating) as developed by the Treasury Secretary in consultation with the Energy Secretary.

Section 179D allows public building owners – which cannot benefit from tax incentives – to allocate the deduction to the entity primarily responsible for the design of the building.

This amendment would provide an extension of the 179D deduction until December 31, 2015. It would also change the baseline standard for the deduction from AHRAE 90.1-2001 to ASHRAE 90.1-2004.

Offset: N/A

**Toomey Amendment #1** to the “Expiring Provisions Improvement Reform and Efficiency Act”

*Cosponsors:* Sens. Hatch, Burr, Cornyn, Crapo, Roberts, Portman, Isakson

**Short Title:** Save good paying American jobs and encourage life-saving innovation by delaying the medical device tax for two years

**Description of Amendment:**

This amendment would delay the medical device tax for all of 2014 and all of 2015.

**Toomey Amendment #2** to the “Expiring Provisions Improvement Reform and Efficiency Act”

*Cosponsors:* Sens. Hatch, Isakson, Roberts, Crapo

**Short Title:** Save good paying American jobs and encourage life-saving innovation by delaying the medical device tax for two years, and offset this cost by ending subsidies for the top 1% of earners.

**Description of Amendment:**

This amendment would delay the medical device tax for all of 2014 and all of 2015.

**Offset:**

Increase Medicare means testing for upper income beneficiaries. Eliminate government subsidies for Medicare Parts B and D premiums for couples making more than \$428,000 (\$214,000 for individuals).

**Toomey Amendment #3** to the “Expiring Provisions Improvement Reform and Efficiency Act”

**Short Title:** Eliminate crony capitalist energy tax credits

**Description of Amendment:**

Eliminate the following provisions:

- Production Tax Credit (and the investment tax credit in lieu of the PTC)
- All credits for biofuel, biodiesel, and renewable diesel
- Credits for energy efficient appliances
- Credits for electric motorcycles and fuel cell vehicles
- Credits for alternative fuel refueling property

**Offset:**

n/a



**Toomey Amendment #4** to the “Expiring Provisions Improvement Reform and Efficiency Act”

**Short Title:** Reform the employer wage credit for activated military reservists

**Description of Amendment:**

This amendment reforms the Sec. 45P credit for employers who continue to pay their employees who are serving on active duty for the United States military. Currently, only companies with fewer than 51 employees can qualify for a credit equal to 20% of the first \$20,000 in wages they pay to deployed reservists and National Guard members.

This amendment reforms this credit by allowing all companies, regardless of size, to qualify for the credit.

This change would be effective for all of 2014 and all of 2015.

**Offset:**

Offset the cost of this amendment by indexing fixed dollar fines and penalties collected by the IRS per chapter 68 of the Internal Revenue Code to inflation along the lines outlined in the President’s budget. Interval amounts shall be rounded to the nearest appropriate dollar amount (as determined by the IRS).

## **Toomey Amendment #5** to the “Expiring Provisions Improvement Reform and Efficiency Act”

*Cosponsors:* Sens. Casey, Roberts

**Short Title:** Preserving Access to Orphan Drugs

### **Description of Amendment:**

Congress has put in place several long-standing incentives to motivate pharmaceutical companies to pursue FDA approval for products to help individuals with rare diseases, including tax incentives. In an effort to encourage orphan drug<sup>[1]</sup> development, drafters of the PPACA fee to be paid by pharmaceutical manufacturers for the sales of brand name drugs sought to exclude orphan drugs. However, they did this by tying the exemption from the pharmaceutical fee to receipt of the Orphan Drug Tax Credit (ODTC) for that particular brand name product.

Therefore, a product could be indicated by the FDA solely for the treatment of a rare disease but still subject to the PPACA fee if it did not claim the ODTC or was ineligible to claim the ODTC. There are a variety of reasons why this may be the case. For instance, some orphan drug manufacturers eligible for the ODTC may have chosen to forego it years ago in lieu of another tax credit, such as the R&D credit. These orphan drugs would be subject to the PPACA fee. Further, not all orphan drugs qualify for the ODTC. To be eligible, an orphan drug must have an orphan designation for a rare disease. The FDA traditionally only provides designation status to the first drug to market for a rare disease. Subsequent orphan drugs that treat the same rare disease are only eligible to receive an orphan indication and will therefore be subject to the PPACA fee.

The orphan exemption from the PPACA pharmaceutical fee should consider the conditions the product treats and not just its tax status. Therefore, this amendment would clarify the law to exempt orphan drugs from the pharmaceutical fee if they have received an FDA indication solely for one or more rare diseases. If a drug were subsequently approved by the FDA for marketing for

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<sup>[1]</sup> An orphan drug treats a rare disease which afflicts 200, 000 or fewer individuals in the United States. Additionally, the FDA may provide orphan drug designation for a disease that affects more than 200,000 people if U.S. sales of the drug are not expected to be sufficient to recover the costs of developing and marketing a drug for treatment of the disease.

any indication other than a rare disease or condition, they would be subject to the fee.

**Offset:**

Provision is revenue neutral

**Toomey Amendment #6** to the “Expiring Provisions Improvement Reform and Efficiency Act”

**Short Title:** Permanently extend 50% bonus depreciation

**Description of Amendment:**

Permanently extend bonus depreciation.

**Offset:**

n/a

**Toomey Amendment #7** to the “Expiring Provisions Improvement Reform and Efficiency Act”

**Short Title:** Increase veterans WOTC and eliminate crony capitalist handouts

**Description of Amendment:**

This amendment would increase the maximum WOTC credit by \$1,000 for all categories of qualified veterans.

**Offset:**

Strike the credit for electric motorcycles and the credit for qualified fuel cell motor vehicles

**Toomey Amendment #8** to the “Expiring Provisions Improvement Reform and Efficiency Act”

**Short Title:** Eliminate crony capitalist handouts and increase the deduction for college tuition and teachers’ classroom expenses

**Description of Amendment:**

This amendment would increase by \$1,000 the amount of tuition (and other related expenses) that can be deducted by taxpayers. In Sec. 222 of the Internal Revenue Code, increase each deduction limitation by \$1,000.

This amendment would also increase the deduction for teachers’ classroom expenses by \$100.

**Offset:**

Strike the Production Tax Credit (and the investment tax credit in lieu of the PTC)

**Toomey Amendment #9** to the “Expiring Provisions Improvement Reform and Efficiency Act”

**Short Title:** Protect bald eagles from wind turbines

**Description of Amendment:**

This amendment would prohibit any company that has benefited from or chooses to benefit from the Production Tax Credit (or the investment tax credit in lieu of the PTC) from receiving a waiver from any federal law that protects the life, well-being, or habitat of bald eagles. Any company that has already received such a waiver must either renounce the benefits of that waiver or refund any money received from the PTC (or the investment credit in lieu of the PTC) to the federal government within 12 months.

**Offset:**

n/a