

107TH CONGRESS
1ST SESSION

H. R. 2511

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2001

Mr. McCRERY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Tax Policy Act
5 of 2001”.

6 (a) SHORT TITLE.—

7 (c) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

TITLE I—CONSERVATION

Sec. 101. Credit for residential solar energy property.

- Sec. 102. Extension and expansion of credit for electricity produced from renewable resources.
- Sec. 103. Credit for certain energy-efficient property.
- Sec. 104. Alternative motor vehicle credit.
- Sec. 105. Extension of deduction for certain refueling property.
- Sec. 106. Modification of credit for qualified electric vehicles.
- Sec. 107. Tax credit for energy efficient appliances.
- Sec. 108. Credit for energy efficiency improvements to existing homes.
- Sec. 109. Business credit for construction of new energy efficient home.
- Sec. 110. Allowance of deduction for energy efficient commercial building property.
- Sec. 111. Allowance of deduction for qualified energy management devices and retrofitted qualified meters.
- Sec. 112. 3-year applicable recovery period for depreciation of qualified energy management devices.
- Sec. 113. Energy credit for combined heat and power system property.
- Sec. 114. New nonrefundable personal credits allowed against regular and minimum taxes.
- Sec. 115. Phaseout of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
- Sec. 116. Reduced motor fuel excise tax on certain mixtures of diesel fuel.

TITLE II—RELIABILITY

- Sec. 201. Natural gas gathering lines treated as 7-year property.
- Sec. 202. Petroleum refining property treated as 7-year property.
- Sec. 203. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.
- Sec. 204. Environmental tax credit.
- Sec. 205. Determination of small refiner exception to oil depletion deduction.
- Sec. 206. Tax-exempt bond financing of certain electric facilities.
- Sec. 207. Sales or dispositions to implement Federal energy regulatory commission or State electric restructuring policy.
- Sec. 208. Distributions of stock to implement Federal energy regulatory commission or State electric restructuring policy.
- Sec. 209. Modifications to special rules for nuclear decommissioning costs.
- Sec. 210. Treatment of certain income of cooperatives.
- Sec. 211. Repeal of requirement of certain approved terminals to offer dyed diesel fuel and kerosene for nontaxable purposes.
- Sec. 212. Arbitrage rules not to apply to prepayments for natural gas.

TITLE III—PRODUCTION

- Sec. 301. Oil and gas from marginal wells.
- Sec. 302. Temporary suspension of limitation based on 65 percent of taxable income and extension of suspension of taxable income limit with respect to marginal production.
- Sec. 303. Deduction for delay rental payments.
- Sec. 304. Election to expense geological and geophysical expenditures.
- Sec. 305. 5-year net operating loss carryback for losses attributable to operating mineral interests of oil and gas producers.
- Sec. 306. Extension and modification of credit for producing fuel from a non-conventional source.
- Sec. 307. Credit for investment in qualifying advanced clean coal technology.
- Sec. 308. Credit for production from qualifying advanced clean coal technology.

Sec. 309. Business related energy credits allowed against regular and minimum tax.

Sec. 310. Temporary repeal of alternative minimum tax preference for intangible drilling costs.

Sec. 311. Allowance of enhanced recovery credit against the alternative minimum tax.

Sec. 312. Extension of certain benefits for energy-related businesses on Indian reservations.

1 **TITLE I—CONSERVATION**

2 **SEC. 101. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROP-** 3 **ERTY.**

4 (a) **IN GENERAL.**—Subpart A of part IV of sub-
5 chapter A of chapter 1 (relating to nonrefundable personal
6 credits) is amended by inserting after section 25B the fol-
7 lowing new section:

8 **“SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.**

9 “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-
10 dividual, there shall be allowed as a credit against the tax
11 imposed by this chapter for the taxable year an amount
12 equal to the sum of—

13 “(1) 15 percent of the qualified photovoltaic
14 property expenditures made by the taxpayer during
15 such year, and

16 “(2) 15 percent of the qualified solar water
17 heating property expenditures made by the taxpayer
18 during the taxable year.

19 “(b) **LIMITATIONS.**—

20 “(1) **MAXIMUM CREDIT.**—The credit allowed
21 under subsection (a) shall not exceed—

1 “(A) \$2,000 for each system of property
2 described in subsection (c)(1), and

3 “(B) \$2,000 for each system of property
4 described in subsection (c)(2).

5 “(2) SAFETY CERTIFICATIONS.—No credit shall
6 be allowed under this section for an item of property
7 unless—

8 “(A) in the case of solar water heating
9 equipment, such equipment is certified for per-
10 formance and safety by the non-profit Solar
11 Rating Certification Corporation or a com-
12 parable entity endorsed by the government of
13 the State in which such property is installed,
14 and

15 “(B) in the case of a photovoltaic system,
16 such system meets appropriate fire and electric
17 code requirements.

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

21 “(A) the sum of the regular tax liability
22 (as defined in section 26(b)) plus the tax im-
23 posed by section 55, over

24 “(B) the sum of the credits allowable
25 under this subpart (other than this section and

1 sections 23 and 25B) and section 27 for the
2 taxable year.

3 “(c) DEFINITIONS.—For purposes of this section—

4 “(1) QUALIFIED SOLAR WATER HEATING PROP-
5 ERTY EXPENDITURE.—The term ‘qualified solar
6 water heating property expenditure’ means an ex-
7 penditure for property to heat water for use in a
8 dwelling unit located in the United States and used
9 as a residence if at least half of the energy used by
10 such property for such purpose is derived from the
11 sun.

12 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
13 PENDITURE.—The term ‘qualified photovoltaic prop-
14 erty expenditure’ means an expenditure for property
15 that uses solar energy to generate electricity for use
16 in a dwelling unit.

17 “(3) SOLAR PANELS.—No expenditure relating
18 to a solar panel or other property installed as a roof
19 (or portion thereof) shall fail to be treated as prop-
20 erty described in paragraph (1) or (2) solely because
21 it constitutes a structural component of the struc-
22 ture on which it is installed.

23 “(4) LABOR COSTS.—Expenditures for labor
24 costs properly allocable to the onsite preparation, as-
25 sembly, or original installation of the property de-

1 scribed in paragraph (1) or (2) and for piping or
2 wiring to interconnect such property to the dwelling
3 unit shall be taken into account for purposes of this
4 section.

5 “(5) SWIMMING POOLS, ETC., USED AS STOR-
6 AGE MEDIUM.—Expenditures which are properly al-
7 locable to a swimming pool, hot tub, or any other
8 energy storage medium which has a function other
9 than the function of such storage shall not be taken
10 into account for purposes of this section.

11 “(d) SPECIAL RULES.—

12 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
13 CUPANCY.—In the case of any dwelling unit which is
14 jointly occupied and used during any calendar year
15 as a residence by 2 or more individuals the following
16 shall apply:

17 “(A) The amount of the credit allowable
18 under subsection (a) by reason of expenditures
19 (as the case may be) made during such cal-
20 endar year by any of such individuals with re-
21 spect to such dwelling unit shall be determined
22 by treating all of such individuals as 1 taxpayer
23 whose taxable year is such calendar year.

24 “(B) There shall be allowable with respect
25 to such expenditures to each of such individ-

1 uals, a credit under subsection (a) for the tax-
2 able year in which such calendar year ends in
3 an amount which bears the same ratio to the
4 amount determined under subparagraph (A) as
5 the amount of such expenditures made by such
6 individual during such calendar year bears to
7 the aggregate of such expenditures made by all
8 of such individuals during such calendar year.

9 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
10 HOUSING CORPORATION.—In the case of an indi-
11 vidual who is a tenant-stockholder (as defined in sec-
12 tion 216) in a cooperative housing corporation (as
13 defined in such section), such individual shall be
14 treated as having made his tenant-stockholder’s pro-
15 portionate share (as defined in section 216(b)(3)) of
16 any expenditures of such corporation.

17 “(3) CONDOMINIUMS.—

18 “(A) IN GENERAL.—In the case of an indi-
19 vidual who is a member of a condominium man-
20 agement association with respect to a condo-
21 minium which he owns, such individual shall be
22 treated as having made his proportionate share
23 of any expenditures of such association.

24 “(B) CONDOMINIUM MANAGEMENT ASSO-
25 CIATION.—For purposes of this paragraph, the

1 term ‘condominium management association’
2 means an organization which meets the require-
3 ments of paragraph (1) of section 528(c) (other
4 than subparagraph (E) thereof) with respect to
5 a condominium project substantially all of the
6 units of which are used as residences.

7 “(4) ALLOCATION IN CERTAIN CASES.—If less
8 than 80 percent of the use of an item is for nonbusi-
9 ness purposes, only that portion of the expenditures
10 for such item which is properly allocable to use for
11 nonbusiness purposes shall be taken into account.

12 “(5) WHEN EXPENDITURE MADE; AMOUNT OF
13 EXPENDITURE.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), an expenditure with respect
16 to an item shall be treated as made when the
17 original installation of the item is completed.

18 “(B) EXPENDITURES PART OF BUILDING
19 CONSTRUCTION.—In the case of an expenditure
20 in connection with the construction or recon-
21 struction of a structure, such expenditure shall
22 be treated as made when the original use of the
23 constructed or reconstructed structure by the
24 taxpayer begins.

1 “(C) AMOUNT.—The amount of any ex-
2 penditure shall be the cost thereof.

3 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
4 ERGY FINANCING.—For purposes of determining the
5 amount of nonbusiness qualified stationary fuel cell
6 powerplant expenditures made by any individual
7 with respect to any dwelling unit, there shall not be
8 taken in to account expenditures which are made
9 from subsidized energy financing (as defined in sec-
10 tion 48(a)(4)(A)).

11 “(e) BASIS ADJUSTMENTS.—For purposes of this
12 subtitle, if a credit is allowed under this section for any
13 expenditure with respect to any property, the increase in
14 the basis of such property which would (but for this sub-
15 section) result from such expenditure shall be reduced by
16 the amount of the credit so allowed.

17 “(f) TERMINATION.—The credit allowed under this
18 section shall not apply to taxable years beginning after
19 December 31, 2006 (December 31, 2008, with respect to
20 qualified photovoltaic property expenditure).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subsection (a) of section 1016 is amended
23 by striking “and” at the end of paragraph (27), by
24 striking the period at the end of paragraph (28) and

1 inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(29) to the extent provided in section 25C(e),
4 in the case of amounts with respect to which a credit
5 has been allowed under section 25C.”.

6 (2) The table of sections for subpart A of part
7 IV of subchapter A of chapter 1 is amended by in-
8 serting after the item relating to section 25B the fol-
9 lowing new item:

“Sec. 25C. Residential solar energy property.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after De-
12 cember 31, 2001.

13 **SEC. 102. EXTENSION AND EXPANSION OF CREDIT FOR**
14 **ELECTRICITY PRODUCED FROM RENEWABLE**
15 **RESOURCES.**

16 (a) EXTENSION OF CREDIT FOR WIND AND CLOSED-
17 LOOP BIOMASS FACILITIES.—Subparagraphs (A) and (B)
18 of section 45(c)(3) are each amended by striking “2002”
19 and inserting “2007”.

20 (b) EXPANSION OF CREDIT FOR OPEN-LOOP BIO-
21 MASS AND LANDFILL GAS FACILITIES.—Paragraph (3) of
22 section 45(c) is amended by adding at the end the fol-
23 lowing new subparagraphs:

24 “(D) OPEN-LOOP BIOMASS FACILITIES.—

25 In the case of a facility using open-loop biomass

1 to produce electricity, the term ‘qualified facil-
2 ity’ means any facility owned by the taxpayer
3 which is originally placed in service before Jan-
4 uary 1, 2007.

5 “(E) LANDFILL GAS FACILITIES.—In the
6 case of a facility producing electricity from gas
7 derived from the biodegradation of municipal
8 solid waste, the term ‘qualified facility’ means
9 any facility owned by the taxpayer which is
10 originally placed in service before January 1,
11 2007.”.

12 (c) DEFINITION AND SPECIAL RULES.—Subsection
13 (c) of section 45 is amended by adding at the end the
14 following new paragraphs:

15 “(5) OPEN-LOOP BIOMASS.—The term ‘open-
16 loop biomass’ means any solid, nonhazardous, cel-
17 lulosic waste material which is segregated from other
18 waste materials and which is derived from—

19 “(A) any of the following forest-related re-
20 sources: mill residues, precommercial thinnings,
21 slash, and brush, but not including old-growth
22 timber,

23 “(B) solid wood waste materials, including
24 waste pallets, crates, dunnage, manufacturing
25 and construction wood wastes (other than pres-

1 sure-treated, chemically-treated, or painted
2 wood wastes), and landscape or right-of-way
3 tree trimmings, but not including municipal
4 solid waste (garbage), gas derived from the bio-
5 degradation of solid waste, or paper that is
6 commonly recycled, or

7 “(C) agriculture sources, including orchard
8 tree crops, vineyard, grain, legumes, sugar, and
9 other crop by-products or residues.

10 Such term shall not include closed-loop biomass.

11 “(6) REDUCED CREDIT FOR CERTAIN
12 PREEFFECTIVE DATE FACILITIES.—In the case of
13 any facility described in subparagraph (D) or (E) of
14 paragraph (3) which is placed in service before the
15 date of the enactment of this subparagraph—

16 “(A) subsection (a)(1) shall be applied by
17 substituting ‘1.0 cents’ for ‘1.5 cents’, and

18 “(B) the 5-year period beginning on the
19 date of the enactment of this paragraph shall
20 be substituted in lieu of the 10-year period in
21 subsection (a)(2)(A)(ii).

22 “(7) COORDINATION WITH SECTION 29.—The
23 term ‘qualified facility’ shall not include any facility
24 the production from which is allowed as a credit

1 under section 29 for the taxable year or any prior
2 taxable year.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to electricity sold after the date
5 of the enactment of this Act.

6 **SEC. 103. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROP-**
7 **ERTY.**

8 (a) BUSINESS PROPERTY.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 48(a)(3) (defining energy property) is amended by
11 striking “or” at the end of clause (i), by adding
12 “or” at the end of clause (ii), and by inserting after
13 clause (ii) the following new clause:

14 “(iii) equipment which is part of a
15 qualified stationary fuel cell powerplant,”.

16 (2) QUALIFIED STATIONARY FUEL CELL POW-
17 ERPLANT.—Subsection (a) of section 48 is amended
18 by redesignating paragraphs (4) and (5) as para-
19 graphs (5) and (6), respectively, and by inserting
20 after paragraph (3) the following new paragraph:

21 “(4) QUALIFIED STATIONARY FUEL CELL POW-
22 ERPLANT.—For purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘qualified
24 stationary fuel cell powerplant’ means a sta-
25 tionary fuel cell power plant that has an elec-

1 tricity-only generation efficiency greater than
2 30 percent.

3 “(B) LIMITATION.—In the case of quali-
4 fied stationary fuel cell powerplant placed in
5 service during the taxable year, the credit under
6 subsection (a) for such year may not exceed
7 \$1,000 for each kilowatt of capacity.

8 “(C) STATIONARY FUEL CELL POWER
9 PLANT.—The term ‘stationary fuel cell power
10 plant’ means an integrated system comprised of
11 a fuel cell stack assembly and associated bal-
12 ance of plant components that converts a fuel
13 into electricity using electrochemical means.

14 “(D) TERMINATION.—Such term shall not
15 include any property placed in service after De-
16 cember 31, 2006.”

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to property placed in
19 service after December 31, 2001, under rules similar
20 to the rules of section 48(m) of the Internal Revenue
21 Code of 1986 (as in effect on the day before the
22 date of the enactment of the Revenue Reconciliation
23 Act of 1990).

24 (b) NONBUSINESS PROPERTY.—

1 (1) IN GENERAL.—Subpart A of part IV of sub-
2 chapter A of chapter 1 (relating to nonrefundable
3 personal credits) is amended by inserting after sec-
4 tion 25C the following new section:

5 **“SEC. 25D. NONBUSINESS QUALIFIED STATIONARY FUEL**
6 **CELL POWERPLANT.**

7 “(a) IN GENERAL.—In the case of an individual,
8 there shall be allowed as a credit against the tax imposed
9 by this chapter for the taxable year an amount equal to
10 10 percent of the qualified stationary fuel cell powerplant
11 expenditures which are paid or incurred during such year.

12 “(b) LIMITATIONS.—

13 “(1) IN GENERAL.—The credit allowed under
14 subsection (a) for the taxable year and all prior tax-
15 able years shall not exceed \$1,000 for each kilowatt
16 of capacity.

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

20 “(A) the sum of the regular tax liability
21 (as defined in section 26(b)) plus the tax im-
22 posed by section 55, over

23 “(B) the sum of the credits allowable
24 under this subpart (other than this section and

1 sections 23, 25B, and 25C) and section 27 for
2 the taxable year.

3 “(c) QUALIFIED STATIONARY FUEL CELL POWER-
4 PLANT EXPENDITURES.—For purposes of this section,
5 the term ‘qualified stationary fuel cell powerplant expendi-
6 tures’ means expenditures by the taxpayer for any quali-
7 fied stationary fuel cell powerplant (as defined in section
8 48(a)(4))—

9 “(1) which meets the requirements of subpara-
10 graphs (B) and (D) of section 48(a)(3), and

11 “(2) which is installed on or in connection with
12 a dwelling unit—

13 “(A) which is located in the United States,
14 and

15 “(B) which is used by the taxpayer as a
16 residence.

17 Such term includes expenditures for labor costs properly
18 allocable to the onsite preparation, assembly, or original
19 installation of the property.

20 “(d) SPECIAL RULES.—For purposes of this section,
21 rules similar to the rules of section 25C(d) shall apply.

22 “(e) BASIS ADJUSTMENTS.—For purposes of this
23 subtitle, if a credit is allowed under this section for any
24 expenditure with respect to any property, the increase in
25 the basis of such property which would (but for this sub-

1 section) result from such expenditure shall be reduced by
2 the amount of the credit so allowed.

3 “(f) TERMINATION.—This section shall not apply to
4 any expenditure made after December 31, 2006.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Subsection (a) of section 1016 is
7 amended by striking “and” at the end of para-
8 graph (28), by striking the period at the end of
9 paragraph (29) and inserting “, and”, and by
10 adding at the end the following new paragraph:

11 “(30) to the extent provided in section 25D(e),
12 in the case of amounts with respect to which a credit
13 has been allowed under section 25D.”.

14 (B) The table of sections for subpart A of
15 part IV of subchapter A of chapter 1 is amend-
16 ed by inserting after the item relating to section
17 25C the following new item:

“Sec. 25D. Nonbusiness qualified stationary fuel cell power-
plant.”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to expenditures paid
20 or incurred after December 31, 2001.

21 **SEC. 104. ALTERNATIVE MOTOR VEHICLE CREDIT.**

22 (a) IN GENERAL.—Subpart B of part IV of sub-
23 chapter A of chapter 1 (relating to foreign tax credit, etc.)
24 is amended by adding at the end the following:

1 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—There shall be al-
3 lowed as a credit against the tax imposed by this chapter
4 for the taxable year an amount equal to the sum of—

5 “(1) the new qualified fuel cell motor vehicle
6 credit determined under subsection (b),

7 “(2) the new qualified hybrid motor vehicle
8 credit determined under subsection (c),

9 “(3) the new qualified alternative fuel motor ve-
10 hicle credit determined under subsection (d), and

11 “(4) the advanced lean burn technology motor
12 vehicle credit determined under subsection (e).

13 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
14 CREDIT.—

15 “(1) IN GENERAL.—For purposes of subsection
16 (a), the new qualified fuel cell motor vehicle credit
17 determined under this subsection with respect to a
18 new qualified fuel cell motor vehicle placed in service
19 by the taxpayer during the taxable year is—

20 “(A) \$4,000, if such vehicle has a gross ve-
21 hicle weight rating of not more than 8,500
22 pounds,

23 “(B) \$10,000, if such vehicle has a gross
24 vehicle weight rating of more than 8,500
25 pounds but not more than 14,000 pounds,

1 “(C) \$20,000, if such vehicle has a gross
2 vehicle weight rating of more than 14,000
3 pounds but not more than 26,000 pounds, and

4 “(D) \$40,000, if such vehicle has a gross
5 vehicle weight rating of more than 26,000
6 pounds.

7 “(2) INCREASE FOR FUEL EFFICIENCY.—

8 “(A) IN GENERAL.—The amount deter-
9 mined under paragraph (1)(A) with respect to
10 a new qualified fuel cell motor vehicle which is
11 a passenger automobile or light truck shall be
12 increased by—

13 “(i) \$1,000, if such vehicle achieves at
14 least 150 percent but less than 175 per-
15 cent of the 2000 model year city fuel econ-
16 omy,

17 “(ii) \$1,500, if such vehicle achieves
18 at least 175 percent but less than 200 per-
19 cent of the 2000 model year city fuel econ-
20 omy,

21 “(iii) \$2,000, if such vehicle achieves
22 at least 200 percent but less than 225 per-
23 cent of the 2000 model year city fuel econ-
24 omy,

1 “(iv) \$2,500, if such vehicle achieves
2 at least 225 percent but less than 250 per-
3 cent of the 2000 model year city fuel econ-
4 omy,

5 “(v) \$3,000, if such vehicle achieves
6 at least 250 percent but less than 275 per-
7 cent of the 2000 model year city fuel econ-
8 omy,

9 “(vi) \$3,500, if such vehicle achieves
10 at least 275 percent but less than 300 per-
11 cent of the 2000 model year city fuel econ-
12 omy, and

13 “(vii) \$4,000, if such vehicle achieves
14 at least 300 percent of the 2000 model
15 year city fuel economy.

16 “(B) 2000 MODEL YEAR CITY FUEL ECON-
17 OMY.—For purposes of subparagraph (A), the
18 2000 model year city fuel economy with respect
19 to a vehicle shall be determined in accordance
20 with the following tables:

21 “(i) In the case of a passenger auto-
22 mobile:

If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg

“If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 or 8,500 lbs	11.1 mpg.

1 “(ii) In the case of a light truck:

“If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 or 8,500 lbs	12.0 mpg.

2 “(C) VEHICLE INERTIA WEIGHT CLASS.—

3 For purposes of subparagraph (B), the term
4 ‘vehicle inertia weight class’ has the same
5 meaning as when defined in regulations pre-
6 scribed by the Administrator of the Environ-
7 mental Protection Agency for purposes of the
8 administration of title II of the Clean Air Act
9 (42 U.S.C. 7521 et seq.).

10 “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-
11 CLE.—For purposes of this subsection, the term
12 ‘new qualified fuel cell motor vehicle’ means a motor
13 vehicle—

1 “(A) which is propelled by power derived
2 from one or more cells which convert chemical
3 energy directly into electricity by combining ox-
4 ygen with hydrogen fuel which is stored on
5 board the vehicle in any form and may or may
6 not require reformation prior to use,

7 “(B) which, in the case of a passenger
8 automobile or light truck—

9 “(i) for 2002 and later model vehicles,
10 has received a certificate of conformity
11 under the Clean Air Act and meets or ex-
12 ceeds the equivalent qualifying California
13 low emission vehicle standard under sec-
14 tion 243(e)(2) of the Clean Air Act for
15 that make and model year, and

16 “(ii) for 2004 and later model vehi-
17 cles, has received a certificate that such ve-
18 hicle meets or exceeds the Bin 5 Tier II
19 emission level established in regulations
20 prescribed by the Administrator of the En-
21 vironmental Protection Agency under sec-
22 tion 202(i) of the Clean Air Act for that
23 make and model year vehicle,

24 “(C) the original use of which commences
25 with the taxpayer,

1 “(D) which is acquired for use or lease by
2 the taxpayer and not for resale, and

3 “(E) which is made by a manufacturer.

4 “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE
5 CREDIT.—

6 “(1) IN GENERAL.—For purposes of subsection
7 (a), the new qualified hybrid motor vehicle credit de-
8 termined under this subsection with respect to a new
9 qualified hybrid motor vehicle placed in service by
10 the taxpayer during the taxable year is the credit
11 amount determined under paragraph (2).

12 “(2) CREDIT AMOUNT.—

13 “(A) IN GENERAL.—The credit amount de-
14 termined under this paragraph shall be deter-
15 mined in accordance with the following tables:

16 “(i) In the case of a new qualified hy-
17 brid motor vehicle which is a passenger
18 automobile or light truck and which pro-
19 vides the following percentage of the max-
20 imum available power:

“If percentage of the maximum available power is: The credit amount is:

At least 2.5 percent but less than 10 percent	\$250
At least 10 percent but less than 20 percent	\$500
At least 20 percent but less than 30 percent	\$750
At least 30 percent	\$1,000.

21 “(ii) In the case of a new qualified hy-
22 brid motor vehicle which is a heavy duty

1 hybrid motor vehicle and which provides
2 the following percentage of the maximum
3 available power:

4 “(I) If such vehicle has a gross
5 vehicle weight rating of not more than
6 14,000 pounds:

“If percentage of the maximum available power is: The credit amount is:

At least 20 percent but less than 30 percent	\$1,500
At least 30 percent but less than 40 percent	\$1,750
At least 40 percent but less than 50 percent	\$2,000
At least 50 percent but less than 60 percent	\$2,250
At least 60 percent	\$2,500.

