I

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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Tax Policy Act of 2001''.

(a) SHORT TITLE.—

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

TITLE I—CONSERVATION

SEC. 101. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

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

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

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

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

''(B) $2,000 for each system of property described in subsection (c)(2).

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

''(A) in the case of solar water heating equipment, such equipment is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

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

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

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and

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

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

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property de-

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

''(5) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(d) SPECIAL RULES.—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

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

uals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the

term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

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

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of nonbusiness qualified stationary fuel cell powerplant expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(A)).

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

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

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and

inserting ‘‘, and’’, and by adding at the end the following new paragraph:

‘‘(29) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.’’.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

‘‘Sec. 25C. Residential solar energy property.’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

SEC. 102. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

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

(b) EXPANSION OF CREDIT FOR OPEN-LOOP BIOMASS AND LANDFILL GAS FACILITIES.—Paragraph (3) of section 45(c) is amended by adding at the end the following new subparagraphs:

‘‘(D) OPEN-LOOP BIOMASS FACILITIES.—In the case of a facility using open-loop biomass

to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(E) LANDFILL GAS FACILITIES.—In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.''.

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

''(5) OPEN-LOOP BIOMASS.—The term 'open-loop biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber,

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

sure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

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

Such term shall not include closed-loop biomass.

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

''(A) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

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

''(7) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is allowed as a credit

under section 29 for the taxable year or any prior taxable year.''.

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

SEC. 103. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROPERTY.

(a) BUSINESS PROPERTY.—

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

''(iii) equipment which is part of a qualified stationary fuel cell powerplant,''.

(2) QUALIFIED STATIONARY FUEL CELL POWERPLANT.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED STATIONARY FUEL CELL POWERPLANT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified stationary fuel cell powerplant' means a stationary fuel cell power plant that has an elec-

tricity-only generation efficiency greater than 30 percent.

''(B) LIMITATION.—In the case of qualified stationary fuel cell powerplant placed in service during the taxable year, the credit under subsection (a) for such year may not exceed $1,000 for each kilowatt of capacity.

''(C) STATIONARY FUEL CELL POWER PLANT.—The term 'stationary fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(D) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''

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

(b) NONBUSINESS PROPERTY.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25C the following new section:

"SEC. 25D. NONBUSINESS QUALIFIED STATIONARY FUEL CELL POWERPLANT.

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

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for the taxable year and all prior taxable years shall not exceed $1,000 for each kilowatt of capacity.

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

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and

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

''(c) QUALIFIED STATIONARY FUEL CELL POWERPLANT EXPENDITURES.—For purposes of this section, the term 'qualified stationary fuel cell powerplant expenditures' means expenditures by the taxpayer for any qualified stationary fuel cell powerplant (as defined in section 48(a)(4))—

''(1) which meets the requirements of subparagraphs (B) and (D) of section 48(a)(3), and

''(2) which is installed on or in connection with a dwelling unit—

''(A) which is located in the United States, and

''(B) which is used by the taxpayer as a residence.

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

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

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

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

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

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

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

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Nonbusiness qualified stationary fuel cell powerplant.''.

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

SEC. 104. ALTERNATIVE MOTOR VEHICLE CREDIT.

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

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

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

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c),

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d), and

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

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

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

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

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

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

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

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

"(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"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.

''(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.

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

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

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

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

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum 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.

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty

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

"(I) If such vehicle has a gross vehicle weight rating of not more than 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.

"(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 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.

"(III) If such vehicle has a gross vehicle weight rating of more than 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.

"(B) INCREASE FOR FUEL EFFICIENCY.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a passenger automobile or light truck shall be increased by—

"(I) $1,000, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

"(II) $1,500, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

"(III) $2,000, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

"(IV) $2,500, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

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

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

''(ii) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(iii) OPTION TO USE LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increase credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more 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.

"(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 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.

"(iii) In the case of a vehicle which has a gross vehicle weight rating of more 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.

"(D) CONSERVATION CREDIT.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a passenger automobile or light truck shall be increased by—

"(I) $250, if such vehicle achieves a lifetime fuel savings of at least 1,500 gallons of gasoline, and

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

"(ii) LIFETIME FUEL SAVINGS FOR LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the lifetime fuel savings fuel may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle'.

"(E) DEFINITIONS.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines or 2008 and later model year ottocycle heavy duty engines, as applicable.

"(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph,

the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

''(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower-hour of oxides of nitrogen and 0.01 per brake horsepower-hour of particulate matter.

''(II) A rechargeable energy storage system.

''(iii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the battery or other electrical storage de-

vice, during a standard 10 second pulse power test, divided by the sum of the battery or other electrical storage device and the SAE net power of the heat engine.

"(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the battery or other electrical storage device, during a standard 10 second pulse power test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the electric motor peak power and the heat engine peak power of the vehicle, except that if the electric motor is the sole means by which the vehicle can be driven, the total traction power is the peak electric motor power.

"(iv) LIKE VEHICLE.—For purposes of subparagraph (B)(iii), the term 'like vehicle' for a new qualified hybrid motor vehicle derived from a conventional produc-

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

"(I) Body style (2-door or 4-door).

"(II) Transmission (automatic or manual).

"(III) Acceleration performance (± 0.05 seconds).

"(IV) Drivetrain (2-wheel drive or 4-wheel drive).

"(V) Certification by the Administrator of the Environmental Protection Agency.

"(v) LIFETIME FUEL SAVINGS.—For purposes of subsection (c)(2)(D), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2000 model year city fuel economy for the vehicle inertia weight class and the city fuel economy for the new qualified hybrid motor vehicle.

"(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term

'new qualified hybrid motor vehicle' means a motor vehicle—

"(A) which draws propulsion energy from onboard sources of stored energy which are both—

"(i) an internal combustion or heat engine using combustible fuel, and

"(ii) a rechargeable energy storage system,

"(B) which, in the case of a passenger automobile or light truck, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year,

"(C) the original use of which commences with the taxpayer,

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

"(E) which is made by a manufacturer.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 50 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) has received an order from an applicable State certifying the vehicle for sale or lease in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a

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

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

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

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

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(4) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified alternative fuel motor vehicle' means any motor vehicle—

''(i) which is only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit deter-

mined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 95/5 mixed-fuel vehicle, 95 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

''(II) has received an order from an applicable State certifying the vehicle for sale or lease in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

''(v) which is made by a manufacturer.

''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

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

native fuel and not more than 5 percent petroleum-based fuel.

''(e) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

''(i) $1,000, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

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

cent of the 2000 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

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

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

"(B) CONSERVATION CREDIT.—

"(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to an advanced lean burn technology motor vehicle shall be increased by—

"(I) $250, if such vehicle achieves a lifetime fuel savings of at least 1,500 gallons of gasoline, and

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

''(C) OPTION TO USE LIKE VEHICLE.—For purposes of paragraph (2), at the option of the vehicle manufacturer, the increase for fuel efficiency and conservation credit may be calculated by comparing the new advanced lean-burn technology motor vehicle to a ''like vehicle''.

''(D) DEFINITIONS.—

''(i) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—For purposes of subparagraph (E), the term 'advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine that—

''(I) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

''(II) incorporates direct injection,

''(III) achieves at least 125 percent of the 2000 model year city fuel economy, and

''(IV) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5, Tier 2 emission levels (for passenger vehicles) or Bin 8, Tier 2 emission levels (for light trucks) established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle.

''(ii) LIKE VEHICLE.—For purposes of subparagraph (E), the term 'like vehicle' for an advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

''(I) Body style (2-door or 4-door),

''(II) Transmission (automatic or manual),

''(III) Acceleration performance (± 0.05 seconds).

''(IV) Drivetrain (2-wheel drive or 4-wheel drive).

''(V) Certification by the Administrator of the Environmental Protection Agency.

''(iii) LIFETIME FUEL SAVINGS.—For purposes of subsection (c)(2)(D), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2000 model year city fuel economy for the vehicle inertia weight class and the city fuel economy for the new qualified hybrid motor vehicle.

