

108TH CONGRESS
2D SESSION

H. R. 4652

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a fuel additive, to require Federal fleet vehicles to use ethanol fuel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2004

Mr. NUSSLE (for himself and Mr. LATHAM) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a fuel additive, to require Federal fleet vehicles to use ethanol fuel, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Energy Independence Act of 2004”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—RENEWABLE FUELS INCENTIVES

1 is available on a renewable or recurring basis,
2 including—

3 “(I) dedicated energy crops and trees;

4 “(II) wood and wood residues;

5 “(III) plants;

6 “(IV) grasses;

7 “(V) agricultural residues; and

8 “(VI) fibers.

9 “(ii) The term ‘waste derived ethanol’
10 means ethanol derived from—

11 “(I) animal wastes, including poultry
12 fats and poultry wastes, and other waste
13 materials; or

14 “(II) municipal solid waste.

15 “(B) RENEWABLE FUEL.—

16 “(i) IN GENERAL.—The term ‘renew-
17 able fuel’ means motor vehicle fuel that—

18 “(I)(aa) is produced from grain,
19 starch, oilseeds, or other biomass; or

20 “(bb) is natural gas produced
21 from a biogas source, including a
22 landfill, sewage waste treatment plant,
23 feedlot, or other place where decaying
24 organic material is found; and

1 “(II) is used to replace or reduce
2 the quantity of fossil fuel present in a
3 fuel mixture used to operate a motor
4 vehicle.

5 “(ii) INCLUSION.—The term ‘renew-
6 able fuel’ includes cellulosic biomass eth-
7 anol, waste derived ethanol, and biodiesel
8 (as defined in section 312(f) of the Energy
9 Policy Act of 1992 (42 U.S.C. 13220(f))
10 and any blending components derived from
11 renewable fuel (provided that only the re-
12 newable fuel portion of any such blending
13 component shall be considered part of the
14 applicable volume under the renewable fuel
15 program established by this subsection).

16 “(C) SMALL REFINERY.—The term ‘small
17 refinery’ means a refinery for which average ag-
18 gregate daily crude oil throughput for the cal-
19 endar year (as determined by dividing the ag-
20 gregate throughput for the calendar year by the
21 number of days in the calendar year) does not
22 exceed 75,000 barrels.

23 “(2) RENEWABLE FUEL PROGRAM.—

24 “(A) IN GENERAL.—Not later than 1 year
25 after the enactment of this subsection, the Ad-

1 administrator shall promulgate regulations ensur-
2 ing that motor vehicle fuel sold or dispensed to
3 consumers in the contiguous United States, on
4 an annual average basis, contains the applicable
5 volume of renewable fuel as specified in sub-
6 paragraph (B). Regardless of the date of pro-
7 mulgation, such regulations shall contain com-
8 pliance provisions for refiners, blenders, and
9 importers, as appropriate, to ensure that the re-
10 requirements of this section are met, but shall not
11 restrict where renewable fuel can be used, or
12 impose any per-gallon obligation for the use of
13 renewable fuel. If the Administrator does not
14 promulgate such regulations, the applicable per-
15 centage referred to in paragraph (4), on a vol-
16 ume percentage of gasoline basis, shall be 2.2
17 in 2005.

18 “(B) APPLICABLE VOLUME.—

19 “(i) CALENDAR YEARS 2005 THROUGH
20 2012.—For the purpose of subparagraph
21 (A), the applicable volume for any of cal-
22 endar years 2005 through 2012 shall be
23 determined in accordance with the fol-
24 lowing table:

“Calendar year	Applicable volume of renewable fuel (in billions of gallons)
2005	3.1
2006	3.3
2007	3.5
2008	3.8
2009	4.1
2010	4.4
2011	4.7
2012	5.0.

1 “(ii) CALENDAR YEAR 2013 AND
2 THEREAFTER.—For the purpose of sub-
3 paragraph (A), the applicable volume for
4 calendar year 2013 and each calendar year
5 thereafter shall be equal to the product ob-
6 tained by multiplying—

7 “(I) the number of gallons of
8 gasoline that the Administrator esti-
9 mates will be sold or introduced into
10 commerce in the calendar year; and

11 “(II) the ratio that—

12 “(aa) 5.0 billion gallons of
13 renewable fuels; bears to

14 “(bb) the number of gallons
15 of gasoline sold or introduced
16 into commerce in calendar year
17 2012.

18 “(3) NON-CONTIGUOUS STATE OPT-IN.—Upon
19 the petition of a non-contiguous State, the Adminis-
20 trator may allow the renewable fuel program estab-

1 lished by subtitle A of title XV of the Renewable Re-
2 sources Act of 2004 to apply in such non-contiguous
3 State at the same time or any time after the Admin-
4 istrator promulgates regulations under paragraph
5 (2). The Administrator may promulgate or revise
6 regulations under paragraph (2), establish applicable
7 percentages under paragraph (4), provide for the
8 generation of credits under paragraph (6), and take
9 such other actions as may be necessary to allow for
10 the application of the renewable fuels program in a
11 non-contiguous State.

12 “(4) APPLICABLE PERCENTAGES.—

13 “(A) PROVISION OF ESTIMATE OF VOL-
14 UMES OF GASOLINE SALES.—Not later than Oc-
15 tober 31 of each of calendar years 2004
16 through 2011, the Administrator of the Energy
17 Information Administration shall provide to the
18 Administrator of the Environmental Protection
19 Agency an estimate of the volumes of gasoline
20 that will be sold or introduced into commerce in
21 the United States during the following calendar
22 year.

23 “(B) DETERMINATION OF APPLICABLE
24 PERCENTAGES.—

1 “(i) IN GENERAL.—Not later than
2 November 30 of each of the calendar years
3 2004 through 2011, based on the estimate
4 provided under subparagraph (A), the Ad-
5 ministrators shall determine and publish in
6 the Federal Register, with respect to the
7 following calendar year, the renewable fuel
8 obligation that ensures that the require-
9 ments of paragraph (2) are met.

10 “(ii) REQUIRED ELEMENTS.—The re-
11 newable fuel obligation determined for a
12 calendar year under clause (i) shall—

13 “(I) be applicable to refiners,
14 blenders, and importers, as appro-
15 priate;

16 “(II) be expressed in terms of a
17 volume percentage of gasoline sold or
18 introduced into commerce; and

19 “(III) subject to subparagraph
20 (C)(i), consist of a single applicable
21 percentage that applies to all cat-
22 egories of persons specified in sub-
23 clause (I).

1 “(C) ADJUSTMENTS.—In determining the
2 applicable percentage for a calendar year, the
3 Administrator shall make adjustments—

4 “(i) to prevent the imposition of re-
5 dundant obligations to any person specified
6 in subparagraph (B)(ii)(I); and

7 “(ii) to account for the use of renew-
8 able fuel during the previous calendar year
9 by small refineries that are exempt under
10 paragraph (11).

11 “(5) EQUIVALENCY.—For the purpose of para-
12 graph (2), 1 gallon of either cellulosic biomass eth-
13 anol or waste derived ethanol—

14 “(A) shall be considered to be the equiva-
15 lent of 1.5 gallon of renewable fuel; or

16 “(B) if the cellulosic biomass ethanol or
17 waste derived ethanol is derived from agricul-
18 tural residue or is an agricultural byproduct (as
19 that term is used in section 919 of the Renew-
20 able Resources Act of 2004), shall be consid-
21 ered to be the equivalent of 2.5 gallons of re-
22 newable fuel.

23 “(6) CREDIT PROGRAM.—

24 “(A) IN GENERAL.—The regulations pro-
25 mulgated to carry out this subsection shall pro-

1 vide for the generation of an appropriate
2 amount of credits by any person that refines,
3 blends, or imports gasoline that contains a
4 quantity of renewable fuel that is greater than
5 the quantity required under paragraph (2).
6 Such regulations shall provide for the genera-
7 tion of an appropriate amount of credits for
8 biodiesel fuel. If a small refinery notifies the
9 Administrator that it waives the exemption pro-
10 vided paragraph (11), the regulations shall pro-
11 vide for the generation of credits by the small
12 refinery beginning in the year following such
13 notification.

14 “(B) USE OF CREDITS.—A person that
15 generates credits under subparagraph (A) may
16 use the credits, or transfer all or a portion of
17 the credits to another person, for the purpose
18 of complying with paragraph (2).

19 “(C) LIFE OF CREDITS.—A credit gen-
20 erated under this paragraph shall be valid to
21 show compliance—

22 “(i) in the calendar year in which the
23 credit was generated or the next calendar
24 year; or

1 “(ii) in the calendar year in which the
2 credit was generated or next two consecu-
3 tive calendar years if the Administrator
4 promulgates regulations under paragraph
5 (7).

6 “(D) INABILITY TO PURCHASE SUFFICIENT
7 CREDITS.—The regulations promulgated to
8 carry out this subsection shall include provi-
9 sions allowing any person that is unable to gen-
10 erate or purchase sufficient credits to meet the
11 requirements under paragraph (2) to carry for-
12 ward a renewable fuel deficit provided that, in
13 the calendar year following the year in which
14 the renewable fuel deficit is created, such per-
15 son shall achieve compliance with the renewable
16 fuel requirement under paragraph (2), and shall
17 generate or purchase additional renewable fuel
18 credits to offset the renewable fuel deficit of the
19 previous year.

20 “(7) SEASONAL VARIATIONS IN RENEWABLE
21 FUEL USE.—

22 “(A) STUDY.—For each of the calendar
23 years 2005 through 2012, the Administrator of
24 the Energy Information Administration shall
25 conduct a study of renewable fuels blending to

1 determine whether there are excessive seasonal
2 variations in the use of renewable fuels.

3 “(B) REGULATION OF EXCESSIVE SEA-
4 SONAL VARIATIONS.—If, for any calendar year,
5 the Administrator of the Energy Information
6 Administration, based on the study under sub-
7 paragraph (A), makes the determinations speci-
8 fied in subparagraph (C), the Administrator
9 shall promulgate regulations to ensure that 35
10 percent or more of the quantity of renewable
11 fuels necessary to meet the requirement of
12 paragraph (2) is used during each of the peri-
13 ods specified in subparagraph (D) of each sub-
14 sequent calendar year.

15 “(C) DETERMINATIONS.—The determina-
16 tions referred to in subparagraph (B) are
17 that—

18 “(i) less than 35 percent of the quan-
19 tity of renewable fuels necessary to meet
20 the requirement of paragraph (2) has been
21 used during one of the periods specified in
22 subparagraph (D) of the calendar year;

23 “(ii) a pattern of excessive seasonal
24 variation described in clause (i) will con-
25 tinue in subsequent calendar years; and

1 “(iii) promulgating regulations or
2 other requirements to impose a 35 percent
3 or more seasonal use of renewable fuels
4 will not prevent or interfere with the at-
5 tainment of national ambient air quality
6 standards or significantly increase the
7 price of motor fuels to the consumer.

8 “(D) PERIODS.—The two periods referred
9 to in this paragraph are—

10 “(i) April through September; and

11 “(ii) January through March and Oc-
12 tober through December.

13 “(E) EXCLUSIONS.—Renewable fuels
14 blended or consumed in 2005 in a State which
15 has received a waiver under section 209(b) shall
16 not be included in the study in subparagraph
17 (A).

18 “(8) WAIVERS.—

19 “(A) IN GENERAL.—The Administrator, in
20 consultation with the Secretary of Agriculture
21 and the Secretary of Energy, may waive the re-
22 quirement of paragraph (2) in whole or in part
23 on petition by one or more States by reducing
24 the national quantity of renewable fuel required
25 under this subsection—

1 “(i) based on a determination by the
2 Administrator, after public notice and op-
3 portunity for comment, that implementa-
4 tion of the requirement would severely
5 harm the economy or environment of a
6 State, a region, or the United States; or

7 “(ii) based on a determination by the
8 Administrator, after public notice and op-
9 portunity for comment, that there is an in-
10 adequate domestic supply or distribution
11 capacity to meet the requirement.

12 “(B) PETITIONS FOR WAIVERS.—The Ad-
13 ministrator, in consultation with the Secretary
14 of Agriculture and the Secretary of Energy,
15 shall approve or disapprove a State petition for
16 a waiver of the requirement of paragraph (2)
17 within 90 days after the date on which the peti-
18 tion is received by the Administrator.

19 “(C) TERMINATION OF WAIVERS.—A waiv-
20 er granted under subparagraph (A) shall termi-
21 nate after 1 year, but may be renewed by the
22 Administrator after consultation with the Sec-
23 retary of Agriculture and the Secretary of En-
24 ergy.

1 “(9) STUDY AND WAIVER FOR INITIAL YEAR OF
2 PROGRAM.—Not later than 180 days after the enact-
3 ment of this subsection, the Secretary of Energy
4 shall complete for the Administrator a study assess-
5 ing whether the renewable fuels requirement under
6 paragraph (2) will likely result in significant adverse
7 consumer impacts in 2005, on a national, regional,
8 or State basis. Such study shall evaluate renewable
9 fuel supplies and prices, blendstock supplies, and
10 supply and distribution system capabilities. Based
11 on such study, the Secretary shall make specific rec-
12 ommendations to the Administrator regarding waiv-
13 er of the requirements of paragraph (2), in whole or
14 in part, to avoid any such adverse impacts. Within
15 270 days after the enactment of this subsection, the
16 Administrator shall, consistent with the rec-
17 ommendations of the Secretary, waive, in whole or in
18 part, the renewable fuels requirement under para-
19 graph (2) by reducing the national quantity of re-
20 newable fuel required under this subsection in 2005.
21 This paragraph shall not be interpreted as limiting
22 the Administrator’s authority to waive the require-
23 ments of paragraph (2) in whole, or in part, under
24 paragraph (8) or paragraph (10), pertaining to
25 waivers.