7 “(II) If such vehicle has a gross
8 vehicle weight rating of more than
9 14,000 but not more than 26,000
10 pounds:

“If percentage of the maximum available power is: The credit amount is:

At least 20 percent but less than 30 percent	\$4,000
At least 30 percent but less than 40 percent	\$4,500
At least 40 percent but less than 50 percent	\$5,000
At least 50 percent but less than 60 percent	\$5,500
At least 60 percent	\$6,000.

11 “(III) If such vehicle has a gross
12 vehicle weight rating of more than
13 26,000 pounds:

“If percentage of the maximum available power is: The credit amount is:

At least 20 percent but less than 30 percent	\$6,000
At least 30 percent but less than 40 percent	\$7,000
At least 40 percent but less than 50 percent	\$8,000
At least 50 percent but less than 60 percent	\$9,000
At least 60 percent	\$10,000.

14 “(B) INCREASE FOR FUEL EFFICIENCY.—

1 “(i) AMOUNT.—The amount deter-
2 mined under subparagraph (A)(i) with re-
3 spect to a passenger automobile or light
4 truck shall be increased by—

5 “(I) \$1,000, if such vehicle
6 achieves at least 125 percent but less
7 than 150 percent of the 2000 model
8 year city fuel economy,

9 “(II) \$1,500, if such vehicle
10 achieves at least 150 percent but less
11 than 175 percent of the 2000 model
12 year city fuel economy,

13 “(III) \$2,000, if such vehicle
14 achieves at least 175 percent but less
15 than 200 percent of the 2000 model
16 year city fuel economy,

17 “(IV) \$2,500, if such vehicle
18 achieves at least 200 percent but less
19 than 225 percent of the 2000 model
20 year city fuel economy,

21 “(V) \$3,000, if such vehicle
22 achieves at least 225 percent but less
23 than 250 percent of the 2000 model
24 year city fuel economy, and

1 “(VI) \$3,500, if such vehicle
2 achieves at least 250 percent of the
3 2000 model year city fuel economy.

4 “(ii) 2000 MODEL YEAR CITY FUEL
5 ECONOMY.—For purposes of clause (i), the
6 2000 model year city fuel economy with re-
7 spect to a vehicle shall be determined using
8 the tables provided in subsection (b)(2)(B)
9 with respect to such vehicle.

10 “(iii) OPTION TO USE LIKE VEHI-
11 CLE.—For purposes of clause (i), at the
12 option of the vehicle manufacturer, the in-
13 crease for fuel efficiency may be calculated
14 by comparing the new qualified hybrid
15 motor vehicle to a ‘like vehicle’.

16 “(C) INCREASE FOR ACCELERATED EMIS-
17 SIONS PERFORMANCE.—The amount deter-
18 mined under subparagraph (A)(ii) with respect
19 to an applicable heavy duty hybrid motor vehi-
20 cle shall be increased by the increase credit
21 amount determined in accordance with the fol-
22 lowing tables:

23 “(i) In the case of a vehicle which has
24 a gross vehicle weight rating of not more
25 than 14,000 pounds:

“If the model year is:	The increase credit amount is:
2002	\$3,500
2003	\$3,000
2004	\$2,500
2005	\$2,000
2006	\$1,500.

1 “(ii) In the case of a vehicle which
 2 has a gross vehicle weight rating of more
 3 than 14,000 pounds but not more than
 4 26,000 pounds:

“If the model year is:	The increase credit amount is:
2002	\$9,000
2003	\$7,750
2004	\$6,500
2005	\$5,250
2006	\$4,000.

5 “(iii) In the case of a vehicle which
 6 has a gross vehicle weight rating of more
 7 than 26,000 pounds:

“If the model year is:	The increase credit amount is:
2002	\$14,000
2003	\$12,000
2004	\$10,000
2005	\$8,000
2006	\$6,000.

8 “(D) CONSERVATION CREDIT.—

9 “(i) AMOUNT.—The amount deter-
 10 mined under subparagraph (A)(i) with re-
 11 spect to a passenger automobile or light
 12 truck shall be increased by—

13 “(I) \$250, if such vehicle
 14 achieves a lifetime fuel savings of at
 15 least 1,500 gallons of gasoline, and

1 “(II) \$500, if such vehicle
2 achieves a lifetime fuel savings of at
3 least 2,500 gallons of gasoline.

4 “(ii) LIFETIME FUEL SAVINGS FOR
5 LIKE VEHICLE.—For purposes of clause
6 (i), at the option of the vehicle manufac-
7 turer, the lifetime fuel savings fuel may be
8 calculated by comparing the new qualified
9 hybrid motor vehicle to a ‘like vehicle’.

10 “(E) DEFINITIONS.—

11 “(i) APPLICABLE HEAVY DUTY HY-
12 BRID MOTOR VEHICLE.—For purposes of
13 subparagraph (C), the term ‘applicable
14 heavy duty hybrid motor vehicle’ means a
15 heavy duty hybrid motor vehicle which is
16 powered by an internal combustion or heat
17 engine which is certified as meeting the
18 emission standards set in the regulations
19 prescribed by the Administrator of the En-
20 vironmental Protection Agency for 2007
21 and later model year diesel heavy duty en-
22 gines or 2008 and later model year
23 ottocycle heavy duty engines, as applicable.

24 “(ii) HEAVY DUTY HYBRID MOTOR VE-
25 HICLE.—For purposes of this paragraph,

1 the term ‘heavy duty hybrid motor vehicle’
2 means a new qualified hybrid motor vehicle
3 which has a gross vehicle weight rating of
4 more than 10,000 pounds and draws pro-
5 pulsion energy from both of the following
6 onboard sources of stored energy:

7 “(I) An internal combustion or
8 heat engine using consumable fuel
9 which, for 2002 and later model vehi-
10 cles, has received a certificate of con-
11 formity under the Clean Air Act and
12 meets or exceeds a level of not greater
13 than 3.0 grams per brake horsepower-
14 hour of oxides of nitrogen and 0.01
15 per brake horsepower-hour of particu-
16 late matter.

17 “(II) A rechargeable energy stor-
18 age system.

19 “(iii) MAXIMUM AVAILABLE POWER.—

20 “(I) PASSENGER AUTOMOBILE
21 OR LIGHT TRUCK.—For purposes of
22 subparagraph (A)(i), the term ‘max-
23 imum available power’ means the
24 maximum power available from the
25 battery or other electrical storage de-

1 vice, during a standard 10 second
2 pulse power test, divided by the sum
3 of the battery or other electrical stor-
4 age device and the SAE net power of
5 the heat engine.

6 “(II) HEAVY DUTY HYBRID
7 MOTOR VEHICLE.—For purposes of
8 subparagraph (A)(ii), the term ‘max-
9 imum available power’ means the
10 maximum power available from the
11 battery or other electrical storage de-
12 vice, during a standard 10 second
13 pulse power test, divided by the vehi-
14 cle’s total traction power. The term
15 ‘total traction power’ means the sum
16 of the electric motor peak power and
17 the heat engine peak power of the ve-
18 hicle, except that if the electric motor
19 is the sole means by which the vehicle
20 can be driven, the total traction power
21 is the peak electric motor power.

22 “(iv) LIKE VEHICLE.—For purposes
23 of subparagraph (B)(iii), the term ‘like ve-
24 hicle’ for a new qualified hybrid motor ve-
25 hicle derived from a conventional produc-

1 tion vehicle produced in the same model
2 year means a model that is equivalent in
3 the following areas:

4 “(I) Body style (2-door or 4-
5 door).

6 “(II) Transmission (automatic or
7 manual).

8 “(III) Acceleration performance
9 (± 0.05 seconds).

10 “(IV) Drivetrain (2-wheel drive
11 or 4-wheel drive).

12 “(V) Certification by the Admin-
13 istrator of the Environmental Protec-
14 tion Agency.

15 “(v) LIFETIME FUEL SAVINGS.—For
16 purposes of subsection (c)(2)(D), the term
17 ‘lifetime fuel savings’ shall be calculated by
18 dividing 120,000 by the difference between
19 the 2000 model year city fuel economy for
20 the vehicle inertia weight class and the city
21 fuel economy for the new qualified hybrid
22 motor vehicle.

23 “(3) NEW QUALIFIED HYBRID MOTOR VEHI-
24 CLE.—For purposes of this subsection, the term

1 ‘new qualified hybrid motor vehicle’ means a motor
2 vehicle—

3 “(A) which draws propulsion energy from
4 onboard sources of stored energy which are
5 both—

6 “(i) an internal combustion or heat
7 engine using combustible fuel, and

8 “(ii) a rechargeable energy storage
9 system,

10 “(B) which, in the case of a passenger
11 automobile or light truck, for 2002 and later
12 model vehicles, has received a certificate of con-
13 formity under the Clean Air Act and meets or
14 exceeds the equivalent qualifying California low
15 emission vehicle standard under section
16 243(e)(2) of the Clean Air Act for that make
17 and model year,

18 “(C) the original use of which commences
19 with the taxpayer,

20 “(D) which is acquired for use or lease by
21 the taxpayer and not for resale, and

22 “(E) which is made by a manufacturer.

23 “(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
24 VEHICLE CREDIT.—

1 “(1) ALLOWANCE OF CREDIT.—Except as pro-
2 vided in paragraph (5), the credit determined under
3 this subsection is an amount equal to the applicable
4 percentage of the incremental cost of any new quali-
5 fied alternative fuel motor vehicle placed in service
6 by the taxpayer during the taxable year.

7 “(2) APPLICABLE PERCENTAGE.—For purposes
8 of paragraph (1), the applicable percentage with re-
9 spect to any new qualified alternative fuel motor ve-
10 hicle is—

11 “(A) 50 percent, plus

12 “(B) 30 percent, if such vehicle—

13 “(i) has received a certificate of con-
14 formity under the Clean Air Act and meets
15 or exceeds the most stringent standard
16 available for certification under the Clean
17 Air Act for that make and model year vehi-
18 cle (other than a zero emission standard),
19 or

20 “(ii) has received an order from an
21 applicable State certifying the vehicle for
22 sale or lease in California and meets or ex-
23 ceeds the most stringent standard available
24 for certification under the State laws of
25 California (enacted in accordance with a

1 waiver granted under section 209(b) of the
2 Clean Air Act) for that make and model
3 year vehicle (other than a zero emission
4 standard).

5 “(3) INCREMENTAL COST.—For purposes of
6 this subsection, the incremental cost of any new
7 qualified alternative fuel motor vehicle is equal to
8 the amount of the excess of the manufacturer’s sug-
9 gested retail price for such vehicle over such price
10 for a gasoline or diesel fuel motor vehicle of the
11 same model, to the extent such amount does not
12 exceed—

13 “(A) \$5,000, if such vehicle has a gross ve-
14 hicle weight rating of not more than 8,500
15 pounds,

16 “(B) \$10,000, if such vehicle has a gross
17 vehicle weight rating of more than 8,500
18 pounds but not more than 14,000 pounds,

19 “(C) \$25,000, if such vehicle has a gross
20 vehicle weight rating of more than 14,000
21 pounds but not more than 26,000 pounds, and

22 “(D) \$40,000, if such vehicle has a gross
23 vehicle weight rating of more than 26,000
24 pounds.

1 “(4) QUALIFIED ALTERNATIVE FUEL MOTOR
2 VEHICLE DEFINED.—For purposes of this
3 subsection—

4 “(A) IN GENERAL.—The term ‘qualified
5 alternative fuel motor vehicle’ means any motor
6 vehicle—

7 “(i) which is only capable of operating
8 on an alternative fuel,

9 “(ii) the original use of which com-
10 mences with the taxpayer,

11 “(iii) which is acquired by the tax-
12 payer for use or lease, but not for resale,
13 and

14 “(iv) which is made by a manufac-
15 turer.

16 “(B) ALTERNATIVE FUEL.—The term ‘al-
17 ternative fuel’ means compressed natural gas,
18 liquefied natural gas, liquefied petroleum gas,
19 hydrogen, and any liquid at least 85 percent of
20 the volume of which consists of methanol.

21 “(5) CREDIT FOR MIXED-FUEL VEHICLES.—

22 “(A) IN GENERAL.—In the case of a
23 mixed-fuel vehicle placed in service by the tax-
24 payer during the taxable year, the credit deter-

1 mined under this subsection is an amount equal
2 to—

3 “(i) in the case of a 75/25 mixed-fuel
4 vehicle, 70 percent of the credit which
5 would have been allowed under this sub-
6 section if such vehicle was a qualified alter-
7 native fuel motor vehicle, and

8 “(ii) in the case of a 95/5 mixed-fuel
9 vehicle, 95 percent of the credit which
10 would have been allowed under this sub-
11 section if such vehicle was a qualified alter-
12 native fuel motor vehicle.

13 “(B) MIXED-FUEL VEHICLE.—For pur-
14 poses of this subsection, the term ‘mixed-fuel
15 vehicle’ means any motor vehicle described in
16 subparagraph (C) or (D) of paragraph (3),
17 which—

18 “(i) is certified by the manufacturer
19 as being able to perform efficiently in nor-
20 mal operation on a combination of an al-
21 ternative fuel and a petroleum-based fuel,

22 “(ii) either—

23 “(I) has received a certificate of
24 conformity under the Clean Air Act,
25 or

1 “(II) has received an order from
2 an applicable State certifying the vehi-
3 cle for sale or lease in California and
4 meets or exceeds the low emission ve-
5 hicle standard under section 88.105–
6 94 of title 40, Code of Federal Regu-
7 lations, for that make and model year
8 vehicle,

9 “(iii) the original use of which com-
10 mences with the taxpayer,

11 “(iv) which is acquired by the tax-
12 payer for use or lease, but not for resale,
13 and

14 “(v) which is made by a manufac-
15 turer.

16 “(C) 75/25 MIXED-FUEL VEHICLE.—For
17 purposes of this subsection, the term ‘75/25
18 mixed-fuel vehicle’ means a mixed-fuel vehicle
19 which operates using at least 75 percent alter-
20 native fuel and not more than 25 percent petro-
21 leum-based fuel.

22 “(D) 95/5 MIXED-FUEL VEHICLE.—For
23 purposes of this subsection, the term ‘95/5
24 mixed-fuel vehicle’ means a mixed-fuel vehicle
25 which operates using at least 95 percent alter-

1 native fuel and not more than 5 percent petro-
2 leum-based fuel.

3 “(e) ADVANCED LEAN BURN TECHNOLOGY MOTOR
4 VEHICLE CREDIT.—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a), the advanced lean burn technology motor vehicle
7 credit determined under this subsection with respect
8 to a new qualified advanced lean burn technology
9 motor vehicle placed in service by the taxpayer dur-
10 ing the taxable year is the credit amount determined
11 under paragraph (2).

12 “(2) CREDIT AMOUNT.—

13 “(A) INCREASE FOR FUEL EFFICIENCY.—
14 The credit amount determined under this para-
15 graph shall be—

16 “(i) \$1,000, if such vehicle achieves at
17 least 125 percent but less than 150 per-
18 cent of the 2000 model year city fuel econ-
19 omy,

20 “(ii) \$1,500, if such vehicle achieves
21 at least 150 percent but less than 175 per-
22 cent of the 2000 model year city fuel econ-
23 omy,

24 “(iii) \$2,000, if such vehicle achieves
25 at least 175 percent but less than 200 per-

1 cent of the 2000 model year city fuel econ-
2 omy,

3 “(iv) \$2,500, if such vehicle achieves
4 at least 200 percent but less than 225 per-
5 cent of the 2000 model year city fuel econ-
6 omy,

7 “(v) \$3,000, if such vehicle achieves
8 at least 225 percent but less than 250 per-
9 cent of the 2000 model year city fuel econ-
10 omy, and

11 “(vi) \$3,500, if such vehicle achieves
12 at least 250 percent of the 2000 model
13 year city fuel economy.

14 For purposes of clause (i), the 2000 model year
15 city fuel economy with respect to a vehicle shall
16 be determined using the tables provided in sub-
17 section (b)(2)(B) with respect to such vehicle.

18 “(B) CONSERVATION CREDIT.—

19 “(i) AMOUNT.—The amount deter-
20 mined under subparagraph (A)(i) with re-
21 spect to an advanced lean burn technology
22 motor vehicle shall be increased by—

23 “(I) \$250, if such vehicle
24 achieves a lifetime fuel savings of at
25 least 1,500 gallons of gasoline, and

1 “(II) \$500, if such vehicle
2 achieves a lifetime fuel savings of at
3 least 2,500 gallons of gasoline.

4 “(C) OPTION TO USE LIKE VEHICLE.—For
5 purposes of paragraph (2), at the option of the
6 vehicle manufacturer, the increase for fuel effi-
7 ciency and conservation credit may be cal-
8 culated by comparing the new advanced lean-
9 burn technology motor vehicle to a “like vehi-
10 cle”.

11 “(D) DEFINITIONS.—

12 “(i) ADVANCED LEAN BURN TECH-
13 NOLOGY MOTOR VEHICLE.—For purposes
14 of subparagraph (E), the term ‘advanced
15 lean burn technology motor vehicle’ means
16 a motor vehicle with an internal combus-
17 tion engine that—

18 “(I) is designed to operate pri-
19 marily using more air than is nec-
20 essary for complete combustion of the
21 fuel,

22 “(II) incorporates direct injec-
23 tion,

1 “(III) achieves at least 125 per-
2 cent of the 2000 model year city fuel
3 economy, and

4 “(IV) for 2004 and later model
5 vehicles, has received a certificate that
6 such vehicle meets or exceeds the Bin
7 5, Tier 2 emission levels (for pas-
8 senger vehicles) or Bin 8, Tier 2 emis-
9 sion levels (for light trucks) estab-
10 lished in regulations prescribed by the
11 Administrator of the Environmental
12 Protection Agency under section
13 202(i) of the Clean Air Act for that
14 make and model year vehicle.

15 “(ii) LIKE VEHICLE.—For purposes of
16 subparagraph (E), the term ‘like vehicle’
17 for an advanced lean burn technology
18 motor vehicle derived from a conventional
19 production vehicle produced in the same
20 model year means a model that is equiva-
21 lent in the following areas:

22 “(I) Body style (2-door or 4-
23 door),

24 “(II) Transmission (automatic or
25 manual),

1 “(III) Acceleration performance
2 (\pm 0.05 seconds).

3 “(IV) Drivetrain (2-wheel drive
4 or 4-wheel drive).

5 “(V) Certification by the Admin-
6 istrator of the Environmental Protec-
7 tion Agency.

8 “(iii) LIFETIME FUEL SAVINGS.—For
9 purposes of subsection (c)(2)(D), the term
10 ‘lifetime fuel savings’ shall be calculated by
11 dividing 120,000 by the difference between
12 the 2000 model year city fuel economy for
13 the vehicle inertia weight class and the city
14 fuel economy for the new qualified hybrid
15 motor vehicle.

16 “(f) LIMITATION BASED ON AMOUNT OF TAX.—The
17 credit allowed under subsection (a) for the taxable year
18 shall not exceed the excess of—

19 “(1) the sum of the regular tax liability (as de-
20 fined in section 26(b)) plus the tax imposed by sec-
21 tion 55, over

22 “(2) the sum of the credits allowable under sub-
23 part A and sections 27, 29, and 30A for the taxable
24 year.

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

2 For purposes of this section—

3 “(1) CONSUMABLE FUEL.—The term
4 ‘consumable fuel’ means any solid, liquid, or gaseous
5 matter which releases energy when consumed by an
6 auxiliary power unit.

7 “(2) MOTOR VEHICLE.—The term ‘motor vehi-
8 cle’ has the meaning given such term by section
9 30(c)(2).

10 “(3) 2000 MODEL YEAR CITY FUEL ECON-
11 OMY.—The 2000 model year city fuel economy with
12 respect to any vehicle shall be measured under rules
13 similar to the rules under section 4064(c).

14 “(4) OTHER TERMS.—The terms ‘automobile’,
15 ‘passenger automobile’, ‘light truck’, and ‘manufac-
16 turer’ have the meanings given such terms in regula-
17 tions prescribed by the Administrator of the Envi-
18 ronmental Protection Agency for purposes of the ad-
19 ministration of title II of the Clean Air Act (42
20 U.S.C. 7521 et seq.).

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

1 “(6) NO DOUBLE BENEFIT.—The amount of
2 any deduction or credit allowable under this
3 chapter—

4 “(A) for any incremental cost taken into
5 account in computing the amount of the credit
6 determined under subsection (d) shall be re-
7 duced by the amount of such credit attributable
8 to such cost, and

9 “(B) with respect to a vehicle described
10 under subsection (b) or (c), shall be reduced by
11 the amount of credit allowed under subsection
12 (a) for such vehicle for the taxable year.

13 “(7) PROPERTY USED BY TAX-EXEMPT ENTI-
14 TIES.—In the case of a credit amount which is al-
15 lowable with respect to a motor vehicle which is ac-
16 quired by an entity exempt from tax under this
17 chapter, the person which sells or leases such vehicle
18 to the entity shall be treated as the taxpayer with
19 respect to the vehicle for purposes of this section
20 and the credit shall be allowed to such person, but
21 only if the person clearly discloses to the entity in
22 any sale or lease document the specific amount of
23 any credit otherwise allowable to the entity under
24 this section and reduces the sale or lease price of
25 such vehicle by an equivalent amount of such credit.

1 “(8) RECAPTURE.—The Secretary shall, by reg-
2 ulations, provide for recapturing the benefit of any
3 credit allowable under subsection (a) with respect to
4 any property which ceases to be property eligible for
5 such credit (including recapture in the case of a
6 lease period of less than the economic life of a vehi-
7 cle).

8 “(9) PROPERTY USED OUTSIDE UNITED
9 STATES, ETC., NOT QUALIFIED.—No credit shall be
10 allowed under subsection (a) with respect to any
11 property referred to in section 50(b) or with respect
12 to the portion of the cost of any property taken into
13 account under section 179.

14 “(10) ELECTION TO NOT TAKE CREDIT.—No
15 credit shall be allowed under subsection (a) for any
16 vehicle if the taxpayer elects to not have this section
17 apply to such vehicle.

18 “(11) CARRYFORWARD ALLOWED.—

19 “(A) IN GENERAL.—If the credit amount
20 allowable under subsection (a) for a taxable
21 year exceeds the amount of the limitation under
22 subsection (f) for such taxable year (referred to
23 as the ‘unused credit year’ in this paragraph),
24 such excess shall be allowed as a credit

1 carryforward for each of the 20 taxable years
2 following the unused credit year.

3 “(B) RULES.—Rules similar to the rules of
4 section 39 shall apply with respect to the credit
5 carryforward under subparagraph (A).

6 “(12) INTERACTION WITH AIR QUALITY AND
7 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
8 erwise provided in this section, a motor vehicle shall
9 not be considered eligible for a credit under this sec-
10 tion unless such vehicle is in compliance with—

11 “(A) the applicable provisions of the Clean
12 Air Act for the applicable make and model year
13 of the vehicle (or applicable air quality provi-
14 sions of State law in the case of a State which
15 has adopted such provision under a waiver
16 under section 209(b) of the Clean Air Act), and

17 “(B) the motor vehicle safety provisions of
18 sections 30101 through 30169 of title 49,
19 United States Code.

20 “(h) REGULATIONS.—

21 “(1) IN GENERAL.—The Secretary shall pro-
22 mulgate such regulations as necessary to carry out
23 the provisions of this section.

24 “(2) ADMINISTRATOR OF ENVIRONMENTAL
25 PROTECTION AGENCY.—The Administrator of the

1 Environmental Protection Agency, in coordination
2 with the Secretary of Transportation and the Sec-
3 retary of the Treasury, shall prescribe such regula-
4 tions as necessary to determine whether a motor ve-
5 hicle meets the requirements to be eligible for a
6 credit under this section.

7 “(i) TERMINATION.—This section shall not apply to
8 any property placed in service after—

9 “(1) in the case of a new qualified fuel cell
10 motor vehicle (as described in subsection (b)), De-
11 cember 31, 2011, and

12 “(2) in the case of any other property, Decem-
13 ber 31, 2007.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 1016(a) is amended by striking
16 “and” at the end of paragraph (29), by striking the
17 period at the end of paragraph (30) and inserting “,
18 and”, and by adding at the end the following:

19 “(31) to the extent provided in section
20 30B(g)(5).”.

21 (2) Section 6501(m) is amended by inserting
22 “30B(g)(10),” after “30(d)(4),”.

23 (3) The table of sections for subpart B of part
24 IV of subchapter A of chapter 1 is amended by in-

1 serting after the item relating to section 30A the fol-
2 lowing:

 “Sec. 30B. Alternative motor vehicle credit.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to property placed in service after
5 December 31, 2001, in taxable years ending after such
6 date.

7 **SEC. 105. EXTENSION OF DEDUCTION FOR CERTAIN RE-**
8 **FUELING PROPERTY.**

9 (a) **IN GENERAL.**—Section 179A(f) (relating to ter-
10 mination) is amended by striking “2004” and inserting
11 “2007”.