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

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27, 29, and 30A for the taxable year.

''(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) 2000 MODEL YEAR CITY FUEL ECONOMY.—The 2000 model year city fuel economy with respect to any vehicle shall be measured under rules similar to the rules under section 4064(c).

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

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

''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any sale or lease document the specific amount of any credit otherwise allowable to the entity under this section and reduces the sale or lease price of such vehicle by an equivalent amount of such credit.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

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

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

''(11) CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (f) for such taxable year (referred to as the 'unused credit year' in this paragraph), such excess shall be allowed as a credit

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

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

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

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

''(h) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the

Environmental Protection Agency, in coordination with the Secretary of Transportation and the Secretary of the Treasury, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

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

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following:

''(31) to the extent provided in section 30B(g)(5).''.

(2) Section 6501(m) is amended by inserting ''30B(g)(10),'' after ''30(d)(4),''.

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

serting after the item relating to section 30A the following:

"Sec. 30B. Alternative motor vehicle credit.".

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

SEC. 105. EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A(f) (relating to termination) is amended by striking "2004" and inserting "2007".

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

(1) in clause (i), by striking "2002" and inserting "2005",

(2) in clause (ii), by striking "2003" and inserting "2006", and

(3) in clause (iii), by striking "2004" and inserting "2007".

SEC. 106. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

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

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, the lesser of—

"(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(ii) $4,000.

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

"(i) $4,000, or

"(ii) $5,000, if such vehicle is—

"(I) capable of a driving range of at least 70 miles on a single charge of the vehicle's rechargeable batteries

and measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds.

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

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

"(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.", and

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

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(B) Section 55(c)(2) is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

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

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''**BATTERY**'' after ''**QUALIFIED**''.

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

subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

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

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any sale or lease

contract the specific amount of any credit otherwise allowable to the entity under this section and reduces the sale or lease price of such vehicle by an equivalent amount of such credit.

''(7) CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(3) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following such taxable year.

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

(d) EXTENSION.—Section 30(e) (relating to termination) is amended by striking ''2004'' and inserting ''2007''.

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

SEC. 107. TAX CREDIT FOR ENERGY EFFICIENT APPLIANCES.

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

"SEC. 45G. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

"(1) APPLICABLE AMOUNT.—The applicable amount is—

"(A) $50 in the case of an energy efficient clothes washer described in subsection (d)(2)(A) or an energy efficient refrigerator described in subsection (d)(3)(B)(i), and

"(B) $100 in the case of any other energy efficient clothes washer or energy efficient refrigerator.

"(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

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

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) energy efficient clothes washers described in subsection (d)(2)(A),

''(ii) energy efficient clothes washers described in subsection (d)(2)(B),

''(iii) energy efficient refrigerators described in subsection (d)(3)(B)(i), and

''(iv) energy efficient refrigerators described in subsection (d)(3)(B)(ii).

''(C) SPECIAL RULE FOR 2001 PRODUCTION.—For purposes of determining eligible production for calendar year 2001—

''(i) only production after the date of the enactment of this section shall be

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

''(ii) the amount taken into account under subparagraph (A)(ii) shall be an amount which bears the same ratio to the amount which would (but for this subparagraph) be taken into account under subparagraph (A)(ii) as—

''(I) the number of days in calendar year 2001 after the date of the enactment of this section, bears to

''(II) 365.

''(c) LIMITATION ON MAXIMUM CREDIT.—

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

''(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

''(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3

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

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

''(d) QUALIFIED ENERGY EFFICIENT APPLIANCE.—For purposes of this section:

''(1) IN GENERAL.—The term 'qualified energy efficient appliance' means—

''(A) an energy efficient clothes washer, or

''(B) an energy efficient refrigerator.

''(2) ENERGY EFFICIENT CLOTHES WASHER.—The term 'energy efficient clothes washer' means a residential clothes washer, including a residential style coin operated washer, which is manufactured with—

''(A) a 1.26 MEF or greater, or

''(B) a 1.42 MEF (1.5 MEF for washers produced after 2004) or greater.

''(3) ENERGY EFFICIENT REFRIGERATOR.—The term 'energy efficient refrigerator' means an automatic defrost refrigerator-freezer which—

''(A) has an internal volume of at least 16.5 cubic feet, and

''(B) consumes—

''(i) 10 percent less kw/hr/yr than the energy conservation standards promulgated by the Department of Energy for refrigerators produced during 2001, and

''(ii) 15 percent less kw/hr/yr than such energy conservation standards for refrigerators produced after 2001.

''(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

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

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to energy efficient refrigerators described in subsection (d)(3)(B)(i) produced after 2004, and

''(2) with respect to all other qualified energy efficient appliances produced after 2006.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45G may be carried to a taxable year ending before the date of the enactment of section 45G.''.

(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the energy efficient appliance credit determined under section 45G(a).''.

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

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

''Sec. 45G. Energy efficient appliance credit.''.

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

SEC. 108. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

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

credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

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

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by subsection (b)(3) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component that is certified to meet or exceed the prescriptive criteria for such component established by the 1998 International Energy Conservation Code, if—

''(1) such component is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component commences with the taxpayer, and

''(3) such component reasonably can be expected to remain in use for at least 5 years.

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

''(e) CERTIFICATION.—The certification described in subsection (d) shall be—

''(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of

energy efficiency, based upon energy use or building envelope component performance, for the energy efficient building envelope component,

''(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Home Energy Ratings Systems Council or the National Association of State Energy Officials, and

''(3) made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

''(f) DEFINITIONS AND SPECIAL RULES.—

''(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(2) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(3) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, exterior windows (including skylights) and doors, and metal roofs with appropriate pigmented coatings which are specifically and primarily designed to re-

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

''(4) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

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

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

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

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

''Sec. 25E. Energy efficiency improvements to existing homes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

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

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 45G the following new section:

''SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.

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

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

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

"(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling for all prior taxable years.

"(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

"(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

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

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the new energy efficient home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling appliance.

''(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after December 31, 2001,

''(C) the original use of which is as a principal residence (within the meaning of section 121) which commences with the person who acquires such dwelling from the eligible contractor, and

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

level of heating and cooling energy consumption of a comparable dwelling constructed in accordance with the standards of the 1998 International Energy Conservation Code.

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, exterior windows (including skylights) and doors, and metal roofs with appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of a dwelling when installed in or on such dwelling.

''(7) MANUFACTURED HOME INCLUDED.—The term 'dwelling' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

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

''(A) The technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency for the energy efficient building envelope component or energy efficient heating or cooling appliance, based upon energy use or building envelope component performance.

''(B) An energy performance measurement method that utilizes computer software approved by organizations designated by the Secretary.

''(2) PROVIDER.—Such certification shall be provided by—

''(A) in the case of a method described in paragraph (1)(A), a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating systems provider who is accredited by, or otherwise authorized to use, approved energy performance measurement methods by the Home

Energy Ratings Systems Council or the National Association of State Energy Officials, or

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

"(3) FORM.—Such certification shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling appliances installed and their respective energy efficiency levels, and in the case of a method described in subparagraph (B) of paragraph (1), accompanied by written analysis documenting the proper application of a permissible energy performance measurement method to the specific circumstances of such dwelling.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for energy performance measurement methods, the Secretary shall prescribe procedures for calculating annual energy costs for heating and cooling and cost savings and for the reporting of the results. Such regulations shall—

''(i) be based on the National Home Energy Rating Technical Guidelines of the National Association of State Energy Officials, the Home Energy Rating Guidelines of the Home Energy Rating Systems Council, or the modified 1998 California Residential ACM manual,

''(ii) provide that any calculation procedures be developed such that the same energy efficiency measures allow a home to qualify for the credit under this section regardless of whether the house uses a gas or oil furnace or boiler or an electric heat pump, and

''(iii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and explanations for the homebuyer of the energy efficient features that were used to comply with the requirements of this section.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consult-

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

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—Subsection (a) shall apply to dwellings purchased during the period beginning on January 1, 2002, and ending on December 31, 2006.''.