1 “(10) ASSESSMENT AND WAIVER.—The Admin-
2 istrator, in consultation with the Secretary of En-
3 ergy and the Secretary of Agriculture, shall evaluate
4 the requirement of paragraph (2) and determine,
5 prior to January 1, 2007, and prior to January 1
6 of any subsequent year in which the applicable vol-
7 ume of renewable fuel is increased under paragraph
8 (2)(B), whether the requirement of paragraph (2),
9 including the applicable volume of renewable fuel
10 contained in paragraph (2)(B) should remain in ef-
11 fect, in whole or in part, during 2007 or any year
12 or years subsequent to 2007. In evaluating the re-
13 quirement of paragraph (2) and in making any de-
14 termination under this section, the Administrator
15 shall consider the best available information and
16 data collected by accepted methods or best available
17 means regarding—

18 “(A) the capacity of renewable fuel pro-
19 ducers to supply an adequate amount of renew-
20 able fuel at competitive prices to fulfill the re-
21 quirement of paragraph (2);

22 “(B) the potential of the requirement of
23 paragraph (2) to significantly raise the price of
24 gasoline, food (excluding the net price impact
25 on the requirement in paragraph (2) on com-

1 commodities used in the production of ethanol), or
2 heating oil for consumers in any significant
3 area or region of the country above the price
4 that would otherwise apply to such commodities
5 in the absence of such requirement;

6 “(C) the potential of the requirement of
7 paragraph (2) to interfere with the supply of
8 fuel in any significant gasoline market or region
9 of the country, including interference with the
10 efficient operation of refiners, blenders, import-
11 ers, wholesale suppliers, and retail vendors of
12 gasoline, and other motor fuels; and

13 “(D) the potential of the requirement of
14 paragraph (2) to cause or promote exceedances
15 of Federal, State, or local air quality standards.

16 If the Administrator determines, by clear and con-
17 vincing information, after public notice and the op-
18 portunity for comment, that the requirement of
19 paragraph (2) would have significant and meaning-
20 ful adverse impact on the supply of fuel and related
21 infrastructure or on the economy, public health, or
22 environment of any significant area or region of the
23 country, the Administrator may waive, in whole or
24 in part, the requirement of paragraph (2) in any one
25 year for which the determination is made for that

1 area or region of the country, except that any such
2 waiver shall not have the effect of reducing the ap-
3 plicable volume of renewable fuel specified in para-
4 graph (2)(B) with respect to any year for which the
5 determination is made. In determining economic im-
6 pact under this paragraph, the Administrator shall
7 not consider the reduced revenues available from the
8 Highway Trust Fund (section 9503 of the Internal
9 Revenue Code of 1986) as a result of the use of eth-
10 anol.

11 “(11) SMALL REFINERIES.—

12 “(A) IN GENERAL.—The requirement of
13 paragraph (2) shall not apply to small refineries
14 until the first calendar year beginning more
15 than 5 years after the first year set forth in the
16 table in paragraph (2)(B)(i). Not later than De-
17 cember 31, 2007, the Secretary of Energy shall
18 complete for the Administrator a study to de-
19 termine whether the requirement of paragraph
20 (2) would impose a disproportionate economic
21 hardship on small refineries. For any small re-
22 finery that the Secretary of Energy determines
23 would experience a disproportionate economic
24 hardship, the Administrator shall extend the

1 small refinery exemption for such small refinery
2 for no less than two additional years.

3 “(B) ECONOMIC HARDSHIP.—

4 “(i) EXTENSION OF EXEMPTION.—A
5 small refinery may at any time petition the
6 Administrator for an extension of the ex-
7 emption from the requirement of para-
8 graph (2) for the reason of dispropor-
9 tionate economic hardship. In evaluating a
10 hardship petition, the Administrator, in
11 consultation with the Secretary of Energy,
12 shall consider the findings of the study in
13 addition to other economic factors.

14 “(ii) DEADLINE FOR ACTION ON PETI-
15 TIONS.—The Administrator shall act on
16 any petition submitted by a small refinery
17 for a hardship exemption not later than 90
18 days after the receipt of the petition.

19 “(C) CREDIT PROGRAM.—If a small refin-
20 ery notifies the Administrator that it waives the
21 exemption provided by this Act, the regulations
22 shall provide for the generation of credits by
23 the small refinery beginning in the year fol-
24 lowing such notification.

1 “(D) OPT-IN FOR SMALL REFINERS.—A
2 small refinery shall be subject to the require-
3 ments of this section if it notifies the Adminis-
4 trator that it waives the exemption under sub-
5 paragraph (A).

6 “(12) ETHANOL MARKET CONCENTRATION
7 ANALYSIS.—

8 “(A) ANALYSIS.—

9 “(i) IN GENERAL.—Not later than
10 180 days after the date of enactment of
11 this subsection, and annually thereafter,
12 the Federal Trade Commission shall per-
13 form a market concentration analysis of
14 the ethanol production industry using the
15 Herfindahl-Hirschman Index to determine
16 whether there is sufficient competition
17 among industry participants to avoid price
18 setting and other anticompetitive behavior.

19 “(ii) SCORING.—For the purpose of
20 scoring under clause (i) using the
21 Herfindahl-Hirschman Index, all mar-
22 keting arrangements among industry par-
23 ticipants shall be considered.

24 “(B) REPORT.—Not later than December
25 1, 2004, and annually thereafter, the Federal

1 Trade Commission shall submit to Congress
2 and the Administrator a report on the results
3 of the market concentration analysis performed
4 under subparagraph (A)(i).”.

5 (b) PENALTIES AND ENFORCEMENT.—Section
6 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
7 amended as follows:

8 (1) In paragraph (1)—

9 (A) in the first sentence, by striking “or
10 (n)” each place it appears and inserting “(n),
11 or (o)”; and

12 (B) in the second sentence, by striking “or
13 (m)” and inserting “(m), or (o)”.

14 (2) In the first sentence of paragraph (2), by
15 striking “and (n)” each place it appears and insert-
16 ing “(n), and (o)”.

17 (c) SURVEY OF RENEWABLE FUEL MARKET.—

18 (1) SURVEY AND REPORT.—Not later than De-
19 cember 1, 2006, and annually thereafter, the Admin-
20 istrator of the Environmental Protection Agency (in
21 consultation with the Secretary of Energy acting
22 through the Administrator of the Energy Informa-
23 tion Administration) shall—

24 (A) conduct, with respect to each conven-
25 tional gasoline use area and each reformulated

1 gasoline use area in each State, a survey to de-
2 termine the market shares of—

3 (i) conventional gasoline containing
4 ethanol;

5 (ii) reformulated gasoline containing
6 ethanol;

7 (iii) conventional gasoline containing
8 renewable fuel; and

9 (iv) reformulated gasoline containing
10 renewable fuel; and

11 (B) submit to Congress, and make publicly
12 available, a report on the results of the survey
13 under subparagraph (A).

14 (2) RECORDKEEPING AND REPORTING RE-
15 QUIREMENTS.—The Administrator of the Environ-
16 mental Protection Agency (hereinafter in this sub-
17 section referred to as the “Administrator”) may re-
18 quire any refiner, blender, or importer to keep such
19 records and make such reports as are necessary to
20 ensure that the survey conducted under paragraph
21 (1) is accurate. The Administrator, to avoid dupli-
22 cative requirements, shall rely, to the extent prac-
23 ticable, on existing reporting and recordkeeping re-
24 quirements and other information available to the

1 Administrator including gasoline distribution pat-
2 terns that include multistate use areas.

3 (3) APPLICABLE LAW.—Activities carried out
4 under this subsection shall be conducted in a man-
5 ner designed to protect confidentiality of individual
6 responses.

7 **SEC. 102. PROHIBITION ON USE OF MTBE AS A FUEL ADDI-**
8 **TIVE.**

9 Section 211(c) of the Clean Air Act (42 U.S.C.
10 7545(c)) is amended by adding the following at the end
11 of paragraph (1): “Effective on the date of the enactment
12 of this sentence, the use of methyl tertiary butyl ether
13 (MTBE) as a fuel additive is prohibited.”. The Adminis-
14 trator of the Environmental Protection Agency shall
15 amend the regulations under section 211(c) of the Clean
16 Air Act (42 U.S.C. 7545(c)) as promptly as practicable
17 after the enactment of this Act to conform to the amend-
18 ment made by this section.

19 **SEC. 103. FEDERAL AGENCY FLEET VEHICLES.**

20 Section 248(f) of the Clean Air Act (42 U.S.C.
21 7588(f)) is amended by inserting the following before the
22 period at the end thereof: “, all such vehicles shall be clean
23 fuel vehicles certified under this part capable of using eth-
24 anol as fuel and shall use ethanol wherever economically
25 feasible, as determined by the Administrator, and all such

1 agencies shall use biodiesel fuel to operate any Federal
 2 vehicle that uses diesel fuel, unless the cost of doing so
 3 is prohibitive”.

4 **TITLE II—TAX INCENTIVES**

5 **SEC. 201. EXTENSION AND EXPANSION OF CREDIT FOR** 6 **ELECTRICITY PRODUCED FROM CERTAIN RE-** 7 **NEWABLE RESOURCES.**

8 (a) **EXPANSION OF QUALIFIED ENERGY RE-**
 9 **SOURCES.**—Subsection (c) of section 45 of the Internal
 10 Revenue Code of 1986 (relating to electricity produced
 11 from certain renewable resources) is amended to read as
 12 follows:

13 “(c) **QUALIFIED ENERGY RESOURCES.**—For pur-
 14 poses of this section—

15 “(1) **IN GENERAL.**—The term ‘qualified energy
 16 resources’ means—

17 “(A) wind,

18 “(B) closed-loop biomass, and

19 “(C) open-loop biomass.

20 “(2) **CLOSED-LOOP BIOMASS.**—The term
 21 ‘closed-loop biomass’ means any organic material
 22 from a plant which is planted exclusively for pur-
 23 poses of being used at a qualified facility to produce
 24 electricity.

25 “(3) **OPEN-LOOP BIOMASS.**—

1 “(A) IN GENERAL.—The term ‘open-loop
2 biomass’ means—

3 “(i) any agricultural livestock waste
4 nutrients, or

5 “(ii) any solid, nonhazardous, cel-
6 lulosic waste material which is segregated
7 from other waste materials and which is
8 derived from—

9 “(I) any of the following forest-
10 related resources: mill and harvesting
11 residues, precommercial thinnings,
12 slash, and brush; but not including
13 spent chemicals from pulp manufac-
14 turing,

15 “(II) solid wood waste materials,
16 including waste pallets, crates,
17 dunnage, manufacturing and con-
18 struction wood wastes (other than
19 pressure-treated, chemically-treated,
20 or painted wood wastes), and land-
21 scape or right-of-way tree trimmings,
22 but not including municipal solid
23 waste, gas derived from the bio-
24 degradation of solid waste, or paper
25 which is commonly recycled, or

1 “(III) agriculture sources, includ-
 2 ing orchard tree crops, vineyard,
 3 grain, legumes, sugar, and other crop
 4 by-products or residues.

5 “(B) AGRICULTURAL LIVESTOCK WASTE
 6 NUTRIENTS.—

7 “(i) IN GENERAL.—The term ‘agricul-
 8 tural livestock waste nutrients’ means agri-
 9 cultural livestock manure and litter, includ-
 10 ing wood shavings, straw, rice hulls, and
 11 other bedding material for the disposition
 12 of manure.

13 “(ii) AGRICULTURAL LIVESTOCK.—
 14 The term ‘agricultural livestock’ includes
 15 bovine, swine, poultry, and sheep.

16 “(C) EXCEPTIONS.—The term ‘open-loop
 17 biomass’ does not include—

18 “(i) closed-loop biomass, or

19 “(ii) biomass burned in conjunction
 20 with fossil fuel (cofiring) beyond such fossil
 21 fuel required for startup and flame sta-
 22 bilization.”.

23 (b) EXTENSION AND EXPANSION OF QUALIFIED FA-
 24 CILITIES.—Section 45 of such Code is amended by redes-

1 ignating subsection (d) as subsection (e) and by inserting
2 after subsection (c) the following new subsection:

3 “(d) QUALIFIED FACILITIES.—For purposes of this
4 section—

5 “(1) WIND FACILITY.—In the case of a facility
6 using wind to produce electricity, the term ‘qualified
7 facility’ means any facility owned by the taxpayer
8 which is originally placed in service after December
9 31, 1993.

10 “(2) CLOSED-LOOP BIOMASS FACILITY.—

11 “(A) IN GENERAL.—In the case of a facil-
12 ity using closed-loop biomass to produce elec-
13 tricity, the term ‘qualified facility’ means any
14 facility—

15 “(i) owned by the taxpayer which is
16 originally placed in service after December
17 31, 1992, or

18 “(ii) owned by the taxpayer which is
19 originally placed in service and modified to
20 use closed-loop biomass to co-fire with coal,
21 with other biomass, or with both, but only
22 if the modification is approved under the
23 Biomass Power for Rural Development
24 Programs or is part of a pilot project of

1 the Commodity Credit Corporation as de-
2 scribed in 65 Fed. Reg. 63052.