12 (b) **MODIFICATION OF PHASEOUT.**—Subparagraph
13 (B) of section 179A(b)(1) is amended—

14 (1) in clause (i), by striking “2002” and insert-
15 ing “2005”,

16 (2) in clause (ii), by striking “2003” and in-
17 serting “2006”, and

18 (3) in clause (iii), by striking “2004” and in-
19 serting “2007”.

20 **SEC. 106. MODIFICATION OF CREDIT FOR QUALIFIED ELEC-**
21 **TRIC VEHICLES.**

22 (a) **AMOUNT OF CREDIT.**—

23 (1) **IN GENERAL.**—Section 30(a) (relating to al-
24 lowance of credit) is amended by striking “10 per-
25 cent of”.

1 (2) LIMITATION OF CREDIT ACCORDING TO
2 TYPE OF VEHICLE.—Section 30(b) (relating to limi-
3 tations) is amended—

4 (A) by striking paragraphs (1) and (2) and
5 inserting the following:

6 “(1) LIMITATION ACCORDING TO TYPE OF VE-
7 HICLE.—The amount of the credit allowed under
8 subsection (a) for any vehicle shall not exceed the
9 greatest of the following amounts applicable to such
10 vehicle:

11 “(A) In the case of a vehicle which con-
12 forms to the Motor Vehicle Safety Standard
13 500 prescribed by the Secretary of Transpor-
14 tation, the lesser of—

15 “(i) 10 percent of the manufacturer’s
16 suggested retail price of the vehicle, or

17 “(ii) \$4,000.

18 “(B) In the case of a vehicle with a gross
19 vehicle weight rating not exceeding 8,500
20 pounds—

21 “(i) \$4,000, or

22 “(ii) \$5,000, if such vehicle is—

23 “(I) capable of a driving range of
24 at least 70 miles on a single charge of
25 the vehicle’s rechargeable batteries

1 and measured pursuant to the urban
2 dynamometer schedules under appen-
3 dix I to part 86 of title 40, Code of
4 Federal Regulations, or

5 “(II) capable of a payload capac-
6 ity of at least 1,000 pounds.

7 “(C) In the case of a vehicle with a gross
8 vehicle weight rating exceeding 8,500 pounds
9 but not exceeding 14,000 pounds, \$10,000.

10 “(D) In the case of a vehicle with a gross
11 vehicle weight rating exceeding 14,000 pounds
12 but not exceeding 26,000 pounds, \$20,000.

13 “(E) In the case of a vehicle with a gross
14 vehicle weight rating exceeding 26,000 pounds,
15 \$40,000.”, and

16 (B) by redesignating paragraph (3) as
17 paragraph (2).

18 (3) CONFORMING AMENDMENTS.—

19 (A) Section 53(d)(1)(B)(iii) is amended by
20 striking “section 30(b)(3)(B)” and inserting
21 “section 30(b)(2)(B)”.

22 (B) Section 55(c)(2) is amended by strik-
23 ing “30(b)(3)” and inserting “30(b)(2)”.

24 (b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

1 (1) IN GENERAL.—Section 30(c)(1)(A) (defin-
2 ing qualified electric vehicle) is amended to read as
3 follows:

4 “(A) which is—

5 “(i) operated solely by use of a bat-
6 tery or battery pack, or

7 “(ii) powered primarily through the
8 use of an electric battery or battery pack
9 using a flywheel or capacitor which stores
10 energy produced by an electric motor
11 through regenerative braking to assist in
12 vehicle operation,”.

13 (2) LEASED VEHICLES.—Section 30(c)(1)(C) is
14 amended by inserting “or lease” after “use”.

15 (3) CONFORMING AMENDMENTS.—

16 (A) Subsections (a), (b)(2), and (c) of sec-
17 tion 30 are each amended by inserting “bat-
18 tery” after “qualified” each place it appears.

19 (B) The heading of subsection (c) of sec-
20 tion 30 is amended by inserting “BATTERY”
21 after “QUALIFIED”.

22 (C) The heading of section 30 is amended
23 by inserting “**BATTERY**” after “**QUALIFIED**”.

24 (D) The item relating to section 30 in the
25 table of sections for subpart B of part IV of

1 subchapter A of chapter 1 is amended by in-
2 serting “battery” after “qualified”.

3 (E) Section 179A(c)(3) is amended by in-
4 serting “battery” before “electric”.

5 (F) The heading of paragraph (3) of sec-
6 tion 179A(c) is amended by inserting “BAT-
7 TERY” before “ELECTRIC”.

8 (c) ADDITIONAL SPECIAL RULES.—Section 30(d)
9 (relating to special rules) is amended by adding at the end
10 the following:

11 “(5) NO DOUBLE BENEFIT.—The amount of
12 any deduction or credit allowable under this chapter
13 for any cost taken into account in computing the
14 amount of the credit determined under subsection
15 (a) shall be reduced by the amount of such credit at-
16 tributable to such cost.

17 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-
18 TIES.—In the case of a credit amount which is al-
19 lowable with respect to a vehicle which is acquired
20 by an entity exempt from tax under this chapter, the
21 person which sells or leases such vehicle to the entity
22 shall be treated as the taxpayer with respect to the
23 vehicle for purposes of this section and the credit
24 shall be allowed to such person, but only if the per-
25 son clearly discloses to the entity in any sale or lease

1 contract the specific amount of any credit otherwise
2 allowable to the entity under this section and re-
3 duces the sale or lease price of such vehicle by an
4 equivalent amount of such credit.

5 “(7) CARRYFORWARD ALLOWED.—

6 “(A) IN GENERAL.—If the credit amount
7 allowable under subsection (a) for a taxable
8 year exceeds the amount of the limitation under
9 subsection (b)(3) for such taxable year, such ex-
10 cess shall be allowed as a credit carryforward
11 for each of the 20 taxable years following such
12 taxable year.

13 “(B) RULES.—Rules similar to the rules of
14 section 39 shall apply with respect to the credit
15 carryforward under subparagraph (A).

16 (d) EXTENSION.—Section 30(e) (relating to termi-
17 nation) is amended by striking “2004” and inserting
18 “2007”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 December 31, 2001, in taxable years ending after such
22 date.

1 **SEC. 107. TAX CREDIT FOR ENERGY EFFICIENT APPLI-**
2 **ANCES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 (relating to business-related cred-
5 its) is amended by adding at the end the following new
6 section:

7 **“SEC. 45G. ENERGY EFFICIENT APPLIANCE CREDIT.**

8 “(a) GENERAL RULE.—For purposes of section 38,
9 the energy efficient appliance credit determined under this
10 section for the taxable year is an amount equal to the ap-
11 plicable amount determined under subsection (b) with re-
12 spect to the eligible production of qualified energy efficient
13 appliances produced by the taxpayer during the calendar
14 year ending with or within the taxable year.

15 “(b) APPLICABLE AMOUNT; ELIGIBLE PRODUC-
16 TION.—For purposes of subsection (a)—

17 “(1) APPLICABLE AMOUNT.—The applicable
18 amount is—

19 “(A) \$50 in the case of an energy efficient
20 clothes washer described in subsection (d)(2)(A)
21 or an energy efficient refrigerator described in
22 subsection (d)(3)(B)(i), and

23 “(B) \$100 in the case of any other energy
24 efficient clothes washer or energy efficient re-
25 frigerator.

26 “(2) ELIGIBLE PRODUCTION.—

1 “(A) IN GENERAL.—The eligible produc-
2 tion of each category of qualified energy effi-
3 cient appliances is the excess of—

4 “(i) the number of appliances in such
5 category which are produced by the tax-
6 payer during such calendar year, over

7 “(ii) the average number of appliances
8 in such category which were produced by
9 the taxpayer during calendar years 1998,
10 1999, and 2000.

11 “(B) CATEGORIES.—For purposes of sub-
12 paragraph (A), the categories are—

13 “(i) energy efficient clothes washers
14 described in subsection (d)(2)(A),

15 “(ii) energy efficient clothes washers
16 described in subsection (d)(2)(B),

17 “(iii) energy efficient refrigerators de-
18 scribed in subsection (d)(3)(B)(i), and

19 “(iv) energy efficient refrigerators de-
20 scribed in subsection (d)(3)(B)(ii).

21 “(C) SPECIAL RULE FOR 2001 PRODUC-
22 TION.—For purposes of determining eligible
23 production for calendar year 2001—

24 “(i) only production after the date of
25 the enactment of this section shall be

1 taken into account under subparagraph
2 (A)(i), and

3 “(ii) the amount taken into account
4 under subparagraph (A)(ii) shall be an
5 amount which bears the same ratio to the
6 amount which would (but for this subpara-
7 graph) be taken into account under sub-
8 paragraph (A)(ii) as—

9 “(I) the number of days in cal-
10 endar year 2001 after the date of the
11 enactment of this section, bears to

12 “(II) 365.

13 “(c) LIMITATION ON MAXIMUM CREDIT.—

14 “(1) IN GENERAL.—The maximum amount of
15 credit allowed under subsection (a) with respect to
16 a taxpayer for all taxable years shall be—

17 “(A) \$30,000,000 with respect to the cred-
18 it determined under subsection (b)(1)(A), and

19 “(B) \$30,000,000 with respect to the cred-
20 it determined under subsection (b)(1)(B).

21 “(2) LIMITATION BASED ON GROSS RE-
22 CEIPTS.—The credit allowed under subsection (a)
23 with respect to a taxpayer for the taxable year shall
24 not exceed an amount equal to 2 percent of the aver-
25 age annual gross receipts of the taxpayer for the 3

1 taxable years preceding the taxable year in which
2 the credit is determined.

3 “(3) GROSS RECEIPTS.—For purposes of this
4 subsection, the rules of paragraphs (2) and (3) of
5 section 448(c) shall apply.

6 “(d) QUALIFIED ENERGY EFFICIENT APPLIANCE.—
7 For purposes of this section:

8 “(1) IN GENERAL.—The term ‘qualified energy
9 efficient appliance’ means—

10 “(A) an energy efficient clothes washer, or

11 “(B) an energy efficient refrigerator.

12 “(2) ENERGY EFFICIENT CLOTHES WASHER.—

13 The term ‘energy efficient clothes washer’ means a
14 residential clothes washer, including a residential
15 style coin operated washer, which is manufactured
16 with—

17 “(A) a 1.26 MEF or greater, or

18 “(B) a 1.42 MEF (1.5 MEF for washers
19 produced after 2004) or greater.

20 “(3) ENERGY EFFICIENT REFRIGERATOR.—The
21 term ‘energy efficient refrigerator’ means an auto-
22 matic defrost refrigerator-freezer which—

23 “(A) has an internal volume of at least
24 16.5 cubic feet, and

25 “(B) consumes—

1 “(i) 10 percent less kw/hr/yr than the
2 energy conservation standards promulgated
3 by the Department of Energy for refrig-
4 erators produced during 2001, and

5 “(ii) 15 percent less kw/hr/yr than
6 such energy conservation standards for re-
7 frigerators produced after 2001.

8 “(4) MEF.—The term ‘MEF’ means Modified
9 Energy Factor (as determined by the Secretary of
10 Energy).

11 “(e) SPECIAL RULES.—

12 “(1) IN GENERAL.—Rules similar to the rules
13 of subsections (c), (d), and (e) of section 52 shall
14 apply for purposes of this section.

15 “(2) AGGREGATION RULES.—All persons treat-
16 ed as a single employer under subsection (a) or (b)
17 of section 52 or subsection (m) or (o) of section 414
18 shall be treated as 1 person for purposes of sub-
19 section (a).

20 “(f) VERIFICATION.—The taxpayer shall submit such
21 information or certification as the Secretary, in consulta-
22 tion with the Secretary of Energy, determines necessary
23 to claim the credit amount under subsection (a).

24 “(g) TERMINATION.—This section shall not apply—

1 “(1) with respect to energy efficient refrig-
2 erators described in subsection (d)(3)(B)(i) produced
3 after 2004, and

4 “(2) with respect to all other qualified energy
5 efficient appliances produced after 2006.”.

6 (b) LIMITATION ON CARRYBACK.—Section 39(d) (re-
7 lating to transition rules) is amended by adding at the
8 end the following new paragraph:

9 “(11) NO CARRYBACK OF ENERGY EFFICIENT
10 APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No
11 portion of the unused business credit for any taxable
12 year which is attributable to the energy efficient ap-
13 pliance credit determined under section 45G may be
14 carried to a taxable year ending before the date of
15 the enactment of section 45G.”.

16 (c) CONFORMING AMENDMENT.—Section 38(b) (re-
17 lating to general business credit) is amended by striking
18 “plus” at the end of paragraph (14), by striking the period
19 at the end of paragraph (15) and inserting “, plus”, and
20 by adding at the end the following new paragraph:

21 “(16) the energy efficient appliance credit de-
22 termined under section 45G(a).”.

23 (d) CLERICAL AMENDMENT.—The table of sections
24 for subpart D of part IV of subchapter A of chapter 1

1 is amended by inserting after the item relating to section
2 45F the following new item:

“Sec. 45G. Energy efficient appliance credit.”.

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

6 **SEC. 108. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
7 **MENTS TO EXISTING HOMES.**

8 (a) IN GENERAL.—Subpart A of part IV of sub-
9 chapter A of chapter 1 (relating to nonrefundable personal
10 credits) is amended by inserting after section 25D the fol-
11 lowing new section:

12 **“SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
13 **ING HOMES.**

14 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
15 dividual, there shall be allowed as a credit against the tax
16 imposed by this chapter for the taxable year an amount
17 equal to 20 percent of the amount paid or incurred by
18 the taxpayer for qualified energy efficiency improvements
19 installed during such taxable year.

20 “(b) LIMITATIONS.—

21 “(1) MAXIMUM CREDIT.—The credit allowed by
22 this section with respect to a dwelling shall not ex-
23 ceed \$2,000.

24 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
25 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a

1 credit was allowed to the taxpayer under subsection
2 (a) with respect to a dwelling in 1 or more prior tax-
3 able years, the amount of the credit otherwise allow-
4 able for the taxable year with respect to that dwell-
5 ing shall not exceed the amount of \$2,000 reduced
6 by the sum of the credits allowed under subsection
7 (a) to the taxpayer with respect to the dwelling for
8 all prior taxable years.

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

12 “(A) the sum of the regular tax liability
13 (as defined in section 26(b)) plus the tax im-
14 posed by section 55, over

15 “(B) the sum of the credits allowable
16 under this subpart (other than this section and
17 sections 23, 25B, 25C, and 25D) and section
18 27 for the taxable year.

19 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
20 credit allowable under subsection (a) exceeds the limita-
21 tion imposed by subsection (b)(3) for such taxable year,
22 such excess shall be carried to the succeeding taxable year
23 and added to the credit allowable under subsection (a) for
24 such succeeding taxable year.

1 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-
2 MENTS.—For purposes of this section, the term ‘qualified
3 energy efficiency improvements’ means any energy effi-
4 cient building envelope component that is certified to meet
5 or exceed the prescriptive criteria for such component es-
6 tablished by the 1998 International Energy Conservation
7 Code, if—

8 “(1) such component is installed in or on a
9 dwelling—

10 “(A) located in the United States, and

11 “(B) owned and used by the taxpayer as
12 the taxpayer’s principal residence (within the
13 meaning of section 121),

14 “(2) the original use of such component com-
15 mences with the taxpayer, and

16 “(3) such component reasonably can be ex-
17 pected to remain in use for at least 5 years.

18 The certification requirement of the preceding sentence
19 shall apply only to the extent that the aggregate cost of
20 such components exceeds \$1,000.

21 “(e) CERTIFICATION.—The certification described in
22 subsection (d) shall be—

23 “(1) determined on the basis of the technical
24 specifications or applicable ratings (including prod-
25 uct labeling requirements) for the measurement of

1 energy efficiency, based upon energy use or building
2 envelope component performance, for the energy effi-
3 cient building envelope component,

4 “(2) provided by a local building regulatory au-
5 thority, a utility, a manufactured home production
6 inspection primary inspection agency (IPLA), or an
7 accredited home energy rating system provider who
8 is accredited by or otherwise authorized to use ap-
9 proved energy performance measurement methods by
10 the Home Energy Ratings Systems Council or the
11 National Association of State Energy Officials, and

12 “(3) made in writing in a manner that specifies
13 in readily verifiable fashion the energy efficient
14 building envelope components installed and their re-
15 spective energy efficiency levels.

16 “(f) DEFINITIONS AND SPECIAL RULES.—

17 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
18 HOUSING CORPORATION.—In the case of an indi-
19 vidual who is a tenant-stockholder (as defined in sec-
20 tion 216) in a cooperative housing corporation (as
21 defined in such section), such individual shall be
22 treated as having paid his tenant-stockholder’s pro-
23 portionate share (as defined in section 216(b)(3)) of
24 the cost of qualified energy efficiency improvements
25 made by such corporation.

1 “(2) CONDOMINIUMS.—

2 “(A) IN GENERAL.—In the case of an indi-
3 vidual who is a member of a condominium man-
4 agement association with respect to a condo-
5 minium which he owns, such individual shall be
6 treated as having paid his proportionate share
7 of the cost of qualified energy efficiency im-
8 provements made by such association.

9 “(B) CONDOMINIUM MANAGEMENT ASSO-
10 CIATION.—For purposes of this paragraph, the
11 term ‘condominium management association’
12 means an organization which meets the require-
13 ments of paragraph (1) of section 528(c) (other
14 than subparagraph (E) thereof) with respect to
15 a condominium project substantially all of the
16 units of which are used as residences.

17 “(3) BUILDING ENVELOPE COMPONENT.—The
18 term ‘building envelope component’ means insulation
19 material or system which is specifically and pri-
20 marily designed to reduce the heat loss or gain of a
21 dwelling when installed in or on such dwelling, exte-
22 rior windows (including skylights) and doors, and
23 metal roofs with appropriate pigmented coatings
24 which are specifically and primarily designed to re-

1 duce the heat gain of a dwelling when installed in
2 or on such dwelling.

3 “(4) MANUFACTURED HOMES INCLUDED.—For
4 purposes of this section, the term ‘dwelling’ includes
5 a manufactured home which conforms to Federal
6 Manufactured Home Construction and Safety Stand-
7 ards (24 C.F.R. 3280).

8 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
9 title, if a credit is allowed under this section for any ex-
10 penditure with respect to any property, the increase in the
11 basis of such property which would (but for this sub-
12 section) result from such expenditure shall be reduced by
13 the amount of the credit so allowed.

14 “(h) APPLICATION OF SECTION.—This section shall
15 apply to qualified energy efficiency improvements installed
16 after December 31, 2001 and before January 1, 2007.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Subsection (a) of section 1016 is amended
19 by striking “and” at the end of paragraph (30), by
20 striking the period at the end of paragraph (31) and
21 inserting “, and”, and by adding at the end the fol-
22 lowing new paragraph:

23 “(32) to the extent provided in section 25E(g),
24 in the case of amounts with respect to which a credit
25 has been allowed under section 25E.”.

1 (2) The table of sections for subpart A of part
2 IV of subchapter A of chapter 1 is amended by in-
3 serting after the item relating to section 25D the
4 following new item:

 “Sec. 25E. Energy efficiency improvements to existing homes.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years ending after De-
7 cember 31, 2001.

8 **SEC. 109. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**
9 **ENERGY EFFICIENT HOME.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-
11 chapter A of chapter 1 (relating to business related cred-
12 its) is amended by inserting after section 45G the fol-
13 lowing new section:

14 **“SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.**

15 “(a) IN GENERAL.—For purposes of section 38, in
16 the case of an eligible contractor, the credit determined
17 under this section for the taxable year is an amount equal
18 to the aggregate adjusted bases of all energy efficient
19 property installed in a qualified new energy efficient home
20 during construction of such home.

21 “(b) LIMITATIONS.—

22 “(1) MAXIMUM CREDIT.—

23 “(A) IN GENERAL.—The credit allowed by
24 this section with respect to a dwelling shall not
25 exceed \$2,000.

1 “(B) PRIOR CREDIT AMOUNTS ON SAME
2 DWELLING TAKEN INTO ACCOUNT.—If a credit
3 was allowed under subsection (a) with respect
4 to a dwelling in 1 or more prior taxable years,
5 the amount of the credit otherwise allowable for
6 the taxable year with respect to that dwelling
7 shall not exceed the amount of \$2,000 reduced
8 by the sum of the credits allowed under sub-
9 section (a) with respect to the dwelling for all
10 prior taxable years.

11 “(2) COORDINATION WITH REHABILITATION
12 AND ENERGY CREDITS.—For purposes of this
13 section—

14 “(A) the basis of any property referred to
15 in subsection (a) shall be reduced by that por-
16 tion of the basis of any property which is attrib-
17 utable to qualified rehabilitation expenditures
18 (as defined in section 47(c)(2)) or to the energy
19 percentage of energy property (as determined
20 under section 48(a)), and

21 “(B) expenditures taken into account
22 under either section 47 or 48(a) shall not be
23 taken into account under this section.

24 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
2 ble contractor’ means the person who constructed
3 the new energy efficient home, or in the case of a
4 manufactured home which conforms to Federal
5 Manufactured Home Construction and Safety Stand-
6 ards (24 C.F.R. 3280), the manufactured home pro-
7 ducer of such home.

8 “(2) ENERGY EFFICIENT PROPERTY.—The
9 term ‘energy efficient property’ means any energy
10 efficient building envelope component, and any en-
11 ergy efficient heating or cooling appliance.

12 “(3) QUALIFIED NEW ENERGY EFFICIENT
13 HOME.—The term ‘qualified new energy efficient
14 home’ means a dwelling—

15 “(A) located in the United States,

16 “(B) the construction of which is substan-
17 tially completed after December 31, 2001,

18 “(C) the original use of which is as a prin-
19 cipal residence (within the meaning of section
20 121) which commences with the person who ac-
21 quires such dwelling from the eligible con-
22 tractor, and

23 “(D) which is certified to have a level of
24 annual heating and cooling energy consumption
25 that is at least 30 percent below the annual

1 level of heating and cooling energy consumption
2 of a comparable dwelling constructed in accord-
3 ance with the standards of the 1998 Inter-
4 national Energy Conservation Code.

5 “(4) CONSTRUCTION.—The term ‘construction’
6 includes reconstruction and rehabilitation.

7 “(5) ACQUIRE.—The term ‘acquire’ includes
8 purchase and, in the case of reconstruction and re-
9 habilitation, such term includes a binding written
10 contract for such reconstruction or rehabilitation.

11 “(6) BUILDING ENVELOPE COMPONENT.—The
12 term ‘building envelope component’ means insulation
13 material or system which is specifically and pri-
14 marily designed to reduce the heat loss or gain of a
15 dwelling when installed in or on such dwelling, exte-
16 rior windows (including skylights) and doors, and
17 metal roofs with appropriate pigmented coatings
18 which are specifically and primarily designed to re-
19 duce the heat gain of a dwelling when installed in
20 or on such dwelling.

21 “(7) MANUFACTURED HOME INCLUDED.—The
22 term ‘dwelling’ includes a manufactured home con-
23 forming to Federal Manufactured Home Construc-
24 tion and Safety Standards (24 C.F.R. 3280).

25 “(d) CERTIFICATION.—

1 “(1) METHOD.—A certification described in
2 subsection (c)(3)(D) shall be determined on the
3 basis of one of the following methods:

4 “(A) The technical specifications or appli-
5 cable ratings (including product labeling re-
6 quirements) for the measurement of energy effi-
7 ciency for the energy efficient building envelope
8 component or energy efficient heating or cooling
9 appliance, based upon energy use or building
10 envelope component performance.

11 “(B) An energy performance measurement
12 method that utilizes computer software ap-
13 proved by organizations designated by the Sec-
14 retary.

15 “(2) PROVIDER.—Such certification shall be
16 provided by—

17 “(A) in the case of a method described in
18 paragraph (1)(A), a local building regulatory
19 authority, a utility, a manufactured home pro-
20 duction inspection primary inspection agency
21 (IPLA), or an accredited home energy rating
22 systems provider who is accredited by, or other-
23 wise authorized to use, approved energy per-
24 formance measurement methods by the Home

1 Energy Ratings Systems Council or the Na-
2 tional Association of State Energy Officials, or

3 “(B) in the case of a method described in
4 paragraph (1)(B), an individual recognized by
5 an organization designated by the Secretary for
6 such purposes.

7 “(3) FORM.—Such certification shall be made
8 in writing in a manner that specifies in readily
9 verifiable fashion the energy efficient building enve-
10 lope components and energy efficient heating or
11 cooling appliances installed and their respective en-
12 ergy efficiency levels, and in the case of a method
13 described in subparagraph (B) of paragraph (1), ac-
14 companied by written analysis documenting the
15 proper application of a permissible energy perform-
16 ance measurement method to the specific cir-
17 cumstances of such dwelling.