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

''(17) the new energy efficient home credit determined under section 45H.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

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

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

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

''(12) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H may be carried back to any taxable year ending before January 1, 2002.''.

(f) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding after paragraph (10) the following new paragraph:

''(11) the new energy efficient home credit determined under section 45H.''.

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

''Sec. 45H. New energy efficient home credit.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

SEC. 110. ALLOWANCE OF DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.

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

"SEC. 179B. DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(2) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under paragraph (1) shall not exceed an amount equal to the product of—

''(A) $2.25, and

''(B) the square footage of the building with respect to which the expenditures are made.

''(3) YEAR DEDUCTION ALLOWED.—The deduction under paragraph (1) shall be allowed for the taxable year in which the building is placed in service.

''(b) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section, the term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(1) for which depreciation is allowable under section 167,

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

''(3) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in subsection (c)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of subsection (b)—

''(1) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under paragraph (2) and certified by qualified professionals as provided under subsection (f).

''(2) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 1998 California Nonresidential ACM Manual. These procedures shall meet the following requirements:

''(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and

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

''(B) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(i) the expenses taken into account under subsection (a) shall not occur until the date designs for all energy-using systems of the building are completed,

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

''(iii) the expenses taken into account under subsection (a) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with subparagraph (C).

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

conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(D) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

''(E) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(F) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 1998 California Nonresidential ACM Manual, including the following:

''(i) Natural ventilation.

''(ii) Evaporative cooling.

''(iii) Automatic lighting controls such as occupancy sensors, photocells, and time-clocks.

''(iv) Daylighting.

''(v) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

''(vi) Improved fan system efficiency, including reductions in static pressure.

''(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(viii) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

''(3) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—Any calculation under this subsection shall be prepared by qualified computer software.

''(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

''(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(iii) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(d) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

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

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

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

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

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by inserting the following new paragraph:

''(33) for amounts allowed as a deduction under section 179B.''.

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

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179B''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting

‘‘, or’’, and by inserting after subparagraph (H) the following new subparagraph:

‘‘(I) expenditures for which a deduction is allowed under section 179B.’’.

(5) Section 312(k)(3)(B) is amended by striking ‘‘or 179A’’ each place it appears in the heading and text and inserting ‘‘, 179A, or 179B’’.

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

‘‘Sec. 179B. Energy property deduction.’’.

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

SEC. 111. ALLOWANCE OF DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES AND RETROFITTED QUALIFIED METERS.

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

‘‘SEC. 179C. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES AND RETROFITTED METERS.

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

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

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

''(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any tangible property to which section 168 applies if such property is a meter or metering device—

''(1) which is acquired and used by the taxpayer to enable consumers or others to manage their purchase, sale, or use of electricity or natural gas in response to energy price and usage signals, and

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

''(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(e) BASIS REDUCTION.—

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

amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179B'' each place it appears in the heading and text and inserting '', 179B, or 179C''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', and'', and by inserting after paragraph (33) the following new paragraph:

''(34) to the extent provided in section 179C(d)(1),''.

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

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 179B the following new item:

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

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

SEC. 112. 3-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.''.

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

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

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48 is amended by redes-

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

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

"(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy, and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

''(v) which is placed in service after December 31, 2001, and before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

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

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(1)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter in paragraph

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

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before January 1, 2002.''.

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

SEC. 114. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—Paragraph (1) of section 26(a) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, and 25E''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) is amended by striking ''and 25B'' ''section 23'' and inserting ''25B, 25C, 25D, and 25E''.

(2) Section 25(e)(1)(C) is amended by inserting ''25C, 25D, and 25E'' after ''25B,''.

(3) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, and 25E''.

(4) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, 25C, 25D, and 25E''.

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

SEC. 115. PHASEOUT OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) TAXES ON TRAINS.—

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

"(I) 3.3 cents per gallon after September 30, 2001, and before January 1, 2005,

"(II) 2.3 cents per gallon after December 31, 2004, and before January 1, 2007,

"(III) 1.3 cents per gallon after December 31, 2006, and before January 1, 2009,

"(IV) 0.3 cent per gallon after December 31, 2008, and before January 1, 2010, and

"(V) 0 after December 31, 2009.".

(2) CONFORMING AMENDMENTS.—

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

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

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

''(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

''(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

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

(B) Subsection (f) of section 4082 is amended by striking ''section 4041(a)(1)'' and inserting ''subsections (a)(1) and (d)(3) of section 4041''.

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

''(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).''.

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

''(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).''.

(b) FUEL USED ON INLAND WATERWAYS.—Subparagraph (C) of section 4042(b)(2) is amended to read as follows:

''(C) The deficit reduction rate is—

''(i) 3.3 cents per gallon after September 30, 2001, and before January 1, 2004,

''(ii) 2.3 cents per gallon after December 31, 2004, and before January 1, 2007,

''(iii) 1.3 cents per gallon after December 31, 2006, and before January 1, 2009,

''(iv) 0.3 cent per gallon after December 31, 2008, and before January 1, 2010, and

''(v) 0 after December 31, 2009.''.

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

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

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

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

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

TITLE II—RELIABILITY

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

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

''(ii) any natural gas gathering line, and''.

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

''(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

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

''(C)(ii) ..... 10''.

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: ''or in clause (ii) of section 168(e)(3)(C)''.

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

SEC. 202. PETROLEUM REFINING PROPERTY TREATED AS 7-YEAR PROPERTY.

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

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

"(iii) any property used for the distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and its other components, and".

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

"(C)(iii) ..... 10".

(c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1), as amended by section 201, is amended by inserting "or (iii)" after "clause (ii)".

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

SEC. 203. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Section 179(b) (relating to election to expense certain depreciable business assets) is amended by adding at the end the following new paragraph:

''(5) LIMITATION FOR SMALL BUSINESS REFINERS.—

''(A) IN GENERAL.—In the case of a small business refiner electing to expense qualified costs, in lieu of the dollar limitations in paragraph (1), the limitation on the aggregate costs which may be taken into account under subsection (a) for any taxable year shall not exceed 75 percent of the qualified costs.

''(B) QUALIFIED COSTS.—For purposes of this paragraph, the term 'qualified costs' means costs paid or incurred by a small business refiner for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

''(C) SMALL BUSINESS REFINER.—For purposes of this paragraph, the term 'small business refiner' means, with respect to any taxable year, a refiner which, within the refining operations of the business, employs not more than 1,500 employees on business days during such taxable year performing services in the refining operations of such businesses and has an average total capacity of 155,000 barrels per day or less.''.

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

SEC. 204. ENVIRONMENTAL TAX CREDIT.

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

"SEC. 45I. ENVIRONMENTAL TAX CREDIT.

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

''(b) MAXIMUM CREDIT.—For any small business refiner, the aggregate amount allowable as a credit under subsection (a) for any taxable year with respect to any facility shall not exceed 25 percent of the qualified capital costs incurred by such small business refiner with respect to such facility not taken into account in determining the credit under subsection (a) for any preceding taxable year.

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

''(1) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any

taxable year, a refiner which, within the refining operations of the business, employs not more than 1,500 employees on business days during such taxable year performing services in the refining operations of such businesses and has an average total capacity of 155,000 barrels per day or less.

''(2) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means, with respect to any facility, those costs paid or incurred during the applicable period for compliance with the applicable EPA regulations with respect to such facility, including expenditures for the construction of new process operation units or the dismantling and reconstruction of existing process units to be used in the production of 15 parts per million or less sulfur diesel fuel, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.

''(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

''(4) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date of the en-

actment of this section and ending with the date which is one year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

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

''(e) CERTIFICATION.—

''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to a facility, the small business refiner must obtain certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protec-

tion Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application.

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

''(f) RECAPTURE OF ENVIRONMENTAL TAX CREDIT.—

''(1) IN GENERAL.—Except as provided in subsection (e), if, as of the close of any taxable year, there is a recapture event with respect to any facility of the small business refiner, then the tax of such refiner under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

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

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

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage 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.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified capital costs with respect to a facility described in subsection (c)(2) are paid or incurred by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) FAILURE TO COMPLY.—The failure by the small business refiner to meet the applicable EPA regulations within the applicable period with respect to the facility.