3 “(B) SPECIAL RULES.—In the case of a
4 qualified facility described in subparagraph
5 (A)(ii)—

6 “(i) the 10-year period referred to in
7 subsection (a) shall be treated as beginning
8 no earlier than January 1, 2005,

9 “(ii) the amount of the credit deter-
10 mined under subsection (a) with respect to
11 the facility shall be an amount equal to the
12 amount determined without regard to this
13 clause multiplied by the ratio of the ther-
14 mal content of the closed-loop biomass
15 used in such facility to the thermal content
16 of all fuels used in such facility, and

17 “(iii) if the owner of such facility is
18 not the producer of the electricity, the per-
19 son eligible for the credit allowable under
20 subsection (a) shall be the lessee or the op-
21 erator of such facility.

22 “(3) OPEN-LOOP BIOMASS FACILITY.—

23 “(A) IN GENERAL.—In the case of a facil-
24 ity using open-loop biomass to produce elec-
25 tricity for grid sale in excess of its internal re-

1 quirements, the term ‘qualified facility’ means
2 any facility owned by the taxpayer which—

3 “(i) in the case of a facility using ag-
4 ricultural livestock waste nutrients, is
5 originally placed in service after December
6 31, 2004, and

7 “(ii) in the case of any other facility,
8 is originally placed in service before Janu-
9 ary 1, 2005.

10 “(B) SPECIAL RULES FOR PREEFFECTIVE
11 DATE FACILITIES.—In the case of any facility
12 described in subparagraph (A)(ii) which is
13 placed in service before January 1, 2005—

14 “(i) subsection (a)(1) shall be applied
15 by substituting ‘1.2 cents’ for ‘1.5 cents’,
16 and

17 “(ii) the 5-year period beginning on
18 January 1, 2005, shall be substituted for
19 the 10-year period in subsection
20 (a)(2)(A)(ii).

21 “(C) CREDIT ELIGIBILITY.—In the case of
22 any facility described in subparagraph (A), if
23 the owner of such facility is not the producer of
24 the electricity, the person eligible for the credit

1 allowable under subsection (a) shall be the les-
2 see or the operator of such facility.”.

3 (c) CREDIT RATE FOR ELECTRICITY PRODUCED
4 FROM NEW FACILITIES.—

5 (1) IN GENERAL.—Section 45(a) of such Code
6 is amended by adding at the end the following new
7 flush sentence: “In the case of electricity produced
8 after December 31, 2004, at any qualified facility
9 originally placed in service after such date, para-
10 graph (1) shall be applied by substituting ‘1.8 cents’
11 for ‘1.5 cents’.”.

12 (2) NEW RATE NOT SUBJECT TO INFLATION
13 ADJUSTMENT.—Section 45(b)(2) of such Code (re-
14 lating to credit and phaseout adjustment based on
15 inflation) is amended by adding at the end the fol-
16 lowing new sentence: “This paragraph shall not
17 apply to any amount which is substituted for the 1.5
18 cent amount in subsection (a) by reason of any pro-
19 vision of this section.”.

20 (d) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the amendments made by
23 this section shall apply to electricity produced and
24 sold after December 31, 2004, in taxable years end-
25 ing after such date.

1 (2) CERTAIN BIOMASS FACILITIES.—With re-
2 spect to any facility described in section
3 45(d)(3)(A)(ii) of the Internal Revenue Code of
4 1986, as added by subsection (b)(1), which is placed
5 in service before the date of the enactment of this
6 Act, the amendments made by this section shall
7 apply to electricity produced and sold after Decem-
8 ber 31, 2004, in taxable years ending after such
9 date.

10 (3) CREDIT RATE FOR NEW FACILITIES.—The
11 amendments made by subsection (c) shall apply to
12 electricity produced and sold after December 31,
13 2004, in taxable years ending after such date.

14 (4) NONAPPLICATION OF AMENDMENTS TO
15 PREEFFECTIVE DATE POULTRY WASTE FACILI-
16 TIES.—The amendments made by this section shall
17 not apply with respect to any poultry waste facility
18 (within the meaning of section 45(c)(3)(C), as in ef-
19 fect on December 31, 2004) placed in service on or
20 before such date.

21 **SEC. 202. SMALL ETHANOL PRODUCER CREDIT.**

22 (a) ALLOCATION OF ALCOHOL FUELS CREDIT TO
23 PATRONS OF A COOPERATIVE.—Section 40(g) of the In-
24 ternal Revenue Code of 1986 (relating to definitions and
25 special rules for eligible small ethanol producer credit) is

1 amended by adding at the end the following new para-
2 graph:

3 “(6) ALLOCATION OF SMALL ETHANOL PRO-
4 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

5 “(A) ELECTION TO ALLOCATE.—

6 “(i) IN GENERAL.—In the case of a
7 cooperative organization described in sec-
8 tion 1381(a), any portion of the credit de-
9 termined under subsection (a)(3) for the
10 taxable year may, at the election of the or-
11 ganization, be apportioned pro rata among
12 patrons of the organization on the basis of
13 the quantity or value of business done with
14 or for such patrons for the taxable year.

15 “(ii) FORM AND EFFECT OF ELEC-
16 TION.—An election under clause (i) for any
17 taxable year shall be made on a timely
18 filed return for such year. Such election,
19 once made, shall be irrevocable for such
20 taxable year.

21 “(B) TREATMENT OF ORGANIZATIONS AND
22 PATRONS.—The amount of the credit appor-
23 tioned to patrons under subparagraph (A)—

24 “(i) shall not be included in the
25 amount determined under subsection (a)

1 with respect to the organization for the
2 taxable year, and

3 “(ii) shall be included in the amount
4 determined under subsection (a) for the
5 taxable year of each patron for which the
6 patronage dividends for the taxable year
7 described in subparagraph (A) are included
8 in gross income.

9 “(C) SPECIAL RULES FOR DECREASE IN
10 CREDITS FOR TAXABLE YEAR.—If the amount
11 of the credit of a cooperative organization de-
12 termined under subsection (a)(3) for a taxable
13 year is less than the amount of such credit
14 shown on the return of the cooperative organi-
15 zation for such year, an amount equal to the
16 excess of—

17 “(i) such reduction, over

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

21 shall be treated as an increase in tax imposed
22 by this chapter on the organization. Such in-
23 crease shall not be treated as tax imposed by
24 this chapter for purposes of determining the

1 amount of any credit under this chapter or for
2 purposes of section 55.”.

3 (b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER
4 CREDIT.—

5 (1) DEFINITION OF SMALL ETHANOL PRO-
6 DUCER.—Section 40(g) of such Code (relating to
7 definitions and special rules for eligible small ethanol
8 producer credit) is amended by striking
9 “30,000,000” each place it appears and inserting
10 “60,000,000”.

11 (2) SMALL ETHANOL PRODUCER CREDIT NOT A
12 PASSIVE ACTIVITY CREDIT.—Clause (i) of section
13 469(d)(2)(A) of such Code is amended by striking
14 “subpart D” and inserting “subpart D, other than
15 section 40(a)(3),”.

16 (3) SMALL ETHANOL PRODUCER CREDIT NOT
17 ADDED BACK TO INCOME UNDER SECTION 87.—Sec-
18 tion 87 of such Code (relating to income inclusion
19 of alcohol fuel credit) is amended to read as follows:

20 **“SEC. 87. ALCOHOL FUEL CREDIT.**

21 “Gross income includes an amount equal to the sum
22 of—

23 “(1) the amount of the alcohol mixture credit
24 determined with respect to the taxpayer for the tax-
25 able year under section 40(a)(1), and

1 “(2) the alcohol credit determined with respect
2 to the taxpayer for the taxable year under section
3 40(a)(2).”.

4 (c) CONFORMING AMENDMENT.—Section 1388 of
5 such Code (relating to definitions and special rules for co-
6 operative organizations) is amended by adding at the end
7 the following new subsection:

8 “(1) CROSS REFERENCE.—For provisions relating to
9 the apportionment of the alcohol fuels credit between coop-
10 erative organizations and their patrons, see section
11 40(g)(6).”.

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

15 **SEC. 203. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1 (relating to business-related cred-
18 its) is amended by adding after section 45F the following
19 new section:

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

21 “(a) ALLOWANCE OF CREDIT.—

22 “(1) IN GENERAL.—For purposes of section 38,
23 the energy efficient appliance credit determined
24 under this section for the taxable year is an amount
25 equal to the sum of the amounts determined under

1 paragraph (2) for qualified energy efficient appli-
2 ances produced by the taxpayer during the calendar
3 year ending with or within the taxable year.

4 “(2) AMOUNT.—The amount determined under
5 this paragraph for any category described in sub-
6 section (b)(2)(B) shall be the product of the applica-
7 ble amount for appliances in the category and the el-
8 igible production for the category.

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

11 “(1) APPLICABLE AMOUNT.—The applicable
12 amount is—

13 “(A) \$50, in the case of—

14 “(i) a clothes washer which is manu-
15 factured with at least a 1.42 MEF, or

16 “(ii) a refrigerator which consumes at
17 least 10 percent less kilowatt hours per
18 year than the energy conservation stand-
19 ards for refrigerators promulgated by the
20 Department of Energy and effective on
21 July 1, 2001,

22 “(B) \$100, in the case of—

23 “(i) a clothes washer which is manu-
24 factured with at least a 1.50 MEF, or

1 “(ii) a refrigerator which consumes at
2 least 15 percent (20 percent in the case of
3 a refrigerator manufactured after 2006)
4 less kilowatt hours per year than such en-
5 ergy conservation standards, and

6 “(C) \$150, in the case of a refrigerator
7 manufactured before 2007 which consumes at
8 least 20 percent less kilowatt hours per year
9 than such energy conservation standards.

10 “(2) ELIGIBLE PRODUCTION.—

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

14 “(i) the number of appliances in such
15 category which are produced by the tax-
16 payer during such calendar year, over

17 “(ii) the average number of appliances
18 in such category which were produced by
19 the taxpayer during calendar years 2001,
20 2002, and 2003.

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

23 “(i) clothes washers described in para-
24 graph (1)(A)(i),

1 “(ii) clothes washers described in
2 paragraph (1)(B)(i),

3 “(iii) refrigerators described in para-
4 graph (1)(A)(ii),

5 “(iv) refrigerators described in para-
6 graph (1)(B)(ii), and

7 “(v) refrigerators described in para-
8 graph (1)(C).

9 “(c) LIMITATION ON MAXIMUM CREDIT.—

10 “(1) IN GENERAL.—The amount of credit al-
11 lowed under subsection (a) with respect to a tax-
12 payer for all taxable years shall not exceed
13 \$60,000,000, of which not more than \$30,000,000
14 may be allowed with respect to the credit determined
15 by using the applicable amount under subsection
16 (b)(1)(A).

17 “(2) LIMITATION BASED ON GROSS RE-
18 CEIPTS.—The credit allowed under subsection (a)
19 with respect to a taxpayer for the taxable year shall
20 not exceed an amount equal to 2 percent of the aver-
21 age annual gross receipts of the taxpayer for the 3
22 taxable years preceding the taxable year in which
23 the credit is determined.

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

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

5 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
6 ANCE.—The term ‘qualified energy efficient appli-
7 ance’ means—

8 “(A) a clothes washer described in sub-
9 paragraph (A)(i) or (B)(i) of subsection (b)(1),
10 or

11 “(B) a refrigerator described in subpara-
12 graph (A)(ii), (B)(ii), or (C) of subsection
13 (b)(1).

14 “(2) CLOTHES WASHER.—The term ‘clothes
15 washer’ means a residential clothes washer, includ-
16 ing a residential style coin operated washer.

17 “(3) REFRIGERATOR.—The term ‘refrigerator’
18 means an automatic defrost refrigerator-freezer
19 which has an internal volume of at least 16.5 cubic
20 feet.

21 “(4) MEF.—The term ‘MEF’ means Modified
22 Energy Factor (as determined by the Secretary of
23 Energy).

24 “(e) SPECIAL RULES.—

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

4 “(2) AGGREGATION RULES.—All persons treat-
5 ed as a single employer under subsection (a) or (b)
6 of section 52 or subsection (m) or (o) of section 414
7 shall be treated as 1 person for purposes of sub-
8 section (a).

9 “(f) VERIFICATION.—The taxpayer shall submit such
10 information or certification as the Secretary, in consulta-
11 tion with the Secretary of Energy, determines necessary
12 to claim the credit amount under subsection (a).”.

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

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

21 (c) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 of such Code is amended by adding at the end the fol-
24 lowing new item:

“45G. Energy efficient appliance credit.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to appliances produced after De-
3 cember 31, 2004, in taxable years ending after such date.

4 **SEC. 204. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES**
5 **ON RAILROADS AND INLAND WATERWAY**
6 **TRANSPORTATION WHICH REMAIN IN GEN-**
7 **ERAL FUND.**

8 (a) TAXES ON TRAINS.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 4041(a)(1) of the Internal Revenue Code of 1986 is
11 amended by striking “or a diesel-powered train”
12 each place it appears and by striking “or train”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Subparagraph (C) of section
15 4041(a)(1) of such Code is amended by striking
16 clause (ii) and by redesignating clause (iii) as
17 clause (ii).

18 (B) Subparagraph (C) of section
19 4041(b)(1) of such Code is amended by striking
20 all that follows “section 6421(e)(2)” and insert-
21 ing a period.

22 (C) Subsection (d) of section 4041 of such
23 Code is amended by redesignating paragraph
24 (3) as paragraph (4) and by inserting after
25 paragraph (2) the following new paragraph:

1 “(3) DIESEL FUEL USED IN TRAINS.—There is
2 hereby imposed a tax of 0.1 cent per gallon on any
3 liquid other than gasoline (as defined in section
4 4083)—

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

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

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

14 (D) Subsection (e) of section 4082 of such
15 Code is amended by striking “section
16 4041(a)(1)” and inserting “subsections (d)(3)
17 and (a)(1) of section 4041, respectively”.