18 “(4) REGULATIONS.—

19 “(A) IN GENERAL.—In prescribing regula-
20 tions under this subsection for energy perform-
21 ance measurement methods, the Secretary shall
22 prescribe procedures for calculating annual en-
23 ergy costs for heating and cooling and cost sav-
24 ings and for the reporting of the results. Such
25 regulations shall—

1 “(i) be based on the National Home
2 Energy Rating Technical Guidelines of the
3 National Association of State Energy Offi-
4 cials, the Home Energy Rating Guidelines
5 of the Home Energy Rating Systems
6 Council, or the modified 1998 California
7 Residential ACM manual,

8 “(ii) provide that any calculation pro-
9 cedures be developed such that the same
10 energy efficiency measures allow a home to
11 qualify for the credit under this section re-
12 gardless of whether the house uses a gas
13 or oil furnace or boiler or an electric heat
14 pump, and

15 “(iii) require that any computer soft-
16 ware allow for the printing of the Federal
17 tax forms necessary for the credit under
18 this section and explanations for the home-
19 buyer of the energy efficient features that
20 were used to comply with the requirements
21 of this section.

22 “(B) PROVIDERS.—For purposes of para-
23 graph (2)(B), the Secretary shall establish re-
24 quirements for the designation of individuals
25 based on the requirements for energy consult-

1 ants and home energy raters specified by the
2 National Association of State Energy Officials.

3 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
4 title, if a credit is allowed under this section for any ex-
5 penditure with respect to any property, the increase in the
6 basis of such property which would (but for this sub-
7 section) result from such expenditure shall be reduced by
8 the amount of the credit so allowed.

9 “(f) TERMINATION.—Subsection (a) shall apply to
10 dwellings purchased during the period beginning on Janu-
11 ary 1, 2002, and ending on December 31, 2006.”.

12 (b) CREDIT MADE PART OF GENERAL BUSINESS
13 CREDIT.—Subsection (b) of section 38 (relating to current
14 year business credit) is amended by striking “plus” at the
15 end of paragraph (15), by striking the period at the end
16 of paragraph (16) and inserting “, plus”, and by adding
17 at the end thereof the following new paragraph:

18 “(17) the new energy efficient home credit de-
19 termined under section 45H.”.

20 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
21 (relating to certain expenses for which credits are allow-
22 able) is amended by adding at the end thereof the fol-
23 lowing new subsection:

24 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—
25 No deduction shall be allowed for that portion of expenses

1 for a new energy efficient home otherwise allowable as a
2 deduction for the taxable year which is equal to the
3 amount of the credit determined for such taxable year
4 under section 45H.”.

5 (d) LIMITATION ON CARRYBACK.—Subsection (d) of
6 section 39 is amended by adding at the end the following
7 new paragraph:

8 “(12) NO CARRYBACK OF NEW ENERGY EFFI-
9 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—
10 No portion of the unused business credit for any
11 taxable year which is attributable to the credit deter-
12 mined under section 45H may be carried back to
13 any taxable year ending before January 1, 2002.”.

14 (f) DEDUCTION FOR CERTAIN UNUSED BUSINESS
15 CREDITS.—Subsection (e) of section 196 is amended by
16 striking “and” at the end of paragraph (9), by striking
17 the period at the end of paragraph (10) and inserting “,
18 and”, and by adding after paragraph (10) the following
19 new paragraph:

20 “(11) the new energy efficient home credit de-
21 termined under section 45H.”.

22 (g) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1
24 is amended by inserting after the item relating to section
25 45G the following new item:

“Sec. 45H. New energy efficient home credit.”.

1 (h) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 2001.

4 **SEC. 110. ALLOWANCE OF DEDUCTION FOR ENERGY EFFI-**
5 **CIENT COMMERCIAL BUILDING PROPERTY.**

6 (a) IN GENERAL.—Part VI of subchapter B of chap-
7 ter 1 (relating to itemized deductions for individuals and
8 corporations) is amended by inserting after section 179A
9 the following new section:

10 **“SEC. 179B. DEDUCTION FOR ENERGY EFFICIENT COMMER-**
11 **CIAL BUILDING PROPERTY.**

12 “(a) ALLOWANCE OF DEDUCTION.—

13 “(1) IN GENERAL.—There shall be allowed as a
14 deduction an amount equal to energy efficient com-
15 mercial building property expenditures made by a
16 taxpayer for the taxable year.

17 “(2) MAXIMUM AMOUNT OF DEDUCTION.—The
18 amount of energy efficient commercial building prop-
19 erty expenditures taken into account under para-
20 graph (1) shall not exceed an amount equal to the
21 product of—

22 “(A) \$2.25, and

23 “(B) the square footage of the building
24 with respect to which the expenditures are
25 made.

1 “(3) YEAR DEDUCTION ALLOWED.—The deduc-
2 tion under paragraph (1) shall be allowed for the
3 taxable year in which the building is placed in serv-
4 ice.

5 “(b) ENERGY EFFICIENT COMMERCIAL BUILDING
6 PROPERTY EXPENDITURES.—For purposes of this sec-
7 tion, the term ‘energy efficient commercial building prop-
8 erty expenditures’ means an amount paid or incurred for
9 energy efficient commercial building property installed on
10 or in connection with new construction or reconstruction
11 of property—

12 “(1) for which depreciation is allowable under
13 section 167,

14 “(2) which is located in the United States, and

15 “(3) the construction or erection of which is
16 completed by the taxpayer.

17 Such property includes all residential rental property, in-
18 cluding low-rise multifamily structures and single family
19 housing property which is not within the scope of Stand-
20 ard 90.1–1999 (described in subsection (c)). Such term
21 includes expenditures for labor costs properly allocable to
22 the onsite preparation, assembly, or original installation
23 of the property.

24 “(c) ENERGY EFFICIENT COMMERCIAL BUILDING
25 PROPERTY.—For purposes of subsection (b)—

1 “(1) IN GENERAL.—The term ‘energy efficient
2 commercial building property’ means any property
3 which reduces total annual energy and power costs
4 with respect to the lighting, heating, cooling, ventila-
5 tion, and hot water supply systems of the building
6 by 50 percent or more in comparison to a reference
7 building which meets the requirements of Standard
8 90.1–1999 of the American Society of Heating, Re-
9 frigerating, and Air Conditioning Engineers and the
10 Illuminating Engineering Society of North America
11 using methods of calculation under paragraph (2)
12 and certified by qualified professionals as provided
13 under subsection (f).

14 “(2) METHODS OF CALCULATION.—The Sec-
15 retary, in consultation with the Secretary of Energy,
16 shall promulgate regulations which describe in detail
17 methods for calculating and verifying energy and
18 power consumption and cost, taking into consider-
19 ation the provisions of the 1998 California Nonresi-
20 dential ACM Manual. These procedures shall meet
21 the following requirements:

22 “(A) In calculating tradeoffs and energy
23 performance, the regulations shall prescribe the
24 costs per unit of energy and power, such as kil-
25 owatt hour, kilowatt, gallon of fuel oil, and

1 cubic foot or Btu of natural gas, which may be
2 dependent on time of usage.

3 “(B) The calculational methodology shall
4 require that compliance be demonstrated for a
5 whole building. If some systems of the building,
6 such as lighting, are designed later than other
7 systems of the building, the method shall pro-
8 vide that either—

9 “(i) the expenses taken into account
10 under subsection (a) shall not occur until
11 the date designs for all energy-using sys-
12 tems of the building are completed,

13 “(ii) the energy performance of all
14 systems and components not yet designed
15 shall be assumed to comply minimally with
16 the requirements of such Standard 90.1–
17 1999, or

18 “(iii) the expenses taken into account
19 under subsection (a) shall be a fraction of
20 such expenses based on the performance of
21 less than all energy-using systems in ac-
22 cordance with subparagraph (C).

23 “(C) The expenditures in connection with
24 the design of subsystems in the building, such
25 as the envelope, the heating, ventilation, air

1 conditioning and water heating system, and the
2 lighting system shall be allocated to the appro-
3 priate building subsystem based on system-spe-
4 cific energy cost savings targets in regulations
5 promulgated by the Secretary of Energy which
6 are equivalent, using the calculation method-
7 ology, to the whole building requirement of 50
8 percent savings.

9 “(D) The calculational methods under this
10 subparagraph need not comply fully with sec-
11 tion 11 of such Standard 90.1–1999.

12 “(E) The calculational methods shall be
13 fuel neutral, such that the same energy effi-
14 ciency features shall qualify a building for the
15 deduction under this subsection regardless of
16 whether the heating source is a gas or oil fur-
17 nace or an electric heat pump.

18 “(F) The calculational methods shall pro-
19 vide appropriate calculated energy savings for
20 design methods and technologies not otherwise
21 credited in either such Standard 90.1–1999 or
22 in the 1998 California Nonresidential ACM
23 Manual, including the following:

24 “(i) Natural ventilation.

25 “(ii) Evaporative cooling.

1 “(iii) Automatic lighting controls such
2 as occupancy sensors, photocells, and time-
3 clocks.

4 “(iv) Daylighting.

5 “(v) Designs utilizing semi-condi-
6 tioned spaces that maintain adequate com-
7 fort conditions without air conditioning or
8 without heating.

9 “(vi) Improved fan system efficiency,
10 including reductions in static pressure.

11 “(vii) Advanced unloading mecha-
12 nisms for mechanical cooling, such as mul-
13 tiple or variable speed compressors.

14 “(viii) The calculational methods may
15 take into account the extent of commis-
16 sioning in the building, and allow the tax-
17 payer to take into account measured per-
18 formance that exceeds typical performance.

19 “(3) COMPUTER SOFTWARE.—

20 “(A) IN GENERAL.—Any calculation under
21 this subsection shall be prepared by qualified
22 computer software.

23 “(B) QUALIFIED COMPUTER SOFTWARE.—

24 For purposes of this paragraph, the term
25 ‘qualified computer software’ means software—

1 “(i) for which the software designer
2 has certified that the software meets all
3 procedures and detailed methods for calcu-
4 lating energy and power consumption and
5 costs as required by the Secretary,

6 “(ii) which provides such forms as re-
7 quired to be filed by the Secretary in con-
8 nection with energy efficiency of property
9 and the deduction allowed under this sec-
10 tion, and

11 “(iii) which provides a notice form
12 which summarizes the energy efficiency
13 features of the building and its projected
14 annual energy costs.

15 “(d) ALLOCATION OF DEDUCTION FOR PUBLIC
16 PROPERTY.—In the case of energy efficient commercial
17 building property installed on or in public property, the
18 Secretary shall promulgate a regulation to allow the allo-
19 cation of the deduction to the person primarily responsible
20 for designing the property in lieu of the public entity which
21 is the owner of such property. Such person shall be treated
22 as the taxpayer for purposes of this section.

23 “(e) NOTICE TO OWNER.—The qualified individual
24 shall provide an explanation to the owner of the building
25 regarding the energy efficiency features of the building

1 and its projected annual energy costs as provided in the
2 notice under subsection (c)(3)(B)(iii).

3 “(f) CERTIFICATION.—The Secretary, in consultation
4 with the Secretary of Energy, shall establish requirements
5 for certification and compliance procedures similar to the
6 procedures under section 45H(d).

7 “(g) TERMINATION.—This section shall not apply to
8 property placed in service after December 31, 2006.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 1016(a) is amended by striking
11 “and” at the end of paragraph (31), by striking the
12 period at the end of paragraph (32) and inserting “,
13 and”, and by inserting the following new paragraph:

14 “(33) for amounts allowed as a deduction under
15 section 179B.”.

16 (2) Section 1245(a) is amended by inserting
17 “179B,” after “179A,” both places it appears in
18 paragraphs (2)(C) and (3)(C).

19 (3) Section 1250(b)(3) is amended by inserting
20 before the period at the end of the first sentence “or
21 by section 179B”.

22 (4) Section 263(a)(1) is amended by striking
23 “or” at the end of subparagraph (G), by striking the
24 period at the end of subparagraph (H) and inserting

1 “, or”, and by inserting after subparagraph (H) the
2 following new subparagraph:

3 “(I) expenditures for which a deduction is
4 allowed under section 179B.”.

5 (5) Section 312(k)(3)(B) is amended by strik-
6 ing “or 179A” each place it appears in the heading
7 and text and inserting “, 179A, or 179B”.

8 (c) CLERICAL AMENDMENT.—The table of sections
9 for part VI of subchapter B of chapter 1 is amended by
10 adding after section 179B the following new item:

“Sec. 179B. Energy property deduction.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2001.

14 **SEC. 111. ALLOWANCE OF DEDUCTION FOR QUALIFIED EN-**
15 **ERGY MANAGEMENT DEVICES AND RETRO-**
16 **FITTED QUALIFIED METERS.**

17 (a) IN GENERAL.—Part VI of subchapter B of chap-
18 ter 1 (relating to itemized deductions for individuals and
19 corporations) is amended by inserting after section 179B
20 the following new section:

21 **“SEC. 179C. DEDUCTION FOR QUALIFIED ENERGY MANAGE-**
22 **MENT DEVICES AND RETROFITTED METERS.**

23 “(a) ALLOWANCE OF DEDUCTION.—In the case of a
24 taxpayer who is a supplier of electric energy or natural
25 gas or a provider of electric energy or natural gas services,

1 there shall be allowed as a deduction an amount equal to
2 the cost of each qualified energy management device
3 placed in service during the taxable year.

4 “(b) MAXIMUM DEDUCTION.—The deduction allowed
5 by this section with respect to each qualified energy man-
6 agement device shall not exceed \$30.

7 “(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—
8 The term ‘qualified energy management device’ means any
9 tangible property to which section 168 applies if such
10 property is a meter or metering device—

11 “(1) which is acquired and used by the tax-
12 payer to enable consumers or others to manage their
13 purchase, sale, or use of electricity or natural gas in
14 response to energy price and usage signals, and

15 “(2) which permits reading of energy price and
16 usage signals on at least a daily basis.

17 “(d) PROPERTY USED OUTSIDE THE UNITED
18 STATES NOT QUALIFIED.—No deduction shall be allowed
19 under subsection (a) with respect to property which is
20 used predominantly outside the United States or with re-
21 spect to the portion of the cost of any property taken into
22 account under section 179.

23 “(e) BASIS REDUCTION.—

24 “(1) IN GENERAL.—For purposes of this title,
25 the basis of any property shall be reduced by the

1 amount of the deduction with respect to such prop-
2 erty which is allowed by subsection (a).

3 “(2) ORDINARY INCOME RECAPTURE.—For
4 purposes of section 1245, the amount of the deduc-
5 tion allowable under subsection (a) with respect to
6 any property that is of a character subject to the al-
7 lowance for depreciation shall be treated as a deduc-
8 tion allowed for depreciation under section 167.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 263(a)(1) is amended by striking
11 “or” at the end of subparagraph (H), by striking
12 the period at the end of subparagraph (I) and in-
13 sserting “, or”, and by inserting after subparagraph
14 (I) the following new subparagraph:

15 “(J) expenditures for which a deduction is
16 allowed under section 179C.”.

17 (2) Section 312(k)(3)(B) is amended by strik-
18 ing “or 179B” each place it appears in the heading
19 and text and inserting “, 179B, or 179C”.

20 (3) Section 1016(a) is amended by striking
21 “and” at the end of paragraph (32), by striking the
22 period at the end of paragraph (33) and inserting “,
23 and”, and by inserting after paragraph (33) the fol-
24 lowing new paragraph:

1 “(34) to the extent provided in section
2 179C(d)(1),”.

3 (4) Section 1245(a) is amended by inserting
4 “179C,” after “179B,” both places it appears in
5 paragraphs (2)(C) and (3)(C).

6 (5) The table of contents for subpart B of part
7 IV of subchapter A of chapter 1 is amended by in-
8 serting after the item relating to section 179B the
9 following new item:

“Sec. 179C. Deduction for qualified energy management devices
and retrofitted meters.”.

10 (c) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to qualified energy management
12 devices placed in service after the date of the enactment
13 of this Act.

14 **SEC. 112. 3-YEAR APPLICABLE RECOVERY PERIOD FOR DE-**
15 **PRECIATION OF QUALIFIED ENERGY MAN-**
16 **AGEMENT DEVICES.**

17 (a) **IN GENERAL.**—Subparagraph (A) of section
18 168(e)(3) (relating to classification of property) is amend-
19 ed by striking “and” at the end of clause (ii), by striking
20 the period at the end of clause (iii) and inserting “, and”,
21 and by adding at the end the following new clause:

22 “(iv) any qualified energy manage-
23 ment device.”.

1 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-
2 MENT DEVICE.—Section 168(i) (relating to definitions
3 and special rules) is amended by inserting at the end the
4 following new paragraph:

5 “(15) QUALIFIED ENERGY MANAGEMENT DE-
6 VICE.—The term ‘qualified energy management de-
7 vice’ means any qualified energy management device
8 as defined in section 179C(c) which is placed in
9 service by a taxpayer who is a supplier of electric en-
10 ergy or natural gas or a provider of electric energy
11 or natural gas services.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to property placed in service after
14 the date of the enactment of this Act.

15 **SEC. 113. ENERGY CREDIT FOR COMBINED HEAT AND**
16 **POWER SYSTEM PROPERTY.**

17 (a) IN GENERAL.—Subparagraph (A) of section
18 48(a)(3) (defining energy property) is amended by strik-
19 ing “or” at the end of clause (ii), by adding “or” at the
20 end of clause (iii), and by inserting after clause (iii) the
21 following new clause:

22 “(iv) combined heat and power system
23 property,”.

24 (b) COMBINED HEAT AND POWER SYSTEM PROP-
25 erty.—Subsection (a) of section 48 is amended by redess-

1 ignating paragraphs (5) and (6) as paragraphs (6) and
2 (7), respectively, and by inserting after paragraph (4) the
3 following new paragraph:

4 “(5) COMBINED HEAT AND POWER SYSTEM
5 PROPERTY.—For purposes of this subsection—

6 “(A) COMBINED HEAT AND POWER SYS-
7 TEM PROPERTY.—The term ‘combined heat and
8 power system property’ means property com-
9 prising a system—

10 “(i) which uses the same energy
11 source for the simultaneous or sequential
12 generation of electrical power, mechanical
13 shaft power, or both, in combination with
14 the generation of steam or other forms of
15 useful thermal energy (including heating
16 and cooling applications),

17 “(ii) which has an electrical capacity
18 of more than 50 kilowatts or a mechanical
19 energy capacity of more than 67 horse-
20 power or an equivalent combination of elec-
21 trical and mechanical energy capacities,

22 “(iii) which produces—

23 “(I) at least 20 percent of its
24 total useful energy in the form of
25 thermal energy, and

1 “(II) at least 20 percent of its
2 total useful energy in the form of elec-
3 trical or mechanical power (or com-
4 bination thereof),

5 “(iv) the energy efficiency percentage
6 of which exceeds 60 percent (70 percent in
7 the case of a system with an electrical ca-
8 pacity in excess of 50 megawatts or a me-
9 chanical energy capacity in excess of
10 67,000 horsepower, or an equivalent com-
11 bination of electrical and mechanical en-
12 ergy capacities), and

13 “(v) which is placed in service after
14 December 31, 2001, and before January 1,
15 2007.

16 “(B) SPECIAL RULES.—

17 “(i) ENERGY EFFICIENCY PERCENT-
18 AGE.—For purposes of subparagraph
19 (A)(iv), the energy efficiency percentage of
20 a system is the fraction—

21 “(I) the numerator of which is
22 the total useful electrical, thermal,
23 and mechanical power produced by
24 the system at normal operating rates,
25 and

1 “(II) the denominator of which is
2 the lower heating value of the primary
3 fuel source for the system.

4 “(ii) DETERMINATIONS MADE ON BTU
5 BASIS.—The energy efficiency percentage
6 and the percentages under subparagraph
7 (A)(iii) shall be determined on a Btu basis.

8 “(iii) INPUT AND OUTPUT PROPERTY
9 NOT INCLUDED.—The term ‘combined heat
10 and power system property’ does not in-
11 clude property used to transport the en-
12 ergy source to the facility or to distribute
13 energy produced by the facility.

14 “(iv) PUBLIC UTILITY PROPERTY.—

15 “(I) ACCOUNTING RULE FOR
16 PUBLIC UTILITY PROPERTY.—If the
17 combined heat and power system
18 property is public utility property (as
19 defined in section 168(i)(1)), the tax-
20 payer may only claim the credit under
21 the subsection if, with respect to such
22 property, the taxpayer uses a normal-
23 ization method of accounting.

24 “(II) CERTAIN EXCEPTION NOT
25 TO APPLY.—The matter in paragraph

1 (3) which follows subparagraph (D)
2 shall not apply to combined heat and
3 power system property.

4 “(C) EXTENSION OF DEPRECIATION RE-
5 COVERY PERIOD.—If a taxpayer is allowed cred-
6 it under this section for combined heat and
7 power system property and such property would
8 (but for this subparagraph) have a class life of
9 15 years or less under section 168, such prop-
10 erty shall be treated as having a 22-year class
11 life for purposes of section 168.”.

12 (c) NO CARRYBACK OF ENERGY CREDIT BEFORE
13 EFFECTIVE DATE.—Subsection (d) of section 39 is
14 amended by adding at the end the following new para-
15 graph:

16 “(13) NO CARRYBACK OF ENERGY CREDIT BE-
17 FORE EFFECTIVE DATE.—No portion of the unused
18 business credit for any taxable year which is attrib-
19 utable to the energy credit with respect to property
20 described in section 48(a)(5) may be carried back to
21 a taxable year ending before January 1, 2002.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service after
24 December 31, 2001.

1 **SEC. 114. NEW NONREFUNDABLE PERSONAL CREDITS AL-**
2 **LOWED AGAINST REGULAR AND MINIMUM**
3 **TAXES.**

4 (a) **IN GENERAL.**—Paragraph (1) of section 26(a) is
5 amended by striking “and 25B” and inserting “25B, 25C,
6 25D, and 25E”.

7 (b) **CONFORMING AMENDMENTS.**—

8 (1) Section 24(b)(3)(B) is amended by striking
9 “and 25B” “section 23” and inserting “25B, 25C,
10 25D, and 25E”.

11 (2) Section 25(e)(1)(C) is amended by inserting
12 “25C, 25D, and 25E” after “25B,”.

13 (3) Section 904(h) is amended by striking “and
14 25B” and inserting “25B, 25C, 25D, and 25E”.

15 (4) Section 1400C(d) is amended by striking
16 “and 25B” and inserting “25B, 25C, 25D, and
17 25E”.

18 (c) **EFFECTIVE DATE.**—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2001.

21 **SEC. 115. PHASEOUT OF 4.3-CENT MOTOR FUEL EXCISE**
22 **TAXES ON RAILROADS AND INLAND WATER-**
23 **WAY TRANSPORTATION WHICH REMAIN IN**
24 **GENERAL FUND.**

25 (a) **TAXES ON TRAINS.**—

1 (1) IN GENERAL.—Clause (ii) of section
2 4041(a)(1)(A) is amended by striking subclauses (I),
3 (II), and (III) and inserting the following new sub-
4 clauses:

5 “(I) 3.3 cents per gallon after
6 September 30, 2001, and before Jan-
7 uary 1, 2005,

8 “(II) 2.3 cents per gallon after
9 December 31, 2004, and before Janu-
10 ary 1, 2007,

11 “(III) 1.3 cents per gallon after
12 December 31, 2006, and before Janu-
13 ary 1, 2009,

14 “(IV) 0.3 cent per gallon after
15 December 31, 2008, and before Janu-
16 ary 1, 2010, and

17 “(V) 0 after December 31,
18 2009.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Subsection (d) of section 4041 is
21 amended by redesignating paragraph (3) as
22 paragraph (4) and by inserting after paragraph
23 (2) the following new paragraph:

24 “(3) DIESEL FUEL USED IN TRAINS.—In the
25 case of any sale for use (or use) after September 30,

1 2010, there is hereby imposed a tax of 0.1 cent per
2 gallon on any liquid other than gasoline (as defined
3 in section 4083)—

4 “(A) sold by any person to an owner, les-
5 see, or other operator of a diesel-powered train
6 for use as a fuel in such train, or

7 “(B) used by any person as a fuel in a die-
8 sel-powered train unless there was a taxable
9 sale of such fuel under subparagraph (A).

10 No tax shall be imposed by this paragraph on the
11 sale or use of any liquid if tax was imposed on such
12 liquid under section 4081.”

13 (B) Subsection (f) of section 4082 is
14 amended by striking “section 4041(a)(1)” and
15 inserting “subsections (a)(1) and (d)(3) of sec-
16 tion 4041”.

17 (C) Subparagraph (B) of section
18 6421(f)(3) is amended to read as follows:

19 “(B) so much of the rate specified in sec-
20 tion 4081(a)(2)(A) as does not exceed the rate
21 applicable under section 4041(a)(1)(C)(ii).”.

22 (D) Subparagraph (B) of section
23 6427(l)(3) is amended to read as follows:

1 “(B) so much of the rate specified in sec-
2 tion 4081(a)(2)(A) as does not exceed the rate
3 applicable under section 4041(a)(1)(C)(ii).”.