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

cility which produces 15 parts per million or less sulfur diesel after the applicable period.

''(C) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a small business refiner's interest in the facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed

by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(g) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.''.

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

paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) in the case of a small business refiner, the environmental tax credit determined under section 45I(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding after subsection (d) the following new subsection:

"(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45I(a).".

(d) BASIS ADJUSTMENT.—Section 1016(a) (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

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

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

"Sec. 45I. Environmental tax credit.".

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

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

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

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and the related person for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

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

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

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

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

"SEC. 141A. TREATMENT OF GOVERNMENT-OWNED ELECTRIC OUTPUT FACILITIES.

"(a) EXCEPTIONS FROM PRIVATE BUSINESS USE LIMITATIONS WHERE OPEN ACCESS REQUIREMENTS MET.—

"(1) GENERAL RULE.—For purposes of this part, the term 'private business use' shall not include—

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

"(B) any permitted sale of electricity by a governmental unit which is generated at an existing generation facility owned by such unit.

"(2) PERMITTED OPEN ACCESS ACTIVITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'permitted open access activity' means any activity meeting the open access requirements of any of the following clauses with respect to such electric output facility:

"(i) TRANSMISSION AND ANCILLARY FACILITY.—In the case of a transmission

facility or a facility providing ancillary services, the provision of transmission service and ancillary services meets the open access requirements of this clause only if such services are provided on a nondiscriminatory open access basis—

"(I) pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or

"(II) under a regional transmission organization agreement approved by FERC.

"(ii) DISTRIBUTION FACILITIES.—In the case of a distribution facility, the delivery of electric energy meets the open access requirements of this clause only if such delivery is made on a nondiscriminatory open access basis.

"(iii) GENERATION FACILITIES.—In the case of a generation facility, the delivery of electric energy generated by such facility meets the open access requirements of this clause only if—

''(I) such facility is directly connected to distribution facilities owned by the governmental unit which owns the generation facility, and

''(II) such distribution facilities meet the open access requirements of clause (ii).

''(B) SPECIAL RULES.—

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

''(ii) CONTROL OF TRANSMISSION FACILITIES BY REGIONAL TRANSMISSION ORGANIZATION.—A governmental unit shall be treated as meeting the open access requirements of subparagraph (A)(i) if a regional transmission organization controls the transmission facilities.

''(iii) ERCOT UTILITY.—References to FERC in subparagraph (A) shall be

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

''(3) PERMITTED SALE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'permitted sale' means—

''(i) any sale of electricity to an on-system purchaser if the seller meets the open access requirements of paragraph (2) with respect to all distribution and transmission facilities (if any) owned by such seller, and

''(ii) subject to subparagraphs (B) and (C), any sale of electricity to a wholesale native load purchaser, and any load loss sale, if—

''(I) the seller meets the open access requirements of paragraph (2) with respect to all transmission facilities (if any) owned by such seller, or

''(II) in any case in which the seller does not own any transmission

facilities, all persons providing transmission services to the seller's wholesale native load purchasers meet the open access requirements of paragraph (2) with respect to all transmission facilities owned by such persons.

''(B) LIMITATION ON SALES TO WHOLESALE NATIVE LOAD PURCHASERS.—A sale to a wholesale native load purchaser shall be treated as a permitted sale only to the extent that—

''(i) such purchaser resells the electricity directly at retail to persons within the purchaser's distribution area, or

''(ii) such electricity is resold by such purchaser through one or more wholesale purchasers (each of whom as of June 30, 2000, was a party to a requirements contract or a firm power contract described in paragraph (5)(B)(ii)) to retail purchasers in the ultimate wholesale purchaser's distribution area.

''(C) LOAD LOSS SALES.—

''(i) IN GENERAL.—The term 'load loss sale' means any sale at wholesale to the extent that—

''(I) the aggregate sales at wholesale during the recovery period does not exceed the load loss mitigation sales limit for such period, and

''(II) the aggregate sales at wholesale during the first calendar year after the recovery period does not exceed the excess carried under clause (iv) to such year.

''(ii) LOAD LOSS MITIGATION SALES LIMIT.—For purposes of clause (i), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

''(iii) ANNUAL LOAD LOSS.—A governmental unit's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) the megawatts per hour of electric energy sold during such year to wholesale native load purchasers

which do not constitute private business use are less than

"(III) the megawatts per hour of electric energy sold during the base year to wholesale native load purchasers which do not constitute private business use.

The annual load loss for any year shall not exceed the portion of the amount determined under the preceding sentence which is attributable to open access requirements.

"(iv) CARRYOVERS.—If the limitation under clause (i) for the recovery period exceeds the aggregate sales during such period which are taken into account under clause (i), such excess (but not more than 10 percent of such limitation) may be carried over to the first calendar year following the recovery period.

"(v) RECOVERY PERIOD.—The recovery period is the 7-year period beginning with the start-up year.

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

or, if later, at the election of the governmental unit—

"(I) the first year that the governmental unit offers nondiscriminatory open transmission access, or

"(II) the first year in which at least 10 percent of the governmental unit's wholesale customers' aggregate retail native load is open to retail competition.

"(4) ON-SYSTEM PURCHASER.—For purposes of this section, the term 'on-system purchaser' means any person whose electric equipment is directly connected with any transmission or distribution facility owned by the governmental unit owning the existing generation facility if—

"(A) such person—

"(i) purchases electric energy from such governmental unit at retail, and

"(ii)(I) was within such unit's distribution area at the close of the base year or

"(II) is a person as to whom the governmental unit has a statutory service obligation, or

''(B) is a wholesale native load purchaser from such governmental unit.

''(5) WHOLESALE NATIVE LOAD PURCHASER.—For purposes of this section—

''(A) IN GENERAL.—The term 'wholesale native load purchaser' means a wholesale purchaser as to whom the governmental unit had—

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

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

''(B) PERMITTED SALES UNDER EXISTING CONTRACTS.—A private business use sale during any year to a wholesale native load purchaser (other than a person to whom the governmental unit had a statutory service obligation) under a contract shall be treated as a permitted sale by reason of being a load loss sale only to the extent that the private business use sales under the contract during such year exceed the lesser of—

''(i) the private business use sales under the contract during the base year, or

''(ii) the maximum private business use sales which would (but for this section) be permitted without causing the bonds to be private activity bonds.

This subparagraph shall only apply to the extent that the sale is allocable to bonds issued before the date of the enactment of this section (or bonds issued to refund such bonds).

''(6) SPECIAL RULES.—

''(A) TIME OF SALE RULE.—For purposes of paragraphs (3)(C)(iii) and (5)(B), the determination of whether a sale after the date of the enactment of this section is a private business use shall be made with regard to this section.

''(B) JOINT ACTION AGENCIES.—To the extent provided in regulations, a joint action agency, or a member of (or a wholesale native load purchaser from) a joint action agency, which is entitled to make a sale described in subparagraph (A) or (B) in a year, may transfer the entitlement to make that sale to the member (or purchaser), or the joint action agency, respectively.

''(b) CERTAIN BONDS FOR TRANSMISSION AND DISTRIBUTION FACILITIES NOT TAX EXEMPT.—

''(1) IN GENERAL.—Section 103 shall not apply to any bond issued on or after the date of the enactment of this section if any portion of the proceeds of the issue of which such bond is a part is used (directly or indirectly) to finance—

''(A) any electric transmission facility, or

''(B) any start-up electric utility distribution facility.

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

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

''(i) increase the voltage level of such facility over its level at the close of the base year, or

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

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

''(C) any transmission facility necessary to comply with an obligation under a shared or reciprocal transmission agreement in effect on such date.