18 (E) Paragraph (3) of section 4083(a) of
19 such Code is amended by striking “or a diesel-
20 powered train”.

21 (F) Paragraph (3) of section 6421(f) of
22 such Code is amended to read as follows:

23 “(3) GASOLINE USED IN TRAINS.—In the case
24 of gasoline used as a fuel in a train, this section
25 shall not apply with respect to the Leaking Under-

1 ground Storage Tank Trust Fund financing rate
2 under section 4081.”

3 (G) Paragraph (3) of section 6427(l) of
4 such Code is amended to read as follows:

5 “(3) REFUND OF CERTAIN TAXES ON FUEL
6 USED IN DIESEL-POWERED TRAINS.—For purposes
7 of this subsection, the term ‘nontaxable use’ includes
8 fuel used in a diesel-powered train. The preceding
9 sentence shall not apply to the tax imposed by sec-
10 tion 4041(d) and the Leaking Underground Storage
11 Tank Trust Fund financing rate under section 4081
12 except with respect to fuel sold for exclusive use by
13 a State or any political subdivision thereof.”

14 (b) FUEL USED ON INLAND WATERWAYS.—

15 (1) IN GENERAL.—Paragraph (1) of section
16 4042(b) of such Code is amended by adding “and”
17 at the end of subparagraph (A), by striking “, and”
18 at the end of subparagraph (B) and inserting a pe-
19 riod, and by striking subparagraph (C).

20 (2) CONFORMING AMENDMENT.—Paragraph (2)
21 of section 4042(b) of such Code is amended by strik-
22 ing subparagraph (C).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act.

1 **SEC. 205. CREDIT FOR CONSTRUCTION OF NEW ENERGY EF-**
 2 **FICIENT HOME.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
 4 chapter A of chapter 1 (relating to business related cred-
 5 its) is amended by adding after section 45G the following
 6 new section:

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

8 “(a) IN GENERAL.—For purposes of section 38, in
 9 the case of an eligible contractor, the credit determined
 10 under this section for the taxable year is an amount equal
 11 to the aggregate adjusted bases of all energy efficient
 12 property installed in a qualifying new home during con-
 13 struction of such home.

14 “(b) LIMITATIONS.—

15 “(1) MAXIMUM CREDIT.—

16 “(A) IN GENERAL.—The credit allowed by
 17 this section with respect to a qualifying new
 18 home shall not exceed—

19 “(i) in the case of a 30-percent home,
 20 \$1,000, and

21 “(ii) in the case of a 50-percent home,
 22 \$2,000.

23 “(B) 30- OR 50-PERCENT HOME.—For pur-
 24 poses of subparagraph (A)—

25 “(i) 30-PERCENT HOME.—The term
 26 ‘30-percent home’ means—

1 “(I) a qualifying new home which
2 is certified to have a projected level of
3 annual heating and cooling energy
4 consumption, measured in terms of
5 average annual energy cost to the
6 homeowner, which is at least 30 per-
7 cent less than the annual level of
8 heating and cooling energy consump-
9 tion of a qualifying new home con-
10 structed in accordance with the latest
11 standards of chapter 4 of the Inter-
12 national Energy Conservation Code
13 approved by the Department of En-
14 ergy before the construction of such
15 qualifying new home and any applica-
16 ble Federal minimum efficiency stand-
17 ards for equipment, or

18 “(II) in the case of a qualifying
19 new home which is a manufactured
20 home, a home which meets the appli-
21 cable standards required by the Ad-
22 ministrator of the Environmental Pro-
23 tection Agency under the Energy Star
24 Labeled Homes program.

1 “(ii) 50-PERCENT HOME.—The term
2 ‘50-percent home’ means a qualifying new
3 home which would be described in clause
4 (i)(I) if 50 percent were substituted for 30
5 percent.

6 “(C) PRIOR CREDIT AMOUNTS ON SAME
7 HOME TAKEN INTO ACCOUNT.—The amount of
8 the credit otherwise allowable for the taxable
9 year with respect to a qualifying new home
10 under clause (i) or (ii) of subparagraph (A)
11 shall be reduced by the sum of the credits al-
12 lowed under subsection (a) to any taxpayer with
13 respect to the home for all preceding taxable
14 years.

15 “(2) COORDINATION WITH CERTAIN CREDITS.—
16 For purposes of this section—

17 “(A) the basis of any property referred to
18 in subsection (a) shall be reduced by that por-
19 tion of the basis of any property which is attrib-
20 utable to the rehabilitation credit (as deter-
21 mined under section 47(a)) or to the energy
22 credit (as determined under section 48(a)), and

23 “(B) expenditures taken into account
24 under section 47, or 48(a) shall not be taken
25 into account under this section.

1 “(3) PROVIDER LIMITATION.—Any eligible con-
2 tractor who directly or indirectly provides the guar-
3 antee of energy savings under a guarantee-based
4 method of certification described in subsection
5 (d)(1)(D) shall not be eligible to receive the credit
6 allowed by this section.

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

8 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
9 ble contractor’ means—

10 “(A) the person who constructed the quali-
11 fying new home, or

12 “(B) in the case of a qualifying new home
13 which is a manufactured home, the manufac-
14 tured home producer of such home.

15 If more than 1 person is described in subparagraph
16 (A) or (B) with respect to any qualifying new home,
17 such term means the person designated as such by
18 the owner of such home.

19 “(2) ENERGY EFFICIENT PROPERTY.—The
20 term ‘energy efficient property’ means any energy
21 efficient building envelope component, and any en-
22 ergy efficient heating or cooling equipment or system
23 which can, individually or in combination with other
24 components, meet the requirements of this section.

25 “(3) QUALIFYING NEW HOME.—

1 “(A) IN GENERAL.—The term ‘qualifying
2 new home’ means a dwelling—

3 “(i) located in the United States,

4 “(ii) the construction of which is sub-
5 stantially completed after December 31,
6 2004, and

7 “(iii) the first use of which after con-
8 struction is as a principal residence (within
9 the meaning of section 121).

10 “(B) MANUFACTURED HOME INCLUDED.—

11 The term ‘qualifying new home’ includes a
12 manufactured home conforming to Federal
13 Manufactured Home Construction and Safety
14 Standards (24 C.F.R. 3280).

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

17 “(5) BUILDING ENVELOPE COMPONENT.—The
18 term ‘building envelope component’ means—

19 “(A) any insulation material or system
20 which is specifically and primarily designed to
21 reduce the heat loss or gain of a qualifying new
22 home when installed in or on such home,

23 “(B) exterior windows (including sky-
24 lights), and

25 “(C) exterior doors.

1 “(d) CERTIFICATION.—

2 “(1) METHOD OF CERTIFICATION.—

3 “(A) IN GENERAL.—A certification de-
4 scribed in subsection (b)(1)(B) shall be deter-
5 mined either by a component-based method, a
6 performance-based method, or a guarantee-
7 based method, or, in the case of a qualifying
8 new home which is a manufactured home, by a
9 method prescribed by the Administrator of the
10 Environmental Protection Agency under the
11 Energy Star Labeled Homes program.

12 “(B) COMPONENT-BASED METHOD.—A
13 component-based method is a method which
14 uses the applicable technical energy efficiency
15 specifications or ratings (including product la-
16 beling requirements) for the energy efficient
17 building envelope component or energy efficient
18 heating or cooling equipment. The Secretary
19 shall, in consultation with the Administrator of
20 the Environmental Protection Agency, develop
21 prescriptive component-based packages which
22 are equivalent in energy performance to prop-
23 erties which qualify under subparagraph (C).

24 “(C) PERFORMANCE-BASED METHOD.—

1 “(i) IN GENERAL.—A performance-
2 based method is a method which calculates
3 projected energy usage and cost reductions
4 in the qualifying new home in relation to
5 a new home—

6 “(I) heated by the same fuel
7 type, and

8 “(II) constructed in accordance
9 with the latest standards of chapter 4
10 of the International Energy Conserva-
11 tion Code approved by the Depart-
12 ment of Energy before the construc-
13 tion of such qualifying new home and
14 any applicable Federal minimum effi-
15 ciency standards for equipment.

16 “(ii) COMPUTER SOFTWARE.—Com-
17 puter software shall be used in support of
18 a performance-based method certification
19 under clause (i). Such software shall meet
20 procedures and methods for calculating en-
21 ergy and cost savings in regulations pro-
22 mulgated by the Secretary of Energy.

23 “(D) GUARANTEE-BASED METHOD.—

24 “(i) IN GENERAL.—A guarantee-based
25 method is a method which guarantees in

1 writing to the homeowner energy savings
2 of either 30 percent or 50 percent over the
3 2000 International Energy Conservation
4 Code for heating and cooling costs. The
5 guarantee shall be provided for a minimum
6 of 2 years and shall fully reimburse the
7 homeowner any heating and cooling costs
8 in excess of the guaranteed amount.

9 “(ii) COMPUTER SOFTWARE.—Com-
10 puter software shall be selected by the pro-
11 vider to support the guarantee-based meth-
12 od certification under clause (i). Such soft-
13 ware shall meet procedures and methods
14 for calculating energy and cost savings in
15 regulations promulgated by the Secretary
16 of Energy.

17 “(2) PROVIDER.—A certification described in
18 subsection (b)(1)(B) shall be provided by—

19 “(A) in the case of a component-based
20 method, a local building regulatory authority, a
21 utility, or a home energy rating organization,

22 “(B) in the case of a performance-based
23 method or a guarantee-based method, an indi-
24 vidual recognized by an organization designated
25 by the Secretary for such purposes, or

1 “(C) in the case of a qualifying new home
2 which is a manufactured home, a manufactured
3 home primary inspection agency.

4 “(3) FORM.—

5 “(A) IN GENERAL.—A certification de-
6 scribed in subsection (b)(1)(B) shall be made in
7 writing in a manner which specifies in readily
8 verifiable fashion the energy efficient building
9 envelope components and energy efficient heat-
10 ing or cooling equipment installed and their re-
11 spective rated energy efficiency performance,
12 and

13 “(i) in the case of a performance-
14 based method, accompanied by a written
15 analysis documenting the proper applica-
16 tion of a permissible energy performance
17 calculation method to the specific cir-
18 cumstances of such qualifying new home,
19 and

20 “(ii) in the case of a qualifying new
21 home which is a manufactured home, ac-
22 companied by such documentation as re-
23 quired by the Administrator of the Envi-
24 ronmental Protection Agency under the
25 Energy Star Labeled Homes program.

1 “(B) FORM PROVIDED TO BUYER.—A form
2 documenting the energy efficient building enve-
3 lope components and energy efficient heating or
4 cooling equipment installed and their rated en-
5 ergy efficiency performance shall be provided to
6 the buyer of the qualifying new home. The form
7 shall include labeled R-value for insulation
8 products, NFRC-labeled U-factor and solar
9 heat gain coefficient for windows, skylights, and
10 doors, labeled annual fuel utilization efficiency
11 (AFUE) ratings for furnaces and boilers, la-
12 beled heating seasonal performance factor
13 (HSPF) ratings for electric heat pumps, and la-
14 beled seasonal energy efficiency ratio (SEER)
15 ratings for air conditioners.

16 “(C) RATINGS LABEL AFFIXED IN DWELL-
17 ING.—A permanent label documenting the rat-
18 ings in subparagraph (B) shall be affixed to the
19 front of the electrical distribution panel of the
20 qualifying new home, or shall be otherwise per-
21 manently displayed in a readily inspectable loca-
22 tion in such home.

23 “(4) REGULATIONS.—

24 “(A) IN GENERAL.—In prescribing regula-
25 tions under this subsection for performance-

1 based and guarantee-based certification meth-
2 ods, the Secretary shall prescribe procedures for
3 calculating annual energy usage and cost reduc-
4 tions for heating and cooling and for the report-
5 ing of the results. Such regulations shall—

6 “(i) provide that any calculation pro-
7 cedures be fuel neutral such that the same
8 energy efficiency measures allow a quali-
9 fying new home to be eligible for the credit
10 under this section regardless of whether
11 such home uses a gas or oil furnace or
12 boiler or an electric heat pump, and

13 “(ii) require that any computer soft-
14 ware allow for the printing of the Federal
15 tax forms necessary for the credit under
16 this section and for the printing of forms
17 for disclosure to the homebuyer.

18 “(B) PROVIDERS.—For purposes of para-
19 graph (2)(B), the Secretary shall establish re-
20 quirements for the designation of individuals
21 based on the requirements for energy consult-
22 ants and home energy raters specified by the
23 Mortgage Industry National Home Energy Rat-
24 ing Standards.

1 “(e) APPLICATION.—Subsection (a) shall apply to
2 qualifying new homes the construction of which is substan-
3 tially completed after December 31, 2004.”.

4 (b) CREDIT MADE PART OF GENERAL BUSINESS
5 CREDIT.—Section 38(b) of such Code (relating to current
6 year business credit) is amended by striking “plus” at the
7 end of paragraph (15), by striking the period at the end
8 of paragraph (16) and inserting “, plus”, and by adding
9 at the end the following new paragraph:

10 “(17) the new energy efficient home credit de-
11 termined under section 45H(a).”.

12 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
13 such Code (relating to certain expenses for which credits
14 are allowable) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—
17 No deduction shall be allowed for that portion of expenses
18 for a qualifying new home otherwise allowable as a deduc-
19 tion for the taxable year which is equal to the amount
20 of the credit determined for such taxable year under sec-
21 tion 45H(a).”.