4 (b) FUEL USED ON INLAND WATERWAYS.—Subpara-
5 graph (C) of section 4042(b)(2) is amended to read as
6 follows:

7 “(C) The deficit reduction rate is—

8 “(i) 3.3 cents per gallon after Sep-
9 tember 30, 2001, and before January 1,
10 2004,

11 “(ii) 2.3 cents per gallon after Decem-
12 ber 31, 2004, and before January 1, 2007,

13 “(iii) 1.3 cents per gallon after De-
14 cember 31, 2006, and before January 1,
15 2009,

16 “(iv) 0.3 cent per gallon after Decem-
17 ber 31, 2008, and before January 1, 2010,
18 and

19 “(v) 0 after December 31, 2009.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on October 1, 2001.

22 **SEC. 116. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN**
23 **MIXTURES OF DIESEL FUEL.**

24 (a) IN GENERAL.—Clause (iii) of section
25 4081(a)(2)(A) is amended by inserting before the period

1 “(19.7 cents per gallon in the case of a diesel-water fuel
2 emulsion at least 14 percent of which is water)”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall take effect on October 1, 2001.

5 **TITLE II—RELIABILITY**

6 **SEC. 201. NATURAL GAS GATHERING LINES TREATED AS 7-** 7 **YEAR PROPERTY.**

8 (a) **IN GENERAL.**—Subparagraph (C) of section
9 168(e)(3) (relating to classification of certain property) is
10 amended by redesignating clause (ii) as clause (iii) and
11 by inserting after clause (i) the following new clause:

12 “(ii) any natural gas gathering line,
13 and”.

14 (b) **NATURAL GAS GATHERING LINE.**—Subsection (i)
15 of section 168 is amended by adding after paragraph (15)
16 the following new paragraph:

17 “(16) **NATURAL GAS GATHERING LINE.**—The
18 term ‘natural gas gathering line’ means—

19 “(A) the pipe, equipment, and appur-
20 tenances determined to be a gathering line by
21 the Federal Energy Regulatory Commission, or

22 “(B) the pipe, equipment, and appur-
23 tenances used to deliver natural gas from the
24 wellhead or a commonpoint to the point at
25 which such gas first reaches—

- 1 “(i) a gas processing plant,
- 2 “(ii) an interconnection with a trans-
- 3 mission pipeline certificated by the Federal
- 4 Energy Regulatory Commission as an
- 5 interstate transmission pipeline,
- 6 “(iii) an interconnection with an
- 7 intrastate transmission pipeline, or
- 8 “(iv) a direct interconnection with a
- 9 local distribution company, a gas storage
- 10 facility, or an industrial consumer.”.

11 (c) ALTERNATIVE SYSTEM.—The table contained in
 12 section 168(g)(3)(B) is amended by inserting after the
 13 item relating to subparagraph (C)(i) the following:

“(C)(ii) 10”.

14 (d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 15 paragraph (B) of section 56(a)(1) is amended by inserting
 16 before the period the following: “or in clause (ii) of section
 17 168(e)(3)(C)”.

18 (e) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to property placed in service after
 20 the date of the enactment of this Act.

21 **SEC. 202. PETROLEUM REFINING PROPERTY TREATED AS 7-**
 22 **YEAR PROPERTY.**

23 (a) IN GENERAL.—Subparagraph (C) of section
 24 168(e)(3) (relating to classification of certain property),
 25 as amended by section 201, is amended by striking “and”

1 at the end of clause (ii), by redesignating clause (iii) as
 2 clause (iv), and by inserting after clause (ii) the following
 3 new clause:

4 “(iii) any property used for the dis-
 5 tillation, fractionation, and catalytic crack-
 6 ing of crude petroleum into gasoline and
 7 its other components, and”.

8 (b) ALTERNATIVE SYSTEM.—The table contained in
 9 section 168(g)(3)(B), as amended by section 201, is
 10 amended by inserting after the item relating to subpara-
 11 graph (C)(ii) the following:

“(C)(iii) 10”.

12 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 13 paragraph (B) of section 56(a)(1), as amended by section
 14 201, is amended by inserting “or (iii)” after “clause (ii)”.

15 (d) EFFECTIVE DATE.—The amendment made by
 16 this section shall apply to property placed in service after
 17 the date of the enactment of this Act.

18 **SEC. 203. EXPENSING OF CAPITAL COSTS INCURRED IN**
 19 **COMPLYING WITH ENVIRONMENTAL PROTEC-**
 20 **TION AGENCY SULFUR REGULATIONS.**

21 (a) IN GENERAL.—Section 179(b) (relating to elec-
 22 tion to expense certain depreciable business assets) is
 23 amended by adding at the end the following new para-
 24 graph:

1 “(5) LIMITATION FOR SMALL BUSINESS REFIN-
2 ERS.—

3 “(A) IN GENERAL.—In the case of a small
4 business refiner electing to expense qualified
5 costs, in lieu of the dollar limitations in para-
6 graph (1), the limitation on the aggregate costs
7 which may be taken into account under sub-
8 section (a) for any taxable year shall not exceed
9 75 percent of the qualified costs.

10 “(B) QUALIFIED COSTS.—For purposes of
11 this paragraph, the term ‘qualified costs’ means
12 costs paid or incurred by a small business re-
13 finer for the purpose of complying with the
14 Highway Diesel Fuel Sulfur Control Require-
15 ments of the Environmental Protection Agency.

16 “(C) SMALL BUSINESS REFINER.—For
17 purposes of this paragraph, the term ‘small
18 business refiner’ means, with respect to any
19 taxable year, a refiner which, within the refin-
20 ing operations of the business, employs not
21 more than 1,500 employees on business days
22 during such taxable year performing services in
23 the refining operations of such businesses and
24 has an average total capacity of 155,000 bar-
25 rels per day or less.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to expenses paid or incurred after
3 the date of the enactment of this Act.

4 **SEC. 204. ENVIRONMENTAL TAX CREDIT.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 (relating to business-related cred-
7 its) is amended by adding at the end the following new
8 section:

9 **“SEC. 45I. ENVIRONMENTAL TAX CREDIT.**

10 “(a) IN GENERAL.—For purposes of section 38, the
11 amount of the environmental tax credit determined under
12 this section with respect to any small business refiner for
13 any taxable year is an amount equal to 5 cents for every
14 gallon of 15 parts per million or less sulfur diesel produced
15 at a facility by such small business refiner.

16 “(b) MAXIMUM CREDIT.—For any small business re-
17 finer, the aggregate amount allowable as a credit under
18 subsection (a) for any taxable year with respect to any
19 facility shall not exceed 25 percent of the qualified capital
20 costs incurred by such small business refiner with respect
21 to such facility not taken into account in determining the
22 credit under subsection (a) for any preceding taxable year.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) SMALL BUSINESS REFINER.—The term
25 ‘small business refiner’ means, with respect to any

1 taxable year, a refiner which, within the refining op-
2 erations of the business, employs not more than
3 1,500 employees on business days during such tax-
4 able year performing services in the refining oper-
5 ations of such businesses and has an average total
6 capacity of 155,000 barrels per day or less.

7 “(2) QUALIFIED CAPITAL COSTS.—The term
8 ‘qualified capital costs’ means, with respect to any
9 facility, those costs paid or incurred during the ap-
10 plicable period for compliance with the applicable
11 EPA regulations with respect to such facility, includ-
12 ing expenditures for the construction of new process
13 operation units or the dismantling and reconstruc-
14 tion of existing process units to be used in the pro-
15 duction of 15 parts per million or less sulfur diesel
16 fuel, associated adjacent or offsite equipment (in-
17 cluding tankage, catalyst, and power supply), engi-
18 neering, construction period interest, and sitework.

19 “(3) APPLICABLE EPA REGULATIONS.—The
20 term ‘applicable EPA regulations’ means the High-
21 way Diesel Fuel Sulfur Control Requirements of the
22 Environmental Protection Agency.

23 “(4) APPLICABLE PERIOD.—The term ‘applica-
24 ble period’ means, with respect to any facility, the
25 period beginning on the day after the date of the en-

1 actment of this section and ending with the date
2 which is one year after the date on which the tax-
3 payer must comply with the applicable EPA regula-
4 tions with respect to such facility.

5 “(d) REDUCTION IN BASIS.—For purposes of this
6 subtitle, if a credit is determined under this section with
7 respect to any property by reason of qualified capital
8 costs, the basis of such property shall be reduced by the
9 amount of the credit so determined.

10 “(e) CERTIFICATION.—

11 “(1) REQUIRED.—Not later than the date
12 which is 30 months after the first day of the first
13 taxable year in which the environmental tax credit is
14 allowed with respect to a facility, the small business
15 refiner must obtain certification from the Secretary,
16 in consultation with the Administrator of the Envi-
17 ronmental Protection Agency, that the taxpayer’s
18 qualified capital costs with respect to such facility
19 will result in compliance with the applicable EPA
20 regulations.

21 “(2) CONTENTS OF APPLICATION.—An applica-
22 tion for certification shall include relevant informa-
23 tion regarding unit capacities and operating charac-
24 teristics sufficient for the Secretary, in consultation
25 with the Administrator of the Environmental Protec-

1 tion Agency, to determine that such qualified capital
2 costs are necessary for compliance with the applica-
3 ble EPA regulations.

4 “(3) REVIEW PERIOD.—Any application shall
5 be reviewed and notice of certification, if applicable,
6 shall be made within 60 days of receipt of such ap-
7 plication.

8 “(4) RECAPTURE.—Notwithstanding subsection
9 (f), failure to obtain certification under paragraph
10 (1) constitutes a recapture event under subsection
11 (f) with an applicable percentage of 100 percent.

12 “(f) RECAPTURE OF ENVIRONMENTAL TAX CRED-
13 IT.—

14 “(1) IN GENERAL.—Except as provided in sub-
15 section (e), if, as of the close of any taxable year,
16 there is a recapture event with respect to any facility
17 of the small business refiner, then the tax of such
18 refiner under this chapter for such taxable year shall
19 be increased by an amount equal to the product of—

20 “(A) the applicable recapture percentage,
21 and

22 “(B) the aggregate decrease in the credits
23 allowed under section 38 for all prior taxable
24 years which would have resulted if the qualified
25 capital costs of the taxpayer described in sub-

1 section (c)(2) with respect to such facility had
 2 been zero.

3 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

4 “(A) IN GENERAL.—For purposes of this
 5 subsection, the applicable recapture percentage
 6 shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Year 1	100
Year 2	80
Year 3	60
Year 4	40
Year 5	20
Years 6 and thereafter	0.

7 “(B) YEARS.—For purposes of subpara-
 8 graph (A), year 1 shall begin on the first day
 9 of the taxable year in which the qualified cap-
 10 ital costs with respect to a facility described in
 11 subsection (c)(2) are paid or incurred by the
 12 taxpayer.

13 “(3) RECAPTURE EVENT DEFINED.—For pur-
 14 poses of this subsection, the term ‘recapture event’
 15 means—

16 “(A) FAILURE TO COMPLY.—The failure
 17 by the small business refiner to meet the appli-
 18 cable EPA regulations within the applicable pe-
 19 riod with respect to the facility.

20 “(B) CESSATION OF OPERATION.—The
 21 cessation of the operation of the facility as a fa-

1 facility which produces 15 parts per million or
2 less sulfur diesel after the applicable period.

3 “(C) CHANGE IN OWNERSHIP.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), the disposition of a
6 small business refiner’s interest in the fa-
7 cility with respect to which the credit de-
8 scribed in subsection (a) was allowable.

9 “(ii) AGREEMENT TO ASSUME RECAP-
10 TURE LIABILITY.—Clause (i) shall not
11 apply if the person acquiring such interest
12 in the facility agrees in writing to assume
13 the recapture liability of the person dis-
14 posing of such interest in effect imme-
15 diately before such disposition. In the
16 event of such an assumption, the person
17 acquiring the interest in the facility shall
18 be treated as the taxpayer for purposes of
19 assessing any recapture liability (computed
20 as if there had been no change in owner-
21 ship).

22 “(4) SPECIAL RULES.—

23 “(A) TAX BENEFIT RULE.—The tax for
24 the taxable year shall be increased under para-
25 graph (1) only with respect to credits allowed

1 by reason of this section which were used to re-
2 duce tax liability. In the case of credits not so
3 used to reduce tax liability, the carryforwards
4 and carrybacks under section 39 shall be appro-
5 priately adjusted.

6 “(B) NO CREDITS AGAINST TAX.—Any in-
7 crease in tax under this subsection shall not be
8 treated as a tax imposed by this chapter for
9 purposes of determining the amount of any
10 credit under subpart A, B, or D of this part.

11 “(C) NO RECAPTURE BY REASON OF CAS-
12 UALTY LOSS.—The increase in tax under this
13 subsection shall not apply to a cessation of op-
14 eration of the facility by reason of a casualty
15 loss to the extent such loss is restored by recon-
16 struction or replacement within a reasonable pe-
17 riod established by the Secretary.

18 “(g) CONTROLLED GROUPS.—For purposes of this
19 section, all persons treated as a single employer under sub-
20 section (b), (c), (m), or (o) of section 414 shall be treated
21 as a single employer.”.

22 (b) CREDIT MADE PART OF GENERAL BUSINESS
23 CREDIT.—Subsection (b) of section 38 (relating to general
24 business credit) is amended by striking “plus” at the end
25 of paragraph (16), by striking the period at the end of

1 paragraph (17) and inserting “, plus”, and by adding at
2 the end the following new paragraph:

3 “(18) in the case of a small business refiner,
4 the environmental tax credit determined under sec-
5 tion 45I(a).”.

6 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
7 (relating to certain expenses for which credits are allow-
8 able) is amended by adding after subsection (d) the fol-
9 lowing new subsection:

10 “(e) ENVIRONMENTAL TAX CREDIT.—No deduction
11 shall be allowed for that portion of the expenses otherwise
12 allowable as a deduction for the taxable year which is
13 equal to the amount of the credit determined for the tax-
14 able year under section 45I(a).”.

15 (d) BASIS ADJUSTMENT.—Section 1016(a) (relating
16 to adjustments to basis) is amended by striking “and” at
17 the end of paragraph (33), by striking the period at the
18 end of paragraph (34) and inserting “, and”, and by add-
19 ing at the end the following new paragraph:

20 “(35) in the case of a facility with respect to
21 which a credit was allowed under section 45I, to the
22 extent provided in section 45I(d).”.

23 (e) CLERICAL AMENDMENT.—The table of sections
24 for subpart D of part IV of subchapter A of chapter 1
25 is amended by adding at the end the following new item:

“Sec. 45I. Environmental tax credit.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenses paid or incurred after
3 the date of the enactment of this Act.

4 **SEC. 205. DETERMINATION OF SMALL REFINER EXCEPTION**
5 **TO OIL DEPLETION DEDUCTION.**

6 (a) IN GENERAL.—Paragraph (4) of section 613A(d)
7 (relating to certain refiners excluded) is amended to read
8 as follows:

9 “(4) CERTAIN REFINERS EXCLUDED.—If the
10 taxpayer or a related person engages in the refining
11 of crude oil, subsection (e) shall not apply to the
12 taxpayer for a taxable year if the average daily refin-
13 ery runs of the taxpayer and the related person for
14 the taxable year exceed 75,000 barrels. For purposes
15 of this paragraph, the average daily refinery runs for
16 any taxable year shall be determined by dividing the
17 aggregate refinery runs for the taxable year by the
18 number of days in the taxable year.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2001.

22 **SEC. 206. TAX-EXEMPT BOND FINANCING OF CERTAIN**
23 **ELECTRIC FACILITIES.**

24 (a) IN GENERAL.—Subpart A of part IV of sub-
25 chapter B of chapter 1 (relating to tax exemption require-

1 ments for State and local bonds) is amended by inserting
 2 after section 141 the following new section:

3 **“SEC. 141A. TREATMENT OF GOVERNMENT-OWNED ELEC-**
 4 **TRIC OUTPUT FACILITIES.**

5 “(a) EXCEPTIONS FROM PRIVATE BUSINESS USE
 6 LIMITATIONS WHERE OPEN ACCESS REQUIREMENTS
 7 MET.—

8 “(1) GENERAL RULE.—For purposes of this
 9 part, the term ‘private business use’ shall not
 10 include—

11 “(A) any permitted open access activity by
 12 a governmental unit with respect to an electric
 13 output facility owned by such unit, or

14 “(B) any permitted sale of electricity by a
 15 governmental unit which is generated at an ex-
 16 isting generation facility owned by such unit.

17 “(2) PERMITTED OPEN ACCESS ACTIVITY.—For
 18 purposes of this section—

19 “(A) IN GENERAL.—The term ‘permitted
 20 open access activity’ means any activity meeting
 21 the open access requirements of any of the fol-
 22 lowing clauses with respect to such electric out-
 23 put facility:

24 “(i) TRANSMISSION AND ANCILLARY
 25 FACILITY.—In the case of a transmission

1 facility or a facility providing ancillary
2 services, the provision of transmission serv-
3 ice and ancillary services meets the open
4 access requirements of this clause only if
5 such services are provided on a non-
6 discriminatory open access basis—

7 “(I) pursuant to an open access
8 transmission tariff filed with and ap-
9 proved by FERC, including an accept-
10 able reciprocity tariff, or

11 “(II) under a regional trans-
12 mission organization agreement ap-
13 proved by FERC.

14 “(ii) DISTRIBUTION FACILITIES.—In
15 the case of a distribution facility, the deliv-
16 ery of electric energy meets the open ac-
17 cess requirements of this clause only if
18 such delivery is made on a nondiscrim-
19 inatory open access basis.

20 “(iii) GENERATION FACILITIES.—In
21 the case of a generation facility, the deliv-
22 ery of electric energy generated by such fa-
23 cility meets the open access requirements
24 of this clause only if—

1 “(I) such facility is directly con-
2 nected to distribution facilities owned
3 by the governmental unit which owns
4 the generation facility, and

5 “(II) such distribution facilities
6 meet the open access requirements of
7 clause (ii).

8 “(B) SPECIAL RULES.—

9 “(i) VOLUNTARILY FILED TARIFFS.—
10 Subparagraph (A)(i)(I) shall apply in the
11 case of a voluntarily filed tariff only if the
12 governmental unit files a report with
13 FERC within 90 days after the date of the
14 enactment of this section relating to
15 whether or not such governmental unit will
16 join a regional transmission organization.

17 “(ii) CONTROL OF TRANSMISSION FA-
18 CILITIES BY REGIONAL TRANSMISSION OR-
19 GANIZATION.—A governmental unit shall
20 be treated as meeting the open access re-
21 quirements of subparagraph (A)(i) if a re-
22 gional transmission organization controls
23 the transmission facilities.

24 “(iii) ERCOT UTILITY.—References
25 to FERC in subparagraph (A) shall be

1 treated as references to the Public Utility
2 Commission of Texas with respect to any
3 ERCOT utility (as defined in section
4 212(k)(2)(B) of the Federal Power Act (16
5 U.S.C. 824k(k)(2)(B))).

6 “(3) PERMITTED SALE.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—The term ‘permitted
9 sale’ means—

10 “(i) any sale of electricity to an on-
11 system purchaser if the seller meets the
12 open access requirements of paragraph (2)
13 with respect to all distribution and trans-
14 mission facilities (if any) owned by such
15 seller, and

16 “(ii) subject to subparagraphs (B)
17 and (C), any sale of electricity to a whole-
18 sale native load purchaser, and any load
19 loss sale, if—

20 “(I) the seller meets the open ac-
21 cess requirements of paragraph (2)
22 with respect to all transmission facili-
23 ties (if any) owned by such seller, or

24 “(II) in any case in which the
25 seller does not own any transmission

1 facilities, all persons providing trans-
2 mission services to the seller's whole-
3 sale native load purchasers meet the
4 open access requirements of para-
5 graph (2) with respect to all trans-
6 mission facilities owned by such per-
7 sons.

8 “(B) LIMITATION ON SALES TO WHOLE-
9 SALE NATIVE LOAD PURCHASERS.—A sale to a
10 wholesale native load purchaser shall be treated
11 as a permitted sale only to the extent that—

12 “(i) such purchaser resells the elec-
13 tricity directly at retail to persons within
14 the purchaser's distribution area, or

15 “(ii) such electricity is resold by such
16 purchaser through one or more wholesale
17 purchasers (each of whom as of June 30,
18 2000, was a party to a requirements con-
19 tract or a firm power contract described in
20 paragraph (5)(B)(ii)) to retail purchasers
21 in the ultimate wholesale purchaser's dis-
22 tribution area.

23 “(C) LOAD LOSS SALES.—

1 “(i) IN GENERAL.—The term ‘load
2 loss sale’ means any sale at wholesale to
3 the extent that—

4 “(I) the aggregate sales at whole-
5 sale during the recovery period does
6 not exceed the load loss mitigation
7 sales limit for such period, and

8 “(II) the aggregate sales at
9 wholesale during the first calendar
10 year after the recovery period does not
11 exceed the excess carried under clause
12 (iv) to such year.

13 “(ii) LOAD LOSS MITIGATION SALES
14 LIMIT.—For purposes of clause (i), the
15 load loss mitigation sales limit for the re-
16 covery period is the sum of the annual load
17 losses for each year of such period.

18 “(iii) ANNUAL LOAD LOSS.—A govern-
19 mental unit’s annual load loss for each
20 year of the recovery period is the amount
21 (if any) by which—

22 “(I) the megawatts per hour of
23 electric energy sold during such year
24 to wholesale native load purchasers

1 which do not constitute private busi-
2 ness use are less than

3 “(III) the megawatts per hour of
4 electric energy sold during the base
5 year to wholesale native load pur-
6 chasers which do not constitute pri-
7 vate business use.

8 The annual load loss for any year shall not
9 exceed the portion of the amount deter-
10 mined under the preceding sentence which
11 is attributable to open access requirements.

12 “(iv) CARRYOVERS.—If the limitation
13 under clause (i) for the recovery period ex-
14 ceeds the aggregate sales during such pe-
15 riod which are taken into account under
16 clause (i), such excess (but not more than
17 10 percent of such limitation) may be car-
18 ried over to the first calendar year fol-
19 lowing the recovery period.

20 “(v) RECOVERY PERIOD.—The recov-
21 ery period is the 7-year period beginning
22 with the start-up year.

23 “(vi) START-UP YEAR.—The start-up
24 year is the calendar year which includes
25 the date of the enactment of this section

1 or, if later, at the election of the govern-
2 mental unit—

3 “(I) the first year that the gov-
4 ernmental unit offers nondiscrim-
5 inatory open transmission access, or

6 “(II) the first year in which at
7 least 10 percent of the governmental
8 unit’s wholesale customers’ aggregate
9 retail native load is open to retail
10 competition.

11 “(4) ON-SYSTEM PURCHASER.—For purposes of
12 this section, the term ‘on-system purchaser’ means
13 any person whose electric equipment is directly con-
14 nected with any transmission or distribution facility
15 owned by the governmental unit owning the existing
16 generation facility if—

17 “(A) such person—

18 “(i) purchases electric energy from
19 such governmental unit at retail, and

20 “(ii)(I) was within such unit’s dis-
21 tribution area at the close of the base year
22 or

23 “(II) is a person as to whom the gov-
24 ernmental unit has a statutory service obli-
25 gation, or

1 “(B) is a wholesale native load purchaser
2 from such governmental unit.

3 “(5) WHOLESALE NATIVE LOAD PURCHASER.—
4 For purposes of this section—

5 “(A) IN GENERAL.—The term ‘wholesale
6 native load purchaser’ means a wholesale pur-
7 chaser as to whom the governmental unit had—

8 “(i) a statutory service obligation at
9 wholesale at the close of the base year, or

10 “(ii) an obligation at the close of the
11 base year under a requirements or firm
12 sales contract if, as of June 30, 2000, such
13 contract had been in effect for (or had an
14 initial term of) at least 10 years.

15 “(B) PERMITTED SALES UNDER EXISTING
16 CONTRACTS.—A private business use sale dur-
17 ing any year to a wholesale native load pur-
18 chaser (other than a person to whom the gov-
19 ernmental unit had a statutory service obliga-
20 tion) under a contract shall be treated as a per-
21 mitted sale by reason of being a load loss sale
22 only to the extent that the private business use
23 sales under the contract during such year ex-
24 ceed the lesser of—

- 1 “(i) the private business use sales
2 under the contract during the base year, or
3 “(ii) the maximum private business
4 use sales which would (but for this section)
5 be permitted without causing the bonds to
6 be private activity bonds.

7 This subparagraph shall only apply to the ex-
8 tent that the sale is allocable to bonds issued
9 before the date of the enactment of this section
10 (or bonds issued to refund such bonds).

11 “(6) SPECIAL RULES.—

12 “(A) TIME OF SALE RULE.—For purposes
13 of paragraphs (3)(C)(iii) and (5)(B), the deter-
14 mination of whether a sale after the date of the
15 enactment of this section is a private business
16 use shall be made with regard to this section.

17 “(B) JOINT ACTION AGENCIES.—To the
18 extent provided in regulations, a joint action
19 agency, or a member of (or a wholesale native
20 load purchaser from) a joint action agency,
21 which is entitled to make a sale described in
22 subparagraph (A) or (B) in a year, may trans-
23 fer the entitlement to make that sale to the
24 member (or purchaser), or the joint action
25 agency, respectively.