''(3) EXCEPTION FOR LOCAL ELECTRIC TRANSMISSION FACILITY.—For purposes of this subsection—

''(A) IN GENERAL.—In the case of a governmental unit which owns distribution facilities, paragraph (1)(A) shall not apply to any bond issued to finance an electric transmission facility owned by such governmental unit and located within such governmental unit's distribution area, but only to the extent such facility is, or will be, necessary to supply electricity to serve the retail native load, or wholesale native load, of such governmental unit or of 1 or more other governmental units owning distribution facilities which are directly connected to such electric transmission facility.

''(B) RETAIL LOAD.—The term 'retail load' means, with respect to a governmental unit, the electric load of end-users in the distribution area of the governmental unit.

''(C) WHOLESALE NATIVE LOAD.—The term 'wholesale native load' means—

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

''(ii) the electric load of purchasers (not described in clause (i)) under wholesale requirements contracts which—

''(I) do not constitute private business use (determined without regard to this section), and

''(II) were in effect in the base year.

''(D) NECESSARY TO SERVE LOAD.—For purposes of determining whether a transmission facility is, or will be, necessary to supply electricity to retail native load or wholesale native load—

''(i) the governmental unit's available transmission rights shall be taken into account,

''(ii) electric reliability standards or requirements of national or regional reliability organizations, regional transmission

organizations and the Electric Reliability Council of Texas shall be taken into account, and

"(iii) transmission, siting and construction decisions of regional transmission organizations and State and Federal regulatory and siting agencies, after a proceeding that provides for public input, shall be presumptive evidence regarding whether transmission facilities are necessary to serve native load.

"(E) QUALIFYING UPGRADE.—The term 'qualifying upgrade' means an improvement or addition to transmission facilities of the governmental unit in service on the date of the enactment of this section which—

"(i) is ordered or approved by a regional transmission organization or by a State regulatory or siting agency, after a proceeding that provides for public input, and

"(ii) is, or will be, necessary to supply electricity to serve the retail native load, or wholesale native load, of such governmental unit or of one or more govern-

mental units owning distribution facilities which are directly connected to such transmission facility.

"(4) START-UP ELECTRIC UTILITY DISTRIBUTION FACILITY DEFINED.—For purposes of this subsection, the term 'start-up electric utility distribution facility' means any distribution facility to provide electric service for sale to the public if such facility is placed in service—

"(A) by a governmental unit that did not operate an electric utility on the date of the enactment of this section, and

"(B) during the first 10 years after the date such governmental unit begins operating an electric utility.

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

"(5) EXCEPTION FOR REFUNDING BONDS.—

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

''(B) ELIGIBLE REFUNDING BOND.—For purposes of subparagraph (A), the term 'eligible refunding bond' means any bond (or series of bonds) issued to refund any bond issued before the date of the enactment of this section if the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue.

''(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

''(1) BASE YEAR.—The term 'base year' means—

''(A) the calendar year preceding the start-up year, or

''(B) at the election of the governmental unit, the second or third calendar years preceding the start-up year.

''(2) DISTRIBUTION AREA.—The term 'distribution area' means the area in which a governmental unit owns distribution facilities.

''(3) ELECTRIC OUTPUT FACILITY.—The term 'electric output facility' means an output facility that is an electric generation, transmission, or distribution facility.

''(4) DISTRIBUTION FACILITY.—The term 'distribution facility' means an electric output facility that is not a generation or transmission facility.

''(5) TRANSMISSION FACILITY.—The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of this section).

''(6) EXISTING GENERATION FACILITY.—

''(A) IN GENERAL.—The term 'existing generation facility' means any electric generation facility if—

''(i) such facility is originally placed in service on or before the date of enactment of this Act and is owned by any governmental unit on such date, or

''(ii) such facility is originally placed in service after such date if the construction of the facility commenced before June 1, 2000, and such facility is owned by any

governmental unit when it is placed in service.

''(B) DENIAL OF TREATMENT TO EXPANSIONS.—Such term shall not include any facility to the extent the generating capacity of such facility as of any date is 3 percent above the greater of its nameplate or rated capacity as of the date of the enactment of this section (or, in the case of a facility described in subparagraph (A)(ii), the date that the facility is placed in service).

''(6) REGIONAL TRANSMISSION ORGANIZATION.—The term 'regional transmission organization' includes an independent system operator.

''(7) FERC.—The term 'FERC' means the Federal Energy Regulatory Commission.

''(8) GOVERNMENT-OWNED FACILITY.—An electric transmission facility shall be treated as owned by a governmental unit as of any date to the extent that—

''(A) such unit acquired (before the base year) long-term firm transmission capacity (as determined under regulations) of such facility for the purposes of serving customers to which such unit had at the close of the base year—

"(i) a statutory service obligation, or

"(ii) an obligation under a requirements contract, and

"(B) such unit holds such capacity as of such date.

"(9) STATUTORY SERVICE OBLIGATION.—The term 'statutory service obligation' means an obligation under State or Federal law (exclusive of an obligation arising solely under a contract entered into with a person) to provide electric distribution services or electric sales services, as provided in such law.

"(10) CONTRACT MODIFICATIONS.—A material modification of a contract shall be treated as a new contract.

"(d) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

"(1) IN GENERAL.—At the election of a governmental unit, section 103(a) shall not apply to any bond issued by or on behalf of such unit after the date of such election if any portion of the proceeds of the issue of which such bond is a part are used to provide any electric output facilities. Such an election, once made, shall be irrevocable.

''(2) OTHER EFFECTS OF ELECTION.—During the period that the election under paragraph (1) is in effect with respect to a governmental unit, the term 'private activity bond' shall not include—

''(A) any bond issued by such unit before the date of the enactment of this section to provide an electric output facility if, as of the date of the election, such bond was not a private activity bond, and

''(B) any bond to which paragraph (1) does not apply by reason of paragraph (3).

''(3) EXCEPTIONS FOR CERTAIN PROPERTY.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any bond issued to provide property owned by a governmental unit if such property is—

''(i) any qualifying transmission facility,

''(ii) any qualifying distribution facility,

''(iii) any facility necessary to meet Federal or State environmental requirements applicable to an existing generation facility owned by the governmental unit as of the date of the election,

"(iv) any property to repair any existing generation facility owned by the governmental unit as of the date of the election,

"(v) any qualified facility (as defined in section 45(c)(3)) producing electricity from any qualified energy resource (as defined in section 45(c)(1)), and

"(vi) any energy property (as defined in section 48(a)(3)) placed in service during a period that the energy percentage under section 48(a) is greater than zero.

"(B) LIMITATION ON USE BY NONGOVERNMENTAL PERSONS.—Subparagraph (A) shall not apply to any property constructed, acquired or financed for a principal purpose of providing the facility (or the output thereof) to nongovernmental persons.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFYING DISTRIBUTION FACILITY.—The term 'qualifying distribution facility' means a distribution facility meeting the open access requirements of subsection (a)(2)(A)(ii).

''(B) QUALIFYING TRANSMISSION FACILITY.—The term 'qualifying transmission facility' means a local transmission facility (as defined in subsection (b)(3)) meeting the open access requirements of subsection (a)(2)(A)(i).

''(5) EFFECT OF ELECTION.—

''(A) IN GENERAL.—An election under paragraph (1) shall be binding on any successor in interest to, or any related party with respect to, the electing governmental unit. For purposes of this paragraph, a governmental unit shall be treated as related to another governmental unit if it is a member of the same controlled group (as determined under regulations).

''(B) TREATMENT OF ELECTING GOVERNMENTAL UNIT.—A governmental unit which makes an election under paragraph (1) shall be treated for purposes of section 141 as a person—

''(i) which is not a governmental unit, and

''(ii) which is engaged in a trade or business,

with respect to its purchase of electricity generated by an electric output facility placed in

service after the date of such election if such purchase is under a contract executed after such date.''

(b) WAIVER OF CERTAIN LIMITATIONS NOT TO APPLY TO DISTRIBUTION FACILITIES.—Section 141(d)(5) is amended by inserting ''(except in the case of an electric output facility that is a distribution facility),'' after ''this subsection''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter B of chapter 1 is amended by inserting after the item relating to section 141 the following new item:

''Sec. 141A. Treatment of government-owned electric output facilities.''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that a governmental unit may elect to have section 141A(a)(1) of the Internal Revenue Code of 1986, as added by subsection (a), take effect on April 14, 1996.