22 (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS
23 CREDITS.—Section 196(c) of such Code (defining quali-
24 fied business credits) is amended by striking “and” at the
25 end of paragraph (9), by striking the period at the end

1 of paragraph (10) and inserting “, and”, and by adding
 2 after paragraph (10) the following new paragraph:

3 “(11) the new energy efficient home credit de-
 4 termined under section 45H(a).”.

5 (e) CLERICAL AMENDMENT.—The table of sections
 6 for subpart D of part IV of subchapter A of chapter 1
 7 of such Code is amended by adding after the item relating
 8 to section 45G the following new item:

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

9 (f) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to homes the construction of which
 11 is substantially completed after December 31, 2004.

12 **SEC. 206. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
 13 **MENTS TO EXISTING HOMES.**

14 (a) IN GENERAL.—Subpart A of part IV of sub-
 15 chapter A of chapter 1 of the Internal Revenue Code of
 16 1986 (relating to nonrefundable personal credits) is
 17 amended by inserting after section 25B the following new
 18 section:

19 **“SEC. 25C. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
 20 **ING HOMES.**

21 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 22 dividual, there shall be allowed as a credit against the tax
 23 imposed by this chapter for the taxable year an amount
 24 equal to 20 percent of the amount paid or incurred by

1 the taxpayer for qualified energy efficiency improvements
2 installed during such taxable year.

3 “(b) LIMITATIONS.—

4 “(1) MAXIMUM CREDIT.—The credit allowed by
5 this section with respect to a dwelling unit shall not
6 exceed \$2,000.

7 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
8 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
9 credit was allowed to the taxpayer under subsection
10 (a) with respect to a dwelling unit in 1 or more prior
11 taxable years, the amount of the credit otherwise al-
12 lowable for the taxable year with respect to that
13 dwelling unit shall be reduced by the sum of the
14 credits allowed under subsection (a) to the taxpayer
15 with respect to the dwelling unit for all prior taxable
16 years.

17 “(c) QUALIFIED ENERGY EFFICIENCY IMPROVE-
18 MENTS.—For purposes of this section, the term ‘qualified
19 energy efficiency improvements’ means any energy effi-
20 cient building envelope component which meets the pre-
21 scriptive criteria for such component established by the
22 2000 International Energy Conservation Code, as such
23 Code (including supplements) is in effect on the date of
24 the enactment of this section (or, in the case of a metal

1 roof with appropriate pigmented coatings which meet the
2 Energy Star program requirements), if—

3 “(1) such component is installed in or on a
4 dwelling unit—

5 “(A) located in the United States,

6 “(B) owned and used by the taxpayer as
7 the taxpayer’s principal residence (within the
8 meaning of section 121), and

9 “(C) which has not been treated as a
10 qualified new energy efficient home for pur-
11 poses of any credit allowed under section 45G,

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

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

16 If the aggregate cost of such components with respect to
17 any dwelling unit exceeds \$1,000, such components shall
18 be treated as qualified energy efficiency improvements
19 only if such components are also certified in accordance
20 with subsection (d) as meeting such prescriptive criteria.

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

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

1 energy efficiency (based upon energy use or building
2 envelope component performance) for the energy ef-
3 ficient building envelope component,

4 “(2) provided by a local building regulatory au-
5 thority, a utility, a manufactured home production
6 inspection primary inspection agency (IPLA), or an
7 accredited home energy rating system provider who
8 is accredited by or otherwise authorized to use ap-
9 proved energy performance measurement methods by
10 the Residential Energy Services Network
11 (RESNET), and

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

16 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
17 poses of this section—

18 “(1) BUILDING ENVELOPE COMPONENT.—The
19 term ‘building envelope component’ means—

20 “(A) any insulation material or system
21 which is specifically and primarily designed to
22 reduce the heat loss or gain of a dwelling unit
23 when installed in or on such dwelling unit,

24 “(B) exterior windows (including sky-
25 lights),

1 “(C) exterior doors, and

2 “(D) any metal roof installed on a dwelling
3 unit, but only if such roof has appropriate pig-
4 mented coatings which are specifically and pri-
5 marily designed to reduce the heat gain of such
6 dwelling unit.

7 “(2) MANUFACTURED HOMES INCLUDED.—The
8 term ‘dwelling unit’ includes a manufactured home
9 which conforms to Federal Manufactured Home
10 Construction and Safety Standards (section 3280 of
11 title 24, Code of Federal Regulations).

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

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

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

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

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

17 “(5) CONDOMINIUMS.—

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

1 “(B) CONDOMINIUM MANAGEMENT ASSO-
2 CIATION.—For purposes of this paragraph, the
3 term ‘condominium management association’
4 means an organization which meets the require-
5 ments of paragraph (1) of section 528(c) (other
6 than subparagraph (E) thereof) with respect to
7 a condominium project substantially all of the
8 units of which are used as residences.

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

15 “(g) APPLICATION OF SECTION.—This section shall
16 apply to qualified energy efficiency improvements installed
17 after December 31, 2003, and before January 1, 2007.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Subsection (a) of section 1016 of such Code
20 is amended by striking “and” at the end of para-
21 graph (27), by striking the period at the end of
22 paragraph (28) and inserting “, and”, and by add-
23 ing at the end the following new paragraph:

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

4 (2) The table of sections for subpart A of part
5 IV of subchapter A of chapter 1 of such Code is
6 amended by inserting after the item relating to sec-
7 tion 25B the following new item:

 “25C. Energy efficiency improvements to existing homes.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years ending after De-
10 cember 31, 2003.

11 **SEC. 207. SPECIAL RULES FOR CREDIT FOR ELECTRICITY**
12 **PRODUCED FROM CERTAIN RENEWABLE RE-**
13 **SOURCES.**

14 (a) ELIMINATION OF CERTAIN CREDIT REDUC-
15 TIONS.—Section 45(b)(3)(A) of the Internal Revenue
16 Code of 1986 (relating to credit reduced for grants, tax-
17 exempt bonds, subsidized energy financing, and other
18 credits) is amended—

19 (1) by striking clause (ii),

20 (2) by redesignating clauses (iii) and (iv) as
21 clauses (ii) and (iii),

22 (3) by inserting “(other than proceeds of an
23 issue of State or local government obligations the in-
24 terest on which is exempt from tax under section
25 103, or any loan, debt, or other obligation incurred

1 under subchapter I of chapter 31 of title 7 of the
2 Rural Electrification Act of 1936 (7 U.S.C. 901 et
3 seq.), as in effect on the date of the enactment of
4 the Energy Tax Incentives Act)” after “project” in
5 clause (ii) (as so redesignated),

6 (4) by adding at the end the following new sen-
7 tence: “This paragraph shall not apply with respect
8 to any facility described in subsection (d)(2)(A)(ii).”,
9 and

10 (5) by striking “tax-exempt bonds,” in the
11 heading and inserting “certain”.

12 (b) TREATMENT OF PERSONS NOT ABLE TO USE EN-
13 TIRE CREDIT.—Section 45(e) of such Code (relating to
14 definitions and special rules), as redesignated by section
15 201(b)(1), is amended by adding at the end the following
16 new paragraph:

17 “(8) TREATMENT OF PERSONS NOT ABLE TO
18 USE ENTIRE CREDIT.—

19 “(A) ALLOWANCE OF CREDIT.—

20 “(i) IN GENERAL.—Except as other-
21 wise provided in this subsection—

22 “(I) any credit allowable under
23 subsection (a) with respect to a quali-
24 fied facility owned by a person de-
25 scribed in clause (ii) may be trans-

1 ferred or used as provided in this
2 paragraph, and

3 “(II) the determination as to
4 whether the credit is allowable shall
5 be made without regard to the tax-ex-
6 empt status of the person.

7 “(ii) PERSONS DESCRIBED.—A person
8 is described in this clause if the person
9 is—

10 “(I) an organization described in
11 section 501(c)(12)(C) and exempt
12 from tax under section 501(a),

13 “(II) an organization described
14 in section 1381(a)(2)(C),

15 “(III) a public utility (as defined
16 in section 136(c)(2)(B)), which is ex-
17 empt from income tax under this sub-
18 title,

19 “(IV) any State or political sub-
20 division thereof, the District of Co-
21 lumbia, any possession of the United
22 States, or any agency or instrumen-
23 tality of any of the foregoing,

24 “(V) any Indian tribal govern-
25 ment (within the meaning of section

1 7871) or any agency or instrumen-
2 tality thereof, or

3 “(VI) the Tennessee Valley Au-
4 thority.

5 “(B) TRANSFER OF CREDIT.—

6 “(i) IN GENERAL.—A person de-
7 scribed in subclause (I), (II), (III), (IV), or
8 (V) of subparagraph (A)(ii) may transfer
9 any credit to which subparagraph (A)(i)
10 applies through an assignment to any
11 other person not described in subpara-
12 graph (A)(ii). Such transfer may be re-
13 voked only with the consent of the Sec-
14 retary.

15 “(ii) REGULATIONS.—The Secretary
16 shall prescribe such regulations as nec-
17 essary to ensure that any credit described
18 in clause (i) is assigned once and not reas-
19 signed by such other person.

20 “(iii) TRANSFER PROCEEDS TREATED
21 AS ARISING FROM ESSENTIAL GOVERN-
22 MENT FUNCTION.—Any proceeds derived
23 by a person described in subclause (III),
24 (IV), or (V) of subparagraph (A)(ii) from
25 the transfer of any credit under clause (i)

1 shall be treated as arising from the exer-
2 cise of an essential government function.

3 “(C) USE OF CREDIT AS AN OFFSET.—

4 Notwithstanding any other provision of law, in
5 the case of a person described in subclause (I),
6 (II), or (V) of subparagraph (A)(ii), any credit
7 to which subparagraph (A)(i) applies may be
8 applied by such person, to the extent provided
9 by the Secretary of Agriculture, as a prepay-
10 ment of any loan, debt, or other obligation the
11 entity has incurred under subchapter I of chap-
12 ter 31 of title 7 of the Rural Electrification Act
13 of 1936 (7 U.S.C. 901 et seq.), as in effect on
14 the date of the enactment of the Energy Tax
15 Incentives Act.

16 “(D) USE BY TVA.—

17 “(i) IN GENERAL.—Notwithstanding
18 any other provision of law, in the case of
19 a person described in subparagraph
20 (A)(ii)(VI), any credit to which subpara-
21 graph (A)(i) applies may be applied as a
22 credit against the payments required to be
23 made in any fiscal year under section
24 15d(e) of the Tennessee Valley Authority
25 Act of 1933 (16 U.S.C. 831n–4(e)) as an

1 annual return on the appropriations invest-
2 ment and an annual repayment sum.

3 “(ii) TREATMENT OF CREDITS.—The
4 aggregate amount of credits described in
5 subparagraph (A)(i) with respect to such
6 person shall be treated in the same manner
7 and to the same extent as if such credits
8 were a payment in cash and shall be ap-
9 plied first against the annual return on the
10 appropriations investment.

11 “(iii) CREDIT CARRYOVER.—With re-
12 spect to any fiscal year, if the aggregate
13 amount of credits described subparagraph
14 (A)(i) with respect to such person exceeds
15 the aggregate amount of payment obliga-
16 tions described in clause (i), the excess
17 amount shall remain available for applica-
18 tion as credits against the amounts of such
19 payment obligations in succeeding fiscal
20 years in the same manner as described in
21 this subparagraph.

22 “(E) CREDIT NOT INCOME.—Any transfer
23 under subparagraph (B) or use under subpara-
24 graph (C) of any credit to which subparagraph

1 (A)(i) applies shall not be treated as income for
2 purposes of section 501(c)(12).

3 “(F) TREATMENT OF UNRELATED PER-
4 SONS.—For purposes of subsection (a)(2)(B),
5 sales of electricity among and between persons
6 described in subparagraph (A)(ii) shall be treat-
7 ed as sales between unrelated parties.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to electricity produced and sold
10 after December 31, 2004, in taxable years ending after
11 such date.

12 **SEC. 208. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT**
13 **AND EXTENSION OF ALCOHOL FUELS IN-**
14 **COME TAX CREDIT.**

15 (a) IN GENERAL.—Subchapter B of chapter 65 of the
16 Internal Revenue Code of 1986 (relating to rules of special
17 application) is amended by inserting after section 6425
18 the following new section:

19 **“SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL**
20 **MIXTURES.**

21 “(a) ALLOWANCE OF CREDITS.—There shall be al-
22 lowed as a credit against the tax imposed by section 4081
23 an amount equal to the sum of—

24 “(1) the alcohol fuel mixture credit, plus

25 “(2) the biodiesel mixture credit.

1 “(b) ALCOHOL FUEL MIXTURE CREDIT.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the alcohol fuel mixture credit is the product
4 of the applicable amount and the number of gallons
5 of alcohol used by the taxpayer in producing any al-
6 cohol fuel mixture for sale or use in a trade or busi-
7 ness of the taxpayer.

8 “(2) APPLICABLE AMOUNT.—For purposes of
9 this subsection—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), the applicable amount is 52
12 cents (51 cents in the case of any sale or use
13 after 2004).

14 “(B) MIXTURES NOT CONTAINING ETH-
15 ANOL.—In the case of an alcohol fuel mixture
16 in which none of the alcohol consists of ethanol,
17 the applicable amount is 60 cents.

18 “(3) ALCOHOL FUEL MIXTURE.—For purposes
19 of this subsection, the term ‘alcohol fuel mixture’
20 means a mixture of alcohol and a taxable fuel
21 which—

22 “(A) is sold by the taxpayer producing
23 such mixture to any person for use as a fuel,

24 “(B) is used as a fuel by the taxpayer pro-
25 ducing such mixture, or

1 “(C) is removed from the refinery by a
2 person producing such mixture.