1 “(b) CERTAIN BONDS FOR TRANSMISSION AND DIS-
2 TRIBUTION FACILITIES NOT TAX EXEMPT.—

3 “(1) IN GENERAL.—Section 103 shall not apply
4 to any bond issued on or after the date of the enact-
5 ment of this section if any portion of the proceeds
6 of the issue of which such bond is a part is used (di-
7 rectly or indirectly) to finance—

8 “(A) any electric transmission facility, or

9 “(B) any start-up electric utility distribu-
10 tion facility.

11 “(2) EXCEPTIONS RELATING TO TRANSMISSION
12 FACILITIES.—Paragraph (1)(A) shall not apply to
13 any bond issued to finance—

14 “(A) any repair of a transmission facility
15 in service on the date of the enactment of this
16 section, so long as the repair does not—

17 “(i) increase the voltage level of such
18 facility over its level at the close of the
19 base year, or

20 “(ii) increase the thermal load limit of
21 such facility by more than 3 percent over
22 such limit at the close of the base year,

23 “(B) any qualifying upgrade of an electric
24 transmission facility in service on the date of
25 the enactment of this section, or

1 “(C) any transmission facility necessary to
2 comply with an obligation under a shared or re-
3 ciprocal transmission agreement in effect on
4 such date.

5 “(3) EXCEPTION FOR LOCAL ELECTRIC TRANS-
6 MISSION FACILITY.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—In the case of a gov-
9 ernmental unit which owns distribution facili-
10 ties, paragraph (1)(A) shall not apply to any
11 bond issued to finance an electric transmission
12 facility owned by such governmental unit and
13 located within such governmental unit’s dis-
14 tribution area, but only to the extent such facil-
15 ity is, or will be, necessary to supply electricity
16 to serve the retail native load, or wholesale na-
17 tive load, of such governmental unit or of 1 or
18 more other governmental units owning distribu-
19 tion facilities which are directly connected to
20 such electric transmission facility.

21 “(B) RETAIL LOAD.—The term ‘retail
22 load’ means, with respect to a governmental
23 unit, the electric load of end-users in the dis-
24 tribution area of the governmental unit.

1 “(C) WHOLESAL E NATIVE LOAD.—The
2 term ‘wholesale native load’ means—

3 “(i) the retail load of such unit’s
4 wholesale native load purchasers (or of an
5 ultimate wholesale purchaser described in
6 subsection (a)(3)(B)(ii)), and

7 “(ii) the electric load of purchasers
8 (not described in clause (i)) under whole-
9 sale requirements contracts which—

10 “(I) do not constitute private
11 business use (determined without re-
12 gard to this section), and

13 “(II) were in effect in the base
14 year.

15 “(D) NECESSARY TO SERVE LOAD.—For
16 purposes of determining whether a transmission
17 facility is, or will be, necessary to supply elec-
18 tricity to retail native load or wholesale native
19 load—

20 “(i) the governmental unit’s available
21 transmission rights shall be taken into ac-
22 count,

23 “(ii) electric reliability standards or
24 requirements of national or regional reli-
25 ability organizations, regional transmission

1 organizations and the Electric Reliability
2 Council of Texas shall be taken into ac-
3 count, and

4 “(iii) transmission, siting and con-
5 struction decisions of regional transmission
6 organizations and State and Federal regu-
7 latory and siting agencies, after a pro-
8 ceeding that provides for public input,
9 shall be presumptive evidence regarding
10 whether transmission facilities are nec-
11 essary to serve native load.

12 “(E) QUALIFYING UPGRADE.—The term
13 ‘qualifying upgrade’ means an improvement or
14 addition to transmission facilities of the govern-
15 mental unit in service on the date of the enact-
16 ment of this section which—

17 “(i) is ordered or approved by a re-
18 gional transmission organization or by a
19 State regulatory or siting agency, after a
20 proceeding that provides for public input,
21 and

22 “(ii) is, or will be, necessary to supply
23 electricity to serve the retail native load, or
24 wholesale native load, of such govern-
25 mental unit or of one or more govern-

1 mental units owning distribution facilities
2 which are directly connected to such trans-
3 mission facility.

4 “(4) START-UP ELECTRIC UTILITY DISTRIBUTION FACILITY DEFINED.—For purposes of this sub-
5 section, the term ‘start-up electric utility distribution
6 facility’ means any distribution facility to provide
7 electric service for sale to the public if such facility
8 is placed in service—
9

10 “(A) by a governmental unit that did not
11 operate an electric utility on the date of the en-
12 actment of this section, and

13 “(B) during the first 10 years after the
14 date such governmental unit begins operating
15 an electric utility.

16 A governmental unit is treated as having operated
17 an electric utility on the date of the enactment of
18 this section if it operates electric output facilities
19 which were (on such date) operated by another gov-
20 ernmental unit to provide electric service for sale to
21 the public.

22 “(5) EXCEPTION FOR REFUNDING BONDS.—

23 “(A) IN GENERAL.—Paragraph (1) shall
24 not apply to any eligible refunding bond.

1 “(B) ELIGIBLE REFUNDING BOND.—For
2 purposes of subparagraph (A), the term ‘eligible
3 refunding bond’ means any bond (or series of
4 bonds) issued to refund any bond issued before
5 the date of the enactment of this section if the
6 average maturity date of the issue of which the
7 refunding bond is a part is not later than the
8 average maturity date of the bonds to be re-
9 funded by such issue.

10 “(c) DEFINITIONS; SPECIAL RULES.—For purposes
11 of this section—

12 “(1) BASE YEAR.—The term ‘base year’
13 means—

14 “(A) the calendar year preceding the start-
15 up year, or

16 “(B) at the election of the governmental
17 unit, the second or third calendar years pre-
18 ceding the start-up year.

19 “(2) DISTRIBUTION AREA.—The term ‘distribu-
20 tion area’ means the area in which a governmental
21 unit owns distribution facilities.

22 “(3) ELECTRIC OUTPUT FACILITY.—The term
23 ‘electric output facility’ means an output facility
24 that is an electric generation, transmission, or dis-
25 tribution facility.

1 “(4) DISTRIBUTION FACILITY.—The term ‘dis-
2 tribution facility’ means an electric output facility
3 that is not a generation or transmission facility.

4 “(5) TRANSMISSION FACILITY.—The term
5 ‘transmission facility’ means an electric output facil-
6 ity (other than a generation facility) that operates at
7 an electric voltage of 69 kV or greater. To the ex-
8 tent provided in regulations, such term includes any
9 output facility that FERC determines is a trans-
10 mission facility under standards applied by FERC
11 under the Federal Power Act (as in effect on the
12 date of the enactment of this section).

13 “(6) EXISTING GENERATION FACILITY.—

14 “(A) IN GENERAL.—The term ‘existing
15 generation facility’ means any electric genera-
16 tion facility if—

17 “(i) such facility is originally placed in
18 service on or before the date of enactment
19 of this Act and is owned by any govern-
20 mental unit on such date, or

21 “(ii) such facility is originally placed
22 in service after such date if the construc-
23 tion of the facility commenced before June
24 1, 2000, and such facility is owned by any

1 governmental unit when it is placed in
2 service.

3 “(B) DENIAL OF TREATMENT TO EXPAN-
4 SIONS.—Such term shall not include any facility
5 to the extent the generating capacity of such fa-
6 cility as of any date is 3 percent above the
7 greater of its nameplate or rated capacity as of
8 the date of the enactment of this section (or, in
9 the case of a facility described in subparagraph
10 (A)(ii), the date that the facility is placed in
11 service).

12 “(6) REGIONAL TRANSMISSION ORGANIZA-
13 TION.—The term ‘regional transmission organiza-
14 tion’ includes an independent system operator.

15 “(7) FERC.—The term ‘FERC’ means the
16 Federal Energy Regulatory Commission.

17 “(8) GOVERNMENT-OWNED FACILITY.—An elec-
18 tric transmission facility shall be treated as owned
19 by a governmental unit as of any date to the extent
20 that—

21 “(A) such unit acquired (before the base
22 year) long-term firm transmission capacity (as
23 determined under regulations) of such facility
24 for the purposes of serving customers to which
25 such unit had at the close of the base year—

1 “(i) a statutory service obligation, or

2 “(ii) an obligation under a require-
3 ments contract, and

4 “(B) such unit holds such capacity as of
5 such date.

6 “(9) STATUTORY SERVICE OBLIGATION.—The
7 term ‘statutory service obligation’ means an obliga-
8 tion under State or Federal law (exclusive of an obli-
9 gation arising solely under a contract entered into
10 with a person) to provide electric distribution serv-
11 ices or electric sales services, as provided in such
12 law.

13 “(10) CONTRACT MODIFICATIONS.—A material
14 modification of a contract shall be treated as a new
15 contract.

16 “(d) ELECTION TO TERMINATE TAX-EXEMPT BOND
17 FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILI-
18 TIES.—

19 “(1) IN GENERAL.—At the election of a govern-
20 mental unit, section 103(a) shall not apply to any
21 bond issued by or on behalf of such unit after the
22 date of such election if any portion of the proceeds
23 of the issue of which such bond is a part are used
24 to provide any electric output facilities. Such an
25 election, once made, shall be irrevocable.

1 “(2) OTHER EFFECTS OF ELECTION.—During
2 the period that the election under paragraph (1) is
3 in effect with respect to a governmental unit, the
4 term ‘private activity bond’ shall not include—

5 “(A) any bond issued by such unit before
6 the date of the enactment of this section to pro-
7 vide an electric output facility if, as of the date
8 of the election, such bond was not a private ac-
9 tivity bond, and

10 “(B) any bond to which paragraph (1)
11 does not apply by reason of paragraph (3).

12 “(3) EXCEPTIONS FOR CERTAIN PROPERTY.—

13 “(A) IN GENERAL.—Paragraph (1) shall
14 not apply to any bond issued to provide prop-
15 erty owned by a governmental unit if such prop-
16 erty is—

17 “(i) any qualifying transmission facil-
18 ity,

19 “(ii) any qualifying distribution facil-
20 ity,

21 “(iii) any facility necessary to meet
22 Federal or State environmental require-
23 ments applicable to an existing generation
24 facility owned by the governmental unit as
25 of the date of the election,

1 “(iv) any property to repair any exist-
2 ing generation facility owned by the gov-
3 ernmental unit as of the date of the elec-
4 tion,

5 “(v) any qualified facility (as defined
6 in section 45(c)(3)) producing electricity
7 from any qualified energy resource (as de-
8 fined in section 45(c)(1)), and

9 “(vi) any energy property (as defined
10 in section 48(a)(3)) placed in service dur-
11 ing a period that the energy percentage
12 under section 48(a) is greater than zero.

13 “(B) LIMITATION ON USE BY NONGOVERN-
14 MENTAL PERSONS.—Subparagraph (A) shall
15 not apply to any property constructed, acquired
16 or financed for a principal purpose of providing
17 the facility (or the output thereof) to non-
18 governmental persons.

19 “(4) DEFINITIONS.—For purposes of this
20 subsection—

21 “(A) QUALIFYING DISTRIBUTION FACIL-
22 ITY.—The term ‘qualifying distribution facility’
23 means a distribution facility meeting the open
24 access requirements of subsection (a)(2)(A)(ii).

1 “(B) QUALIFYING TRANSMISSION FACIL-
2 ITY.—The term ‘qualifying transmission facil-
3 ity’ means a local transmission facility (as de-
4 fined in subsection (b)(3)) meeting the open ac-
5 cess requirements of subsection (a)(2)(A)(i).

6 “(5) EFFECT OF ELECTION.—

7 “(A) IN GENERAL.—An election under
8 paragraph (1) shall be binding on any successor
9 in interest to, or any related party with respect
10 to, the electing governmental unit. For purposes
11 of this paragraph, a governmental unit shall be
12 treated as related to another governmental unit
13 if it is a member of the same controlled group
14 (as determined under regulations).

15 “(B) TREATMENT OF ELECTING GOVERN-
16 MENTAL UNIT.—A governmental unit which
17 makes an election under paragraph (1) shall be
18 treated for purposes of section 141 as a
19 person—

20 “(i) which is not a governmental unit,

21 and

22 “(ii) which is engaged in a trade or
23 business,

24 with respect to its purchase of electricity gen-
25 erated by an electric output facility placed in

1 service after the date of such election if such
2 purchase is under a contract executed after
3 such date.”

4 (b) WAIVER OF CERTAIN LIMITATIONS NOT TO
5 APPLY TO DISTRIBUTION FACILITIES.—Section 141(d)(5)
6 is amended by inserting “(except in the case of an electric
7 output facility that is a distribution facility),” after “this
8 subsection”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for subpart A of part IV of subchapter B of chapter 1
11 is amended by inserting after the item relating to section
12 141 the following new item:

“Sec. 141A. Treatment of government-owned electric output fa-
cilities.”

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall take effect on the date of the en-
16 actment of this Act, except that a governmental unit
17 may elect to have section 141A(a)(1) of the Internal
18 Revenue Code of 1986, as added by subsection (a),
19 take effect on April 14, 1996.

20 (2) BINDING CONTRACTS.—The amendment
21 made by subsection (b) (relating to waiver of certain
22 limitations not to apply to distribution facilities)
23 shall not apply to facilities acquired pursuant to a
24 contract which was entered into before the date of

1 the enactment of this Act and which was binding
 2 on such date and at all times thereafter before such
 3 acquisition.

4 (3) COMPARABLE TREATMENT TO BONDS
 5 UNDER 1954 CODE RULES.—References in the
 6 amendments made by this Act to sections of the In-
 7 ternal Revenue Code of 1986 shall be deemed to in-
 8 clude references to comparable sections of the Inter-
 9 nal Revenue Code of 1954.

10 **SEC. 207. SALES OR DISPOSITIONS TO IMPLEMENT FED-**
 11 **ERAL ENERGY REGULATORY COMMISSION**
 12 **OR STATE ELECTRIC RESTRUCTURING POL-**
 13 **ICY.**

14 (a) IN GENERAL.—Section 1033 (relating to involun-
 15 tary conversions) is amended by redesignating subsection
 16 (k) as subsection (l) and by inserting after subsection (j)
 17 the following new subsection:

18 “(k) SALES OR DISPOSITIONS TO IMPLEMENT FED-
 19 ERAL ENERGY REGULATORY COMMISSION OR STATE
 20 ELECTRIC RESTRUCTURING POLICY.—

21 “(1) IN GENERAL.—For purposes of this sub-
 22 title, if a taxpayer elects the application of this sub-
 23 section to a qualifying electric transmission
 24 transaction—

1 “(A) such transaction shall be treated as
2 an involuntary conversion to which this section
3 applies, and

4 “(B) exempt utility property shall be treat-
5 ed as property which is similar or related in
6 service or use to the property disposed of in
7 such transaction.

8 “(2) EXTENSION OF REPLACEMENT PERIOD.—
9 In the case of any involuntary conversion described
10 in paragraph (1), subsection (a)(2)(B) shall be ap-
11 plied by substituting ‘4 years’ for ‘2 years’ in clause
12 (i) thereof.

13 “(3) QUALIFYING ELECTRIC TRANSMISSION
14 TRANSACTION.—For purposes of this subsection, the
15 term ‘qualifying electric transmission transaction’
16 means any sale or other disposition before January
17 1, 2009, of—

18 “(A) property used in the trade or business
19 of providing electric transmission services to an
20 independent transmission company, or

21 “(B) any stock or partnership interest in a
22 corporation or partnership, as the case may be,
23 whose principal trade or business consists of
24 providing electric transmission services to an
25 independent transmission company.

1 “(4) INDEPENDENT TRANSMISSION COM-
2 PANY.—For purposes of this subsection, the term
3 ‘independent transmission company’ means—

4 “(A) a regional transmission organization
5 approved by the Federal Energy Regulatory
6 Commission,

7 “(B) a person—

8 “(i) who the Federal Energy Regu-
9 latory Commission determines in its au-
10 thorization of the transaction under section
11 203 of the Federal Power Act (16 U.S.C.
12 823b) is not a market participant within
13 the meaning of such Commission’s rules
14 applicable to regional transmission organi-
15 zations, and

16 “(ii) whose transmission facilities to
17 which the election under this subsection
18 applies are placed under the operational
19 control of a Federal Energy Regulatory
20 Commission-approved regional trans-
21 mission organization within the period
22 specified in such order, but not later than
23 the close of the period applicable under
24 subsection (a)(2)(B), or

1 “(C) in the case of facilities subject to the
2 exclusive jurisdiction of the Public Utility Com-
3 mission of Texas, a person which is approved by
4 that Commission as consistent with Texas State
5 law regarding an independent transmission or-
6 ganization.

7 “(5) EXEMPT UTILITY PROPERTY.—For pur-
8 poses of this subsection—

9 “(A) IN GENERAL.—The term ‘exempt
10 utility property’ means property used in the
11 trade or business of—

12 “(i) generating, transmitting, distrib-
13 uting, or selling electricity, or

14 “(ii) producing, transmitting, distrib-
15 uting, or selling natural gas.

16 “(B) NONRECOGNITION OF GAIN BY REA-
17 SON OF ACQUISITION OF STOCK.—Acquisition of
18 control of a corporation shall be taken into ac-
19 count under this section with respect to a quali-
20 fying electric transmission transaction only if
21 the principal trade or business of such corpora-
22 tion is a trade or business referred to in sub-
23 paragraph (A).

24 “(6) SPECIAL RULE FOR CONSOLIDATED
25 GROUPS.—In the case of a corporation which is a

1 member of an affiliated group filing a consolidated
2 return, such corporation shall be treated as satis-
3 fying the purchase requirement of subsection (a)(2)
4 with respect to any qualifying electric transmission
5 transaction engaged in by such corporation to the
6 extent such requirement is satisfied by another
7 member of such group.

8 “(7) ELECTION.—An election under paragraph
9 (1), once made, shall be irrevocable.”

10 (b) EXCEPTION FROM GAIN RECOGNITION UNDER
11 SECTION 1245.—Subsection (b) of section 1245 is amend-
12 ed by adding at the end the following new paragraph:

13 “(9) DISPOSITIONS TO IMPLEMENT FEDERAL
14 ENERGY REGULATORY COMMISSION OR STATE ELEC-
15 TRIC RESTRUCTURING POLICY.—At the election of
16 the taxpayer, the amount of gain which would (but
17 for this paragraph) be recognized under this section
18 on any qualified electric transmission transaction (as
19 defined in section 1033(k)) for which an election
20 under section 1033 is made shall be reduced by the
21 aggregate reduction in the basis of section 1245
22 property held by the taxpayer or, if insufficient, by
23 a member of an affiliated group which includes the
24 taxpayer at any time during the taxable year in
25 which such transaction occurred. The manner and

1 amount of such reduction shall be determined under
2 regulations prescribed by the Secretary.”

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

6 **SEC. 208. DISTRIBUTIONS OF STOCK TO IMPLEMENT FED-**
7 **ERAL ENERGY REGULATORY COMMISSION**
8 **OR STATE ELECTRIC RESTRUCTURING POL-**
9 **ICY.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 355(e)(3) (relating to special rules relating to acquisi-
12 tions) is amended by inserting after clause (iv) the fol-
13 lowing new clause:

14 “(v) The acquisition of stock in any
15 controlled corporation in a qualifying elec-
16 tric transmission transaction (as defined in
17 section 1033(k)).”

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to distributions after the date
20 of the enactment of this Act.

21 **SEC. 209. MODIFICATIONS TO SPECIAL RULES FOR NU-**
22 **CLEAR DECOMMISSIONING COSTS.**

23 (a) REPEAL OF LIMITATION ON DEPOSITS INTO
24 FUND BASED ON COST OF SERVICE; CONTRIBUTIONS

1 AFTER FUNDING PERIOD.—Subsection (b) of section
2 468A is amended to read as follows:

3 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

4 “(1) IN GENERAL.—The amount which a tax-
5 payer may pay into the Fund for any taxable year
6 shall not exceed the ruling amount applicable to
7 such taxable year.

8 “(2) CONTRIBUTIONS AFTER FUNDING PE-
9 RIOD.—Notwithstanding any other provision of this
10 section, a taxpayer may pay into the Fund in any
11 taxable year after the last taxable year to which the
12 ruling amount applies. Payments may not be made
13 under the preceding sentence to the extent such pay-
14 ments would cause the assets of the Fund to exceed
15 the nuclear decommissioning costs allocable to the
16 taxpayer’s current or former interest in the nuclear
17 powerplant to which the Fund relates. The limita-
18 tion under the preceding sentence shall be deter-
19 mined by taking into account a reasonable rate of
20 inflation for the nuclear decommissioning costs and
21 a reasonable after-tax rate of return on the assets
22 of the Fund until such assets are anticipated to be
23 expended.”.

1 (b) CLARIFICATION OF TREATMENT OF FUND
 2 TRANSFERS.—Subsection (e) of section 468A is amended
 3 by adding at the end the following new paragraph:

4 “(8) TREATMENT OF FUND TRANSFERS.—If, in
 5 connection with the transfer of the taxpayer’s inter-
 6 est in a nuclear powerplant, the taxpayer transfers
 7 the Fund with respect to such powerplant to the
 8 transferee of such interest and the transferee elects
 9 to continue the application of this section to such
 10 Fund—

11 “(A) the transfer of such Fund shall not
 12 cause such Fund to be disqualified from the ap-
 13 plication of this section, and

14 “(B) no amount shall be treated as distrib-
 15 uted from such Fund, or be includible in gross
 16 income, by reason of such transfer.”.

17 (c) TREATMENT OF CERTAIN DECOMMISSIONING
 18 COSTS.—

19 (1) IN GENERAL.—Section 468A is amended by
 20 redesignating subsections (f) and (g) as subsections
 21 (g) and (h), respectively, and by inserting after sub-
 22 section (e) the following new subsection:

23 “(f) TRANSFERS INTO QUALIFIED FUNDS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
 25 (b), any taxpayer maintaining a Fund to which this

1 section applies with respect to a nuclear powerplant
2 may transfer into such Fund up to an amount equal
3 to the excess of the total nuclear decommissioning
4 costs with respect to such nuclear powerplant over
5 the portion of such costs taken into account in de-
6 termining the ruling amount in effect immediately
7 before the transfer.

8 “(2) DEDUCTION FOR AMOUNTS TRANS-
9 FERRED.—

10 “(A) IN GENERAL.—The deduction allowed
11 by subsection (a) for any transfer permitted by
12 this subsection shall be allowed ratably over the
13 remaining estimated useful life (within the
14 meaning of subsection (d)(2)(A)) of the nuclear
15 powerplant beginning with the taxable year dur-
16 ing which the transfer is made.

17 “(B) DENIAL OF DEDUCTION FOR PRE-
18 VIOUSLY DEDUCTED AMOUNTS.—No deduction
19 shall be allowed for any transfer under this sub-
20 section of an amount for which a deduction was
21 previously allowed or a corresponding amount
22 was not included in gross income. For purposes
23 of the preceding sentence, a ratable portion of
24 each transfer shall be treated as being from

1 previously deducted or excluded amounts to the
2 extent thereof.

3 “(C) TRANSFERS OF QUALIFIED FUNDS.—

4 If—

5 “(i) any transfer permitted by this
6 subsection is made to any Fund to which
7 this section applies, and

8 “(ii) such Fund is transferred there-
9 after,

10 any deduction under this subsection for taxable
11 years ending after the date that such Fund is
12 transferred shall be allowed to the transferee
13 and not to the transferor. The preceding sen-
14 tence shall not apply if the transferor is an or-
15 ganization exempt from tax imposed by this
16 chapter.

17 “(D) SPECIAL RULES.—

18 “(i) GAIN OR LOSS NOT RECOG-
19 NIZED.—No gain or loss shall be recog-
20 nized on any transfer permitted by this
21 subsection.

22 “(ii) TRANSFERS OF APPRECIATED
23 PROPERTY.—If appreciated property is
24 transferred in a transfer permitted by this
25 subsection, the amount of the deduction

1 shall be the adjusted basis of such prop-
2 erty.

3 “(3) NEW RULING AMOUNT REQUIRED.—Para-
4 graph (1) shall not apply to any transfer unless the
5 taxpayer requests from the Secretary a new schedule
6 of ruling amounts in connection with such transfer.

7 “(4) NO BASIS IN QUALIFIED FUNDS.—Not-
8 withstanding any other provision of law, the basis of
9 any Fund to which this section applies shall not be
10 increased by reason of any transfer permitted by
11 this subsection.”.

12 (2) NEW RULING AMOUNT TO TAKE INTO AC-
13 COUNT TOTAL COSTS.—Subparagraph (A) of section
14 468A(d)(2) is amended to read as follows:

15 “(A) fund the total nuclear decommis-
16 sioning costs with respect to such powerplant
17 over the estimated useful life of such power-
18 plant, and”.