(2) BINDING CONTRACTS.—The amendment made by subsection (b) (relating to waiver of certain limitations not to apply to distribution facilities) shall not apply to facilities acquired pursuant to a contract which was entered into before the date of

the enactment of this Act and which was binding on such date and at all times thereafter before such acquisition.

(3) COMPARABLE TREATMENT TO BONDS UNDER 1954 CODE RULES.—References in the amendments made by this Act to sections of the Internal Revenue Code of 1986 shall be deemed to include references to comparable sections of the Internal Revenue Code of 1954.

SEC. 207. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction—

''(A) such transaction shall be treated as an involuntary conversion to which this section applies, and

''(B) exempt utility property shall be treated as property which is similar or related in service or use to the property disposed of in such transaction.

''(2) EXTENSION OF REPLACEMENT PERIOD.—In the case of any involuntary conversion described in paragraph (1), subsection (a)(2)(B) shall be applied by substituting '4 years' for '2 years' in clause (i) thereof.

''(3) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2009, of—

''(A) property used in the trade or business of providing electric transmission services to an independent transmission company, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services to an independent transmission company.

''(4) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 823b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are placed under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization within the period specified in such order, but not later than the close of the period applicable under subsection (a)(2)(B), or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(5) EXEMPT UTILITY PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'exempt utility property' means property used in the trade or business of—

''(i) generating, transmitting, distributing, or selling electricity, or

''(ii) producing, transmitting, distributing, or selling natural gas.

''(B) NONRECOGNITION OF GAIN BY REASON OF ACQUISITION OF STOCK.—Acquisition of control of a corporation shall be taken into account under this section with respect to a qualifying electric transmission transaction only if the principal trade or business of such corporation is a trade or business referred to in subparagraph (A).

''(6) SPECIAL RULE FOR CONSOLIDATED GROUPS.—In the case of a corporation which is a

member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of subsection (a)(2) with respect to any qualifying electric transmission transaction engaged in by such corporation to the extent such requirement is satisfied by another member of such group.

''(7) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.''

(b) EXCEPTION FROM GAIN RECOGNITION UNDER SECTION 1245.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—At the election of the taxpayer, the amount of gain which would (but for this paragraph) be recognized under this section on any qualified electric transmission transaction (as defined in section 1033(k)) for which an election under section 1033 is made shall be reduced by the aggregate reduction in the basis of section 1245 property held by the taxpayer or, if insufficient, by a member of an affiliated group which includes the taxpayer at any time during the taxable year in which such transaction occurred. The manner and

amount of such reduction shall be determined under regulations prescribed by the Secretary.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 208. DISTRIBUTIONS OF STOCK TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Subparagraph (A) of section 355(e)(3) (relating to special rules relating to acquisitions) is amended by inserting after clause (iv) the following new clause:

''(v) The acquisition of stock in any controlled corporation in a qualifying electric transmission transaction (as defined in section 1033(k)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 209. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS

AFTER FUNDING PERIOD.—Subsection (b) of section 468A is amended to read as follows:

"(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

"(1) IN GENERAL.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.

"(2) CONTRIBUTIONS AFTER FUNDING PERIOD.—Notwithstanding any other provision of this section, a taxpayer may pay into the Fund in any taxable year after the last taxable year to which the ruling amount applies. Payments may not be made under the preceding sentence to the extent such payments would cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The limitation under the preceding sentence shall be determined by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.".

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear powerplant, the taxpayer transfers the Fund with respect to such powerplant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.''.

(c) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

''(f) TRANSFERS INTO QUALIFIED FUNDS.—

''(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this

section applies with respect to a nuclear powerplant may transfer into such Fund up to an amount equal to the excess of the total nuclear decommissioning costs with respect to such nuclear powerplant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

''(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

''(A) IN GENERAL.—The deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear powerplant beginning with the taxable year during which the transfer is made.

''(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from

previously deducted or excluded amounts to the extent thereof.

''(C) TRANSFERS OF QUALIFIED FUNDS.—If—

''(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

''(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not to the transferor. The preceding sentence shall not apply if the transferor is an organization exempt from tax imposed by this chapter.

''(D) SPECIAL RULES.—

''(i) GAIN OR LOSS NOT RECOGNIZED.—No gain or loss shall be recognized on any transfer permitted by this subsection.

''(ii) TRANSFERS OF APPRECIATED PROPERTY.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction

shall be the adjusted basis of such property.

''(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

''(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the basis of any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.''.

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) is amended to read as follows:

''(A) fund the total nuclear decommissioning costs with respect to such powerplant over the estimated useful life of such powerplant, and''.

(d) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is amended to read as follows:

''(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year

shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.''.

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

SEC. 210. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by adding at the end the following new clauses:

''(iii) from any open access transaction (other than income received or accrued directly or indirectly from a member), or

''(iv) from any nuclear decommissioning transaction.''

(2) DEFINITIONS.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraph:

''(E) For purposes of subparagraph (C)—

''(i) The term 'open access transaction' means any activity which would be a permitted open access activity (as defined in section 141A(a)(2)) if the cooperative were a governmental unit.

''(ii) The term 'any nuclear decommissioning transaction' means—

''(I) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the cooperative's interest in a nuclear powerplant or nuclear powerplant unit,

''(II) any distribution from such a trust, fund, or instrument, or

''(III) any earnings from such a trust, fund, or instrument.''

(b) INCOME FROM LOAD LOSS TRANSACTIONS TREATED AS MEMBER INCOME.—Paragraph (12) of section 501(c) is amended by adding after subparagraph (E) the following new subparagraph:

''(F)(i) In the case of a mutual or cooperative electric company, income received or accrued from a load loss transaction shall be

treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any sale (whether at wholesale or at retail) which would be a load loss sale under rules similar to the rules of section 141A(3)(C).

"(iii) A company shall not fail to be treated as a mutual cooperative company for purposes of this paragraph by reason of the treatment under clause (i).

"(iv) A rule similar to the rule of this subparagraph shall apply to an organization to which section 1381 does not apply by reason of section 1381(a)(2)(C)."

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) TREATMENT OF LOAD LOSS SALES OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be

excluded income which is treated as member income under subparagraph (F) thereof.''

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

SEC. 211. REPEAL OF REQUIREMENT OF CERTAIN APPROVED TERMINALS TO OFFER DYED DIESEL FUEL AND KEROSENE FOR NONTAXABLE PURPOSES.

Section 4101 (relating to certain approved terminals of registered persons required to offer dyed diesel fuel and kerosene for nontaxable purposes) is amended by striking subsection (e).

SEC. 212. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Subsection (b) of section 148 (defining higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) EXCEPTION FOR CERTAIN PREPAYMENTS TO ENSURE NATURAL GAS SUPPLY.—The term 'investment property' shall not include any prepayment for the purpose of obtaining a supply of a natural gas—

''(A) at least 85 percent of which is to be used in the State in which the issuer is located, and

''(B) which is to be used in a business of one or more utilities each of which is owned and operated by a State or local government, any political subdivision or instrumentality thereof, or any governmental unit acting for or on behalf of such a utility.''.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) arises from a transaction described in section 148(b)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take apply to obligations issued after October 22, 1986; except that section 148(b)(4)(A) of the Internal Revenue Code of 1986, as added by this section, shall apply only to obligations issued after the date of the enactment of this Act.

TITLE III—PRODUCTION

SEC. 301. OIL AND GAS FROM MARGINAL WELLS.

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

"SEC. 45J. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be re-

duced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2000' for '1990').

"(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated or qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears

to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking 'plus' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following:

''(19) the marginal oil and gas well production credit determined under section 45J(a).''.

(c) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (A) thereof.''.

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

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

"Sec. 45J. Credit for producing oil and gas from marginal wells.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2001.

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.