3 “(4) OTHER DEFINITIONS.—For purposes of
4 this subsection—

5 “(A) ALCOHOL.—The term ‘alcohol’ in-
6 cludes methanol and ethanol but does not in-
7 clude—

8 “(i) alcohol produced from petroleum,
9 natural gas, or coal (including peat), or

10 “(ii) alcohol with a proof of less than
11 190 (determined without regard to any
12 added denaturants).

13 Such term also includes an alcohol gallon equiv-
14 alent of ethyl tertiary butyl ether or other
15 ethers produced from such alcohol.

16 “(B) TAXABLE FUEL.—The term ‘taxable
17 fuel’ has the meaning given such term by sec-
18 tion 4083(a)(1).

19 “(c) BIODIESEL MIXTURE CREDIT.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the biodiesel mixture credit is the product of
22 the applicable amount and the number of gallons of
23 biodiesel used by the taxpayer in producing any bio-
24 diesel mixture for sale or use in a trade or business
25 of the taxpayer.

1 “(2) APPLICABLE AMOUNT.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), the applicable amount is 50
5 cents.

6 “(B) AMOUNT FOR AGRI-BIODIESEL.—In
7 the case of any biodiesel which is agri-biodiesel,
8 the applicable amount is \$1.00.

9 “(3) BIODIESEL MIXTURE.—For purposes of
10 this section, the term ‘biodiesel mixture’ means a
11 mixture of biodiesel and diesel fuel (as defined in
12 section 4083(a)(3)), determined without regard to
13 any use of kerosene, which—

14 “(A) is sold by the taxpayer producing
15 such mixture to any person for use as a fuel,

16 “(B) is used as a fuel by the taxpayer pro-
17 ducing such mixture, or

18 “(C) is removed from the refinery by a
19 person producing such mixture.

20 “(4) CERTIFICATION FOR BIODIESEL.—No
21 credit shall be allowed under this section unless the
22 taxpayer obtains a certification (in such form and
23 manner as prescribed by the Secretary) from the
24 producer of the biodiesel which identifies the product

1 produced and the percentage of biodiesel and agri-
2 biodiesel in the product.

3 “(d) MIXTURE NOT USED AS A FUEL, ETC.—

4 “(1) IMPOSITION OF TAX.—If—

5 “(A) any credit was determined under this
6 section with respect to alcohol or biodiesel used
7 in the production of any alcohol fuel mixture or
8 biodiesel mixture, respectively, and

9 “(B) any person—

10 “(i) separates the alcohol or biodiesel
11 from the mixture, or

12 “(ii) without separation, uses the mix-
13 ture other than as a fuel,

14 then there is hereby imposed on such person a
15 tax equal to the product of the applicable
16 amount and the number of gallons of such alco-
17 hol or biodiesel.

18 “(2) APPLICABLE LAWS.—All provisions of law,
19 including penalties, shall, insofar as applicable and
20 not inconsistent with this section, apply in respect of
21 any tax imposed under paragraph (1) as if such tax
22 were imposed by section 4081 and not by this sec-
23 tion.

1 “(e) COORDINATION WITH EXEMPTION FROM EX-
2 CISE TAX.—Rules similar to the rules under section 40(c)
3 shall apply for purposes of this section.”.

4 (b) REGISTRATION REQUIREMENT.—Section
5 4101(a)(1) (relating to registration), as amended by sec-
6 tions 871 and 880 of this Act, is amended by inserting
7 “and every person producing or importing biodiesel (as de-
8 fined in section 40A(d)(1)) or alcohol (as defined in sec-
9 tion 6426(b)(4)(A))” after “4081”.

10 (c) ADDITIONAL AMENDMENTS.—

11 (1) Section 40(c) of such Code is amended by
12 striking “subsection (b)(2), (k), or (m) of section
13 4041, section 4081(c), or section 4091(c)” and in-
14 sserting “section 4041(b)(2), section 6426, or section
15 6427(e)”.

16 (2) Paragraph (4) of section 40(d) of such Code
17 is amended to read as follows:

18 “(4) VOLUME OF ALCOHOL.—For purposes of
19 determining under subsection (a) the number of gal-
20 lons of alcohol with respect to which a credit is al-
21 lowable under subsection (a), the volume of alcohol
22 shall include the volume of any denaturant (includ-
23 ing gasoline) which is added under any formulas ap-
24 proved by the Secretary to the extent that such de-

1 naturants do not exceed 5 percent of the volume of
2 such alcohol (including denaturants).”.

3 (3) Section 40(e) of such Code is hereby re-
4 pealed.

5 (4) Section 40(h) of such Code is amended—

6 (A) by striking “through 2007” in para-
7 graph (1) and inserting “and thereafter”, and

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

10 “(2) AMOUNTS.—For purposes of paragraph
11 (1), the blender amount is 51 cents and the low-
12 proof blender amount is 37.78 cents.”.

13 (5) Section 4041(b)(2)(B) of such Code is
14 amended by striking “a substance other than petro-
15 leum or natural gas” and inserting “coal (including
16 peat)”.

17 (6) Section 4041 of such Code is amended by
18 striking subsection (k).

19 (7) Section 4081 of such Code is amended by
20 striking subsection (e).

21 (8) Paragraph (2) of section 4083(a) of such
22 Code is amended to read as follows:

23 “(2) GASOLINE.—The term ‘gasoline’—

24 “(A) includes any gasoline blend, other
25 than qualified methanol or ethanol fuel (as de-

1 fined in section 4041(b)(2)(B)), partially ex-
2 empt methanol or ethanol fuel (as defined in
3 section 4041(m)(2)), or a denatured alcohol,
4 and

5 “(B) includes, to the extent prescribed in
6 regulations—

7 “(i) any gasoline blend stock, and

8 “(ii) any product commonly used as
9 an additive in gasoline (other than alco-
10 hol).

11 For purposes of subparagraph (B)(i), the term ‘gas-
12 oline blend stock’ means any petroleum product
13 component of gasoline.”.

14 (9) Section 6427 of such Code is amended by
15 inserting after subsection (d) the following new sub-
16 section:

17 “(e) ALCOHOL OR BIODIESEL USED TO PRODUCE
18 ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS
19 FUELS.—Except as provided in subsection (k)—

20 “(1) USED TO PRODUCE A MIXTURE.—If any
21 person produces a mixture described in section 6426
22 in such person’s trade or business, the Secretary
23 shall pay (without interest) to such person an
24 amount equal to the alcohol fuel mixture credit or

1 the biodiesel mixture credit with respect to such mix-
2 ture.

3 “(2) USED AS FUEL.—If alcohol (as defined in
4 section 40(d)(1)) or biodiesel (as defined in section
5 40A(d)(1)) or agri-biodiesel (as defined in section
6 40A(d)(2)) which is not in a mixture described in
7 section 6426—

8 “(A) is used by any person as a fuel in a
9 trade or business, or

10 “(B) is sold by any person at retail to an-
11 other person and placed in the fuel tank of such
12 person’s vehicle,

13 the Secretary shall pay (without interest) to such
14 person an amount equal to the alcohol credit (as de-
15 termined under section 40(b)(2)) or the biodiesel
16 credit (as determined under section 40A(b)(2)) with
17 respect to such fuel.

18 “(3) COORDINATION WITH OTHER REPAYMENT
19 PROVISIONS.—No amount shall be payable under
20 paragraph (1) with respect to any mixture with re-
21 spect to which an amount is allowed as a credit
22 under section 6426.”.

23 (10) Section 6427(i)(3) of such Code is amend-
24 ed—

1 (A) by striking “subsection (f)” both
2 places it appears in subparagraph (A) and in-
3 serting “subsection (e)(1)”,

4 (B) by striking “gasoline, diesel fuel, or
5 kerosene used to produce a qualified alcohol
6 mixture (as defined in section 4081(c)(3))” in
7 subparagraph (A) and inserting “a mixture de-
8 scribed in section 6426”,

9 (C) by adding at the end of subparagraph
10 (A) the following new flush sentence: “In the
11 case of an electronic claim, this subparagraph
12 shall be applied without regard to clause (i).”,

13 (D) by striking “subsection (f)(1)” in sub-
14 paragraph (B) and inserting “subsection
15 (e)(1)”,

16 (E) by striking “20 days of the date of the
17 filing of such claim” in subparagraph (B) and
18 inserting “45 days of the date of the filing of
19 such claim (20 days in the case of an electronic
20 claim)”, and

21 (F) by striking “alcohol mixture” in the
22 heading and inserting “alcohol fuel and bio-
23 diesel mixture”.

24 (11) Section 9503(b)(4) of such Code is amend-
25 ed—

1 (A) by adding “or” at the end of subpara-
2 graph (C),

3 (B) by striking the comma at the end of
4 subparagraph (D)(iii) and inserting a period,
5 and

6 (C) by striking subparagraphs (E) and
7 (F).

8 (12) The table of sections for subchapter B of
9 chapter 65 of such Code is amended by inserting
10 after the item relating to section 6425 the following
11 new item:

“6426. Credit for alcohol fuel and biodiesel mixtures.”.

12 (13) TARIFF SCHEDULE.—Headings
13 9901.00.50 and 9901.00.52 of the Harmonized Tar-
14 iff Schedule of the United States (19 U.S.C. 3007)
15 are each amended in the effective period column by
16 striking “Before 10/1/2007,” each place it appears.
17 (d) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, the amendments made by
20 this section shall apply to fuel sold or used after
21 September 30, 2004.

22 (2) REGISTRATION REQUIREMENT.—The
23 amendment made by subsection (b) shall take effect
24 on April 1, 2005.

1 (3) **EXTENSION OF ALCOHOL FUELS CREDIT.**—
2 The amendments made by paragraphs (3), (4), and
3 (13) of subsection (c) shall take effect on the date
4 of the enactment of this Act.

5 (4) **REPEAL OF GENERAL FUND RETENTION OF**
6 **CERTAIN ALCOHOL FUELS TAXES.**—The amend-
7 ments made by subsection (c)(12) shall apply to fuel
8 sold or used after September 30, 2003.

9 (e) **FORMAT FOR FILING.**—The Secretary of the
10 Treasury shall describe the electronic format for filing
11 claims described in section 6427(i)(3)(B) of the Internal
12 Revenue Code of 1986 (as amended by subsection
13 (c)(10)(C)) not later than September 30, 2004.

14 **SEC. 209. BIODIESEL INCOME TAX CREDIT.**

15 (a) **IN GENERAL.**—Subpart D of part IV of sub-
16 chapter A of chapter 1 of the Internal Revenue Code of
17 1986 (relating to business related credits) is amended by
18 inserting after section 40 the following new section:

19 **“SEC. 40A. BIODIESEL USED AS FUEL.**

20 “(a) **GENERAL RULE.**—For purposes of section 38,
21 the biodiesel fuels credit determined under this section for
22 the taxable year is an amount equal to the sum of—

23 “(1) the biodiesel mixture credit, plus

24 “(2) the biodiesel credit.

1 “(b) DEFINITION OF BIODIESEL MIXTURE CREDIT
2 AND BIODIESEL CREDIT.—For purposes of this section—

3 “(1) BIODIESEL MIXTURE CREDIT.—

4 “(A) IN GENERAL.—The biodiesel mixture
5 credit of any taxpayer for any taxable year is
6 50 cents for each gallon of biodiesel used by the
7 taxpayer in the production of a qualified bio-
8 diesel mixture.

9 “(B) QUALIFIED BIODIESEL MIXTURE.—
10 The term ‘qualified biodiesel mixture’ means a
11 mixture of biodiesel and diesel fuel (as defined
12 in section 4083(a)(3)), determined without re-
13 gard to any use of kerosene, which—

14 “(i) is sold by the taxpayer producing
15 such mixture to any person for use as a
16 fuel, or

17 “(ii) is used as a fuel by the taxpayer
18 producing such mixture.

19 “(C) SALE OR USE MUST BE IN TRADE OR
20 BUSINESS, ETC.—Biodiesel used in the produc-
21 tion of a qualified biodiesel mixture shall be
22 taken into account—

23 “(i) only if the sale or use described
24 in subparagraph (B) is in a trade or busi-
25 ness of the taxpayer, and

1 “(ii) for the taxable year in which
2 such sale or use occurs.

3 “(D) CASUAL OFF-FARM PRODUCTION NOT
4 ELIGIBLE.—No credit shall be allowed under
5 this section with respect to any casual off-farm
6 production of a qualified biodiesel mixture.

7 “(2) BIODIESEL CREDIT.—

8 “(A) IN GENERAL.—The biodiesel credit of
9 any taxpayer for any taxable year is 50 cents
10 for each gallon of biodiesel which is not in a
11 mixture with diesel fuel and which during the
12 taxable year—

13 “(i) is used by the taxpayer as a fuel
14 in a trade or business, or

15 “(ii) is sold by the taxpayer at retail
16 to a person and placed in the fuel tank of
17 such person’s vehicle.

18 “(B) USER CREDIT NOT TO APPLY TO BIO-
19 DIESEL SOLD AT RETAIL.—No credit shall be
20 allowed under subparagraph (A)(i) with respect
21 to any biodiesel which was sold in a retail sale
22 described in subparagraph (A)(ii).

23 “(3) CREDIT FOR AGRI-BIODIESEL.—In the
24 case of any biodiesel which is agri-biodiesel, para-

1 graphs (1)(A) and (2)(A) shall be applied by sub-
2 stituting ‘\$1.00’ for ‘50 cents’.