19 (d) DEDUCTION FOR NUCLEAR DECOMMISSIONING
20 COSTS WHEN PAID.—Paragraph (2) of section 468A(c)
21 is amended to read as follows:

22 “(2) DEDUCTION OF NUCLEAR DECOMMIS-
23 SIONING COSTS.—In addition to any deduction under
24 subsection (a), nuclear decommissioning costs paid
25 or incurred by the taxpayer during any taxable year

1 shall constitute ordinary and necessary expenses in
2 carrying on a trade or business under section 162.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2001.

6 **SEC. 210. TREATMENT OF CERTAIN INCOME OF COOPERA-**
7 **TIVES.**

8 (a) INCOME FROM OPEN ACCESS AND NUCLEAR DE-
9 COMMISSIONING TRANSACTIONS.—

10 (1) IN GENERAL.—Subparagraph (C) of section
11 501(c)(12) is amended by striking “or” at the end
12 of clause (i), by striking the period at the end of
13 clause (ii) and inserting a comma, and by adding at
14 the end the following new clauses:

15 “(iii) from any open access trans-
16 action (other than income received or ac-
17 crued directly or indirectly from a mem-
18 ber), or

19 “(iv) from any nuclear decommis-
20 sioning transaction.”

21 (2) DEFINITIONS.—Paragraph (12) of section
22 501(c) is amended by adding at the end the fol-
23 lowing new subparagraph:

24 “(E) For purposes of subparagraph (C)—

1 “(i) The term ‘open access trans-
2 action’ means any activity which would be
3 a permitted open access activity (as de-
4 fined in section 141A(a)(2)) if the coopera-
5 tive were a governmental unit.

6 “(ii) The term ‘any nuclear decommis-
7 sioning transaction’ means—

8 “(I) any transfer into a trust,
9 fund, or instrument established to pay
10 any nuclear decommissioning costs if
11 the transfer is in connection with the
12 transfer of the cooperative’s interest
13 in a nuclear powerplant or nuclear
14 powerplant unit,

15 “(II) any distribution from such
16 a trust, fund, or instrument, or

17 “(III) any earnings from such a
18 trust, fund, or instrument.”

19 (b) INCOME FROM LOAD LOSS TRANSACTIONS
20 TREATED AS MEMBER INCOME.—Paragraph (12) of sec-
21 tion 501(c) is amended by adding after subparagraph (E)
22 the following new subparagraph:

23 “(F)(i) In the case of a mutual or coopera-
24 tive electric company, income received or ac-
25 crued from a load loss transaction shall be

1 treated as an amount collected from members
2 for the sole purpose of meeting losses and ex-
3 penses.

4 “(ii) For purposes of clause (i), the term
5 ‘load loss transaction’ means any sale (whether
6 at wholesale or at retail) which would be a load
7 loss sale under rules similar to the rules of sec-
8 tion 141A(3)(C).

9 “(iii) A company shall not fail to be treat-
10 ed as a mutual cooperative company for pur-
11 poses of this paragraph by reason of the treat-
12 ment under clause (i).

13 “(iv) A rule similar to the rule of this sub-
14 paragraph shall apply to an organization to
15 which section 1381 does not apply by reason of
16 section 1381(a)(2)(C).”

17 (c) EXCEPTION FROM UNRELATED BUSINESS TAX-
18 ABLE INCOME.—Subsection (b) of section 512 (relating to
19 modifications) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(18) TREATMENT OF LOAD LOSS SALES OF
22 MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—
23 In the case of a mutual or cooperative electric com-
24 pany described in section 501(c)(12), there shall be

1 excluded income which is treated as member income
2 under subparagraph (F) thereof.”

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

6 **SEC. 211. REPEAL OF REQUIREMENT OF CERTAIN AP-**
7 **PROVED TERMINALS TO OFFER DYED DIESEL**
8 **FUEL AND KEROSENE FOR NONTAXABLE**
9 **PURPOSES.**

10 Section 4101 (relating to certain approved terminals
11 of registered persons required to offer dyed diesel fuel and
12 kerosene for nontaxable purposes) is amended by striking
13 subsection (e).

14 **SEC. 212. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**
15 **MENTS FOR NATURAL GAS.**

16 (a) IN GENERAL.—Subsection (b) of section 148 (de-
17 fining higher yielding investments) is amended by adding
18 at the end the following new paragraph:

19 “(4) EXCEPTION FOR CERTAIN PREPAYMENTS
20 TO ENSURE NATURAL GAS SUPPLY.—The term ‘in-
21 vestment property’ shall not include any prepayment
22 for the purpose of obtaining a supply of a natural
23 gas—

1 “(A) at least 85 percent of which is to be
2 used in the State in which the issuer is located,
3 and

4 “(B) which is to be used in a business of
5 one or more utilities each of which is owned and
6 operated by a State or local government, any
7 political subdivision or instrumentality thereof,
8 or any governmental unit acting for or on be-
9 half of such a utility.”.

10 (b) PRIVATE LOAN FINANCING TEST NOT TO APPLY
11 TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of
12 section 141(c) (providing exceptions to the private loan fi-
13 nancing test) is amended by striking “or” at the end of
14 subparagraph (A), by striking the period at the end of
15 subparagraph (B) and inserting “, or”, and by adding at
16 the end the following new subparagraph:

17 “(C) arises from a transaction described in
18 section 148(b)(4).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take apply to obligations issued after Oc-
21 tober 22, 1986; except that section 148(b)(4)(A) of the
22 Internal Revenue Code of 1986, as added by this section,
23 shall apply only to obligations issued after the date of the
24 enactment of this Act.

1 **TITLE III—PRODUCTION**

2 **SEC. 301. OIL AND GAS FROM MARGINAL WELLS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 (relating to business credits) is
5 amended by adding at the end the following:

6 **“SEC. 45J. CREDIT FOR PRODUCING OIL AND GAS FROM**
7 **MARGINAL WELLS.**

8 “(a) GENERAL RULE.—For purposes of section 38,
9 the marginal well production credit for any taxable year
10 is an amount equal to the product of—

11 “(1) the credit amount, and

12 “(2) the qualified credit oil production and the
13 qualified natural gas production which is attrib-
14 utable to the taxpayer.

15 “(b) CREDIT AMOUNT.—For purposes of this
16 section—

17 “(1) IN GENERAL.—The credit amount is—

18 “(A) \$3 per barrel of qualified crude oil
19 production, and

20 “(B) 50 cents per 1,000 cubic feet of
21 qualified natural gas production.

22 “(2) REDUCTION AS OIL AND GAS PRICES IN-
23 CREASE.—

24 “(A) IN GENERAL.—The \$3 and 50 cents
25 amounts under paragraph (1) shall each be re-

1 duced (but not below zero) by an amount which
2 bears the same ratio to such amount (deter-
3 mined without regard to this paragraph) as—

4 “(i) the excess (if any) of the applica-
5 ble reference price over \$15 (\$1.67 for
6 qualified natural gas production), bears to

7 “(ii) \$3 (\$0.33 for qualified natural
8 gas production).

9 The applicable reference price for a taxable
10 year is the reference price of the calendar year
11 preceding the calendar year in which the tax-
12 able year begins.

13 “(B) INFLATION ADJUSTMENT.—In the
14 case of any taxable year beginning in a calendar
15 year after 2001, each of the dollar amounts
16 contained in subparagraph (A) shall be in-
17 creased to an amount equal to such dollar
18 amount multiplied by the inflation adjustment
19 factor for such calendar year (determined under
20 section 43(b)(3)(B) by substituting ‘2000’ for
21 ‘1990’).

22 “(C) REFERENCE PRICE.—For purposes of
23 this paragraph, the term ‘reference price’
24 means, with respect to any calendar year—

1 “(i) in the case of qualified crude oil
2 production, the reference price determined
3 under section 29(d)(2)(C), and

4 “(ii) in the case of qualified natural
5 gas production, the Secretary’s estimate of
6 the annual average wellhead price per
7 1,000 cubic feet for all domestic natural
8 gas.

9 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
10 PRODUCTION.—For purposes of this section—

11 “(1) IN GENERAL.—The terms ‘qualified crude
12 oil production’ and ‘qualified natural gas production’
13 mean domestic crude oil or natural gas which is pro-
14 duced from a qualified marginal well.

15 “(2) LIMITATION ON AMOUNT OF PRODUCTION
16 WHICH MAY QUALIFY.—

17 “(A) IN GENERAL.—Crude oil or natural
18 gas produced during any taxable year from any
19 well shall not be treated or qualified crude oil
20 production or qualified natural gas production
21 to the extent production from the well during
22 the taxable year exceeds 1,095 barrels or barrel
23 equivalents.

24 “(B) PROPORTIONATE REDUCTIONS.—

1 “(i) SHORT TAXABLE YEARS.—In the
2 case of a short taxable year, the limitations
3 under this paragraph shall be proportion-
4 ately reduced to reflect the ratio which the
5 number of days in such taxable year bears
6 to 365.

7 “(ii) WELLS NOT IN PRODUCTION EN-
8 TIRE YEAR.—In the case of a well which is
9 not capable of production during each day
10 of a taxable year, the limitations under
11 this paragraph applicable to the well shall
12 be proportionately reduced to reflect the
13 ratio which the number of days of produc-
14 tion bears to the total number of days in
15 the taxable year.

16 “(3) DEFINITIONS.—

17 “(A) QUALIFIED MARGINAL WELL.—The
18 term ‘qualified marginal well’ means a domestic
19 well—

20 “(i) the production from which during
21 the taxable year is treated as marginal
22 production under section 613A(c)(6), or

23 “(ii) which, during the taxable year—

1 “(I) has average daily production
2 of not more than 25 barrel equiva-
3 lents, and

4 “(II) produces water at a rate
5 not less than 95 percent of total well
6 effluent.

7 “(B) CRUDE OIL, ETC.—The terms ‘crude
8 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have
9 the meanings given such terms by section
10 613A(e).

11 “(C) BARREL EQUIVALENT.—The term
12 ‘barrel equivalent’ means, with respect to nat-
13 ural gas, a conversion ratio of 6,000 cubic
14 feet of natural gas to 1 barrel of crude oil.

15 “(d) OTHER RULES.—

16 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
17 PAYER.—In the case of a qualified marginal well in
18 which there is more than one owner of operating in-
19 terests in the well and the crude oil or natural gas
20 production exceeds the limitation under subsection
21 (c)(2), qualifying crude oil production or qualifying
22 natural gas production attributable to the taxpayer
23 shall be determined on the basis of the ratio which
24 taxpayer’s revenue interest in the production bears

1 to the aggregate of the revenue interests of all oper-
2 ating interest owners in the production.

3 “(2) OPERATING INTEREST REQUIRED.—Any
4 credit under this section may be claimed only on
5 production which is attributable to the holder of an
6 operating interest.

7 “(3) PRODUCTION FROM NONCONVENTIONAL
8 SOURCES EXCLUDED.—In the case of production
9 from a qualified marginal well which is eligible for
10 the credit allowed under section 29 for the taxable
11 year, no credit shall be allowable under this section
12 unless the taxpayer elects not to claim the credit
13 under section 29 with respect to the well.

14 “(4) NONCOMPLIANCE WITH POLLUTION
15 LAWS.—For purposes of subsection (c)(3)(A), a
16 marginal well which is not in compliance with the
17 applicable State and Federal pollution prevention,
18 control, and permit requirements for any period of
19 time shall not be considered to be a qualified mar-
20 ginal well during such period.”.

21 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
22 tion 38(b) is amended by striking ‘plus’ at the end of para-
23 graph (17), by striking the period at the end of paragraph
24 (18) and inserting “, plus”, and by adding at the end the
25 following:

1 “(19) the marginal oil and gas well production
2 credit determined under section 45J(a).”.

3 (c) CARRYBACK.—Subsection (a) of section 39 (relat-
4 ing to carryback and carryforward of unused credits gen-
5 erally) is amended by adding at the end the following:

6 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
7 AND GAS WELL PRODUCTION CREDIT.—In the case
8 of the marginal oil and gas well production credit—

9 “(A) this section shall be applied sepa-
10 rately from the business credit (other than the
11 marginal oil and gas well production credit),

12 “(B) paragraph (1) shall be applied by
13 substituting ‘10 taxable years’ for ‘1 taxable
14 years’ in subparagraph (A) thereof, and

15 “(C) paragraph (2) shall be applied—

16 “(i) by substituting ‘31 taxable years’
17 for ‘21 taxable years’ in subparagraph (A)
18 thereof, and

19 “(ii) by substituting ‘30 taxable years’
20 for ‘20 taxable years’ in subparagraph (A)
21 thereof.”.

22 (d) COORDINATION WITH SECTION 29.—Section
23 29(a) is amended by striking “There” and inserting “At
24 the election of the taxpayer, there”.

1 (e) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter I
 3 is amended by adding at the end the following:

“Sec. 45J. Credit for producing oil and gas from marginal wells.”.

4 (f) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to production in taxable years be-
 6 ginning after December 31, 2001.

7 **SEC. 302. TEMPORARY SUSPENSION OF LIMITATION BASED**
 8 **ON 65 PERCENT OF TAXABLE INCOME AND**
 9 **EXTENSION OF SUSPENSION OF TAXABLE IN-**
 10 **COME LIMIT WITH RESPECT TO MARGINAL**
 11 **PRODUCTION.**

12 (a) LIMITATION BASED ON 65 PERCENT OF TAX-
 13 ABLE INCOME.—Subsection (d) of section 613A (relating
 14 to limitation on percentage depletion in case of oil and
 15 gas wells) is amended by adding at the end the following
 16 new paragraph:

17 “(6) TEMPORARY SUSPENSION OF TAXABLE IN-
 18 COME LIMIT.—Paragraph (1) shall not apply to tax-
 19 able years beginning after December 31, 2001, and
 20 before January 1, 2007, including with respect to
 21 amounts carried under the second sentence of para-
 22 graph (1) to such taxable years.”.

23 (b) EXTENSION OF SUSPENSION OF TAXABLE IN-
 24 COME LIMIT WITH RESPECT TO MARGINAL PRODUC-
 25 TION.—Subparagraph (H) of section 613A(c)(6) (relating

1 to temporary suspension of taxable income limit with re-
2 spect to marginal production) is amended by striking
3 “2002” and inserting “2007”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to taxable years beginning after
6 December 31, 2001.

7 **SEC. 303. DEDUCTION FOR DELAY RENTAL PAYMENTS.**

8 (a) IN GENERAL.—Section 263 (relating to capital
9 expenditures) is amended by adding after subsection (i)
10 the following:

11 “(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL
12 AND GAS WELLS.—

13 “(1) IN GENERAL.—Notwithstanding subsection
14 (a), a taxpayer may elect to treat delay rental pay-
15 ments incurred in connection with the development
16 of oil or gas within the United States (as defined in
17 section 638) as payments which are not chargeable
18 to capital account. Any payments so treated shall be
19 allowed as a deduction in the taxable year in which
20 paid or incurred.

21 “(2) DELAY RENTAL PAYMENTS.—For purposes
22 of paragraph (1), the term ‘delay rental payment’
23 means an amount paid for the privilege of deferring
24 development of an oil or gas well under an oil or gas
25 lease.”.

1 (b) CONFORMING AMENDMENT.—Section 263A(c)(3)
2 is amended by inserting “263(j),” after “263(i),”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to amounts paid or incurred in tax-
5 able years beginning after December 31, 2001.

6 **SEC. 304. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**
7 **PHYSICAL EXPENDITURES.**

8 (a) IN GENERAL.—Section 263 (relating to capital
9 expenditures) is amended by adding after subsection (j)
10 the following:

11 “(k) GEOLOGICAL AND GEOPHYSICAL EXPENDI-
12 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-
13 standing subsection (a), a taxpayer may elect to treat geo-
14 logical and geophysical expenses incurred in connection
15 with the exploration for, or development of, oil or gas with-
16 in the United States (as defined in section 638) as ex-
17 penses which are not chargeable to capital account. Any
18 expenses so treated shall be allowed as a deduction in the
19 taxable year in which paid or incurred.”.

20 (b) CONFORMING AMENDMENT.—Section
21 263A(c)(3), as amended by section 603(b), is amended by
22 inserting “263(k),” after “263(j),”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to costs paid or incurred in taxable
25 years beginning after December 31, 2001.

1 **SEC. 305. 5-YEAR NET OPERATING LOSS CARRYBACK FOR**
2 **LOSSES ATTRIBUTABLE TO OPERATING MIN-**
3 **ERAL INTERESTS OF OIL AND GAS PRO-**
4 **DUCERS.**

5 (a) IN GENERAL.—Paragraph (1) of section 172(b)
6 (relating to years to which loss may be carried) is amended
7 by adding at the end the following new subparagraph:

8 “(H) LOSSES ON OPERATING MINERAL IN-
9 TERESTS OF OIL AND GAS PRODUCERS.—In the
10 case of a taxpayer which has an eligible oil and
11 gas loss (as defined in subsection (j)) for a tax-
12 able year, such eligible oil and gas loss shall be
13 a net operating loss carryback to each of the 5
14 taxable years preceding the taxable year of such
15 loss.”.

16 (b) ELIGIBLE OIL AND GAS LOSS.—Section 172 is
17 amended by redesignating subsection (j) as subsection (k)
18 and by inserting after subsection (i) the following new sub-
19 section:

20 “(j) ELIGIBLE OIL AND GAS LOSS.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The term ‘eligible oil and
23 gas loss’ means the lesser of—

24 “(A) the amount which would be the net
25 operating loss for the taxable year if only in-
26 come and deductions attributable to operating

1 mineral interests (as defined in section 614(d))
 2 in oil and gas wells are taken into account, or

3 “(B) the amount of the net operating loss
 4 for such taxable year.

5 “(2) COORDINATION WITH SUBSECTION
 6 (b)(2).—For purposes of applying subsection (b)(2),
 7 an eligible oil and gas loss for any taxable year shall
 8 be treated in a manner similar to the manner in
 9 which a specified liability loss is treated.

10 “(3) ELECTION.—Any taxpayer entitled to a 5-
 11 year carryback under subsection (b)(1)(H) from any
 12 loss year may elect to have the carryback period
 13 with respect to such loss year determined without re-
 14 gard to subsection (b)(1)(H).”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to net operating losses for taxable
 17 years beginning after December 31, 2001.

18 **SEC. 306. EXTENSION AND MODIFICATION OF CREDIT FOR**
 19 **PRODUCING FUEL FROM A NONCONVEN-**
 20 **TIONAL SOURCE.**

21 (a) IN GENERAL.—Section 29 is amended by adding
 22 at the end the following new subsection:

23 “(h) EXTENSION FOR OTHER FACILITIES.—In the
 24 case of a well for producing qualified fuels described in
 25 subparagraph (A) or (B)(i) of subsection (e)(1)—

1 “(1) APPLICATION OF CREDIT FOR NEW
2 WELLS.—

3 “(A) WELLS COVERED.—Notwithstanding
4 subsection (f), this section shall apply with re-
5 spect to such fuels—

6 “(i) which are produced from a well
7 drilled after the date of the enactment of
8 this subsection and before January 1,
9 2007, and

10 “(ii) which are sold before January 1,
11 2010.

12 “(B) AMOUNT OF CREDIT REDUCED
13 AFTER 4 YEARS.—In the case of fuel sold in a
14 year which is more than 4 years after the date
15 that a well described in subparagraph (A)(i) is
16 placed in service, only such year’s applicable
17 percentage of the fuel sold during such year
18 shall be take into account. For purposes of this
19 subparagraph, the applicable percentage is 75
20 percent for the 5th year after the well is placed
21 in service, 50 percent for the 6th such year,
22 and 25 percent for the 7th such year.

23 “(2) EXTENSION OF CREDIT FOR OLD
24 WELLS.—

1 “(A) WELLS COVERED.—Subsection (f)(2)
2 shall be applied by substituting ‘2010’ for
3 ‘2003’ with respect to wells described in sub-
4 section (f)(1)(A) with respect to such fuels.

5 “(B) AMOUNT OF CREDIT REDUCED
6 STARTING IN 2007.—In the case of fuel from a
7 well described in subsection (f)(1)(A) which is
8 sold after December 31, 2006, only the applica-
9 ble percentage (for the calendar year in which
10 such fuel is sold) shall be taken into account.
11 For purposes of this subparagraph, the applica-
12 ble percentage is 75 percent for 2007, 50 per-
13 cent for 2008, and 25 percent for 2009.

14 “(3) RESTART OF INFLATION ADJUSTMENT FOR
15 EXTENSION PERIOD.—In determining the amount of
16 credit allowable under this section solely by reason
17 of this subsection, subparagraph (B) of subsection
18 (d)(2) shall be applied by substituting ‘2001’ for
19 ‘1979’.”.

20 (b) LANDFILL GAS.—Section 29 is amended by add-
21 ing after subsection (h), as added by subsection (a), the
22 following new subsection:

23 “(i) MODIFICATION OF CREDIT FOR FACILITIES
24 PRODUCING QUALIFIED FUEL FROM LANDFILL GAS.—

1 “(1) IN GENERAL.—Notwithstanding subsection
2 (g), in the case of a facility for producing qualified
3 fuel from landfill gas which was placed in service be-
4 fore January 1, 2007, this section shall apply to fuel
5 produced at such facility during the 5-year period
6 beginning on the later of—

7 “(A) the date such facility was placed in
8 service, or

9 “(B) the date of the enactment of this sub-
10 section.

11 “(2) SPECIAL RULES.—

12 “(A) REDUCED CREDIT.—In the case of a
13 facility covered by paragraph (1), subsection
14 (a)(1) shall be applied by substituting
15 ‘\$[_____]’ for ‘\$3’.

16 “(B) ADDITIONAL REDUCTION OF CREDIT
17 FOR CERTAIN LANDFILL GAS FACILITIES.—In
18 the case of a facility covered by paragraph (1)
19 which is subject to the 1996 New Source Per-
20 formance Standards/Emissions Guidelines of
21 the Environmental Protection Agency, sub-
22 section (a)(1) shall be applied by substituting
23 ‘\$2’ for ‘\$3’. In the case of a facility to which
24 both this subparagraph and subparagraph (A)
25 apply, the substitution under this subparagraph

1 shall apply in lieu of the substitution under
2 subparagraph (A).”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to fuel sold after the date of the
5 enactment of this Act.

6 **SEC. 307. CREDIT FOR INVESTMENT IN QUALIFYING AD-**
7 **VANCED CLEAN COAL TECHNOLOGY.**

8 (a) **ALLOWANCE OF QUALIFYING ADVANCED CLEAN**
9 **COAL TECHNOLOGY FACILITY CREDIT.**—Section 46 (re-
10 lating to amount of credit) is amended by striking “and”
11 at the end of paragraph (3), by striking the period at the
12 end of paragraph (4) and inserting “, and”, and by adding
13 at the end the following:

14 “(5) the qualifying advanced clean coal tech-
15 nology facility credit.”.

16 (b) **AMOUNT OF QUALIFYING ADVANCED CLEAN**
17 **COAL TECHNOLOGY FACILITY CREDIT.**—Subpart E of
18 part IV of subchapter A of chapter 1 (relating to rules
19 for computing investment credit) is amended by inserting
20 after section 48 the following:

21 **“SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECH-**
22 **NOLOGY FACILITY CREDIT.**

23 “(a) **IN GENERAL.**—For purposes of section 46, the
24 qualifying advanced clean coal technology facility credit
25 for any taxable year is an amount equal to 10 percent

1 of the qualified investment in a qualifying advanced clean
2 coal technology facility for such taxable year.

3 “(b) QUALIFYING ADVANCED CLEAN COAL TECH-
4 NOLOGY FACILITY.—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a), the term ‘qualifying advanced clean coal tech-
7 nology facility’ means a facility of the taxpayer
8 which—

9 “(A)(i)(I) original use of which commences
10 with the taxpayer, or

11 “(II) is a retrofitted or repowered conven-
12 tional technology facility, the retrofitting or
13 repowering of which is completed by the tax-
14 payer (but only with respect to that portion of
15 the basis which is properly attributable to such
16 retrofitting or repowering), or

17 “(ii) is acquired through purchase (as de-
18 fined by section 179(d)(2)),

19 “(B) is depreciable under section 167,

20 “(C) has a useful life of not less than 4
21 years,

22 “(D) is located in the United States, and

23 “(E) uses qualifying advanced clean coal
24 technology.

1 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—
2 For purposes of subparagraph (A) of paragraph (1),
3 in the case of a facility which—

4 “(A) is originally placed in service by a
5 person, and

6 “(B) is sold and leased back by such per-
7 son, or is leased to such person, within 3
8 months after the date such facility was origi-
9 nally placed in service, for a period of not less
10 than 12 years,

11 such facility shall be treated as originally placed in
12 service not earlier than the date on which such prop-
13 erty is used under the leaseback (or lease) referred
14 to in subparagraph (B). The preceding sentence
15 shall not apply to any property if the lessee and les-
16 sor of such property make an election under this
17 sentence. Such an election, once made, may be re-
18 voked only with the consent of the Secretary.