(a) LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME.—Subsection (d) of section 613A (relating to limitation on percentage depletion in case of oil and gas wells) is amended by adding at the end the following new paragraph:

"(6) TEMPORARY SUSPENSION OF TAXABLE INCOME LIMIT.—Paragraph (1) shall not apply to taxable years beginning after December 31, 2001, and before January 1, 2007, including with respect to amounts carried under the second sentence of paragraph (1) to such taxable years.".

(b) EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—Subparagraph (H) of section 613A(c)(6) (relating

to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2002'' and inserting ''2007''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 303. DEDUCTION FOR DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding after subsection (i) the following:

''(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(j),'' after '263(i),'.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 304. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding after subsection (j) the following:

''(k) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3), as amended by section 603(b), is amended by inserting ''263(k),'' after ''263(j),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001.

SEC. 305. 5-YEAR NET OPERATING LOSS CARRYBACK FOR LOSSES ATTRIBUTABLE TO OPERATING MINERAL INTERESTS OF OIL AND GAS PRODUCERS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(H) LOSSES ON OPERATING MINERAL INTERESTS OF OIL AND GAS PRODUCERS.—In the case of a taxpayer which has an eligible oil and gas loss (as defined in subsection (j)) for a taxable year, such eligible oil and gas loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.''.

(b) ELIGIBLE OIL AND GAS LOSS.—Section 172 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ELIGIBLE OIL AND GAS LOSS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible oil and gas loss' means the lesser of—

''(A) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to operating

mineral interests (as defined in section 614(d)) in oil and gas wells are taken into account, or

"(B) the amount of the net operating loss for such taxable year.

"(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), an eligible oil and gas loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

"(3) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 2001.

SEC. 306. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

"(h) EXTENSION FOR OTHER FACILITIES.—In the case of a well for producing qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1)—

''(1) APPLICATION OF CREDIT FOR NEW WELLS.—

''(A) WELLS COVERED.—Notwithstanding subsection (f), this section shall apply with respect to such fuels—

''(i) which are produced from a well drilled after the date of the enactment of this subsection and before January 1, 2007, and

''(ii) which are sold before January 1, 2010.

''(B) AMOUNT OF CREDIT REDUCED AFTER 4 YEARS.—In the case of fuel sold in a year which is more than 4 years after the date that a well described in subparagraph (A)(i) is placed in service, only such year's applicable percentage of the fuel sold during such year shall be take into account. For purposes of this subparagraph, the applicable percentage is 75 percent for the 5th year after the well is placed in service, 50 percent for the 6th such year, and 25 percent for the 7th such year.

''(2) EXTENSION OF CREDIT FOR OLD WELLS.—

"(A) WELLS COVERED.—Subsection (f)(2) shall be applied by substituting '2010' for '2003' with respect to wells described in subsection (f)(1)(A) with respect to such fuels.

"(B) AMOUNT OF CREDIT REDUCED STARTING IN 2007.—In the case of fuel from a well described in subsection (f)(1)(A) which is sold after December 31, 2006, only the applicable percentage (for the calendar year in which such fuel is sold) shall be taken into account. For purposes of this subparagraph, the applicable percentage is 75 percent for 2007, 50 percent for 2008, and 25 percent for 2009.

"(3) RESTART OF INFLATION ADJUSTMENT FOR EXTENSION PERIOD.—In determining the amount of credit allowable under this section solely by reason of this subsection, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2001' for '1979'.".

(b) LANDFILL GAS.—Section 29 is amended by adding after subsection (h), as added by subsection (a), the following new subsection:

"(i) MODIFICATION OF CREDIT FOR FACILITIES PRODUCING QUALIFIED FUEL FROM LANDFILL GAS.—

''(1) IN GENERAL.—Notwithstanding subsection (g), in the case of a facility for producing qualified fuel from landfill gas which was placed in service before January 1, 2007, this section shall apply to fuel produced at such facility during the 5-year period beginning on the later of—

''(A) the date such facility was placed in service, or

''(B) the date of the enactment of this subsection.

''(2) SPECIAL RULES.—

''(A) REDUCED CREDIT.—In the case of a facility covered by paragraph (1), subsection (a)(1) shall be applied by substituting '$[____]' for '$3'.

''(B) ADDITIONAL REDUCTION OF CREDIT FOR CERTAIN LANDFILL GAS FACILITIES.—In the case of a facility covered by paragraph (1) which is subject to the 1996 New Source Performance Standards/Emissions Guidelines of the Environmental Protection Agency, subsection (a)(1) shall be applied by substituting '$2' for '$3'. In the case of a facility to which both this subparagraph and subparagraph (A) apply, the substitution under this subparagraph

shall apply in lieu of the substitution under subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after the date of the enactment of this Act.

SEC. 307. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the qualifying advanced clean coal technology facility credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

''SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology facility credit for any taxable year is an amount equal to 10 percent

of the qualified investment in a qualifying advanced clean coal technology facility for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology facility' means a facility of the taxpayer which—

''(A)(i)(I) original use of which commences with the taxpayer, or

''(II) is a retrofitted or repowered conventional technology facility, the retrofitting or repowering of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such retrofitting or repowering), or

''(ii) is acquired through purchase (as defined by section 179(d)(2)),

''(B) is depreciable under section 167,

''(C) has a useful life of not less than 4 years,

''(D) is located in the United States, and

''(E) uses qualifying advanced clean coal technology.

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a facility which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years,

such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(c) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying advanced clean coal technology' means, with respect to clean coal technology—

''(A) which has—

"(i) multiple applications, with a combined capacity of not more than 5,000 megawatts (4,000 megawatts before 2009), of advanced pulverized coal or atmospheric fluidized bed combustion technology—

"(I) installed as a new, retrofit, or repowering application,

"(II) operated between 2000 and 2012, and

"(III) having a design net heat rate of not more than 9,500 Btu per kilowatt hour when the design coal has a heat content of more than 9,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 9,000 Btu per pound or less,

"(ii) multiple applications, with a combined capacity of not more than 1,000 megawatts (500 megawatts before 2009 and 750 megawatts before 2013), of pressurized fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2000 and 2016, and

''(III) having a design net heat rate of not more than 8,400 Btu per kilowatt hour when the design coal has a heat content of more than 9,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu's per kilowatt hour when the design coal has a heat content of 9,000 Btu per pound or less, and

''(iii) multiple applications, with a combined capacity of not more than 2,000 megawatts (1,000 megawatts before 2009 and 1,500 megawatts before 2013), of integrated gasification combined cycle technology, with or without fuel or chemical coproduction—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2000 and 2016,

"(III) having a design net heat rate of not more than 8,550 Btu per kilowatt hour when the design coal has a heat content of more than 9,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 9,000 Btu per pound or less, and

"(IV) having a net thermal efficiency on any fuel or chemical co-production of not less than 39 percent (higher heating value), or

"(iv) multiple applications, with a combined capacity of not more than 2,000 megawatts (1,000 megawatts before 2009 and 1,500 megawatts before 2013) of technology for the production of electricity—

"(I) installed as a new, retrofit, or repowering application,

"(II) operated between 2000 and 2016, and

"(III) having a carbon emission rate which is not more than 85 percent of conventional technology, and

"(B) which reduces the discharge into the atmosphere of 1 or more of the following pollutants to not more than—

"(i) 5 percent of the potential combustion concentration sulfur dioxide emissions for a coal with a potential combustion concentration sulfur emission of 1.2 lb/million btu of heat input or greater,

"(ii) 15 percent of the potential combustion concentration sulfur dioxide emissions for a coal with a potential combustion concentration sulfur emission of less than 1.2 lb/million btu of heat input,

"(iii) nitrogen oxide emissions of 0.1 lb per million btu of heat input from other than cyclone-fired boilers,

"(iv) 15 percent of the uncontrolled nitrogen oxide emissions from cyclone-fired boilers,

"(v) particulate emissions of 0.02 lb per million btu of heat input, and

"(vi) the emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect at the time of retrofitting, repowering,

or replacement of the qualifying clean coal technology unit for the category of source if such level is lower than the levels specified in clause (i), (ii), (iii), (iv), or (v).