3 “(4) CERTIFICATION FOR BIODIESEL.—No
4 credit shall be allowed under this section unless the
5 taxpayer obtains a certification (in such form and
6 manner as prescribed by the Secretary) from the
7 producer or importer of the biodiesel which identifies
8 the product produced and the percentage of biodiesel
9 and agri-biodiesel in the product.

10 “(c) COORDINATION WITH CREDIT AGAINST EXCISE
11 TAX.—The amount of the credit determined under this
12 section with respect to any biodiesel shall be properly re-
13 duced to take into account any benefit provided with re-
14 spect to such biodiesel solely by reason of the application
15 of section 6426 or 6427(e).

16 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
17 poses of this section—

18 “(1) BIODIESEL.—The term ‘biodiesel’ means
19 the monoalkyl esters of long chain fatty acids de-
20 rived from plant or animal matter which meet—

21 “(A) the registration requirements for
22 fuels and fuel additives established by the Envi-
23 ronmental Protection Agency under section 211
24 of the Clean Air Act (42 U.S.C. 7545), and

1 “(B) the requirements of the American So-
2 ciety of Testing and Materials D6751.

3 “(2) AGRI-BIODIESEL.—The term ‘agri-bio-
4 diesel’ means biodiesel derived solely from virgin oils,
5 including esters derived from virgin vegetable oils
6 from corn, soybeans, sunflower seeds, cottonseeds,
7 canola, crambe, rapeseeds, safflowers, flaxseeds, rice
8 bran, and mustard seeds, and from animal fats.

9 “(3) MIXTURE OR BIODIESEL NOT USED AS A
10 FUEL, ETC.—

11 “(A) MIXTURES.—If—

12 “(i) any credit was determined under
13 this section with respect to biodiesel used
14 in the production of any qualified biodiesel
15 mixture, and

16 “(ii) any person—

17 “(I) separates the biodiesel from
18 the mixture, or

19 “(II) without separation, uses the
20 mixture other than as a fuel,

21 then there is hereby imposed on such person a
22 tax equal to the product of the rate applicable
23 under subsection (b)(1)(A) and the number of
24 gallons of such biodiesel in such mixture.

25 “(B) BIODIESEL.—If—

1 “(i) any credit was determined under
2 this section with respect to the retail sale
3 of any biodiesel, and

4 “(ii) any person mixes such biodiesel
5 or uses such biodiesel other than as a fuel,
6 then there is hereby imposed on such person a
7 tax equal to the product of the rate applicable
8 under subsection (b)(2)(A) and the number of
9 gallons of such biodiesel.

10 “(C) APPLICABLE LAWS.—All provisions of
11 law, including penalties, shall, insofar as appli-
12 cable and not inconsistent with this section,
13 apply in respect of any tax imposed under sub-
14 paragraph (A) or (B) as if such tax were im-
15 posed by section 4081 and not by this chapter.

16 “(4) PASS-THRU IN THE CASE OF ESTATES AND
17 TRUSTS.—Under regulations prescribed by the Sec-
18 retary, rules similar to the rules of subsection (d) of
19 section 52 shall apply.”.

20 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
21 NESS CREDIT.—Section 38(b) of such Code (relating to
22 current year business credit) is amended by inserting after
23 paragraph (3) the end the following new paragraph (and
24 redesignating the succeeding paragraphs accordingly):

1 “(4) the biodiesel fuels credit determined under
2 section 40A(a),”.

3 (c) CONFORMING AMENDMENTS.—

4 (1)(A) Section 87 of such Code, as amended by
5 this Act, is amended—

6 (i) by striking “and” at the end of para-
7 graph (1),

8 (ii) by striking the period at the end of
9 paragraph (2) and inserting “, and”,

10 (iii) by adding at the end the following new
11 paragraph:

12 “(3) the biodiesel fuels credit determined with
13 respect to the taxpayer for the taxable year under
14 section 40A(a).”, and

15 (iv) by striking “**FUEL CREDIT**” in the head-
16 ing and inserting “**AND BIODIESEL FUELS CRED-**
17 **ITS**”.

18 (B) The item relating to section 87 in the table
19 of sections for part II of subchapter B of chapter 1
20 of such Code is amended by striking “fuel credit”
21 and inserting “and biodiesel fuels credits”.

22 (2) Section 196(c) of such Code is amended by
23 striking “and” at the end of paragraph (10), by
24 striking the period at the end of paragraph (11) and

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

3 “(12) the biodiesel fuels credit determined
4 under section 40A(a).”.

5 (3) The table of sections for subpart D of part
6 IV of subchapter A of chapter 1 of such Code is
7 amended by adding after the item relating to section
8 40 the following new item:

“40A. Biodiesel used as fuel.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to fuel produced, and sold or used,
11 after September 30, 2004, in taxable years ending after
12 such date.

13 **SEC. 210. EXPANSION OF QUALIFIED SMALL-ISSUE BOND**
14 **PROGRAM; TREATMENT OF RENEWABLE**
15 **FUEL PRODUCTION FACILITIES.**

16 (a) EXPANSION.—

17 (1) IN GENERAL.—Clause (i) of section
18 144(a)(4)(A) of the Internal Revenue Code of 1986
19 (relating to \$10,000,000 limit in certain cases) is
20 amended by striking “\$10,000,000” and inserting
21 “\$20,000,000”.

22 (2) INFLATION ADJUSTMENT.—Paragraph (4)
23 of section 144(a) of such Code is amended by adding
24 at the end the following new subparagraph:

1 “(G) INFLATION ADJUSTMENT OF
2 \$20,000,000 LIMIT.—In the case of obligations
3 issued during any calendar year after 2004, the
4 \$20,000,000 amount in subparagraph (A) shall
5 be increased by an amount equal to—

6 “(i) such dollar amount, multiplied by

7 “(ii) the cost-of-living adjustment de-
8 termined under section 1(f)(3) for the cal-
9 endar year in which the taxable year be-
10 gins, by substituting ‘calendar year 2003’
11 for ‘calendar year 1992’ in subparagraph
12 (B) thereof.

13 If any amount as increased under clause (i) is
14 not a multiple of \$10,000, such amount shall be
15 rounded to the nearest multiple of \$10,000.”

16 (3) CLERICAL AMENDMENT.—The heading of
17 paragraph (4) of section 144(a) of such Code is
18 amended by striking “\$10,000,000” and inserting
19 “\$20,000,000”.

20 (4) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to—

22 (A) obligations issued after the date of the
23 enactment of this Act, and

1 (B) capital expenditures made after such
2 date with respect to obligations issued on or be-
3 fore such date.

4 (b) TREATMENT OF RENEWABLE FUEL PRODUCTION
5 FACILITIES.—

6 (1) IN GENERAL.—Paragraph (12) of section
7 144(a) of such Code is amended by adding at the
8 end the following new subparagraph:

9 “(D) RENEWABLE FUEL PRODUCTION FA-
10 CILITY.—For purposes of this paragraph, the
11 term ‘manufacturing property’ includes any fa-
12 cility described in paragraph (4)(F).”

13 (2) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to bonds issued after
15 the date of the enactment of this Act.

16 **SEC. 211. ALTERNATIVE MOTOR VEHICLE CREDIT.**

17 (a) IN GENERAL.—Subpart B of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 (relating to foreign tax credit, etc.) is amended by
20 adding at the end the following new section:

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

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

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

3 “(2) the new qualified hybrid motor vehicle
4 credit determined under subsection (c), and

5 “(3) the new qualified alternative fuel motor ve-
6 hicle credit determined under subsection (d).

7 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
8 CREDIT.—

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

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

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

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

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

1 “(2) INCREASE FOR FUEL EFFICIENCY.—

2 “(A) IN GENERAL.—The amount deter-
3 mined under paragraph (1)(A) with respect to
4 a new qualified fuel cell motor vehicle which is
5 a passenger automobile or light truck shall be
6 increased by—

7 “(i) \$1,000, if such vehicle achieves at
8 least 150 percent but less than 175 per-
9 cent of the 2002 model year city fuel econ-
10 omy,

11 “(ii) \$1,500, if such vehicle achieves
12 at least 175 percent but less than 200 per-
13 cent of the 2002 model year city fuel econ-
14 omy,

15 “(iii) \$2,000, if such vehicle achieves
16 at least 200 percent but less than 225 per-
17 cent of the 2002 model year city fuel econ-
18 omy,

19 “(iv) \$2,500, if such vehicle achieves
20 at least 225 percent but less than 250 per-
21 cent of the 2002 model year city fuel econ-
22 omy,

23 “(v) \$3,000, if such vehicle achieves
24 at least 250 percent but less than 275 per-

1 cent of the 2002 model year city fuel econ-
 2 omy,

3 “(vi) \$3,500, if such vehicle achieves
 4 at least 275 percent but less than 300 per-
 5 cent of the 2002 model year city fuel econ-
 6 omy, and

7 “(vii) \$4,000, if such vehicle achieves
 8 at least 300 percent of the 2002 model
 9 year city fuel economy.

10 “(B) 2002 MODEL YEAR CITY FUEL ECON-
 11 OMY.—For purposes of subparagraph (A), the
 12 2002 model year city fuel economy with respect
 13 to a vehicle shall be determined in accordance
 14 with the following tables:

15 “(i) In the case of a passenger auto-
 16 mobile:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

1 “(ii) In the case of a light truck:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

2 “(C) VEHICLE INERTIA WEIGHT CLASS.—

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

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

14 “(A) which is propelled by power derived
 15 from 1 or more cells which convert chemical en-
 16 ergy directly into electricity by combining oxy-

1 gen with hydrogen fuel which is stored on board
2 the vehicle in any form and may or may not re-
3 quire reformation prior to use,

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

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

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

21 “(C) the original use of which commences
22 with the taxpayer,

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

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

1 “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE
2 CREDIT.—

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

9 “(2) CREDIT AMOUNT.—

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

13 “(i) In the case of a new qualified hy-
14 brid motor vehicle which is a passenger
15 automobile, medium duty passenger vehi-
16 cle, or light truck and which provides the
17 following percentage of the maximum
18 available power:

“If percentage of the maximum available power is:	The credit amount is:
At least 4 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.

19 “(ii) In the case of a new qualified hy-
20 brid motor vehicle which is a heavy duty
21 hybrid motor vehicle and which provides

1 the following percentage of the maximum
2 available power:

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

“If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	\$1,000
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.

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

10 “(III) If such vehicle has a gross
11 vehicle weight rating of more than
12 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.

1 “(B) INCREASE FOR FUEL EFFICIENCY.—

2 “(i) AMOUNT.—The amount deter-
3 mined under subparagraph (A)(i) with re-
4 spect to a new qualified hybrid motor vehi-
5 cle which is a passenger automobile or
6 light truck shall be increased by—

7 “(I) \$500, if such vehicle
8 achieves at least 125 percent but less
9 than 150 percent of the 2002 model
10 year city fuel economy,

11 “(II) \$1,000, if such vehicle
12 achieves at least 150 percent but less
13 than 175 percent of the 2002 model
14 year city fuel economy,

15 “(III) \$1,500, if such vehicle
16 achieves at least 175 percent but less
17 than 200 percent of the 2002 model
18 year city fuel economy,

19 “(IV) \$2,000, if such vehicle
20 achieves at least 200 percent but less
21 than 225 percent of the 2002 model
22 year city fuel economy,

23 “(V) \$2,500, if such vehicle
24 achieves at least 225 percent but less

1 than 250 percent of the 2002 model
2 year city fuel economy, and

3 “(VI) \$3,000, if such vehicle
4 achieves at least 250 percent of the
5 2002 model year city fuel economy.

6 “(ii) 2002 MODEL YEAR CITY FUEL
7 ECONOMY.—For purposes of clause (i), the
8 2002 model year city fuel economy with re-
9 spect to a vehicle shall be determined on a
10 gasoline gallon equivalent basis as deter-
11 mined by the Administrator of the Envi-
12 ronmental Protection Agency using the ta-
13 bles provided in subsection (b)(2)(B) with
14 respect to such vehicle.

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

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

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

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

“If the model year is:	The increased credit amount is:
2004	\$6,500
2005	\$5,250
2006	\$4,000.

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

“If the model year is:	The increased credit amount is:
2004	\$10,000
2005	\$8,000
2006	\$6,000.

8 “(D) DEFINITIONS RELATING TO CREDIT
 9 AMOUNT.—

10 “(i) APPLICABLE HEAVY DUTY HY-
 11 BRID MOTOR VEHICLE.—For purposes of
 12 subparagraph (C), the term ‘applicable
 13 heavy duty hybrid motor vehicle’ means a

1 heavy duty hybrid motor vehicle which is
2 powered by an internal combustion or heat
3 engine which is certified as meeting the
4 emission standards set in the regulations
5 prescribed by the Administrator of the En-
6 vironmental Protection Agency for 2007
7 and later model year diesel heavy duty en-
8 gines, or for 2008 and later model year
9 ottocycle heavy duty engines, as applicable.

10 “(ii) MAXIMUM AVAILABLE POWER.—

11 “(I) PASSENGER AUTOMOBILE,
12 MEDIUM DUTY PASSENGER VEHICLE,
13 OR LIGHT TRUCK.—For purposes of
14 subparagraph (A)(i), the term ‘max-
15 imum available power’ means the
16 maximum power available from the re-
17 chargeable energy storage system,
18 during a standard 10 second pulse
19 power or equivalent test, divided by
20 such maximum power and the SAE
21 net power of the heat engine.