19 “(c) QUALIFYING ADVANCED CLEAN COAL TECH-
20 NOLOGY.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualifying ad-
22 vanced clean coal technology’ means, with respect to
23 clean coal technology—

24 “(A) which has—

1 “(i) multiple applications, with a com-
2 bined capacity of not more than 5,000
3 megawatts (4,000 megawatts before 2009),
4 of advanced pulverized coal or atmospheric
5 fluidized bed combustion technology—

6 “(I) installed as a new, retrofit,
7 or repowering application,

8 “(II) operated between 2000 and
9 2012, and

10 “(III) having a design net heat
11 rate of not more than 9,500 Btu per
12 kilowatt hour when the design coal
13 has a heat content of more than 9,000
14 Btu per pound, or a design net heat
15 rate of not more than 9,900 Btu per
16 kilowatt hour when the design coal
17 has a heat content of 9,000 Btu per
18 pound or less,

19 “(ii) multiple applications, with a
20 combined capacity of not more than 1,000
21 megawatts (500 megawatts before 2009
22 and 750 megawatts before 2013), of pres-
23 surized fluidized bed combustion
24 technology—

1 “(I) installed as a new, retrofit,
2 or repowering application,

3 “(II) operated between 2000 and
4 2016, and

5 “(III) having a design net heat
6 rate of not more than 8,400 Btu per
7 kilowatt hour when the design coal
8 has a heat content of more than 9,000
9 Btu per pound, or a design net heat
10 rate of not more than 9,900 Btu’s per
11 kilowatt hour when the design coal
12 has a heat content of 9,000 Btu per
13 pound or less, and

14 “(iii) multiple applications, with a
15 combined capacity of not more than 2,000
16 megawatts (1,000 megawatts before 2009
17 and 1,500 megawatts before 2013), of in-
18 tegrated gasification combined cycle tech-
19 nology, with or without fuel or chemical co-
20 production—

21 “(I) installed as a new, retrofit,
22 or repowering application,

23 “(II) operated between 2000 and
24 2016,

1 “(III) having a design net heat
2 rate of not more than 8,550 Btu per
3 kilowatt hour when the design coal
4 has a heat content of more than 9,000
5 Btu per pound, or a design net heat
6 rate of not more than 9,900 Btu per
7 kilowatt hour when the design coal
8 has a heat content of 9,000 Btu per
9 pound or less, and

10 “(IV) having a net thermal effi-
11 ciency on any fuel or chemical co-pro-
12 duction of not less than 39 percent
13 (higher heating value), or

14 “(iv) multiple applications, with a
15 combined capacity of not more than 2,000
16 megawatts (1,000 megawatts before 2009
17 and 1,500 megawatts before 2013) of tech-
18 nology for the production of electricity—

19 “(I) installed as a new, retrofit,
20 or repowering application,

21 “(II) operated between 2000 and
22 2016, and

23 “(III) having a carbon emission
24 rate which is not more than 85 per-
25 cent of conventional technology, and

1 “(B) which reduces the discharge into the
2 atmosphere of 1 or more of the following pollut-
3 ants to not more than—

4 “(i) 5 percent of the potential com-
5 bustion concentration sulfur dioxide emis-
6 sions for a coal with a potential combus-
7 tion concentration sulfur emission of 1.2
8 lb/million btu of heat input or greater,

9 “(ii) 15 percent of the potential com-
10 bustion concentration sulfur dioxide emis-
11 sions for a coal with a potential combus-
12 tion concentration sulfur emission of less
13 than 1.2 lb/million btu of heat input,

14 “(iii) nitrogen oxide emissions of 0.1
15 lb per million btu of heat input from other
16 than cyclone-fired boilers,

17 “(iv) 15 percent of the uncontrolled
18 nitrogen oxide emissions from cyclone-fired
19 boilers,

20 “(v) particulate emissions of 0.02 lb
21 per million btu of heat input, and

22 “(vi) the emission levels specified in
23 the new source performance standards of
24 the Clean Air Act (42 U.S.C. 7411) in ef-
25 fect at the time of retrofitting, repowering,

1 or replacement of the qualifying clean coal
2 technology unit for the category of source
3 if such level is lower than the levels speci-
4 fied in clause (i), (ii), (iii), (iv), or (v).

5 “(2) EXCEPTIONS.—Such term shall not in-
6 clude any projects receiving or scheduled to receive
7 funding under the Clean Coal Technology Program,
8 or the Power Plant Improvement administered by
9 the Secretary of the Department of Energy.

10 “(d) CLEAN COAL TECHNOLOGY.—For purposes of
11 this section, the term ‘clean coal technology’ means ad-
12 vanced technology which uses coal to produce 75 percent
13 or more of its thermal output as electricity including ad-
14 vanced pulverized coal or atmospheric fluidized bed com-
15 bustion, pressurized fluidized bed combustion, integrated
16 gasification combined cycle with or without fuel or chem-
17 ical co-production, and any other technology for the pro-
18 duction of electricity which exceeds the performance of
19 conventional technology.

20 “(e) CONVENTIONAL TECHNOLOGY.—The term ‘con-
21 ventional technology’ means—

22 “(1) coal-fired combustion technology with a de-
23 sign net heat rate of not less than 9,500 Btu per kil-
24 owatt hour (HHV) and a carbon equivalents emis-
25 sion rate of not more than 0.54 pounds of carbon

1 per kilowatt hour when the design coal has a heat
2 content of more than 9,000 Btu per pound,

3 “(2) coal-fired combustion technology with a de-
4 sign net heat rate of not less than 10,500 Btu per
5 kilowatt hour (HHV) and a carbon equivalents emis-
6 sion rate of not more than 0.60 pounds of carbon
7 per kilowatt hour when the design coal has a heat
8 content of 9,000 Btu per pound or less, or

9 “(3) natural gas-fired combustion technology
10 with a design net heat rate of not less than 7,500
11 Btu per kilowatt hour (HHV) and a carbon equiva-
12 lents emission rate of not more than 0.24 pounds of
13 carbon per kilowatt hour.

14 “(f) DESIGN NET HEAT RATE.—The design net heat
15 rate shall be based on the design annual heat input to
16 and the design annual net electrical output from the quali-
17 fying advanced clean coal technology (determined without
18 regard to such technology’s co-generation of steam).

19 “(g) SELECTION CRITERIA.—Selection criteria for
20 qualifying advanced clean coal technology facilities—

21 “(1) shall be established by the Secretary of
22 Energy as part of a competitive solicitation,

23 “(2) shall include primary criteria of minimum
24 design net heat rate, maximum design thermal effi-

1 ciency, environmental performance, and lowest cost
2 to the government, and

3 “(3) shall include supplemental criteria as de-
4 termined appropriate by the Secretary of Energy.

5 “(h) QUALIFIED INVESTMENT.—For purposes of
6 subsection (a), the term ‘qualified investment’ means, with
7 respect to any taxable year, the basis of a qualifying ad-
8 vanced clean coal technology facility placed in service by
9 the taxpayer during such taxable year.

10 “(i) QUALIFIED PROGRESS EXPENDITURES.—

11 “(1) INCREASE IN QUALIFIED INVESTMENT.—

12 In the case of a taxpayer who has made an election
13 under paragraph (5), the amount of the qualified in-
14 vestment of such taxpayer for the taxable year (de-
15 termined under subsection (c) without regard to this
16 section) shall be increased by an amount equal to
17 the aggregate of each qualified progress expenditure
18 for the taxable year with respect to progress expend-
19 iture property.

20 “(2) PROGRESS EXPENDITURE PROPERTY DE-

21 FINED.—For purposes of this subsection, the term
22 ‘progress expenditure property’ means any property
23 being constructed by or for the taxpayer and which
24 it is reasonable to believe will qualify as a qualifying
25 advanced clean coal technology facility which is

1 being constructed by or for the taxpayer when it is
2 placed in service.

3 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
4 FINED.—For purposes of this subsection—

5 “(A) SELF-CONSTRUCTED PROPERTY.—In
6 the case of any self-constructed property, the
7 term ‘qualified progress expenditures’ means
8 the amount which, for purposes of this subpart,
9 is properly chargeable (during such taxable
10 year) to capital account with respect to such
11 property.

12 “(B) NONSELF-CONSTRUCTED PROP-
13 erty.—In the case of nonself-constructed prop-
14 erty, the term ‘qualified progress expenditures’
15 means the amount paid during the taxable year
16 to another person for the construction of such
17 property.

18 “(4) OTHER DEFINITIONS.—For purposes of
19 this subsection—

20 “(A) SELF-CONSTRUCTED PROPERTY.—
21 The term ‘self-constructed property’ means
22 property for which it is reasonable to believe
23 that more than half of the construction expendi-
24 tures will be made directly by the taxpayer.

1 “(B) NONSELF-CONSTRUCTED PROP-
2 ERTY.—The term ‘nonself-constructed property’
3 means property which is not self-constructed
4 property.

5 “(C) CONSTRUCTION, ETC.—The term
6 ‘construction’ includes reconstruction and erec-
7 tion, and the term ‘constructed’ includes recon-
8 structed and erected.

9 “(D) ONLY CONSTRUCTION OF QUALI-
10 FYING ADVANCED CLEAN COAL TECHNOLOGY
11 FACILITY TO BE TAKEN INTO ACCOUNT.—Con-
12 struction shall be taken into account only if, for
13 purposes of this subpart, expenditures therefor
14 are properly chargeable to capital account with
15 respect to the property.

16 “(5) ELECTION.—An election under this sub-
17 section may be made at such time and in such man-
18 ner as the Secretary may by regulations prescribe.
19 Such an election shall apply to the taxable year for
20 which made and to all subsequent taxable years.
21 Such an election, once made, may not be revoked ex-
22 cept with the consent of the Secretary.

23 “(j) COORDINATION WITH OTHER CREDITS.—This
24 section shall not apply to any property with respect to
25 which the rehabilitation credit under section 47 or the en-

1 ergy credit under section 48 is allowed unless the taxpayer
2 elects to waive the application of such credit to such prop-
3 erty.

4 “(k) TERMINATION.—This section shall not apply
5 with respect to any qualified investment made after De-
6 cember 31, 2011.

7 “(l) NATIONAL LIMITATION.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of this section, the term ‘qualifying ad-
10 vanced clean coal technology facility’ shall include
11 such a facility only to the extent that such facility
12 is allocated a portion of the national megawatt limi-
13 tation under this subsection.

14 “(2) NATIONAL MEGAWATT LIMITATION.—The
15 national megawatt limitation under this subsection
16 is 10,000 megawatts.

17 “(3) ALLOCATION OF LIMITATION.—The na-
18 tional megawatt limitation shall be allocated by the
19 Secretary under rules prescribed by the Secretary.
20 Not later than 6 months after the date of enactment
21 of this subsection, the Secretary shall prescribe such
22 regulations as may be necessary or appropriate to
23 carry out the purposes of this section, including
24 regulations—

1 “(A) to limit which facility qualifies as
2 ‘qualified advanced clean coal technology’ in
3 subsection (c) to particular facilities, a portion
4 of particular facilities, or a portion of the pro-
5 duction from particular facilities, so that when
6 all such facilities (or portions thereof) are
7 placed in service over the ten year period in sec-
8 tion (k), the combination of facilities approved
9 for tax credits (and/or portions of facilities ap-
10 proved for tax credits) will not exceed a com-
11 bined capacity of 10,000 megawatts;

12 “(B) to provide a certification process in
13 consultation with the Secretary of Energy
14 under subsection (g) that will approve and allo-
15 cate the 10,000 megawatts of available tax
16 credits authority—

17 “(i) to encourage that facilities with
18 the highest thermal efficiencies and envi-
19 ronmental performance be placed in service
20 as soon as possible;

21 “(ii) to allocate credits to taxpayers
22 that have a definite and credible plan for
23 placing into commercial operation a quali-
24 fying advanced clean coal technology facil-
25 ity, including—

- 1 “(I) a site,
- 2 “(II) contractual commitments
- 3 for procurement and construction,
- 4 “(III) filings for all necessary
- 5 preconstruction approvals,
- 6 “(IV) a demonstrated record of
- 7 having successfully completed com-
- 8 parable projects on a timely basis, and
- 9 “(V) such other factors that the
- 10 Secretary shall determine are appro-
- 11 priate;
- 12 “(iii) to allocate credits to a portion of
- 13 a facility (or a portion of the production
- 14 from a facility) if the Secretary determines
- 15 that such an allocation should maximize
- 16 the amount of efficient production encour-
- 17 aged with the available tax credits;
- 18 “(C) to set progress requirements and con-
- 19 ditional approvals so that credits for approved
- 20 projects that become unlikely to meet the nec-
- 21 essary conditions that can be reallocated by the
- 22 Secretary to other projects;
- 23 “(D) to reallocate credits that are not allo-
- 24 cated to 1 technology described in clauses (i)
- 25 through (iv) of subsection (c)(1)(A) because an

1 insufficient number of qualifying facilities re-
2 quested credits for one technology, to another
3 technology described in another subparagraph
4 of subsection (c) in order to maximize the
5 amount of energy efficient production encour-
6 aged with the available tax credits; and

7 “(E) to provide taxpayers with opportuni-
8 ties to correct administrative errors and omis-
9 sions with respect to allocations and record-
10 keeping within a reasonable period after their
11 discovery, taking into account the availability of
12 regulations and other administrative guidance
13 from the Secretary.”.

14 (c) RECAPTURE.—Section 50(a) (relating to other
15 special rules) is amended by adding at the end the fol-
16 lowing:

17 “(6) SPECIAL RULES RELATING TO QUALIFYING
18 ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—
19 For purposes of applying this subsection in the case
20 of any credit allowable by reason of section 48A, the
21 following shall apply:

22 “(A) GENERAL RULE.—In lieu of the
23 amount of the increase in tax under paragraph
24 (1), the increase in tax shall be an amount
25 equal to the investment tax credit allowed under

1 section 38 for all prior taxable years with re-
2 spect to a qualifying advanced clean coal tech-
3 nology facility (as defined by section 48A(b)(1))
4 multiplied by a fraction whose numerator is the
5 number of years remaining to fully depreciate
6 under this title the qualifying advanced clean
7 coal technology facility disposed of, and whose
8 denominator is the total number of years over
9 which such facility would otherwise have been
10 subject to depreciation. For purposes of the
11 preceding sentence, the year of disposition of
12 the qualifying advanced clean coal technology
13 facility property shall be treated as a year of re-
14 maining depreciation.

15 “(B) PROPERTY CEASES TO QUALIFY FOR
16 PROGRESS EXPENDITURES.—Rules similar to
17 the rules of paragraph (2) shall apply in the
18 case of qualified progress expenditures for a
19 qualifying advanced clean coal technology facil-
20 ity under section 48A, except that the amount
21 of the increase in tax under subparagraph (A)
22 of this paragraph shall be substituted in lieu of
23 the amount described in such paragraph (2).

24 “(C) APPLICATION OF PARAGRAPH.—This
25 paragraph shall be applied separately with re-

1 spect to the credit allowed under section 38 re-
2 garding a qualifying advanced clean coal tech-
3 nology facility.”.

4 (d) TRANSITIONAL RULE.—Section 39(d) (relating to
5 transitional rules) is amended by adding at the end the
6 following:

7 “(14) NO CARRYBACK OF SECTION 48A CREDIT
8 BEFORE EFFECTIVE DATE.—No portion of the un-
9 used business credit for any taxable year which is
10 attributable to the qualifying advanced clean coal
11 technology facility credit determined under section
12 48A may be carried back to a taxable year ending
13 before January 1, 2002.”.

14 (e) TECHNICAL AMENDMENTS.—

15 (1) Section 49(a)(1)(C) is amended by striking
16 “and” at the end of clause (ii), by striking the pe-
17 riod at the end of clause (iii) and inserting “, and”,
18 and by adding at the end the following:

19 “(iv) the portion of the basis of any
20 qualifying advanced clean coal technology
21 facility attributable to any qualified invest-
22 ment (as defined by section 48A(c)).”

23 (2) Section 50(a)(4) is amended by striking
24 “and (2)” and inserting “, (2), and (6)”.

1 **“SEC. 45K. CREDIT FOR PRODUCTION FROM QUALIFYING**
 2 **ADVANCED CLEAN COAL TECHNOLOGY.**

3 “(a) GENERAL RULE.—For purposes of section 38,
 4 the qualifying advanced clean coal technology production
 5 credit of any taxpayer for any taxable year is equal to—

6 “(1) the applicable amount of advanced clean
 7 coal technology production credit, multiplied by

8 “(2) the sum of—

9 “(A) the kilowatt hours of electricity, plus

10 “(B) each 3,413 Btu of fuels or chemicals,
 11 produced by the taxpayer during such taxable year
 12 at a qualifying advanced clean coal technology facil-
 13 ity during the 10-year period beginning on the date
 14 the facility was originally placed in service.

15 “(b) APPLICABLE AMOUNT.—For purposes of this
 16 section, the applicable amount of advanced clean coal tech-
 17 nology production credit with respect to production from
 18 a qualifying advanced clean coal technology facility shall
 19 be determined as follows:

20 “(1) Where the design coal has a heat content
 21 of more than 9,000 Btu per pound:

22 “(A) In the case of a facility originally
 23 placed in service before 2009, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	\$.0060	\$.0038
More than 8,400 but not more than 8,550	\$.0025	\$.0010

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
More than 8,550 but not more than 8,750	\$.0010	\$.0010.

1 “(B) In the case of a facility originally
 2 placed in service after 2008 and before 2013,
 3 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	\$.0105	\$.0090
More than 7,770 but not more than 8,125	\$.0085	\$.0068
More than 8,125 but not more than 8,350	\$.0075	\$.0055.

4 “(C) In the case of a facility originally
 5 placed in service after 2012 and before 2017,
 6 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	\$.0140	\$.01
More than 7,380 but not more than 7,720	\$.0120	\$.0090.

7 “(2) Where the design coal has a heat content
 8 of not more than 9,000 Btu per pound:

9 “(A) In the case of a facility originally
 10 placed in service before 2009, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	\$.0060	\$.0038
More than 8,500 but not more than 8,650	\$.0025	\$.0010
More than 8,650 but not more than 8,750	\$.0010	\$.0010.

1 “(B) In the case of a facility originally
 2 placed in service after 2008 and before 2013,
 3 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	\$.0105	\$.009
More than 8,000 but not more than 8,250	\$.0085	\$.0068
More than 8,250 but not more than 8,400	\$.0075	\$.0055.

4 “(C) In the case of a facility originally
 5 placed in service after 2012 and before 2017,
 6 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	\$.0140	\$.0115
More than 7,800 but not more than 7,950	\$.0120	\$.0090.

7 “(3) Where the clean coal technology facility is
 8 producing fuel or chemicals:

9 “(A) In the case of a facility originally
 10 placed in service before 2009, if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	\$.0060	\$.0038
Less than 40.6 but not less than 40 percent	\$.0025	\$.0010
Less than 40 but not less than 39 percent	\$.0010	\$.0010.

11 “(B) In the case of a facility originally
 12 placed in service after 2008 and before 2013,
 13 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	\$.0105	\$.009

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Less than 43.9 but not less than 42 percent	\$.0085	\$.0068
Less than 42 but not less than 40.9 percent	\$.0075	\$.0055.

1 “(C) In the case of a facility originally
 2 placed in service after 2012 and before 2017,
 3 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	\$.0140	\$.0115
Less than 44.2 but not less than 43.6 percent	\$.0120	\$.0090.

4 “(c) INFLATION ADJUSTMENT FACTOR.—For cal-
 5 endar years after 2001, each amount in paragraphs (1),
 6 (2), and (3) shall be adjusted by multiplying such amount
 7 by the inflation adjustment factor for the calendar year
 8 in which the amount is applied. If any amount as in-
 9 creased under the preceding sentence is not a multiple of
 10 0.01 cent, such amount shall be rounded to the nearest
 11 multiple of 0.01 cent.

12 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
 13 poses of this section—

14 “(1) IN GENERAL.—Any term used in this sec-
 15 tion which is also used in section 48A shall have the
 16 meaning given such term in section 48A.

17 “(2) APPLICABLE RULES.—The rules of para-
 18 graphs (3), (4), and (5) of section 45 shall apply.

1 “(3) INFLATION ADJUSTMENT FACTOR.—The
2 term ‘inflation adjustment factor’ means, with re-
3 spect to a calendar year, a fraction the numerator
4 of which is the GDP implicit price deflator for the
5 preceding calendar year and the denominator of
6 which is the GDP implicit price deflator for the cal-
7 endar year 2001.

8 “(4) GDP IMPLICIT PRICE DEFLATOR.—The
9 term ‘GDP implicit price deflator’ means the most
10 recent revision of the implicit price deflator for the
11 gross domestic product as computed by the Depart-
12 ment of Commerce before March 15 of the calendar
13 year.”.

14 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
15 tion 38(b) is amended by striking “plus” at the end of
16 paragraph (18), by striking the period at the end of para-
17 graph (19) and inserting “, plus”, and by adding at the
18 end the following:

19 “(20) the qualifying advanced clean coal tech-
20 nology production credit determined under section
21 45K(a).”.

22 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
23 transitional rules is amended by adding at the end the fol-
24 lowing:

1 “(15) NO CARRYBACK OF SECTION 45K CREDIT
2 BEFORE EFFECTIVE DATE.—No portion of the un-
3 used business credit for any taxable year which is
4 attributable to the qualifying advanced clean coal
5 technology production credit determined under sec-
6 tion 45K may be carried back to a taxable year end-
7 ing before the date of enactment of section 45K.”.

8 (d) CLERICAL AMENDMENT.—The table of sections
9 for subpart D of part IV of subchapter A of chapter 1
10 is amended by adding at the end the following:

“Sec. 45K. Credit for production from qualifying advanced clean
coal technology.”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to production after the date of en-
13 actment of this Act.

14 **SEC. 309. BUSINESS RELATED ENERGY CREDITS ALLOWED**
15 **AGAINST REGULAR AND MINIMUM TAX.**

16 (a) IN GENERAL.—Subsection (c) of section 38 (re-
17 lating to limitation based on amount of tax) is amended
18 by redesignating paragraph (3) as paragraph (4) and by
19 inserting after paragraph (2) the following new paragraph:

20 “(3) SPECIAL RULES FOR SPECIFIED ENERGY
21 CREDITS.—

22 “(A) IN GENERAL.—In the case of speci-
23 fied energy credits—

1 “(i) this section and section 39 shall
2 be applied separately with respect to such
3 credits, and

4 “(ii) in applying paragraph (1) to
5 such credits—

6 “(I) the tentative minimum tax
7 shall be treated as being zero, and

8 “(II) the limitation under para-
9 graph (1) (as modified by subclause
10 (I)) shall be reduced by the credit al-
11 lowed under subsection (a) for the
12 taxable year (other than the specified
13 energy credits).

14 “(B) SPECIFIED ENERGY CREDITS.—For
15 purposes of this subsection, the term ‘specified
16 energy credits’ means the credits determined
17 under sections 45G, 45H, 45I, 45J, and 45K.”.

18 (b) CONFORMING AMENDMENT.—Subclause (II) of
19 section 38(c)(2)(A)(ii) is amended by inserting “or the
20 specified energy credits” after “employment credit”.

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

1 **SEC. 310. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM**
2 **TAX PREFERENCE FOR INTANGIBLE DRILL-**
3 **ING COSTS.**

4 (a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E)
5 is amended by adding at the end the following new sen-
6 tence: “The preceding sentence shall not apply to taxable
7 years beginning after December 31, 2001, and before Jan-
8 uary 1, 2005.”.

9 (b) EFFECTIVE DATES.—The amendment made by
10 this section shall apply to amounts paid or incurred in tax-
11 able years beginning after December 31, 2001.

12 **SEC. 311. ALLOWANCE OF ENHANCED RECOVERY CREDIT**
13 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 38(c)(3) is amended by adding at the end the following
16 new sentence: “For taxable years beginning before Janu-
17 ary 1, 2005, such term includes the credit determined
18 under section 43.”

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2001.

22 **SEC. 312. EXTENSION OF CERTAIN BENEFITS FOR ENERGY-**
23 **RELATED BUSINESSES ON INDIAN RESERVA-**
24 **TIONS.**

25 (a) DEPRECIATION FOR PROPERTY ON INDIAN RES-
26 ERVATIONS.—Paragraph (8) of section 168(j) (relating to

1 termination) is amended by adding at the end the fol-
2 lowing new sentence: “The preceding sentence shall be ap-
3 plied by substituting “December 31, 2006” for “December
4 31, 2003” in the case of property placed in service as part
5 of a facility for—

6 “(A) the generation or transmission of
7 electricity (including from any qualified energy
8 resource, as defined in section 45(e)),

9 “(B) an oil or gas well,

10 “(C) the transmission or refining of oil or
11 gas, or

12 “(D) the production of any qualified fuel
13 (as defined in section 29(c)).”

14 (b) EMPLOYMENT OF INDIANS.—Subsection (f) of
15 section 45A (relating to termination) is amended by add-
16 ing at the end the following new sentence: “The preceding
17 sentence shall be applied by substituting “December 31,
18 2006” for “December 31, 2003” in the case of wages paid
19 for services performed at a facility described in section
20 168(j)(8).”

○