''(2) EXCEPTIONS.—Such term shall not include any projects receiving or scheduled to receive funding under the Clean Coal Technology Program, or the Power Plant Improvement administered by the Secretary of the Department of Energy.

''(d) CLEAN COAL TECHNOLOGY.—For purposes of this section, the term 'clean coal technology' means advanced technology which uses coal to produce 75 percent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle with or without fuel or chemical co-production, and any other technology for the production of electricity which exceeds the performance of conventional technology.

''(e) CONVENTIONAL TECHNOLOGY.—The term 'conventional technology' means—

''(1) coal-fired combustion technology with a design net heat rate of not less than 9,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.54 pounds of carbon

per kilowatt hour when the design coal has a heat content of more than 9,000 Btu per pound,

''(2) coal-fired combustion technology with a design net heat rate of not less than 10,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.60 pounds of carbon per kilowatt hour when the design coal has a heat content of 9,000 Btu per pound or less, or

''(3) natural gas-fired combustion technology with a design net heat rate of not less than 7,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.24 pounds of carbon per kilowatt hour.

''(f) DESIGN NET HEAT RATE.—The design net heat rate shall be based on the design annual heat input to and the design annual net electrical output from the qualifying advanced clean coal technology (determined without regard to such technology's co-generation of steam).

''(g) SELECTION CRITERIA.—Selection criteria for qualifying advanced clean coal technology facilities—

''(1) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(2) shall include primary criteria of minimum design net heat rate, maximum design thermal effi-

ciency, environmental performance, and lowest cost to the government, and

''(3) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(h) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology facility placed in service by the taxpayer during such taxable year.

''(i) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology facility which is

being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(j) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the en-

ergy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.

''(k) TERMINATION.—This section shall not apply with respect to any qualified investment made after December 31, 2011.

''(l) NATIONAL LIMITATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, the term 'qualifying advanced clean coal technology facility' shall include such a facility only to the extent that such facility is allocated a portion of the national megawatt limitation under this subsection.

''(2) NATIONAL MEGAWATT LIMITATION.—The national megawatt limitation under this subsection is 10,000 megawatts.

''(3) ALLOCATION OF LIMITATION.—The national megawatt limitation shall be allocated by the Secretary under rules prescribed by the Secretary. Not later than 6 months after the date of enactment of this subsection, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(A) to limit which facility qualifies as 'qualified advanced clean coal technology' in subsection (c) to particular facilities, a portion of particular facilities, or a portion of the production from particular facilities, so that when all such facilities (or portions thereof) are placed in service over the ten year period in section (k), the combination of facilities approved for tax credits (and/or portions of facilities approved for tax credits) will not exceed a combined capacity of 10,000 megawatts;

"(B) to provide a certification process in consultation with the Secretary of Energy under subsection (g) that will approve and allocate the 10,000 megawatts of available tax credits authority—

"(i) to encourage that facilities with the highest thermal efficiencies and environmental performance be placed in service as soon as possible;

"(ii) to allocate credits to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying advanced clean coal technology facility, including—

''(I) a site,

''(II) contractual commitments for procurement and construction,

''(III) filings for all necessary preconstruction approvals,

''(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

''(V) such other factors that the Secretary shall determine are appropriate;

''(iii) to allocate credits to a portion of a facility (or a portion of the production from a facility) if the Secretary determines that such an allocation should maximize the amount of efficient production encouraged with the available tax credits;

''(C) to set progress requirements and conditional approvals so that credits for approved projects that become unlikely to meet the necessary conditions that can be reallocated by the Secretary to other projects;

''(D) to reallocate credits that are not allocated to 1 technology described in clauses (i) through (iv) of subsection (c)(1)(A) because an

insufficient number of qualifying facilities requested credits for one technology, to another technology described in another subparagraph of subsection (c) in order to maximize the amount of energy efficient production encouraged with the available tax credits; and

''(E) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and recordkeeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under

section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology facility (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology facility property shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology facility under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with re-

spect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology facility.''.

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following:

''(14) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology facility credit determined under section 48A may be carried back to a taxable year ending before January 1, 2002.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) the portion of the basis of any qualifying advanced clean coal technology facility attributable to any qualified investment (as defined by section 48A(c)).''

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting '', (2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES.—Paragraphs (1) and (2) shall not apply to any property with respect to the credit determined under section 48A.''

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

''Sec. 48A. Qualifying advanced clean coal technology facility credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2001, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

SEC. 308. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45K. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals, produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology facility during the 10-year period beginning on the date the facility was originally placed in service.

"(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology facility shall be determined as follows:

"(1) Where the design coal has a heat content of more than 9,000 Btu per pound:

"(A) In the case of a facility originally 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.

"(B) In the case of a facility originally placed in service after 2008 and before 2013, 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.

"(C) In the case of a facility originally placed in service after 2012 and before 2017, 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.

"(2) Where the design coal has a heat content of not more than 9,000 Btu per pound:

"(A) In the case of a facility originally 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.

"(B) In the case of a facility originally placed in service after 2008 and before 2013, 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.

"(C) In the case of a facility originally placed in service after 2012 and before 2017, 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.

"(3) Where the clean coal technology facility is producing fuel or chemicals:

"(A) In the case of a facility originally 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.

"(B) In the case of a facility originally placed in service after 2008 and before 2013, 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.

''(C) In the case of a facility originally placed in service after 2012 and before 2017, 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.

''(c) INFLATION ADJUSTMENT FACTOR.—For calendar years after 2001, each amount in paragraphs (1), (2), and (3) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 48A shall have the meaning given such term in section 48A.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45 shall apply.

''(3) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2001.

''(4) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) the qualifying advanced clean coal technology production credit determined under section 45K(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules is amended by adding at the end the following:

''(15) NO CARRYBACK OF SECTION 45K CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45K may be carried back to a taxable year ending before the date of enactment of section 45K.''.

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

''Sec. 45K. Credit for production from qualifying advanced clean coal technology.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of enactment of this Act.

SEC. 309. BUSINESS RELATED ENERGY CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SPECIFIED ENERGY CREDITS.—

''(A) IN GENERAL.—In the case of specified energy credits—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified energy credits).

''(B) SPECIFIED ENERGY CREDITS.—For purposes of this subsection, the term 'specified energy credits' means the credits determined under sections 45G, 45H, 45I, 45J, and 45K.''.

(b) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the specified energy credits'' after ''employment credit''.

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

SEC. 310. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS.

(a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E) is amended by adding at the end the following new sentence:''The preceding sentence shall not apply to taxable years beginning after December 31, 2001, and before January 1, 2005.''.

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 311. ALLOWANCE OF ENHANCED RECOVERY CREDIT AGAINST THE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(3) is amended by adding at the end the following new sentence: ''For taxable years beginning before January 1, 2005, such term includes the credit determined under section 43.''

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

SEC. 312. EXTENSION OF CERTAIN BENEFITS FOR ENERGY-RELATED BUSINESSES ON INDIAN RESERVATIONS.

(a) DEPRECIATION FOR PROPERTY ON INDIAN RESERVATIONS.—Paragraph (8) of section 168(j) (relating to

termination) is amended by adding at the end the following new sentence: ''The preceding sentence shall be applied by substituting ''December 31, 2006'' for ''December 31, 2003'' in the case of property placed in service as part of a facility for—

''(A) the generation or transmission of electricity (including from any qualified energy resource, as defined in section 45(c)),

''(B) an oil or gas well,

''(C) the transmission or refining of oil or gas, or

''(D) the production of any qualified fuel (as defined in section 29(c)).''

(b) EMPLOYMENT OF INDIANS.—Subsection (f) of section 45A (relating to termination) is amended by adding at the end the following new sentence: ''The preceding sentence shall be applied by substituting ''December 31, 2006'' for ''December 31, 2003'' in the case of wages paid for services performed at a facility described in section 168(j)(8).''

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