22 “(II) HEAVY DUTY HYBRID
23 MOTOR VEHICLE.—For purposes of
24 subparagraph (A)(ii), the term ‘max-
25 imum available power’ means the

1 maximum power available from the re-
2 chargeable energy storage system,
3 during a standard 10 second pulse
4 power or equivalent test, divided by
5 the vehicle's total traction power. The
6 term 'total traction power' means the
7 sum of the peak power from the re-
8 chargeable energy storage system and
9 the heat engine peak power of the ve-
10 hicle, except that if such storage sys-
11 tem is the sole means by which the ve-
12 hicle can be driven, the total traction
13 power is the peak power of such stor-
14 age system.

15 “(3) NEW QUALIFIED HYBRID MOTOR VEHI-
16 CLE.—For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘new quali-
18 fied hybrid motor vehicle’ means a motor vehi-
19 cle—

20 “(i) which draws propulsion energy
21 from onboard sources of stored energy
22 which are both—

23 “(I) an internal combustion or
24 heat engine using consumable fuel,
25 and

1 “(II) a rechargeable energy stor-
2 age system,

3 “(ii) which, in the case of a passenger
4 automobile, medium duty passenger vehi-
5 cle, or light truck—

6 “(I) for 2002 and later model ve-
7 hicles, has received a certificate of
8 conformity under the Clean Air Act
9 and meets or exceeds the equivalent
10 qualifying California low emission ve-
11 hicle standard under section 243(e)(2)
12 of the Clean Air Act for that make
13 and model year, and

14 “(II) for 2004 and later model
15 vehicles, has received a certificate that
16 such vehicle meets or exceeds the Bin
17 5 Tier II emission level established in
18 regulations prescribed by the Adminis-
19 trator of the Environmental Protec-
20 tion Agency under section 202(i) of
21 the Clean Air Act for that make and
22 model year vehicle,

23 “(iii) which, in the case of a heavy
24 duty hybrid motor vehicle, has an internal
25 combustion or heat engine which has re-

1 ceived a certificate of conformity under the
2 Clean Air Act as meeting the emission
3 standards set in the regulations prescribed
4 by the Administrator of the Environmental
5 Protection Agency for 2004 through 2007
6 model year diesel heavy duty engines or
7 ottocycle heavy duty engines, as applicable,

8 “*(iv)* the original use of which com-
9 mences with the taxpayer,

10 “*(v)* which is acquired for use or lease
11 by the taxpayer and not for resale, and

12 “*(vi)* which is made by a manufac-
13 turer.

14 “(B) CONSUMABLE FUEL.—For purposes
15 of subparagraph (A)(i)(I), the term ‘consumable
16 fuel’ means any solid, liquid, or gaseous matter
17 which releases energy when consumed by an
18 auxiliary power unit.

19 “(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—
20 For purposes of this subsection, the term ‘heavy
21 duty hybrid motor vehicle’ means a new qualified hy-
22 brid motor vehicle which has a gross vehicle weight
23 rating of more than 8,500 pounds. Such term does
24 not include a medium duty passenger vehicle.

1 “(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
2 VEHICLE CREDIT.—

3 “(1) ALLOWANCE OF CREDIT.—Except as pro-
4 vided in paragraph (5), the new qualified alternative
5 fuel motor vehicle credit determined under this sub-
6 section is an amount equal to the applicable percent-
7 age of the incremental cost of any new qualified al-
8 ternative fuel motor vehicle placed in service by the
9 taxpayer during the taxable year.

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

14 “(A) 40 percent, plus

15 “(B) 30 percent, if such vehicle—

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

23 “(ii) has received an order certifying
24 the vehicle as meeting the same require-
25 ments as vehicles which may be sold or

1 leased in California and meets or exceeds
2 the most stringent standard available for
3 certification under the State laws of Cali-
4 fornia (enacted in accordance with a waiv-
5 er granted under section 209(b) of the
6 Clean Air Act) for that make and model
7 year vehicle (other than a zero emission
8 standard).

9 For purposes of the preceding sentence, in the case
10 of any new qualified alternative fuel motor vehicle
11 which weighs more than 14,000 pounds gross vehicle
12 weight rating, the most stringent standard available
13 shall be such standard available for certification on
14 the date of the enactment of the Energy Tax Incen-
15 tives Act.

16 “(3) INCREMENTAL COST.—For purposes of
17 this subsection, the incremental cost of any new
18 qualified alternative fuel motor vehicle is equal to
19 the amount of the excess of the manufacturer’s sug-
20 gested retail price for such vehicle over such price
21 for a gasoline or diesel fuel motor vehicle of the
22 same model, to the extent such amount does not ex-
23 ceed—

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

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

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

10 “(D) \$40,000, if such vehicle has a gross
11 vehicle weight rating of more than 26,000
12 pounds.

13 “(4) NEW QUALIFIED ALTERNATIVE FUEL
14 MOTOR VEHICLE.—For purposes of this sub-
15 section—

16 “(A) IN GENERAL.—The term ‘new quali-
17 fied alternative fuel motor vehicle’ means any
18 motor vehicle—

19 “(i) which is only capable of operating
20 on an alternative fuel,

21 “(ii) the original use of which com-
22 mences with the taxpayer,

23 “(iii) which is acquired by the tax-
24 payer for use or lease, but not for resale,
25 and

1 “(iv) which is made by a manufac-
2 turer.

3 “(B) ALTERNATIVE FUEL.—The term ‘al-
4 ternative fuel’ means compressed natural gas,
5 liquefied natural gas, liquefied petroleum gas,
6 hydrogen, and any liquid at least 85 percent of
7 the volume of which consists of methanol.

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

9 “(A) IN GENERAL.—In the case of a
10 mixed-fuel vehicle placed in service by the tax-
11 payer during the taxable year, the credit deter-
12 mined under this subsection is an amount equal
13 to—

14 “(i) in the case of a 75/25 mixed-fuel
15 vehicle, 70 percent of the credit which
16 would have been allowed under this sub-
17 section if such vehicle was a qualified alter-
18 native fuel motor vehicle, and

19 “(ii) in the case of a 90/10 mixed-fuel
20 vehicle, 90 percent of the credit which
21 would have been allowed under this sub-
22 section if such vehicle was a qualified alter-
23 native fuel motor vehicle.

24 “(B) MIXED-FUEL VEHICLE.—For pur-
25 poses of this subsection, the term ‘mixed-fuel

1 vehicle’ means any motor vehicle described in
2 subparagraph (C) or (D) of paragraph (3),
3 which—

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

8 “(ii) either—

9 “(I) has received a certificate of
10 conformity under the Clean Air Act,
11 or

12 “(II) has received an order certi-
13 fying the vehicle as meeting the same
14 requirements as vehicles which may be
15 sold or leased in California and meets
16 or exceeds the low emission vehicle
17 standard under section 88.105–94 of
18 title 40, Code of Federal Regulations,
19 for that make and model year vehicle,

20 “(iii) the original use of which com-
21 mences with the taxpayer,

22 “(iv) which is acquired by the tax-
23 payer for use or lease, but not for resale,
24 and

1 “(v) which is made by a manufac-
2 turer.

3 “(C) 75/25 MIXED-FUEL VEHICLE.—For
4 purposes of this subsection, the term ‘75/25
5 mixed-fuel vehicle’ means a mixed-fuel vehicle
6 which operates using at least 75 percent alter-
7 native fuel and not more than 25 percent petro-
8 leum-based fuel.

9 “(D) 90/10 MIXED-FUEL VEHICLE.—For
10 purposes of this subsection, the term ‘90/10
11 mixed-fuel vehicle’ means a mixed-fuel vehicle
12 which operates using at least 90 percent alter-
13 native fuel and not more than 10 percent petro-
14 leum-based fuel.

15 “(e) APPLICATION WITH OTHER CREDITS.—The
16 credit allowed under subsection (a) for any taxable year
17 shall not exceed the excess (if any) of—

18 “(1) the regular tax for the taxable year re-
19 duced by the sum of the credits allowable under sub-
20 part A and sections 27, 29, and 30, over

21 “(2) the tentative minimum tax for the taxable
22 year.

23 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—
24 For purposes of this section—

1 “(1) MOTOR VEHICLE.—The term ‘motor vehi-
2 cle’ has the meaning given such term by section
3 30(c)(2).

4 “(2) CITY FUEL ECONOMY.—The city fuel econ-
5 omy with respect to any vehicle shall be measured in
6 a manner which is substantially similar to the man-
7 ner city fuel economy is measured in accordance
8 with procedures under part 600 of subchapter Q of
9 chapter I of title 40, Code of Federal Regulations,
10 as in effect on the date of the enactment of this sec-
11 tion.

12 “(3) OTHER TERMS.—The terms ‘automobile’,
13 ‘passenger automobile’, ‘medium duty passenger ve-
14 hicle’, ‘light truck’, and ‘manufacturer’ have the
15 meanings given such terms in regulations prescribed
16 by the Administrator of the Environmental Protec-
17 tion Agency for purposes of the administration of
18 title II of the Clean Air Act (42 U.S.C. 7521 et
19 seq.).

20 “(4) REDUCTION IN BASIS.—For purposes of
21 this subtitle, the basis of any property for which a
22 credit is allowable under subsection (a) shall be re-
23 duced by the amount of such credit so allowed (de-
24 termined without regard to subsection (e)).

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

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

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

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

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

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

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

18 “(10) CARRYBACK AND CARRYFORWARD AL-
19 LOWED.—

20 “(A) IN GENERAL.—If the credit allowable
21 under subsection (a) for a taxable year exceeds
22 the amount of the limitation under subsection
23 (e) for such taxable year (in this paragraph re-
24 ferred to as the ‘unused credit year’), such ex-
25 cess shall be a credit carryback to each of the

1 3 taxable years preceding the unused credit
2 year and a credit carryforward to each of the
3 20 taxable years following the unused credit
4 year, except that no excess may be carried to a
5 taxable year beginning before January 1, 2005.

6 “(B) RULES.—Rules similar to the rules of
7 section 39 shall apply with respect to the credit
8 carryback and credit carryforward under sub-
9 paragraph (A).

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

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

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

24 “(g) REGULATIONS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the Secretary shall promulgate such regu-
3 lations as necessary to carry out the provisions of
4 this section.

5 “(2) COORDINATION IN PRESCRIPTION OF CER-
6 TAIN REGULATIONS.—The Secretary of the Treas-
7 ury, in coordination with the Secretary of Transpor-
8 tation and the Administrator of the Environmental
9 Protection Agency, shall prescribe such regulations
10 as necessary to determine whether a motor vehicle
11 meets the requirements to be eligible for a credit
12 under this section.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 1016(a) of such Code is amended
15 by striking “and” at the end of paragraph (28), by
16 striking the period at the end of paragraph (29) and
17 inserting “, and”, and by adding at the end the fol-
18 lowing new paragraph:

19 “(30) to the extent provided in section
20 30B(f)(4).”.

21 (2) Section 55(c)(2) of such Code is amended
22 by inserting “30B(e),” after “30(b)(2),”.

23 (3) Section 6501(m) of such Code is amended
24 by inserting “30B(f)(9),” after “30(d)(4),”.

1 (4) The table of sections for subpart B of part
2 IV of subchapter A of chapter 1 of such Code is
3 amended by inserting after the item relating to sec-
4 tion 30A the following new item:

“30B. Alternative motor vehicle credit.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to property placed in service after
7 December 31, 2004, in taxable years ending after such
8 date.

9 **SEC. 212. CREDIT FOR ENGINES COMPLYING WITH TIER 2,**
10 **3, OR 4 EMISSION LEVELS.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-
12 chapter A of chapter 1 (relating to business-related cred-
13 its) is amended by adding after section 45H the following
14 new section:

15 **“SEC. 45I. CREDIT FOR ENGINES COMPLYING WITH TIER 2,**
16 **3, OR 4 EMISSIONS LEVELS.**

17 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
18 tion 38, the emissions compliant engine credit determined
19 under this section for the taxable year is, for each emis-
20 sions compliant engine incorporated into a product manu-
21 factured by the taxpayer during the taxable year, an
22 amount equal to—

23 “(1) \$100 for each such engine which is an
24 emissions compliant engine with respect to the Tier
25 2 emissions level established in regulations pre-

1 scribed by the Administrator of the Environmental
2 Protection Agency under section 213 of the Clean
3 Air Act,

4 “(2) \$150 for each such engine which is an
5 emissions compliant engine with respect to the Tier
6 3 emissions level so established, and

7 “(3) \$200 for each such engine which is an
8 emissions compliant engine with respect to the Tier
9 4 emissions level so established.

10 “(b) EMISSIONS COMPLIANT ENGINE.—For purposes
11 of this section, the term ‘emissions compliant engine’
12 means any engine—

13 “(1) which is required to meet the Tier 2, 3 or
14 4 emissions level established in regulations pre-
15 scribed by the Administrator of the Environmental
16 Protection Agency under section 213 of the Clean
17 Air Act, and

18 “(2) which meets such requirement.”.

19 (b) CREDIT MADE PART OF GENERAL BUSINESS
20 CREDIT.—Section 38(b) of such Code (relating to current
21 year business credit), as previously amended by this Act,
22 is amended by striking “plus” at the end of paragraph
23 (17), by striking the period at the end of paragraph (18)
24 and inserting “, plus”, and by adding at the end of the
25 following new paragraph:

1 “(19) the emissions compliant engine credit de-
2 termined under section 45I(a).”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 of such code is amended by adding after the item relating
6 to section 45H the following new item:

“Sec. 45I. Credit for engines complying with Tier 2, 3, or 4 emissions levels.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to engines incorporated into prod-
9 ucts produced after December 31, 2004, in taxable years
10 ending after such date.

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